

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

Civil Action No. 25-cv-02059-DDD-STV

HOSSEIN BATOOIE,

Petitioner,

v.

JUAN BALTAZAR,¹ Acting Warden, Aurora ICE Processing Center,
ROBERT GUADIAN, Field Office Director, U.S. Immigration & Customs Enforcement, U.S.
Department of Homeland Security,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, and
PAMELA BONDI, U.S. Attorney General, U.S. Department of Justice, in their official
capacities,

Respondents.

STATUS REPORT REGARDING MINUTE ORDER (ECF No. 29)

Respondents submit the following Status Report concerning the Court's July 31, 2025, Minute Order (ECF No. 29). The Minute Order requires Respondents to take several steps but invites them to submit a status report "[i]f a privilege, confidentiality obligation, or some other reason prevents the respondents from complying with" any of its terms. ECF No. 29. Respondents submit this report to explain their interpretation of, and to respectfully request the Court's clarification on, certain portions of the Minute Order to ensure that Respondents are fully complying with the Court's intent.

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Juan Baltazar, the Acting Warden of the Aurora Contract Detention Facility, is automatically substituted as an official-capacity respondent in this matter.

I. Respondents request clarification regarding whether the Court's requirement to provide materials "in any case in which the petitioner is a party" extends beyond the known relevant proceedings.

The Minute Order requires Respondents to, among other things: (1) serve "copies of any motions or other documents filed in immigration court by the Government in *any case in which the petitioner is a party* on the same day such documents are filed"; and (2) serve "copies of any orders or other documents issued by the immigration court in *any case in which the petitioner is a party* within one business day of issuance." ECF No. 29 (emphasis added). Respondents are aware of: (1) the above-captioned matter currently pending before this Court; and (2) a proceeding, filed under A-Number 097-354-973, before the West Los Angeles Immigration Court that was originally initiated in 2003 and concluded in 2004. *See* ECF No. 24-1 ¶¶ 11-19 (describing proceeding in immigration court). Respondents are not aware of any other matter in which Petitioner is a party, nor will they necessarily be aware if some other such action is filed in the future. Respondents respectfully request the Court's clarification as to whether it expects Respondents to serve copies of the materials outlined above in any matter other than the above-captioned matter or the case before the Immigration Court under A-Number 097-354-973.

II. Respondents request clarification as to whether the Minute Order extends to the Department of Homeland Security's internal file concerning the 2004 immigration proceedings.

The Minute Order also requires Respondents to "provide the petitioner's counsel with copies of any records (whether documents, audio recordings, or otherwise) already obtained from the 2004 immigration proceedings within one business day of this Order." ECF No. 29. Since the initiation of this federal litigation, the audio cassette described in Respondents' Response to Motion for Temporary Restraining Order, *see* ECF No. 24-1 ¶ 25, is the only record Respondents

have received from the Immigration Court regarding the 2004 immigration proceedings. Respondents gave that cassette (and a separate electronic copy of it) to Petitioner before the Court entered the Minute Order.

However, the Department of Homeland Security – U.S. Immigration & Customs Enforcement (ICE) also has in its possession its agency file (called an A-file) concerning Petitioner. The A-file is a hard-copy file containing, among other things, some records from the 2004 immigration proceeding that ICE originally collected or generated during that proceeding, but it also likely contains attorney work product and other protected information. Petitioner is aware that Respondents have this A-file but has not asked for its production. *See* ECF No. 17 (acknowledging that “Respondents already possess Mr. Batooie’s A-file”).

Respondents understand the Minute Order to be focused on materials they received from the Immigration Court as part of their effort in the instant litigation to clarify the 2004 immigration proceedings, as opposed to their own internal agency records. Respondents respectfully request that the Court clarify its intent if Respondents’ understanding is incorrect. If the Court expects the production of relevant materials from the A-file, Respondents request that the Court allow them at least seven days to produce those relevant materials and, if necessary, a privilege log for any redactions that Respondents may make based on applicable privileges or other protections from disclosure.

III. Respondents respectfully request that the Court clarify whether the prospective obligations in its Minute Order apply with equal force to Petitioner, whose counsel has submitted an appearance before the Immigration Court.

