

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLORADO

3 Civil Action No. 25-cv-3183-RBJ

4 REFUGIO RAMIREZ OVANDO, et al,

5 Plaintiffs,

6 vs.

7 KRISTI NOEM, et al,

8 Defendants.

9 -----
REPORTER'S TRANSCRIPT

10 Preliminary Injunction, Vol. 1

11 Proceedings before the HONORABLE R. BROOKE JACKSON,
12 Judge, United States District Court for the District of
13 Colorado, commencing on the 30th day of October, 2025, in
Courtroom C204, United States Courthouse, Denver, Colorado.

14 APPEARANCES

For the Plaintiffs:

15 KENZO S. KAWANABE, SEAN C. GRIMSLEY, and BIANCA E. MIYATA, Olson
16 Grimsley Kawanabe Hinchcliff & Murray LLC, 700 17th Street,
Suite 1600, Denver, CO 80202

AND

17 TIMOTHY R. MACDONALD, EMMA K. MCLEAN-RIGGS, and ANNA I. KURTZ,
18 ACLU of Colorado, 303 East 17th Avenue, Suite 350, Denver, CO
80203

AND

19 HANS C. MEYER, The Meyer Law Office PC, PO Box 40394, 1547 North
20 Gaylord Street, Denver, CO 80204

For the Defendants:

21 BRAD E. LENEIS, NICHOLAS A. DEUSCHLE, and LOGAN P. BROWN, U.S.
22 Attorney's Office, 1801 California Street, Suite 1600, Denver,
CO 80202

23
24
25 Reported by KEVIN P. CARLIN, RMR, CRR, 901 19th Street, Room
A259, Denver, CO 80294, (303)335-2358

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P R O C E E D I N G S

(Proceedings commenced at 9:13 a.m.)

THE COURT: I know you're all wondering, what did I do to myself? And the answer is wear your sunscreen. All right. This is Refugio Ramirez Ovando et al. versus Kristi Noem et al., case number 25-cv-3183. Set for a preliminary injunction hearing this morning. We have a pretty full house today, including at counsel table. Let's start there. Who is appearing for the plaintiffs?

MR. KAWANABE: Your Honor, good morning. Kenzo Kawanabe on behalf of plaintiffs. With me at counsel table is Annie Kurtz, Timothy MacDonald, Bianca Miyata, Sean Grimsley, Hans Meyer, Emma McLean-Riggs. And in the gallery, two of our four clients, Your Honor, are with us as well: Refugio Ramirez Ovando, and Caroline Dias Goncalves -- Goncalves.

THE COURT: Defendants?

MR. LENEIS: Good morning, Your Honor. For the Government defendants, Brad Leneis, Logan Brown, Nick Deuschle.

THE COURT: What was the third one, please?

MR. KAWANABE: Nick Deuschle. If you need Mr. Deuschle's last name spelled, he will have to do that for you himself.

THE COURT: D-E-U-S-C-H-E-L?

MR. DEUSCHLE: L-E, Your Honor. Pretty close.

THE COURT: All right. Thank you. Do you have a

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1 desire to make any brief opening statement?

2 MR. KAWANABE: Yes, Your Honor. Less than ten minutes
3 for the plaintiffs, please?

4 THE COURT: All right. Go ahead.

5 MR. KAWANABE: Good morning, Your Honor. May it
6 please the Court, Counsel, masked militarized ICE agents with
7 flak jackets and long rifles are terrorizing neighborhoods
8 across Colorado, ignoring their duty to obtain warrants so that
9 they can make arrests to meet arbitrary government quotas.
10 Plaintiffs seek a preliminary injunction to stop the Government
11 from continuing arrests without warrants in violation of 8 USC
12 Section 1357(a)(2). This statute requires individualized
13 probable cause to believe both that, one, the person being
14 arrested is in the country illegally, and importantly, number
15 two, the person constitutes a flight risk.

16 Recently the Eastern District of California issued a
17 similar injunction in its well-reasoned opinion in *United Farm*
18 *Workers versus Noem*, 785 F. Supp. 2d 672, and earlier this month
19 in the Northern District of Illinois extended a prior settlement
20 in which the Government had agreed to the relief which plaintiff
21 seeks in this case. That's the *Castañon Nava* case, out of the
22 Northern District of Illinois, issued on October 7th. And even
23 though the Government agreed to those terms in the Illinois
24 settlement agreement, it refuses to stipulate to those terms
25 here in Colorado.

1 The Government has acknowledged this applicable
2 standard --

3 THE COURT: Well, that's not totally right. They've
4 refused to stipulate to an injunction, but they do claim that
5 those same policies and practices from the Illinois case are in
6 effect now from the policy statement of their counsel that we've
7 talked about.

8 MR. KAWANABE: That's fair, Your Honor. And I was
9 referring to -- I apologize -- more than just the stipulation to
10 an injunction, but also our settlement talks that we --

11 THE COURT: And one question that's in my mind, just
12 so you know, is that with this new policy statement that was
13 broadcast on the 22nd of October, so just a week ago or so, how
14 do we know that these agents won't be compliant with it? I
15 think there is a ripeness issue here, and potentially a standing
16 issue here.

17 MR. KAWANABE: Your Honor, I am happy to address both
18 of those concerns. In fact, let's talk about that broadcast
19 statement. That broadcast statement, Your Honor, was from 2022.
20 We know they don't comply with that broadcast statement, because
21 it has been in effect for more than two years. The -- excuse
22 me. More than three years. The 2022 broadcast statement from
23 the *Castañon Nava* case, as well as the more recent emails that
24 you're referring to, Your Honor, ICE's top legal adviser Charles
25 Wall issued a June 11th email purporting to terminate the

1 settlement agreement, but then the Court ordered Mr. Wall to
2 issue a correction email, which is what the Government raised
3 last Wednesday.

4 And the broadcast statement from 2022 and the ICE
5 emails more recently confirm that ICE knows the standard that
6 should apply. So, Your Honor, I don't believe the actual
7 standard is in dispute. As to flight risk, these ICE documents,
8 again, dating as early as 2022, inform agents to consider the
9 totality of circumstances known to the officer before making the
10 arrest, including ties to the community, such as family, home,
11 or employment, or other specific circumstances that weigh in
12 favor or against a reasonable belief that the subject is likely
13 to abscond.

14 ICE's internal documents, again, starting in 2022,
15 properly note the mere presence within the United States in
16 violation of immigration laws is insufficient, not sufficient,
17 to conclude that a person is likely to escape before a warrant
18 can be obtained.

19 THE COURT: Well, why do you think Mr. Wall issued
20 this new policy order, really, on the 22nd of October, just last
21 week?

22 MR. KAWANABE: Because he was ordered to, Your Honor.
23 The policy that the Government has violated, as we will present,
24 was from 2022. Then Mr. Wall tried to terminate that settlement
25 agreement inappropriately in June of the summer of this year,

1 and the Northern District of Illinois ordered Mr. Wall to send
2 the follow-up email saying that the settlement agreement is not
3 terminated, and to reissue these policies that were supposed to
4 be in place in '22 -- 2022. So, it wasn't voluntarily. It was
5 ordered.

6 THE COURT: And the policies are to apply not just in
7 Illinois, but in every state, including Colorado?

8 MR. KAWANABE: Well, the problem is, Your Honor, the
9 Northern District of Illinois makes clear in its opinion that it
10 covers states that are not in Colorado. So, it is clear that
11 its jurisdiction -- and it states this in its order -- covers
12 Illinois and a couple of other surrounding states -- I
13 apologize -- but not Colorado. It did order that the email be
14 sent to all agents nationwide. The Court in the Northern
15 District of Illinois was clear that it had no enforcement
16 authority, and did not pertain to Colorado, and that's why we're
17 seeking the preliminary injunction here.

18 THE COURT: Right. I understand that. But according
19 to the defense counsel at our recent telephonic hearing, this
20 policy, which is to be effective immediately, applies to all ICE
21 agents in Colorado and elsewhere.

22 MR. KAWANABE: That's what it -- that's what the
23 Government purports to say, but that was true from 2022. And we
24 know that in effect, in reality, they're not doing that. As
25 part of the policy I mentioned, the requirement to assess flight

1 risk, part of that policy dating back from 2022 -- again, this
2 is ICE's own broadcast statement -- also requires that you must
3 document that flight risk analysis in the I-213 forms. You are
4 supposed to document various things -- and again, this is what
5 ICE has been telling its agents since 2022: arrestee's ties to
6 the community, including family, home, or employment, the
7 specific particularized facts supporting the conclusion that the
8 arrestee was likely to escape before a warrant could be
9 obtained -- and they need to do that as soon as practicable.

10 And how do we know they're not doing that? We know
11 that because we've seen the I-213 forms. So, this policy that
12 they say applies to all ICE agents, which I agree, has been
13 dated back since 2022, but in effect, in reality, their pattern,
14 practice, and conduct, Your Honor, is they don't do that. They
15 don't do the flight risk analysis.

16 The 213 forms, which we will show you over the next two
17 days, have no details, because they didn't ask any of the
18 questions about community, family, children, employment, how
19 long they've been in the country, all those circumstances they
20 should consider before arresting an individual. That's the
21 proof. And that's how we know that these policies that they say
22 apply, they don't actually effectuate in the real world.

23 THE COURT: So, there was a settlement in Illinois,
24 supervised by a judge, federal judge, like me, and despite that,
25 according to you, they -- these ICE agents have continued to

1 ignore it?

2 MR. KAWANABE: Correct.

3 THE COURT: So, if that judge couldn't do anything
4 about these rogue ICE agents, how can I?

5 MR. KAWANABE: Your Honor, actually, that judge has
6 been doing things about those rogue ICE agents in Chicago and
7 Illinois. And so the subsequent orders, including the one that
8 was published was part of what that Court is doing to enforce
9 those rogue actions -- and so for example, in the settlement
10 agreement, I believe, and I can double check this, there are
11 certain provisions that for example allow release of those
12 detainees that were illegally detained. We don't have that
13 power here in Colorado, which is why we are seeking a
14 preliminary injunction.

15 THE COURT: Mr. Kawanabe, I mentioned the other issue,
16 and the Government made quite a point of it in their reply
17 brief, is standing. And specifically, that your four plaintiffs
18 are past the stage of being arrested without a warrant. They
19 were arrested without a warrant, according to them, but then a
20 warrant was issued, yes, by some supervisor, and they've all
21 been released. So, you don't have a plaintiff that's in the
22 position that you're talking about; right?

23 MR. KAWANABE: We do, Your Honor. For example,
24 Mr. Refugio will testify that he has legal -- there is no
25 outstanding warrant. The problem is, though, he is unable to

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1 obtain, because of the Government, the documentation that he's
2 entitled to obtain. So, even though he has legal status, no
3 open warrant, he absolutely is subject to rearrest, Your Honor,
4 based on, again, the evidence we will present that ICE agents
5 are pulling over Latin, Hispanic individuals, looking at their
6 license, if their license doesn't have that REAL ID score --

7 THE COURT: I get all that, Mr. Kawanabe. I
8 understand that. I've gotta focus on the legal issues here.

9 MR. KAWANABE: Sure.

10 THE COURT: And the legal issue is does any of your
11 plaintiffs have standing?

12 MR. KAWANABE: Yes.

13 THE COURT: Is it enough that they might be
14 rearrested? I question that.

15 MR. KAWANABE: Understood, Your Honor. And we would
16 submit it is enough that they might be rearrested, particularly
17 when Your Honor hears what is happening across this state on how
18 ICE agents continue to target Hispanic individuals without the
19 proper inquiry, and simply arresting them. And so if you don't
20 have that identification, they are subject to rearrest.

21 THE COURT: Right. And I'm obviously going to hear
22 from you and your people what is, quote, happening across this
23 state. I sure want to hear what has been happening across this
24 state since this October 22 directive went out. That's on my
25 mind.

1 MR. KAWANABE: Yes, Your Honor. And also, I do want
2 to try to address your question as directly as I can. The
3 Government states that plaintiffs, as you noted, don't have
4 standing, as it is at issue these open arrest warrants. And
5 boiled down, the Government's argument is essentially if ICE
6 engages in warrantless arrests in violation of the statute, ICE
7 can just issue an open warrant after the arrest and presto, no
8 standing for any person they arrest to challenge the warrantless
9 arrest. This would allow ICE, if Your Honor -- excuse me. If
10 the Government is correct, this would allow ICE to evade the
11 statute, as they have been doing, which we will prove, and
12 effectively prevent any remedy.

13 And at the same time, Your Honor, the Government argues
14 that the Court does not have authority to issue a statewide
15 injunction under the Supreme Court's decision in *CASA*, and that
16 was one of their arguments in their response brief that they
17 filed. And as Your Honor knows, in June of this year, the
18 Supreme Court held the issuance of a universal injunction
19 exceeds the authority Congress granted. However, the Supreme
20 Court noted that the modern-day analog for a remedy granting
21 relief beyond named parties is a class action governed by Rule
22 23.

23 And this year, causing ambiguity, Your Honor, the
24 Supreme Court in a different case, *AARP*, 605 U.S. 91, also said,
25 quote, Courts may issue temporary relief to a putative class

1 relying on the *Newberg* treatise on class actions. That *Newberg*
2 treatise recognized the, quote, unresolved tension between the
3 Supreme Court's May 2025 ruling in *AARP* and the June 2025 ruling
4 in *CASA*. And the *Newberg* treatise specifically states, quote, a
5 district court would be on safest grounds if it were to go
6 through the Rule 23 analysis prior to granting preliminary
7 relief.

8 And while plaintiffs do not agree with the Government's
9 arguments regarding standing and the power of this Court, we do
10 respectfully suggest that the safest course if the Court is
11 inclined to grant a preliminary injunction, is to also grant
12 provisional class certification, which is supported by our
13 motions and the evidence to be presented at this hearing.

14 THE COURT: So, you're saying that according to the
15 Supreme Court cases that you've mentioned, I can't issue a
16 statewide injunction? I have to certify a class?

17 MR. KAWANABE: Your Honor, I am not saying that. I am
18 saying the Government is saying that. And I recognize the --

19 THE COURT: Well, do the cases say that or not?

20 MR. KAWANABE: There is tension. The *Newberg* treatise
21 on class actions recognize that the tension is the universal
22 injunction arguably does not apply to statewide -- excuse me --
23 universal injunction is not just nationwide, but also could
24 arguably apply to statewide injunction, Your Honor. And the
25 tension is with *AARP*, which states this Court actually has the

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1 ability to grant provisional class certification in issuing
2 certain injunctive relief.

3 THE COURT: Well, I was hoping we could avoid the
4 class issue, but maybe the class, if the Government is going to
5 put me into that position, is the way you get standing. But
6 even so, you've got to have at least one plaintiff, don't you,
7 that has a -- has a case?

8 MR. KAWANABE: And we do, Your Honor. Mr. Ovando will
9 testify that there is no warrant out for him right now. He is
10 subject to rearrest, and he doesn't have the documentation that
11 can prove otherwise, because the Government hasn't given it to
12 him. And so he is -- he does --

13 THE COURT: See, that bothers me. Subject to arrest.
14 Every non-documented, non-immigrant status individual, and you
15 say that there are over 100,000 of them in Colorado, every one
16 of those people is subject to arrest. But does subject to
17 arrest give you legal standing?

18 MR. KAWANABE: Your Honor, the test is you look at
19 what's happened in the past, and the Court can consider that as
20 to what may happen in the future. That's the U.S. Supreme Court
21 case in *Lyons* about standing. So, that's one. And we know it's
22 happened in the past. And we also know what is happening right
23 now. So, yes, for purposes of standing, those undocumented
24 immigrants in Colorado have standing because of what has
25 happened, which we can prove, and what will happen, because we

1 know what's going on, Your Honor.

2 THE COURT: All right. Anything else?

3 MR. KAWANABE: Yes. Just a couple more things. I
4 just wanted to preview our witnesses and evidence over the next
5 two days. Thirty more seconds, Your Honor. The four plaintiffs
6 are here to testify about their unlawful warrantless arrests
7 without any flight risk, and testifying about being ripped from
8 their families and forced into detention from two weeks to
9 almost two months.

10 Third-party witnesses this afternoon, after ICE's I
11 believe current director of the Denver field office testifies at
12 1:00, will also discuss what is happening right now, including
13 the arrest of plaintiffs without REAL ID licenses. And finally,
14 Your Honor, we will finish tomorrow with those third-party
15 witnesses.

16 And I believe the Government plans to present one
17 witness, assistant supervisor Davies, who we intend to cross
18 examine. Thank you, Your Honor. We look forward to presenting
19 our case for the Court's determination on PI.

20 THE COURT: So, Mr. Kawanabe, I have looked at your
21 witness list, and let me just say, I hope that you can be a
22 little more efficient than the amounts of time that you're
23 saying you're going to be using.

24 MR. KAWANABE: Understood, Your Honor. And we will
25 be.

1 THE COURT: Would defense counsel wish to make any
2 opening statement?

3 MR. LENEIS: Yes, Your Honor. Mr. Deuschle is going
4 to make an opening statement. We didn't get the opportunity
5 before the opening started to request a sequestration order.
6 So, we'd just request that at this point for any witnesses who
7 are not parties to be sequestered from the Court.

8 THE COURT: You're entitled to that, yes.

9 MR. KAWANABE: Yes, Your Honor. After the opening,
10 though, Your Honor, before -- so, we still have two clients in
11 the audience. Actually, the sequestration, we would request
12 happens once we start to present evidence, after the opening
13 statements; correct?

14 THE COURT: Oh, is that so, Mr. Kawanabe? Are you the
15 judge now?

16 MR. KAWANABE: No. I'm just requesting, Your Honor.
17 I am not the judge.

18 THE COURT: I see. I happen to agree with you. Okay.

19 MR. LENEIS: And we're not requesting the exclusion of
20 the clients who are parties, and who have a right to remain in
21 the courtroom.

22 THE COURT: Right. What he's saying, for any of you
23 out in the audience, is that if you're going to be a witness and
24 you're not a party to the case, then you have to stay outside
25 until you testify, and you can't be briefed by someone as to

1 what other testimony has already been given. Once you have
2 testified, then you're free to stay along with everybody else.
3 All right. Mr. Deuschle?

4 MR. DEUSCHLE: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. DEUSCHLE: This hearing presents two factual
7 questions. I think the Court and Mr. Kawanabe from plaintiffs
8 counsel testified on both of these. First, what is ICE policy
9 in Colorado for warrantless arrests.

10 THE COURT: Well, ICE policy in Colorado is what your
11 principal legal adviser Charles Wall says it is.

12 MR. DEUSCHLE: That's correct.

13 THE COURT: And as I said on the phone the other day,
14 Mr. Wall says this is the policy in Colorado. The plaintiffs
15 said, we would stipulate to that, and the case is done. But you
16 guys won't. You say, this is our policy. This is what we will
17 do. We stand by this. The plaintiffs said, that's all we're
18 asking for. All you have to do is say, we will stipulate to a
19 court order that you do what Wall says you're going to do, and
20 the case is done. Now, why won't you do that?

21 MR. DEUSCHLE: A couple reasons, Your Honor. First,
22 substantively, the defendants do not think they've done anything
23 wrong such that they need to be subject to an injunction.

24 THE COURT: We could even put in the stipulation that
25 you don't concede that you've done anything wrong. That's very

1 typical in every settlement, as you know.

2 MR. DEUSCHLE: Correct. And my second point is -- to
3 push back on the premise of the question, it is the plaintiffs'
4 burden here to show that injunction is warranted. It's not
5 defendants' burden to show why they shouldn't enter into an
6 agreement.

7 THE COURT: I agree with that. That is their burden,
8 but that isn't my point. My point is why couldn't the
9 Government just stipulate to do what it says it's going to do,
10 and we all go home?

11 MR. DEUSCHLE: I think the third point I was going to
12 make, Your Honor, is what is in plaintiffs' PI injunction
13 request in their proposed order is not what's in the policy
14 either.

15 THE COURT: We could work around that. That's not a
16 problem. If there is some particular things that they're asking
17 in their relief that you can't live with, we can probably work
18 around that.

19 MR. DEUSCHLE: I'm not sure if plaintiffs' counsel
20 would agree with that, but I think the Government would say that
21 they do not need to agree to injunction because they have not
22 done anything wrong here, Your Honor, and inverting the burden
23 of proof such that we should have to explain why we shouldn't be
24 under a court order inverts the burden here in the PI hearing.

25 THE COURT: I get all that, Mr. Deuschle. You're

1 right. It's their burden. You have a right to put them to
2 their proof. My question is a practical question. Why won't
3 the Government just stipulate that they will do what they have
4 said they will do? It's very easy. We can work around your
5 issues about the form of relief a little bit.

6 I told you guys on the phone, why don't you talk over
7 the weekend and see if you can't come up with something. I'm
8 guessing you didn't do that. But it seems obvious to me, the
9 Government says they're going to do this. Basically what
10 they're saying is we're going to follow the law. But they've
11 made it very specific, they have laid out the Wall policy, these
12 specific terms. And they look good to me, and they look good to
13 the plaintiffs. So, why won't the Government, the United States
14 Government, just stipulate to what they say they're going to do?

15 MR. DEUSCHLE: Two points, Your Honor. And not to
16 reiterate the point, but I think the relevant question here is
17 why should the Government be under an injunction from this Court
18 if the plaintiffs have not proven their case, rather than why
19 haven't the defendants agreed to be under an injunction? The
20 second point to Your Honor's point of the practicalities here,
21 there are a number of policies in the federal government that
22 require officials, people, lawyers to do things. And the
23 Government does not want to get in the habit of simply agreeing
24 that yes, this is our policy, people are supposed to follow it,
25 ergo we will agree to have a court-ordered injunction so that we

1 ensure that we're following that policy when there has been no
2 proof that the Government is not following that policy.

3 THE COURT: Well, they're telling me that we're going
4 to hear two days' worth of that proof.

5 MR. DEUSCHLE: Of course, Your Honor. I'm happy to
6 address that as well. So, first question is what is ICE policy
7 in Colorado? The second question is is it likely that
8 plaintiffs will be arrested without a warrant in violation of
9 the law? This goes to the standing question that Your Honor
10 referenced earlier. The evidence will show that --

11 THE COURT: You could make it easy. You could
12 stipulate that these four people won't be rearrested, and there
13 goes their argument.

14 MR. DEUSCHLE: Your Honor, I think we've represented
15 that it is highly unlikely that they will be rearrested.

16 THE COURT: I don't think these people take your word
17 for highly unlikely. They might take your -- they might take
18 your word for we won't rearrest you.

19 MR. DEUSCHLE: I understand, Your Honor. ICE is not
20 willing to agree to that. There are a number of conditions.
21 For example, a number of these individuals are out on bond, on
22 supervision. That would be a material change in their conduct.
23 ICE at this time just isn't willing to agree to carte blanche
24 we're not going to arrest you again.

25 THE COURT: Why do you say it's highly unlikely that

1 they will be rearrested?

2 MR. DEUSCHLE: Absolutely, Your Honor. Your Honor
3 will hear testimony from assistant field office director Gregory
4 Davies that for three of the plaintiffs, as Your Honor
5 mentioned, ICE now has an arrest warrant for those individuals,
6 making any future warrantless arrest highly unlikely. And to be
7 clear, those arrest warrants were obtained during the
8 plaintiffs' processing well before this case was filed. Those
9 warrants remain valid.

10 To opposing counsel's point about the fourth remaining
11 plaintiff, Mr. Ramirez, Mr. Davies will tell you that that
12 plaintiff is no longer subject to warrantless arrest at all,
13 because since his initial arrest, as opposing counsel
14 referenced, Mr. Ramirez has now obtained lawful permanent status
15 to be in the United States, such that he is not subject to
16 Section 1357.

17 But even if none of the plaintiffs had arrest warrants
18 or lawful permanent status, any future warrantless arrest of
19 those four individuals would still be very unlikely for a number
20 of reasons. First, by their own admission, plaintiffs are but a
21 few of the tens of thousands of individuals who currently reside
22 in Colorado unlawfully. Second, three of the plaintiffs as I
23 mentioned earlier are subject to ankle monitoring and are under
24 an order of supervision. And you will hear testimony from
25 Mr. Davies that ICE officers will not make a warrantless arrest

1 of an individual who has an ankle monitor and is in immigration
2 proceedings.

3 Third, one of the plaintiffs resides outside of the
4 state. She is therefore also unlikely to be warrantlessly
5 arrested in this state again. And finally, to date, none of the
6 plaintiffs have been stopped, let alone arrested again by ICE.

7 THE COURT: So, what's your response to Mr. Kawanabe's
8 point that every time there is a potential plaintiff that's
9 arrested without a warrant, such as these people were, that a
10 warrant is issued, and they're released with an ankle monitor?
11 You can in effect moot or prevent standing in every single case?
12 How do they ever get a plaintiff that is in a position where
13 they've been arrested without a warrant? You don't let that
14 happen. You arrest them without a warrant, then you after the
15 fact issue a warrant and release them on an ankle monitor, and
16 they're no good as a plaintiff anymore. How can these people
17 ever bring a case if that's a valid standing point?

18 MR. DEUSCHLE: To clarify, Your Honor, the defendants'
19 argument is not that the plaintiff is not bringing case. We're
20 talking about prospective forward-looking relief here. The
21 Government argument does not extend to -- the plaintiffs are not
22 seeking retrospective relief, damages. Our argument --

23 THE COURT: So, you will agree, then, that these
24 people have standing? These four plaintiffs have standing to
25 bring this lawsuit?

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1 MR. DEUSCHLE: No, Your Honor.

2 THE COURT: No? I thought you just said that.

3 MR. DEUSCHLE: No. The plaintiffs -- I'm sorry if I
4 misspoke. The plaintiffs are seeking prospective
5 forward-looking relief, both at this PI hearing and in their
6 complaint. That's the entirety of the scope of their claims.

7 THE COURT: Yes.

8 MR. DEUSCHLE: They do not have standing under the
9 Supreme Court's decision in *Lyons* to get that relief.

10 THE COURT: How do they ever get a plaintiff that has
11 standing, then?

12 MR. DEUSCHLE: Two points on that. In *Lyons*, the
13 Supreme Court said you might not just be able to get standing.
14 The plaintiffs may -- the plaintiff in that case made the exact
15 same argument that the Government, the City of Los Angeles in
16 that case, was going to evade review by -- by basically the same
17 argument; right? That we can't show that there's a likelihood
18 of the alleged unlawful action.

19 THE COURT: So, no one can ever get standing to
20 challenge the ICE practices? Which, the plaintiffs claim
21 they're ignoring their own 2022 directive, they're ignoring,
22 they think, this latest directive, they won't agree to an
23 injunction, but they can never get standing to do anything about
24 it, according to that argument; right?

25 MR. DEUSCHLE: That's correct under *Lyons*, but I would

1 also push back on the factual premise and legal premise.
2 Somebody could have standing under the statute. As opposing
3 counsel mentioned, the statute requires two things in order to
4 have a warrantless arrest. One is the likelihood of escape,
5 which is the subject of this hearing. But the other is that the
6 person is -- or there's reason to believe that that person is
7 unlawfully in the United States.

