

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

Civil Action No. 25-cv-02205-WJM-STV

DENNIS AROSTEGUI MALDONADO,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Aurora Contract Detention Facility,

ROBERT GUADIAN, in his official capacity as Field Office Director, Denver, U.S. Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

RESPONDENTS' RESPONSE TO ORDER, ECF No. 61

Respondents respond to the Court's Order requesting briefing "on the issue of the extent to which, if at all, the Court retains jurisdiction to address the merits of the claims and defenses in this action during the pendency of the Appeal with the Tenth Circuit Court of Appeals." ECF No. 61. As explained in more detail below, the Court's question about its jurisdiction during a pending appeal has been mooted as Respondents have filed, and the Tenth Circuit has granted, an unopposed motion for voluntary dismissal of the appeal.

Petitioner filed the original Application for Writ of Habeas Corpus ("Original Petition") on July 18, 2025, seeking immediate release or a bond hearing. ECF No. 1.

The same day, he filed a Motion for a Temporary Restraining Order seeking immediate release or a bond hearing, as well as an order prohibiting his transfer or removal from the District of Colorado. ECF No. 5. The Court construed Petitioner's Motion for a Temporary Restraining Order as a motion for a preliminary injunction. ECF No. 20.

On August 8, 2025, the Court issued the PI Order in which it ruled on the construed motion. ECF No. 46. In the PI Order, the Court denied Petitioner's request for immediate release under *Zadvydas v. Davis*, 533 U.S. 678 (2001). ECF No. 46 at 9-11. The Court, however, granted Petitioner's request for a bond hearing, determining that he was "likely to succeed on the merits of his claim that his prolonged detention without a constitutionally adequate bond hearing violates the Fifth Amendment's Due Process Clause." *Id.* at 11. The Court also entered an injunction granting Petitioner's request for a preliminary injunction "prohibiting his transfer out of the District of Colorado and his unlawful removal from the United States during the pendency of these habeas proceedings." *Id.* at 34. Petitioner subsequently received a bond hearing before an immigration judge. ECF No. 52 at 3. The immigration judge set bond for Petitioner. *Id.* He posted bond and was released. *Id.*

In issuing the PI Order, the Court did not purport to rule on the Original Petition. Instead, the Court ordered Respondents to respond separately to the Original Petition. ECF Nos. 19, 44. Respondents have since responded to the Original Petition. ECF No. 49. Petitioner has filed a reply in support of the Original Petition. ECF No. 52.

Since the Court issued the PI Order, Petitioner has also filed an Amended Petition for Writ of Habeas Corpus and Complaint. ECF No. 48 (the "Amended

Petition"). In the Amended Petition, Petitioner continues to seek immediate release or a bond hearing. *Id.* at 42. He also seeks an order the Court enjoining "Respondents from removing or attempting to remove [him] to a third country or a country to which his removal has been withheld pending appeal in violation of the Constitution as well as statutory and regulatory procedures." *Id.*; *id.* ¶ 97 (seeking "adequate notice and a meaningful opportunity to be heard before he be removed from the United States"). The Amended Petition was served (along with summons) on the U.S. Attorney's Office for the District of Colorado on October 2, 2025. ECF No. 62.

On September 30, 2025, Respondents filed a notice of appeal regarding the PI Order. ECF No. 58. The Court then ordered briefing by the parties "on the issue of the extent to which, if at all, this Court retains jurisdiction to address the merits of the claims and defenses in this action during the pendency of the Appeal with the Tenth Circuit Court of Appeals." ECF No. 61.

The Court's question regarding the extent of its jurisdiction while Respondents' appeal of the PI Order is pending with the Tenth Circuit has been rendered moot. On October 10, 2025, Respondents filed an unopposed motion for voluntary dismissal of the appeal. Appellant's Unopposed Mot. for Voluntary Dismissal, *Arostegui-Maldonado v. Baltazar*, 25-1377, Dkt. No. 6 (10th Cir. Oct. 10, 2025). The Tenth Circuit granted that motion, and the appeal has been dismissed. Order, *Arostegui-Maldonado*, Dkt. No. 8 (10th Cir. Oct. 10, 2025). The Tenth Circuit has issued the mandate reflecting that the appeal has been dismissed. Mandate Issued, *Arostegui-Maldonado*, Dkt. No. 9 (10th Cir. Oct. 10, 2025). As there is no longer an appeal pending of the PI Order before the

Tenth Circuit, the Court's question regarding its jurisdiction during a pending appeal has been resolved.

Dated October 10, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 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 e-mail addresses:

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s/ Benjamin Gibson
U.S. Attorney's Office