

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-cv-22451-DAMIAN

SERGIO MONTELIER CHAVIANO,

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General, *et al.*,

Respondents.

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**RESPONDENTS' STATUS REPORT PURSUANT TO COURT ORDER**

Respondents, by and through the undersigned Assistant United States Attorney, respond to the Court's Order from the bench at the hearing in this matter that took place today, June 12, 2025, at 10:00 am in Miami, Florida, and to the Court's Order Following Motion Hearing [ECF No. 27].

1) The Court requested an update on the status of Petitioner's credible fear proceedings before U.S. Citizenship and Immigration Services (USCIS).<sup>1</sup>

The undersigned counsel has conferred with USCIS counsel and has been informed that the Petitioner's credible fear interview still has not been scheduled. USCIS confirmed that the attorney representing the Petitioner in the credible fear interview process, Ms. Michelle Acebo, was contacted today, that a management and program analyst with the Asylum Division spoke with Ms. Acebo, and that USCIS will be coordinating with her to finalize the interview date.

USCIS has further confirmed that the credible fear interview will be scheduled **for no earlier than June 23, 2025**. USCIS is prepared to schedule the interview for that date but will first

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<sup>1</sup> USCIS was not named as a party to this action but is the agency responsible for the credible fear interview process.



coordinate with Ms. Acebo.

The undersigned counsel also conferred with counsel for Petitioner, Mr. Mark Prada, this afternoon via phone and email in an effort to facilitate scheduling of the credible fear interview through Mr. Prada. Mr. Prada provided his position in writing as requested, and that email is attached as Exhibit A.

In response to Mr. Prada's requests in Exhibit A, and in an effort to coordinate schedules, USCIS has confirmed that it will provide Petitioner with 48 hours' notice prior to the credible fear interview, and that the interview will not be scheduled on a weekend.

2) The Court requested the government's position on a stay of the credible fear process. The government maintains its position as stated in its habeas return [ECF No. 23] and at hearing that the Court lacks jurisdiction to stay the credible fear process.<sup>2</sup>

The undersigned counsel conferred with USCIS counsel to ascertain USCIS's position on an administrative stay of credible fear proceedings. After conferring, the undersigned counsel's assessment is that the closest available remedy to an administrative stay is for an alien to request rescheduling of his or her credible fear interview. Such a request would typically need to demonstrate extraordinary circumstances that justify rescheduling, and the decision would be at USCIS's discretion. In this case, the parties are already coordinating scheduling, and USCIS has agreed not to conduct the interview prior to June 23, 2025, so the credible fear interview is not imminent.

3) ICE has re-confirmed that Petitioner will not be removed prior to completion of the

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<sup>2</sup> The credible fear process at issue here stems directly from Petitioner's assertion of fear as part of expedited removal proceedings. Under 8 U.S.C. § 1225(b)(1)(A)(ii), once Petitioner alleged fear, Immigration and Customs Enforcement (ICE) was required to "refer the alien for an interview by an asylum officer."



credible fear interview.

4) Finally, the Court sought additional information at hearing as to timing and nature of proceedings. The government notes that if an alien does not establish a credible fear at the credible fear interview, the alien may still request “prompt review by an immigration judge” of the negative credible fear determination. *See* 8 U.S.C. § 1225(b)(1)((B)(iii)(III). If the alien does establish such a fear, he is entitled to “further consideration of the application for asylum,” which takes the form of full removal proceedings under section 240 of the Immigration and Nationality Act (INA), and a full hearing before an immigration judge. *See* INA § 235(b)(1)(B)(ii); 8 C.F.R. §§ 208.30(f), 1208.30(g)(2)(iv)(B).

Further, 8 U.S.C. § 1225, or 235 of the INA, expressly provides for the detention of aliens placed in expedited removal. Such aliens “shall be detained pending a final determination of credible fear.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Aliens found not to have a credible fear “shall be detained . . . until removed.” *Id.* Aliens found to have such a fear, however, “shall be detained for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii).

DATED: June 12, 2025

Respectfully submitted,

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