IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

[redacted] LOPEZ SARMIENTO, *et al.*,	)	
Petitioners,	)	
v.	)	Case No. 1:25-cv-1644 (AJT/WBP)
PAUL PERRY, *et al.*,	)	
Respondents.	)	

FEDERAL RESPONDENTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS AND IN OPPOSITION TO PETITIONER'S MOTION FOR A PRELIMINARY INJUNCTION

INTRODUCTION

The named Petitioners in this Petition for Habeas Corpus and Second Amended Complaint have been released from ICE custody. What remains before the Court is a smattering of claims including whether Petitioners can seek relief as to all claims on a class-wide basis. Petitioners also allege that such aliens with special immigrant juvenile ("SIJ") status and aliens who entered the United States as unaccompanied minors ("UACs") are summarily "ordered removed" by virtue of being placed in removal proceedings. Petitioners basically ask this Court to prevent the government from conducting removal proceedings, a serious impendent on the Executive branch's ability to conduct immigration enforcement. Indeed, the admission and exclusion of aliens in the United States is a "fundamental sovereign attribute." *Trump v. Hawaii*, 585 U.S. 667, 702 (2018). This Court should therefore decline to entertain Petitioners remaining claims.

Petitioners face three jurisdictional bars as to their remaining claims. *First*, Petitioners seek class wide as to all of their claims in their Second Amended Complaint and in most of their Motion for a Preliminary Injunction. But Congress has barred class-wide injunctions and relief in the immigration context. *See* 8 U.S.C. § 1252(f)(1). As the Fourth Circuit confirmed, "§ 1252(f)(1) expressly precludes jurisdiction or authority to enjoin or restrain provisions of the immigration laws, [] on a class-wide basis." *Miranda v. Garland*, 34 F.4th 338, 357 (4th Cir. 2022) (citing 8 U.S.C. § 1252(f)(1)) (internal quotations omitted). *Second*, as noted all of the named Petitioners have been released from ICE custody, therefore any remaining claims challenging their detention are moot. *Third*, to the extent Petitioners curiously seek to challenge their removal orders, those claims fail because this Court is jurisdictionally barred from considering the *merits* of any Petitioner's removal order, and for lack of standing and ripeness, because no such removal orders have been entered.

Thus, for the reasons stated below, the Federal Respondents respectfully request this Court deny Plaintiffs' motion for a preliminary injunction and dismiss Petitioners' Second Amended Complaint.

LEGAL BACKGROUND

Federal Respondents have already provided much of the legal background relevant to this case. *See* Doc. Nos. 12, Statutory and Regulatory Background, at 2-6 (8 U.S.C. §§ 1225(b), 1226, and SIJ status), 38, Legal Background, at 2-6 (SIJ status and Deferred Action ("DA")). Therefore, the Federal Respondents respectfully request this Court incorporate such sections into this memorandum.

PROCEDURAL HISTORY

A. The Amended Complaint

Petitioners and their alleged punitive class filed their second Amended Complaint on November 20, 2025. *See* Doc. No. 18-1 In the Amended Complaint, Petitioners bring eight claims for relief. *See* Am. Compl. ¶¶ 102-143. *First*, Petitioners allege a violation 8 U.S.C. § 1226(a) by failing to provide them with bond hearings. *Id.* ¶¶ 102-06 (Count I). *Second*, Petitioners claim that Federal Respondents' policy that UACs and SIJs who are applicants for admission are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2) violates the APA's notice and rulemaking requirements. *Id.* ¶¶ 107-112 (Count II). *Third*, Petitioners claim that same policy violates the APA as it is arbitrary and capricious. *Id.* ¶¶ 113-116 (Count III). *Fourth*, Petitioners claim their detention under § 1225(b) violates their substantive due process rights. *Id.* ¶¶ 117-123 (Count IV). *Fifth*, Petitioners contend their alleged re-detention without any pre-deprivation hearing violates Petitioners' procedural due process rights. *Id.* ¶¶ 124-130 (Count V). *Sixth*, Petitioners claim such re-detention without any pre-deprivation hearing is arbitrary and capricious under the APA. *Id.* ¶¶

