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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

M.T.M.,

Petitioner,

v.

TONYA ANDREWS, et al.,

Respondents.

No. 2:25-cv-08208-SRM-PD

**REPLY IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

Judge: Serena R. Murillo

Hearing: September 23, 2025, 1:30 PM

INTRODUCTION

1
2 1. At this juncture, it appears Respondents do not object to the Court
3 ordering a preliminary injunction in accord with its temporary restraining order. *See*
4 ECF No. 36 (Response to OSC RE: Preliminary Injunction) at 6 (“the notice duration
5 and process required by the TRO is already in place, and the government has not
6 contended that the Petitioner should not receive advance notice of third-country
7 removal . . . the preliminary dispute appears largely resolved already”).¹

8 2. Of the two brief points Respondents make, their habeas cognizability²
9 argument has already been rejected by the Court, and Respondents offer only the
10 same two authorities the Court already considered. *Compare* ECF No. 36 at 2–5 with
11 ECF No. 26 at 1, 4–5 (Opposition to TRO Motion) (both citing *Pinson v. Carvajal*,
12 69 F.4th 1059 (9th Cir. 2023) and *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S.
13 Ct. 1959 (2020)). *See* ECF No. 34 (TRO Order) at 7 (“The Court is not persuaded by
14 Respondents argument that neither complaints regarding conditions of confinement
15 nor a desire to avoid removal to a country where one fears persecution are cognizable
16 habeas claims, relying on *Pinson v. Carvajal*, 69 F.4th 1059, 1065 (9th Cir. 2023)
17 and *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), respectively.”)

18 3. The only new point Respondents make involves the *D.V.D.* class action
19 before the District of Massachusetts, but the “Government does not make any
20 argument about how *D.V.D.* should factor into the Court's analysis of the instant
21

22 ¹ M.T.M. stands ready for oral argument tomorrow, but given Respondents’ position,
23 M.T.M. does not object to the Court taking down tomorrow’s hearing.

24 ² Respondents style their habeas argument as one of jurisdiction, but as Judge Court
25 has held, the “question of whether a claim is cognizable in habeas ‘is about a
26 petitioner’s obligation to satisfy the elements of his claim for habeas relief and not
27 about a district court's subject-matter jurisdiction.’” *Mohammed v. Engleman*, No.
28 2:25-CV-01011-MWC-MBK, 2025 WL 1909836, at *6 (C.D. Cal. July 9, 2025),
report and recommendation adopted, No. 2:25-CV-01011-MWC-MBK, 2025 WL
2294325 (C.D. Cal. Aug. 8, 2025) (citing *Bean v. Matteucci*, 986 F.3d 1128, 1132
(9th Cir. 2021)). *See* ECF No. 35 (Supplement ISO PI) at 6.

1 motion.” *Ortega v. Kaiser*, No. 25-CV-05259-JST, [2025 WL 2243616](#), at *4 (N.D.
2 Cal. Aug. 6, 2025) (rejecting same argument in granting PI). Regardless, Petitioner
3 seeks individualized relief on the basis of looming irreparable harm, offering his
4 unique factual circumstances in support. *See, e.g., ECF No. 35 at 2–5* (describing
5 Ghana country conditions and M.T.M.’s related fear-based claim). Therefore, and for
6 the reasons stated herein, the pending *D.V.D.* class action provides no basis to limit
7 M.T.M.’s relatively uncontested PI relief.

8 **ARGUMENT**

9 **I. M.T.M.’s Statutory and Constitutional Claims Demanding Meaningful** 10 **Notice and Opportunity to be Heard Prior to Third-Country Removal** 11 **Properly Sound in Habeas.**

12 4. M.T.M. and the Court have already addressed Respondents’ exact
13 arguments concerning *Pinson* and *Thuraissigiam* both in writing and at the TRO
14 hearing, so M.T.M. will be brief in supplementing the already resolved record. *See*
15 [ECF No. 27](#) (Reply ISO TRO) at 4–6; [ECF No. 35 at 5–6](#); and [ECF No. 34 at 7](#).

16 5. First, it is dispositively telling that Respondents belabor their inapposite
17 *Pinson* citation without addressing *any* of M.T.M.’s or the Court’s responses. As the
18 Court held, “instructive here is a more recent U.S. Supreme Court decision stating,
19 ‘release [is not] the only remedy under the federal writ of habeas corpus.’” [ECF No.](#)
20 [34 at 7](#) (citing *Trump v. J.G.G.*, [604 U.S. 670](#), [145 S. Ct. 1003](#), [1005-06 \(2025\)](#)).
21 “And the confluence of decisions in this area following the *Pinson* decision suggests
22 an ever-evolving environment in the detainee stream of justice.” *Id.* (citing *Doe v.*
23 *Garland*, [109 F.4th 1188, 1194](#) (9th Cir. 2024)).

