

In the Supreme Court of the United States

U.S. DEPARTMENT OF HOMELAND SECURITY, ET AL., APPLICANTS

v.

D.V.D., ET AL.,

**APPLICANTS' RESPONSE TO
RESPONDENTS' MOTION FOR LEAVE TO FILE SUR-REPLY**

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No. 24A1153

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Respondents' motion for leave to file a sur-reply is focused on legally irrelevant matters based on a false factual premise. Nevertheless, Applicants do not oppose the motion, because the proposed sur-reply is immaterial and because they do not wish to further delay this Court's consideration of their motion for clarification.

Respondents' motion and proposed sur-reply fixate on whether removing the criminal aliens in Djibouti to South Sudan would comply with the government's own procedures in the March Guidance. But as the government explained—and respondents do not dispute—that issue is legally irrelevant to the government's pending motion for clarification: (1) any purported non-compliance was not the basis for the district court's April 18 preliminary injunction or May 21 order enforcing that injunction; and (2) any purported non-compliance could not support a new injunction for the many reasons that the government successfully argued the original injunction must be stayed. See Clarification Mot. Reply 3-4. And for the same reason, respondents' motion is factually wrong to suggest that it is the government who raised this issue for the first time in its reply brief: to the contrary, it is respondents themselves who

raised this irrelevant issue for the first time in their response brief, and thus the government appropriately responded in its reply brief.

For these reasons, Applicants do not oppose Respondents' irrelevant motion for leave to file a sur-reply. They instead urge this Court to promptly grant Applicants' clarification motion and to put an end to the defiance of its stay order by the district court and Respondents.

Respectfully submitted.

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JUNE 2025