

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

Civil Action No. 1:25-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.

PETITIONER'S RESPONSE TO ORDER, ECF NO. 70

INTRODUCTION

Petitioner Dennis Humberto Arostegui Maldonado (“Mr. Maldonado” or “Petitioner”) submits this brief in response to the Court’s Order (“Order”) seeking briefing on the applicability of the Court’s Local AP Rules to this case and states that this case presents issues that cannot be appropriately evaluated under the AP Rules. While Mr. Maldonado maintains against Defendants a claim for violation of 5 U.S.C. § 706 (“Administrative Procedure Act” or “APA”), he also maintains several additional claims that are central to this case, and that are likely to require discovery outside of the administrative record. As such, this case is distinguishable from those cases where this Court has previously found proper reassignment to the AP Docket.

Therefore, the Court should not reassign this case to its AP Docket but should instead continue to process it under the Court’s Local Civil Rules and the Federal Rules of Civil Procedure (“Civil Rules”).

PROCEDURAL BACKGROUND

Mr. Maldonado filed his original Petition for Writ of Habeas Corpus in this case on July 18, 2025 (“Petition”). The Petition sought a writ of habeas corpus, and Mr. Maldonado’s immediate release from detention on two independent Due Process grounds: (1) Defendants’ unlawful detention of Mr. Maldonado and (2) Defendants’ unreasonably prolonged detention of Mr. Maldonado (“Habeas Claims”). **ECF No. 1. at 28.** On August 11, Mr. Maldonado filed a Petition for Writ of Habeas Corpus and Complaint (“Complaint”), adding a claim for violation of § 706(2) of the APA for

Defendants' failure to give Petitioner adequate notice and a meaningful opportunity to present a fear-based claim. **ECF No. 48 at 40-41.**

ARGUMENT

A. The AP Rules Do Not Apply Because This Case Involves Non-APA Claims.

Unlike the other cases this Court has reassigned to its AP docket, this case involves non-APA claims that are central to adjudicating the relief that Mr. Maldonado seeks. The Court's Order specifically cites to *Allen v. Perlmutter*, No. 24-cv-2665 (D. Colo. Jan. 30, 2025), wherein this Court reassigned a copyright registration dispute brought against the U.S. Copyright Office. In his complaint, the *Perlmutter* plaintiff stated a single claim for relief against the Copyright Office: violation of § 706(2) of the APA for refusal to extend copyright protections to an artwork in violation of the U.S. Copyright Act of 1976. Finding that the plaintiff would not be prejudiced under the AP Rules, the Court granted the defendants' request for reassignment.

In contrast to *Perlmutter*, Mr. Maldonado does not seek relief solely under the APA. Rather, Mr. Maldonado asks this Court to adjudicate his non-APA Habeas Claims alongside his APA claim. The court has generally handled such hybrid cases pursuant to the Civil Rules rather than the AP Rules, and indeed, several recent habeas corpus cases are instructive. See *Fuentes v. Choate*, No. 1:24-cv-01377-NYW, 2024 WL 2978285 (D. Colo. June 13, 2024) (applying the Civil Rules where the plaintiff brought (1) a Fifth Amendment due process claim; (2) a claim under the Rehabilitation Act; and (3) a claim under the Administrative Procedures Act); *Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR (D. Colo. Oct. 17, 2025) (following Civil Rules where the plaintiff alleged

(1) a violation of 8 U.S.C. § 1226(a), (2) a violation INA bond regulations, and (3) a violation of the APA). The Court should do the same here.

B. The AP Rules Do Not Apply Because Mr. Maldonado is Entitled to Discovery.

Should the Court reassign this case to the AP Docket, Mr. Maldonado would face substantial prejudice because the AP Rules effectively preclude discovery. It is well-established that habeas petitioners are entitled to seek discovery to support their claims. Indeed, Courts are empowered to “issu[e] orders appropriate to assist them in conducting factual inquiries,” including discovery, pursuant to the All Writs Act, 28 U.S.C. § 1651. *Harris v. Nelson*, 394 U.S. 286, 299-300 (1969); *United States v. Velarde*, 485 F.3d 553, 560 (10th Cir. 2007) (“Discovery is authorized in habeas corpus cases.”).

If the Court reassigns this case to the AP Docket, Mr. Maldonado will effectively lose his opportunity to seek discovery on matters central to this case. As the Court itself recognized in *Perlmutter*, “cases challenging under the APA an agency’s decision are typically limited to the administrative record.” *Perlmutter*, No. 24-cv-2665, ECF No. 18 (D. Colo. Jan. 30, 2025). Here, Mr. Maldonado will almost certainly need to seek discovery on matters outside of the administrative record. As just one non-exhaustive example, central to this case is Defendants’ policy for removing individuals to third countries pursuant to 8 U.S.C. § 1231(b)(1)(C)(iv). There is, however, little or nothing pertaining to this policy in the administrative record, meaning that if this case is reassigned to the AP docket, Mr. Maldonado will be all but precluded from investigating this central issue. This would affect substantial prejudice against Mr. Maldonado and is avoidable by continuing under the Civil Rules.

Dated: December 22, 2025.

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