UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

U.H.A., **K.A**, **H.D.**, **D. Doe**, **M. Doe**, on behalf of themselves and others similarly situated, *and* **THE ADVOCATES FOR HUMAN RIGHTS**,
Plaintiff-Petitioner and Plaintiffs,

v.

PAMELA BONDI, in their official capacity as Attorney General of the United States;
KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;
TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;
DAVID EASTERWOOD, in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; *and*
JOSEPH B. EDLOW, in his official capacity as Director, U.S. Citizenship and Immigration Services,

Defendants-Respondents.

Case No. 0:26-cv-00417-JRT-DLM

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO DISSOLVE THE TEMPORARY RESTRAINING ORDER

INTRODUCTION

When a refugee is admitted into the United States, that admission is conditional with a crucial milestone at the one-year mark. After a year, the refugee "*shall* … return or *be returned* to *the custody* of the Department of Homeland Security [(DHS)] for inspection and examination for admission" as a lawful permanent resident. 8 U.S.C. § 1159(a)(1) (emphases added). Two aspects of the statutory text are particularly crucial here: (1) if a refugee does not voluntarily present himself to DHS at the end of the year, Congress mandates that he "be returned" to "custody" (*i.e.*, arrested and detained) by DHS; and (2) Congress authorizes DHS to keep him in custody "for" (*i.e.*, during or throughout) "inspection and examination."

Section 1159's detain-and-inspect mandate ensures that refugees are re-vetted at the one-year mark. This makes sense for two reasons. First, it ensures that refugees fleeing persecution are quickly admitted and then can later be vetted like any other person seeking admission. Second, it ensures public safety. Just two months ago, an Afghan national who had been paroled into the United States and then granted asylum attacked two service members within blocks of the White House, killing one of them. ECF No. 16-17, at 3. That incident illustrates the importance of ensuring that those present in the country do not pose a threat to the American people.

Amidst concerns about insufficient screening, widescale fraud, and public safety threats, the government reassessed its vetting procedures and practices. *See* Ex. A, Declaration of Joseph E. Kernan III (Kernan Decl.) ¶¶ 8-13. As a result of this

reassessment, DHS launched Operation Post-Admission Refugee Reverification and Integrity Strengthening (Operation PARRIS) to implement § 1159(a)'s mandate. *Id.* ¶ 19. Under Operation PARRIS, refugees who do not return to DHS after a year for re-vetting are subject to arrest and detention for the limited purpose of ensuring their admissibility through the inspection process as required by § 1159(a). *See id.* ¶¶ 22-23; Ex. B, Declaration of Tauria Rich (Rich Decl.) ¶¶ 10-11. Many of the refugees detained for re-vetting have already been released after this screening. Kernan Decl. ¶ 24;.Rich Decl. ¶ 14.

Yet, just days ago, this Court entered a Temporary Restraining Order (TRO) preventing Defendants from arresting or detaining any refugees to perform the statutorily required screening. This was error for multiple reasons. On these facts and with § 1159's clear detain-and-inspect mandate, Plaintiffs are unlikely to succeed on their claims—particularly as they erroneously assert that § 1159(a) prohibits what Congress actually *mandated—i.e.*, returning refugees to custody at the end of one year after their initial admission. The balance of the harms and the public interest cut in Defendants' direction. And on any plausible reading of § 1159(a), the TRO is, at the very least, overbroad.

Each day the Court's Order is in force, Defendants are thwarted from carrying out the vetting that Congress mandated by statute and which recent events have made plain is badly needed to protect the American people. The Court should dissolve the TRO forthwith. And should it decline to do so, the Court should stay that TRO pending an appeal.

BACKGROUND

I. Operation PARRIS

DHS launched Operation PARRIS in early January. Kernan Decl. ¶ 19. After identifying 5,600 refugees in Minnesota who had yet to secure permanent residence status, DHS began detaining some of these refugees for inspection and examination under § 1159(a)(1), which requires that such refugees "return or be returned to the custody of [DHS]" after one year. Rich Decl. ¶¶ 8-10. Since this initiative began, many of the seventy-two aliens detained for inspection and examination under § 1159(a)(1) have already been released after USCIS approved their adjustment of status.. *Id.* ¶ 14; Kernan Decl. ¶ 24.

