

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

Civil Action No. 25-CV-2720-RMR

NESTOR ESAI MENDOZA GUTIERREZ, for himself and on behalf of others similarly situated,

Petitioners-Plaintiffs,

v.

JUAN BALTASAR, Warden, Aurora ICE Processing Center, in his official capacity,

ROBERT HAGAN, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement, in his official capacity;

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

TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

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

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;

SIRCE OWEN, Acting Director for Executive Office of Immigration Review, in her official capacity;

U.S. DEPARTMENT OF HOMELAND SECURITY;

AURORA IMMIGRATION COURT; and,

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents-Defendants.

**PARTIES JOINT STATUS REPORT IN RESPONSE TO COURT'S DECEMBER 11,
2025 ORDER**

Plaintiff-Petitioner Nestor Esai Mendoza Gutierrez ("Plaintiff"), on behalf of the class members, and Defendants-Respondents file this Joint Status Report in response to the Court's order of December 11, 2025 (ECF 64) and in support thereof state as follows:

The Parties' counsel met and conferred by telephone on the evening of December 11, 2025. Prior to the conferral, counsel for the Defendants-Respondents have provided Class Counsel with ECF 61, which had previously been filed under a Level 2 restriction, and subject to an agreement of the Parties that they would enter an appropriate protective order.¹ Although there are some remaining areas of disagreement as discussed below, the Parties agree that the Court may enter the order resolving the emergency now so that the class members may be transferred immediately (or as soon as practicable) to facilities where they can obtain appropriate care.

I. The Parties' Agreements

The Parties have reached the following agreements:

Plaintiffs will not oppose the relief requested in the emergency motion. The Parties request the Court enter an appropriate order forthwith to facilitate the rapid transfer of the identified class members to the indicated appropriate medical facilities as identified in the Declaration filed today by Defendants in which Defendants asserted that the two specifically identified facilities are prepared to accept each of the identified class members. See ECF 61. If space is no longer available in the indicated facilities, Defendants will confer with Class Counsel and inform counsel of the alternative

¹ The Parties have agreed to enter a proposed protective order, and will meet and confer regarding an appropriate protective order on a non-emergency basis. Should the Parties be unable to reach agreement on an appropriate protective order, they will inform the Court.

available facilities and provide Class Counsel with time to evaluate the new proposed placements.

Defendants have agreed to the following:

Both identified individuals will remain class members and will remain entitled to any relief the Court may ultimately grant.

Should the identified individuals' medical and psychiatric conditions improve such that they can be returned to a facility in the District of Colorado, they will be returned within 10 days of it becoming medically appropriate to do so.

Due to the severity of the psychiatric conditions outlined in ECF 61, Defendants-Respondents' have represented that one of the identified individuals has already been determined to be incompetent, and is in the process of being appointed counsel. The other class member recently had his first immigration court hearing, and has another scheduled for the near future. At his next immigration hearing, Defendants will provide the immigration court with relevant materials in its possession that would inform the court about his mental competency as detailed in the Declaration submitted today, see ECF 61. Defendants will provide confirmation when such information has been provided to the immigration court.

Defendants will provide Class Counsel the identity of any lawyers that are appointed to represent either individual.

If counsel for immigration court proceedings is not provided for either individual within 30 days, Defendants will provide class counsel an update regarding the

individual's medical and psychiatric condition. Plaintiff-Petitioner may request additional relief at such time.

II. The Parties Disagreement

Class Counsel additionally requested a copy of the identified individuals' medical records from the Aurora detention facility. *See also* ECF 63, p. 4. Class Counsel would agree to keep these medical records confidential under the to be agreed upon protective order. *See supra* n. 1. Class Counsel believes this relief is appropriate to verify the assertions made in ECF 61, and because when Class Counsel recruited a volunteer attorney to attempt to meet with the class members on December 11, 2025, the volunteer attorney was denied in-person visitation and telephone calls with the class members as described in ECF 63. Class Counsel's above agreements is not contingent on production of the medical record before the order modifying the injunction to permit the requested transfers is entered.

Defendants are opposed to providing the requested medical records for the individuals because the medical records are not relevant to the scope of class counsel's representation of the class members and contains sensitive information about the class members that they may not want revealed.

Plaintiff requests that the Court resolve these disagreements, and make a determination of whether Defendants should be required to provide Class Counsel with the medical records. But the Parties do not request that the Court do so on an emergency basis.

III. Conclusion

The Parties request that the Court enter the attached proposed order to modify the injunction and enter their agreements. Plaintiff further requests that the Court resolve the dispute regarding the medical records as soon as practicable.

Dated: December 11, 2025.

Respectfully submitted,

s/ Scott Medlock

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CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2025, I electronically filed the foregoing **JOINT STATUS REPORT** with the Clerk of the Court using the CM/ECF system, and that in accordance with Fed. R. Civ. P. 5, all counsel of record shall be served electronically through such filing.

s/ Benjamin Gibson

United States Attorney's Office