131-134 (Count VI). *Seventh*, Petitioner SIJs claim they have been "summarily order[ed] [] remov[ed]" and such removal violates the INA and APA. *Id.* ¶¶ 135-138 (Count VII). And *lastly*, Petitioners allege the "pretermitting" of Petitioners' requests for relief from removal violates the Fifth Amendment. *Id.* ¶¶ 139-143 (Count VIII).

B. The Motion for a Preliminary Injunction and TRO

Petitioners motion for a preliminary injunction (hereinafter, "Motion") seeks much of the relief sought in their Amended Complaint. *Compare* Motion for PI, Requests (4)-(8) *with* Am. Compl. Counts I-VII. The only claim for relief from the Amended Complaint not included in the motion for a preliminary injunction is Count VIII. Additionally, in their motion, Petitioners requests that the Court "(1) Order that Petitioners and putative class members shall not be transferred outside of the Eastern District of Virginia while this case is pending; (2) Order Petitioner [redacted] immediate release from custody so that he may seek [redacted], and require Respondents to justify any re-detention based on "changed circumstances" indicating flight risk or dangerousness before a neutral arbiter; (3) Provisionally certify two putative classes[; and] (9) Enjoin Respondents from rescinding Petitioners' and putative SIJS class members' deferred action and employment authorization until further notice, and order the restoration of deferred action and employment authorization to Petitioners [redacted] and any SIJS putative class members for whom such status had already been rescinded, until further notice." Motion for PI, at 1-2.

C. This Court's Order and Memorandum Opinion Granting Emergency Relief to Petitioner [redacted].

On or about January 8, 2026, this Court granted Petitioners' Motion "to the extent that Petitioner [redacted] be [released] immediately from custody and Respondents are [enjoined] from re-detaining him absent a pre-deprivation hearing in which they adequately

establish changed circumstances justifying his re-detention based on Petitioner [redacted]s flight risk or danger to the community[.]" Doc. No. 49, Order, at 1. In its memorandum opinion, *see Lopez Sarmiento v. Perry*, 1:25-cv-1644, Doc. No. 54, 2026 WL 131917 (E.D. Va. Jan. 19, 2026) (Trenga, J.), the Court addressed Counts III, V, and VI as to Petitioner [redacted]. *Id.* at *3. The Court found Petitioner's [redacted]' recission of his DA violated the APA and Fifth Amendment. *Id.* at *7-8. The Court also found that Petitioner [redacted]' detention absent a pre-deprivation hearing violates his procedural due process rights. *Id.* at *9-10. The Court further noted that it need not address the merits of Petitioners' APA and *Accardi* claims as to such detention absent a pre-deprivation hearing. *See id.* at *7 n.17. This Court reserved judgment as to deciding all claims on a class-wide basis. *Id.* at *1 n.1. Further, the Court found that Counts I, II, and IV "challeng[ing] Respondents' failure to provide a bond hearings under 8 U.S.C. § 1226(a)[] have already been resolved." *Id.* at 3 n.7.

STANDARDS OF REVIEW

A. Federal Rule of Civil Procedure 12(b)(1)

A plaintiff who files suit in federal court must allege facts necessary to establish subject matter jurisdiction. *McNutt v. Gen. Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936). A motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) challenges a court's jurisdiction over the subject matter of the suit. The motion may either attack the court's subject matter jurisdiction by asserting "that a complaint simply fails to allege facts upon which subject matter jurisdiction can be based," *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982), or may assert that as a factual matter, the plaintiff cannot meet his burden of establishing a jurisdictional basis for the suit, *see id.* Under the latter approach, this Court "may consider evidence outside the pleadings" to determine whether subject matter jurisdiction exists. *In re KBR, Inc.*, 744 F.3d 326, 333 (4th Cir.