II. Procedural History

On January 18, 2026, Plaintiff U.H.A.—a refugee conditionally admitted in September 2024—filed a petition for writ of habeas corpus, claiming that DHS was unlawfully detaining him pursuant to Operation PARRIS. ECF No. 1. The same day, the Court issued an order enjoining the government from removing U.H.A. from the District of Minnesota, or, if the government had already removed U.H.A., ordering the government to return U.H.A. to Minnesota. ECF No. 3. Defendants opposed Plaintiff's petition on the merits. ECF No. 5.

On January 24, 2026, U.H.A., along with other individuals and an organization, filed an amended petition and a complaint on behalf of a putative class of thousands of refugees. ECF No. 12 (Am. Petition). Plaintiffs raise various claims challenging Operation PARRIS on statutory and constitutional grounds. *Id.* ¶ 6. In the amended petition, Plaintiffs seek to

represent a proposed class of "[a]ll individuals with refugee status who are residing in the state of Minnesota, who have not yet adjusted to lawful permanent resident status, and who have not been charged with any ground for removal under the INA," and U.H.A seeks to represent a subclass of "[a]ll members of the Class who are or will be detained by DHS pursuant to the Refugee Detention Policy." *Id.* ¶ 101.

Shortly after filing the amended petition, Plaintiffs moved for a TRO. ECF No. 17. On January 28, 2026, the Court granted the motion. ECF No. 41 (the "Order") at 31–32. In its Order, the Court enjoined Defendants from arresting or detaining any member of the putative class for any length of time, ordered Defendants to immediately release all members of the putative Detained Subclass or, if out of state, transport them back to Minnesota and release them within five days—but not until arranging with Plaintiffs' counsel for an authorized representative to pick up the aliens. *Id*. The Court also ordered that Defendants file a status update concerning the status of the Detained Subclass members' release within seven days, and within 48 hours, produce a file under seal listing the individuals in detention that satisfy the definition of the Detained Subclass and their locations of detention. *Id.* at 32.

On January 29, 2026, the Court issued an order in which it found good cause to extend the TRO for 14 additional days, until February 25, 2026, or until the Court issues an order on the preliminary injunction—whichever is earlier. ECF No. 45 at 7. The Court also denied as premature Plaintiffs' request to rule on U.H.A.'s petition for writ of habeas corpus because the TRO mandated his immediate release. *Id*.

LEGAL STANDARD

Federal Rule of Civil Procedure 65(b)(4)[1] allows the party against whom a TRO was issued to move to dissolve or modify the order. "When considering whether to dissolve, modify, or extend a TRO, the issue is whether the grounds for originally granting the TRO continue to exist." *MiTek Inc. v. McIntosh*, No. 4:23-CV-960, 2023 WL 5528034, at *1 (E.D. Mo. Aug. 28, 2023). In deciding whether to grant a TRO, courts examine the four factors outlined in *Dataphase Systems, Inc. v. C L Systems, Inc.*: "(1) the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict on other parties litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest." 640 F. 2d 109, 114 (8th Cir. 1981) (en banc). The district court should dissolve a TRO if the defendant establishes that at least one of those four factors was not or is no longer met. *See Waste Mgmt., Inc. v. Deffenbaugh*, 534 F.2d 126, 129 (8th Cir. 1976) (finding that the district court did not abuse its discretion in dissolving the TRO when the balance of hardship favored its dissolution).

ARGUMENT

The Court should dissolve the TRO—which it granted before receiving a written opposition from Defendants—because Plaintiffs are not likely to succeed on the merits and because the balance of hardships and public interest weigh in Defendants' favor. At a bare minimum, the Court should narrow the TRO, which is overbroad in reaching non-parties and in the relief it ordered.

[1] Two days' notice was provided to Plaintiffs' counsel via email on January 29, 2026. *See* Fed. R. Civ. P. 65(b)(4).

I. Defendants Are Likely to Succeed Because Section 1159 Calls for a Return to DHS Custody for Inspection and Examination.

In 8 U.S.C. § 1159, Congress made clear—in two different ways—that Defendants must arrest and detain a refugee who has been present for over a year for "inspection and examination for admission" as a lawful permanent resident. 8 U.S.C. § 1159(a)(1).[2] First, § 1159(a)(1) expressly provides this authority. Second, § 1159(a)(1) cross-references 8 U.S.C. § 1225, which also mandates detention pending inspection.

