

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

Civil Action No. 1:25-cv-03980-RMR

EZEQUIEL ALCARAZ BARRIENTOS,

Petitioner

v.

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

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

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

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

PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents

**SECOND JOINT STATUS REPORT AND
MOTION FOR PROPOSED BRIEFING SCHEDULE**

Petitioner filed a petition for writ of habeas corpus (“Petition”) alleging that U.S. Immigration and Customs Enforcement (“ICE”) was illegally detaining Petitioner and seeking an order for his immediate release or, in the alternative, a bond hearing within seven days. ECF No. 1 at 19. Petitioner sought the same relief in a motion for a temporary restraining order or preliminary injunction (“Motion”). ECF No. 5 at 16. The Petition and Motion also sought an order that Petitioner not transfer Petitioner outside the District of Colorado. ECF Nos. 1 at 19, 5 at 16.

The Court issued a Minute Order (“OSC”) with two numbered questions for Respondents to address and one issue for Petitioner to address in his reply. ECF No. 13. Respondent’s response was due January 5, 2026.

After the Court issued the OSC but before Respondent’s response was due, the immigration court scheduled a bond hearing for January 7, 2026. As a result, Respondents filed an unopposed

motion to extend the time of their response to the Court's OSC, ECF 13, until January 9, 2026. ECF 15. The Court granted that motion on the same day, ordering the parties to "promptly provide this Court with the results of the 1/7/26 bond hearing." ECF 16. The parties complied, advising the Court that the Immigration Judge ("IJ") granted Petitioner bond in the amount of \$5,000. ECF 17.

The parties jointly file this second joint status report to advise the Court that the Department of Homeland Security ("DHS") filed on January 8, 2026, a notice of intent to appeal the custody redetermination, Form E-43, colloquially called an "autostay." The IJ's bond decision was stayed, preventing Petitioner from paying the bond and requiring him to remain detained during the pendency of the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

Because Petitioner received a bond hearing but is still detained on the basis of the autostay, the facts upon which the Petition and Motion depended have changed. Petitioner still asserts that ICE illegally detains him, but there are now additional legal reasons for Petitioner's claim that he is being unlawfully detained. Specifically, in light of ICE's invocation of the autostay provision, Petitioner wishes to raise additional arguments that the autostay violates due process, is ultra vires, is not authorized by the Immigration and Naturalization Act, and violates the Administrative Procedure Act.

Because of the changes in facts and additional legal issues regarding Petitioner's detention, the parties propose that the Court: (1) vacate and discharge the OSC,¹ ECF No. 13; (2) dismiss the

¹ As for the first numbered question in the OSC, Respondents state: Yes, Petitioner is a member of the conditionally certified class in *Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR, regarding declaratory relief. Respondents confirm that Petitioner will not be removed from the District of Colorado or the United States unless or until this Court or the Court of Appeals for the Tenth Circuit vacates the Courts order in *Gutierrez* or Petitioner is no longer a member of the *Gutierrez* class (e.g., if he becomes subject to a final order of removal and is thus detained under 8 U.S.C. § 1231). The parties respectfully submit that due to the changed circumstances, the other questions in the OSC no longer need to be addressed.

Motion (ECF 5) as moot; and (3) order a briefing schedule on the basis of an amended complaint for writ of habeas corpus² to allow the parties to address the legality of the autostay in Petitioner's situation. The parties came to an agreement, if amenable to the Court, to follow the proposed briefing schedule:

- Petitioner's amended complaint for writ of habeas corpus describing the relief now sought and the legal bases for it due Jan. 13, 2026;
- Respondents' response due Jan. 16, 2026;
- Petitioner's reply due Jan. 20, 2026.

The parties believe that this proposal will most efficiently address the new relevant legal issues given Petitioner's current situation and conserve the Court and the parties' resources by consolidating those issues into the pending matter. *See* Fed. R. Civ. P. 1 (the Federal Rules of Civil Procedure "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding").

Dated: January 9, 2026

Respectfully submitted,

s/ Timothy Bart Jafek
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² Respondents consent to the filing of the amended petition for writ of habeas corpus.

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notifications of such filing to all counsel of record.

/s/ Timothy B. Jafek
Timothy B. Jafek