

August 22, 2025

Hon. Judge Daniel D. Domenico
Alfred A. Arraj United States Courthouse
U.S. District Court for the District of Colorado
901 19th Street
Denver, CO 80294

Re: Batooie v. Baltazar, et al.
Case No. 1:25-cv-02059-DDD-STV

Notice of Respondents' Violation of Order Regarding Disclosures, ECF No. 29

Judge Domenico:

I write on behalf of Petitioner, Hossein Batooie, in the above-captioned matter to notify the Court that we have just learned that Respondents appear to have violated this Court's July 31, 2025 Order (ECF No. 29) regarding disclosures of any current proceedings involving the petitioner.¹ These violations have resulted in extreme prejudice to Petitioner in that the immigration court ruled yesterday on a heretofore undisclosed Motion to Clarify, filed by Respondent DHS on July 23, 2025, without providing Petitioner notice or opportunity to submit his opposition.

As the Court will recall, on July 29, 2025, Petitioner raised concerns that Respondent DHS had filed a Motion to Clarify with the immigration court on July 9, 2025, but had failed to inform him or his counsel of the fact until a conferral conference on July 23, 2025. For reasons outlined in detail in the Response in Opposition to Respondent's Motion to Extend Time to Respond to Order to Show Cause, ECF No. 28, this was particularly concerning as Respondent DHS would have been aware of logistical issues which would disadvantaged Petitioner before EOIR. The apparent submission of a new or refiled motion on July 23, 2025, which was adjudicated by an IJ without notice to counsel for Petitioner, proves Petitioner's point.

On July 31, 2025, the court granted Respondents' motion to extend time, but also entered in pertinent part the following order:

¹ To the extent that either side is "unable to comply with the directives in this Order" it must "promptly notify counsel for the other side." ECF No. 29. The Order directed the parties to contact the chambers of the assigned magistrate judge if the parties are unable to resolve such a dispute. Counsel for Petitioner does not believe that the subject of this letter brief is related to an *inability to comply* with the Order, but rather a deliberate and ongoing violation which has grossly prejudiced Petitioner's right to representation in his immigration court proceedings. Nonetheless, counsel for Petitioner notified opposing counsel of their concerns on Thursday, August 21, 2025; in response, opposing counsel stated that both were unavailable to confer until Monday, August 25, 2025, but were "looking into this in the meantime" and would follow up with any information they could provide. If the Court considers this apparent violation more appropriate for review by a magistrate judge, counsel for Petitioner apologizes for their error and will submit the matter as directed.

It is FURTHER ORDERED that the respondents must keep the petitioner fully informed of their efforts to obtain records from the 2004 immigration proceedings and of any current proceedings in immigration court involving the petitioner.

-The respondents must serve the petitioner's counsel in this case (by email or any other means to which counsel consents in writing) with: (1) 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) 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.

While Respondent DHS has largely kept Petitioner in the loop on their efforts to obtain records from the 2004 proceedings,² they have failed to “keep petitioner fully informed . . . of any current proceedings in immigration court involving the petitioner” in significant and material ways.

Specifically, on August 1, 2025, counsel for Respondents emailed counsel for Petitioner in compliance with this Court’s July 31 Order, ECF No. 29. The email included a copy of DHS’s Motion to Clarify, which bears a filing and certificate of service date of *July 9, 2025*. This appears to be identical to the copy of the DHS Motion to Clarify Order that was provided to Petitioner’s counsel directly by Respondent DHS via email on July 23, 2025, as well as the same motion that was *rejected* by EOIR on July 21, 2025. *See attached* Exhibit A.

In the same August 1st email, counsel for Respondents provided .pdf copies of three email strings:

- (1) Batoobie_Emails with EOIR_July 23 DAR³ Request.pdf;
- (2) Batoobie_Emails with EOIR_July 9 DAR Request.pdf; and
- (3) Batoobie_Emails to EOIR_MTN Clarify.pdf.