A. Section 1159 Provides for Arrest and Detention Pending Inspection and Examination for Admission.

8 U.S.C. § 1159(a) sets the rules for adjustment of status of refugees. When a refugee is admitted into the United States, that admission is conditional. *See* 8 C.F.R. § 207.4 (providing that approval of a refugee application authorizes the conditional admission of an alien as a refugee). A refugee who has been physically present in the United States for at least one year, whose refugee statues has not been terminated, and who has not acquired permanent resident status "*shall*, at the end of such year period, *return or be returned to the custody* of the Department of Homeland Security for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 1225, 1229a, and 1231 of this title." 8 U.S.C. § 1159(a)(1) (emphasis added). The purpose of such "inspection and examination" at the one-year mark is to determine whether the alien should be allowed to remain in the country. As part of the

[2] This assumes that the refugee does not voluntarily "return" to DHS custody after the one-year mark passes. *See infra* at 7 ("DHS sometimes schedules an appointment and the alien 'return[s]' to custody for an interview.").

inspection and examination, DHS may determine that the alien was not a "refugee" at the time of admission and terminate the alien's "refugee" status. ECF No. 16-16 at 4. DHS may also find grounds for removal and initiate removal proceedings under § 1229a. And DHS may determine that the alien should be admitted as an LPR and adjust the alien's status accordingly. *See id.* § 1159(a)(2) ("Any [individual] who is found upon inspection and examination by an immigration officer … to be admissible ... shall, notwithstanding any numerical limitation ... be regarded as lawfully admitted to the United States for permanent residence.").

Under § 1159, an alien may voluntarily "return" for inspection and examination. 8 U.S.C. § 1159(a)(1). For example, DHS sometimes schedules an appointment and the alien "return[s]" to custody for an interview. But if an alien fails to voluntarily return, § 1159 requires that the alien "shall . . . be returned" to DHS "custody." *Id.*; *see Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) ("[T]he word 'shall' usually connotes a requirement." (quotation omitted)). And the only way for an alien to "be returned" to DHS custody is for DHS to arrest the alien. Section 1159 thus authorizes precisely what DHS is doing in Operation PARRIS.

If § 1159 did not authorize arrests, then refugees would be free to flout the statutory requirement that they return for an inspection after a year—which, at present, is exactly what a "portion" of them are doing. Kernan Decl. ¶ 6. But Congress could not have possibly created a scheme that could be so readily circumvented. "Congress presumably does not enact useless laws." *See Garland v. Cargill*, 602 U.S. 406, 427 (2024) (quotation omitted)). Nor does it "paralyze with one hand what it sought to promote with the other."

Am. Paper Inst., Inc. v. Am. Elec. Power Serv. Corp., 461 U.S. 402, 421 (1983) (quotation omitted). And reading § 1159 not to permit arrests would render the "or *be returned*" language of the statute superfluous, contrary to the "cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word." *Wash. Mkt. Co. v. Hoffman*, 101 U.S. 112, 115 (1879). Indeed, this Court's Order effectively acknowledged that DHS may arrest putative Class members. Order at 18 (recognizing that "§ 1159 contemplates that a refugee be returned, temporarily, to the control of DHS because they have the responsibility to inspect and examine the refugee for admission").

Section 1159 also mandates temporary detention. Section 1159 provides that the alien "shall ... be returned" to DHS's "custody" "*for* inspection and examination for admission to the United States" as a lawful permanent resident. 8 U.S.C. § 1159(a)(1) (emphasis added). Here, as in other detention provisions in the INA, "for" means "during or throughout, as well as with the object or purpose of." *Jennings*, 583 U.S. at 301 (brackets, citation, and internal quotation marks omitted). The statutory language thus authorizes DHS to keep the alien in "custody" during or throughout the "inspection and examination." And "custody," in turn, encompasses not just responsibility and control, but also "physical confinement and restraint." *Jennings*, 583 U.S. at 311 (explaining that *Zadvydas v. Davis*, 533 U.S. 678 (2001), "consistently used the words 'detain' and 'custody' to refer exclusively to physical confinement and restraint"); *see* Custody, Oxford English Dictionary (2d ed. 1989) (def. 2) ("The keeping of the officers of justice (for some presumed offence against the law); confinement, imprisonment, durance."); *see also Garcia-Garcia v. Comfort*, 66 F. App'x 155, 157–58 (10th Cir. 2003) ("Being taken into

custody by the INS usually means detention in an INS facility or in a non-Service facility approved by its Jail Inspection Program or under contract with the INS.").

