UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

CONROY CONDECORE, Petitioner, v. U.S. ATTORNEY GENERAL, ET AL., Respondents.	Case No. 2:26-CV-1704-SPC-NPM

FEDERAL RESPONDENTS' RESPONSE TO HABEAS PETITION

Federal Respondents, by and through the undersigned counsel, hereby respond to Petitioner Conroy Condecore's ("Petitioner") emergency motions seeking reopening of his habeas petition and a temporary restraining order (ECF Nos. 17, 18) that—if granted—would effectively stay his removal pursuant to a valid, executable order of removal. For the reasons discussed below, the Court should deny Petitioner's motion.

Background

Condecore is a citizen and national of Jamaica. *See* Petition for Writ of Habeas Corpus, ECF No. 1 ("Petition"), ¶ 66. He entered the United States on or about October 4, 2015 as a B-2 visitor but overstayed his visa. *See* ECF No. 10-1, p. 5. He was encountered in 2020 at a Florida Department of Corrections probation office and was issued a Notice to Appear placing him in removal proceedings. *Id.* On September 15, 2020, Condecore was ordered removed from the United States. Petition, ¶¶ 2, 68;

see also ECF No. 1-2. Condecore was released from immigration custody on an order of supervision ("OSUP") on September 17, 2020. Petition, ¶¶ 3, 36; *see also* ECF No. 1-3. Condecore remained in the United States under the OSUP until November 20, 2025 when ICE determined it was appropriate to revoke the OSUP under 8 C.F.R. § 241.1. Petition, ¶¶ 7, 24, 80; *see also* ECF No. 1-4 at pp. 1-2. An informal interview was conducted that day. Composite Exhibit A, p. 3.

On May 19, 2026, this matter commenced with the filing of a petition for writ of habeas corpus. ECF No. 1. On May 20, 2026, this Court issued an order to show cause why the petition should not be granted. ECF No. 6. Following the government's timely response, this Court issued an order granting the Petition, concluding that his removal in the reasonably foreseeable future had not been established. ECF No. 14, p. 3. Notably, the Court explicitly stated that Petitioner may be detained once more if removal becomes likely in the reasonably foreseeable future. *Id.* Petitioner was released from ICE custody on May 29, 2026 consistent with the Court's order. *See* Detention History, attached as "Exhibit A."

On July 2, 2026, ICE redetained Petitioner. *Id.* He was held initially in a hold room in Orlando before being transferred to Baker County, and he is now in a staging facility in Jackson Parish, Louisiana. *Id.*[1]

[1] Based on information conveyed to undersigned counsel via email on July 2, 2026 and July 5, 2026, Petitioner's most recent order of supervision "OSUP" has been revoked and he has been transferred to a staging area pending his removal to Eswatini. Undersigned counsel requested documentation confirming as such and is awaiting production of the requested information from ICE. Undersigned will file copies of such documentation to supplement this response once they are made available to her.

Legal Standards

I. Reopening Habeas Proceedings Under Fed. R. Civ. P. 60(b)(6).

Federal Rule of Civil Procedure 60 provides a limited basis for relief from a final order in a habeas proceeding. *Williams v. Chatman*, 510 F.3d 1290, 1293 (11th Cir. 2007). A court only has jurisdiction to consider such a motion if it "attacks, not the substance of the federal court's resolution of a claim on the merits, but some defect in the integrity of the federal habeas proceedings." *Id.* Where a petitioner seeks to add a new ground of relief the court lacks jurisdiction and must construe the motion as a successive habeas petition. *Id.* (internal quotations and citations omitted); *see also Delgado v. Sec'y, DOC*, No. 2:14-CV-42-FTM-38MRM, 2018 WL 1806586, at *1 (M.D. Fla. Apr. 17, 2018).

II. Injunctive Relief

Preliminary injunctive relief—whether through a temporary restraining order or a preliminary injunction—is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). The standard for obtaining either form relief—in the traditional sense—is the same. *See Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034-35 (11th Cir. 2001) (per curiam); *Windsor v. United States*, 379 F. App'x 912, 916-17 (11th Cir. 2010) (per curiam). A movant seeking a traditional preliminary injunction or a TRO must show: (1) substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the

injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest. *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998) (citations omitted); *see also Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995) (per curiam). "A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). Importantly, the party seeking injunctive relief bears the burden of persuasion as to each of the required elements. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000); *Bongiovanni v. Austin*, No. 3:22-cv-237-MMH-MCR, 2022 WL 1642158, at *5 (M.D. Fla. May 24, 2022).