24 6. Second, in *Pinson*, the petitioner did “not dispute that her petition
25 alleges claims based on her conditions of confinement,” rather than “attacking ‘the
26 legality or duration of confinement,’” and the *Pinson* Court specifically found that
27 “‘habeas corpus is limited to attacks upon the legality or duration of confinement’
28 and does not cover claims based on allegations ‘that the terms and conditions of . . .

1 incarceration constitute cruel and unusual punishment.” 69 F.4th at 1065 (citing
2 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)). Beyond the evolving
3 jurisprudence on habeas cognizability, *Pinson* is inapposite here because it was a
4 holding directed at cruel and unusual punishment constitutionality claims, and
5 M.T.M. makes no such argument. Rather, M.T.M.’s claims may be analogized to
6 challenging (1) the legality of converting Respondents’ custody from that of ICE
7 detention to removal via a third-country deportation, (2) the unlawful execution of a
8 removal order, and/or (3) the legality and duration of his confinement because
9 “proper notice and an opportunity to be heard will be central to his forthcoming
10 *Zadvydas* habeas claim,” ECF No. 34 at 7.

11 7. Third, amending the petition to add *Zadvydas* claims for release would
12 cure any cognizability defects. To the point, once the Court rules on preliminary
13 injunctive relief, M.T.M. will seek leave to amend his petition to add *Zadvydas*
14 habeas release claims.³

15 **II. There Is No Basis to “Delimit” M.T.M.’s Preliminary Injunctive Relief**
16 **Because of the Pending *D.V.D.* Class Action.**

17 8. In accord with the Hon. Judges Stanton and Almadani’s granting of
18 injunctive relief identical to that requested here, the Court should reject Respondents’
19 nebulous request to “coordinate” and “delimit” preliminary injunctive relief here
20 because of the pending *D.V.D.* class action. See *Vaskanyan v. Janecka*, No. 5:25-cv-
21 01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. June 25, 2025); *Nadari v. Bondi*, No.
22 2:25-CV-07893-JLS-BFM, ECF Nos. 9, 12 (C.D. Cal Sep. 3, 2025); *id.*, ECF No. 12
23 (C.D. Cal. Sep. 10, 2025).

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25 ³ As a minor point, Respondents state that the proceedings have been of a “generally
26 *ex parte* nature.” ECF No. 36 at 4–5. M.T.M. disagrees. Respondents received copies
27 of M.T.M.’s opening filings before any orders were issued in this action. And apart
28 from the temporary emergency orders at the start of this action, Respondents have
had several opportunities to make their case before the Court ruled on the TRO
motion and now PI relief.

1 9. First, the “Government does not make any argument about *how D.V.D.*
2 should factor into the Court's analysis of the instant motion.” *Ortega*, 2025 WL
3 2243616, at *4 (emphasis added). Neither the Court nor M.T.M. is on notice of what
4 exact relief Respondents request by their *D.V.D.* argument. *See Mahdejian v.*
5 *Bradford*, No. 9:25-CV-00191, 2025 WL 2269796, at *4 (E.D. Tex. July 3, 2025)
6 (“Respondents argue that the Court should dismiss this case in light of a related class
7 action [*D.V.D.*] . . . But this is a discretion-laden issue and Respondents don't explain
8 why this should have any bearing on the temporary relief requested”). Moreover, a
9 “request for court order must be made by motion. As a result, a request for
10 affirmative relief is not proper when raised for the first time in an opposition.”
11 *Ortega*, 2025 WL 2243616, at *4 (internal citation omitted) (“the Court denies . . .
12 the Government’s request to dismiss this action in light of *D.V.D.*”).

13 10. Second, as Respondents acknowledge, the Supreme Court did not issue
14 a written opinion in staying the *D.V.D.* injunction. Conjecture as to the basis of the
15 stay—merits, procedural, scope, or otherwise—is simply that: conjecture.
16 Guesswork is no basis to deny individualized relief that would prevent irreparable
17 harm. In *Nguyen v. Scott*, the court considered Respondents’ position here and held
18 that “this Court cannot ignore binding authority in favor of speculation about the
19 intent of an interlocutory emergency docket order issued without any reasoning.” No.
20 2:25-CV-01398, 2025 WL 2419288, at *21 (W.D. Wash. Aug. 21, 2025) (granting
21 PI). As the court explained: “The Supreme Court did not decide *D.V.D.* on the merits,
22 nor did it even necessarily rule on the class's likelihood of success on its due process
23 and APA claims . . . absent ‘clear guidance from the Supreme Court’ that cases like
24 *Andriasian*, *Himri*, and *Aden* are ‘no longer good law,’ this Court must follow ‘well-
25 established precedent.’” *Id.* Just so here, especially considering the high stakes for
26 M.T.M. are uncontested, as there is no remaining dispute on irreparable harm in the
27 interim while *D.V.D.* continues in the ordinary course of litigation. *Nguyen*, 2025 WL
28 2419288 at *20 (“without that opportunity, Petitioner would be left ‘powerless to