That is what "custody" means elsewhere in the INA, including in 8 U.S.C. § 1226(c), where it undisputedly refers to detention. *See Jennings*, 583 U.S. at 307-12. The Court should interpret "custody" to mean the same in § 1159. *See Azar v. Allina Health Servs.*, 587 U.S. 566, 576 (2019) ("[W]hen Congress uses a term in multiple places within a single statute, the term bears a consistent meaning throughout."). And indeed, other courts in this District have interpreted "custody" in § 1159 to encompass detention. *See*, *e.g.*, *Serhii L. v. Bondi*, No. 26-cv-463, 2026 WL 184736, at *3 (D. Minn. Jan. 24, 2026) ("The text of § 1159(a) further makes apparent that *continued* detention of a refugee following 'inspection and examination for admission' under § 1159(a) must flow from §§ 1225, 1229a, and 1231." (emphasis added)); *E.E. v. Bondi*, No. 26-cv-314, Dkt. No. 7 at 7 (D. Minn. Jan. 17, 2026) ("Nothing in § 1159 authorizes detention untethered from . . . a specific and limited function: to allow DHS to conduct the inspection necessary to adjudicate adjustment of status under § 1159(a)(2).").

In short, § 1159(a) authorizes DHS to arrest and detain a refugee for the limited duration of the statutorily mandated inspection and examination.[3] This is exactly what

[3] Further confirming this reading is the fact that Congress—in 8 U.S.C. § 1159(b)—did not mandate a "return to custody" for asylees seeking adjustment of status. The Court should interpret § 1159(a) in the light of this difference. *See Dean v. United States*, 556 U.S. 568, 573 (2009) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." (alteration adopted and quotation omitted)).

DHS is doing pursuant to Operation PARRIS. Accordingly, Plaintiffs err in arguing that Operation PARRIS is without a statutory basis.

B. Alternatively, Section 1159(a)'s Cross-Reference of Section 1225 Provides a Basis for Detention.

If any doubt remained as to DHS's detention authority, Congress's inclusion in § 1159(a) of a cross-reference to 8 U.S.C. § 1225 dispels it. As explained above, under § 1159(a)(1), any "inspection and examination for admission to the United States as an immigrant" must be done "in accordance" with, among other provisions, § 1225. In turn, 8 U.S.C. § 1225(b)(1) and (b)(2) "mandate detention of applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297; *see* 8 U.S.C. § 1225(b)(1)(b)(ii) (providing that certain aliens claiming a credible fear of persecution "shall be detained for further consideration of the application for asylum"); *id.* § 1225(b)(2) (providing that aliens subject to subsection (b)(2) "shall be detained" for removal proceedings).

Because § 1159 makes clear that, once returned to DHS custody, the refugee is again seeking "admission," *see* Order at 12-13 (recognizing this second "admission"), the cross-reference to § 1225's detention-and-inspection process supports Defendants' position that detention is required under § 1159, since inspection under § 1225 involves mandatory detention during that process.

The statutory history confirms this reading. Since its enactment in 1980, § 1159 has cross-referenced § 1225. 94 Stat. 102, 105 (1980). In 1980, and up until 1996, § 1225 required the detention of "[e]very alien"—not only "applicants for admission"—"who may

not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land." 8 U.S.C. § 1225(b) (1980). Thus, any doubts that § 1159(a)(1)'s use of the word "custody" encompasses physical confinement and restraint during the inspection process are eliminated by the explicit cross-reference to § 1225, which mandates detention during inspection.[4]

C. The Court's Contrary Reasoning is Unavailing.

In the Order granting the TRO, the Court offered a handful of reasons for agreeing with Plaintiffs' position. None of these reasons provide a basis for preserving the TRO.