Discussion

I. The Relief Sought Is Jurisdictionally Barred

At the outset, the instant motions ask this court to effectively stay Petitioner's removal pursuant to a lawful, valid removal order. *See* ECF Nos. 17, 18. However, the Court is stripped of jurisdiction to review "any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); *see also Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) ("*AADC*") (cleaned up). These activities "represent the initiation or prosecution of various stages in the deportation process" that Congress had "good reason" to withhold from judicial review. *Id.*

Here, Petitioner is subject to a final order of removal— ECF No. 1, ¶¶ 2, 68; *see also* ECF No. 1-2—and in the instant motions he seeks to halt Respondents' lawful authority to execute that order. This matter thus falls squarely within the specific actions *Jennings* contemplated, namely the discrete action of executing a removal order, and this Court lacks jurisdiction to grant Petitioner the relief sought.

II. Petitioner's Arguments Are Internally Inconsistent

At the heart of Petitioner's motions is the fear that the government's execution of his final order of removal would destroy this Court's jurisdiction over his habeas claims. *See* ECF No. 17, p. 12 (requestion a TRO prohibiting ICE "from removing Petitioner from the jurisdiction of this court"); ECF No. 18, p. 12 (same). As Petitioner would have the Court believe, the government is prepared to imminently remove him before he can be heard thus the Court must intervene. *Id.* But this argument fails to square with the very basis of his habeas relief, namely his strong belief that his removal is not likely in the reasonably foreseeable future. *See* ECF No. 17, pp. 3-4 (suggesting that his recent detention is an attempt at circumventing successful *Zadvydas* claims be simply redetaining him after release absent a change in circumstances); *see also* ECF No. 18-1. In other words, Petitioner simultaneously argues that his detention is unlawful because he cannot be removed from the United States while also arguing that the Court simply must intervene or he will be removed. Petitioner has failed to demonstrate that the Court's intervention is necessary on the facts as pled.

III. Petitioner is Unlikely to Succeed on the Merits.

Should the Court decline to dispose of the instant motions outright under 8 U.S.C. § 1252(g), Federal Respondents contend that Petitioner is unlikely to succeed in having his habeas petition reopened for several reasons.

A. Petitioner Seeks Relief Not Previously Sought in His Habeas Petition.

To the extent Petitioner seeks reopening of his Petition pursuant to Fed. R. Civ. P. 60(b)(6), he fails to demonstrate how such relief is appropriate when he is—contrary to Eleventh Circuit precedent—seeking relief not previously sought, namely entitlement to certain processes and procedures related to the government's decision to now pursue removal to Eswatini, rather than Mexico. *See* ECF No. 17, pp. 8, 9; ECF No. 18, pp. 8, 9. Petitioner essentially now wishes to challenge his third-country removal. *See generally* ECF No. 18. For this reason he is unlikely to succeed on this claim and his motions seeking both reopening and a TRO should be denied on this basis.

B. Petitioner's Challenge to Third-Country Removal is Not Proper Here.

The INA authorizes the removal of certain classes of aliens from the United States. 8 U.S.C. §§ 1182(a), 1227(a), 1231. The removal process can include a hearing before an immigration judge, an appeal to the Board of Immigration Appeals, and review in a court of appeals. 8 U.S.C. §§ 1229a, 1252. Aliens facing removal have an opportunity to apply for relief or protection from removal. *See, e.g.*, 8 U.S.C. § 1158 (asylum); 8 U.S.C. § 1229b (cancellation of removal); 8 U.S.C. § 1229c (voluntary departure); 8 U.S.C. § 1231(b)(3) (withholding of removal). The INA establishes criteria for determining the country to which an alien will be removed. *See Jama v. ICE*,

543 U.S. 335, 338-341 (2005). Specifically, Section 1231(b) provides sequences of countries to which the alien shall be removed, subject to certain disqualifying conditions. *See* 8 U.S.C. § 1231(b)(1)-(2). Possible destinations include a country designated by the alien, the alien's country of citizenship, and the alien's previous country of residence. *Jama*, 543 U.S. at 341.

Section 1231(b) offers a fail-safe option in the event the others do not work: any other "country whose government will accept the alien into that country." 8 U.S.C. § 1231(b)(2)(E)(vii); see 8 U.S.C. § 1231(b)(1)(C)(iv). Such countries may be selected even if not originally listed in an alien's removal order. *See* 8 C.F.R. § 1240.12(d). The fail-safe option may be the only way to remove aliens who have protection from removal to the sole country to which they have connections. *See* 8 U.S.C. § 1231(b)(2).