2014) (citation omitted). Moreover, there is a presumption that cases fall outside of a federal court's limited jurisdiction, and thus the "burden of establishing the contrary rests upon" the plaintiff. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994).

B. Preliminary Injunction

"[P]reliminary injunctions are extraordinary remedies involving the exercise of very far-reaching power to be granted only sparingly and in limited circumstances." *MicroStrategy Inc. v. Motorola, Inc.*, 245 F.3d 335, 339 (4th Cir. 2001) (citation omitted). To obtain a preliminary injunction, Petitioner must make a "clear showing" of each of the four factors: (1) a likelihood of success on the merits; (2) irreparable harm in the absence of preliminary injunctive relief; (3) that the balance of equities tips in their favor; and (4) that the public interest favors the requested equitable relief. *Winter v. NRDC*, 555 U.S. 7, 20 (2008); *see Roe v. Dept. of Defense*, 947 F.3d 207, 219 (4th Cir. 2020); *E.K. by & through Keeley v. Dep't of Def. Educ. Activity*, --- F. Supp. 3d ---, 2025 WL 2969560, at *6 (E.D. Va. Oct. 20, 2025) (Giles, J.); *see also Sarsour v. Trump*, 245 F. Supp. 3d 719, 728 (E.D. Va. 2017) ("The standard for granting either a TRO or a preliminary injunction is the same.").

"Ordinarily, preliminary injunctions are issued to protect the status quo and to prevent irreparable harm during the pendency of a lawsuit ultimately to preserve the court's ability to render a meaningful judgment on the merits." *See Perry v. Judd*, 471 F. App'x 219, 223 (4th Cir. 2012). Petitioner here, however, does not seek a preliminary injunction solely for its generally intended purpose—to maintain the status quo. Instead, Petitioner seeks the extraordinary and *disfavored* relief of a "mandatory" injunction asking this Court to order an IJ to review a USCIS asylum officer's credibility determination in Petitioner's third-country fear screening. As the Court previously stated, "the standard for a preliminary injunction 'becomes even more exacting when a

plaintiff seeks a preliminary injunction that mandates action, as contrasted with the typical form of preliminary injunction that merely preserves the status quo pending trial.'" *E.K.*, 2025 WL 2969560, at *6 (quoting *Vollette v. Watson*, 2012 WL 3026360, at *3 (E.D. Va. July 24, 2012)). And thus, to obtain this extraordinary and disfavored relief, courts require "a heightened showing of the four factors." *RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1209 (10th Cir. 2009). As shown below, Petitioner cannot muster a regular showing—let alone a heightened showing—of the four factors required for a preliminary injunction

ARGUMENT

Federal Respondents contend that the parties briefed the issues regarding Counts I-VI of the Amended Complaint and Requests (2), (6)-(9) of the motion for a preliminary injunction in their Responses to the habeas petition and Petitioners' motion for a TRO seeking immediate release of Petitioner [redacted]. *See* Doc. No. 12 (opposition to the Petition); Doc. Nos. 33, 38 (responses to motion for a TRO).[1] Based on this Court's prior opinions, *see Sarmiento v. Perry*, 2025 WL 3091140 (E.D. Va. Nov. 5, 2025); *Sarmiento v. Perry*, 2026 WL 131917 (E.D. Va. Jan. 19, 2026), this Court has ruled on Counts I, II, and IV as to all named Petitioners and Counts III, V, and VI as to Petitioner [redacted] Because much of the relief Petitioners seek in their motion for preliminary injunction is the same as in the Amended Petition, Respondents will respond to Counts III, V, VI, VII of the Amended Complaint on the preliminary injunction standard.

[1] Federal Respondents respectfully request that this Court incorporate such filings into this memorandum.