8 So, imagine a situation where ICE arrests someone
9 mistakenly that is lawfully present in the United States. That
10 person is then processed. It's discovered they are not actually
11 unlawfully present, they will not be given a notice to appear,
12 and they will not be given an arrest warrant. So, the situation
13 that we're in are individuals that are unlawfully present, and
14 they're challenging their likelihood to escape. These
15 plaintiffs do not have standing under *Lyons* and the statute, but
16 there is a possible person under the statute that could have
17 standing to challenge the warrantless arrest.

18 THE COURT: That doesn't make any sense. We're
19 talking about people that do not have citizenship, do not have
20 permanent status, do not have any legal reason or authority to
21 be in the United States who get arrested without a warrant.
22 That's the class of people that we're talking about. They get
23 arrested without a warrant. Okay. Some supervisor in the
24 office then issues after the fact a warrant and lets them go
25 with an ankle monitor, time after time.

1 So, according to you, none of these people can ever
2 have standing. The only person that could ever have standing is
3 someone who actually is legally in the United States that
4 doesn't have a beef about it, other than he was annoyed that he
5 was arrested without a warrant. But other than that, he's here
6 legally, doesn't have a problem. What kind of a country is it
7 if people can't bring before a Court their grievance if the ICE
8 people are just ignoring these policies? There's gotta be
9 something that a Court can do about it.

10 MR. DEUSCHLE: And, Your Honor, maybe that's what I
11 was articulating poorly earlier. What the Government is arguing
12 is the plaintiffs do not have standing to seek prospective
13 injunctive relief. If they were seeking retrospective
14 forward-looking -- or retrospective backward-looking relief, it
15 is possible that they could have standing. For example, for
16 damages. They could challenge the arrest in the immigration
17 proceedings.

18 There are a number of other avenues that they can seek
19 for relief that ICE is violating the statute. All that we're
20 saying here is under the Supreme Court's decision in *Lyons*,
21 which addressed that exact concern Your Honor raised, the
22 plaintiffs do not have standing to seek forward-looking,
23 prospective relief.

24 Your Honor, I just conclude by pointing out as I was
25 referencing earlier, the evidence at this hearing will show that

1 the plaintiffs cannot demonstrate that they will likely and
2 imminently face an unlawful warrantless arrest. For that reason
3 alone, plaintiffs cannot obtain the injunction that they seek.

4 THE COURT: Well, if I certify a class, then all the
5 people in the class who haven't been arrested yet without a
6 warrant would have standing, wouldn't they?

7 MR. DEUSCHLE: Your Honor, I apologize. I was not at
8 the original hearing in front of Your Honor. I believe the
9 Court said we could not respond to the class certification
10 motion today. I'm not prepared to address the class
11 certification piece of this. I can certainly address *CASA*, the
12 Supreme Court's decision saying in our view that Your Honor
13 cannot enter a statewide injunction, but in terms of the class
14 certification, I'm not prepared today to address class
15 certification.

16 THE COURT: Well, if I can't enter a statewide
17 injunction, then maybe I do have to consider certifying a class.
18 In fact, I might be mistaken here, but I think in the *United*
19 *Farm Workers* case in California that Mr. Kawanabe referenced,
20 that was how she got standing, by certifying a class. If that
21 isn't the case where that happened, there was another one that I
22 read where the standing came from certifying the class, and the
23 class members had standing. That would get around your *Lyons*
24 problem. Maybe your arguments are forcing me back into class
25 certification.

1 MR. DEUSCHLE: That could be true, Your Honor. I
2 apologize again for not being able to address the validity or
3 the request for class certification.

4 THE COURT: That's okay. I did say I didn't think
5 this was going to be necessary, but now that I hear the
6 Government's position, I'm starting to think maybe it is
7 necessary.

8 MR. DEUSCHLE: I think that's correct, Your Honor. I
9 would push back, just, I think it's maybe the Supreme Court's
10 decision in CASA that's sort of forcing that question, but it's
11 a fair question -- fair question to ask.

12 THE COURT: All right.

13 MR. DEUSCHLE: To conclude, at the end of the day,
14 it's the plaintiffs' burden here. The question is can the
15 plaintiffs meet their heavy burden and show that they are
16 entitled to a broad prospective injunction subjecting ICE's
17 arrest operations throughout Colorado to end up in a supervision
18 by plaintiffs' attorneys?

19 The answer to that question is no. Plaintiffs are not
20 entitled to that relief, and have not met that burden. As a
21 result, plaintiffs are not entitled to the sweeping
22 forward-looking injunction that they seek, and a motion for
23 preliminary injunction should be denied. Thank you for your
24 consideration today, Your Honor.

25 THE COURT: All right. Thank you. Unless anybody

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1 needs a short break, we will proceed with your first witness,
2 please. With all of you lawyers, maybe it would be helpful the
3 first time when you get up to identify yourself again.

4 MS. MIYATA: Understood, Your Honor. My name is
5 Bianca Miyata, here today for plaintiffs, and we call Caroline
6 Dias Goncalves.

7 THE COURT: Good morning.

8 (The Witness is Sworn)

9 THE COURT: Thank you. Have a seat.

10 **DIRECT EXAMINATION**

11 BY MS. MIYATA

12 Q Good morning, Ms. Dias Goncalves. Could you please
13 introduce yourself to the Court.

14 A Yes. My name is Caroline Dias Goncalves. I'm a
15 20-year-old prenursing Dream U.S. Scholar at the University of
16 Utah.

17 Q Where did you grow up?

18 THE COURT: Now, didn't the University of Utah just
19 beat Colorado in football? Something like 53 to 7?

20 THE WITNESS: I'm just not going to think about that.

21 THE COURT: I mean, does that affect your credibility
22 at all? I'm just teasing you. Okay. Go ahead.

23 Q. (By Ms. Miyata) Football aside, where did you grow up,
24 Ms. Dias Goncalves?

25 A I grew up in Brazil, and my family moved here when I was

1 seven. And I've been in Salt Lake City, Utah, ever since.

2 Q Why did your family decide to move to Utah?

3 A My family is LDS, which is the Latter-day Saints Church,
4 which is like a Christian church. And there's a lot of like --
5 of that religion in Utah, so my family came to Utah.

6 Q Do you still attend that same church in Utah?

7 A I do.

8 Q Without telling me any names, who do you live with?

9 A My mom and my dad.

10 Q Do you have any brothers or sisters?

11 A I have two sisters and one brother.

12 Q You mentioned that you're a prenursing student at the
13 University of Utah. What made you decide to study prenursing?

14 A A couple years ago my grandma was like in and out of the
15 hospital, and I guess just being around like healthcare workers
16 and seeing how much they were doing for my grandma inspired me
17 to go into that workforce.

18 THE COURT: Can everybody in the back hear the
19 lawyer's questions and the witness' answers coming across
20 clearly enough? Okay. Thank you.

21 Q. (By Ms. Miyata) You mentioned that you're a Dream U.S.
22 Scholar. Can you explain to us what that is.

23 A Yes. So, that's a scholarship that they give out to help
24 undocumented people or immigrants to be able to afford
25 education.

1 Q Is that a four-year scholarship?

2 A You can reapply for as long as you need to finish your
3 education.

4 Q Are your parents college graduates?

5 A They are not.

6 Q How does your family feel about you studying at the
7 University of Utah with a scholarship?

8 A Ever since I was growing up, they've said that getting an
9 education is important for your future.

10 Q In addition to the scholarship, how do you support yourself
11 financially while you go to school?

12 A I have a job.

13 Q And what do you do for that job?

14 A I'm a hostess at a restaurant.

15 Q You mentioned that your family moved here from Brazil. Are
16 you a U.S. citizen?

17 A I am not.

18 Q What's your immigration status?

19 A I'm seeking asylum.

20 Q When did you file your application for asylum?

21 A About one or two years ago.

22 Q And why are you applying for asylum?

23 A Back in Brazil, my family would constantly get robbed.

24 THE COURT: Constantly what?

25 THE WITNESS: Get robbed.

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1 Q. (By Ms. Miyata) And were you -- was your family fearful
2 because of those robberies?

3 A Yes.

4 Q I want to turn your attention back to this summer, the day
5 of June 5th, 2025. Do you remember that day?

6 A Yeah. It was the day that I got arrested.

7 Q I want to talk about that day from the beginning. What
8 were your plans on June 5th?

9 A So, I had left my house early in the morning, and started
10 my trip to Colorado to go visit a friend.

11 Q What happened on that drive?

12 A I was driving, and I was behind a semi truck, and then I
13 got pulled over by the Mesa County Sheriff's Office.

14 Q How did you know it was the Mesa County Sheriff's Office?

15 A They had it on the side of the car.

16 Q When you were pulled over, what did the Mesa County deputy
17 do?

18 A He asked me for my license and registration.

19 Q Did you provide those documents?

20 A I did.

21 Q After you provided those documents, what did the deputy do
22 with your license?

23 A He took it back to his car.

24 Q What did he do after he went back to his car?

25 MR. LENEIS: Objection. Foundation.

1 THE COURT: Sustained.

2 Q. (By Ms. Miyata) Ms. Dias Goncalves, were you able to see
3 the officer when he walked back to his car with your driver's
4 license?

5 A Would you rephrase that?

6 Q Did you watch the officer walk back to his car with your
7 driver's license?

8 A From the rearview mirror, yes.

9 Q Did he return back after he went to his car with your
10 driver's license?

11 A Yes. He came back and then asked me to go back into his
12 car with him.

13 Q Did you do that?

14 A I did.

15 Q What happened once you got into the deputy's car with him?

16 A He asked me to go back to his car to sign some documents.
17 And so I went in the car, and he was just asking me questions,
18 like where I was from, and if I had like an accent or like what
19 was my major.

20 Q Do you have an accent?

21 A I don't think so.

22 Q After you discussed this --

23 THE COURT: I don't think so either.

24 THE WITNESS: Thank you.

25 Q. (By Ms. Miyata) After you discussed those questions with

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1 the deputy, what happened next?

2 A He let me off with a warning. So, I got back in my car and
3 continued my drive.

4 Q How far did you drive after the deputy let you go?

5 A It was about like a 10-minute, 15-minute.

6 Q What happened after 10 or 15 minutes?

7 A I got pulled over once again, by like this undercover
8 truck.

9 Q Can you describe the truck and the people who pulled you
10 over.

11 A Yes. It was like this black truck with like tinted windows
12 and the people -- it was like two men, and they were just
13 clothed in like regular clothing, like boots and jeans.

14 Q Did they provide you -- it was two men?

15 A Yes.

16 Q Did the men provide you their names?

17 A I don't remember.

18 Q Did they show you a badge?

19 A They did not.

20 Q Were they wearing any uniforms?

21 A No.

22 Q Were they carrying guns?

23 A They were.

24 Q How did you know who the men who pulled you over were if
25 they didn't give you any names?

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1 A Well, I kind of put two and two together, once I was at the
2 Homeland Security office.

3 Q Let's take it step by step. What did they say to you when
4 they pulled you over?

5 A They said that I was under arrest for violating the
6 immigration law of the United States of America.

7 Q And you testified earlier that you had applied for asylum
8 in the United States. Was that application before you were
9 pulled over on June 5th?

10 A Yes.

11 Q After they pulled you over and said you were under arrest,
12 what did the agents do next?

13 A They put me in the passenger seat of the car.

14 Q Did they handcuff you?

15 A They did.

16 Q After they handcuffed you and put you in the passenger seat
17 of the car, where was your car?

18 A It was just left there.

19 Q You mentioned that you had been traveling and driving to
20 Colorado. What happened to your belongings from your car?

21 A They asked me if I wanted to grab anything from the car, so
22 I just asked them to grab like my bag and stuff.

23 Q Before the agents arrested you, did they tell you they had
24 a warrant?

25 A They didn't.

1 Q Did they show you any piece of paper or a warrant?

2 A No.

3 Q Before the agents arrested you, did they ask you any
4 questions about your employment?

5 A No.

6 Q Did they ask you any questions about where you lived?

7 A No.

8 Q Did they ask you any questions about your family?

9 A No.

10 Q Did they ask you what you did for a living?

11 A No.

12 Q Did they ask about your ties to the LDS church?

13 A No.

14 Q Did they ask how long you had been in the United States?

15 A No.

16 Q After the agents handcuffed you and put you in the car,
17 where did you go next?

18 A Sorry.

19 Q Take a minute.

20 A They took me back to the Homeland Security office.

21 Q Where was that Homeland Security office?

22 A It was in Grand Junction.

23 Q What happened first when you got to the Grand Junction
24 Homeland Security office?

25 A They removed all my jewelry and my shoelaces, and they put

1 me in like a holding cell.

2 Q Were you allowed to call your family?

3 A No.

4 Q At that point, when you got to the Homeland Security
5 office, did you have any idea how long you would be at that
6 office?

7 A No.

8 Q What did processing include at the Grand Junction office?

9 A They took my fingerprints, and then they made me sign like
10 some documents saying that I was going to go to the Aurora
11 Detention Center.

12 Q Was it the same officers who arrested you who took your
13 fingerprints and showed you that paperwork?

14 A No. They left after that, and it was these two other men.

15 Q Did those two men at the Homeland Security office explain
16 why you were being detained?

17 A Yes. They said that under this president and under this
18 presidency, they're arresting anyone that is not a U.S. citizen.

19 Q How long were you at that processing office in Grand
20 Junction?

21 A Until -- I think I arrived at the Aurora Detention Center
22 around 4:00 or 5:00 a.m.

23 Q So, I want to make sure we're tracking the timeline.
24 Around when were you pulled over by the ICE agents?

25 A 1:00 p.m.

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1 Q And then you were at the Grand Junction processing office
2 until you arrived at the Aurora office at 4:00 or 5:00 a.m. the
3 next morning?

4 A Correct.

5 Q How were you transported to the Aurora Detention Facility?

6 A By their transportation truck.

7 Q Were you wearing handcuffs on that drive?

8 A The officer asked me -- or asked them to not chain my
9 hands, but my feet were chained.

10 Q How did you feel when you were being transported in that
11 van with your feet chained?

12 A It was suffocating.

13 Q Is there anything you would have done differently if you
14 had known a few days ahead that you were going to be detained?

15 A Probably get a lawyer and have my mom.

16 Q You said you arrived at the Aurora Detention Facility
17 around 4:00 a.m. or 5:00 a.m. Once you arrived at that
18 facility, what happened?

19 A They put me back into like a holding cell until they were
20 able to process me and give me like my uniform and everything
21 else that I needed and my ID badge.

22 Q After you were processed, were you assigned somewhere to
23 sleep?

24 A I was.

25 Q Describe that, please.

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1 A It was like this big room, kind of like a dormitory. It
2 had like 24 beds, three showers, and like three stalls for
3 bathroom.

4 Q And were there 24 people sharing that room?

5 A People would come in and out. So, it would like range,
6 numbers-wise.

7 Q You mentioned there were three bathroom facilities that
8 were stalls. Were there doors for privacy?

9 MR. LENEIS: Your Honor, objection. Relevance?

10 THE COURT: Overruled.

11 THE WITNESS: There were like curtains sometimes.

12 Q. (By Ms. Miyata) What did you do the first day you were at
13 the detention facility?

14 A I basically slept the whole day, just because I was so
15 drained physically and emotionally.

16 Q Did any of the ICE officers check on you while you were in
17 bed?

18 A No.

19 Q Can you describe the daily routine while you were in
20 detention.

21 A Yes. Sorry. So, you would wake up, and they would do like
22 count, which means that they like count every person that is in
23 the facility. So, it's the whole facility. And you have to
24 stay in your bed, and they count those people. And then you had
25 to stay in count until they allow you to get out of your bed.

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1 So, then you have breakfast, and then they do count one more
2 time, and then you're able to like roam around. And then
3 there's lunch, and then there's count again. And then free
4 time, and then count again. And then bed.

5 Q How was the food at the detention facility?

6 MR. LENEIS: Your Honor, I object again on relevance.
7 The case is not about whether it was proper to detain
8 Ms. Goncalves. The case is about whether her arrest or
9 warrantless arrest was unlawful. So, counsel already asked a
10 question about whether she would have done something differently
11 if she had a few days' notice before being arrested, but had she
12 been arrested pursuant to a warrant, it would have been proper
13 to detain her under the same conditions that other folks who are
14 being detained experienced.

15 THE COURT: That's one of the longest objections I
16 think I can remember hearing. Overruled.

17 MS. MIYATA: I will ask that question again.

18 THE COURT: The question was how was the food?

19 MS. MIYATA: Thank you, Your Honor.

20 THE WITNESS: Not good.

21 Q. (By Ms. Miyata) When you say not good, what does that
22 mean?

23 THE COURT: Well, okay. At some point his objection
24 becomes valid.

25 MS. MIYATA: Understood.

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1 THE COURT: Let's move on.

2 MS. MIYATA: We can move on.

3 Q. (By Ms. Miyata) Ms. Dias Goncalves, did you ever need
4 medical care when you were at the facility?

5 A I wear eye contacts, so I need like a contacts case and
6 contacts solution.

7 Q And were you provided with a contact case and contact
8 solution?

9 A I was three days before I was released.

10 Q How many days had you been in the facility at that point?

11 A I was in there for a total of three weeks, so 15 days.

12 Q Were you concerned about the health of your eyes after
13 wearing the same contacts for over two weeks?

14 A I was.

15 Q How often were you allowed to make phone calls at the
16 facility?

17 A So, you have one free phone call, and then after that, your
18 family or friends or whoever can add money into your account so
19 you are able to make phone calls.

20 Q How often were you allowed to go outside at the detention
21 facility?

22 A We were supposed to get outside time at least once a day,
23 but it usually didn't end up happening.

24 Q How was your mental health impacted while you were at the
25 facility in Aurora?

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1 A I get super like claustrophobic. So, even though it was
2 like a big room, if you're in it all day every day, it gets kind
3 of suffocating.

4 Q You mentioned that you were in the facility approximately
5 three weeks before you were released. How did you come to be
6 released from detention?

7 A I was released on bond.

8 Q And how long did it take after your bond was paid for you
9 to be released?

10 A About two or three days.

11 Q Were there any conditions set on your release?

12 A Yes. I can't be -- I had to report back to my case officer
13 in Utah once I returned, and I was placed on a GPS ankle
14 monitor.

15 Q How often do you have to report to your case officer?

16 A He isn't answering me or my lawyers, so I don't know.

17 Q And are there any requirements around your ankle monitor?

18 A Yes. I can't be too close to like an airport or any state
19 lines.

20 Q How long will ICE require you to wear that ankle monitor?

21 A Indefinitely.

22 Q You mentioned that you work a job to support yourself while
23 you're going to school. How did being detained for three weeks
24 impact your employment?

25 A At the time I had two jobs, and one of my jobs after I got

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1 back let me go.

2 Q How did being arrested without a warrant and being detained
3 affect your living situation?

4 A So, I was living downtown, close to my university at the
5 time. I can no longer afford living over there, so I've moved
6 back in with my parents.

7 Q How far away from your school do your parents live?

8 A About 40 minutes without traffic.

9 Q Forty-minute drive?

10 A Yes.

11 Q How has moving in with your parents because of the arrest
12 affected your college education?

13 A I'm currently only taking one online class. So, it's set
14 me back a couple credits.

15 Q How many classes would you normally take when you lived
16 closer to campus?

17 A About five or six.

18 Q Did ICE hang on to your driver's license after you were
19 detained?

20 A They did.

21 Q Have you gone to the motor vehicle department to get
22 another driver's license?

23 A I have not.

24 Q Why not?

25 A I'm scared.

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1 Q What identification do you have now?

2 A My work permit.

3 Q But you don't have a driver's license from any state?

4 A No.

5 Q And you don't have any proof of legal status?

6 A No.

7 Q If you were pulled over again, would you be able to prove
8 your identity?

9 A If I had my work permit.

10 Q If your ankle monitor malfunctioned, what would happen?

11 A I'd probably get in trouble. I don't know.

12 Q How is your mental health now that you've been released
13 from detention?

14 A I am definitely more anxious, and every time I think about
15 what happened, it's just painful. I'm going to start therapy
16 soon.

17 Q Are you anxious about being rearrested?

18 A Yes.

19 Q Has this impacted your daily life?

20 A Yes.

21 Q Can you describe how.

22 A I feel like I'm like scared to do things.

23 Q How has your arrest affected your parents and your brothers
24 and sisters?

25 A Obviously they're also anxious, but they're just trying to

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1 help me the best that they can.

2 Q When you were arrested, you were driving from your home
3 state of Utah to Colorado. Do you still have any ties to
4 Colorado?

5 A I do not.

6 Q Do you ever have cause to visit Colorado?

7 A Maybe to visit my lawyer.

8 Q So, you have a lawyer in Colorado?

9 A I do.

10 Q Who is not me?

11 A No.

12 Q Are you aware that the attorney general's office has
13 brought litigation against the Mesa County Sheriff based on
14 their conduct when they pulled you over?

15 A I am.

16 MR. LENEIS: Objection. Relevance and leading.

17 THE COURT: Overruled.

18 Q. (By Ms. Miyata) If you were asked to be a witness in that
19 case, would you return to Colorado to testify?

20 A I would.

21 Q Can you explain why you decided to be a plaintiff in this
22 lawsuit.

23 A What happened to me, I just don't want it to happen to
24 anyone else.

25 MS. MIYATA: Thank you, Ms. Dias Goncalves.

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1 THE COURT: Thank you. Cross examination?

2 CROSS EXAMINATION

3 BY MR. LENEIS

4 Q Good morning, Ms. Dias Goncalves.

5 A Good morning.

6 Q I believe you testified that you came to the United States
7 when you were young?

8 A That's true.

9 Q With your family; right?

10 A Yes.

11 Q And when you came -- when you were in the United States
12 when you were young, that was on a tourist Visa; is that
13 correct?

14 A That is correct.

15 Q And then your family overstayed that Visa; right?

16 A Yes.

17 Q Now, for the incident that you were discussing on -- the
18 arrest that we were discussing on June 5th of 2025, I believe
19 you testified that you were visiting Colorado from Utah?

20 A That's true.

21 Q And the car that you were driving had Utah plates; right?

22 A Correct.

23 Q When you would visit Colorado -- I understand you testified
24 that your license has been taken away, but before that, you
25 would typically drive here to do so; is that right?

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1 A Sorry. Repeat the question?

2 Q I understand that now your driver's license has been taken
3 away, but before this arrest, when you would visit Colorado,
4 would you typically drive here to do so?

5 A Yes.

6 Q So, you testified that you were first pulled over by the
7 Mesa County Sheriff; right?

8 A Correct.

9 Q And that he came to your vehicle and spoke to you?

10 A Yes.

11 Q And then he returned to his own vehicle; right?

12 A Yes.

13 Q You said you watched him return to his vehicle through the
14 rearview mirror; is that correct?

15 A Yes.

16 Q And then eventually he came back to your vehicle; right?

17 A Yes.

18 Q How long was it between when the Mesa County Sheriff first
19 walked back to his own vehicle and when he came back to your
20 vehicle?

21 A I would think like five, ten minutes.

22 Q And did you watch him through the rearview mirror that
23 whole time?

24 A No. I was on a phone call.

25 Q During that period of time, did you see him talk to anyone?

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1 A No.

2 Q And in looking at your rearview mirror at him in his car,
3 could you see what he was doing in the car?

4 A I could not.

5 Q Now, you said a little while later you were then pulled
6 over by officers who were not wearing uniforms; right?

7 A Correct.

8 Q And you were driving on Interstate 70 when that happened?

9 A Correct.

10 Q And is it -- it's your belief that those officers worked
11 for ICE; is that right?

12 A Yes.

13 Q Okay. And then after you were arrested by those officers,
14 you were taken for processing. Was that in Grand Junction?

15 A Yes.

16 Q And I think you testified that during the processing, you
17 received some documents?

18 A Correct.

19 Q Did you still have those documents with you when you were
20 released from detention?

21 A No.

22 Q And then during the processing, I think you also testified
23 that someone made a statement to you about how ICE was arresting
24 anyone who was not a citizen; right?

25 A Correct.

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1 Q And I think you testified that the person who made that
2 statement to you was not one of the officers who arrested you;
3 is that correct?

4 A Yes.

5 Q So, then you testified that you were detained in the
6 facility in Colorado for about three weeks; right?

7 A Correct.

8 Q And after that, you were released on bond?

9 A Yes.

10 Q One of the conditions of your bond is that you wear an
11 ankle monitor; right?

12 A Yes.

13 THE COURT: You're just repeating the direct
14 examination.

15 MR. LENEIS: I'm just trying to -- I can go a little
16 quicker to my own questions, Your Honor.

17 THE COURT: That would be a good idea.

18 Q. (By Mr. Leneis) You wear the ankle monitor all the time?

19 A I do.

20 Q Is it your understanding that the reason for the ankle
21 monitor is so that ICE knows where you are at any given time?

22 A Yes.

23 Q And you testified that right now you don't have a driver's
24 license; right?

25 A I do not.

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1 Q So, it's fair to say that right now you're not driving much
2 or at all?

3 A That's true.

4 MR. LENEIS: No further questions.

5 THE COURT: Redirect?

6 MS. MIYATA: No, Your Honor.

7 THE COURT: Do you know what you were pulled over for
8 by the Mesa cops?

9 THE WITNESS: Yes. It was for driving too close to a
10 semi.

11 THE COURT: Did they give you a ticket?

12 THE WITNESS: No. I was let off with a warning.

13 THE COURT: Any further questions from counsel?

14 MS. MIYATA: No, Your Honor.

15 MR. LENEIS: No, Your Honor.

16 THE COURT: All right. Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: You're excused, free to go, or welcome to
19 stay if you wish.

20 THE WITNESS: Thank you.

21 THE COURT: All right. Let's take a ten-minute break
22 here. We will resume at 10:30.

23 (Recess at 10:19 a.m., until 10:32 a.m.)

24 THE COURT: Ready for the next witness?

25 MR. MEYER: We are, Your Honor. If we could call

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1 Refugio Ramirez Ovando.

