IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

GABRIEL LASANDA JOHNSON,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:26-cv-01037-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
Respondent.	:	

RESPONDENTS' SUPPLEMENTAL BRIEF PURSUANT TO COURT ORDER

Respondents respectfully submit this supplemental brief pursuant to the Court's July 25, 2026 text-only order, ECF No. 5, addressing the jurisdictional questions identified by the Court. As shown below, the Immigration and Nationality Act ("INA"), the REAL ID Act, and controlling Supreme Court and circuit authority foreclose district-court jurisdiction over Petitioner's claims and preclude the injunctive relief sought.

I. DHS Applies Lawful Regulatory and Procedural Screenings to Third-Country Removals when Proper Legal Triggers are Met

The Department of Homeland Security ("DHS") does not maintain any policy of categorically denying reasonable-fear screenings or statutory protections to individuals in Petitioner's position. Instead, DHS follows the binding March 30, 2025 *Guidance Regarding Third*

[1] In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in her Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden as the sole appropriately named respondent in this action.

Country Removals, reinstated by the Supreme Court's stay in *DHS v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025), which governs the agency's implementation of third-country removals.

Under that framework, the screening obligations applicable in third-country removals are determined by the presence or absence of verified diplomatic assurances. Here, Sierra Leone has formally entered into an arrangement with the United States to accept certain aliens subject to final orders of removal, and has accepted Petitioner pursuant to that arrangement. *See* Declaration of Acting Unit Chief of Removal Management Division ("RMD"), Removal International Operations ("RIO") Vu Cam ("Cam Decl.") ¶¶ 4–5.

Sierra Leone also provided diplomatic assurances that individuals removed pursuant to this arrangement will not be subjected to persecution or torture in Sierra Leone or any country to which Sierra Leone may further transfer them, and the Department of State ("DOS") determined on March 2, 2026, that those assurances are "credible and reliable." *See* Cam Decl. ¶ 6; U.S. Dep't of State, Diplomatic Assurance Letter re: Sierra Leone (Mar. 2, 2026) ("DOS Assurance Letter") at 1–2. DOS further confirmed that Sierra Leone committed to treat nationals of the Economic Community of West African States ("ECOWAS") transferred from the United States in accordance with the 1951 Convention Relating to the Status of Refugees, the Convention Against Torture ("CAT"), and Sierra Leone's domestic constitutional and statutory obligations. *See* DOS Assurance Letter at 1–2.

Where the United States receives diplomatic assurances from the proposed third country and DOS deems those assurances credible, DHS may remove the individual to that country without initiating further fear-screening procedures, consistent with the Guidance and 8 C.F.R. § 208.18(c)(2), which provides that credible assurances foreclose additional CAT review.

Because diplomatic assurances provided by Sierra Leone were verified and deemed credible by DOS, DHS acted within its lawful authority in proceeding with Petitioner's removal to that country without triggering additional screening. And because Petitioner's final administrative removal order remains intact and enforceable, DHS is properly executing that order through authorized third country channels an execution confirmed by Petitioner's placement on the removal manifest, which serves as his travel document. *See* Cam Decl. ¶ 7. DHS intends to remove Petitioner on or around July 30, 2026, absent a judicial stay. *See id.* ¶ 8.

II. The Explicit Statutory and Regulatory Foundation Authorizing Third Country Executions

The absence of proactive, automatic pre-removal fear hearings in third-country deportations is not a policy choice but a direct consequence of the governing statutory and regulatory framework. A grant of withholding of removal is strictly country-specific and does not vacate, modify, or undermine the underlying final administrative removal order. The Supreme Court made this clear in *Johnson v. Guzman Chavez*, explaining that individuals who have been granted withholding "remain subject to a valid and administratively final order of removal," and that withholding merely restrains DHS from removing them to the particular country of risk, not from executing the order elsewhere. *Johnson v. Guzman Chavez*, 594 U.S. 523, 530 (2021)

Consistent with this limitation, DHS's authority to carry out an intact order of removal to a safe third country is expressly preserved in the regulations. Under 8 C.F.R. § 208.16(f), DHS may remove an individual granted withholding or deferral "to a third country other than the country to which removal has been withheld or deferred," confirming that withholding does not bar third-country execution or require further administrative protection screenings in such circumstances. Moreover, when the DOS or the Attorney General accepts credible diplomatic assurances from the receiving country, 8 C.F.R. § 208.18(c)(2) mandates that CAT claims "shall

not be considered further," foreclosing additional CAT-based process within DHS or the Executive Office for Immigration Review ("EOIR").