I. Factor One: Petitioners cannot show that they are likely to succeed on the merits.

A. This Court Lacks Jurisdiction to grant class-wide relief. (All Counts and Remaining PI Requests)

Initially, this Court lacks jurisdiction to entertain Petitioners' request for a preliminary injunction, either because his sought relief is not cognizable in this habeas proceeding or because Congress has expressly stripped this Court of jurisdiction to exercise judicial review over the execution of a final removal order.

Petitioners seek class wide as to all of their claims in their Second Amended Complaint and in most of their Motion. *See* Am. Compl. ¶¶ 102-143; Motion, at 1-2. But Congress has barred class-wide injunctions and relief in the immigration context. *See* 8 U.S.C. § 1252(f)(1). As the Fourth Circuit confirmed, "§ 1252(f)(1) expressly precludes jurisdiction or authority to enjoin or restrain provisions of the immigration laws, [] on a class-wide basis." *Miranda v. Garland*, 34 F.4th 338, 357 (4th Cir. 2022) (citing 8 U.S.C. § 1252(f)(1)) (internal quotations omitted).

Under § 1252(f)(1), district courts lack "jurisdiction or authority to enjoin or restrain the operation of" 8 U.S.C. §§ 1221–1231—the provisions "governing the inspection, apprehension, examination, and removal of aliens"[2]—except as to claims asserted by individual aliens. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 549-50 (2022). In full, § 1252(f)(1) provides:

> Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of *[§§ 1221-1232*], as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.

[2] The provisions subject to this jurisdictional bar include sections 1225 and 1226, which authorize the apprehension and detention of certain aliens who are present in the United States; sections 1229 and 1229a, which authorize removal proceedings; and section 1231, which generally authorizes the detention and removal of aliens with final-removal orders.

Id. (emphasis added). The Supreme Court has explained that § 1252(f)(1) "prohibits lower courts from entering injunctions that order federal officials to take or to refrain from taking actions to enforce, implement, or otherwise carry out the specified statutory provisions." *Aleman Gonzales*, 596 U.S. at 550. If an order enjoins or restrains action that "in the Government's view" serves to "enforce, implement, or otherwise carry out" the referenced sections of the INA, it violates Section 1252(f)(1)—regardless of whether the court considers the Government to be carrying out those sections as "properly interpreted." *Id.* at 550–52. Because the requested class-wide injunction would restrict the manner in which the Government engages in enforcement activity, it restrains the Government "from actions that[,]" in the Government's view "are allowed" by sections 1225, 1226, 1229, 1229a, and 1231, and it "interfere[s] with the Government's efforts to operate" those provisions." *Id.* at 551. Petitioners requested injunction restricts DHS' ability to carry out the removal provisions in 1221-1231 of the INA, is therefore barred by section 1252(f)(1). *See Biden v. Texas*, 597 U.S. 785, 797 (2022) (holding that lower court order enjoining DHS's Migrant Protection Protocols "violated" section 1252(f)(1)); *Miranda*, 34 F.4th at 354-57 (holding a district court lacked jurisdiction to issue class-wide relief regarding the application of § 1226(a)).

The "restrain the operation of" language found in § 1252(f)(1) is clear: By limiting class action claims that "enjoin" or "restrain," Congress intended the statutory language to encompass any action that restrains the operation of a detention statute, as well as any class action claim that seeks to enjoin a detention statute. Notably, Congress recognized that a class-wide injunction, such as the relief Petitioners obtained here, would override the laws governing detention. *See* H.R. Rep. No. 104-469, pt. 1, at 161 (1996). Such an order would enjoin the operation of a statute when it prevents "a doing or performing of a practical work or of something involving practical application

of principles or processes" the statute requires. Webster's Third New International Dictionary 1581 (2002).

As to the relief regarding the reinstatement of DA, such action would require USCIS to automatically consider aliens for DA at least in part based on *enforcement priorities* that have been rescinded. And enjoining USCIS to consider a previous administration's enforcement priorities when determining whether to defer enforcement action against a class of aliens would therefore "interfere with" the Government's efforts to arrest, detain, and remove those aliens under its current priorities. *Aleman Gonzalez,* 596 U.S. at 551.

