

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action 25-cv-00418-REB

CHANEL GIRALDO NIETO

Petitioner,

v.

DAWN CEJA,
ROBERT GUADIAN,
BENJAMINE HUFFMAN,
CALEB VITELLO,
JAMES MCHENRY

Respondent.

DECLARATION OF SHANE BLEA

I, Shane Blea, pursuant to 28 U.S.C. § 1746, and based on my personal knowledge and information made known to me from official records reasonably relied upon by me in the course of my employment, hereby declare as follows relating to the above-captioned matter:

1. I am employed as a Deportation Officer for the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations Denver Field Office (Denver ERO). My duty station is at the ICE contract detention facility in Aurora, Colorado (Denver CDF). I am the Deportation Officer assigned to the case of Tumaine Utoliti, A217057349.

2. I have reviewed the case of Tumaine Utoliti (Petitioner), who is in ICE

custody at the Denver CDF.

3. Petitioner is a native of Uganda and a citizen of the Democratic Republic of Congo (DRC).

4. On August 29, 2016, Petitioner was admitted to the United States as a refugee.

5. On January 29, 2019, Petitioner adjusted status to a lawful permanent resident as of August 29, 2016.

6. On December 9, 2020, Petitioner was convicted in the State of Arizona one one count of Attempt to Commit Aggravated Assault on Law Enforcement in violation of A.R.S. § 13-1204(A)(2) and Unlawful Flight from Law Enforcement Vehicle in violation of A.R.S. § 28-622.01. He was sentenced to 3 years' probation.

7. During his plea colloquy, Petitioner admitted that he committed these offenses on June 10, 2020.

8. In December 2022, ICE officers encountered Petitioner in a local jail where he was being held on a probation violation warrant. The officers interviewed Petitioner about his immigration status and determined he was amenable to removal from the United States.

9. On April 15, 2023, after being released from jail, ICE took custody of Petitioner and detained him pursuant to 8 U.S.C. § 1226.

10. ICE also issued a Notice to Appear (NTA) against Petitioner and charged him with being removable from the United States pursuant to 8 U.S.C. § 1227(a)(2)(A)(i) due to committing his Aggravated Assault conviction, which is a crime involving moral

turpitude, within five years of his admission to the United States. The NTA scheduled Petitioner for an initial hearing before the Immigration Judge (IJ) on May 4, 2023.

11. On April 17, 2023, DHS filed the NTA with the immigration court, and Petitioner requested a custody redetermination hearing. The court scheduled the initial hearing for April 27, 2023, and the custody hearing for April 25, 2023.

12. On April 25, 2023, Petitioner appeared before the IJ for a custody hearing. The court provided Petitioner with a Kinyarwanda interpreter. Petitioner advised that he speaks both Swahili and Kinyarwanda, but Swahili is his best language. The immigration court did not have a Swahili interpreter available at that time but advised Petitioner that one would be provided going forward. Petitioner withdrew his request for bond and asked for additional time to speak to an attorney and prepare. The IJ granted his request.

13. On April 27, 2023, Petitioner appeared before the IJ for his initial hearing and rights advisal. Petitioner proceeded with the assistance of a Swahili interpreter. The Petitioner admitted the allegations in the NTA. The IJ reset the hearing for DHS to file the record of conviction.

14. On May 8, 2023, DHS filed Petitioner's record of conviction with the court.

15. On May 11, 2023, Petitioner was scheduled for a master hearing and a bond hearing. The IJ continued the hearings because a Swahili interpreter was not available. Petitioner filed his application for relief or protection from removal.

16. On May 17, 2023, Petitioner appeared before the IJ for a master calendar hearing. The IJ sustained the charge of removal and scheduled the matter for an

individual merits hearing on June 9, 2023. The IJ also held a custody redetermination hearing where he received documents from Petitioner in support of his request for bond. The IJ denied Petitioner's request for bond based on a finding that he did not have jurisdiction to hold a custody redetermination hearing as Petitioner is subject to mandatory detention due to his criminal conviction.

17. On June 9, 2023, Petitioner appeared before the IJ for an individual merits hearing on his application for relief or protection from removal. At the conclusion of the hearing, the IJ denied all applications and ordered Petitioner removed to Uganda with an alternate removal order to the DRC.

18. On June 20, 2023, Petitioner filed an appeal of the IJ's decision with the Board of Immigration Appeals (BIA).

19. On July 10, 2023, the BIA issued a briefing schedule with a simultaneous deadline of July 31, 2023.

20. On July 28, 2023, Petitioner requested a briefing extension.

21. On August 1, 2023, the BIA granted Petitioner's request and set a new deadline for August 21, 2023.¹

22. On August 22, 2023, Petitioner filed a motion to accept his late-filed brief.

23. On August 25, 2023, the BIA granted Petitioner's motion to accept his late-filed brief.

24. On September 21, 2023, the BIA dismissed Petitioner's appeal.

25. On September 29, 2023, Petitioner's request for travel document was

¹ Petitioner filed another request for extension on the same date, which the BIA denied.

submitted to the Embassy of Uganda.

26. On October 12, 2023, the Embassy of Uganda declined Petitioner's request for a travel document.

27. On October 13, 2023, Petitioner filed a Petition for Review and Motion for Stay of Removal with the U.S. Court of Appeals for the Ninth Circuit. The court granted the motion for stay.

28. On December 13, 2023, ICE conducted a Post Order Custody Review of Petitioner's case pursuant to 8 C.F.R. § 241.4. ICE determined that Petitioner is a public safety concern given his criminal convictions. ICE also determined there is a significant likelihood of removal in the reasonably foreseeable future given the alternate removal order to the DRC. ICE continued to detain Petitioner.

29. On March 12, 2024, Petitioner filed a request for a custody redetermination hearing.

30. On March 19, 2024, the IJ held a bond hearing. The IJ denied the request for bond based on a lack of jurisdiction and, alternatively, a finding that Petitioner is a danger and flight risk.

31. On April 8, 2024, Petitioner filed an appeal of the IJ's decision denying bond with the BIA.

32. On April 17, 2024, the IJ issued a written decision denying bond on the same grounds as his prior oral decision. The BIA also issued a briefing schedule with a deadline of May 8, 2024.

33. On June 13, 2024, the BIA dismissed Petitioner's bond appeal.

34. On July 17, 2024, Petitioner filed a motion to reopen the BIA's decision denying his case appeal.

35. On September 30, 2024, the BIA denied his motion to reopen.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Executed this 28th day of February 2025.

A handwritten signature in black ink, appearing to be "S. J. #09012".

Deportation Officer
U.S. Immigration and Customs Enforcement