Congress also has provided means for an alien to challenge removal to a particular country where he may face persecution or torture. As relevant here, an alien may seek protection from removal under the regulations implementing U.S. obligations under Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), *adopted* Dec. 10, 1984, S. Treaty Doc. No. 20, 100th Cong., 2d Sess. (1988), 1465 U.N.T.S. 85—which prohibits the removal of an alien to any country where the alien more likely than not would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105-277, Div. G, § 2242(b), 112 Stat. 2681-2822 (8 U.S.C. § 1231 note); 8 C.F.R. §§ 208.16(c)-.18, 1208.16(c)-.18. "Torture" is an "extreme form of cruel and inhuman treatment," 8 C.F.R. § 208.18(a)(2), defined as "any act by which severe pain

or suffering is intentionally inflicted on a person" for an improper purpose, and is "inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" *id.* § 208.18(a)(1).

CAT protection affects only *where*, not *whether*, an alien may be removed. A grant of CAT protection "means only that, notwithstanding the order of removal, the noncitizen may not be removed to the designated country of removal, at least until conditions change in that country." *Nasrallah v. Barr*, 590 U.S. 573, 582 (2020). DHS remains free to remove the alien "at any time to another country where he or she is not likely to be tortured." *Id.* (citation omitted); *see* 8 C.F.R. § 208.16(f). "Third country removals"—*i.e.* removals to countries other than the those designated in removal orders—are sometimes the only way to execute a valid and final removal order. In some cases, third-country removal is necessary because removal to the country specified in the removal order is no longer viable by the time DHS is prepared to remove the alien. In other cases, an alien may obtain withholding of removal or CAT protection from the only country listed in his removal order. And some countries refuse to accept the return of their nationals who, for example, have committed serious crimes in the United States. Such aliens may have to be removed under the INA's catch-all provision permitting their removal to any country that will accept them. *See* 8 U.S.C. § 1231(b)(2)(E)(vii), (1)(C)(iv); *Jama*, 543 U.S. at 347 (discussing the "removable-but-unremovable limbo" some aliens would experience absent removal to a third country).

On March 30, 2025, DHS clarified its policy regarding third-country removals (the Guidance). *See* Guidance Regarding Third Country Removals, attached as Exhibit B. This Guidance distinguishes between removals to countries that have provided credible diplomatic assurances that aliens removed there will not be persecuted or tortured and removals to those countries that have not provided such assurances. *Id.* pp. 1-2. For countries that have provided such assurances, "the alien may be removed without the need for further procedures." *Id.* For other countries, the Guidance provides for notice of the third country and an opportunity for the alien to "express a fear of persecution or torture" there. *Id.* at 13-14. If an alien does express such a fear, the Guidance specifies that he will receive a fear screening. *Id.* If the alien passes the fear screening, the alien will be placed into additional administrative procedures, or ICE may choose to designate another country for removal and start the process anew. *Id.*

Last year, aliens with final removal orders launched a challenge to this Guidance in the District of Massachusetts. On April 18, 2025, the District of Massachusetts certified a class under Rule 23(b)(2) consisting of:

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of 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.

D.V.D. v. U.S. Dept. of Homeland Sec., 778 F. Supp. 3d 355, 378 (D. Mass. 2025). In the same order, the court entered a preliminary injunction based on due process concerns

with the Guidance. The preliminary injunction required, *inter alia,* written notice of the country to which ICE seeks to remove the alien and additional opportunities to raise a fear-based claim. Specifically, the district court found that non-individualized diplomatic assurances do not satisfy due process and "offer no protection against either torture by non-state actors or chain refoulement, whereby the third country proceeds to return an individual to his country of origin." *Id.* at 390 (citing Plaintiffs' complaint discussing chain refoulement). The Court also held that the Guidance was insufficient because it did not provide sufficient notice and opportunity for class members to be heard regarding any fear of return to the third country. *Id.*

