

The Honorable Kymberly K. Evanson

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UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM A. BACHES ROCA,  
  
Petitioner,  
  
v.

Case No. 2:25-cv-02551-KKE  
  
FEDERAL RESPONDENTS'<sup>2</sup>  
RETURN MEMORANDUM

BRUCE SCOTT, Warden, Northwest  
Immigration and Customs Enforcement  
Processing Center; LAURA HERMOSILLO,  
Acting Director United States Department of  
Homeland Security Enforcement and Removal  
Office Seattle; KRISTI NOEM, Secretary of  
U.S. Department of Homeland Security;  
PAMELA BONDI, United States Attorney  
General,  
  
Respondents<sup>1</sup>.

Pursuant to this Court's Order (Dkt. 5), Federal Respondents submit the following factual background as contained in the records of Petitioner William A. Baches Roca's immigration case and as set forth in the Declaration of Christopher Hubbard ("Hubbard Decl."), as well as the relevant detention authority.

<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Laura Hermosillo, Acting Seattle Field Office Director, United States Citizenship and Immigration Services, for Camilla Wamsley.

<sup>2</sup> Bruce Scott, Warden, Northwest Immigration and Customs Enforcement Processing Center, is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

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1 **I. PETITIONER WILLIAM A. BACHES ROCA**

2 *A. Petitioner first enters the United States in 2003 and is removed in 2006*

3 Petitioner is a native and citizen of Guatemala. Hubbard Decl., ¶ 3. Petitioner first entered  
4 the United States on or about March 28, 2003, near Kingsville, Texas, without being inspected,  
5 admitted, or paroled. Hubbard Decl., ¶ 4. Petitioner was issued a Notice to Appear (“NTA”)   
6 charging him as removable under INA § 212(a)(6)(A)(i) and requiring him to appear before the  
7 immigration court in Brownsville, Texas. Hubbard Decl., ¶ 5.

8 Petitioner was subsequently released on an Order of Recognizance, on April 1, 2003.  
9 Hubbard Decl., ¶ 6. On April 24, 2003, the Brownsville immigration court mailed a hearing notice  
10 to Petitioner’s new address in New Jersey informing him of his next hearing date. Hubbard Decl.,  
11 ¶ 7. Petitioner failed to appear at that hearing. Hubbard Decl., ¶ 7. On September 4, 2003, given  
12 Petitioner had failed to appear before the Newark immigration court pursuant to the hearing notice,  
13 the immigration judge ordered Petitioner removed *in absentia*. Hubbard Decl., ¶ 8.

14 In September 2006, the Department of Homeland Security (“DHS”) executed the removal  
15 order and removed Petitioner to Guatemala. Hubbard Decl., ¶ 10.

16 *B. Petitioner reenters the United States and placed on an Order of Supervision*

17 On May 14, 2019, U.S. Border Patrol agents encountered Petitioner near El Paso, Texas,  
18 and determined he entered the United States without being inspected, admitted, or paroled.  
19 Hubbard Decl., ¶ 11. Following records checks, Petitioner was processed for an administrative  
20 Reinstatement of Prior Order of Removal. Hubbard Decl., ¶ 12. On May 18, 2019, due to a lack  
21 of bed space, Petitioner was released on an Order of Supervision (“OSUP”), imposing reporting  
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1 requirements, Alternatives to Detention enrollment, and other conditions of release. Hubbard  
2 Decl., ¶ 14.

3 At some point during his release on OSUP, Petitioner claimed fear of return to Guatemala.  
4 Hubbard Decl., ¶ 18. Based on the fear claim, Petitioner was entitled to a reasonable fear interview  
5 with U.S. Citizenship and Immigration Services (“CIS”). Hubbard Decl., ¶ 18. Once discovered  
6 that Petitioner’s fear claim was not properly referred to CIS, ICE’s Enforcement and Removal  
7 Operations (“ERO”) determined Petitioner would be brought back into custody for adjudication of  
8 his reasonable fear claim. Hubbard Decl., ¶ 18. On July 21, 2025, Petitioner reported in person to  
9 ERO where he was arrested. Hubbard Decl., ¶ 19. Two days later, Petitioner was transported to  
10 the Northwest ICE Processing Center in Tacoma. Hubbard Decl., ¶ 21.

11 Although its reason for bringing him into custody back in July was the adjudication of his  
12 reasonable fear claim, ERO has previously documented that Petitioner has violated the conditions  
13 of his Order of Supervision on several occasions, including failed in-person home visits and missed  
14 callbacks on his tracker. Hubbard Decl., ¶¶ 15-17. Based on those violations, ERO intends to  
15 revoke Petitioner’s OSUP on the day of this filing and provide him with an informal interview as  
16 required by 8 C.F.R. § 241.13(i)(3). Hubbard Decl., ¶ 32.

17 *C. Petitioner’s current immigration proceedings following his detention*

18 On August 6, 2025, Petitioner’s reasonable fear claim was referred to CIS for review.  
19 Hubbard Decl., ¶ 23. On August 8, 2025, Petitioner was interviewed, and CIS subsequently made  
20 a negative reasonable fear finding in Petitioner’s case. Hubbard Decl., ¶ 24. Petitioner requested  
21 an immigration judge’s review of CIS’s reasonable fear determination. Hubbard Decl., ¶ 24. On  
22 August 19, 2025, Petitioner appeared for a hearing with a Tacoma immigration judge to review  
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1 the reasonable fear determination by CIS. Hubbard Decl., ¶ 25. The immigration judge affirmed  
2 the determination and ordered Petitioner be returned to DHS for removal. Hubbard Decl., ¶ 25.