In 2022, the Fourth Circuit, in the context of § 1226(a), confirmed that "§ 1252(f)(1) expressly precludes jurisdiction or authority to enjoin or restrain provisions of the immigration laws, [] on a class-wide basis." *Miranda*, 34 F.4th at 357 (citing 8 U.S.C. § 1252(f)(1)) (internal quotations omitted). In *Miranda*, the Fourth Circuit addressed three arguments claiming that relief was warranted. *See id*. at 356-57. Two of those arguments are relevant here. *First*, the petitioners in *Miranda* argued[3] that because § 1252(f)(1) neither referenced class actions nor referred to Fed. R. Civ. P. 23, class actions were not precluded under such provision. *See id.* at 356. The Fourth Circuit rejected such argument, finding "Congress's explicit reference to Rule 23 in § 1252(e)(1)(B) does not mean it must include such language in every section for the section to apply to class actions." *Id.* The Fourth Circuit reasoned that § 1252(f)(1)'s language "limiting the jurisdiction and authority of the courts to enjoin § 1226(a) only with respect to an *individual alien* is sufficiently clear to indicate that courts lack jurisdiction to issue class-wide injunctive relief with respect to the processes used to detain aliens under § 1226(a)." *Id.* And because the heart of

[3] The petitioners in *Miranda* focused on how 8 U.S.C. § 1252(e)(1)(B), which is another INA provision precluding class-wide relief, explicitly referred to Fed. R. Civ. P. 23. 34 F.4th at 356. The Fourth Circuit found this point unpersuasive. *Id.*

Petitioners' claims challenge detention authority (§§ 1225, 1226) and removal authority (§ 1231), which are all referenced in § 1252(f)(1), this Court lacks jurisdiction to grant class-wide relief.

As to the second argument in Miranda, the petitioners claimed that § 1252(f)(1) was inapplicable because each member of the alleged class fell within the exception in § 1252(f)(1) as "an individual alien against whom proceedings under such part have been initiated." See id. at 356-57 (quoting 8 U.S.C. § 1252(f)(1)). The Fourth Circuit found that such exception did not apply because the provision applied to "multiple aliens" at "all future bond hearings." See id. at 357. As Fourth Circuit simply put:

> a class of individuals is no longer "an individual," it is a group. The only way to interpret § 1252(f) (1) in the way Miranda, Adegoke and Espinoza suggest is to judicially strike "individual" from the statute. But our responsibility is to interpret the laws Congress passes, not rewrite them. By its express terms, § 1252(f)(1) allows a court to issue individual relief, but it bars class-wide relief.

Id. (emphasis added); *Am. Immigration Lawyers Ass'n v. Reno*, 199 F.3d 1352, 1360 (D.C. Cir. 2000) ("Congress meant to allow litigation challenging the new system by, and only by, aliens against whom the new procedures had been applied.").

Therefore, this Court should find that it lacks jurisdiction to grant class-wide relief. *See Preap*, 139 S. Ct. at 975 (Thomas, J., concurring in part) (1252(f)(1) bars injunction requiring action that is "not authorized by the statutes"); *Jennings*, 138 S. Ct. at 851; *cf. Bostock v. Clayton County, Ga.*, 140 S. Ct. 1731, 1740 (2020) (explaining in the context of Title VII that "the meaning of 'individual' was as uncontroversial in 1964 as it is today: 'A particular being as distinguished from a class, species, or collection.'" (quoting *Webster's New International Dictionary*, at 1267)).

B. This Court confirmed Petitioners' challenge to their detention authority is moot. (Counts I, II, and IV, PI Requests (1), (2), (4), (5)).