The Government appealed, and after the First Circuit denied the Government's request for a stay, applied for a stay of the preliminary injunction in the Supreme Court. *DHS v. D.V.D.*, Application for a Stay, 24A1153 (May 2, 2025). In its application, the Government argued that several statutory limitations on district court jurisdiction barred the district court from adjudicating the class's claims; that the district court's classwide injunction enjoining the government's use of the March Guidance violated the prohibition on classwide injunctive relief in 8 U.S.C. § 1252(f)(1); that the March Guidance satisfies the Constitution despite Plaintiffs' due process argument and "chain refoulement" concerns; and that the preliminary injunction irreparably harms foreign relations with countries with whom the United States is seeking to negotiate third country removals. *Id.*

On June 23, 2025, the Supreme Court granted the requested stay in its entirety as to both the named plaintiffs and the classwide relief. *DHS v. D.V.D.,* 145 S. Ct. 2153

(2025) (*D.V.D. I*). That same day, despite the Supreme Court's stay, the district court nonetheless purported to enforce its since-stayed injunction as to eight class members in DHS custody in Djibouti, ordering the Government to carry out the preliminary injunction procedures the Supreme Court had stayed. The Government immediately moved to clarify the Supreme Court's stay. *DHS v. D.V.D.*, Motion for Clarification, 24A1153 (June 24, 2025).

On July 3, 2025, the Supreme Court granted the Government's motion. *Dep't of Homeland Sec. v. D.V.D.,* 145 S. Ct. 2627 (2025) (*D.V.D. II*). The Supreme Court held that its "June 23 order stayed the April 18 preliminary injunction in full," and the district court could not "enforce an injunction that [the Supreme Court's] stay rendered unenforceable." *Id.* at 2; *see also N.I.H. v. Am. Pub. Health Ass'n.,* Order on Application for Stay, 25A103 (August 21, 2025) (Gorsuch, J., concurring) (Supreme Court's clarification order "should have been unnecessary").

Since then, the district court has entered final judgment in favor of the class members, and the First Circuit has granted a stay of that judgment pending the government's appeal, which has been fully briefed and argued. *D.V.D. v. D.H.S.,* 25-10676, 2026 U.S. Dist. LEXIS 38553 (D. Mass. Feb. 25, 2026); *D.V.D. v. D.H.S.,* 26-1212 (1st Cir. Mar. 16, 2026). Despite—or perhaps because of—the Supreme Court's order staying the *D.V.D.* preliminary injunction, the subsequent refusal of the District of Massachusetts to issue preliminary relief to individual class members, and the First Circuit's stay of the final judgment, some *D.V.D.* class members have attempted to *de*

facto opt out of the Rule 23(b)(2) class by filing individual habeas petitions seeking the *same relief* pursued by the *D.V.D.* class and stayed by the Supreme Court and the First Circuit.

The defining features of a Rule 23(b)(2) class are the indivisible nature of the relief sought and the inability of class members to opt out. Rule 23(b)(2) classes are permitted only when the defendant "has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). By rule, relief can be entered only with respect to the class as a whole. *See id.* R. 23(c)(3)(A). Rule 23(b)(2) classes can thus be certified only when "the relief sought must perforce affect the entire class at once." *Wal-Mart Stores, Inc. v. Dukes,* 564 U.S. 338, 361-62 (2011). "For that reason," Rule 23(b)(2) classes are "mandatory classes," with "no opportunity" for "class members to opt out" and litigate their claims individually. *Id.* at 362.

But some *D.V.D.* class members, including Petitioner here, have sought to do just that—litigating their claims both as part of the *D.V.D.* class litigation and on their own, and sometimes even obtaining disparate, individualized relief not afforded to the class. The resulting inconsistent judgments and standards are antithetical to the basic nature of Rule 23(b)(2), which both ensures and requires an "indivisible" result in which the class wins or loses as a whole and the entire class receives the same remedy. *See Wal-Mart,* 564 U.S. at 362-63; Fed. R. Civ. P. 23(c)(3) (providing that "the judgment in a class action" applies to "those whom the court finds to be class

members," "[w]hether or not [the judgment is] favorable to the class"). That orderly procedural mechanism turns into an intractable morass if the exact same individuals can sue separately and obtain different, conflicting judgments on the same claims, creating the very risk of differing requirements governing class members that Rule 23(b)(2) exists to prevent.