2 (The Witness is Sworn)

3 THE COURT: Have a seat.

4 MR. MEYER: If I may, Your Honor?

5 **DIRECT EXAMINATION**

6 BY MR. MEYER

7 Q Mr. Ramirez, can you understand the interpretation?

8 A Yes. Can you please speak a little more loudly?

9 Q And is that for me or the interpreter?

10 THE COURT: It's for me.

11 THE WITNESS: For the interpreter.

12 THE INTERPRETER: If the interpreter could take a
13 moment just to check and make sure the volume is up. Thank you.

14 Q. (By Mr. Meyer) Mr. Ramirez, can you spell your full name
15 for the court record, please.

16 A Refugio Ramirez Ovando.

17 Q And ask you spell your name for the record.

18 A I need my ID.

19 THE COURT: We don't need the spelling. We've got the
20 spelling just fine. Okay, sir.

21 MR. MEYER: Thank you, Your Honor.

22 Q. (By Mr. Meyer) Mr. Ramirez, where do you live?

23 A I live in Grand Junction.

24 Q And how long have you lived in the Grand Junction area?

25 A Twenty years.

1 Q Where are you originally from?

2 A I'm from Calvillo, Aguascalientes, Mexico.

3 Q And how old were you when you came to the United States?

4 A Well, I'd have to do the count. I'm 43 now.

5 Q So, would that make you about 23 when you came?

6 A Possibly, yes.

7 Q Why did you come to the U.S.?

8 A For a better life.

9 Q What's your current immigration status?

10 A Currently I'm a resident of the United States.

11 Q What people could commonly call a person with a Green Card;
12 correct?

13 A Yes.

14 THE COURT: What was your question?

15 MR. MEYER: What people commonly call a Green Card;
16 correct?

17 THE WITNESS: Yes.

18 Q. (By Mr. Meyer) And when did you get that status?

19 A On August 18th, in Aurora, Colorado.

20 Q I want to talk a little bit about your family. Are you
21 married?

22 A Legally married before God and in the State of Colorado for
23 six years, but I've been with my wife for 19 years.

24 Q And do you have any children born in the United States?

25 A Yes. I have four.

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1 Q Can you tell the Court a little bit about your four U.S.
2 citizen children.

3 A My oldest daughter, who is present here, is named Yury
4 Ramirez Martinez. She is an excellent daughter, an excellent
5 student, and she wants to graduate as an immigration attorney.
6 And in addition to her studies, she also has another in order to
7 get some higher grades.

8 Q What about your other children?

9 A My son Vladimir is 15, and he is studying to be an
10 electrician -- an electrician working for a company.

11 Q And is he present in court as well?

12 A Yes. He's here on this side.

13 Q And your other children?

14 A My son Caesar is 13 years old, and he wants to become a
15 teacher. And the king of the house, the youngest one is eight
16 years old.

17 Q Let's talk a little bit about what you do for work. What
18 did you dedicate your professional life to?

19 A I've been working for 18 years in a construction company,
20 and I'm a finisher with cement.

21 Q Is that the same company?

22 A Yes.

23 Q And that company is also in Grand Junction?

24 A Yes.

25 Q Can you tell the Court a little bit about your involvement

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1 in the community.

2 A My role in the community is we go to mass every Sunday, and
3 I'm very involved in the community. My youngest son plays
4 soccer, and as far as the community, we're small, but we're very
5 united.

6 Q I want to turn our attention to May 19th of this year. Do
7 you remember that day?

8 A Yes.

9 Q Tell me a little bit about why you remember that day.

10 A That day, there were many events that were special, and not
11 so special.

12 Q What were they?

13 A That day was my father's birthday. And on that day, it was
14 exactly 20 years to the day that I had been in this country.

15 Q And what's the other reason?

16 A The other reason was that I was arrested by immigration.

17 Q Let's focus in and start talking about your arrest by
18 immigration. Can you tell me how the morning started that day.

19 A Of course. That day was a normal day. That day I left,
20 and I normally turned my car on for a little bit because it was
21 a little bit cool out. And at that time, I opened the door to
22 my house, and I saw that there was an unknown car there. And
23 that wasn't the important part. The important part was the
24 person who was there. He was watching me. And as he was
25 watching me, then he left.

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1 And because he was looking at me, I looked back at him,
2 and I saw that he had on a vest. I didn't think it was
3 important. I just did my routine. I went to pick up my lunch
4 and my coffee. And then in the time that it took me to come
5 back, I went out to go to work as usual, and I noticed that
6 there were cars parked on the corners. Every neighborhood has
7 these corners, and there was a car parked to my right and a car
8 parked to my left. And normally we know the cars in our
9 neighborhood, and those I did not know.

10 Q Mr. Ramirez, can you describe those two cars.

11 A Of course. The car on the right was a gray car. I didn't
12 notice if it was the model, a Chevy or a Ford. I just didn't
13 think it was that important. And on my right was a black
14 Cherokee.

15 Q What happened after you got into your car?

16 A So, I left my house. I backed up, and the gray car then
17 followed me. And, okay, so I left. And then later on, the
18 black car joined. And the gray car yielded to the black car.
19 We left my area of the parking lot, and before we got to the
20 stoplight, they turned on the police lights.

21 Q And did you pull over when they turned on the police
22 lights?

23 A Of course.

24 Q Let's talk about what happened after you were pulled over.
25 Who got out of those two cars?

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1 A There was a bald man who got out, and he was dressed in
2 civil clothes, but he had a vest. And from the passenger side
3 of the gray car -- and then from the other car, there was an
4 Anglo-Saxon man that got out. You could see that he was
5 100 percent American. He was dressed like a cowboy. He had on
6 a hat and a vest. He had a vest and a weapon.

7 Q So, to clarify, both were wearing tactical bulletproof
8 vests?

9 A Yes.

10 Q Both men had firearms?

11 A Correct.

12 Q One was Latino?

13 A His features looked Latino.

14 Q And one appeared to be white?

15 A Yes.

16 Q Who came up and talked to you?

17 A The one who spoke to me was the one who appeared to be
18 Latino, because he spoke to me all the time in Spanish.

19 Q What is the first thing that he told you?

20 A First he said, turn off your vehicle, and put the keys on
21 the dashboard. That's what he ordered me to do, because it was
22 an order.

23 Q Did he order you also to roll down your window to talk to
24 him?

25 A Yes. Because I had it about four inches down. And so he

1 told me, put it down all the way.

2 Q Did this sound like he was asking you to do something, or
3 ordering you and telling you to do something?

4 A No. At that time, it was an order.

5 Q What's the very next thing that officer told you?

6 A He asked me if I had an ID.

7 Q And how did you respond?

8 A I said yes, and I have it in my wallet.

9 Q Did you give it to him?

10 A Of course.

11 Q What was the ID that you gave to him?

12 A The license that's issued by the State of Colorado to
13 people who are undocumented.

14 Q Did he ask you for other documents as well?

15 A Yes. Right after that he said, do you have another
16 identification, like a consular ID or a passport?

17 Q What did you respond to him about the question about the
18 consular ID?

19 A I said, I don't need a consular identification, because I
20 have a Colorado ID.

21 Q What did you say in response to him when he asked you for a
22 passport?

23 A He asked me if I had a passport, and I said yes, but it's
24 at home. And I said if you want, I can ask my daughter to bring
25 it. In case you need it, in case you need another kind of

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1 identification.

2 Q Did he ask you specifically for a passport from any
3 particular country?

4 A No.

5 Q So, he didn't clarify U.S. versus Mexico versus another
6 country?

7 A No.

8 Q At any point in that moment, did he ask you where you were
9 from?

10 A Not that I remember.

11 Q Or whether you were born in the U.S.?

12 A No.

13 Q Or anything about your status in the country in that moment
14 of the encounter?

15 A No.

16 Q Did you say anything about any of those questions or any of
17 those issues?

18 A I tried to not answer his questions.

19 Q So, he took your driver's license. What did he do next?

20 A He took my license, and he went to his car. His patrol
21 car.

22 Q What did the other officer do?

23 A The other person didn't do anything. He was just watching
24 me, taking care of me on the drive -- the passenger side.

25 That's all.

1 Q When the first officer came back to your side of the car,
2 what's the first thing he did?

3 A He asked me if I had a work permit or some other permit to
4 be in the United States.

5 Q What was your answer to him?

6 A I asked him if I was under arrest.

7 Q What did he say?

8 A That no.

9 Q What was the next question that you asked him?

10 A He asked me then if I had a legal residence or a permit
11 that authorized me to be in the United States.

12 Q Did you answer any of those questions?

13 A I told him again, am I under arrest, or can I leave?

14 Q What did he answer you?

15 A He told me for right now, no.

16 Q What's the next series of questions?

17 A Then he kept insisting, asking me if I had a permit or a
18 residency or something that allowed me to be in the country.

19 Q And again, what did you answer?

20 A And I asked him, am I under arrest, or can I leave? And he
21 told me, now you're under arrest.

22 Q And at that moment, was he angry?

23 A Well, I don't know, but he was speaking more loudly, and so
24 he said I was under arrest.

25 Q What happened after he told you you were under arrest?

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1 A At that moment, he took my hand. He opened the door, and
2 he took me out of the car. And then he said to me, do you have
3 anything that could hurt me? And I said no, I don't have
4 anything.

5 Q And then at that point did you get handcuffed?

6 A Yes.

7 Q Where did that agent take you right after handcuffing?

8 A Well, he checked me out, as they say, patted me down. And
9 that same person asked permission to move my car back into a
10 parking lot.

11 Q And did they put you in the back of their patrol car?

12 A Yes.

13 Q In handcuffs?

14 A Of course.

15 Q Up to that point, did you answer any of the questions from
16 him about where you were from?

17 A When we were on our way to the detention center, he asked
18 me if I was in fear of going back to my country.

19 Q We will get there. I want to talk about the time where you
20 were in the back of the patrol car. From the moment you were
21 stopped to the moment you were in the back of the patrol car,
22 did you provide that agent with any information about your
23 immigration?

24 A No.

25 Q Did he have any information about you other than from your

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1 Colorado driver's license that you're aware of?

2 MR. DEUSCHLE: Objection. Foundation.

3 THE COURT: Sustained.

4 Q. (By Mr. Meyer) Did you provide him with any information
5 other than your Colorado driver's license?

6 A No.

7 Q At that moment?

8 A No.

9 Q Did he ask you after you were arrested, or at the moment of
10 arrest, or even before you were arrested anything about your
11 community ties?

12 A No.

13 Q Your family?

14 A No.

15 (Simultaneous discussion interrupted by the reporter.)

16 MR. MEYER: I'm sorry that I'm moving fast. I forget
17 about that interpretation.

18 Q. (By Mr. Meyer) Did he ask you any questions about whether
19 you had family here?

20 A No.

21 Q Any questions about having children?

22 A No.

23 Q How long you had lived in the Grand Junction area?

24 A No.

25 Q Whether you owned property, like a home in the Grand

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1 Junction area?

2 A No.

3 Q Whether you had had any adverse contact with police ever in
4 your history?

5 A No.

6 Q Any questions about your other ties to the community?

7 A No.

8 Q Now let's talk about when they took you in the car. Where
9 did that agent take you?

10 A That agent took me to the detention center in Grand
11 Junction.

12 Q And was that an ICE office?

13 A Yes.

14 Q Now, you mentioned that after you were en route to the
15 office, the agent asked you a couple of questions.

16 A Yes.

17 Q What's one of the questions the agent asked you?

18 A The first question was if I was in fear of returning to my
19 country, and I said yes.

20 Q But he didn't ask anything about what country at that time?

21 A No.

22 Q And did he ask you another question?

23 A Yes. He asked me how many people lived in my house.

24 Q What was your answer?

25 A I told him my wife and my children. And he said no, no,

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1 it's just a question. Don't be afraid. I'm not thinking about
2 arresting anybody else. And I said, why would you arrest them
3 if they're American citizens?

4 Q Good point. Did you answer any of the questions during
5 that drive before you arrived to the processing center?

6 A After that, I didn't answer anything.

7 Q When you were at the field office, did the same agent
8 continue to work on your case?

9 A Yes.

10 Q Can you describe what happened as part of the processing
11 when you were at the field office.

12 A There he asked me all the questions that I think I had to
13 answer, because I was arrested. And he began to ask me how many
14 years had I been in the United States, how many children I had,
15 if I was married, and if I was Catholic or of some religion.
16 More than anything, if I believed in God.

17 Q And that's the first time any agent asked you anything
18 about your community ties?

19 A Yes. And that's when he was asking me everything, and I
20 answered because I was arrested.

21 Q Just to clarify, that's the first time that anybody asked
22 you those questions?

23 A Yes. There, yes.

24 Q After you were processed, where did you go?

25 A I went to -- they brought me to Aurora, Colorado.

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1 Q Is that to the detention center?

2 A Yes.

3 Q How long were you in the detention center?

4 A Almost 100 days.

5 Q I want to focus briefly on the conditions that you
6 experienced in the detention center. Can you tell the Court a
7 little bit about some of those conditions.

8 A The same thing happened to me once they brought me there as
9 what happened to the young lady. They took me there -- I think
10 if I remember right, it was 7:00 p.m. And we got in at 12:00 at
11 night. And with all the processing, I didn't get into the cell
12 until 2:00 p.m. the next day. And they gave me a vaccine. They
13 checked my mouth, and they asked me if I had any medical issues
14 or any allergies. I think that the process was a regular
15 rigorous medical procedure.

16 Q So, after you were in the detention center itself, can you
17 talk about the conditions in the detention center for the
18 hundred days that you were there.

19 A Okay. The first month, it was freezing. It was like being
20 in a refrigerator inside. And they just give you one blanket
21 and one sheet, and that's all. Well, and we just endured the
22 cold and did whatever we could. And after that, for the next
23 month or 15 days, I had nothing with which to write or to
24 document anything. And then the next months after that, it was
25 completely the opposite. It was very, very hot. And then there

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1 were some guards that took pity on us, and they were
2 compassionate, and they left the doors open so that we could
3 breathe. But those were very few people who treated anyone like
4 a human being inside.

5 Q Can I ask you a question about access to telephone calls?
6 Were you able to make calls and communicate with your family?

7 A Well, first they had to show me how the system worked
8 inside. On Fridays and on Tuesdays, those were the deportation
9 days. Those were the days they deported people. And so those
10 days, they cut off the calls. And I don't know if it's for
11 security for them or for the people being deported. I don't
12 know.

13 Q Did you have trouble being able to access your family with
14 telephone calls during the hundred days you were in detention?

15 A Yes. They had to deposit money so that I could speak with
16 them.

17 Q What about you personally? Do you have any medical issues
18 or experiences personally for the hundred days that you were
19 detained?

20 A Yes. I had several events. First, for the conditions that
21 were there, they had very, very thin mattresses. I think the
22 mattresses are very, very old. I've had this shoulder broken,
23 and so it was like I was lying on a metal iron, or tablet. I
24 had a lot of pain. I let them know that I was in a lot of pain,
25 and I felt that my arm was being broken. And so through some

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1 other people who were acting as translators, I was able to talk
2 to people about what was going on inside. They took me to the
3 nurse's office to see what was going on with my arm.

4 Q Did you have any mental health impacts of your detention,
5 like anxiety attacks or stress or other things?

6 A Yes.

7 Q Can you describe those very briefly.

8 A I had anxiety attacks before when a sister of mine passed
9 away.

10 Q Did you have anxiety attacks in the detention center?

11 A Yes.

12 Q Did you have any medical issues that were either not
13 treated or not taken care of when you were in detention?

14 A I'm prediabetic. And one day, I fell because my sugar
15 levels went up a lot. But any kind of situation, any kind of
16 condition is very, very difficult. And a nurse mentioned to me,
17 because they're doing so many immigration raids, and they're so
18 full, they're just completely full, and they can't attend to
19 anybody.

20 Q Thank you. I want to talk about some of the impacts of
21 your detention on your family. Can you talk about some of the
22 impacts of your detention on your family financially.

23 THE COURT: Would you like a short recess?

24 MR. MEYER: Would that be okay, Your Honor?

25 THE COURT: Yeah. Let's take five minutes.

1 (Recess at 11:09 a.m., until 11:16 a.m.)

2 THE COURT: So, where is our other interpreter? I
3 think I neglected to swear you in, and I will do you too. Sir
4 and lady, ma'am.

5 (The Interpreters are Sworn)

6 THE COURT: All right. Thank you. Go ahead.

7 Q. (By Mr. Meyer) Thank you, Your Honor. And I appreciate
8 the brief recess. Mr. Ramirez, I wanted to go back to what we
9 were talking about, but before I do so, I want to just clarify a
10 couple things that I neglected to do so. You mentioned you got
11 your Green Card on August 18th, but can you clarify what year
12 you got that Green Card.

13 A This year.

14 Q Also, I forgot to ask you, when you were at the Grand
15 Junction processing center, before you were taken to the
16 detention center, did any of the agents tell you they had an
17 arrest warrant for you when they arrested you?

18 A No.

19 Q Did any of those agents show you an arrest warrant when
20 they arrested you?

21 A No.

22 Q What did they tell you about why they were in your
23 neighborhood?

24 A Because they were looking for someone else.

25 Q So, they weren't even looking for you?

1 A No.

2 Q And they told you they were looking for another person?

3 A Yes. The person that arrested me said, I'm not looking for
4 you. I'm looking for someone else. And he showed me a photo of
5 that person. He said he was going to show me a photo, but he
6 never did.

7 Q Let's talk about the impacts of your detention on your
8 family. I think we left off, and I had asked you, can you talk
9 a little bit about the financial impacts of being in detention
10 for nearly 100 days on your family.

11 A Well, this did affect my family, particularly my daughter.
12 And this is why I broke down. Because she suffers from anxiety,
13 depression, insomnia, lack of appetite, and she has a skin
14 condition. And because of what happened, all of this got worse.

15 Q Did she have to have an evaluation and therapy
16 recommendations because of your detention?

17 A My daughter, yes.

18 Q And is she still in therapy?

19 A Yes.

20 Q And that's because of your detention, or the impacts it had
21 on your daughter?

22 A Yes.

23 Q Talk a little bit about some of the impacts on your other
24 three children. I think it's your other three sons.

25 A My other three children also have anxiety, depression, and

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1 other problematic symptoms due to my detention.

2 Q And do they also require an evaluation and have a diagnosis
3 of those conditions?

4 A My eldest daughter and my youngest son continue to go to
5 therapy.

6 Q And did all four of your children receive a specific
7 diagnosis about their mental health condition?

8 A Yes.

9 Q I'd like to talk very briefly about the economic or
10 financial injuries that your family suffered when you were
11 detained. Can you tell the Court a little bit about the
12 financial impacts on your family.

13 A Well, we -- well, I'm the only breadwinner. My wife
14 doesn't work, so I am the only one that provides for the family.
15 And while we had savings, but due to the legal issues, you know,
16 we had to borrow money, and then all the money we had saved ran
17 out. And we had a truck, but we had to sell that so that my
18 family had something to live on. And then the second option was
19 that my wife had to start working by selling food out of our
20 house. And so we owe a lot of people a lot of money, because we
21 had to get a lot of money to hire an attorney and, you know,
22 just, we don't have the money to pay for an attorney like that.

23 Q I want to change focus now, and I want to talk about
24 whether you are worried about being arrested by ICE again in the
25 future. Let me start off by asking you, have you ever been

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1 arrested in the 20 years you've been in this country, outside of
2 this warrantless arrest by immigration?

3 A No.

4 Q Do you have any criminal convictions in the last 20 years?

5 A I've never been convicted of anything in my life.

6 Q So, you've never had any encounters with law enforcement in
7 the two decades you've been in the country?

8 A I had one traffic ticket in 20 years for speeding. They
9 took a point off.

10 Q Okay. Are you afraid of being rearrested by ICE?

11 A Yes.

12 Q Can you explain to the Court why you have that fear.

13 A Of course. Because an immigration judge gave me a Green
14 Card, but up to and including today, I still don't have the card
15 with me.

16 Q And so that's, what? Seventy days after you won your case,
17 and the Government still hasn't given you a Green Card?

18 A Exactly. I have nothing.

19 Q And have you tried to get that Green Card by contacting
20 immigration to ask them to produce it?

21 A Yes. My attorney is working on that process as well.

22 Q And has the Government given you any timeline at all about
23 when they may send you your Green Card?

24 A They haven't even called me on the phone to give me a date.

25 Q So, as of today's date, you don't have any photo ID that

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1 shows you have a Green Card?

2 A No.

3 Q And what -- so, you have the exact same identification that
4 you had on May 19th when you were arrested by ICE?

5 A Yes.

6 Q Which is a Colorado driver's license?

7 A Yes.

8 Q And that's the identification document that you used when
9 they arrested you on May 19th?

10 A Yes.

11 Q I want to ask a couple questions about -- a couple final
12 questions about your family and your time here in the country.
13 Can you tell this Court a little bit about how you feel about
14 the family you've built and how you feel about this country.

15 A I feel very proud of my family. And it's my belief that up
16 to and including this very day, I have never had any issues with
17 my son at school, you know, where he's misbehaved in class or
18 anything like that. And although my son is getting into those
19 years where children tend to be a little bit more rebellious, we
20 have given him good examples of being as honest as possible, and
21 doing the correct thing always.

22 Q So, are you proud of your children and their
23 accomplishments?

24 A Yes. They are very good people, and I believe they are on
25 a good path. They are on the right path. And as someone who is

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1 not from this country, we always try to be as respectful as
2 possible of the laws given the different circumstances, and
3 that's what we've done.

4 MR. MEYER: I'm going to take a pause. Your Honor,
5 could I ask Ms. Smotts to turn on the feed?

6 Q. (By Mr. Meyer) And to go back to your question, how do
7 you feel about this country and the opportunities it's given to
8 you and how you feel now?

9 A Well, I believe in the law. I am a believer in the law,
10 and I believe in the attorneys. I believe in the prosecutors.
11 I believe in the judge. And I believe in all of this because I
12 believe that we have the opportunity to have our case heard in a
13 court of law, and not just get picked up at random just because.
14 And so I accept that. And I believe in the laws. And I believe
15 in this, because I try to be a person who continues to do the
16 right thing and continues to have the opportunity to see my
17 children become the good people that I believe that they are,
18 and to be able to be here myself to see that good future that I
19 believe my children have in this country.

20 Q Thank you. I do have just a couple more questions. I want
21 to redirect us to your license. And I would ask if we could
22 pull up Plaintiffs' Exhibit 19. Mr. Ramirez, can you see that
23 on this computer screen next to you?

24 A Yes.

25 THE COURT: Is there any objection to Exhibit 19?

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1 MR. DEUSCHLE: No, Your Honor.

2 THE COURT: Exhibit 19 is admitted, and it can be
3 displayed.

4 MR. MEYER: I apologize. If I may publish?

5 Q. (By Mr. Meyer) Mr. Ramirez, what is this? What is this
6 document?

7 A It's my driver's license.

8 Q And can I point you to this driver's license. There's a
9 black bar in that driver's license; is that correct?

10 A Yes.

11 Q Is this a driver's license you presented to ICE?

12 A Yes.

13 Q And is this the only document or the only information they
14 had from you when they made their warrantless arrest?

15 A Yes.

16 Q Is this a driver's license you need to use today when you
17 leave this courtroom to drive home?

18 A Yes.

19 Q And you wouldn't have any other identification on you
20 today, including today, that's a photo ID that demonstrates you
21 have a Green Card?

22 A No.

23 Q Despite your attempts to get one?

24 A Yes. All I have is my driver's license.

25 Q And despite your attorney's attempts to get one?

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1 A Yes. All I have is the driver's license. That's it.

2 Q So, how has this fear of being rearrested impacted your
3 daily life?

4 A Very much so. When I go out, I look around and check
5 around to see if they're coming for me. You know, I always am
6 now more aware of the situation around me.

7 Q And are you aware of ICE continuing to arrest people in the
8 mountains and along the I-70 corridor?

9 A I know quite a few different people, and I know of a number
10 of people who have been picked up, but this is all through word
11 of mouth, because I don't have the time to be really focusing in
12 on all these people, because I have my own family to raise.

13 Q And even driving here today -- or, excuse me -- yesterday,
14 because you came here yesterday; correct?

15 A Yes.

16 Q Did you have fear that you could be stopped and detained by
17 ICE driving?

18 A Well, yeah. Obviously I have to, you know, be careful and
19 have an eye out for everything that's going on. This isn't
20 something that, you know, lets me calm down.

21 Q And after you leave this courtroom today, and the
22 protections of being in this courtroom, and drive four hours
23 back to Grand Junction, do you have fear that you could be
24 stopped and arrested without a warrant by ICE?

25 A Yes. Because I have the same evidence that they asked me

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1 for when they arrested me the first time, and that's all I have.
2 My license.

3 Q My last question for you, why did you decide to be a
4 plaintiff in this lawsuit?

5 A Well, because I think just like me, there are a lot of
6 other people in the same situation. You know, it should be like
7 it was before, where they have to prove something, or if they
8 have an arrest warrant for you, that's okay. You know, but then
9 you have the opportunity to prove your guilt or innocence in a
10 court.

11 MR. MEYER: Thank you.

12 THE COURT: Cross examination?

13 MR. DEUSCHLE: Thank you, Your Honor.

14 **CROSS EXAMINATION**

15 BY MR. DEUSCHLE

16 Q To avoid the musical chairs problem, this is Nick Deuschle.
17 Good morning, Mr. Ramirez.

18 A Good morning.

19 Q I promise to be brief. You testified that at the time of
20 your arrest in May 2025, you had been in the United States for
21 20 years; correct?

22 A Yes.

23 Q And you would agree that during those 20 years, you were
24 not lawfully in the United States; correct?

25 A Correct.

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1 Q Now, turning to your arrest in May 2025, I believe that you
2 testified prior to your arrest, you were asked for your ID?

3 A Yes.

4 Q I believe you said that one of the ICE agents took your ID
5 to his car; is that right?

6 A Of course.

7 Q You don't know what the ICE agent was doing with your ID at
8 his car, do you?

9 A I imagine he had to put it into the system to see if I was
10 wanted or if I was the person they were looking for.

11 Q You don't know whether he was checking on your immigration
12 status at that time, do you?

13 A No.

14 Q I believe you testified that that ICE agent then returned
15 with your ID; correct?

16 A Yes.

17 Q And I believe you testified that you were then asked
18 questions by ICE agents about your immigration status; right?

19 A Yes.

20 Q And I believe you testified that you did not tell ICE
21 agents your immigration status; right?

22 A No.

23 Q I believe you testified that you -- I believe you testified
24 that you tried not to answer their questions; correct?

25 A Well, because they didn't have an order against me. So, I

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1 wasn't going to answer questions that weren't meant for me.

2 Q And after you didn't answer those questions, you asked
3 whether you could leave; correct?

4 A Of course.

5 Q And at that point, after refusing to answer questions and
6 asking to leave, you were arrested; right?

7 A Yes.

8 Q Now, after you were arrested, I believe you testified -- I
9 believe you testified that after you were arrested, you had a
10 conversation with an ICE agent; is that right?

11 A Yes. In there, in the detention area.

12 Q I believe you testified that you also had a conversation in
13 the back of a car right after your arrest with the arresting
14 officer; is that right?

15 THE INTERPRETER: The interpreter is going to clarify.

16 THE WITNESS: He asked me if I was afraid to return to
17 my country, and I told him yes.

18 Q. (By Mr. Deuschle) Did he also tell you -- and I believe
19 you testified that he also told you he was not there to arrest
20 anyone else in your family; is that right?

21 A Exactly.

22 Q And just to clarify, that was one of the arresting ICE
23 officers?

24 A Yes.

25 Q Since the arrest in May 2025, you haven't been stopped or

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1 arrested by ICE again, have you?