The statutes governing mandatory protection also reinforce this point. Neither 8 U.S.C. § 1231(b)(3) nor any implementing regulation imposes an affirmative duty on DHS to solicit fear based claims during routine execution of final removal orders. Instead, the regulatory trigger for reasonable-fear screening arises only when a noncitizen affirmatively expresses fear—a requirement codified at 8 C.F.R. § 208.31(b), and reaffirmed in DHS's March 30, 2025 Third Country Guidance reinstated following the Supreme Court's stay of the district court's injunction in *D.V.D. v. DHS*. DHS's refusal to solicit fear is therefore not a denial of process, but strict compliance with the controlling statute's expression-triggered design.

Finally, the Supreme Court has repeatedly held that federal courts may not impose procedural requirements on administrative agencies beyond those contained in the INA or the Code of Federal Regulations. In *Vermont Yankee Nuclear Power Corp. v. NRDC*, the Court admonished that the APA "established the maximum procedural requirements" courts may require, and that agencies—not courts—control the design of their procedural mechanisms. 435 U.S. 519, 524 (1978). This principle directly forecloses any judicial attempt to require DHS to add fear-solicitation duties or new pre-removal hearing procedures that Congress and the regulations do not prescribe.

In sum, DHS's practice of declining to solicit fear, relying on diplomatic assurances, and executing removal orders to safe third countries without automatic screenings is fully consistent with the statutory structure, regulatory text, and Supreme Court precedent that govern third-country executions. This is the framework Congress designed, and it leaves no basis for Petitioner's assertion that DHS must provide unsolicited pre-removal fear hearings.

The verified diplomatic assurances from Sierra Leone further reinforce that DHS's third country removal authority is properly invoked here. Sierra Leone formally accepted Petitioner pursuant to its arrangement with the United States, and it provided assurances that individuals removed there will not be persecuted or tortured in Sierra Leone or any country to which Sierra Leone may further transfer them. *See* Cam Decl. ¶¶ 4–6. DOS determined those assurances are "credible and reliable" and confirmed Sierra Leone's commitment to treat nationals of the ECOWAS in accordance with the Refugee Convention, the CAT, and Sierra Leone's domestic laws. *See* DOS Assurance Letter at 1–2. Under 8 C.F.R. § 208.18(c)(2), once DOS determines assurances are credible, CAT claims "shall not be considered further," which is exactly the circumstance present in Petitioner's case.

III. A Comprehensive Administrative Review Process Exists for Individuals Who Express Fear

Congress has established a comprehensive and exclusive administrative framework for adjudicating fear-based claims that arise during removal operations, and this framework becomes operative only when a noncitizen affirmatively expresses fear of removal. Under 8 C.F.R. § 208.31, United States Citizenship and Immigration Services ("USCIS") possesses exclusive jurisdiction to conduct reasonable-fear interviews, and EOIR possesses exclusive jurisdiction to review negative determinations, forming a multi-tier process that channels all fear-based adjudications through the Executive Branch rather than the federal district courts. This structure reflects Congress's deliberate choice to create an agency-exclusive system for adjudicating claims under 8 U.S.C. § 1231(b)(3) and the CAT. Indeed, the INA expressly prohibits courts from creating privately enforceable rights in connection with removal execution, providing that "[n]othing in this section shall be construed to create any substantive or procedural right or benefit" enforceable by an individual. 8 U.S.C. § 1231(h).