Second, if Rule 23 itself were not enough, other procedural rules aimed at preventing or resolving conflicting judgments compel the same result. The first-to-file rule controls before judgment, and *res judicata* applies once final judgment has been entered. As a general rule, duplicative litigation between two federal district courts should be avoided. *See Vanover v. NCO Fin. Servs., Inc.*, 857 F.3d 833, 843 (11th Cir. 2017). The first-to-file rule provides that "[w]here two actions involving overlapping issues and parties are pending in two federal courts, there is a strong presumption across the federal circuits that favors the forum of the first-filed suit." Marrero v. Laundress, LLC, No. 223CV00519JLBKCD, 2024 WL 478370, at *2 (M.D. Fla. Jan. 26, 2024) (citing *Manuel v. Convergys Corp.*, 430 F.3d 1132, 1135 (11th Cir. 2005)). Petitioner is already litigating the same claims raised in the instant motions as a *D.V.D.* class member, so the district court should not entertain his second-filed claims. *See Baatz v. Columbia Gas Transmission, LLC,* 814 F.3d 785, 790-91 (6th Cir. 2016) (applying the first-to-file rule in the class action context); *Mcneil v. Guthrie,* 945 F.3d 1163, 1165-66 (10th Cir. 1991) ("Claims for equitable relief must be made through the class representative until the class action is over or the consent decree is modified."). And while the first-to-file rule affords district courts a degree of discretion about how to

remedy a violation of the rule (through dismissal or a stay), and even in evaluating the extent of overlap between cases, here it is clear that Petitioner is a *D.V.D.* class member and that he has made no efforts to remedy the near-complete overlap between his individual claims and his claims as a *D.V.D.* class member.

A distinct rule compels the same result after final judgment in the class action. Now that judgment has been entered in *D.V.D.*, class members like Petitioner are barred by *res judicata* from seeking second bite at the apple on the same claims in different courts. "[U]nder elementary principles of prior adjudication a judgment in a properly entertained class action is binding on class members in any subsequent litigation. *Cooper v. Fed. Reserve Bank,* 467 U.S. 867, 874 (1984). That Petitioner's suit is barred by the final judgment in *D.V.D.* is the straightforward consequence of the finality of that action. *See Abella Owners' Ass'n v. MI Windows & Doors Inc.,* 860 F.3d 218, 224 (4th Cir. 2017) (affirming the dismissal under *res judicata* of plaintiff's claim because he was a class member in an action with a final consent order).

Based on these principles, appellate courts have repeatedly recognized that duplicative litigation between two federal district courts should be avoided. *See e.g.*, *Horns v. Whalen*, No. 90-6068, 1991 U.S. App. LEXIS 7, at *4 (4th Cir. Jan. 2, 1991) ("This Circuit as well as several other courts of appeals and district courts have held that it is not an abuse of discretion for a court to decline jurisdiction over an issue pending in another court, *particularly in the instance of a class action*"; *Goff v. Menke,* 672 F.2d 702, 704 (8th Cir. 1982) ("After rendition of a final judgment, a class member is

ordinarily bound by the result of a class action. If a class member cannot relitigate issues raised in a class action after it has been resolved, a class member should not be able to prosecute a separate equitable action once his or her class has been certified."); *Bryan v. Werner,* 516 F.2d 233, 239 (3d Cir. 1975) ("Since plaintiff was a member of that class and thus would be bound by the decision in that case, the district court properly concluded that it would be a waste of judicial effort to decide the same issue being litigated in the [pending class action]."); *Gillesie v. Crawford,* 858 F.2d 1101, 1103 (5th Cir. 1988) ("Individual members of the class and other prisoners may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action."); *Groseclose v. Dutton,* 829 F.2d 581, 582 (6th Cir. 1987) (vacating the district court's judgment on the merits and ordering that the case—including its Eighth Amendment claim not asserted in the first filed class action—be consolidated with the first filed class action).

Petitioner's newly raised claims are entwined with those raised in *D.V.D.* He challenges the same agency decisions and seeks the same relief as set forth in the *D.V.D.* class action currently on appeal in the First Circuit: Specifically, Petitioner claims that third country removal to Eswatini without adequate procedures violates his constitutional rights. He does not dispute that his claims arise from the application of the Guidance—the policy being challenged in *D.V.D.*

Petitioner's case is indivisible and indistinguishable from the *D.V.D.* class action; indeed, if the classwide judgment were not stayed, he would be a beneficiary of the relief the *D.V.D.* district court ordered. The very existence of his claims, separate from the class, undermines the purpose and function of Rule 23 directly conflicts with the stay of classwide relief entered by the First Circuit.