First, much of the Court's analysis concerned DHS's authority to do "prolonged detention[s]." *E.g.*, Order at 15-17. But "prolonged detention" is not at issue here. The record refutes the notion that DHS is detaining any refugee longer than necessary to inspect and examine. Kernan Decl. ¶¶ 22-23. Indeed, many refugees detained under the Operation have already been released after USCIS admitted them as LPRs. Kernan Decl. ¶ 24; Rich Decl. ¶¶ 14. Therefore, there is no need for the Court to consider whether "prolonged detention" is authorized under § 1159 or any other statute. And to the extent that Plaintiffs ever submit evidence of prolonged detention—or detention longer than necessary to perform the "inspection and examination" Congress mandated—that should at most be considered in the context of *as-applied* challenges to the length of detention. Such hypothetical evidence could never justify the *facial* relief against even mere minutes of

[4] At the least, § 1225 provides a basis for detention for aliens who go through the inspection and examination required by § 1159 and are found to be inadmissible, such that proceedings against them can begin, either through the expedited removal process or removal proceedings before an immigration judge. *See* 8 U.S.C. §§ 1225(b)(2); 1229a.

detention that this Court's TRO awarded. *See* Order at 31 ("Defendants are ENJOINED from arresting or detaining any member of the Class on the basis that they are a refugee who has not been adjusted to lawful permanent resident status.").

Second, the Court concluded that Operation PARRIS is unlawful because any "continued detention must be based on §§ 1225, 1229a, or 1231," and none of "these provisions authorize the prolonged detention of the Named Plaintiffs" or the putative class or subclass. Order at 17. But, as explained above, § 1159 provides an independent statutory authority for detention long enough to inspect and examine, and that is all DHS is doing here. Even if another statutory source was needed, § 1225(b) (which § 1159 explicitly cross-references) provides it. *See supra* at 10-11.

Third, the Court pointed to ICE's "prior guidance" concluding that detention was not warranted in these circumstances. Order at 18. DHS rescinded this non-binding guidance in December, and thus it no longer directs agency practice. Rich Decl. ¶ 6. In any case, guidance from a previous administration cannot override clear statutory duties. *See, e.g.*, *City & Cnty. of San Francisco v. EPA*, 604 U.S. 334, 355 (2025) (noting that courts "are not obligated to accept administrative guidance that conflicts with the statutory language it purports to implement.").[5]

Fourth, the Supreme Court's decision in *Clark v. Martinez*, 543 U.S. 371 (2005), is inapposite. At issue there was DHS's authority to detain an inadmissible alien beyond the

[5] Plaintiffs' reliance on *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), is misplaced. Among other things, the agency there acted "contrary to existing valid regulations." *Id.* at 268. Here, the 2010 guidance has been rescinded, and, in any case, it was not "valid," *id.*, given its clear break from the statutory text.

period prescribed in *Zadvydas*. *Clark*, 543 U.S. at 378. Section 1182(d)(5)(A) stated that "the alien shall ... be returned to the custody from which he was paroled and thereafter *his case shall continue to be dealt with in the same manner as that of any other applicant for admission*." 8 U.S.C. § 1182(d)(5)(A) (emphasis added). The Court held that Section 1182(d)(5)(A) did not authorize detention beyond the period prescribed in *Zadvydas* because any "other applicant" would be "dealt with" under *Zadvydas*. *Clark*, 543 U.S. at 386. That holding is inapplicable here for two reasons. First, unlike § 1182(d)(5)(A), § 1159 does not merely authorize detention "in the same manner" as another statute; it authorizes returning an alien to custody for a specific purpose: "inspection and examination for admission." Section 1159 is thus more naturally read as a standalone grant of detention authority. Second, § 1159 requires returning an alien to custody "for inspection and examination for admission … in accordance with the provisions of sections 1225, 1229a, and 1231." And as explained above, § 1225 authorizes detention here.

Any reading of § 1159 as *not* authorizing detention would undercut the scheme Congress enacted. After all, if the phrase "shall ... be returned to [DHS] custody" did not authorize any detention at all, refugees could simply opt out of re-vetting by refusing to present themselves to DHS after a year in the United States. This is not a plausible interpretation of the statute. *See United States v. Tohono O'Odham Nation*, 563 U.S. 307, 315 (2011) ("Courts should not render statutes nugatory through construction.").