See attached Exhibit B(1-3).

In the “July 23 DAR Request” email string, on July 28, 2025, a DHS attorney inquired as to the status of the Department’s Motion to Clarify. In response, the Court Administrator for West Los Angeles advised DHS that the motion had been rejected for improper service. Specifically, Respondent DHS had served Petitioner’s 2004 counsel at a defunct address, 3435 Wilshire Boulevard, Suite 640, Los Angeles, CA 90010.

² Counsel for Respondents had confirmed that they received the cassette tape of the 2004 proceedings on July 17, 2025; Respondent DHS had received the recording from EOIR on July 11, 2025 (not July 23, 2025, as intimated by the Declaration of Mark Kinsey, ECF No. 24-1, p. 5 at ¶25). The parties are awaiting transfer of the original tape to the Denver EOIR for review in person.

³ “DAR” refers to a “Digital Audio Recording,” EOIR’s current electronic recording system used by Respondent DHS to refer to the audio from 2004. The DAR system was rolled out starting in late 2007 but was not uniformly used until late 2010. The original recording in Mr. Batoobie’s case was made on a dual-speed four-track analog tape recorder.

Kasperson, Candice

From: ROP Requests, EOIR WLA (EOIR) <EOIR.WLA.ROP.Requests@usdoj.gov>
Sent: Monday, July 28, 2025 3:37 PM
To: Kasperson, Candice
Subject: RE: DAR Request

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please use the Cofense Report Phishing button to report. If the button is not present, click [here](#) and follow instructions.

The case has not been assigned to an IJ. **The motion was rejected for improper service.**



Sabrina Garcia
Court Administrator (EOIR)
West Los Angeles Immigration Court
Chicago Immigration Court (Acting)
5245 Pacific Concourse Dr.
Los Angeles, CA. 90045
(T) 310-335-2152 (C) 571-431-9254

On August 12, 2025, after multiple requests,⁴ Respondent DHS provided counsel for Petitioner a copy of the rejection notice for the July 9, 2025, Motion to Clarify. The rejection notice is dated July 21, 2025, and shows a DHS receipt stamp of July 24, 2025. *See attached* Exhibit C.

On August 19, 2025, Respondent DHS's attorney before the immigration court added counsel for Petitioner and counsel for Respondents, as well as the Court Administrator, to the "DHS MTN Clarify" email string, and asked, *inter alia*, whether the Department's Motion to Clarify had been assigned to an IJ.

The Court Administrator responded the same day that she was unaware of any motion. She further informed the DHS attorney that she could direct the motion to her. The DHS attorney responded by submitting a copy of the same July 9, 2025, Motion to Clarify that had been rejected a month earlier.

On August 21, 2025, counsel for Petitioner learned via a jointly addressed email from EOIR that Respondent DHS's Motion to Clarify had been *granted*, with the immigration judge holding, in part, that "[t]he termination of proceedings will no longer be necessary and will be stricken." *See attached* Exhibit D. Counsel for Petitioner asked for clarification from the Court Administrator, given that she had previously stated that the motion had been rejected.

⁴ Counsel for Respondent initially refused to provide the rejection notice, asserting that since counsel for Petitioner had entered an appearance with the immigration court, they should take that up directly with Respondent DHS. However, as counsel for Petitioner explained, Petitioner's motion to substitute counsel and accompanying entry of appearance was submitted on July 24, 2025, and remains adjudicated by EOIR.