This Court has granted relief to the individual Petitioners as to Courts I, II, and IV of the Amended Complaint and Requests (1), (2), (4), and (5) of the motion for a preliminary injunction

and TRO. *See Sarmiento*, 2025 WL 3091140. This Court confirmed such in a later opinion. *See Sarmiento*, 2026 WL 131917, at *3 n.7. Accordingly, these claims are moot, and the Court should dismiss the case pursuant to Federal Rule of Civil Procedure 12(b)(1).

It is well-established that, pursuant to Article III of the United States Constitution, this Court's jurisdiction extends only to "cases or controversies." U.S. Const. art. III; *see also Whitmore v. Arkansas*, 495 U.S. 149, 154-55 (1990) ("Article III, of course, gives the federal courts jurisdiction over only 'cases or controversies' . . . ."). Part of the constitutional "case or controversy" requirement is that which has become known as the "mootness" doctrine, which provides generally that a "case or controversy" no longer exists "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Powell v. McCormack*, 395 U.S. 486, 496 (1969); *see also Mellen v. Bunting*, 327 F.3d 355, 363-64 (4th Cir. 2003). As the Supreme Court has repeatedly held, "[t]his case-or-controversy requirement subsists through all stages of federal judicial proceedings, trial and appellate." *Lewis v. Continental Bank*, 494 U.S. 472, 477-78 (1990); *see also Arizonans for Official English v. Arizona*, 520 U.S. 43, 66 (1997).

The Court has already granted relief to the named Petitioners as to Counts I, II, and IV and Requests (1), (2), (4), and (5). *See Sarmiento*, 2025 WL 3091140; *see also Sarmiento*, 2026 WL 131917, at *3 n.7 (clarifying that the Court had granted relief as to the Counts I, II, and IV). Therefore, is no longer a "live" issue before this Court, and Plaintiff's case has been rendered moot. *See Qui v. Mayorkas*, 2024 WL 329140, at *2 (E.D. Va. Jan. 29, 2024) (finding that the issue to compel USCIS to process an asylum application became moot after USCIS scheduled an interview on plaintiff's asylum application); *Moiseyev v. Dep't of Homeland Sec.*, 2024 WL 3201265, at *1 (W.D. Wash. June 24, 2024) (dismissing case as moot because "[plaintiff] has

achieved the relief sought in the complaint: adjudication on his asylum application"); *Tu v. Mayorkas*, 2024 WL 2111551, at *3 (E.D.N.Y. May 10, 2024) ("[S]ince USCIS has adjudicated [plaintiff's] Form I-589, this Court is unable to compel it to do so."); *Yan Zheng v. Sessions*, 2018 WL 3040350, at *3 (M.D.N.C. June 19, 2018) ("the case is moot . . . as the requested relief—adjudication of the application—has already occurred").

Accordingly, these claims should be dismissed.

C. This Court lacks jurisdiction over the individual Petitioners' remaining claims (Counts III, V, and VI; PI Requests (6), (7), (8) and (9)).

Federal Respondents contend that they addressed the jurisdiction arguments as to the remaining individual Petitioners' claims. *See* Doc. No. 38, Part I.A., at 7-18. Therefore, the Federal Respondents respectfully request the Court incorporate those arguments into this memorandum. Federal Respondents further request that such arguments be incorporated into this memorandum as for Counts VII and VIII.

As to Counts VII and VIII of the Amended Complaint, Petitioners claim they have been "summarily order[ed] [] remov[ed]" and such removal violates the INA and APA, Am. Compl. ¶¶ 135-138 (Count VII), and the "pretermitting" of Petitioners' requests for relief from removal violates the Fifth Amendment, *Id.* ¶¶ 139-143 (Count VIII). Petitioners provide no support legal support for such claim. Indeed, Petitioners seemingly seek to challenge their removal orders and requests for relief *before* they are ordered removed or even seek relief from removal. Therefore, these claims fail for lack of standing and ripeness, because Petitioners have not been ordered removed.

