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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 Jonny Alexander Escobar,

16 Petitioner,

17 v.

18 CHRISTOPHER CHESTNUT, Warden,
19 California City Correctional Facility; ORESTES
20 CRUZ, Acting Field Office Director of San
21 Francisco Field Office, U.S. Immigration and
22 Customs Enforcement; KRISTI NOEM,
23 Secretary of the U.S. Department of Homeland
24 Security; TODD M. LYONS, Acting Director,
25 U.S. Immigration and Customs Enforcement;
26 and PAMELA BONDI, Attorney General of the
27 United States,

28 Respondents.

Case No. 1:25-cv-01801-DJC-EFB

**OPPOSITION TO RESPONDENTS'
MOTION TO DISMISS OR TRANSFER**

Hon. Judge Edmund F. Brennan

INTRODUCTION

Respondents' only argument as to why Mr. Escobar's habeas petition should be dismissed is that he is a class member in *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355 (D. Mass. 2025). In the alternative, Respondents assert that Mr. Escobar's habeas petition should be transferred to a district where he is not currently detained, has never resided, and has no other connections. This Court has already joined several sister courts in finding that *D.V.D.*, and the Supreme Court's stay of the preliminary injunction in that matter, does not preclude Mr. Escobar from protecting his individual due process rights. *See* Dkt. 16, Order Granting Temporary Restraining Order. Respondents now offer no other convincing reason why this Court should reverse course.

FACTUAL AND PROCEDURAL BACKGROUND

Mr. Escobar was granted protection under the Convention Against Torture ("CAT") by an Immigration Judge on October 10, 2025. On December 10, 2025, Immigration and Customs Enforcement ("ICE") officials informed Mr. Escobar that they were removing him either to Mexico or to one of six countries in Africa. *See* Dkt. 1, Petition for Writ of Habeas Corpus. This threat of removal without Due Process necessitated the current petition, which was filed that same day. *Id.* Since filing, this Court granted Petitioner's request for a Temporary Restraining Order ("TRO") on December 19, 2025, and subsequently granted a Preliminary Injunction ("PI") on December 30, 2025, requiring that ICE take several steps in designating a third country of removal to ensure Mr. Escobar's Due Process rights under the Fourth Amendment. *See* Dkt 16, Order Granting TRO, Dkt. 18, Order Granting PI. Since the initiation of this lawsuit, Mr. Escobar has been pressured by ICE officials into forfeiting his rights and to self-deport to Mexico. *See* Exh. L, Dec. of Jonny Alexander Escobar in Support of Opposition to Respondents' Motion to Dismiss and Transfer. ICE officers only began pressuring Mr. Escobar into self-deportation after this Court issued a minute order requiring 24 hours' notice of removal. *See* Exh. L ¶ 2; *see also* Dkt. 6. Minute Order. ICE's most

1 recent pressure campaign took place only hours after this Court had granted a PI. *See* Exh. L ¶ 5;
2 *see also* Dkt. 18. This is a plain attempt by Respondents to circumvent the judicial process.

3 STANDARD OF REVIEW

4 Respondents' sole argument for why this Court should dismiss Mr. Escobar's habeas
5 petition is "because he is a member of a class seeking the same relief in a different federal district
6 court." Dkt. 15, Respondents' Motion to Dismiss or Transfer, at 1.¹

7 The "generally recognized doctrine of federal comity[, which Respondents point to,]
8 *permits* [but does not require] a district court to decline jurisdiction over an action when a complaint
9 involving the same parties and issues has already been filed in another district." *Pacesetter Sys.,*
10 *Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94–95 (9th Cir. 1982) (emphasis added). But Mr. Escobar's
11 "[i]ndividual claims for injunctive relief related to [his third country removal] are discrete from the
12 claims for systemic reform addressed in [*D.V.D.*]. Consequently, where [Mr. Escobar] brings an
13 independent claim for injunctive relief solely on his own behalf for [due process] that relates to him
14 alone, there is no duplication of claims or concurrent litigation." *Pride v. Correa*, 719 F.3d 1130,
15 1137 (9th Cir. 2013).