From: Laura Lichter <llichter@lichterimmigration.com>

Sent: Thursday, August 21, 2025 3:09 PM

To: Palacio-Garcia, Sabrina (EOIR) <Sabrina.Palacio-Garcia@usdoj.gov>; Kasperson, Candice <Candice.Kasperson@ice.dhs.gov>

Cc: Mark Barr <mbarr@lichterimmigration.com>; Scarpato, Victor (USACO) <Victor.Scarpato@usdoj.gov>; Deuschle, Nick (USACO) <Nick.Deuschle@usdoj.gov>

Subject: [EXTERNAL] Re: DHS MTN Clarify Order A 

Importance: High

Dear Ms. Garcia—

I understood from your email to Ms. Kasperson on July 28 (from the general ROP request email address, copied below) that the July 9, 2025 Motion to Clarify had been rejected for improper service. Ms. Kasperson forwarded a copy of the rejection notice, dated July 21, and received by DHS on July 24.

The order you forwarded today indicates that the motion on which it is based was filed on July 23, 2025. Please clarify.

In response, the Court Administrator indicated that the August 21st IJ order was based on a motion filed on *July 23, 2025*.

RE: DHS MTN Clarify Order A 



○ Palacio-Garcia, Sabrina (EOIR) <Sabrina.Palacio-Garcia@usdoj.gov>



Yesterday at 4:32 PM

To:  Laura Lichter; Kasperson, Candice; Cc:  Mark Barr; Scarpato, Victor (USACO); Deuschle, Nick (USACO) ✓

Greetings,

The order issued was based on the motion filed on 7/23/2025.

Thank you,



Sabrina Garcia
Court Administrator (EOIR)
West Los Angeles Immigration Court

However, counsel for Petitioner has never received a copy of a motion filed on July 23, 2025, or any communications indicating that such a motion was filed, and neither has counsel for Respondents nor Respondent DHS communicated to counsel for Petitioner that the Department filed a motion or even resubmitted a motion on that date.

While Petitioner has significant concerns regarding the propriety and substance of the August 21st IJ order, he will separately address those irregularities with the West Los Angeles Immigration Court. Petitioner will also appeal the order within 30 days, rendering it nonfinal. In the meantime, they want the Court to be aware of the prejudicial violation.

Respectfully submitted,

Counsel for Petitioner

/s/ Laura L. Lichter
Laura L. Lichter

/s/ Mark R. Barr
Mark R. Barr

INDEX OF EXHIBITS

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C	EOIR rejection of July 9th DHS Motion to Clarify (July 21, 2025).	18-27
D	IJ granting of a July 23rd DHS Motion to Clarify (August 21, 2025). • The July 23rd motion was never provided to Petitioner's counsel in this litigation.	28-29

Christopher Tod St. John
Chief Counsel
John Canedy
Deputy Chief Counsel
Candice Kasperson
Assistant Chief Counsel
U.S. Immigration & Customs Enforcement
U.S. Department of Homeland Security
12445 East Caley Avenue
Centennial, CO 80111-6432
TEL: (303) 784-6560
FAX: (303) 784-6566

DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
WEST LOS ANGELES, CALIFORNIA**

In the Matter of

BATOOIE, Hossein

In Removal Proceedings

File No.: A

**Immigration Judge: unknown****Next Hearing: none**

**DEPARTMENT OF HOMELAND SECURITY'S
MOTION TO CLARIFY ORDER**

The Department of Homeland Security, Immigration and Customs Enforcement (“Department”), by and through undersigned counsel, respectfully moves the Court to clarify its Order issued on November 10, 2004.

The Order indicates withholding of removal **granted**. *See* Order of the Immigration Judge (Nov. 10, 2004). However, the Order does not indicate that respondent was ordered removed nor does the Order indicate a country of removal. *See* INA § 241(b)(3); *see also* 8 C.F.R. § 1240.12(c). The Order also marks proceedings terminated.

For these reasons, the Court’s Order is unclear, and the Department respectfully requests the Court clarify its Order.

Respectfully submitted on this 9th day of July 2025,

Candice Kasperson

Candice Kasperson
Assistant Chief Counsel
U.S. Immigration & Customs Enforcement
U.S. Department of Homeland Security
12445 East Caley Avenue
Centennial, CO 80111-6432
TEL: (303) 784-6560
FAX: (303) 784-6566