2 A No.

3 Q And I believe you already testified about this, but from
4 2025 to your arrest in May 2025, you hadn't been stopped or
5 arrested by ICE, had you?

6 A No.

7 MR. DEUSCHLE: No further questions. Thank you,
8 Mr. Ramirez.

9 THE COURT: Redirect?

10 MR. MEYER: Thank you. Just a couple questions, Your
11 Honor.

12 THE COURT: A couple questions?

13 MR. MEYER: I promise.

14 THE COURT: Is that like a couple beers?

15 MR. MEYER: It's maybe a little more than a couple
16 beers. It's probably five questions.

17 THE COURT: Okay.

18 **REDIRECT EXAMINATION**

19 BY MR. MEYER

20 Q Mr. Ramirez, when you entered the country, were you
21 contacted by ICE?

22 A No.

23 Q Have you ever been fingerprinted by ICE?

24 A Other than that day, no.

25 Q I should say before you were arrested by them. In the 20

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1 years before you were arrested, were you ever fingerprinted?

2 A No.

3 Q You were never put into a database by ICE because they
4 didn't have any fingerprints?

5 MR. DEUSCHLE: Objection. Foundation.

6 THE COURT: Sustained.

7 Q. (By Mr. Meyer) You didn't have any applications with ICE
8 or immigration?

9 A No.

10 Q So, from your perspective, immigration didn't have any
11 information, biometric or biographical, about you when they
12 contacted you that day?

13 MR. DEUSCHLE: Objection. Foundation.

14 THE COURT: Sustained.

15 Q. (By Mr. Meyer) The Government attorney asked you about --
16 that since you were arrested in May 19th, you haven't been
17 rearrested by ICE. Do you remember that question?

18 A I've never been arrested other than that day.

19 Q I'm just asking a point of clarification about that
20 question. For 100 of those days, you were in an immigration
21 prison center; correct?

22 A Yes.

23 Q And you've only been out for about 70 of them?

24 A Yes.

25 Q And yet despite being out and despite winning your case and

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1 despite making every effort you can to get proof of your Green
2 Card, the Government still hasn't given it to you, have they?

3 A No.

4 MR. MEYER: No more questions.

5 THE COURT: All right, then. Thank you, sir. You are
6 excused, and free to go, or welcome to stay and watch if you
7 want to. Next, please?

8 THE WITNESS: Thank you, everyone.

9 THE COURT: De nada.

10 MS. McLEAN-RIGGS: Good morning, Your Honor. Emma
11 McLean-Riggs. We would call Mr. T to the stand.

12 THE INTERPRETER: For the interpreter, does this
13 witness require an interpreter?

14 MS. McLEAN-RIGGS: Yes. Thank you. And, Your Honor,
15 I realize I wasn't speaking clearly in the microphone, so for
16 the benefit of the court reporter, Emma McLean-Riggs.

17 THE COURT: And you said you were calling Mr. T. That
18 sounds like a television character.

19 MS. McLEAN-RIGGS: My understanding was that that was
20 what we were using, but, Your Honor, I mean JST as referred to
21 in the declarations.

22 THE COURT: Yes. JST are this gentleman's initials.

23 (The Witness is Sworn)
24
25

1 **DIRECT EXAMINATION**

2 BY MS. McLEAN-RIGGS

3 Q And, sir, just to check, can you understand the
4 interpretation?

5 A Excuse me?

6 Q Just to check, can you understand our interpretation?

7 A Yes.

8 Q How old are you?

9 A Thirty-six years old.

10 Q And where did you grow up?

11 THE COURTROOM DEPUTY: I apologize.

12 THE WITNESS: In Guerrero, Mexico.

13 Q. (By Ms. McLean-Riggs) When did you come to this country?

14 A In February of 2010.

15 Q So, you've been here about 15 years?

16 A Yes. Yes.

17 Q Okay. And before 2010, had you ever had an encounter with
18 immigration before?

19 A No.

20 Q No. Before 2010, had you ever come to the border before?

21 A Yes.

22 Q And when was that?

23 A In September of 2006.

24 Q And how old were you in 2006?

25 A Seventeen years old.

1 Q Okay. And was it your understanding at that time that you
2 had ever actually left Mexico?

3 A I left Mexico, but at the border, they sent me back to
4 Mexico.

5 Q Okay. So, they turned you back at the border?

6 A Yes. From the border, they turned me back.

7 Q Okay. Can you tell me about your family here in the United
8 States.

9 A In the United States here, I have two brothers. I have a
10 niece. I have a sister-in-law, and I have a lot of family here
11 in the United States.

12 Q Okay. And does your sister-in-law have children?

13 A Yes. She has two daughters.

14 Q And how old are those children?

15 A The younger is 14, and the older is 17.

16 Q And can you tell me about your relationship with them.

17 A Yes. From my nieces, the time that they were young, I have
18 always considered them as my daughters, because I always took
19 care of them when my brother and sister-in-law were working, I
20 would take care of them.

21 Q And did something happen about eight years ago that changed
22 your relationship with your nieces?

23 A About eight years ago, my brother, the father of the girls,
24 was deported.

25 Q And have you helped support them since then?

1 A Yes. Since that time, my sister-in-law and I have taken
2 care of them. I've helped them economically, and I've also
3 helped them as far as their education and supporting them.

4 Q Would you describe your relationship as close?

5 A Yes. We're very close. They love me very much, and I love
6 them very much.

7 Q Are they United States citizens?

8 A Yes.

9 Q Where do you work?

10 A I work in a small supermarket with a restaurant.

11 Q And what city is that market in?

12 A In Aurora.

13 Q How long have you worked there?

14 A I've been working there for nine years.

15 Q Nine years. Okay. What is it like working at the market?

16 A For me, it's very good to be working there, because in the
17 nine years that I've been working there, it's all been the same
18 people. So, it's like a family business.

19 Q Can you tell me about your involvement in your church.

20 A Yes. At church, I go to mass normally every Sunday at
21 7:00 p.m. And then since 2011 I've been a member of the
22 religious group.

23 Q Can you tell the Court more about that religious group.

24 A Well, that religious group, normally what we do is we meet.
25 We get together three to four times a month to pray, but we also

1 gather donations and benefit of people who are in need.

2 Q And you've been participating in that since 2011, you said?

3 A Yes. Since 2011.

4 Q Sir, do you have a driver's license?

5 A Yes. I do have one.

6 Q Is there anything different about your driver's license
7 than a United States citizen's driver's license?

8 A Yes. Yes. In the upper part of the license, there's my
9 date of birth, and then there's the license number. But then
10 there's a black area that's different from the license of a U.S.
11 citizen.

12 Q And, sir, have you ever been a member of a gang, either in
13 Mexico or here?

14 A No.

15 Q Where did you live in January of this year?

16 A In the apartments that are over by Helena and 13th Street,
17 in the apartments that are called the --

18 THE INTERPRETER: The interpreter would like to
19 clarify.

20 THE WITNESS: Western Pine.

21 Q. (By Ms. McLean-Riggs) If I said Whispering Pines, would
22 that sound familiar to you?

23 A Yes.

24 Q Thank you. And how long have you lived there?

25 A For ten years.

1 Q Okay. I'm going to ask you some questions about
2 February 5th, 2025. Can you tell me what happened around
3 6:00 a.m. that morning?

4 A Yes. That day, I was leaving for my job at 6:00 in the
5 morning. And as I left the building, I saw that there were --
6 at the entrance, there were two big cars. I thought maybe they
7 were from the DEA. And for me, it just seemed easy, because I
8 knew I didn't have any legal problems or any kind of problems of
9 that type, so I just got into my car, and I tried to leave the
10 parking lot.

11 Q And when you say the entrance where those white cars were,
12 do you mean the entrance to the parking lot of the apartment
13 building?

14 A Yes. And when I tried to leave the parking lot, there were
15 these two big white pickup trucks, and they didn't allow me to
16 leave the parking lot area.

17 Q Okay. When you say tried to leave the parking lot, do you
18 mean got into your car and drove towards the exit of the parking
19 lot?

20 A Yes. Exactly. I tried to leave, but I wasn't able to
21 leave because the entrance was blocked by those two big white
22 pickup trucks.

23 Q Okay. And what happened at that entrance?

24 A When I tried to leave and I wasn't able to leave, then an
25 officer got out, and he came over and asked for my

1 identification.

2 Q Okay. Had you stopped your car where those cars were?

3 A Yes. I tried to leave, but -- I parked my car, but I
4 wasn't able to leave because it was blocked by those two big
5 white vans.

6 Q And that officer that approached you, what were they
7 dressed like?

8 A He was dressed in a uniform that was green, kind of like
9 soldiers.

10 Q Could you see if he had a gun?

11 A Yes. He did have it.

12 Q Was it a long gun or a short gun?

13 A When he stopped me, it was a short gun.

14 Q Okay. And you said he asked for your identification. Was
15 that the first question that he asked you?

16 A Yes. That was the first thing that he did.

17 Q And what did you do?

18 A I gave him my driver's license.

19 Q Did he ask you any other questions at that time?

20 A No. He didn't say anything else. He just asked me if I
21 could get out of the pickup truck.

22 Q Okay. When you say he asked you if you could get out of
23 the pickup truck, did you think that it was an option not to?

24 A No. Because I was thinking that I didn't have, like, as I
25 said before, any issues at all. I didn't owe anybody anything.

1 And so I just got out, because it was like a routine option for
2 the police.

3 Q And what happened after you got out of your car?

4 A When I got out, they told me to put my hands on the
5 vehicle, on the pickup truck, and they just checked me to make
6 sure I didn't have any weapons or anything that could cause
7 harm.

8 Q When you say checked you, do you mean like a physical
9 pat-down of your body?

10 A Yes.

11 Q Did they find anything?

12 A No.

13 Q Did they take any objects from you?

14 A What they took was my telephone and my wallet, which I had
15 in my hands. And my keys.

16 Q Okay. And what happened next?

17 A After that, another officer came over. And they took my
18 ID, and then they left. And also another officer came over and
19 asked me two or three times if I had ever had any other previous
20 problems with any crime or legal problems, or if I had ever had
21 contact with Border Patrol.

22 Q And was that while you were standing by your car?

23 A Yes.

24 Q And what did you say to those questions?

25 A I answered all of their questions no.

- 1 Q Did they ask you any questions about guns?
- 2 A No.
- 3 Q What about drugs?
- 4 A No.
- 5 Q Gangs?
- 6 A No.
- 7 Q Did they ask you any questions about your family?
- 8 A No.
- 9 Q Your job?
- 10 A No.
- 11 Q Anything else about your community?
- 12 A No.
- 13 Q And what happened next?
- 14 A After that, the officer returned with my identification,
- 15 and then they told me that I had to accompany them.
- 16 Q And then what happened?
- 17 A One of them came over and put something plastic to tie up
- 18 my hands, and I asked him if I could call my work or my family.
- 19 Q What did he say?
- 20 A They told me no.
- 21 Q Okay. And at any time before they put the zip ties on you,
- 22 did they show you any paperwork?
- 23 A No.
- 24 Q Did they tell you they had a warrant?
- 25 A No.

1 Q Right after they put the zip ties on you while you were
2 standing next to the car, did they show you any paperwork?

3 A No.

4 Q Did they tell you they had a warrant?

5 A No. They didn't tell me anything.

6 Q Sir, have you ever been arrested before?

7 A No.

8 Q Not here? Not in Mexico?

9 A No.

10 Q What was being arrested for you like in that moment?

11 A For me, it was horrible. For me, honestly, it was
12 terrible, because I have never in my life been in detention,
13 never.

14 Q So, after they put the zip ties on you, did they take you
15 to a car?

16 A Yes. They took me to one of the white pickup trucks that
17 was blocking the entrance to the parking lot.

18 Q Okay. And were you moved around between a few vehicles
19 while you were still at Whispering Pines?

20 A I was in the white vehicle for about 15 minutes in that
21 pickup truck. And then they moved me to a smaller vehicle.

22 Q At some point did you talk with officers about whether you
23 take any medication?

24 A Yes. One of them did ask me if I took any medication, and
25 I answered yes.

1 Q And what do you take that medication for?

2 A I take a medication because I'm under treatment for HIV.

3 Q How often do you take that medication?

4 A I have to take a pill every day.

5 Q What will happen if you don't take that medication?

6 A If I don't take the one pill a day of that medication, then
7 the virus can increase very much so in my body to the point
8 where I could die.

9 Q After you told the officers that you took daily medication,
10 what happened as a result of that?

11 A They asked me where were the medications, and I responded
12 that they were in my apartment. And they asked me where were
13 the keys, and I said they have them. And so then they started
14 looking for the keys, because they didn't know where they were,
15 and I told them that they had taken the keys from me. And after
16 they found the keys, then the officers -- well, two of them --
17 accompanied me to my apartment so that I could recover --
18 retrieve the medication.

19 Q Okay. And when you say accompany, were you still in zip
20 ties?

21 A Yes. My hands were still tied, and one officer was holding
22 up my arm.

23 Q Okay. And do the apartment doors in the Whispering Pines
24 Apartments duplex open into an interior hallway?

25 A Yes.

1 Q So, to get to your apartment door, did you have to walk
2 into the building and into the interior hallway?

3 A Yes.

4 Q What did you see as you walked through the building to get
5 your medication?

6 A At that time, when I got into the building, I saw that it
7 was full of officers. There were all these officers, and
8 honestly, to get to my apartment, there's some stairs, and I saw
9 that there were seven or eight officers on the stairs.

10 Q What were those officers dressed like?

11 A All of them were the same, like green uniforms like
12 soldiers, and they all had bulletproof vests, and they were all
13 armed.

14 Q Were those long guns or short guns?

15 A Some were short arms, and some of them had long arms.

16 Q Were you afraid?

17 A Yes. I was very afraid.

18 Q Where were you taken after you left Whispering Pines?

19 A After the apartments, they moved me to -- I'm not sure if
20 it was the detention center, but it was a center in Centennial.

21 Q Did they ask you any questions there?

22 A What they did there was they asked me my name, my date of
23 birth, my nationality, and if I had tattoos.

24 Q Do you have tattoos?

25 A Yes. I have one.

1 Q What is it?

2 A It's a rose.

3 Q And what does it mean?

4 A That rose is in honor of my grandmother, because the last
5 thing before she passed away was she gifted me a rose, and so
6 that's in her honor.

7 Q Did they ask you anything about guns?

8 A No.

9 Q Anything about drugs?

10 A No.

11 Q Anything about gangs?

12 A No.

13 Q Did you see anyone else from your apartment building there?

14 A Yes. After I had been in that detention room for a while,
15 there were about eight or nine people that came from my
16 apartment complex.

17 Q Do you know their names?

18 A No.

19 Q So, how did you recognize them?

20 A Because I had recognized them before -- I had seen them
21 before, because they had been living there for several months.

22 Q Okay. Were you taken to detention after that?

23 A Yes. After that, they chained us up on our hands, on our
24 feet, and on our waist, and then they took us to the Aurora
25 Detention Center on Peoria.

1 Q At the detention center, did you have an opportunity to
2 talk to your neighbors from your apartment building?

3 A When we were in the trip from Centennial to Peoria, yes.

4 Q Did they tell you anything about their arrest?

5 A Just that they were the same as me, that they didn't owe
6 anything, and there was no arrest warrant at all.

7 Q Okay. How long did you spend in detention?

8 A I was 28 days in detention.

9 Q What was it like there for you?

10 A It was horrible, because as I said before, I had never,
11 ever been detained, ever.

12 Q What were the conditions like?

13 A For us, it's really ugly, because all the beds are metal.
14 They're very, very hard, and the food is really, really bad.
15 And in order to shower, you need to ask permission of an officer
16 for the hygiene materials. And sometimes they give it to you,
17 and sometimes they deny them.

18 And sleeping is very, very complicated, because there's
19 an officer that passes by three or four times a night with a
20 flashlight shining in. And the rooms, they never, ever turn the
21 lights off, and so sleeping is very, very complicated there.

22 Q So, you said that you were there 28 days. How did you get
23 out?

24 A I got out under bond.

25 Q How much was that bond?

1 A \$25,000.

2 Q Where did you get the money?

3 A My family got together, a large part of it, and then -- oh,
4 sorry. The owner of the business also lent money, and the
5 family business put some little boxes in the business so that
6 the customers could donate. And so that was how we got all the
7 money together.

8 Q Did the immigration judge impose any conditions of bond?

9 A Yes. I have an ankle bracelet monitoring me.

10 Q Does that ankle bracelet come with check-ins?

11 A Yes. I have to go to the office. I also have video calls,
12 and then home visits.

13 Q Since you were released from detention, have you attended
14 all of these check-ins?

15 A Yes. I've complied with all of them.

16 Q And are you pursuing an immigration case?

17 A Yes. I'm requesting asylum.

18 Q Why are you afraid to go back to Mexico?

19 A Because I'm gay, homosexual, and also because I have HIV.

20 Q What are you afraid might happen to you because of those
21 things?

22 A Because in our country, the people who are homosexual or
23 who have HIV face a lot of discrimination. There's just so much
24 machismo and so much discrimination.

25 Q Are you afraid you might be physically hurt because you are

1 gay or have HIV?

2 A Yes.

3 Q Are you afraid you might be victimized by gangs?

4 A Yes.

5 Q Why?

6 A Because as I said before, we are very much discriminated
7 against. People do not look kindly upon us, and we can be hurt.
8 We don't hurt anybody, and yet we're very much discriminated
9 against.

10 Q Can you tell me about what you lost while you were
11 detained.

12 A When I was detained, I lost everything. I lost my
13 apartment. I lost all of the things I had, my clothing. I was
14 left with nothing. I started from zero.

15 Q So, just to be clear, you lost your apartment and
16 everything in it?

17 A Yes.

18 Q If you had had, say, 24 to 48 hours to prepare to be
19 detained, what would you have done with that time?

20 A Well, the first thing -- the main thing is I would have
21 spoken to my family. I would have paid the rent, and maybe I
22 would have spoken with a lawyer to see what my options were to
23 see if I could have avoided detention.

24 Q And on the day you were detained, did you have the money to
25 pay your rent in advance?

1 A I did have it, but it was all in my account. And in my
2 account, I had all of the things there.

3 Q Where do you live now?

4 A After detention, I went to live with a niece in her mobile
5 home. I'm in a small room.

6 Q And just to be clear, this is not the two minor nieces we
7 were talking about before. This is a different niece?

8 A It's other nieces.

9 Q Okay. How has the arrest changed your life?

10 A It's changed my life very, very much. I lost everything.
11 And I had a stable life before, and then I lost everything, and
12 I had to start from zero. And also, I'm always afraid. I'm
13 afraid that I might be detained again, and it's very, very
14 stressful. I don't know how to explain it, but it's horrible.

15 Q How has it changed your relationship with your nieces?

16 A And it's changed very much with my nieces. It's very
17 complicated, because now I don't have my own space at all, and
18 the space that I have is very, very small. So, I can't have
19 them with me. Before, I would be able to have them on weekends,
20 and now I don't see them very often. So, it's very complicated
21 to see them, because it's like just going in and out of the
22 house to see them.

23 Q Has that had an effect on them?

24 A On them, yes. It's had an effect, especially the younger
25 one. She's suffered a lot, because she's very afraid.

1 Q Is she afraid you might be detained again?

2 A Yes. She's very much so, because when I was detained, she
3 became depressed, and then she got sick. She was sick for four
4 days.

5 Q And can you tell the Court a little bit more about how the
6 arrest has affected you emotionally.

7 A Yes. It's affected me very, very much. I now have
8 depression and anxiety and stress. I am afraid to go out, and I
9 am afraid that any of the visits that I might go for the
10 check-in, the officer will take off the ankle monitor and detain
11 me again.

12 MS. McLEAN-RIGGS: Ms. Smotts, could I have
13 Plaintiffs' Exhibit 21 on the display.

14 THE WITNESS: Excuse me?

15 Q. (By Ms. McLean-Riggs) Sorry. I just asked Ms. Smotts if
16 I could have Plaintiffs' Exhibit 21 on the display. Thank you.
17 And, sir, can you see that?

18 A I don't see it.

19 THE COURT: There it is. It's a driver's license,
20 redacted. Any objection?

21 MR. BROWN: No objection, Your Honor.

22 THE COURT: Admitted.

23 MS. McLEAN-RIGGS: We will move it into evidence and
24 ask to display, Your Honor.

25 THE COURT: It's admitted.

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1 THE COURTROOM DEPUTY: It's having some trouble. It
2 might be our system. It's popping up and going back down. One
3 moment.

4 THE COURT: It was there a minute ago. Yeah. There
5 it is. I can see it. It's pretty much like the other one we
6 saw.

7 Q. (By Ms. McLean-Riggs) Sir, do you recognize that?

8 A Yes.

9 Q And what does that appear to be?

10 A It's my driver's license.

11 Q Okay. Do you still carry that license?

12 A Yes, sir.

13 Q And do you still have to drive to work?

14 A Yes.

15 Q And you still have to drive other places, like court today?

16 A Yes.

17 Q And you will have to drive home from court today?

18 A Yes. Yes.

19 Q And this is the license that you will have to show if you
20 are stopped?

21 A Yes.

22 Q My last question, why did you want to participate in this
23 case, especially given the fear that prompted you to use only
24 your initials?

25 A I am here to help stop this. To help stop this so that

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1 they will stop arresting people and stop harming other people,
2 harming people's lives, destroying families, because it's
3 horrible. It's horrible to be locked up for 28 days when you've
4 never, ever been arrested. And they're harming a lot of people.

5 MS. McLEAN-RIGGS: Thank you very much, sir. Those
6 are all of my questions.

7 THE COURT: Cross examination?

8 MR. BROWN: Thank you, Your Honor.

9 **CROSS EXAMINATION**

10 BY MR. BROWN

11 Q Ready? Good morning, Mr. JST. I just have a couple of
12 questions for you. You stated earlier that you came to the
13 United States 15 years ago; correct?

14 A Yes, sir.

15 Q And when you came 15 years ago, you entered the U.S.
16 without inspection; is that correct?

17 MS. McLEAN-RIGGS: Objection. Relevance.

18 THE COURT: Overruled.

19 MS. McLEAN-RIGGS: And, Judge, I would also object at
20 this time on the basis that this is stipulated information.
21 We've already elicited that JST is here without status.

22 THE COURT: I'm sure the people in the back can't hear
23 you. I can barely hear you. She says this is all stipulated,
24 that he's here illegally.

25 MR. BROWN: I don't know that it's stipulated that he

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1 entered without inspection in 2010. If they so stipulate,
2 that's fine.

3 MS. McLEAN-RIGGS: I don't understand the relevance of
4 the particular form of entry if the status is established to
5 these particular claims.

6 THE COURT: Okay. Your objection is overruled.

7 Q. (By Mr. Brown) So, when you entered 15 years ago, you
8 entered without inspection; is that correct?

9 A Yes, sir.

10 Q And you have never had legal status in the United States in
11 the 15 years that you've been here; is that correct?

12 A No, sir.

13 Q And before you came to the United States --

14 THE COURT: See, now it's ambiguous. When you say
15 it's -- is that correct, and he says, no, sir --

16 Q. (By Mr. Brown) So, is it correct that in those 15 years,
17 you have not had legal status -- or, excuse me. In those 15
18 years since you have been in the United States, you have not had
19 legal status; is that correct?

20 A Correct.

21 Q And you attempted to enter the United States back in 2006;
22 is that correct?

23 A Correct.

24 Q And you testified that they turned you back. Who is they?

25 A I was detained upon entry, and then they returned me, but I

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1 don't remember well who it was who did that to me in 2006.

2 Q Okay. I want to shift gears. You talked earlier about
3 your arrest on February 5th, 2025; is that correct?

4 A Yes, sir.

5 Q So, on that morning, outside of the Whispering Pines
6 Apartments, you were approached by ICE officers; is that
7 correct?

8 A Correct.

9 Q And an ICE officer asked you for your identification; is
10 that correct?

11 A Correct.

12 Q And that officer also asked you if you had problems with
13 immigration or past criminal violations; is that correct?

14 A Correct.

15 Q And you told him no; correct?

16 A Correct.

17 Q You also testified that after you had been put in the --
18 after you had been arrested by those officers, you asked if you
19 could get HIV medication; correct?

20 A Correct.

21 Q And those officers accompanied you to your apartment, and
22 you were able to get HIV medication; is that correct?

23 A Correct.

24 Q And you stated that after your detention, you were released
25 on bond with some conditions, including that you have to wear an

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1 ankle monitor; correct?

2 THE COURT: Again, you're repeating the direct. We
3 know that. We've heard his answers to those questions.

4 MR. BROWN: Two more questions, follow-up questions to
5 that.

6 Q. (By Mr. Brown) You have to wear an ankle monitor as one
7 of the conditions of your release on bond; is that correct?

8 A Correct.

9 Q And you were required to always wear that monitor; is that
10 correct?

11 A Correct.

12 Q Have you been arrested again since your release on bond?

13 A No, sir.

14 MR. BROWN: Thank you, Mr. JST. No other questions.

15 THE COURT: Redirect?

16 MS. McLEAN-RIGGS: Just one question, Your Honor.

17 **REDIRECT EXAMINATION**

18 BY MS. McLEAN-RIGGS

19 Q On February 5th, when the officers asked you if you had had
20 previous problems with immigration, why did you say no?

21 A I answered no when they asked me that because I haven't had
22 problems. And when I was expelled in 2006 at the port of entry,
23 I didn't take that as a problem, because I wasn't in the United
24 States. I was expelled at the port of entry in 2006. And so in
25 my mind, I did not take that to mean that that was a problem. I

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1 don't take it to mean that that was a problem.

2 MS. McLEAN-RIGGS: Thank you so much.

3 THE COURT: All right. Thank you, sir. You are
4 excused, and free to go. You are welcome to stay and watch.
5 Now, we went into the lunch hour 30 minutes. I thought probably
6 it would be good to get through the witness, but a note that was
7 handed to me explained that you have somebody else at 1 o'clock.
8 How do we, Mr. Kawanabe, deal with that?

9 MR. KAWANABE: Your Honor, does 1:30 start work for
10 the Government?

11 MR. LENEIS: So, the witness is the field office
12 director for Denver, and we sort of talked extensively about
13 this window for him for his testimony. We can start later.
14 He's got a hard stop, and I mean a hard stop at 3:55.

15 THE COURT: Well, hopefully it won't take that long.
16 How about if we do this. He was ready to go at 1 o'clock.
17 Unless people need a little more time, what if we take 45
18 minutes for lunch and start up at 1:15?

19 MR. LENEIS: That works for the Government.

20 MR. KAWANABE: Yes, Your Honor.

21 THE COURT: Is that okay? You can get your lunch in
22 45 minutes or whatever you need to do?

23 MR. KAWANABE: Yes, Your Honor.

24 THE COURT: All right. Let's do that, and we will
25 have him at 1:15. We are adjourned until then.

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1 (Recess at 12:32 p.m., until 1:16 p.m.)

