UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DINU RELU RASCOL,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MICHAEL L. WHITE, in his official capacity St. Clair County Sheriff; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, in his official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 26-13534

Hon. Stephen J. Murphy, III

Mag. Judge Patricia T. Morris

PETITIONER'S REPLY IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND REQUEST FOR EMERGENCY EVIDENTIARY HEARING

INTRODUCTION

Respondents' opposition rests on a categorical mischaracterization of Petitioner's claim, ignores critical new evidence, and asks the Court to accept disputed facts as established. Petitioner does not seek review of the 2017 removal order. He seeks to prevent his imminent removal to a third-country. Respondents' must first provide Petitioner with the process required before a third-country removal: effective written notice and a meaningful opportunity to raise fear of persecution and of torture claims, including a USCIS screening, and referral to the Immigration Court for full adjudication of withholding and CAT claims. Here, ICE canceled the USCIS screening before any merits determination, so there has been no screening, no referral, and no Immigration Judge review. Petitioner faces imminent removal without any administrative process to evaluate his fear-based claims.

The First Circuit's September 18, 2026 decision in *D.V.D. v. U.S. Department of Homeland Security*, No. 26-1212 (1st Cir. Sept. 18, 2026), confirms that such a challenge is not a forbidden attack on the final order. It is a challenge to DHS's procedures when it selects a country not identified in the removal order. *D.V.D.*, slip op. at 18–24, 28–32, 35–49. New evidence underscores the need for immediate relief. Counsel's email chain with USCIS, as **Exhibit 9**, shows that the third-country screening case for Petitioner was "cancelled by ICE." **Ex. 9**. The screening was not completed or adjudicated. It was canceled by ICE. Petitioner thus faces imminent removal to Rwanda without any completed merits determination of his claims.

Respondents also assert facts that are squarely disputed: that Petitioner was arrested pursuant to a warrant, that he was properly informed of Rwanda, and that his removal is lawful. Those assertions conflict with Petitioner's declarations and with the USCIS email. The Court should grant the TRO, consider the attached USCIS email as part of the record, and enjoin Petitioner's removal.

ARGUMENT

I. Petitioner's claim challenges 3rd-country-removal procedures, not 2017 removal order. Respondents repeatedly assert that Petitioner is subject to a final removal order and that only the BIA or the court of appeals may stay removal. Resp. Br. 4–8. That argument would be relevant only if Petitioner sought review of the 2017 order's validity or merits. Here, he does not. The Petition, emergency motion, and supporting memorandum disclaim any request for review of the removal order; he challenges only the government's present attempt to remove him to Rwanda without the notice and fear-based process required before a third-country removal.

The First Circuit addressed this precise issue in *D.V.D.* The court held that a challenge to DHS's procedures when it selects a country not identified in the removal order does not arise from the decision to "execute" the removal order within the meaning of 8 U.S.C. § 1252(g). *D.V.D.*, slip op. at 18–24. The court reasoned that a removal order includes country-designation requirements, and a challenge to removal to a country not contemplated by the order without legally required process challenges DHS's failure to execute the country-designation aspect of the order lawfully. *Id.* at 18–20. The court further held that

the judicial-review channeling provisions of 8 U.S.C. § 1252(a)(5) and § 1252(b)(9) do not foreclose a district-court challenge to third-country-removal procedures. A person cannot present a fear claim concerning a country that was never identified during the removal proceeding, and a challenge to procedures DHS must follow after choosing a third country is not a challenge to the removal order, or the decision to seek removal. *Id.* at 28–32.

Petitioner's claim falls squarely within that holding. Rwanda was not designated in the 2017 order. He does not ask the Court to revisit the 2017 merits. He asks only that the Court preserve the status quo. Petitioner must receive written notice, adequate preparation time, a completed USCIS screening, and a subsequent Immigration Court proceeding addressing his fear of Rwanda.

II. The Sixth Circuit recognizes district-court jurisdiction over certain custody and procedural challenges.

Respondents rely on Sixth Circuit cases holding that district courts lack jurisdiction over removal-based claims. Resp. Br. 6–8 (citing *Hamama v. Adducci*, 912 F.3d 869, 877 (6th Cir. 2018)). Those cases do not control here. The Sixth Circuit has distinguished between removal-based claims and certain custody and procedural challenges that remain within district-court habeas jurisdiction. *Hamama*, 912 F.3d at 871–72, 877 (recognizing that district courts retain habeas jurisdiction over certain detention-based claims even when removal-based claims are channeled). Petitioner's claim is procedural and custody-related. He does not seek to invalidate the 2017 order. He seeks to prevent removal to a third country because respondents failed to provide the notice and the complete fear-based process required before any such removal may proceed. That is

precisely the kind of narrow, individualized relief that *D.V.D.* recognizes as outside the scope of § 1252(g)'s bar. *D.V.D.*, slip op. at 18–24.

III. ICE's cancellation of the USCIS screening confirms that no completed administrative process exists.
Respondents assert that Petitioner's removal is lawful and that he has not shown a likelihood of success. Resp. Br. 8–13. But Respondents do not identify any completed adjudication of Petitioner's fear of Rwanda under INA § 241(b)(3) or CAT. The attached USCIS email confirms why: the screening was canceled by ICE. Ex. 8. That cancellation means that there was no completed USCIS screening, there was no written USCIS determination, there was no finding that Petitioner lacks a reasonable fear or that he does have a reasonable fear; there was no opportunity to challenge a potential adverse screening decision; there was no referral to the Immigration Court for further proceedings; and there was no appeal to the BIA to challenge a finding.