This statutory limitation is critical: if a noncitizen expresses fear of removal to a country lacking credible diplomatic assurances, the administrative system immediately activates and provides notice, interpretation services, representation by counsel at no government expense, a non-adversarial interview before a trained asylum officer, and de novo review by an Immigration Judge if USCIS issues a negative determination. Appeal to the Board of Immigration Appeals ("BIA") completes the administrative review chain. Congress designed this multi-tiered structure to be the sole means of adjudicating withholding-of-removal and CAT claims that arise during execution of a removal order, leaving no room for a parallel process in federal district court.

Thus, a meaningful process plainly exists—but only for those individuals who trigger the statutory and regulatory mechanism by affirmatively expressing fear. For individuals who do not express fear, or for whom the DOS has issued credible diplomatic assurances under 8 C.F.R. § 208.18(c)(2), the administrative review structure does not activate, and no statutory or regulatory mechanism authorizes district-court intervention. Congress's design—not DHS policy—determines when this process applies and forecloses judicial creation of supplementary procedures outside the agency system.

That administrative system did not activate here because Petitioner never expressed fear of removal to Sierra Leone—a country for which DOS has issued credible diplomatic assurances. Sierra Leone affirmatively assured the United States that individuals transferred there will not be persecuted or tortured, and DOS determined those assurances to be "credible and reliable." *See* Cam Decl. ¶ 6; DOS Assurance Letter at 1–2. Because such assurances exist, CAT claims "shall not be considered further" as a matter of law. *See* 8 C.F.R. § 208.18(c)(2).

IV. DHS Is Following the Statutory and Regulatory Process, Including the Diplomatic-Assurance Framework

DHS's implementation of Petitioner's third-country removal follows precisely the statutory and regulatory scheme Congress established. Under the reinstated March 30, 2025 *Guidance Regarding Third Country Removals*, DHS officers must provide written notice of the designated third country, ensure access to interpretation services, and allow the noncitizen an opportunity to contact counsel. For any noncitizen who affirmatively expresses fear, DHS must refer the individual to USCIS for a reasonable-fear screening under 8 C.F.R. § 208.31. Because Petitioner previously litigated his claims in formal removal proceedings and received withholding only as to Liberia, the applicable framework prescribes that if he were to affirmatively express fear of removal to a third country, the remedy would be a motion by OPLA to reopen before the Immigration Court or the BIA, pursuant to 8 C.F.R. §§ 1003.2 and 1003.23—not district court intervention. However, where the DOS determines that diplomatic assurances are credible, CAT protection is unavailable as a matter of law under 8 C.F.R. § 208.18(c)(2), and DHS need not conduct any additional CAT related screening or initiate reopening proceedings. This outcome is not a departure from required process; it is the process that the regulations mandate for final orders accompanied by verified diplomatic assurances.

Recent administrative precedent further confirms DHS's exclusive authority in this context. In *Matter of N-E-R-S-*, the BIA held that DHS is not required to disclose internal diplomatic instruments or operating criteria to establish the applicability of a third-country transfer mechanism, reaffirming the Executive Branch's sole authority to implement such transfers. *Matter of N-E-R-S-*, 29 I&N Dec. 753, 755 (BIA 2026). Likewise, in *Matter of E-A-R-M-*, the BIA confirmed that DHS's notice of intent to remove a noncitizen to a third country—whether provided orally or in writing—falls strictly within DHS's enforcement prerogatives and is not subject to

Immigration Judge or district-court review. *Matter of E-A-R-M-*, 29 I&N Dec. 746 (BIA 2026). These cases make clear that evaluating diplomatic assurances, designating a third country, and issuing notice of such removal are exclusively Executive Branch functions, insulated from judicial second-guessing.

Because Petitioner seeks an emergency TRO to halt a DHS removal that is being executed in exact accordance with the regulations, the agency-specific procedural tracks have not been triggered. Petitioner has never affirmatively expressed a fear of removal to Sierra Leone—a country for which DOS has already provided verified credible assurances and therefore the statutory and regulatory mechanisms that allow USCIS screening or OPLA reopening have not activated. In such circumstances, DHS is carrying out the removal precisely as Congress directed and as the regulations require. District-court intervention, therefore, is not only unsupported by statute but would directly contravene the regulatory framework governing diplomatic-assurance cases.