3 Meanwhile, on July 25, 2025, Petitioner, through counsel, filed a Motion to Reopen  
4 Removal Order and Terminate Proceedings with the Newark immigration court, asking the  
5 immigration court to reopen his immigration proceedings, rescind the removal order *in absentia*,  
6 and allow for Petitioner to apply for forms of immigration relief. Hubbard Decl., ¶ 22. On August  
7 21, 2025, DHS learned of an order from the Newark immigration court granting Petitioner's  
8 motion in part to reopen his immigration case and proceed on the original NTA from 2003.  
9 Hubbard Decl., ¶ 26. The immigration court's order voided the reasonable fear determination and  
10 intended removal. Hubbard Decl., ¶ 26.

11 On October 15, 2025, the Newark immigration court received notice of Petitioner's  
12 detention at NWIPC, and his case was transferred to the Tacoma immigration court. Hubbard  
13 Decl., ¶ 27. On November 20, 2025, Petitioner, with counsel, appeared for a master calendar  
14 hearing and requested a continuance. Hubbard Decl., ¶ 28. On December 8, 2025, Petitioner, with  
15 counsel, appeared for his reset master hearing. Hubbard Decl., ¶ 29. The immigration judge reset  
16 Petitioner's case for DHS to amend the NTA with details concerning the date, time, and place of  
17 the next scheduled hearing. Hubbard Decl., ¶ 29. On December 15, 2025, Petitioner, with counsel,  
18 appeared for a reset master calendar hearing where the immigration judge issued a pre-hearing  
19 order and set an individual merits hearing for January 12, 2026, where Petitioner's application for  
20 relief would be decided. Hubbard Decl., ¶ 30.

21 On the same day, Petitioner, with counsel, appeared for a bond hearing pursuant to  
22 counsel's December 11, 2025, bond request. Hubbard Decl., ¶ 31. The Tacoma immigration judge  
23 found Petitioner was subject to mandatory detention. Hubbard Decl., ¶ 31. In the alternative, the  
24 immigration judge would grant a bond in the amount of \$12,000, and any conditions set by ICE,

1 if Petitioner was not subject to mandatory detention. Hubbard Decl., ¶ 31; Exhibit A. ICE  
2 maintains that Petitioner remains detained pursuant to INA § 235(b). Hubbard Decl., ¶ 33.

## 3 II. DETENTION AUTHORITIES

4 The INA governs the detention and release of noncitizens during and following their  
5 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general  
6 detention periods are generally referred to as “pre-order” (meaning before the entry of a final order  
7 of removal) and “post-order” (meaning after the entry of a final order of removal). *Compare* 8  
8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).  
9 When a final order of removal has been entered, a noncitizen enters a 90-day “removal period.” 8  
10 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security “shall remove  
11 the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for removal and to  
12 protect the community from noncitizens who may present a danger, Congress has mandated  
13 detention while removal is being effectuated. 8 U.S.C. § 1231(a)(2).

14 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration  
15 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention  
16 and does not place any temporal limit on the length of detention under that provision:

17 [A noncitizen] ordered removed who is inadmissible under section 1182,  
18 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or  
19 who has been determined by the [the Secretary of Homeland Security] to be a risk  
20 to the community or unlikely to comply with the order of removal, *may* be detained  
21 *beyond the removal period* and, if released, shall be subject to the terms of  
22 supervision in paragraph (3).

23 8 U.S.C. § 1231(a)(6) (emphasis added).

24 During the removal period, DHS is charged with attempting to effect removal of a  
noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit  
on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be

1 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from  
2 the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). It was further specified that  
3 Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer  
4 reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.*, at 699.

5       Once it is determined that there is no significant likelihood of removal in the reasonably  
6 foreseeable future, DHS may release noncitizens on an Order of Supervision (“OSUP”). 8 C.F.R.  
7 § 241.13(h). The right to remain under an OSUP is not unlimited. Revocation of an OSUP is  
8 governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur either: (1) if the noncitizen “violates  
9 any of the conditions of release,” *id.* §§ 241.13(i)(1), 241.4(l)(1); or (2) if it is determined “that  
10 there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.”  
11 *Id.*, § 241.13(i)(2). Alternatively, certain designated officials may also revoke an OSUP as an act  
12 of discretion when revocation is in the public interest. *Id.* § 241.4(l)(2).

13       Section 241.13(i)(3) provides that upon revocation, the noncitizen “will be notified of the  
14 reasons for revocation of his or her release” and will receive an “initial informal interview  
15 promptly” after being detained, to “afford the alien an opportunity to respond to the reasons for  
16 revocation stated in the notification.” *Id.* § 241.13(i)(3). During such an interview, the noncitizen  
17 “may submit any evidence or information that he or she believes shows there is no significant  
18 likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not  
19 violated the order of supervision.” *Id.* Then, if the noncitizen’s request for release is denied, he or  
20 she “may submit a request for review of his or her ... six months after [DHS’s] last denial of  
21 release[.]” *Id.* § 241.13(j).

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1 **III. CONCLUSION**

2 If the Court was to grant the habeas petition with respect to Petitioner, the appropriate relief  
3 would be for him to be released upon payment of the bond amount found in the alternate order by  
4 the Immigration Judge in his bond hearing. *See Exhibit A.*

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6 DATED this 29th day of December, 2025.

7 Respectfully submitted,

8 CHARLES NEIL FLOYD  
9 United States Attorney

10 *s/ James C. Strong*

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21 *I certify that this memorandum contains 1,657*  
22 *words in compliance with the Local Civil Rules.*