

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

KARLENA DAWSON, et al.,

Plaintiff,

v.

NATHALIE ASHER, et al.,

Defendants.

CASE NO. C20-0409-JLR-MAT

SECOND SUPPLEMENTAL
DECLARATION OF DREW H.
BOSTOCK IN RESPONSE TO THE
COURT'S ORDER TO FILE
ADDITIONAL EVIDENCE

I, Drew H. Bostock, hereby make the following second supplemental declaration with respect to the above-captioned matter to update my response to the Court's Order to File Additional Evidence, Dkt. No. 73:

1. I am an Officer in Charge ("OIC") with the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") in the Seattle Field Office ("ERO Seattle"). I have held this position since December 2019. Prior to this, I was the Assistant Field Office Director from December 2017 to December 2019. I am currently assigned to the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. I have worked in various other positions within ICE since February 2007.

2. Among my responsibilities as the OIC, I manage the detained docket for the aliens who are detained at the NWIPC.

3. This second supplemental declaration is based upon my personal and professional knowledge and information obtained from various records and systems maintained by DHS and

1 The GEO Group, Inc. in the regular course of business. I provide this declaration based on the
2 best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

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4 Update to Court's Question 4

5 4. No additional detainees at the NWIPC have been tested for COVID-19 since my
6 April 3, 2020 declaration.

7 5. GEO has informed ICE that the one GEO employee who was awaiting COVID-19
8 test results on April 3, 2020 has received those test results and they were negative. To date, three
9 GEO employees have been tested for COVID-19 and all tested negative.

10
11 Expanded Detainee Reviews

12 6. As of April 5, 2020, ICE has implemented custody reassessment reviews,
13 expanding on the Centers for Disease Control ("CDC") criteria list of individual identified as
14 potentially being at higher risk for serious illness from COVID-19 nationwide. ICE has
15 identified the following categories of cases that will be reviewed to re-assess custody:
16

- 17 a. Pregnant detainees or those who have given birth in the last two weeks
18 b. Detainees over 60 years of age
19 c. Detainees of any age having the following chronic illnesses which would make
20 them immune-compromised, including but not limited to:
21 i. Blood disorders
22 ii. Chronic kidney disease
23 iii. Compromised immune system (e.g. ongoing treatment such as
24 chemotherapy or radiation, received an organ or bone marrow transplant,
25 taking high doses of corticosteroids or other immunosuppressant
26 medications)
27
28

iv. Endocrine disorders

v. Metabolic disorders

vi. Heart disease

vii. Lung disease

viii. Neurological and neurologic and neurodevelopmental disorders

7. The presence of one of the above factors will be considered a significant discretionary factor weighing in favor of release. However, it may not always be determinative.
8. Section 236(c) of the Immigration and Nationality Act mandates the detention of certain categories and criminal and terrorist aliens during the pendency of removal proceedings. Such aliens may not be released in the exercise of discretion even if potentially at higher risk for serious illness from COVID-19. *See* INA § 236(c); 8 C.F.R. § 236.1(c)(1)(i). Such aliens may only be released following a final order by an Immigration Judge, the Board of Immigration Appeals, or a federal court granting the alien relief, dismissing proceedings, or terminating proceedings.
9. Similarly, pursuant to INA § 241(a)(2), certain criminal and terrorist aliens subject to a final order of removal may not be released during the 90-day removal period even if potentially at higher risk for serious illness from COVID-19.
10. For alien's subject to discretionary release under INA § 236(a), release is prohibited, even if the alien is potentially at higher risk for serious illness from COVID-19, if such release would pose a danger to persons or property. *See* 8 C.F.R. § 236.1(c)(8).
11. In the case of all aliens for whom there is discretion to release, ICE will continue to conduct individualized custody determinations taking into consideration the totality of the

1 circumstances. This includes a determination, consistent with ICE's Alternatives to
 2 Detention ("ATD") policies, if ATD is sufficient to mitigate the risk of flight.

3 12. Of the remaining named Petitioners, Norma Lopez Nunez, Marjoris Ramirez Ochoa,¹
 4 Kelvin Melgar-Alas are subject to mandatory custody under INA § 236(c). Petitioner
 5 Bayana is currently detained pursuant to INA § 241. Only Petitioners Maria Gonzalez
 6 Mendoza and Jesus Gonzalez Herrera are currently detained under INA § 236(a). ICE is
 7 currently in the process of reviewing their medical records and case files for custody re-
 8 assessment purposes
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11 //

12 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
 13 true and correct to the best of my knowledge and belief.

14 Executed this 6th day of April, 2020,

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 16 _____
 17 Drew H. Bostock
 18 Officer in Charge
 19 U.S. Department of Homeland Security
 20 U.S. Immigration and Customs Enforcement
 21 Tacoma, Washington
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28 ¹ This is assuming that Petitioner Ramirez Ochoa files a Notice of Appeal to the Board of Immigration Appeals by close of business today, April 6, 2020. To date, ICE has not received a Notice of Appeal from Petitioner Ramirez Ochoa and data from the Executive Office for Review is not yet showing that one has been filed. If no notice is filed, she will be mandatory detention pursuant to INA § 241.