DHS officers followed the reinstated March 30, 2025 *Guidance*. And where DOS has verified credible assurances, CAT protection is unavailable as a matter of law. 8 C.F.R. § 208.18(c)(2). Sierra Leone's acceptance of Petitioner pursuant to its formal arrangement with the United States, and DHS's placement of Petitioner on the removal manifest for Sierra Leone, demonstrate compliance with the third-country removal process. *See* Cam Decl. ¶¶ 5–7.

The planned removal date—on or around July 30, 2026—and DHS's confirmation that it will follow the March 30, 2025 *Guidance* further reinforce that DHS is acting precisely within its lawful authority. *See id.* ¶¶ 8–9.

V. Congress Has Foreclosed District-Court Jurisdiction Over Petitioner's Claims

Even assuming Petitioner could articulate a viable underlying claim, Congress has expressly removed district court jurisdiction over any challenge arising from the execution, mechanics, or procedures associated with a final order of removal. Under 8 U.S.C. § 1252(a)(5), a petition for review filed in the appropriate court of appeals is the "sole and exclusive means" for obtaining judicial review of any removal order. That exclusivity is reinforced by 8 U.S.C. § 1252(b)(9), the statute's broad "Zipper Clause," which channels all questions of law and fact arising from actions taken to remove an alien into the same appellate-only track. These provisions collectively foreclose district-court jurisdiction over claims—like Petitioner's—that challenge the process, implementation, or consequences of DHS's execution of a removal order.

Congress went further still: 8 U.S.C. § 1252(g) strips district courts of jurisdiction over any claim arising from the Attorney General or DHS's decision to "execute removal orders." Courts have repeatedly confirmed that § 1252(g) applies not only to high-level decisions, but to the full range of actions flowing from DHS's execution of a valid removal order, including the precise claims Petitioner raises here—fear-screening issues, diplomatic-assurance determinations, and third-country designations. The Eleventh Circuit has made this interpretation explicit, holding that district courts are "completely barred" from adjudicating claims arising from DHS's execution of a removal order. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).

Additionally, 8 U.S.C. § 1252(f)(1) prohibits district courts from enjoining or restraining the operation of the statutory removal scheme, leaving only the Supreme Court with authority to issue injunctive relief against DHS's execution of §§ 1221–1231. Petitioner's requested TRO squarely seeks to restrain DHS from executing a final removal order—relief that § 1252(f)(1) forbids this Court to grant.

Finally, the First Circuit has confirmed that district courts lack jurisdiction over procedural challenges to third-country transfers, fear-screening processes, and notice-related claims, all of which must proceed through the petition-for-review mechanism. In *Khalil v. Garland*, the court held that such claims are statutorily foreclosed at the district-court level, because they "arise from actions taken to remove the alien" and thus fall within §§ 1252(a)(5) and (b)(9). *Khalil v. Garland*, 97 F.4th 54, 61 (1st Cir. 2024).

Taken together, these jurisdiction-stripping provisions leave no statutory foothold for district court review of Petitioner's claims. Congress has assigned all judicial oversight of removal-related issues—including third-country designations, diplomatic-assurance determinations, fear-screening procedures, and their execution—exclusively to the courts of appeals. For that reason, this Court lacks subject-matter jurisdiction and cannot entertain Petitioner's request for injunctive relief.

Petitioner challenges actions taken to execute a final removal order, including DHS's reliance on Sierra Leone's verified diplomatic assurances. Those assurances are confirmed in the administrative record: Sierra Leone formally accepted Petitioner for removal and provided diplomatic assurances that Sierra Leone will not persecute or torture individuals removed there or any country to which Sierra Leone may transfer them, assurances DOS determined to be "credible and reliable." *See* Cam Decl. ¶¶ 4–6; DOS Assurance Letter at 1–2.