2 THE COURT: Okay.

3 MR. GRIMSLEY: Good afternoon, Your Honor.

4 THE COURT: Hello.

5 MR. GRIMSLEY: My name is Sean Grimsley from Olson
6 Grimsley. I represent the plaintiffs. A few housekeeping
7 matters before we get started with the next examination. We
8 submitted along with our preliminary injunction motion a
9 declaration of Katie Wright that had attached to it a number of
10 exhibits. It should be on Pacer, but I also have hard copies of
11 them right here.

12 My understanding is that as to these exhibits that were
13 attached to the Katie Wright declaration, the Government does
14 not object to us putting those into evidence, but will object to
15 the weight that these should be given. Some are news articles.
16 Others are admissions. So, they may be given different weight
17 based on what type of exhibit they are, but I wanted to hand
18 these up to the Court.

19 THE COURT: That's a lot of stuff that you want me to
20 read.

21 MR. GRIMSLEY: I don't want you to read it all. Just
22 to have it all.

23 THE COURT: Oh.

24 MR. GRIMSLEY: We will use a few of those, I think,
25 today. Well, I don't want you to read them all today. Let's

1 put it that way.

2 MR. LENEIS: Your Honor, the condition for agreeing to
3 not require Ms. Wright to testify was that we would be permitted
4 to submit our own response in writing to these documents, which
5 we have. I'm happy to make it an exhibit and provide it to you
6 here, or we can file it on the docket, or both.

7 THE COURT: One thing at a time. You're offering 125
8 exhibits?

9 MR. GRIMSLEY: Your Honor, those are the exhibits that
10 we had that were attached to the PI motion that were also
11 referenced in the Katie Wright declaration. We are moving to
12 offer those. My understanding, again, is that the Government
13 doesn't oppose moving them into evidence, but the Government
14 does oppose giving them weight depending on what type of
15 document they are.

16 THE COURT: Well, numbers 19 and 21 are already
17 admitted. So, you're offering 1 through 125, except for 19 and
18 21?

19 MR. GRIMSLEY: Correct, Your Honor. In fact, what
20 we're doing is offering Plaintiffs' 23 and Plaintiffs' 63, is
21 what we're offering. And that binder contains more than that,
22 but those documents that have been attached to the Katie Wright
23 declaration.

24 THE COURT: 23 and 63?

25 MR. GRIMSLEY: 23 through 63, Your Honor.

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1 MR. LENEIS: And there's no objection. There's no
2 objection provided we may provide our response in writing. That
3 was our agreement with counsel.

4 THE COURT: Yeah. That's fine.

5 MR. LENEIS: And if I might, the way that our response
6 is currently drafted is responding to the declaration itself,
7 not to the exhibits. So, if we might just update it so that it
8 references the exhibit numbers and provide it to Your Honor
9 after court today, that's what we would ask for.

10 THE COURT: That's fine.

11 MR. GRIMSLEY: And, Your Honor, I have five new
12 exhibits. If I may approach, Your Honor?

13 THE COURT: I need more exhibits than those?

14 MR. GRIMSLEY: I will explain in a minute why you do.
15 And these are Exhibits 132, 133, 134, 135, and 136. And the
16 reason for those --

17 THE COURT: They're not even on your list.

18 MR. GRIMSLEY: Correct. We are amending our list in
19 real time, Your Honor, to address one of the concerns that Your
20 Honor expressed at the beginning of today. Your Honor expressed
21 concern that there had been a policy issued on October 22nd,
22 2025, and you wondered whether the Government was continuing to
23 act as it had been previously with regard to warrantless
24 arrests. These articles, at least five of the six of those
25 exhibits, are news articles since October 22nd, 2025, that show

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1 that the Government has in fact continued to engage in
2 warrantless arrests in violation of 8 USC 1357(a)(2).

3 THE COURT: Any objection to those? 132 to 136?

4 MR. LENEIS: Yes, Your Honor. Many objections. These
5 were not on the exhibit lists that were exchanged on Monday
6 night. They weren't on the amended exhibit list that was
7 exchanged yesterday. I received these during Mr. Ramirez's
8 testimony at about 11:37. I looked through them over lunch.
9 They're each dated October 29th or October 28th. Today is
10 October 30th. So, these could have been provided to us before
11 11:37 during Mr. Ramirez's testimony, and were not.

12 The articles -- the newspaper articles in general raise
13 particular problematic hearsay issues, as the Tenth Circuit has
14 recognized, and -- because the final product is not the
15 reporter's alone. Also, in terms of the substance, none of them
16 used the word "warrantless." There's no description of whether
17 these arrests were warrantless. We've had no time to prepare a
18 witness to respond to this.

19 And finally, Mr. Guadian, who I presume opposing
20 counsel wants to ask questions about this event that's described
21 in these documents, we made him available pursuant to *U.S. ex*
22 *rel. Touhy versus Ragen*, and plaintiffs were required under the
23 agency's regulations to provide us with a list in detail of the
24 official information that they wish to elicit from him. Nothing
25 about whatever is going on here in these articles is contained

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1 within the set of topics that they provided to us. They
2 provided those topics to us about two weeks ago, so that makes
3 logical sense.

4 THE COURT: Okay. I think you make a fair point. So,
5 on 132 through 136, because you haven't had a chance to prepare,
6 or prepare your witness, the Court will not admit them yet. I
7 will give you overnight to study them, and we will bring the
8 witness back tomorrow to talk after he's had a chance to be
9 prepared.

10 MR. LENEIS: That may work, Your Honor. I'm not
11 certain what Mr. Guadian's schedule --

12 THE COURT: He will change his plans. He will change
13 his plans. Unless you want him to talk about it today.

14 MR. LENEIS: All right. Very good, Your Honor. We
15 will work with him after his testimony is completed today.

16 THE COURT: All right. Onward.

17 MR. GRIMSLEY: Thank you, Your Honor. So, plaintiffs
18 call Robert Guadian by remote testimony.

19 THE COURT: Good afternoon, Mr. Guadian.

20 THE WITNESS: Good afternoon, Judge.

21 (The Witness is Sworn)

22 THE COURT: Thank you, sir. Go ahead.

23 **DIRECT EXAMINATION**

24 BY MR. GRIMSLEY

25 Q Can you state your full name, and spell your last name,

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1 sir.

2 A Sure. First name is Robert. Last name is spelled

3 G-U-A-D-I-A-N. It's pronounced Guadian.

4 Q Where do you currently work?

5 A I am the field office director for the Denver field office,
6 and I work here in Centennial, Colorado.

7 Q How long have you been the field office director in Denver?

8 A I've been the field office director in Denver since
9 January 12th of 2025.

10 Q I saw some reports this week that you had been relieved of
11 your duties as field office director. Are those just incorrect?

12 A No. Those are correct. I have been reassigned as the
13 field office director for the Washington field office in
14 Virginia.

15 Q And when did that reassignment begin?

16 A It began on Sunday. This last -- this past Sunday.

17 Q The field office director is the highest ranking government
18 official in a field office?

19 A That's correct.

20 Q If employees in the Denver field office do something wrong
21 or violate the law, that's ultimately the director's
22 responsibility; correct?

23 A Correct.

24 Q The buck stops with you?

25 A Yes, sir.

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1 Q What were your job duties as director of ICE's Denver field
2 office?

3 A So, the Denver field office is considered a small field
4 office compared to the other 25 ICE field offices across the
5 nation. The ERO mission here in Denver is quite complex. One
6 component to that is at large arrests of unlawful aliens in the
7 country. That's one portion. Another portion is the detention
8 of those individuals at our detention center while they await
9 removal, or they await their hearing before an immigration
10 judge.

11 We also have officers that track those cases through
12 the courts and work closely with our office of principal legal
13 adviser, our attorneys, to get those cases litigated in
14 immigration court. Then ultimately we also have a removal
15 mission. We remove people from Denver all over the world. So,
16 the mission in ERO Denver is arrest, detain, case manage, and
17 then remove.

18 Q And I'm sorry if I asked this: When did you start as the
19 Denver field office director?

20 A January 12th, 2025.

21 Q What did you do before that with ICE?

22 A Before that, I was assigned to headquarters, ICE, and I was
23 the deputy assistant director for the targeting operations
24 within the enforcement division within ICE.

25 Q At some point were you the field office director for the

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1 Chicago field office?

2 A Yes. I was the field office director for Chicago in 2019,
3 and going into 2020, during the COVID timeframe.

4 Q You were the field office director in Chicago when the
5 *Castañon Nava* litigation was going on?

6 A I don't believe so. It's not familiar to me.

7 Q You're familiar that there was a settlement in the *Castañon*
8 *Nava* case back in February of 2022 where a broadcast statement
9 of policy was sent out?

10 A Yes. I am familiar with it. I don't know the exact
11 specifics of when it went out, but I am familiar with the Court
12 decision --

13 Q And the case itself was filed in 2018. Do you recall that?

14 A No. I don't recall that.

15 Q So, you don't recall the litigation at all, when you were
16 head of the Chicago field office, even though the litigation
17 involved the Chicago field office?

18 A No. I'm not aware of that particular litigation during my
19 time at Chicago.

20 Q Now, you agree, it is important for government agencies to
21 follow the law?

22 A Yes.

23 Q And that is especially true for government officials
24 charged with enforcing the law?

25 A Yes.

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1 Q When law enforcement officers break the law, it undermines
2 public trust and confidence in the government; correct?

3 A I agree with that, yes.

4 Q And you would agree that there would be no harm to the
5 government in requiring it simply to follow the law; right?

6 A Correct. Yes.

7 Q Now, I want to turn to the law issue in this case. Are you
8 familiar with 8 USC Section 1357(a)(2) regarding warrantless
9 arrests?

10 A Somewhat familiar. Not very detailed, but somewhat.

11 Q Put aside the statutory number itself. You're familiar
12 with what the requirements are for ICE to engage in a
13 warrantless arrest?

14 A Yes.

15 Q You know that in order to arrest somebody without a
16 warrant, ICE needs probable cause of two things; right?

17 A Yes.

18 Q It needs probable cause first that the individual is in the
19 country unlawfully; right?

20 A Correct.

21 Q And then it also needs probable cause that the individual
22 is likely to escape before a warrant can be obtained; correct?

23 A That's correct.

24 Q And you would agree that the mere fact that somebody is in
25 the country unlawfully is not itself sufficient to show probable

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1 cause that somebody is likely to escape; right?

2 MR. LENEIS: Objection to the extent that --

3 THE WITNESS: Correct.

4 MR. LENEIS: -- the question calls for a conclusion of
5 law.

6 THE COURT: Overruled.

7 Q. (By Mr. Grimsley) You're the individual, and your office
8 are the individuals who are tasked with enforcing the law;
9 correct?

10 A We're tasked with enforcing the immigration law within the
11 State of Colorado and Wyoming.

12 Q And you agree that as part of your duties, and as part of
13 ICE officers' duties who are out in the field, they're required
14 to know what the law is with regard to making warrantless
15 arrests; correct?

16 A Yes.

17 Q So, any officer out in the field should know that in order
18 to make a warrantless arrest, you need probable cause both
19 regarding status and likelihood of escape; right?

20 A Correct.

21 Q You're familiar with the concept of probable cause as a law
22 enforcement officer?

23 A Yes.

24 Q Probable cause is something that the Government has the
25 burden of showing; right?

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1 A Correct.

2 Q There is no burden on somebody being arrested to show that
3 there is no probable cause; right? The Government must first
4 find probable cause before it can arrest an individual; correct?

5 MR. LENEIS: Objection --

6 THE WITNESS: Yes.

7 MR. LENEIS: -- on the same grounds. It's calling for
8 legal conclusions by the witness.

9 THE COURT: Overruled.

10 Q. (By Mr. Grimsley) So, if ICE officers don't have probable
11 cause on one or both of the prongs we've talked about, those ICE
12 officers cannot make a warrantless arrest?

13 A I'm sorry. The question again?

14 Q Unless an officer has probable cause as to both of the
15 prongs we've talked about, status and flight risk, the officer
16 cannot make a warrantless arrest; correct?

17 A Correct.

18 Q Now, what is required to establish probable cause that
19 somebody is likely to escape before a warrant is obtained?

20 A Repeat the question one more time?

21 Q What is required for an officer to have probable cause to
22 believe that an individual is likely to escape before a warrant
23 is obtained?

24 A Gotcha. So, when my officers conduct these field
25 interviews with subjects that they've determined that are

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1 here -- that are illegally present in the United States, they
2 determine equities in the United States. What does this person
3 have here in the United States that could make them or make him
4 a flight risk or not make him a flight risk? And things we look
5 at are equities in the U.S. such as homes, jobs. Is he married
6 with a family here? What -- those things that would tie him to
7 the community.

8 And then we look at the actual encounter. How did we
9 encounter this individual? Was he running from us? Was he --
10 is he refusing to answer questions? What is -- what is the
11 totality of that particular case? So, my officers take those
12 and make a judgment call at the scene.

13 MR. GRIMSLEY: I'm going to show you Plaintiffs'
14 Exhibit 124, if we could, Ms. Smotts. And we would move for
15 admission of Plaintiffs' 124, Your Honor. This is the
16 June 11th, 2025, email from Mr. Wall regarding requirements for
17 warrantless arrest.

18 MR. LENEIS: No objection.

19 THE COURT: Admitted.

20 Q. (By Mr. Grimsley) Are you familiar with this Exhibit 124,
21 sir?

22 A No.

23 Q You did not receive on June 11th, 2025, an email from a
24 Mr. Wall -- sorry. We're getting some glitches.

25 MR. LENEIS: Can I just note for the record that all

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1 that's being displayed to the witness at the moment is an email
2 header with no content?

3 THE COURT: That's right. And --

4 MR. GRIMSLEY: Let's look down at the bottom of the
5 email. The first page.

6 Q. (By Mr. Grimsley) Do you see that? It says, to all ICE
7 employees, June 11th, 2025?

8 A Yes. I see it.

9 Q And it says, please be advised that the settlement
10 agreement in *Castañon Nava*, a class action lawsuit, terminated
11 at midnight on May 12th, 2025. Do you recall having received
12 this email, sir?

13 A No. I don't recall.

14 Q Even though this went out to all ICE officers, including
15 field office directors?

16 A Yes. No. I don't recall this. I get quite a few policy
17 emails from our headquarters division, and typically the way it
18 will work here in the Denver field office is my middle managers
19 will ensure compliance with these settlement -- or with these
20 directives or policies from headquarters. I don't -- I don't
21 recall this particular one, because we get so many.

22 Q You get so many from -- and this is the second page --
23 Charles Wall, principal legal adviser?

24 A Possibly.

25 Q Do you know who Mr. Wall is?

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1 A Yes. The principal legal adviser for ICE.

2 Q And what is his job?

3 A The principal legal -- he's the principal legal adviser for
4 ICE.

5 Q And what does that mean?

6 A He's our top attorney within ICE.

7 Q So, if he says that the law means something, you all trust
8 that?

9 A Yes.

10 Q I want to look at the middle of the second page. And you
11 see that there is a paragraph starting, in considering the
12 likelihood of escape?

13 A Yes. I see it.

14 Q And then there is a list of factors, albeit not exhaustive.
15 Do you see that?

16 A Yes.

17 Q And then there are five factors listed here. The ability
18 to determine the individual's identity, knowledge of that
19 individual's prior escapes or evasions, attempted flight from an
20 ICE officer or agent, ties to the community, or lack thereof,
21 other specific circumstances. Do you see that?

22 A I see it.

23 Q Did you review the I-213 forms for the four plaintiffs in
24 this case before testifying today?

25 A No.

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1 Q So, you do not know whether any of those factors were
2 identified by any of the ICE officers who made arrests of any of
3 the plaintiffs in this case?

4 A No, I don't.

5 Q Have you talked to any of the officers who made the arrests
6 in this case?

7 A No.

8 Q You haven't asked them about the plaintiffs' circumstances?

9 A No, I haven't.

10 Q You know that this case has been on file for at least two
11 to three weeks, sir?

12 A Yes.

13 Q As somebody responsible for the Denver field office, you
14 would have been alerted to the fact that there was this case?

15 A Yes.

16 Q You would have been alerted to the fact that there were
17 allegations that your officers were not in fact complying with
18 the law?

19 A Yes.

20 Q You didn't go talk to those officers, though?

21 A No, I didn't.

22 Q You didn't ask them if they did something, and they did
23 something wrong?

24 A No.

25 Q There was no punishment or reprimand?

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1 A No.

2 Q Now, there's been some talk about the *Castañon Nava*
3 settlement and this email that went out June 11th of 2025, and
4 then a subsequent email that just went out October 22nd, 2025,
5 from Mr. Wall. Are you familiar with the October 22nd, 2025,
6 email?

7 A That one just came out. Yes. I remember that one.

8 MR. GRIMSLEY: And I'm going to show you Plaintiffs'
9 Exhibit 126. We move to admit Plaintiffs' 126, Your Honor.

10 MR. LENEIS: No objection.

11 THE COURT: Admitted.

12 Q. (By Mr. Grimsley) And do you recognize Plaintiffs' 126 as
13 that October 22nd, 2025, email that ICE was ordered to send out
14 pursuant to the *Castañon Nava* settlement enforcement order?

15 A Yes. I remember this one.

16 Q And so this was saying, oh, I know I sent that June 5th,
17 2025, email out, saying *Castañon Nava* settlement was terminated,
18 but turns out it wasn't. I'm sending this broadcast statement
19 of policy out to make sure everybody knows it wasn't terminated;
20 right?

21 MR. LENEIS: Objection. Foundation and argumentative
22 from counsel.

23 THE COURT: All right. I will sustain that objection.

24 Q. (By Mr. Grimsley) Well, I want to ask a question. So,
25 the June 5th, 2025, email that we looked at before, that email

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1 was announcing that the *Castañon Nava* settlement was terminated
2 according to ICE, but then it was setting forth what the policy
3 is and requirements were for warrantless arrests going forward
4 even without the settlement; right?

5 A Yes. I believe so.

6 Q And then this Exhibit 126 is an email from Mr. Wall saying,
7 no, *Castañon Nava*, the settlement is back in place, and it sets
8 forth the requirements for warrantless arrests pursuant to that
9 settlement; right?

10 A Correct.

11 Q But the fact is, with or without the *Castañon Nava*
12 settlement, the requirements for warrantless arrest is exactly
13 the same; correct?

14 A Yes. That's my understanding.

15 Q And I want to put these two side by side so there's no
16 confusion. So, we've got -- and I will go to the second page.
17 Do you see that this is the second page of P126?

18 A I see it starts with, this broadcast states. Is that the
19 correct one?

20 Q Yes. And then there's a section on warrantless arrests,
21 and it sets out in that section what the requirements are?

22 A I see that.

23 Q You need probable cause of two different things. For
24 likelihood of escape, it's a multifactor test. Here are what
25 the factors are that you consider, and oh by the way, it's not

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1 enough that somebody is in the country illegally to satisfy that
2 second prong. There has to be more; right?

3 A Yes.

4 MR. LENEIS: Objection. Compound, and it's counsel
5 characterizing the document.

6 THE COURT: Well, he's just kind of summarizing the
7 document and what it says. Overruled, but what's your point
8 here?

9 MR. GRIMSLEY: My point here is if we look at the
10 prior email --

11 THE COURT: They're the same.

12 MR. GRIMSLEY: They're the exact same.

13 THE COURT: Okay.

14 Q. (By Mr. Grimsley) So, I just want to make clear, the law
15 hasn't changed. As far as you know, since you've been at ICE,
16 the law has always been that in order to effectuate a
17 warrantless arrest, ICE officers must have probable cause that a
18 person is in the country illegally, and that a person is likely
19 to flee before an arrest warrant can be obtained?

20 A Yes. To the best of my knowledge. I started in 1997 right
21 when the law changed, so there might have been a different --
22 that was -- it wasn't IIRAIRA. It was the one before that. I
23 think that the answer is yes, but I'm not 100 percent sure.

24 Q But for the last 20 years or so?

25 A Yes.

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1 Q And there was nothing in the October 22nd, 2025,
2 announcement policy that changed the requirements, was there?

3 A Not to my knowledge, no.

4 Q Now, you mentioned that you didn't review the I-213s for
5 any of the four plaintiffs; correct? And we can take down the
6 exhibit.

7 THE COURT: Do you want to explain what an I-213 is?

8 MR. GRIMSLEY: That's what I was going to ask.

9 Q. (By Mr. Grimsley) What is an I-213, sir?

10 A So, an I-213 in immigration or ICE means the arrest record,
11 the arrest report.

12 Q What is the I-213 used for?

13 A It's used to document the encounter.

14 Q And it's supposed to be accurate -- an accurate and
15 complete explanation containing a narrative of the arrest?

16 A Yes. That's correct.

17 Q And the reason it's supposed to be accurate and complete is
18 that it's used for things; right? Documenting the encounter,
19 and it actually can also be used in immigration court; correct?

20 A That's correct, yes.

21 Q So, officers are trained to put down in the I-213 anything
22 that would be pertinent to the arrest?

23 A That's correct.

24 Q Now, there are different things contained in the I-213.
25 One of those is a narrative section; right?

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1 A Yes.

2 Q What is supposed to be contained in the narrative section?

3 A Encounter information. How -- what the encounter -- what
4 precipitated the encounter, what were the results of the
5 encounter, record checks of the person you arrested,
6 disposition, what was -- what did you do with the arrested
7 individual? Those sort of items.

8 Q If there were any factors that an officer was relying on
9 for probable cause that an individual was a flight risk, those
10 should be contained in the narrative; correct?

11 A Many times they are, yes.

12 Q They should be contained in the narrative, though,
13 shouldn't they? In order to show that there was in fact
14 probable cause to arrest somebody?

15 A The -- I don't know if it's in the narrative portion of
16 that. I've seen it on occasion inside the narrative of the
17 I-213, but I don't know if it's a mandatory requirement.

18 Q Let me ask you this: If there are factors that an officer
19 is relying on to justify a warrantless arrest and the second
20 prong on flight risk, that should be somewhere in the I-213;
21 right?

22 A Sometimes it is. Correct.

23 Q Well, the I-213 contains not just a narrative, but it
24 contains any information about a criminal record check, any
25 information about warrants, information about immigration

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1 status; correct?

2 A Correct.

3 Q And I'm sure that as the field office director, you as the
4 one who is in charge of ensuring that your officers comply with
5 the law would want them to include in that I-213 any factors
6 that that officer is relying on to justify probable cause of
7 arrest?

8 A I would want a complete narrative to show the circumstances
9 of the arrest and the disposition of the person arrested.

10 Q I want to look at one of the I-213s in this case, for
11 Ms. Caroline Goncalves if we could, and it's Exhibit 16.

12 THE COURT: Is there going to be an objection to 16?
13 I guess not, because you're not objecting to any of the 1
14 through 25.

15 MR. LENEIS: That's right, Your Honor. We've had some
16 discussion about sensitive information contained in the I-213s.
17 So, I wonder if counsel might not want this one to be published,
18 but that's my only statement.

19 THE COURT: All right. 16 is admitted.

20 Q. (By Mr. Grimsley) So, you see here, sir, that this is the
21 I-213 for Caroline Dias Goncalves, one of the plaintiffs in this
22 case?

23 THE COURT: Wait a minute. It takes me a second to
24 manipulate this big book. I usually used these myself when I
25 practiced, and I've learned as a judge that they're terrible.

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1 MR. GRIMSLEY: They're absolutely awful.

2 THE COURT: All right. I've got it.

3 Q. (By Mr. Grimsley) And I'm going to page two of the
4 document. And so this is the I-213, the arrest document for
5 Caroline Dias Goncalves, one of the plaintiffs in this case?

6 A I see it.

7 Q So, I want to look through this I-213 and see what
8 information in here is suggested probable cause of flight risk.
9 All right? So, the first thing --

10 A Yes.

11 Q -- up top is previous criminal history, and it says,
12 subject has no criminal history; right?

13 A Yes.

14 Q Now, is that checked before or after the arrest? Do you
15 know?

16 A I don't know the answer to that. It could be before or
17 after.

18 THE COURTROOM DEPUTY: Counsel, did you want this
19 published?

20 MR. GRIMSLEY: It can be published. That's fine.

21 THE COURT: What would you think about an open-ended
22 question, such as, would you point out where in this document it
23 shows the circumstances that would have caused the agent to find
24 she was a likelihood of escape?

25 MR. GRIMSLEY: Your Honor, I think he doesn't have the

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1 hard copy document. So, I just wanted to walk through and ask
2 him about specifics that would be factors that would show that
3 she was not likely to escape. And then I can ask the open-ended
4 question.

5 THE COURT: Okay. But the document is there for him
6 to see.

7 MR. GRIMSLEY: On page three, Your Honor --

8 Q. (By Mr. Grimsley) Or, Mr. Guadian, do you see the top, it
9 says, record checks revealed DS Goncalves has a pending asylum
10 case with the USCIS? Do you see that?

11 A No, I don't. I've got a page that says, does not derive
12 U.S. citizenship at the top.

13 Q Here. If you go down, I will highlight it for you.

14 A Okay. Gotcha.

15 Q And do you see that?

16 A I see it now.

17 Q This document shows that Ms. Goncalves had a pending asylum
18 application?

19 A Yes. I see it.

20 Q That would be a factor that would weigh against flight
21 risk; correct?

22 A Depends. So, the record checks may show that she has a
23 pending asylum case, but if there were a follow-up done with CIS
24 to get a determination, many times we find that individuals that
25 we arrest actually need a phone call in to asylum to determine

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1 if the system has been updated to show that -- what the update
2 on the case is, whether it's been denied or approved. Many
3 times the systems from CIS and ICE don't update in real time, so
4 there are -- sometimes there's a lag.

5 Q Do you know if any officer actually did that for
6 Ms. Goncalves to check on what the status of the asylum
7 application was?

8 A I don't even know who the officers were that made this
9 arrest, or they were even mine or where this occurred.

10 Q We can go through the document, but I will represent to you
11 there's nothing else about her asylum application other than she
12 has one pending. Okay? So, if that's the only information that
13 you have, that would weigh against a probable cause finding that
14 somebody was a flight risk?

15 A I wouldn't -- I wouldn't use that -- I wouldn't agree with
16 that statement. What I would say is it's a factor, because
17 there's other factors as well that I wasn't on scene. And as I
18 said, I don't even know where this occurred or if this is even
19 my agents or officers that did this.

20 Q Let's put it this way: It certainly would not be a factor
21 in favor of finding a flight risk, would it?

22 A If a person had an approved asylum application, meaning
23 that they were in -- you know, on the road to getting some
24 lawful permanent residence, absolutely. But a pending asylum
25 application would not be a favorable factor. It wouldn't be a

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1 negative factor either. It would just mean that she's pending
2 an asylum case with the USCIS.

3 Q That was just my question. It would not be a negative
4 factor, is my point; right?

5 A I don't think it would be negative or positive.

6 Q And on the next line, which I will highlight, it says that
7 Ms. Dias Goncalves was approved for an I-765 employment
8 authorization on April 5th, 2024.