Respondents cannot withhold the very screening that a referral is intended to produce. Nor can ICE cancel the screening and then claim that Petitioner has failed to exhaust an administrative process that ICE itself prevented USCIS from completing.

V. Resp.'s reliance on the D.V.D. class action does not justify denying individual relief.
Respondents argue that Petitioner is a member of the *D.V.D.* class and must seek relief only in that action. Resp. Br. 10–13. That argument does not justify denying immediate relief here. First, the First Circuit issued its decision on September 18, 2026, after the earlier authorities cited by Respondents. The First Circuit affirmed the core holdings that third-country removals require effective notice and a meaningful opportunity to raise

fear-based claims. *D.V.D.*, slip op. at 35–49. Second, the First Circuit held that an individual challenge to the procedures governing a particular third-country removal is not barred merely because the person is a member of the class. The court recognized that the claim concerns the government's procedures when it selects a country not identified in the removal order, rather than a challenge to removability or the validity of the underlying order. *Id.* at 18–24, 28–32. Third, Petitioner now presents an individualized procedural event that the class litigation does not resolve: ICE canceled his particular USCIS screening after counsel affirmatively raised fear of Rwanda. Ex. 8. The requested order would address Petitioner's individual custody and removal, not issue a nationwide injunction.

Thus, an additional immediate issue is whether Respondents may remove him after canceling the screening required to evaluate his fear-based claim. That requires individualized relief to preserve Petitioner's ability to obtain the process required.

VI. Resp.'s assertion that Pet. was 'informed' of Rwanda does not establish effective notice.

Respondents state that ICE "informed" Petitioner that he would be removed to Rwanda and conducted an "informal interview." Resp. Br. 3. That assertion, even if true, does not establish effective notice because it does not provide what document was served or when it was served. It doesn't provide whether Petitioner understood the legal significance of the statement or whether Petitioner's counsel was provided notice. It doesn't provide whether

the statement identified a removal date or whether it explained the right to raise fear. Moreover, it does not provide whether it explained how to request USCIS screening, or whether counsel was present, had an opportunity to prepare Petitioner, or even whether counsel and Petitioner received a copy. Further, there was no informal interview conducted while Petitioner was detained without a warrant. But even if an informal interview existed, it cannot replace the written notice and meaningful preparation opportunity recognized in *D.V.D.* New evidence confirms that USCIS was never even allowed to contact Counsel, much less complete the process.

VII. Factual disputes re warrant, arrest, and notice require an evidentiary hearing.

Respondents assert that Petitioner's arrest and detention were lawful because DHS had obtained an administrative warrant and a travel document. Resp. Br. 13–14. Petitioner disputes these assertions. Petitioner's declarations state that ICE agents telephoned him under the pretext of verifying appointment information and based on that representation, he allowed officers to approach. Officers entered his home and arrested him without presenting a judicial or administrative warrant; he was not shown any warrant at the time of arrest; and he was not provided any notice identifying Rwanda as the intended country of removal. Exs. 2, 4. Respondents attach an exhibit label as a warrant, but they do not establish at what exact time the warrant was issued or whether it was presented to Petitioner. These are material factual disputes directly bearing on the lawfulness of custody and the immediacy of the threatened removal. An emergency evidentiary hearing is necessary to resolve them

VIII. Petitioner has demonstrated imminent irreparable injury.

Respondents argue that Petitioner has not shown imminent irreparable injury. Resp. Br. 14–16. The injury here is not removal alone. It is removal before Petitioner receives the statutory and constitutional process required to determine whether he can lawfully be removed to Rwanda. If removal occurs before the screening Petitioner may be removed before his fear claim is heard and judicial review is effective. Additionally, Counsel may lose access to him; the screening record may never be created; and a later order requiring screening may be impossible to implement. The cancellation email confirms that the harm is current, concrete, and caused by Respondents' conduct. Ex. 9.

Petitioner's declaration also sets forth specific fears of persecution and torture based on his Roma ethnicity and the risk of onward removal. Those allegations, combined with the canceled screening and imminent flight, establish irreparable injury.

IX. Balance of equities & public interest favor a Stay and an emergency hearing.

Petitioner has complied with ICE supervision for years and did not miss ICE appointments. Exs. 2, 4. The requested stay would preserve the status quo and require Respondents to lawfully resolve and complete the canceled screening process. The government's interest in executing a final order does not include an interest in executing removal through a procedure that denies the person notice and a meaningful opportunity to assert fear-based claims. The public interest favors compliance with INA § 241(b)(3), CAT, the Fifth Amendment, and the governing third-country procedures. Thus, a Stay imposes no

administrative burden and prevents irreversible harm. Accordingly, Petitioner requests an emergency evidentiary hearing to resolve the factual and legal disputes.

CONCLUSION AND REQUESTED RELIEF

1. Grant Petitioner's Emergency Motion for TRO; and enjoin Respondents from removing Petitioner to Rwanda or any other third country pending further order;
2. Order Respondents to provide formal written notice identifying the country of removal and proposed removal date;
3. Order Respondents to provide Petitioner reasonable access to Counsel and adequate time to prepare and present his fear-based claim;
4. Order Respondents to reinstate Rwanda USCIS third-country fear screening;
5. Prohibit removal until the screening, judicial review, and any resulting withholding-only, CAT, or motion-to-reopen, and BIA proceedings are completed;
6. Schedule an emergency evidentiary hearing to resolve all the factual disputes.

Dated September 19, 2026

Respectfully submitted,

/s/ Alberto Delgado

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