This Court's jurisdiction extends only to "cases or controversies." U.S. Const. Art. III. "If a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006). The

interrelated doctrines of standing and ripeness derive from this constitutional requirement. With respect to standing, a plaintiff must establish that (1) he has suffered an "injury in fact" that is concrete, actual, and imminent—and not conjectural or hypothetical, (2) fairly traceable to the challenged decision, and (3) likely to be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Crutchfield v. U.S. Army Corps. of Eng'rs*, 230 F. Supp. 2d 687, 693-94 (E.D. Va. 2002). Relatedly, ripeness addresses when judicial intervention is appropriate, and requires that a claim be dismissed as unripe when "the plaintiff has not yet suffered injury and any future impact remains wholly speculative." *Doe v. Va. Dep't of State Police*, 713 F.3d 745, 758 (4th Cir. 2013). The Fourth Circuit repeatedly has held that "[w]here an injury is contingent upon a decision to be made by a third party that has not yet acted, it is not ripe as the subject of decision in a federal court." *Id.* (citation omitted).

Petitioners have not alleged, much less suffered, any actual, concrete injury with regard to Claims VI and VIII. To the contrary, the Court has observed in this action that Petitioners are not challenging the merits of their removal. *See* Dkt. 54 at 6 ("Petitioner does not challenge any removal order and in fact, no order of removal has yet been entered against him."). Without an injury, Plaintiff lacks standing to bring the instant action. *See Crutchfield*, 230 F. Supp. 2d at 696 (no standing where alleged injury is conjectural, remote, and speculative).

Likewise, any claimed injury in the conduct of hypothetical future proceedings before an immigration judge likewise fails to satisfy "the well-established tenet that a threatened injury must be 'certainly impending' to constitute an injury-in-fact." *See Beck v. McDonald*, 848 F.3d 262, 272 (4th Cir. 2017); *see also Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 401 (2013). The ongoing nature of those proceedings only underscores why it is inappropriate for the parties (and the Court) to speculate—in this parallel litigation—as to what course of action the immigration

judge might take. Such speculation about a future third-party decision (and the supposed injury that might result at that time, but only at that time) is precisely the type of question against which the standing and ripeness doctrines protect. *See Doe,* 713 F.3d at 758; *see also Clapper,* 568 U.S. at 410 (holding that "theory of standing [that] relies on a highly attenuated chain of possibilities[] does not satisfy the requirement that threatened injury must be certainly impending").

Thus, Plaintiff's speculation as to a hypothetical future injury is not properly before this Court.

D. This Court should reserve judgment on class certification (Request (3)).

In their motion for a preliminary injunction, Petitioners seek to certify two classes in this action:

> **Unaccompanied Minors Class**: All noncitizens who are or will be held in civil immigration detention within the area of responsibility of WAS ICE who have entered or will enter the United States, are or were designated as unaccompanied minors, and are or will be denied consideration for release under 8 U.S.C. § 1226(a) based on Respondents' mandatory detention policy.
>
> **SIJS Class**: All noncitizens who are or will be held in civil immigration detention within the area of responsibility of WAS ICE who have entered or will enter the United States, have or will have obtained SIJS status at the time of detention, and are or will be denied consideration for release under 8 U.S.C. § 1226(a) based on Respondents' mandatory detention policy.

Doc. No. 27, Request (3), at 1-2 (emphasis in the original). On January 6, 2026, Petitioners officially moved for class certification. *See* Doc. No. 45. On January 15, 2026, this Court ordered Federal Respondents' opposition to class certification be due February 2, 2026. *See* Doc. No. 53. Therefore, because Request (3) involves class certification, Federal Respondents will address such in its opposition to class certification.

E. The Remaining Petitioners have been provided with appropriate due process. (Counts III, V, and VI; PI Requests (6), (7), (8), (9)).

The Federal Respondents addressed these issues in its response to Petitioner [redacted] request for immediate release. See Doc. No. 38, at 11-26. Therefore, the Federal Respondents respectfully request this Court incorporate such arguments in this memorandum.