9 THE COURT: April 15th.

10 Q. (By Mr. Grimsley) April 15th, 2024. Tax day. Do you see
11 that?

12 A Yes. I see it.

13 Q And that would weigh in favor of finding that the person is
14 not a flight risk; correct?

15 A Potentially.

16 Q It certainly would not be a negative factor, would it?

17 A Again, it would -- you know, it could be a potential
18 positive factor. It could also -- I mean, if there is -- there
19 is also many people that are in the community that have approved
20 employment authorizations that also have final orders of removal
21 as well. So, it's -- it's something that could be a positive,
22 but again, it would need further follow-up.

23 Q But again, it's not a negative. It would not support a
24 finding of probable cause that somebody is a flight risk?

25 A Potentially. If we find out that the person had a -- had,

1 you know, a final order of removal in their case, or had
2 something else that would offset -- we're doing the job of
3 weighing -- my officers, if these are my officers, they do a --
4 they do a weigh -- you know, they weigh the circumstances of
5 what they have in front of them versus what they can find in
6 record checks and make a very quick decision to make sure
7 they're making lawful arrests out in the field.

8 Q And you said this may actually be a negative factor if they
9 do some additional investigation and find out something that's
10 not clear about the employment history?

11 A Correct.

12 Q You have no reason to believe that officers did that in
13 this case, do you?

14 A Again, I don't know who these officers are or whether this
15 even occurred in the Denver field office area of responsibility.

16 Q So far we have no criminal history. We have a pending
17 asylum case. We have employment authorization; right?

18 A I'm sorry. Say that again?

19 Q We have no criminal history for Ms. Goncalves. We have
20 employment authorization and a pending asylum case; correct?

21 A Correct. That's what it reads to me.

22 Q Have you read any of the stories about Ms. Goncalves? It
23 was pretty widely reported in the press that she was picked up,
24 that she was a Dreamer who was a student in Utah?

25 A No.

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1 Q You haven't read anything about that?

2 A No. Again, I don't even know where this occurred.

3 Q You don't remember that in Mesa County there was a sheriff
4 who pulled over a young lady and then reported to ICE that he
5 thought that the lady might be in the country illegally, and
6 that ICE then pulled her over? You don't remember any of that?

7 A I remember something in Mesa County where the state was
8 attempting to file charges on a local law enforcement officer
9 for assisting ICE, but again, I don't -- I don't believe that
10 ERO -- my division was involved in that particular case, unless
11 you're telling me this otherwise.

12 Q That's this case, sir.

13 A Is this an ERO case? Because remember, there's other
14 agencies that enforce immigration laws, not just ERO.

15 Q If we look down further -- let's go to the narrative. See
16 if there's anything there. It says -- if you could, just read
17 through that narrative, sir, and then I will ask you some
18 questions.

19 A You want me to read it aloud?

20 Q You can read it aloud or to yourself.

21 A Okay. It says -- so, it looks like it's HSI, our sister
22 agency, that was involved in this arrest. And it says it was on
23 mile marker -- I'm assuming MM is mile marker -- 23 on I-70. Is
24 that -- is that even Colorado? I don't know.

25 Q It was in Mesa County.

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1 A Okay. Yeah. These are special agents. This Special Agent
2 Heiskell, I'm not familiar with. He doesn't work for the
3 division I lead, and I don't know if he's part of the HSI Denver
4 office or if he's part of the Salt Lake City office. Yeah.
5 There's two special agents here, Heiskell and Selfridge. They
6 don't report to me.

7 Q These are ICE agents?

8 A HSI agents.

9 Q HSI is what?

10 A HSI is Homeland Security Investigations. They're the
11 sister agency to ERO. So, within the ICE world, there's
12 Homeland Security Investigations, which is its own division.
13 Then there's Enforcement and Removal Operations. There's also
14 our office of principal legal adviser, our attorneys. There's
15 different divisions within ICE. I supervise the Enforcement and
16 Removal Operations within Colorado and Wyoming. But to be fair,
17 my officers are deportation officers. They're not agents.

18 Q To be fair, this is all ICE, though? These agents are part
19 of ICE?

20 A They're part of the Homeland Security Investigations within
21 ICE. That's what it looks like to me, because it looks like at
22 the very beginning in the first paragraph, it says HSI Special
23 Agent Eric Selfridge.

24 Q Now, I want to ask you about that narrative. Is there
25 anything in that narrative -- and I want to go back to the

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1 factors that Mr. Wall had identified in his email. Is there
2 anything in there about an inability to determine Ms. Goncalves'
3 identity?

4 A I'm sorry. Say that again?

5 Q Is there anything in that narrative about officers'
6 inability to assess or determine Ms. Goncalves' identity?

7 A Let me see it again. Okay. I finished with the first
8 part. Can you scroll down to the next part of the narrative,
9 please? Next page, please. I'm sorry. As I'm reading, tell me
10 the question again.

11 Q Is there anything that you've seen so far that suggests
12 that officers had any trouble determining Ms. Goncalves'
13 identity?

14 A No. I haven't seen anything. I'm into the immigration
15 history part. I don't see anything in terms of not determining
16 her identity. It looks like they knew that she was a B2 visitor
17 that came in through Dallas and overstayed her Visa by more than
18 ten years.

19 Q They knew who she was; right?

20 A Sounds like it.

21 Q And I'm going to go to the second factor in Mr. Wall's
22 email. Knowledge of the individual's prior escapes or evasion
23 observations of the immigration authority. Is there anything in
24 here that you see that suggests that Ms. Goncalves ever tried to
25 evade immigration authorities?

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1 A I would say that, you know, the fact that she's been in the
2 country more than ten years beyond her allotted time in here
3 would be a negative factor on her part.

4 Q There is nothing in this document, sir, to suggest that she
5 has made any effort or there is any documentation of her ever
6 trying to evade immigration authorities?

7 A I would say the fact that she did not come in for an
8 extension on her Visa would lead me to believe that she does not
9 want to -- she wants to evade. That would be a negative factor.
10 And those are the kind of factors we have to weigh out in the
11 field.

12 Q Again, sir, you acknowledged before that in order to show
13 probable cause that somebody is a flight risk requires more than
14 simply showing that they're in the country illegally; right?
15 That's a second part of the probable cause determination. This
16 looks like -- somebody attempts to evade immigration forces,
17 there's nothing in here to suggest that she ran away or tried to
18 escape immigration enforcement officers, is there?

19 A No. I don't see anything in there about her trying to run
20 away or evade. Again, I wasn't at the scene, and these aren't
21 my officers or agents that made this arrest.

22 THE COURT: Just let him answer the question before
23 starting a new one, please.

24 MR. GRIMSLEY: I apologize, Your Honor. I thought he
25 had finished.

1 Q. (By Mr. Grimsley) Factor three, attempted flight from ICE
2 officer or agent. There's nothing in this document you've seen
3 that supports that Ms. Goncalves made any attempt to flee from
4 an ICE officer or agent?

5 A No. I don't see that. And again, these are not my agents.
6 It's not my arrest, or I don't know anything about this arrest.

7 Q And then the fourth factor, sir, ties to the community, or
8 lack thereof, we have seen already that she has a work
9 authorization, and she has an asylum application; correct?

10 A Yes. I saw that.

11 Q Do you see anything in here to suggest that she does not in
12 fact have ties to the community?

13 A I see factors that the agents that are on the scene are
14 required to weigh in determining whether they made a -- the
15 warrantless arrest was a good one. Those factors -- all I have
16 in front of me is this document, and I see the factors laid
17 before me. And again, these special agents are not mine. They
18 don't work for ERO, and Colorado is -- I mean, I'm sorry.
19 Special Agent [audio distortion] not under my purview.

20 Q So, what specific factors -- I will ask the judge's
21 question -- do you see that justify finding probable cause that
22 this individual who has been in the country for 20 years, has
23 work authorization, has an asylum application, is likely to
24 escape?

25 A So, the factors that I would use, just going off this

1 document that you're showing me, is the fact that she was an
2 overstay for more than ten years. She failed to get -- she
3 overstayed her Visa by ten years or twelve years, I'm not sure
4 what the exact number is, and she's also got a pending asylum
5 application. She's got a pending authorization document. Those
6 are all factors that officers -- my officers consider. I can't
7 speak to special agents over at HSI. They don't work for me,
8 but what I can say is there may be things outside of the arrest
9 record that the officers -- I'm sorry -- the agents may have
10 considered that's outside this record.

11 Q Sir, there's nothing you've seen in this record, you, to
12 suggest that there was in fact probable cause to believe that
13 this woman was a flight risk?

14 A You know, I wasn't there at the scene. It's hard for me to
15 say whether or not I would have made the same decision as the
16 officers -- I'm sorry -- the special agents in this particular
17 case other than what I see in front of me.

18 Q I'm just asking, is there anything you see in the
19 document --

20 THE COURT: I think you've made your point.

21 MR. GRIMSLEY: Thank you, Your Honor.

22 Q. (By Mr. Grimsley) Now, do you see anything in that
23 narrative to suggest that this was a consensual encounter
24 between the officers and Ms. Goncalves, given that they pulled
25 her over?

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1 A I don't -- I don't think it was consensual. It sounded
2 like it was a vehicle stop done by the special agents from HSI.

3 Q Now, ICE has nationwide jurisdiction. You can pull that
4 down, Ms. Smotts. ICE as an agency has nationwide jurisdiction;
5 am I correct?

6 A Yes. That's correct.

7 Q And there are a number of different field offices that have
8 different jurisdictions within the United States, but all of
9 those field offices work for the same agency, and they will also
10 work together; right?

11 A Yeah. So, we -- the way ICE is broken down, we have
12 different directorates. We have Homeland Security
13 Investigations. They have their own field offices. There's an
14 Enforcement Removal Operations, which is the division I work
15 for, and I'm the field office director for the Denver field
16 office. There are 25 field offices within the ERO. I don't
17 know exactly how many HSI field offices there are. They call
18 them SAC offices. I think there's 30, thereabouts. It's more
19 than what ERO has. And they're a much larger organization. ERO
20 as a whole nationwide has about 6,500 employees, and HSI
21 probably has closer to 10,000 employees.

22 Q But the various field offices will work together; right?
23 If one field office has information about somebody in a country
24 unlawfully who is a target of the operation, maybe a criminal or
25 has a criminal record, you can communicate and work with other

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1 field offices to make sure that individual is apprehended?

2 A Just to clarify, you mean ERO field office to ERO field
3 office?

4 Q Sure.

5 A Or HSI field office to ERO?

6 Q Let's say ERO.

7 A ERO to ERO, there's quite a bit of communication across
8 different field offices. The 25 field office directors do work
9 hand in hand, especially when there's high profile cases that
10 are crossing state lines.

11 Q And so if an individual was, let's say in Colorado, and
12 then went back to Utah, ERO or ICE could communicate with the --
13 in Colorado could communicate with folks in Utah, for instance,
14 to tell them about this individual and apprehend them if
15 necessary?

16 A Correct. So, we have an -- ERO has a field office in Salt
17 Lake City, and my team always -- pretty often communicates with
18 the field office in Salt Lake City, oftentimes conducting joint
19 operations depending on if we have -- if we have individuals
20 that we're looking for that are crossing state lines, and we
21 will coordinate together. And this is ERO to ERO.

22 Q You are aware that there have been warrantless arrests made
23 in Colorado during your tenure as the Denver field office
24 director?

25 A Yes.

1 Q Do you have a sense of how many?

2 A No, I don't. My sense is that it's a lot less than our
3 targeted enforcement operations. Typically when we run
4 across -- when we have to make warrantless arrests is the -- so,
5 the way ERO -- the way I run my office here in Colorado and
6 Wyoming is my officers know exactly who they're going after the
7 day that they're going out. They have a case file. They have a
8 person's photo. They have a person's address. They know who
9 we're going after, and we're going after the worst of the worst,
10 people that are threats to the public, public safety. So, we
11 will -- every single day, seven days a week, 365 days a year,
12 we're taking those individuals that are public safety risks out
13 of the community and putting them in removal proceedings.

14 Where the warrantless arrests take place are the
15 associates. When we encounter those individuals that we're
16 targeting, the associates are typically the ones where we may
17 make a warrantless arrest given the circumstances. Those --
18 that's typically where the warrantless arrests occur from an ERO
19 perspective. And that number, my sense is -- I don't know
20 exactly what they are. It's much smaller than our targeted
21 enforcement arrests.

22 Q We will look at some statistics in a bit, but there's a
23 distinction between targeted individuals and collateral arrests;
24 correct?

25 A Mm-hmm.

1 Q Collateral arrests are individuals who are not targeted.
2 There's not a warrant for those individuals when ICE goes out
3 into the field, but they're individuals who are encountered who
4 happen to be in the country illegally as part of the targeted
5 operation; right?

6 A No. I'd characterize our targeted -- our targeted arrests
7 are people that -- where we know where they live. We've got
8 their photo. Oftentimes we have a warrant of removal, or other
9 times we have a warrant of arrest already in hand for those
10 individuals. The moment we make -- so, we're going out with two
11 different types of warrants for those targeted arrests, and
12 sometimes we have criminal warrants for those individuals.
13 They're reentries after deportation or have other crimes. So,
14 other times our targeted individuals more often than not already
15 have a warrant in place, whether it's a warrant of removal or
16 warrant of arrest.

17 Q And I'm distinguishing between the people who are targeted
18 and the collateral arrests that occur as part of the targeted
19 operations, so tell me if this is right. So, you have targeted
20 operations where you have an arrest warrant, where you're going
21 out to arrest somebody that you know; right? And that person
22 may have a criminal conviction. May have a pending criminal
23 charge; right?

24 A Correct.

25 Q But as part of those targeted operations, you may encounter

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1 individuals who you don't have a warrant for, who happen to be
2 in the country illegally, and that get arrested as a collateral
3 arrest; correct?

4 A That's correct.

5 Q That includes individuals who have no criminal record or
6 pending criminal charge; right?

7 A Correct.

8 Q And those are individuals for whom you don't have a
9 warrant?

10 A Correct.

11 Q So, if those individuals are arrested in the field,
12 officers have to have probable cause of both prongs we talked
13 about; right?

14 A Yes. That's my understanding.

15 Q You recall giving an interview to Denver 7 ABC news earlier
16 this year in July of 2025? It was a ridealong? Do you recall
17 that?

18 A Yes, I do.

19 MR. GRIMSLEY: I'd like to pull up Exhibit 80.

20 THE COURT: All right. Exhibit 8 will be admitted on
21 stipulation.

22 MR. GRIMSLEY: Eight, zero, Your Honor. I apologize.

23 THE COURT: Oh. It could be that if you spoke a
24 little slower, we could get a little more out of your questions.

25 MR. GRIMSLEY: All right.

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1 THE COURT: 80 is admitted.

2 MR. LENEIS: Hold on, Your Honor. I don't think we
3 stipulated to that one.

4 THE COURT: I thought you stipulated to all 125?

5 MR. LENEIS: No, no, no. The ones that we have an
6 agreement with plaintiffs' counsel with were solely ones that
7 were attached to Ms. Katie Wright's declaration as part of the
8 preliminary injunction motion, and I believe those run from 23
9 to 62, but plaintiffs' counsel can correct me if I'm mistaken.

10 MR. GRIMSLEY: No. That's correct, Your Honor.

11 THE COURT: All right. Then, 80 is a television video
12 of this gentleman?

13 MR. LENEIS: That's right. So, there's no witness
14 here to authenticate the video. So, we would object to its
15 admission.

16 THE COURT: What about the guy who is in the video?

17 MR. LENEIS: Fair point, Your Honor. I will withdraw
18 it.

19 THE COURT: 80 is admitted.

20 MR. GRIMSLEY: And I will just play a little bit of it
21 so we can authenticate it.

22 THE COURT: It's already been authenticated.

23 Q. (By Mr. Grimsley) Just, do you recognize this, Channel 7?
24 Do you recall that?

25 A I don't think I've ever seen this broadcast. But I'm sure

1 if we go -- I just haven't seen the broadcast. Because what
2 these television news networks do is they will take, you know,
3 an interview that I gave months and months ago, and they will
4 rehash it and put it in a new format and --

5 Q So, do you recognize that as being you?

6 A Yes.

7 Q So, this was a ridealong that you had given where you took
8 reporters on a targeted operation back in July; right?

9 A Right. Yes.

10 Q And as part of that targeted operation, if you remember,
11 there was an individual -- a gentleman from Honduras that you
12 were arresting that day?

13 A I don't remember who it was.

14 Q Do you remember --

15 A I do quite a bit of ridealongs. I don't know exactly who
16 we're going after this particular day.

17 Q Do you remember that you also arrested somebody who had
18 absolutely no criminal history that day as well? He was a
19 collateral arrest?

20 A Possibly. I don't remember.

21 Q Let's show you a piece of this.

22 (A video was played.)

23 Q Do you recall having arrested that individual that day as
24 well as a collateral arrest?

25 A Yes. I remember her. I believe that was the sister of the

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1 subject that we were looking for, and she was inside the house
2 with the target. We were serving a criminal warrant on her
3 brother, and I believe there was information about her as well.
4 I wasn't -- I don't -- I wasn't obviously involved with the
5 actual interview of her, but there were some -- there was some
6 information -- from what I remember, there was some information
7 of her ties with criminal activity in Denver.

8 Q You can't say what that is right now sitting here today,
9 sir?

10 A Two things. I don't remember what it was, and I don't
11 remember what the classification level was and what organization
12 brought us that intelligence.

13 Q But we do know that she didn't have a criminal record?

14 A Yes. There was something else in her case that was beyond
15 just being, you know, illegally present, you know, going to
16 work. She had other things in her case. I just don't remember
17 what it was, and I wasn't interviewing -- I do remember there
18 was some high level intelligence in regards to this particular
19 individual as well.

20 Q The fact is, though, sir, that under this president and
21 this presidency, ICE has taken the position that if it
22 encounters individuals in the field, collateral individuals
23 where there is not an arrest warrant, but that individual is in
24 the country illegally, ICE is going to arrest that person?

25 A No. I wouldn't put it quite like that. What I would say

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1 is we are -- there was a time when collaterals were not -- we
2 didn't arrest collaterals that were associated with our main
3 target. Now, we are interviewing collaterals, and if we can
4 make a legal and safe arrest, we will do that with the
5 collaterals or the associates of our main target.

6 Q Sir, who is Todd Lyons?

7 A Todd Lyons is the ICE director.

8 Q He is the current ICE director in Washington, D.C.?

9 A Correct. He supervises all of ICE. He's over HSI. He's
10 over ERO, over our legal division. He's over everyone.

11 MR. GRIMSLEY: I want to show you Plaintiffs'
12 Exhibit 35. And I believe this is one of the exhibits that has
13 been admitted, Your Honor.

14 THE COURT: Correct.

15 Q. (By Mr. Grimsley) And do you see that this is a news
16 article, CBS News from July of 2025, ICE head says agents will
17 arrest anyone found in the U.S. illegally, crack down on
18 employers of unauthorized workers? Do you see that?

19 A I see that, yes.

20 Q And there, at least the headline says, will arrest anyone
21 found in the U.S. illegally; right?

22 A That's what the headline says, yes.

23 Q And if we do go to page three and look down to the third
24 paragraph, right before the page break, it says, if ICE
25 encounters someone, quote, that is here in the country

1 illegally, we will take them into custody, end quote; correct?

2 That's what Mr. Lyons, head of ICE, said?

3 A Yes. That's what it says here.

4 Q And you've said similar things, haven't you, sir?

5 A Potentially, but when I'm talking to the media, I remember
6 that we are -- we're not getting into the legalese. And when I
7 say we -- if I were to say that they're here in the country
8 illegally, we will take them into custody, it will be a lawful
9 arrest. It's, we're going to consider factors such as equities
10 in the U.S., things of that nature. We're going to make legal
11 arrests. We are not just arresting everyone that we encounter
12 that's illegally present.

13 We have to take those -- that two-prong approach. Same
14 things in -- saying things in the -- on the media, versus the
15 policy that I have actually enacted here at the field office are
16 two very different things. The policy is -- actually follows
17 the law, and my -- that's what the expectation of my officers
18 is, is to follow the law.

19 Q Let's see what you said in that same news report. This is
20 Plaintiffs' Exhibit 80.

21 (A video was played.)

22 Q And you didn't qualify that to the -- statement to the
23 media with anything about probable cause, did you, sir?

24 A No. I typically won't get into legalese on these on-air
25 interviews, but my expectation when I say we're going to arrest

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1 those people that are associates of them is a legal arrest with
2 all the factors considered, the two-prong test. We're not
3 arresting just everyone that we find that's unlawfully present
4 in the U.S. We release plenty of people for different reasons.
5 We don't arrest every illegal alien that comes across our path.

6 Q But to be fair, you didn't say that; right?

7 A No. I didn't say that. No. This is -- so, the -- in
8 these media productions, you -- they're very -- they're very
9 short in time. I have to get my point across quickly, and
10 similar to Todd Lyons, the expanded explanation is probably more
11 so better for a setting like this as opposed to the nightly
12 news.

13 Q It wouldn't have been hard, though, to say we arrest people
14 who are likely to flee; right? That wouldn't be hard for you to
15 say in the media interview?

16 A Yeah. No. That's -- that's not -- doesn't come across
17 quickly in my mind. You know, it's -- the assumption is that
18 people trust law enforcement, and when officers, federal
19 officers, local, county, state officers make arrests, that they
20 don't need qualifying statements like we're making a lawful
21 arrest out there. They understand that when federal law
22 enforcement is making arrests, the assumption is they're lawful
23 arrests, and guidelines -- consistent with policy, consistent
24 with the law, and court decisions.

25 Q That's what this whole case is about; right? Whether

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1 that's true and that trust is warranted?

2 A I don't know the answer to that. I'm sorry. Repeat the
3 question in a different way?

4 Q Let's look at a different part of that same --
5 (A video was played.)

6 Q So, that was a second time you were asked the same
7 question, and you didn't qualify it at all. You simply said, if
8 we encounter people who are in the country unlawfully, we're
9 going to take them into custody; right?

10 A Correct. But again, what my last sentence -- well, the
11 last statement as well, the expectation is that federal law
12 enforcement officers follow the law when they're making arrests.
13 We take individualized assessments of every person that we
14 arrest, and we don't arrest everyone we come across.

15 Q If -- let me ask you about that. If you don't -- if
16 somebody encounters -- like an ICE officer out in the field
17 encounters an individual who is in the country unlawfully, but
18 that officer says, you know what? I don't have probable cause
19 to believe that person is a flight risk, will they let the
20 individual go?

21 A I'm sorry. Say that -- can you say that again? It was a
22 little fast.

23 Q So, you're saying that officers out in the field sometimes
24 will encounter people who are in the country unlawfully, but
25 they let them go because they don't have probable cause to

1 believe the person is a flight risk?

2 A So, there's a few ways that -- when my officers encounter
3 unlawfully present aliens that are not targets of our
4 operations, there's a few dispositions that can occur, and one
5 is definitely, you know, issuing an NTA, notice to appear in
6 court, and keeping that person on a non-detained docket, meaning
7 that they're going to be awaiting their immigration hearing from
8 home.

9 So, that happens. And there's different reasons for
10 that. Sometimes it's medical. Sometimes it's this two-prong
11 where we don't believe they're a flight risk. Sometimes they
12 could have family concerns, kids, that they need to tend to.
13 There's different factors that play into an officer's assessment
14 on whether or not to take somebody into custody.

15 Q But sometimes you let -- just like some of the officers out
16 in the field will just let the person go; right?

17 A Yeah. I think that's a really basic way to look at it.
18 So, there's different ways to get people into removal
19 proceedings; right? Not everyone goes to a detention center for
20 removal proceedings. You can be placed in removal proceedings
21 and await those proceedings from home. Sometimes that is the
22 best course of action for my officers when they're out in the
23 field if they encounter someone that's illegally present in the
24 United States.

25 Q Do you have statistics on how many collateral encounters

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1 there are where ICE does not arrest the person as opposed to
2 arresting them and putting them in a detention center? Do you
3 have statistics?

4 A No. Unfortunately, I don't -- so, the field office
5 directors -- I speak for myself, but I know that the other field
6 office directors -- and I don't have statistics like that. All
7 our official statistics are done out of our headquarters
8 component. They generate all those official statistics. So, I
9 don't know what they are, unfortunately.

10 Q So, you can't tell me or this Court what percentage of
11 individuals are encountered who are in the country unlawfully
12 are not actually arrested?

13 A No. I don't know the percentage.

14 Q Now, the Denver field office has operations statewide;
15 right?

16 A That's correct.

17 Q All over Colorado, and they're being -- and they're
18 conducting targeted operations all over the State of Colorado?

19 A That's correct.

20 Q It's not limited to Denver? It would be Grand Junction,
21 Colorado Springs, Durango, Alamosa, Fort Collins, the mountain
22 towns, everywhere; right?

23 A Yes. So, I have -- so, in my -- so, ERO Denver, I've got
24 state of Colorado and the state of Wyoming, and I've got sub
25 offices within those states. I've got, as you mentioned,

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1 Alamosa. We've got an office in Florence. I've got an office
2 in Durango. I've got an office in Grand Junction. I have an
3 office in Craig. I have an office in Frederick. I have an
4 office in Aurora. And of course the main office, field office
5 here in Centennial. And then I've got two offices in Wyoming.
6 I've got Cheyenne, and I've also got Casper. I think I got them
7 all.

8 Q With regard to Colorado, you're doing targeted enforcement
9 operations all over Colorado, and with those targeted
10 enforcement operations, you will encounter collateral potential
11 arrests; correct?

12 A That's correct.

13 Q You don't have different policies regarding arrests in
14 different parts of Colorado. It's the same; right?

15 A No. We don't have different policies in Colorado from one
16 office to the next.

17 Q Now, you do know that the number of arrests that the Denver
18 field office and ICE nationwide has been making have been
19 increasing dramatically since President Trump took office?

20 A Yeah. I can speak for the Denver field office. We've seen
21 an increase in arrest numbers, and since I've been here in
22 January compared to FY24.

23 Q And that's both nationwide and in Colorado; right?

24 A Yeah. My sense is that nationwide the numbers have
25 increased as well. I don't have specific numbers, but that's my

1 sense as well, yes.

2 Q And you know that -- you had said earlier that you guys
3 target the worst of the worst. And those are people with prior
4 criminal convictions or pending criminal charges; right?

5 A Sure, yes. So, in Denver, in the field office in Denver,
6 what my officers do is they will look at public safety risks as
7 the primary targeted individuals that we're looking for. With
8 our limited footprint of staff here in Denver, we have to
9 prioritize our resources smartly, and go after the worst of the
10 worst and make the biggest impact to public safety.

11 Q But you do know that the biggest increase in arrests has
12 occurred not amongst people with criminal records or pending
13 criminal charges, but with individuals who have neither?

14 A No. I wouldn't agree with that statement. I don't know
15 the exact figures, but my sense is that the number of criminal
16 arrests or public safety risks within the state of Colorado
17 outweighs the number of individuals that we're arresting without
18 criminal histories.