16 Separately, as to Respondent's request for transfer of Mr. Escobar's habeas petition to the
17 District of Massachusetts, venue for Mr. Escobar's habeas petition is properly in this District
18 because this is the district in which Mr. Escobar is confined. *See Doe v. Garland*, 109 F.4th 1188,
19 1197–99 (9th Cir. 2024). Mr. Escobar is currently detained in Kern County, placing his case with
20 the Eastern District court sitting in Fresno, California in accordance with Local Rule 120(d).

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23
24 ¹ In general, a motion to dismiss a petition for writ of habeas corpus is construed as a request for
25 the court to dismiss under Rule 4 of the Rules Governing Section 2254 Cases. *O'Bremski v. Maass*,
26 915 F.2d 418, 420 (9th Cir. 1990). Under Rule 4, a district court must dismiss a habeas petition if
27 it "plainly appears" that the petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d
28 687, 693 (9th Cir. 2019); *Boyd v. Thompson*, 147 F.3d 1124, 1127 (9th Cir. 1998). Respondents'
Motion to Dismiss does not address the merits of Mr. Escobar's habeas petition, but even if it did,
this Court has already found Mr. Escobar likely to succeed on the merits of his claims and dismissal
under Rule 4 would not be proper. *See generally* Dkt. 16, 18.

ARGUMENT

Respondents offer “three reasons” why this Court should dismiss Mr. Escobar’s habeas petition because of the *D.V.D.* class action. First, Respondents contend that this Court should refrain from granting any relief in Mr. Escobar’s habeas petition that “eventually may conflict with that ultimately provided to the *D.V.D.* class” where Mr. Escobar’s claims raise “precisely the same challenge [as those] brought in Massachusetts.” Dkt. 15 at 2. This Court, however, has already rejected this exact argument. *See* Dkt. 16 at 9 (finding that Mr. Escobar’s claims go beyond what was litigated in *D.V.D.*, including by challenging the July DHS memorandum that was issued after preliminary injunctive relief was ordered and subsequently stayed in *D.V.D.*).

The only citation Respondents offer in support of their argument is to Justice Burger’s concurrence in *Gen. Tel. Co. of Sw. v. Falcon*, where the petitioner brought claims on behalf of not only himself but of other persons similarly situated. 457 U.S. 147 (1982). This case is clearly inapplicable, however, as Mr. Escobar is not seeking systemic change but rather individualized protection of his own due process rights. *See* Dkt. 17, Amended Habeas Petition; *see also Pride*, 719 F.3d at 1132 (finding that an individual’s claim for individualized injunctive relief was not precluded by a class-action litigation seeking systemic reform). Other courts in this district have found that litigation of a petitioner’s individual habeas claims is unimpeded by class membership in *D.V.D.* *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 730 (W.D. Wash. 2025) (“The class certification order in *D.V.D.* does not prevent this Court from adjudicating Petitioner’s claims regarding third-country removal.”).

Second, Respondents claim that the Supreme Court’s stay of the preliminary injunction in *D.V.D.* precludes individual due process relief for Mr. Escobar. *See* Dkt. 15 at 3. Respondents’ argument misconstrues the Supreme Court’s clarification of the stay, which was not a ruling on the actual merits of the preliminary injunction in *D.V.D.*, but rather spoke only as to the scope of the stay in *D.V.D.* *See Dep’t of Homeland Sec. v. D. V. D.*, 145 S. Ct. 2627 (2025). Courts in this Circuit