II. Factor Two: Petitioner cannot show he will be irreparably harmed absent an injunction.

As iterated above, Petitioner has not established the likelihood of success on his claim. Accordingly, Petitioner has failed to establish any irreparable injury—especially when, as noted, Petitioner has received adequate due process.

The Supreme Court's "frequently reiterated standard requires plaintiffs seeking preliminary relief to demonstrate that irreparable injury is *likely* in the absence of an injunction." *Winter*, 555 U.S. at 22 (emphasis added). "Issuing a preliminary injunction based only on a *possibility* of irreparable harm is inconsistent with our characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Id.* (emphasis added). Conclusory or speculative allegations do not establish a likelihood of irreparable harm. *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991); *see also Scotts Co. v. United Indus. Corp.*, 315 F.3d 264, 283 (4th Cir. 2002) ("The plaintiff must make a clear showing of irreparable harm and the required irreparable harm must be neither remote nor speculative, but actual and imminent."). Thus, in these circumstances, "the 'possibility' of harm is insufficient to warrant the extraordinary relief of a [preliminary injunction]." *See Dawson*, 2020 WL 1304557, at *3.

However, even if the individual Petitioners were likely to succeed on the merits, there is still no irreparable harm as to the Petitioners. All individually named Petitioners have been released

from ICE custody. There is no further relief this Court can give. Indeed, this Court found Petitioners were detained pursuant to 8 U.S.C. § 1226(a), and were released pursuant to § 1226(a). As Miranda confirmed:

> The government has a significant interest in maintaining the *current procedures*, which already provide an alien *three different opportunities to receive bond*. The alien's burden of proof is only to show, by a preponderance of the evidence, that he or she is not a danger to the community or a flight risk. Those procedures [. . .] do not violate the Constitution's Due Process Clause.

34 F.4th at 365 (emphasis added).

Therefore, Petitioners have failed to show that they will suffer irreparable harm absent relief from this Court.

III. Factors Three and Four: The balance of equites and the public interest favor Federal Respondents.

It is well-settled that the public interest in enforcement of United States immigration laws is significant. *Landon*, 459 U.S. at 34 ("The government's interest in efficient administration of the immigration laws at the border is also weighty."); *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant."); *see also Nken*, 556 U.S. at 435 ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permit[s] and prolong[s] a continuing violation of United States law." (internal quotation marks omitted)). Indeed, "interest in prompt removal may be heightened by the circumstances as well—if, for example, the alien is particularly dangerous, or has substantially prolonged his stay[.]" *Nken*, 556 U.S. at 435. If this Court were to order the relief Petitioners seek, such an interpretation "where Congress has not clearly set it forth would run counter to our customary policy of deference to the

President in matters of foreign affairs[,]" which is solely under control of the Executive branch. *Jama v. ICE*, 543 U.S. 335, 348 (2005).

The Fourth Circuit confirmed that such equities and public interests favor the government in most circumstances. *See Miranda*, 34 F.4th at 365-66. "The enforcement of our immigration laws is the government's 'sovereign prerogative.'" *Id.* (quoting *Rusu v. INS*, 296 F.3d 316, 320 (4th Cir. 2002)) "[A]nd 'detention is necessarily a part of [the removal] procedure[.]" *Id.* at 366 (citing *Carlson*, 342 U.S. at 538). The balance of the equities and public interest do not weigh in favor of the sea change in bond hearings that Petitioners desire.

* * *

Considering the *Winter* factors, Petitioners have not shown that they would be successful on the merits, suffer irreparable harm, or that the balance of equities and public interest favor them. And *Miranda* confirms that this Court cannot grant the class-wide relief Petitioners seek. Therefore, this Court should subsequently deny Petitioners' motion for a preliminary injunction and dismiss Petitioner's class action Complaint.

CONCLUSION

For the foregoing reasons, Federal Respondents respectfully ask this Court to grant their motion to dismiss and deny Petitioners' motion for a preliminary injunction.

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Respectfully submitted,

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By: _____/s/_____

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