Fifth, the Court found "illogical" the proposition that § 1159(a) requires detention during its "inspection and examination for admission" process. Order at 19. But there is nothing "illogical" about detaining aliens during the process of inspecting and examining

them; for aliens covered by § 1225, Congress mandated precisely such detention. *Jennings*, 583 U.S. at 297; *supra* at 10-11. There is likewise nothing illogical about such detention here, particularly given that § 1159 explicitly cross-references the inspection-and-admission process of § 1225. Given that cross-reference to a provision that expressly mandates detention during inspection, it would be anomalous to conclude that "custody" in § 1159 cannot refer to the same thing.

There is also nothing illogical about the timing of § 1159(a)(1)'s "inspection and examination." In placing it at the one-year mark, Congress accommodated the refugee's interests in escaping imminent prosecution by ensuring an immediate admission. But after a year, in the interests of public safety, Congress treats a refugee like any other person seeking admission. When viewed in this light, § 1159(a)(1) is not an arbitrary policy, but instead a logical choice to address all relevant interests.

* * *

Section 1159(a) makes clear that, after a year in the United States, a refugee must "return or be returned" to custody and be "inspect[ed] and examin[ed] for admission" as a lawful permanent resident. 8 U.S.C. § 1159(a)(1). With Operation PARRIS, DHS is putting this clear statutory mandate into action. Plaintiffs err in arguing otherwise.

II. The Balance of Harms and the Public Interest Favor Dissolving the TRO

The Court also erred in finding that the balance of harms and the public interest favor Plaintiffs. When the government is the defendant, these factors "merge." *Morehouse Enters., LLC v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 78 F.4th 1011, 1018 (8th Cir. 2023). And here, this merged factor cuts in favor of Defendants.

Under the Court's TRO—which prevents the Government from arresting or detaining *any* refugee in Minnesota who has not yet been adjusted to lawful permanent resident status and has not been charged with a ground of removability—Defendants are left unable to fulfill their duties under 8 U.S.C. § 1159. No matter how recalcitrant the alien or how long they have failed to adjust their status, the Government is powerless to inspect them. Compliance with § 1159's inspection requirement, as long as the TRO remains in force, is a voluntary matter for Minnesota's refugees.

As a result, the TRO inflicts an irreparable injury on the Government. *See, e.g.*, *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) ("Any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." (alteration adopted) (quoting *Maryland v. King,* 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (citation omitted))). That is particularly true in the immigration context. *See Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952) (noting that "any policy towards aliens is vitally and intricately interwoven with contemporaneous policies in regard to … the maintenance of a republican form of government," and are "exclusively entrusted to the political branches of government"). Nor are the harms here abstract or theoretical: November's shooting just blocks from the White House makes clear that, when the vetting process is inadequate, harm to the public will likely follow.

III. The TRO is Overbroad.

For two reasons, the Court's TRO is overbroad and should be, at the least, modified in part. First, the TRO enjoins Defendants from proceeding in ways that the Court has

concluded are authorized by § 1159. Second, the TRO erroneously extends to a putative class, rather than the named plaintiffs.

A. To start, the TRO forbids Defendants from "arresting or detaining" any member of the putative class—defined as "[a]ll individuals with refugee status who are residing in the state of Minnesota, who have not yet adjusted to lawful permanent resident status, and have not been charged with any ground for removal under the Immigration and Nationality Act"—on the basis that they are a refugee who has not been adjusted to lawful permanent resident status, and requires Defendants to "immediately release" all "members of the Class who are or will be detained by DHS pursuant to the Refugee Detention Policy." Order at 31. This Court's TRO thus does not permit Defendants to "return [refugees] to the custody of [DHS]," as § 1159(a)(1) requires, for even a minute.

These absolutist prohibitions are inconsistent with other parts of the Court's Order. For example, the Court recognizes that 8 U.S.C. § 1159(a) "contemplates that a refugee may be returned to DHS 'custody' on a limited basis solely to enable inspection and examination for admission by the government." Order at 17. Yet, in its current state, the TRO prohibits any arrest or detention whatsoever. *Id.* at 31. Elsewhere, the Court recognizes that § 1159(a) "permits custody for a specific and limited function: to allow DHS to conduct the inspection necessary to adjudicate adjustment of status under § 1159(a)(2)." *Id.* at 15 (quotation omitted). But, under the current TRO, any detention—no matter its brevity—is prohibited. *See id.* at 31.