Granted, Petitioner also seeks an individual injunction. That makes no difference. The prohibition against claim splitting prohibits a plaintiff from prosecuting its case piecemeal. *See Vanover*, 857 F.3d at 841. Petitioner cannot separately pursue legal variations on the same set of operative facts at issue in *D.V.D. See Phan v.* DHS, 25-2147, Minute Order (D.D.C. July 4, 2025) (transferring *D.V.D.* class members' claims, including Eighth Amendment claims, to the *D.V.D.* district court); *see also Dutton,* 829 F.2d at 582 (ordering consolidation of Eighth Amendment claim with first-filed class action). Petitioner's newly raised claims arise out of the same DHS policy—the Guidance—as the *D.V.D.* class of which he is a member. Petitioner seeks equitable relief to remedy his harms just as the *D.V.D.* class does. Petitioner seeks relief from this Court because he cannot obtain it through the class action in Massachusetts due to the First Circuit stay. Petitioner cites no precedent from this Court—let alone any other Court of Appeals—allowing class members to seek equitable relief for identical injuries suffered by the class separate from a Rule 23(b)(2) class.

For these reasons, Petitioner is unlikely to succeed on his newly-raised third country removal claims and the relief sought before the Court should be denied.

C. The Court is Jurisdictionally Barred From Granting the Relief Sought.

Finally, as discussed *supra*, the instant motions seek to stimy the government's ability to execute an otherwise valid removal order, action the Immigration and Nationality Act squarely prohibits. Here, the applicability of Section 1252(g)'s prohibition is particularly manifest—Petitioner is seeking to *reverse* the execution of his valid removal order which, in Petitioner's case, is the government's only option to execute his removal order. This jurisdictional prohibition is, by its terms, completely unrelated to Petitioner's custody.

Second, FARRA and 8 U.S.C. § 1252(a)(4) also preclude the district court from considering Petitioner's claims. The INA provides that "[n]otwithstanding any other provision of law," "a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of any cause or claim under [CAT]." 8 U.S.C. § 1252(a)(4). And FARRA, which implemented U.S. obligations under Article 3 of CAT, further confirms that "no court shall have jurisdiction to review … any ... determination made with respect to the application of [CAT] ... except as part of the review of a final order of removal." § 2242(d), 112 Stat. 2681-822 ((8 U.S.C. § 1231 note); *see* 8 C.F.R. § 208.18(e).

Petitioner allegation that he is entitled to further notice and opportunity to raise a CAT claim relating to his removal to Eswatini is clearly a "cause or claim" under CAT that is reviewable only as part of a petition for review. Petitioner's newfound claims plainly arise under the CAT and FARRA; he seeks procedures that he claims arise from the regulations implementing CAT. These claims are only proper through

the immigration court and ultimately in a petition for review, *id.,* therefore, the district can easily dispose of these claims on jurisdictional grounds.

Third, Petitioner's newfound claims are barred in district courts by Sections 1252(a)(5) and (b)(9). By law, "the sole and exclusive means for judicial review of an order of removal" is a "petition for review filed with an appropriate court of appeals," that is, "the court of appeals for the judicial circuit in which the immigration judge completed the proceedings." 8 U.S.C. §§ 1252(a)(5), (b)(2). This explicitly excludes "section 2241 of title 28, or any other habeas corpus provision." 8 U.S.C. § 1252(a)(5). Section 1252(b)(9) is an "unmistakable 'zipper' clause" that "channels judicial review of *all* [claims arising from deportation proceedings]" to a court of appeals in the first instance. *AADC*, 525 U.S. at 483. "Taken together, § 1252(a)(5) and [(b)(9)] mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed only through the [petition for review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016). Section 1252(b)(9) thus eliminates this Court's jurisdiction over Petitioner's claims by channeling "all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien" to the courts of appeals. Accordingly, this Court lacks jurisdiction under §§ 1252(a)(5) and (b)(9) to review Petitioner's request to unwind his removal.

Conclusion

For the foregoing reasons this Court should decline to order the relief sought in Petitioner's most recent filings seeking reopening of his habeas proceedings and

injunctive relief.

Date: July 5, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: */s/ Amanda Saylor*
Amanda Saylor
Assistant United States Attorney
Lead Counsel for Federal Respondents
Florida Bar No. 1031480
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6020
Facsimile: (813) 274-6198
Email: Amanda.Saylor@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 5, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system which will furnish copies of these documents to all registered counsel of record.

Dated: July 5, 2026

Signed:

/s/ Amanda Saylor
Amanda Saylor
Assistant United States Attorney