ADAM GORDON
United States Attorney
CAMILLE SAVEDRA
Assistant U.S. Attorney
California State Bar No. 336490
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-5084
Email: camille.savedra@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

NAHOM HAFTOM BERHE, Petitioner, v. MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, *et al.*, Respondents.	Case No. 26-cv-02828-JES-VET **RESPONDENTS' STATUS REPORT**

Pursuant to the Court's June 6, 2026 Order, ECF No. 12, Respondents submit the following Status Report and Supplemental Declaration for the Court's consideration.

The undersigned counsel has learned from ICE counsel that ICE no longer intends to remove Petitioner to the third country of Cameroon. Instead, ICE intends to remove Petitioner to Central African Republic which, based on facts below, there is a significant likelihood of occurring in the reasonably foreseeable future.

On April 4, 2026, ICE Removal and Management Division (RMD) received diplomatic assurances from Central African Republic, pursuant to an arrangement with the United States, that non-citizens such as Petitioner, if removed to their country, would not be subjected to persecution or torture. *See* Declaration of Vu Cam ("Cam Decl.") at ¶¶ 4-5. On May 4, 2026, the Department of State determined such diplomatic assurances were credible and reliable. *Id.* at ¶ 5. RMD subsequently received notice from the Government of Central African Republic that Petitioner's name was accepted

for removal pursuant to RMD's request under the arrangement between the United States and the Central African Republic. *Id.* at ¶ 6. As such, ICE scheduled Petitioner for removal to Central African Republic via charter flight, to occur on or about July 30, 2026. *Id.* at ¶ 8. The Central African Republic's acceptance with receiving Petitioner and Petitioner's placement on the manifest for the charter flight serves as Petitioner's travel document for his removal. *Id.* at ¶ 7. As before, "ICE will follow the March 30, 2025 DHS memorandum entitled *Guidance Regarding Third Country Removals* to effectuate Petitioner's removal." *Id.* at 9.

Respondents acknowledge this Court previously found DHS's March 30, 2025 memorandum unlawful and set forth certain procedures and requirements for Respondents to follow before removing Petitioner to a third country. *See generally* ECF No. 12. Respondents respectfully request the Court reconsider its previous order. It is the undersigned counsel's understanding that ICE's position is that the Court's procedures run contrary the class action litigation in *D.V.D. v. Dep't of Homeland Sec.*:

> All individuals who have final removal order issues in proceedings under Section 240, 241(a)(5), or 238(b) if the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

778 F. Supp. 3d 335, 378 (D. Mass. 2025). There, the Court in enjoined DHS from removing class members, such as Petitioner, to a third country without providing notice and an opportunity to be heard. *Id.* at 392-93. However, since then, the First Circuit has stayed the injunction pending appellate review. *See D.V.D. v. D.H.S.,* 821 F. Supp. 3d 102 (D. Mass. Feb. 25, 2026); *D.V.D., et al v. U.S. Department of Homeland Security, et al,* Case No. 26-1212, Doc No. 00118417272 (1st Cir. Mar. 16, 2026).

Here, Petitioner's claims arise out the same DHS policy - the March 30, 2025 memorandum – as the *D.V.D.* class of which Petitioner's removal falls squarely under as a member. Petitioner's case is indivisible and indistinguishable for the *D.V.D.* class

action; indeed, if the class-wide judgment were not stayed, he would be a beneficiary of the relief the *D.V.D.* district court ordered. Petitioner should avail himself to the relief sought in the class action instead of attempting a *de facto* opt out of FRCP Rule 23(b)(2) by filing an individual habeas petition seeking the same relief pursued by the *D.V.D.* class and stayed by the First Circuit. To the extent the Court agrees, Respondents respectfully assert that they have demonstrated a significant likelihood of removing Petitioner to a third country in the reasonably foreseeable future. *See generally* Cam Decl. To the extend the Court disagrees and is not inclined to reconsider its previous order, that government acknowledges that Respondents are unable to demonstrate a significant likelihood of removing Petitioner to a third country in the reasonably foreseeable future and defers to the Court for the appropriate relief.

Dated: July 20, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney

s/ Camille Savedra
CAMILLE SAVEDRA
Assistant United States Attorney
Attorney for Respondents