19 Q I want to look at those statistics in just a minute, but
20 you are aware that back in May of 2025, the White House, through
21 Stephen Miller, who is the White House deputy chief of staff,
22 announced a goal of 3,000 arrests per day by ICE with an
23 intention to increase that number over time?

24 A I remember that -- seeing that report in the media, the
25 3,000 number. I'm not too familiar with what the -- like, over

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1 time what the number was to be increased to. But I know for the
2 Denver field office, our goal in the Denver field office is that
3 each team has -- makes three arrests per team. There's no quota
4 here. They're merely goals. And with the number of officers
5 that I have that are working the streets, we have to be smart
6 with what those goals are, and those goals have to be public
7 safety risk to make the most impact to public safety.

8 MR. GRIMSLEY: I'm going to ask you a few questions
9 about that, but first I just want to establish what the goal is
10 and who set it up. So, I'm going to show you Plaintiffs'
11 Exhibit 116.

12 (A video was played.)

13 MR. LENEIS: Your Honor, I'm sorry. This one has also
14 not yet been admitted. If I could just have a moment to
15 determine whether I would like to object?

16 MR. GRIMSLEY: And this is an interview of Stephen
17 Miller, who is obviously a part of the government.

18 MR. LENEIS: There's no foundation for this interview,
19 Your Honor. There's no witness to provide foundation for the
20 interview, and there's no authentication that this is in fact
21 the Fox News interview that it's purported to be. So,
22 objection.

23 THE COURT: Overruled. It's admitted.

24 Q. (By Mr. Grimsley) And you're familiar with Sean Hannity
25 on Fox News?

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1 A I've seen his face, yes.

2 Q And this is an interview from May 29th, 2025.

3 (A video was played.)

4 Q First of all, that's Stephen Miller; right? Deputy White
5 House chief of staff?

6 A Yes. It looks like him.

7 (A video was played.)

8 Q That was Stephen Miller announcing the goal of 3,000
9 arrests per day with the intention that that increase over time
10 in May of 2025; correct?

11 A Yeah. That's what it appears to be on the video.

12 Q And you're familiar and were familiar at the time this came
13 out that goal was being set forth by the White House?

14 A I don't know if it was coming from the White House. It was
15 coming straight from Stephen Miller. I don't believe Stephen
16 Miller is in the ICE chain of command, and this is a public
17 statement on the media. So, I haven't seen the 3,000 goal in
18 writing come from my field operations division. So, other than
19 that, I don't know what else I can comment on this particular
20 story.

21 Q Now, he mentions how this 3,000 per day arrest goal was
22 meant at least in part to prevent American families from being
23 torn apart. Do you see that?

24 A I'll take your word for it. I don't think I remember that
25 part.

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1 Q Was Ms. Goncalves' and Mr. Ramirez's families torn apart
2 when they were arrested and put in detention?

3 A I don't have any information on that case. Again, those
4 were not ERO deportation officers. They were HSI special
5 agents. That's a different division within ICE. I can't speak
6 to what they knew or didn't know at the time of arrest.

7 Q Were Ms. Goncalves and Mr. Ramirez murderers or rapists?

8 A I don't know the answer to that question.

9 Q Now, you had mentioned that the Government keeps statistics
10 on detention and the type of individual that's being detained,
11 such as whether that individual has a criminal conviction in the
12 past, whether that individual has a prior or pending criminal
13 charge, or whether the individual doesn't have; right?

14 A So, my understanding, our law enforcement systems and
15 analysis group at headquarters, the group that is responsible
16 for data collection within ICE, has the ability to collect a
17 wide range of data for ICE. I would assume that they could pull
18 that data, but I'm not 100 percent sure. I have never seen that
19 report, but my assumption is if somebody needed that, I would
20 assume that our LESA, or law enforcement systems analysis group
21 could produce it.

22 Q You know that you can go to ICE's website, and they
23 actually report with a spreadsheet statistics by month of
24 arrests and the types of individuals being arrested and held;
25 correct?

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1 A No. I've never seen that.

2 MR. GRIMSLEY: Well, I'm going to move to admit
3 Plaintiffs' Exhibit 64, Your Honor. It is a spreadsheet that
4 comes directly from the ICE website.

5 THE COURT: All right. Any objection to 64?

6 MR. LENEIS: I don't believe so, Your Honor. I don't
7 believe so, Your Honor. This looks like an ICE product.

8 THE COURT: It's admitted.

9 Q. (By Mr. Grimsley) And you will see on your screen,
10 there's a spreadsheet with a number of tabs. And the
11 spreadsheet is titled ICE detention statistics.

12 A Yes. I see that.

13 Q And it's from the U.S. Immigration and Customs Enforcement
14 office. That's ICE?

15 A Yes.

16 Q I want to go to the third tab, which is detention, FY25.
17 And I want to go down to rows 90 through 105, which contains
18 statistics for the ICE average daily population by agency,
19 month, and criminality. Do you see that?

20 A I do.

21 Q And when it says detention, those are individuals who have
22 been arrested, because they are being detained; correct?

23 A That's the way it appears to me, yes.

24 Q And you will see that there are actually two different
25 agencies. There's Customs and Border Patrol, and then ICE in

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1 this data; right?

2 A That's correct. That's the way it looks like to me.

3 Q And it actually starts in October 2024, and then goes
4 through September of 2025. So, just last month; right?

5 A That's the way it appears.

6 Q And then if we go back to the beginning, and just go to ICE
7 on rows 113, do you see that the detentions are divided into
8 three groups? Convicted criminal, which means somebody who has
9 some prior conviction; right?

10 A Yes.

11 Q And then you have pending criminal charges, so that's
12 somebody who has criminal charges pending at the time; right?

13 A Correct.

14 Q So, those are who you would call the worst of the worst.
15 Those first two categories; right?

16 A That's correct.

17 Q And then the last category is other immigration violator,
18 and that's somebody who doesn't have a pending criminal charge
19 or prior conviction, but their only immigration violation is
20 that they're in the country illegally; right?

21 A It could be other things as well. Other immigration
22 violators could also mean that absconders, people that have
23 ignored the decision of the immigration judge and have
24 absconded, and our fugitive teams have arrested them. So, it
25 could mean them as well.

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1 Q But to be fair, no criminal charges have been filed at this
2 point for any of those individuals?

3 A No. Correct. Correct.

4 Q So, if you just look at the trends here -- sorry. I'm
5 going to go up. So, I have the wrong one. So, from 96 to 99,
6 if we go to October 2024, that was when President Biden was
7 still in office?

8 A Yes.

9 Q Do you see that for ICE, there were a total of 14,285
10 detainees for ICE?

11 A I see that, yes.

12 Q 9,000 were convicted criminals. 4,000 pending criminal
13 charges. And only 865 were in that other category; right?

14 A Yes.

15 Q So, if we kind of move forward in time to January, you
16 start to see the numbers kind of go up; right? And that's when
17 President Trump took office?

18 A Yes.

19 Q And I will turn your attention to the last row, which is
20 this other immigration violators. It's gone up from 800 some in
21 October to 1,000 in January; right?

22 A Yes.

23 Q And then we see the numbers start to really jump as we
24 start to move forward in time. February, we're up to 21,000
25 total, and 3,000 in that other category; correct?

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1 A Yes.

2 Q And then if we keep moving forward, let's go to kind of the
3 May, June time period. And May was when Stephen Miller
4 announced that 3,000 person goal arrests per day; right?

5 A I believe so on the video.

6 Q Look how much the numbers jump. So, the totals go from 32
7 to 40,000, but the number of other immigration violators jumps
8 from -- it's now up to 6,000 in May, to 11,000, almost 12,000 in
9 June; right?

10 A Yes.

11 Q And then if we keep going forward, that number -- that
12 other immigration violator number just keeps going up; right?

13 A Yes. That's the way it appears.

14 Q And by the time we get to last month, it is over 16,000
15 individuals who don't have a criminal pending charge or a
16 conviction that are being detained by ICE nationwide; right?

17 A Again, I think that's oversimplifying that category. That
18 category could also include final orders, people that have
19 ignored immigration judges' decisions, and have chosen to
20 abscond and not report in for removal. So, it's unclear to me
21 just to make that, you know, that assumption that all of these
22 individuals are warrantless arrests, noncriminals, you know,
23 seeking a better life -- it could be a very high number of
24 people that were already adjudicated by an immigration judge to
25 be illegally present and ordered removed from the United States.

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1 The other thing I would say -- the other thing I would bring up,
2 too, is that this is not -- these are nationwide numbers, and
3 these are not Denver field office numbers.

4 Q Well, sir, that number in September for the others who have
5 no criminal charges pending or prior convictions is over 16
6 times what it was in October of 2024 under the prior
7 administration; right?

8 A Yeah. What I would say, again, is that number may
9 represent a high number of people that have absconded from ICE,
10 that have ignored immigration judges' decisions. So, those
11 cases are important as well. Those are also targeted
12 individuals. They don't carry, at least in the Denver field
13 office, as much weight as a public safety threat, but they're
14 also very important targeting population of people that have
15 ignored immigration judges' decisions many times are often
16 included in my [audio distortion] operations. So, I can't say
17 that all that 16,000 people are noncriminals. It could be final
18 orders of removal that have absconded, that have ignored
19 immigration judges' decisions.

20 Q You have no idea about that, do you? You're just saying
21 that?

22 A No. I'm saying that number does have final orders of
23 removal that people have -- have ignored immigration judges'
24 decisions to depart. They're also -- they would also fall in
25 that category.

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1 Q So, if we look --

2 A Adding some context to your statement.

3 Q If we look at those numbers, the third category has gone up
4 by about 16 times. The first category, people with criminal
5 convictions, has gone up about two times, not even. People with
6 pending criminal charges has gone up a little over three times,
7 and it's that last one that's gone up 16 times.

8 A Yup. I think a further analysis is probably needed to
9 dissect exactly what that third row is really made up of. Final
10 orders of removal, people that are at large that have ignored
11 immigration decisions [audio distortion] people that we
12 encounter as associates of the target. Also, this data is not
13 reflective -- is not Denver specific. It's nationwide data.

14 THE COURT: His question was just about the numbers.
15 That's all he asked. He didn't ask for another lecture on what
16 was in the number. He just asked, isn't it true that the
17 numbers have gone up two times, three times, and 16 times?

18 THE WITNESS: Yes. The numbers have gone up, Your
19 Honor.

20 Q. (By Mr. Grimsley) Now, you said there's some reason to
21 believe that Colorado, the numbers might not be as dramatic.
22 But Colorado is a sanctuary city state location; right?

23 A That's correct.

24 Q Meaning that ICE cannot go into jails to get individuals
25 who have been convicted of crimes before they're released;

1 right?

2 A That's correct.

3 Q ICE has to engage in targeted operations to go out into the
4 community to get those individuals once they've been released
5 from prison or jail?

6 A That's correct.

7 Q And there are other states where that's not true; right?
8 ICE can go into jails in many other states; correct?

9 A Yes. That's correct.

10 Q And so in Colorado, you would expect there to be at least
11 more encounters with individuals who are collaterals than you
12 might in other states, because Colorado requires you to go out
13 into the field to get these people who have criminal convictions
14 or pending criminal charges?

15 A I think for context, you would also have to consider how
16 many officers that I would have as well. I'm one of the
17 smallest offices in the United States. So, I'm third smallest,
18 and third from the bottom in terms of staffing. So, the numbers
19 necessarily wouldn't increase here in Colorado compared to other
20 field offices across the nation.

21 Q I'm just saying because of the way operations need to
22 proceed in Colorado with targeted operations out in the public
23 rather than at jails, that will by definition mean more
24 collateral encounters per targeted arrest?

25 A I don't know the answer to that question. I don't think

1 that's -- I don't think that's true, but I don't have data to
2 support that. It's not my sense that the number of collaterals
3 would increase.

4 Q I want to show you another part from that interview that
5 you did. Plaintiffs' Exhibit 80.

6 (A video was played.)

7 Q We're going to go to around 1:59 or so where they're
8 talking to you.

9 (A video was played.)

10 Q And the what you saw wouldn't have needed to happen was the
11 sister being arrested; right? When you went out and --

12 A No. What I was referencing was what you saw happen in
13 terms of arresting the target wouldn't have needed to happen,
14 because that target had been in and out of jail in Colorado many
15 times. We could have arrested that person in jail and not have
16 to go into the community to arrest them.

17 (A video was played.)

18 Q So, that's the reason, is you're out in the field, and if
19 you had been able to arrest the Honduran gentleman in the jail,
20 you would never have had reason to encounter his sister at the
21 house?

22 A I don't read it like that. So, what I was referring to was
23 arresting the target at large, it puts my officers at risk when
24 we have to do that. It puts the public at risk when we have to
25 do an operation at large. We could have arrested this person at

1 the jail in a safe environment and secure environment, a
2 jail-to-jail -- a jail -- an officer-to-officer handcuff. We
3 just exchange handcuffs at the jail.

4 Q That's my point, sir, is that if this were not a sanctuary
5 jurisdiction, you would have arrested the Honduran gentleman in
6 the jail, and you would never have come across his sister to
7 arrest her as a collateral?

8 A Yes. That's correct. Yeah. We wouldn't have had reason
9 to be in the community.

10 Q Now, you're familiar with statistics that have been
11 reported on regarding the increase in arrests in Colorado, not
12 just nationwide; right?

13 A Yeah. My sense is that my officers are arresting more in
14 Colorado this year over last year, yes.

15 Q I want to show Plaintiffs' Exhibit 45, which has been one
16 of the exhibits that have been admitted. And do you see there
17 that that's a July 7th, 2025, Denver Post article on immigration
18 arrests in Colorado have surged under the Trump administration?

19 A Yes. I see that.

20 Q And if we go to the second page, the bottom of the first
21 page, it says, between when president Donald Trump returned to
22 office in January and June 10th, 1,355 people in Colorado had
23 faced administrative arrest by federal immigration authorities.
24 According to data from ICE that was obtained by a team at the
25 University of California Berkeley, that's nearly a 300 percent

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1 increase from the same period in 2024, when 342 people were
2 arrested. Does that sound about right to you?

3 A Can you read that again?

4 Q It says that there was nearly a 300 percent increase from
5 July of 2024 to July of 2025 in arrests by ICE in Colorado.

6 A I know the increase was significant. I don't know if 300
7 is the right number.

8 Q And the arrests, it says, in the next -- had moved up to
9 nine per day?

10 A It's more than nine per day on average since January 20th.
11 That sounds accurate, yes.

12 Q Let's go to page five of the exhibit. If you go down, it
13 says, a majority of those arrested in Colorado had not been
14 convicted of a crime, according to the data. About 40 percent
15 were listed as having a prior criminal conviction, and
16 30 percent had charges pending. The remaining 30 percent were
17 listed only as other immigration violator, that same category
18 that we saw on the spreadsheet. You have no reason to dispute
19 those numbers, sir?

20 A No. They kind of match what you were showing earlier, that
21 70 percent had either a conviction or pending criminal charges,
22 and the remaining -- I didn't write down the numbers, but there
23 was a significant percentage that were listed as only -- as
24 other immigration violators.

25 Q But the difference here is this is just Colorado, sir;

1 right?

2 A Yes.

3 Q So, you don't dispute those numbers for Colorado?

4 A I don't know. I don't know the numbers. I don't have -- I
5 don't dispute them, but I don't know the exact numbers either.

6 Q And one final topic, I want to talk about plans for the
7 future, if we could. You're familiar with the Big Beautiful
8 Bill?

9 A Yes. I see it on --

10 Q I'm sorry. You're familiar with the Big Beautiful Bill?

11 A Yes. The -- I haven't read it, but I remember the news
12 report of it being signed over the summer, and having
13 significant funding for ICE in the bill.

14 Q It was actually signed on July 4th, 2025?

15 A Oh. There we go. Yeah. Yup.

16 Q And do you recall that there was a substantial amount of
17 additional funding in that bill for ICE, not only in terms of
18 hiring new ICE officers, which would include Colorado, but also
19 new detention facilities, which again, would also include
20 Colorado?

21 A Yes. I remember the reports of additional funding for ICE
22 and funding for vehicles, officers, detention centers, and new
23 offices.

24 Q And do you recall -- let me put this up real quick.

25 Exhibit 50. Plaintiffs' Exhibit 50, which I think is again in

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1 the list of exhibits already admitted. Do you see that this is
2 an article, DHS ready for funding surge after Big Beautiful Bill
3 passage?

4 A I see the article, yes.

5 Q And here it describes some of the funding. The Big
6 Beautiful Bill includes 50 billion to build a wall, 45 billion
7 to build new immigration detention centers. Do you see that?

8 A Yes. I see that.

9 Q And then if you go down for ICE, it says on the hiring
10 front, it includes \$8 billion to hire 10,000 new officers at
11 Immigration and Customs Enforcement through 2029, including
12 \$858 million in retention and signing bonuses, and 600 million
13 for marketing and onboard programs. Do those numbers sound
14 right to you?

15 A Yes. I've seen this reporting before, yes.

16 Q And that's going to be -- that's going to mean a lot more
17 ICE officers in the field; right?

18 A For Denver, yes. It's going to mean more ICE officers for
19 the ERO Denver field office.

20 Q Throughout Colorado and throughout the nation?

21 A Yes. That's my understanding, throughout the nation, yes.

22 Q And so the numbers we saw in Plaintiffs' Exhibit 64, that
23 spreadsheet, are only going to increase as more officers are out
24 in the field?

25 A Remind me, those are the arrest numbers you're referring

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1 to?

2 Q Correct.

3 A Yeah. My expectation would be if you add additional ICE
4 officers to field offices, you're going to see an increase in
5 arrests nationwide, yes.

6 Q That would be all three categories, prior conviction,
7 pending criminal charges, and other immigration violators?

8 A I don't know that for a fact. I mean, I can speak for
9 Denver with additional resources, we're going to continue
10 targeting the worst of the worst, going after public safety risk
11 with additional officers. At least for here in Denver, I see
12 those numbers increasing for our public safety risk.

13 Q And is it true that ICE in Denver has used some of that
14 marketing budget that's referred to in Plaintiffs' Exhibit 50 to
15 actually run television ads to entice Denver Police Department
16 officers to quit their current jobs and join ICE?

17 A So, I can't speak for ICE headquarters, but what I can say
18 is I've seen those commercials myself during the football games.
19 So, yeah. I know there are marketing programs being -- showing
20 how to apply to get an ICE deportation officer job.

21 Q And it's not just that, sir. The ads you've seen are to
22 entice Denver police officers to quit their current jobs and
23 join ICE?

24 A Oh, I don't think I've seen that ad.

25 Q You do know, though, that ICE is offering not only

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1 retention bonuses, but loan forgiveness and other benefits to
2 individuals who join ICE, and I think the signing bonus is up to
3 \$50,000; right?

4 A That sounds right, yes.

5 Q And do you have a sense of how many individuals have been
6 hired thus far as a part of this program?

7 A I can't speak for nationwide, but I can tell you for my
8 field office, I probably have hired 65 new deportation officers.

9 Q How many deportation officers did you have before that?

10 A I had 80 -- I don't know the exact number, but ballpark is
11 about 85 law enforcement officers on board.

12 Q So, nearly double?

13 A Almost. Almost. Sixty-five, it's a good chunk of
14 additional that I'm getting.

15 Q And not only has there been money allocated for additional
16 ICE officers to be hired in Colorado, but there has been money
17 allocated for additional detention space; right?

18 A That's my understanding, is that there is money -- the Big
19 Beautiful Bill had money for detention operations nationwide, to
20 include Colorado, yes.

21 Q And it's in fact the case that there are plans now for at
22 least two to maybe three new detention centers in Colorado?

23 A That would -- that's a headquarters contracting team
24 question. I don't know the answer to that. I know that -- and
25 I think I said this publicly, I would welcome additional

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1 detention beds, because we're making a lot of arrests, and
2 currently I have to send those people that I arrest out of state
3 for detention, because I'm frequently at capacity at the Aurora
4 Detention Center.

5 Q How many beds are at the Aurora Detention Center?

6 A I think -- I don't know the exact number, but ballpark is
7 about 1,300. I'm sorry. No. We just added another 170. So,
8 it's closer to 1,500, now.

9 Q So, we think based on the numbers we saw earlier that about
10 30 percent of those occupied beds are individuals who fall into
11 the other immigration violator category?

12 A Yes.

13 Q Like our plaintiffs here?

14 A I don't know. I don't know what category they would fall
15 in. I don't know the -- the fact history on that case.

16 Q Do you have a sense of how many beds ICE plans to add in
17 Colorado to the Aurora Detention Facility that has, I think you
18 said roughly 1,500 beds?

19 A So, we added -- recently we added 170 beds to the Aurora
20 Detention Center, to bring our total to 1,500 beds.

21 Q I want to show you Plaintiffs' Exhibit 48, which is
22 another that has been admitted. And do you see that that is a
23 Colorado Newsline report dated August 15th, 2025, so after the
24 Big Beautiful Bill was passed, titled three new detention
25 centers purportedly planned in Colorado?

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1 A I see that, yes.

2 Q Is that ringing a bell that there are three new detention
3 centers planned?

4 A I don't know the exact number, but it rings the bell that
5 headquarters are -- our ICE headquarters component put out a
6 request for proposals, RFPs to private industry to get
7 information about vendors in the area that were potentially able
8 to either refurbish or build detention locations. But the
9 Denver field office, myself, we don't have any input into where
10 those are or the contracting of those facilities or the RFP
11 itself.

12 Q And there's only one detention center now in Colorado?

13 A Correct. We only have the Aurora ICE processing center
14 that you have pictured there in that article.

15 Q I want to just look here. I will zoom a little bit. So,
16 it says, an internal U.S. Immigrations and Customs Enforcement
17 planning document, which was obtained by the Post, this is the
18 second paragraph, and last updated on July 30th, includes
19 proposed detention sites in Walsenburg, Hudson, and Ignacio.
20 Are those places in Colorado?

21 A I know Walsenburg and Hudson are. I'm not sure where
22 Ignacio is at.

23 Q The three new facilities would expand Colorado's footprint
24 by a total of 2,560 additional beds; right?

25 A That's what it says, yes.

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1 Q So, not quite three times what you currently have? You'd
2 have a total of over 4,000 beds if this were true?

3 A 1,500 plus 25, yes. That sounds like 4,000. It's more
4 than 4,000, yes.

5 Q And if you add 4,000 beds, and you have all those
6 additional officers out there arresting, and they can fill up
7 those beds in Colorado, can you assume just that 30 percent
8 number of other immigration violators, that would be over --
9 that would be over a thousand people in Colorado detained as
10 other immigration violators?

11 A I will trust your math on that one. Sounds accurate.

12 MR. GRIMSLEY: No further questions, Your Honor.

13 THE COURT: Before we have cross examination, let's
14 take ten minutes and reconvene at three after 5:00. Five after
15 3:00.

16 (Recess at 2:57 p.m., until 3:09 p.m.)

17 THE COURT: Cross examination?

18 MR. LENEIS: Actually, it would be redirect, Your
19 Honor, but we have none. And so Mr. Guadian can be excused, I
20 think he's moving to Washington, D.C., this weekend, we would
21 propose that for any questions the plaintiffs have about any
22 Durango situation, we prepare our witness who is going to be
23 coming in tomorrow, Gregory Davies. He's the assistant field
24 office director, and he can answer those questions we think just
25 as well as Mr. Guadian could.

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1 THE COURT: All right, then. Sir, you are excused.
2 Good luck in Washington.

3 THE WITNESS: Thank you, sir, Your Honor.

4 THE COURT: Next?

5 MR. KAWANABE: Your Honor, I didn't realize there
6 would be no questions, and I told my client to come at 3:30. I
7 apologize.

8 THE COURT: I can't hear you.

9 MR. KAWANABE: I apologize. I didn't realize there
10 would be no questions, and I told my client to arrive right at
11 3:30. I apologize. I'm going to text him right now.

12 THE COURT: Do you have somebody else you can call in
13 the meantime?

14 MR. KAWANABE: We do not, Your Honor. We thought this
15 would go until 3:55, and the last witness would be the fourth
16 plaintiff of the day. I know. It's totally my fault. Let me
17 see if I can get him right now.

18 THE COURT: Well, what kind of punishment do you think
19 I could levy on you?

20 MR. KAWANABE: Can I get back to you on that one, Your
21 Honor? I'm just sending a text.

22 THE COURT: All right. See what you can do.

23 (Pause in the proceedings.)

24 MR. KAWANABE: Your Honor, I just talked to Mr. GRR,
25 and he is ten minutes away walking right now. I apologize. May

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1 we take a ten-minute -- may we take a ten-minute break, Your
2 Honor?

3 THE COURT: All right. Let us know when you're ready.

4 MR. KAWANABE: Thank you, Your Honor. My apologies.

5 (Recess at 3:12 p.m., until 3:30 p.m.)

6 THE COURT: Okay. You got your witness?

7 MR. KAWANABE: I do, Your Honor. My apologies again,
8 sincerely. Mr. GRR, could you please come to the stand.

9 (The Witness is Sworn)

10 THE COURT: All right. Have a seat. Thank you, sir.

11 THE INTERPRETER: The interpreter is going to adjust
12 the equipment. The interpreter is ready now.

13 **DIRECT EXAMINATION**

14 BY MR. KAWANABE

15 Q Good afternoon, Mr. GRR.

16 A Good afternoon.

17 Q Mr. GRR, we are allowed to proceed under a pseudonym, so
18 I'm using your initials.

19 A Okay.

20 Q When I ask you questions, I just ask that you not use names
21 or specific -- excuse me -- not use specific names or addresses.
22 Okay?

23 A Okay.

24 MR. LENEIS: Your Honor, I object to the instruction,
25 which seems to be for the witness not to provide all the

1 information that the witness may have that's responsive to a
2 question.

3 THE COURT: I agree.

4 MR. KAWANABE: I can clarify.

5 THE COURT: Just ask him questions, and if we get to
6 something that's sensitive and troublesome, tell me.

7 MR. KAWANABE: Understood.

8 Q. (By Mr. Kawanabe) Mr. GRR, how old are you?

9 A Thirty-two.

10 Q And what city do you live in?

11 A Colorado Springs.

12 Q Where did you grow up?

13 A In Monterrey, Mexico.

14 Q How long have you lived in Colorado Springs?

15 A I've been living here for ten years.

16 Q And what do you do for work?

17 A I work in construction. I have a remodeling company.

18 Q And do you have a family?

19 A Yes. I have a son, who is going to turn ten, and my
20 fiancé.

21 Q And who do you live with?

22 A With my fiancé and my son.

23 Q And who raises your son?

24 A Both of us raise him together.

25 Q And tell me about your community or church.

1 A We live in a happy community. It's a small community, but
2 we go to church on Sundays. It's a small church, but we are
3 very united.

4 Q And, Mr. GRR, let me go back to your work. Would you tell
5 us a little bit more about what your job entails.

6 A Yes. I do kitchen remodels, bathroom remodeling. I paint.
7 I do any sort of thing that you would need done in a house.