B. The TRO is also impermissibly broad in another way. In the Order, the Court provided "temporary relief on a class-wide basis." Order at 29. For two reasons, the Court

should, at the least, modify the TRO to reach only the named Plaintiffs. The Eighth Circuit's recent opinion in *Tincher v. Noem* suggests that temporary relief to a putative class is unnecessary when the Court is not at risk of losing jurisdiction. No. 26-1105, 2026 WL 194768, at *1 (8th Cir. Jan. 26, 2026); *see A. A. R. P. v. Trump*, 605 U.S. 91, 97 (2025) (granting temporary injunctive relief to a putative class to preserve the Court's "jurisdiction while the question of what notice is due is adjudicated"). Here, there is no such threat to the Court's jurisdiction. Also, issues exist that will prevent eventual certification under Rule 23. *See Tincher*, 2026 WL 194768, at *1 (considering whether the class will be certified). To name just one, the Putative Subclass fails the numerosity prong, since, at the time of the TRO, less than 36 refugees were detained under Operation PARRIS. Rich Decl. ¶ 14. For these reasons, here, like in *Tincher*, "the grant of relief to such a broad uncertified class is just a universal injunction by another name." 2026 WL 194768, at *1.

The class-wide scope of the relief also flouts an explicit congressional limitation on lower courts' remedial jurisdiction. Under 8 U.S.C. § 1252(f)(1), no court (save the Supreme Court) has "jurisdiction or authority to enjoin or restrain the operation of the provisions of [8 U.S.C. §§ 1221-31] other than with respect to the application of such provisions to an individual alien against whom proceedings under [those provisions] have been initiated." In other words, Section 1252(f)(1) "prohibits lower courts from entering injunctions"—"on behalf of an entire class of aliens"—"that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out the specified statutory provisions." *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550-51 (2022).

The TRO runs afoul of § 1252(f)(1). Although § 1159 is not a covered statute, § 1225 is. And, as explained above and under § 1159(a)'s explicit cross-reference to § 1225, Defendants are detaining and inspecting refugees "in accordance" with § 1225. *See supra* at 10-11. Because the Court's Order enjoins Defendants from detaining any member of the putative class on the basis that they are a refugee who has not been adjusted to lawful permanent resident status and, critically, from carrying out the necessary inspection—in effect ordering Defendants to "refrain from actions … that are allowed by [§ 1225]"—the Order is barred under § 1252(f)(1). *Aleman Gonzalez*, 596 U.S. at 551. At the least, modification of the TRO is therefore required.[6]

IV. Alternatively, the Court Should Stay the TRO Pending Appeal.

If the Court declines to dissolve the TRO, Defendants request that the TRO be stayed pending the disposition of any appeal, or at a minimum, administratively stayed for seven days to allow Defendants to seek emergency relief. The reasons that the government has given for dissolving the TRO satisfy, at a minimum, the requirements for a stay pending appeal. *See Nken v. Holder*, 556 U.S. 418, 434 (2009).

[6] Beyond these two issues, the Court erred by extending the TRO. ECF No. 49. This extension was not supported by "good cause," especially when Defendants already have and will continue to suffer harm during the extended period, all while being deprived of an opportunity to respond. Also, the Court's suggestion that Defendants consented to an extension is incorrect. *Id.* at 6, n.2. Requesting additional time to *respond* to a TRO motion and consenting to *doubling the length of* a TRO are in no way the same.

CONCLUSION

For the foregoing reasons, the Court should dissolve the TRO entered on January 28, 2026, and extended on January 29, 2026. In the alternative, the Court should stay the TRO pending appeal.

Dated: January 31, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon Plaintiffs' counsel by the Electronic Case Filing system on January 31, 2026.

/s/ Brantley T. Mayers

CERTIFICATE OF COMPLIANCE

I certify that this memorandum complies with the Local Rules. Specifically, the memorandum complies with the limits in LR 7.1(f) because it contains 5,182 words, as counted by Microsoft Word for Microsoft 365 MSO (Version 2512), which counts all text, including headings, footnotes, and quotations. It also complies with LR 7.1(h) because it is written in Times New Roman in size 13 and double spaced (except as allowed by LR 7.1(h)(1)).

/s/ Brantley T. Mayers