VI. Even if the Court Believes Administrative Process Is Absent, Jurisdiction Still Does Not Lie in District Court

Even assuming the Court were to conclude that diplomatic assurances limit the availability of administrative review, Congress has expressly foreclosed jurisdiction. And here, the existence of verified assurances—acknowledged by both DHS and the DOS—reflects the precise conditions under which DHS may execute a removal to a third country without further screening. *See* Cam

Decl. ¶ 6; DOS Assurance Letter at 1–2. Congress drafted the jurisdiction-stripping provisions in 8 U.S.C. § 1252 to apply "notwithstanding any other provision of law," thereby foreclosing traditional habeas corpus and equitable jurisdiction under 28 U.S.C. § 2241 for claims arising from the execution of removal orders. This statutory command applies regardless of whether an administrative process exists or can be invoked in a particular case.

The Supreme Court's intervention in the *D.V.D. v. DHS* litigation—through its June 23, 2025 stay—reinforces this conclusion. In staying the district court's injunction, the Court restored DHS's March 30, 2025 *Guidance* and declined to endorse the district court's view that additional, court-ordered procedures could be imposed on DHS in connection with third-country removals. That stay, coupled with the First Circuit's stay of the district court's later final judgment, confirms that lower courts may not compel DHS to implement custom, extra-statutory screening processes beyond those codified in the INA and the Department's regulations.

The Supreme Court has repeatedly held that separation-of-powers principles prohibit courts from imposing procedural requirements on immigration enforcement operations that Congress did not create. In *DHS v. Thuraissigiam*, the Court emphasized that federal courts may not expand procedural protections or create new avenues of review beyond those Congress specified in the INA, particularly in contexts involving execution of removal orders. 591 U.S. 103, 134–35 (2020). Thus, even if diplomatic assurances foreclose further CAT consideration under 8 C.F.R. § 208.18(c)(2), the absence of additional administrative steps does not open the door to district-court review; it merely reflects Congress's decision to make such assurances legally dispositive.

Additionally, Congress provided a single, exclusive judicial avenue for constitutional or legal challenges to removal-related actions: the petition-for-review mechanism in the courts of

appeals. The REAL ID Act reinforced this design by channeling all constitutional claims and questions of law into the courts of appeals under 8 U.S.C. § 1252(a)(2)(D). Because § 1252(a)(2)(D) preserves appellate review of constitutional arguments, district-court jurisdiction does not revive merely because a petitioner alleges a due-process violation. Instead, Congress has directed that such claims "must be pursued solely through a Petition for Review filed in the United States Court of Appeals."

Accordingly, even if the Court accepted Petitioner's premise that diplomatic assurances limit the availability of administrative review, that finding would not alter the result: Congress has foreclosed district-court jurisdiction, and this Court must deny the TRO.

CONCLUSION

DHS has adhered to every statutory and regulatory requirement governing third-country removals, including the mandatory diplomatic-assurance framework and the expression-triggered reasonable-fear process. Congress established a comprehensive administrative mechanism for fear-based claims and made clear that this mechanism — not federal district courts — provides the exclusive avenue for review when a noncitizen expresses fear of removal.

Petitioner's claims challenge DHS's execution of a final removal order, the Department's reliance on verified and credible diplomatic assurances, and the regulatory process for withholding-only and CAT determinations—all matters for which Congress has vested judicial oversight solely in the courts of appeals under 8 U.S.C. § 1252. The record demonstrates that Sierra Leone formally accepted Petitioner for removal and provided assurances that individuals removed pursuant to the arrangement will not be persecuted or tortured in Sierra Leone or any country to which Sierra Leone may further transfer them—assurances DOS determined to be "credible and reliable." *See* Cam Decl. ¶¶ 4–6; DOS Assurance Letter at 1–2.

Because the INA expressly forecloses district-court jurisdiction over the execution of removal orders, procedural challenges to third-country designations, and any attempt to enjoin the operation of the removal statutes, this Court lacks subject-matter jurisdiction and must deny Petitioner's request for emergency injunctive relief.

Respectfully submitted this 28th day of July, 2026.

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