

**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 HAGAN, 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.

RESPONSE TO ORDER, ECF NO. 70

As directed by the Court's December 17, 2025, order, ECF No. 70, Respondents respond regarding whether this matter should be reassigned to the AP Docket. As explained below, because the sole civil claim¹ in this case is brought under the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), this matter should be assigned to the Court's AP Docket.

As explained in Respondents' Motion to Dismiss, this matter was originally

¹ Petitioner's other two claims (Counts I & II) were based on his unlawful detention and brought as part of his habeas petition. ECF No. 48 at 39-40. Petitioner has been released from detention. ECF No. 52 at 3.

brought as a habeas petition. See ECF No. 68 at 6-8. Petitioner subsequently amended the petition to add a claim for relief “to enjoin Respondents from removing or attempting to remove Mr. Maldonado 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.” ECF No. 48 at 42. This request for relief appears to be based on Count III, added in the amended petition, in which he alleges that he is entitled to certain notice and procedures before removal to a third country. *Id.* at 40-41. He brings that claim under the Due Process Clause and APA, 5 U.S.C. § 706(2). *Id.* The amended petition added allegations that the Department of Homeland Security has adopted a new policy regarding the process associated with third country removals. *Id.* ¶¶ 100-101. Petitioner also added allegations that this policy “fails to follow non-discretionary statutory duties requiring notice and a meaningful opportunity to present a fear-based claim” and so “violates the APA.” *Id.* ¶ 104.

According to the Court’s local rules, the AP rules “apply to pre-merits management and briefing in . . . a case commenced or reviewed under 5 U.S.C. § 706 concerning an action or final decision of an administrative agency[.]” D.C.COLO.LAPR 1.1(c). Because Petitioner’s Count III is brought under the APA, 5 U.S.C. § 706(2), this case should be designated as falling on the AP Docket. *Cf. Kreso v. Shineski*, No. 11-cv-02378-REB-MJW, 2011 WL 6413828, at *2-3 (D. Colo. Dec. 21, 2011) (reassigning a matter to the AP docket where the plaintiff sought review of an administrative decision, even though he also alleged due process violations).

Dated December 22, 2025

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and Pamela Bondi in their official
capacities

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 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