1 have found that “absent ‘clear guidance from the Supreme Court’ that cases like *Andriasian*, *Himri*,
 2 and *Aden* are ‘no longer good law,’ this Court must follow ‘well-established precedent.’” *Nguyen*,
 3 796 F. Supp. 3d at 732 (citing *Launch Alaska v. Dep’t of the Navy, Off. of Naval Rsch.*, No. 3:25-
 4 CV-00141-GMS, 2025 WL 2223744, at *4 (D. Alaska Aug. 5, 2025) & *Jama v. Immigr. & Customs*
 5 *Enf’t*, 543 U.S. 335, 348 (2005)). Once again, this Court has already found against Respondents
 6 on this issue, joining its sister courts in finding “the stay of the order of preliminary injunctive relief
 7 in the *D.V.D.* class action does not prevent Petitioner from seeking relief here.” Dkt. 16 at 9; *see*
 8 *e.g.*, *Nguyen*, 796 F. Supp. 3d at 732; *Y.T.D. v. Andrews*, No. 1:25-CV-01100-JLT-SKO, 2025 WL
 9 2675760 at *9–12 (E.D. Cal. Sep. 18, 2025); *A.A.M. v. Andrews*, No. 1:25-CV-01514-DC-DMC
 10 (HC), 2025 WL 3485219, at *6 (E.D. Cal. Dec. 4, 2025).

12 Further the Supreme Court’s stay only precludes class wide preliminary injunctive relief
 13 for class members, meaning that if Mr. Escobar is prohibited from bringing an individualized claim
 14 he would be left “powerless to petition the courts for redress” until the *D.V.D.* class action has been
 15 “fully resolved” leading to an “unwarranted delay.” *Pride*, 719 F.3d at 1137. This is especially
 16 concerning considering ICE officers repeated harassment of Mr. Escobar since the start of this
 17 litigation, pressuring him to sign self-deportation papers without his counsel present. *See generally*
 18 Exh. L.

19 Third, and finally, transfer to the District Court of Massachusetts is not appropriate.
 20 Respondents hang their hat on *Pacesetter Sys., Inc.*, a case in which the parties agreed that the
 21 claims involved “identical parties and issues.” 678 F.2d at 94. As discussed above, Mr. Escobar’s
 22 claim is individualized in that it does not bring a systemic challenge, goes beyond that which was
 23 litigated in *D.V.D.* by challenging the July 9 DHS memo, and requests a hearing before a neutral
 24 adjudicator. *See* Dkt. 17. Reference to *Frost v. Symington* is equally unconvincing, as *Frost* only
 25 pertained to class actions “involving the *same* issues”. 197 F.3d 348, 359 (9th Cir. 1999) (emphasis
 26 added). Tellingly, in both the unpublished and out of Circuit decisions Respondents cite transfer
 27
 28

1 was not ordered. *See Ghamelian v. Baker*, No. CV SAG-25-02106, 2025 WL 2049981, at *3 (D.
2 Md. July 22, 2025); *Tanha v. Warden, Baltimore Det. Facility*, No. 1:25-CV-02121-JRR, 2025 WL
3 2062181, at *5 (D. Md. July 22, 2025). In fact, in *Tanha* the court only declined to extend
4 jurisdiction because Petitioner did “not ask this court for habeas relief in connection with his request
5 for, or any entitlement to, a hearing to challenge his removal to any of the third countries identified
6 in the Notices of Removal”—the very relief requested by Mr. Escobar. 2025 WL 2062181, at *5;
7 *see* Dkt. 17. Respondents provide no other arguments nor basis as to why Mr. Escobar’s habeas
8 should be litigated anywhere other than before this Court, where venue is proper. *See Doe v.*
9 *Garland*, 109 F.4th at 1197–99.

CONCLUSION

11 For the foregoing reasons, the Court should deny Respondents Motion to Dismiss or
12 Transfer. This Court should grant any further relief the Court deems just and proper.
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14
15 Dated: January 2, 2026

Respectfully Submitted,
/s/ Lya Ferreyra
Lya Ferreyra

Attorney for Petitioner