petition the courts for redress’ until the *D.V.D.* class action has been ‘fully resolved’”) (citing *Pride v. Correa*, 719 F.3d 1130, 1137 (9th Cir. 2013)).

11. Third, even if *D.V.D.* is ultimately decided on the merits differently than here, that decision involving nationwide class-wide relief would not necessarily affect M.T.M.’s seeking of individualized relief. Respondents themselves assert that the merits of class-wide and individualized third country removal notice claims are different because the burden posed to the Government is different on an individualized and class-wide basis: “while the duration of the required notice period set forth above is relatively lengthy, it would not seem (in an individual case, as opposed to a class action) to impose a severe burden.” ECF No. 36 at 2.

12. Relatedly, the *Nguyen* court noted several other differences between the *D.V.D.* class action and an individualized claim. Instructive to the court’s holding was Ninth Circuit precedent that “‘a district court may not ‘dismiss[] those allegations of the [the] complaint which go beyond the allegations and relied prayed for in [the class action.’” 2025 WL 2419288, at *20 (edits in original) (citing *Pride*, 719 F.3d at 1133). There, as here, petitioner’s “due process claim is not identical to the claims at issue in the *D.V.D.* class action—Petitioner argues that due process requires he have a meaningful opportunity to seek withholding of removal, a claim not at issue in *D.V.D.* (which concerns claims under the Convention Against Torture).” *Id.* Further, “[n]or does Petitioner’s habeas petition raise a ‘complaint to systemic relief for [detainees fearing third-country removal] generally,’” so “Petitioner ‘may bring his independent claim for injunctive relief because it is not duplicative of the [*D.V.D.*] litigation.’” *Id.* at *21 (edits in original) (citing *Pride*, 719 F.3d at 1137–38). As set forth in the record, M.T.M. has provided several uncontested arguments on the merits of his third country notice claims that are specific to him, including Respondents’ already attempted unlawful removal and M.T.M.’s fear-based claims as to the country they tried to remove him to—Ghana.

13. Last but not least:

1 “Respondents’ position contradicts the position they have taken in *D.V.D.*
2 itself. As explained further below, one of the government’s primary arguments
3 against the injunction in *D.V.D.* is that there is a jurisdictional bar to classwide
4 injunctive relief in that case. Resp’ts’ Application for Stay 5–6, 21–27, *Dep’t*
5 *of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025). In other words, the
6 government is arguing in *D.V.D.* that injunctive relief cannot be granted to the
7 class, and may only be pursued (if at all) through individual cases, while
8 arguing here that Petitioner’s individual claim should be barred because his
9 injunctive claims should be adjudicated as part of the *D.V.D.* class. The
10 contradiction in these arguments further undermines Respondents’ position
11 here. The class certification order in *D.V.D.* does not prevent this Court from
12 adjudicating Petitioner’s claims regarding third-country removal.”
13 *Id.* See also *Vaskanyan*, 2025 WL 2014208, at *7 (“The government argues that
14 Petitioner has not explained ‘why he believes that a *second* court order would be
15 more likely to ensure Respondents’ compliance than the first.’ ECF 14 at 12. It
16 concedes, however, that if the *D.V.D.* order ‘were to be modified or vacated . .
17 . *then* Petitioner might have reason to seek a comparable order from a different
18 court.’ *Id.* at 12. This has now come to pass.”)

19 CONCLUSION

20 M.T.M. respectfully requests this Court issue a preliminary injunction in
21 accord with the terms of its Temporary Restraining Order, ECF No. 34.
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Dated: September 22, 2025

Respectfully submitted,
/s/ Farida Chehata

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CERTIFICATE OF COMPLIANCE WITH LR 11-6.2

The undersigned, counsel of record for Petitioner, certifies that the memorandum of points and authorities contains 1,982 words, which complies with the word limit of L.R. 11-6.1.

Dated: September 22, 2025

Respectfully submitted,

/s/ Farida Chehata

Counsel for Petitioner