Going forward, the Minute Order requires Respondents to: (1) serve “copies of any motions or other documents filed in immigration court by the Government in any case in which the

petitioner is a party on the same day such documents are filed”; (2) serve “copies of any orders or other documents issued by the immigration court in any case in which the petitioner is a party within one business day of issuance”; (3) “copy the petitioner’s counsel on any future communications with the immigration court or the Executive Office for Immigration Review regarding obtaining records from the 2004 immigration proceedings”; and (4) “provide the petitioner’s counsel with copies of any further records they obtain from the 2004 immigration proceedings within one business day of obtaining them.” ECF No. 29. These requirements appear to arise from Petitioner’s representations in his Response to Respondents’ Motion for Extension of Time (ECF No. 28) that Respondents did not provide or copy his counsel on communications with administrative personnel at the Immigration Court before filing their substantive submissions with this Court.² See ECF No. 28 at 5-6.

Respondents understand, however, that Petitioner’s counsel has also had communications with Immigration Court personnel without copying Respondents’ counsel. Petitioner’s counsel provided those communications to Respondents only upon request. Respondents also understand that: (1) Petitioner’s counsel has now submitted a notice of appearance before the Immigration Court seeking to substitute for prior counsel of record;³ and (2) Petitioner’s counsel is now copied on and is participating in ongoing communications with administrative personnel from that court.

² Respondents respectfully note that, before the entry of the Minute Order, the Court had not ordered any discovery that obligated the interim sharing of information before Respondents’ deadline to submit their response to the substance of Petitioner’s allegations. Nor has Petitioner filed any motion for discovery.

³ This appearance concerns proceedings before the Immigration Court, which is part of the Executive Office of Immigration Review within the Department of Justice. It is separate from the appearance before the Department of Homeland Security that Petitioner noted in his response to Respondents’ motion for extension of time. See ECF No. 28 at 5 (describing an entry of appearance “before the Department [of Homeland Security] on July 2 and July 3, 2025”).

With counsel's submission of an appearance, Respondents respectfully request the Court's clarification as to whether the prospective obligations in the Minute Order are reciprocal and apply with equal force to Petitioner, and as to whether, now that Petitioner's counsel has submitted an appearance in the Immigration Court, this Court would instead defer to the Immigration Court's supervision of the parties' communications in that forum.

IV. Respondents anticipate that they may be unable to provide copies of further records they receive within one business day and respectfully request the Court's guidance.

As noted above, the Minute Order requires Respondents to "provide the petitioner's counsel with copies of any further records they obtain from the 2004 immigration proceedings within one business day of obtaining them." ECF No. 29. Respondents anticipate that it may not be possible for them to comply with this requirement in all circumstances. For example, if the Immigration Court, which is located in Los Angeles, makes hard-copy records or another audio cassette available to Respondents' local personnel, it may take time to move those materials from California to Respondents' representatives in Colorado, and then to Petitioner's counsel. Respondents respectfully propose that the Court clarify the Minute Order to require that: (1) Respondents promptly confer with Petitioner in the event they learn they cannot comply with this requirement; or (2) in the alternative, Respondents promptly provide to their representatives in Denver, Colorado, copies of any further records they obtain from the 2004 immigration proceedings, and that Respondents be required to provide those copies to Petitioner within one business day after Respondents' Colorado representatives receive them.

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Dated: August 1, 2025.

Respectfully submitted,

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s/ V. William Scarpato III

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Counsel for Respondents

CERTIFICATE OF COMPLIANCE

Counsel for Respondents hereby certifies that the foregoing pleading complies with the type-volume limitation set forth in DDD Civ. P.S. III(A)(1).

CERTIFICATE OF SERVICE

I certify that on August 1, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by e-mail:

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Attorneys for Petitioner

and I certify that on the same date I am causing the foregoing to be delivered to the following non-CM/ECF participants in the manner (mail, email, hand delivery, etc.) indicated by the nonparticipant's name:

none.

s/ V. William Scarpato III
V. William Scarpato III