8 Q Thank you, Mr. GRR. Are you affiliated with any gangs?

9 A No. I never have.

10 Q Do you deal any types of illicit or illegal drugs?

11 A No.

12 Q Mr. GRR, I'd like to move topics to the evening of
13 April 27th, 2025.

14 A Okay.

15 Q Let's talk about that evening. What did you do?

16 A I was going to pick up a friend at the nightclub there in
17 Colorado Springs, and he called me around 3:00 in the morning
18 asking me to go and pick him up, because he was drunk. And so I
19 went in looking for him, and I was looking around, but I
20 couldn't find him. And then that's when all of the police
21 officers started to go in there.

22 Q Let me pause for a second. So, it was 3:00 a.m., and
23 you -- I'm sorry. What -- approximately what time did you enter
24 the club?

25 A It was between 3:00 and 3:20 in the morning.

1 Q And approximately how long were you in the club before
2 police actions started?

3 A I wasn't there more than ten minutes.

4 Q And after ten minutes, what happened?

5 A Well, I heard some windows breaking and some boom sounds,
6 and then gas started to come out. And so that's when everyone
7 in there got scared and started to go out.

8 Q And do you know whether doors were locked?

9 A I was just there by the front door, so that's the door that
10 I went out of. But there were some doors in the back, and the
11 people weren't able to get out of those doors.

12 Q So, all of the people in the club, were they forced out of
13 one set of doors?

14 A Yes. For the -- through the front door.

15 Q You had said that windows were breaking, so did you hear
16 glass shatter?

17 A Yes. I did hear that.

18 Q And can you describe the sounds of any bombs or flash-bangs
19 going off?

20 A Yes. I could hear some banging sounds. At first I thought
21 they were gunshots, but then smoke started coming out, and so
22 that's when everybody got scared.

23 Q So, the banging you initially heard, you thought they were
24 as loud as gunshots?

25 A Yes. That's correct.

1 Q And the smoke that filled the room, did it make it
2 difficult to breathe?

3 A Yes. It was difficult to breathe, but I was able to get
4 out quickly.

5 Q I see. So, let's move to that. What happened when you
6 exited the front doors of the club?

7 A There were a lot of police officers with long guns, and
8 they started pointing them at people.

9 Q Was anybody screaming?

10 A Yes. We were all scared. No one knew what was going on.

11 Q So, were some of the other patrons at the nightclub
12 screaming?

13 A Yes.

14 Q Were the officers with their long guns yelling?

15 A Yes. They were yelling.

16 Q And so you exit the nightclub doors, and you see an officer
17 with a long gun. Is that what you testified?

18 A It wasn't just one officer. There were many officers.

19 Q And so what did you do?

20 A I was very afraid, and I hid underneath a car.

21 Q Why were you afraid, or what were you afraid of?

22 A I didn't know what was happening, and I was afraid that
23 they were going to shoot us. I was terrified.

24 Q So, you were under a car. What happened next?

25 A So, I was under the car for 10 or 15 minutes, and then an

1 officer saw me and told me to get out of there. And so I got
2 out of there, and I was on my knees standing up when he pushed
3 me to the ground.

4 Q This first officer, do you know who this officer was with?

5 A I don't.

6 Q And you said he pushed you to the ground?

7 A Yes. When I was standing up, he pushed me to the ground,
8 and I injured my hand here. I cut my hand.

9 Q So, the officer told you to get out from under the car to
10 stand up, and then he pushed you to the ground?

11 A Yes. That's correct.

12 Q And the cut on your hand, were you bleeding?

13 A Yes. I was bleeding.

14 Q How bad was the blood?

15 A I stained my clothes. I stained my clothes with blood.

16 Q Did the blood also stain your shoes?

17 A Yes.

18 Q So, you were bleeding. How would you describe how badly
19 you were bleeding from the cut in your hand?

20 A It was a deep cut, and I was bleeding a lot.

21 Q Can you still see the cut on your hand?

22 A You can see a small scar.

23 Q Okay. We will come back to your hand shortly, but what
24 happened next after he shoved you to the ground?

25 THE INTERPRETER: The interpreter is going to clarify

1 a term before interpreting.

2 THE WITNESS: So, the officer zip tied my hands behind
3 my back. And then another officer came, and they patted me
4 down, and they took my wallet and my phone, and then they
5 transferred me to another office to be seen.

6 Q. (By Mr. Kawanabe) They took your wallet. What was in
7 your wallet?

8 A I had my license, the driving permit that they give you
9 before you get your license. I had my bank cards, and I had my
10 Mexican consular ID.

11 Q I see. And they also took your cell phone; is that
12 correct?

13 A That's correct.

14 Q Did they eventually return your cell phone?

15 A Not at that time. My fiancé went to pick it up at the
16 detention center.

17 Q And what about the things in your wallet? Did they return
18 everything from your wallet?

19 A They only returned my bank cards. They kept all of my IDs.

20 Q They kept all of your IDs?

21 A Yes. I had to get another license.

22 Q Mr. GRR, let's go back. So, they took your wallet and cell
23 phone. What happened next?

24 A So, when we were at the fire station and I was being
25 checked out by the paramedics, the paramedic asked the officer

1 if I might need stitches, and the paramedic said that I probably
2 did need stitches, but the officer responded, it's fine. He
3 doesn't need stitches. So, then they just put a bandage on my
4 hand.

5 And then they took us to a line where there were a lot
6 of people waiting, and they handcuffed my wrists here by my
7 hands. And then they also put chains around my waist, and then
8 they chained my wrists to my waist, and then they also put ankle
9 chains on me.

10 Q I need to clarify some of the interpretation just so that I
11 get the right understanding. So, when you said that the officer
12 took you to the paramedic, did the officer ask the paramedic
13 whether you needed stitches?

14 A So, the officer asked the paramedic if I needed stitches.
15 The paramedic responded, possibly. And then the officer
16 responded, well, don't worry about it. Just use a Band-Aid.

17 Q And so then you were taken into a line of people. How
18 many -- approximately how many people, if you recall, were in
19 this line?

20 A There were around 60 of us.

21 Q What happened next?

22 A They loaded us onto the bus, and we were there parked
23 waiting for a while. And then they took us here to Aurora to
24 the detention center.

25 Q And that was approximately 60 people?

- 1 A Yes.
- 2 Q Male or female?
- 3 A There were only men on the bus.
- 4 Q All Hispanic?
- 5 A Yes. Everyone.
- 6 Q And did you see other buses besides the bus you were taken
- 7 on?
- 8 A No. I wasn't able to see if there were other buses,
- 9 because you can't see out very well.
- 10 Q At the nightclub when you were there for ten minutes, were
- 11 there women in addition to men?
- 12 A Yes. There were women there.
- 13 Q Okay. We're going to take a pause and talk about anything
- 14 that you were asked before you were loaded on the bus.
- 15 A Okay.
- 16 Q What questions did any officer ask you from the time of the
- 17 nightclub until you were loaded on the bus?
- 18 A No one asked me anything.
- 19 Q Did they ask you your name?
- 20 A No.
- 21 Q Did they ask you about your family?
- 22 A No.
- 23 Q Did they ask you about your community?
- 24 A No.
- 25 Q Did they ask you about your job?

1 A No.

2 Q How long you've lived in Colorado Springs area?

3 A No.

4 Q Church?

5 A No.

6 Q Did they ask you about whether or not you owned a gun?

7 A No.

8 Q Did they ask you about whether or not you sold or bought

9 illegal drugs?

10 A No.

11 Q Did they ask you anything at all?

12 A No.

13 Q So, you're loaded on a bus, and you were still wearing

14 chains?

15 A Yes.

16 Q How did those chains feel?

17 A Well, they were very tight here, and then any time you

18 would move, it would hurt because they were really tightly tied

19 to your waist. And also, the ones on my feet were also very

20 tight, and they hurt a lot.

21 Q And where did they take you?

22 A To the detention center in Aurora.

23 Q What happened at the detention center?

24 A We got there, and they put all of us that were on the bus

25 into a room.

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1 THE INTERPRETER: The interpreter is going to clarify
2 a term.

3 THE WITNESS: So, one by one, we were taken into a
4 room where you get registered and put into the system, and then
5 moved to a different room. And so then after you go through
6 that area where they register you, they had us in another small
7 room. And then later on in the afternoon, they moved us into
8 the big area where everyone else was.

9 Q. (By Mr. Kawanabe) Up to this point, had you been able to
10 inform your family?

11 A No.

12 Q Have any officers shown you or talked about a warrant?

13 A No.

14 Q So, please go on and tell us what happened next at the
15 detention center.

16 A Well, one by one, we would go, and that's when an officer
17 would ask us questions about our information. You know, what's
18 our name, where are we from, things like that.

19 Q And that was at the detention center?

20 A Yes.

21 Q What happened next?

22 A So, after they asked all of us all those questions, that's
23 when they then put us into the area where everyone else was who
24 had been there from before.

25 Q How long were you in detention?

1 A I was detained for almost two months, for 50 days.

2 Q And briefly, would you describe your life in detention.

3 A It's very difficult. It's difficult, because you're
4 accustomed to living your life fine, and in there, it's very
5 difficult, because the things they give you for your basic needs
6 aren't adequate.

7 Q What do you mean?

8 A Well, to start off, the privacy for when you're bathing or
9 going to the bathroom, there isn't any. All the bathrooms are
10 right there, close by, and we're all in there together, and
11 everyone is bathing together. The food is very bad. The
12 medical attention takes a long time.

13 Q And what do you mean by the food is very bad?

14 MR. LENEIS: Your Honor, objection on relevance.

15 THE COURT: Sustained.

16 MR. KAWANABE: I'll move on.

17 Q. (By Mr. Kawanabe) Did you lose weight in detention?

18 A I lost 20 pounds.

19 Q And, Mr. GRR, ultimately did the judge grant a bond in your
20 case?

21 A Yes. They gave me a bond.

22 Q But do you have to wear an ankle monitor?

23 A Yes.

24 Q And, Mr. GRR, if you had had a few days between the
25 nightclub encounter and being arrested, what would you have

1 done?

2 A I would keep working to get the money to talk to an
3 attorney, and I would really talk seriously with my family. And
4 then I would also continue to spend time with my family, with my
5 son and my fiancé.

6 Q Mr. GRR, when were you actually able to inform your family
7 that you had been arrested?

8 A We were arrested Sunday early in the morning, and then I
9 was able to speak to them Monday afternoon.

10 Q Let me move topics and ask you how has this warrantless
11 arrest affected you?

12 A It's affected me a great deal. I am afraid, and I'm afraid
13 that I could be arrested again. My son is also very afraid, and
14 my fiancé is afraid. You know, they know where I am at all
15 times, and I'm afraid that at any minute, they could come and
16 arrest me again.

17 Q Mr. GRR, how often do you have to check in with your ankle
18 monitor?

19 A I went one week after I was released, and then I have
20 another appointment on December 17th.

21 Q And have you made your appointments, and do you intend to
22 continue to make your appointments?

23 A Yes.

24 Q You also have a current immigration case; correct?

25 A Correct.

1 Q And you are continuing to fight to stay in this country;
2 correct?

3 A Yes.

4 MR. KAWANABE: I would like to show the witness
5 Exhibit P20, which is a redacted version of his driver's
6 license. Move for admission, Your Honor, P20.

7 MR. LENEIS: No objection.

8 THE COURT: 20 is admitted.

9 MR. KAWANABE: Ms. Smotts, may we show 20 on the
10 screen?

11 Q. (By Mr. Kawanabe) I will represent to you, because we've
12 redacted the picture and the name, that this is your driver's
13 license. Does it look familiar?

14 A Yes. It's my driver's license.

15 MR. LENEIS: Your Honor, the Government will stipulate
16 that it is GRR's driver's license.

17 THE COURT: Okay.

18 MR. KAWANABE: I appreciate that. I was going to have
19 to reask a bad question, so thank you.

20 Q. (By Mr. Kawanabe) And can you read the black box on the
21 upper right portion of the screen.

22 A It says, not valid for federal identification, voting, or
23 for purposes of federal benefits.

24 MR. KAWANABE: Okay. Thank you. May we switch to the
25 Elmo, Ms. Smotts? Your Honor, I would like to actually show my

1 driver's license to the witness. I don't know if there's an
2 objection?

3 MR. LENEIS: I guess I will wait for the question,
4 Your Honor.

5 MR. KAWANABE: Okay. I'm just showing --

6 THE COURT: You look a little different now. Where
7 did all that hair go?

8 MR. KAWANABE: Move to strike.

9 MR. LENEIS: Just so that we're following the formats,
10 I suppose we should have Mr. Kawanabe's driver's license
11 admitted as an exhibit.

12 MR. KAWANABE: I will withdraw that, as I don't want
13 it as an exhibit. Let me just ask you --

14 THE COURT: You can just use it as a demonstrative
15 aid, if you want, for now.

16 MR. LENEIS: Very good.

17 Q. (By Mr. Kawanabe) Mr. GRR, does your driver's license on
18 the upper right have that star, a REAL ID star on your driver's
19 license?

20 A No, it doesn't.

21 Q Why are you worried that ICE may rearrest you today?

22 A Well, they know my location, and they know that because of
23 the ankle monitor. And I'm afraid that they could lock me up
24 again, and that my family would be without me and without my
25 support, and that my son wouldn't have me there for him.

1 Q Mr. GRR, I forgot to ask you, your fiancé, were you
2 previously married to her?

3 A Yes. That's the case.

4 Q And you intend to remarry her?

5 A That's the plan.

6 Q And how proud are you of the family that you've built?

7 A Very proud.

8 Q Mr. GRR, you want to be a class representative in this
9 lawsuit; is that correct?

10 A Yes.

11 Q Why?

12 A I don't want other people to suffer. I don't want other
13 people to have to go through what I went through without owing
14 anything. And I'm afraid that they're going to arrest me again.

15 MR. KAWANABE: Thank you, Mr. GRR. Your Honor, some
16 housekeeping. I believe we have a stipulation to move into
17 evidence the four I-213 forms for our two plaintiffs, including
18 Mr. GRR.

19 THE COURT: Numbers?

20 MR. KAWANABE: We would move into admission 15, 17,
21 and Plaintiffs' Exhibit 18. I believe 16 has already been
22 admitted.

23 THE COURT: 15, 17, 18?

24 MR. KAWANABE: Yes, Your Honor.

25 THE COURT: By stipulation?

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1 MR. LENEIS: Yes, Your Honor.

2 THE COURT: Admitted.

3 MR. KAWANABE: Thank you, Mr. GRR.

4 THE COURT: All right. Cross examination? And we
5 have a change of reporters first. Or interpreters, I mean.

6 **CROSS EXAMINATION**

7 BY MR. LENEIS

8 Q Mr. GRR, good afternoon.

9 A Good afternoon.

10 Q You came -- I apologize. You came to the United States
11 about ten years ago on a Visa; correct?

12 A Eleven years.

13 Q And then you overstayed that Visa?

14 A That's correct.

15 Q Now, in 2019, you were arrested in Colorado Springs; right?

16 A Correct.

17 Q And you were convicted of assault that could cause injury?

18 A Correct.

19 Q You were sentenced to two years deferred time; correct?

20 A Yes. I was on probation.

21 Q So, let's talk about the night of the arrest at the club in
22 Colorado Springs. It was about 3:00 a.m., and you were inside
23 of the nightclub; right?

24 A Yes. I was looking for my friend.

25 Q And then law enforcement arrived at the nightclub?

1 A That's correct.

2 Q You left the club at that point?

3 A We all did. We all left the club.

4 Q And you hid underneath of a car from law enforcement?

5 A It wasn't a police car. It was a private car.

6 Q Let me rephrase the question. You hid from the law
7 enforcement officers under a car?

8 A I hid because I was afraid they would shoot us. I didn't
9 know they were police.

10 Q Right. I think you testified a moment ago that it was law
11 enforcement that arrived at the club when you left; right?

12 A They came when I was already inside.

13 Q Right. So, in any event, after the law enforcement
14 officers arrived, you hid underneath of a car in the parking
15 lot?

16 A I hid because I didn't know what was happening, and I was
17 afraid.

18 Q All right. But, Mr. GRR, I'm not asking you why you hid at
19 this point. I'm just asking you to confirm that you hid
20 underneath of a car in the parking lot.

21 A Correct.

22 Q And you were found there underneath the car by law
23 enforcement officers?

24 A Mm-hmm. That's correct.

25 Q The law enforcement officers looked at your wallet; right?

1 THE INTERPRETER: The interpreter asks to repeat the
2 question.

3 Q. (By Mr. Leneis) The law enforcement officers looked at
4 your wallet; right?

5 A They took away my wallet, and they put it in a bag. I
6 didn't know what they did with it afterwards.

7 Q But your ID was in your wallet at the time?

8 A Yes.

9 Q And there was an officer that you testified about who said
10 that you did not need stitches. You're not sure if that officer
11 was an ICE officer, are you?

12 A I didn't know if he was a police officer or ICE. He was
13 dressed in civil clothes, and I honestly didn't know if he was
14 ICE or not.

15 Q The ankle monitor that you have, you wear that all the
16 time?

17 A Yes.

18 Q And you testified that you are engaged to be married. Your
19 fiancé, she's a U.S. citizen?

20 A Yes.

21 Q When are you planning to get married?

22 A We're planning now to get married.

23 Q Do you know -- do you have a date in mind for your wedding?

24 A No. We don't have that yet.

25 Q Once you're married, you will be able to seek permanent

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1 residence in this country; right?

2 A That's correct.

3 Q And are you planning to seek permanent residency after you
4 get married?

5 A Yes.

6 MR. LENEIS: Those are all my questions. Thank you.

7 THE COURT: Redirect?

8 **REDIRECT EXAMINATION**

9 BY MR. KAWANABE

10 Q Mr. GRR, just a few follow-up questions. The Government
11 asked you about a assault class 3, I believe; is that correct?

12 A Correct.

13 Q And you received a two years deferred sentence; is that
14 correct?

15 A That's correct.

16 Q Which was dismissed, because you successfully completed
17 what was required on December 20th, 2021; correct?

18 A That's correct.

19 Q Go ahead.

20 A It wasn't in 2024.

21 Q No. I said 2021.

22 A Yes. 2021.

23 MR. KAWANABE: Okay. No further questions.

24 THE COURT: All right. Thank you, sir. You're
25 excused, free to go, or welcome to stay and watch if you want

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1 to.

2 THE WITNESS: Thank you very much.

3 THE COURT: Now, do you have another witness?

4 MR. KAWANABE: May I just check, Your Honor? Yes.
5 We're ready. Mr. Meyer will take over.

6 MR. MEYER: Thank you, Your Honor. Could we call
7 Arturo Vazquez? If I may, he's out in the hallway.

8 THE COURT: Yes. Hello, Mr. Vazquez.

9 THE WITNESS: Good afternoon.

10 (The Witness is Sworn)

11 THE COURT: Thank you, have a seat.

12 **DIRECT EXAMINATION**

13 BY MR. MEYER

14 Q Mr. Vazquez, can you spell your name for the court
15 reporter, please.

16 A Yes. It's A-R-T-U-R-O, and then my last name is
17 V-A-Z-Q-U-E-Z.

18 Q And what do you do for a living?

19 A I'm an immigration attorney.

20 Q And how long have you practiced as an immigration attorney?

21 A Seven years as a licensed attorney, and then three years as
22 a student teaching attorney.

23 Q And you mentioned previously that you're an immigration
24 attorney. Is that your specialization?

25 A Yes. Correct.

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1 Q And within the specialization of immigration law, what type
2 of immigration law practice do you focus on now?

3 A So, I do everything, but in my law firm, the main area that
4 I handle is detained docket. So, it's specifically bond
5 hearings, and just the detained.

6 Q And do you regularly consult with and represent people at
7 the Aurora GEO Detention Center?

8 A Yes. Most of our work -- or my work is local. We do have
9 some out of state, but we only focus on cases here in Colorado.

10 Q And can you estimate maybe, I don't know, how many people a
11 week you consult with at the detention center?

12 A I mean, anywhere between three to five per week.

13 Q And you mentioned this previously, but what kind of
14 specific representation do you provide to people who are in
15 immigration detention?

16 A So, it's -- the main thing is bond hearings, so trying to
17 get people out of the detention center.

18 Q And as part of that consultation practice, what's the
19 general types of information that you try to get from clients to
20 be able to advise them accurately?

21 A So, it's things like their entries, their exits from the
22 country, family relationships, ties to their country. Also, how
23 they ended up in custody. What else? I don't know if I
24 mentioned already the criminal record.

25 Q As part of that, do you ask -- do you talk with people

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1 about how they come into ICE custody and whether or not they're
2 arrested pursuant to a warrant?

3 A Yes. That's -- I mean, that's common. That's a must. We
4 need to know why or how they ended up there.

5 Q I want to talk a little bit about -- and how many years
6 have you been doing consultations at GEO?

7 A Seven years.

8 Q Historically, have you -- has there been a trend or sort of
9 a general flow for the majority of types of cases that you see
10 come in for consultations at GEO?

11 A Yes.

12 Q And what is that trend, or what has that historical trend
13 been?

14 A So, they -- the individuals that end up at GEO have some
15 kind of interaction with ICE, which is typically because they
16 either committed some kind of crime, and then there was a
17 warrant served on them by ICE, so they get detained or picked up
18 either at the jail, so the -- I don't know, the local jail
19 that -- where they -- that they were originally detained, or
20 because of the crime that they committed, then they were
21 informed this person committed a crime, and now ICE is aware of
22 them. So, then they go pick them up, and then they get moved to
23 the detention center. And they have a warrant, and then this
24 warrant states why they were detained, how ICE knew about their
25 legal status, what crimes -- or how it is that they're

1 inadmissible or deportable.

2 Q So, would it be fair to say that historically the trend has
3 been that ICE would investigate somebody, and would have an
4 administrative warrant when they arrested them?

5 A Yes. And they knew who this individual were or is; right?
6 So, they had knowledge of them.

7 Q And that would come oftentimes through the criminal legal
8 system?

9 A The majority of the time, yes.

10 Q So, ICE knows how to execute an administrative warrant if
11 it wants to?

12 A Yes.

13 Q Have you noticed any changes in trends over, I don't know,
14 the last couple of months?

15 A Yes, I have.

16 Q Tell me a little bit about what the changes are that you've
17 noted.

18 A So, it has to do with the way that ICE started -- or
19 individuals started having contact with ICE. And so the trend I
20 noticed was it had to do with what I call pretextual stops. So,
21 ICE would pull individuals over, and once they would pull them
22 over, then they would ask them for their driver's license or
23 identification, and based on that identification, then
24 individuals would then be taken to the detention center.

25 Q And that is a -- would you say that for you is a newer

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1 trend that you've seen in your consultations?

2 A Yes. That's something that I had never seen before, that
3 ICE would pull someone over without knowing who the individual
4 was.

5 Q And about when did you notice this change?

6 A I started noticing a statewide --

7 MR. BROWN: Objection, Your Honor. The questioning is
8 calling for hearsay, and is -- the answers, the knowledge is
9 purely coming from these clients. And so it's rampant hearsay
10 which goes to the key issue here. I know they filed a brief on
11 this, and we haven't had a chance to respond yet.

12 THE COURT: Well, the brief indicates and cites cases
13 that in a preliminary injunction hearing, the ordinary rules of
14 evidence don't apply, and the Court has to be trusted to
15 determine the weight to be given to things. So, the objection
16 is overruled.

17 THE WITNESS: And, I'm sorry. Can you repeat the
18 question again?

19 Q. (By Mr. Meyer) I myself have sort of forgot it, but let's
20 just go from -- let's pick up -- pick-up basketball here. When
21 did you notice this change in trends?

22 A It was around June, like early June.

23 Q Of this year?

24 A Yes. Correct.

25 Q Has that trend in your consultation practice continued

1 through today's date?

2 A Yes, it has.

3 Q And you describe -- can you redescribe again the sort of
4 fact pattern or the general trend that you see in these types of
5 sort of, quote/unquote, traffic stops by ICE?

6 A Yeah. So, ICE pulls an individual over. They ask them for
7 identification. And then the individuals show them their
8 driver's license, and based off the driver's license, then ICE
9 finds out that -- their legal status or finds out that they
10 don't -- they're not legal permanent residents or U.S. citizens
11 and pulls them out of their car and takes them to the detention
12 center.

13 Q So, did you write an affidavit in this case under the
14 penalty of perjury?

15 A I did.

16 Q And during the timeframe of that affidavit, which would, I
17 believe be from June to September, about how many consultations
18 did you do that had a fairly similar fact pattern?

19 A Maybe about five or six more.

20 Q But during the time of June to the end of September?

21 A Oh, from June to December?

22 Q To September.

23 A To September? Fifteen.

24 Q And then since you've executed that affidavit, have you
25 seen that practice continue?

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1 A Yes.

2 Q And about how many other consultations have you had that
3 similar fact pattern?

4 A Like five or six.

5 Q And that's just been the month of October itself?

6 A Yes.

7 Q Okay. Let me sort of drill down a little bit into the
8 details here of the fact pattern that you generally tend to see.
9 You said that -- where is this usually happening in the
10 consultations that you're doing?

11 A In the consultations that I've seen, it's been mainly in
12 Aurora, around like I-225, between, I don't know, like -- like
13 Mississippi and like Colfax.

14 Q And so what's the sort of basis for the stop that you
15 discover?

16 MR. BROWN: Objection. Foundation.

17 THE COURT: All right. Sustained.

18 Q. (By Mr. Meyer) In these consultations, are people
19 explaining to you the basis for how they get pulled over by ICE?

20 A Yes, they are.

21 MR. BROWN: Objection. Again, foundation and hearsay.
22 It's calling for -- it's what they think, but it's hearsay, and
23 they don't have foundation.

24 THE COURT: Okay. Overruled.

25 THE WITNESS: Yes. They do explain why they are

1 getting detained or pulled over.

2 Q. (By Mr. Meyer) And what's the -- what's the justification
3 that they're provided by these ICE officers?

4 A So, there's a general pattern, it's usually something like
5 their windows were tinted or they were speeding, and then --
6 those are mainly the two main things that they mention.

7 Q And how are these officers generally dressed?

8 A So, they say that they have -- so, first of all, their cars
9 have like lights, and so all these individuals say they think
10 they're police officers, because they have lights, so they pull
11 over. And then they say they have like a bulletproof vest that
12 says Police across, so then they stop, get off, walk up to their
13 cars, and then ask -- that's when they ask for some sort of
14 identification.

15 Q Now, are they dressed in formal, like officer gear, or are
16 they dressed in plainclothes?

17 A Plainclothes, except for the vest that says Police.

18 Q And are they armed?

19 A Yes.

20 Q Okay. So, what's -- so, explain to me what it is that the
21 ICE officers usually demand or ask for from the driver.

22 A So, they say it's either identification or driver's
23 license.

24 Q And in those situations with the people you consulted with,
25 what were people providing to establish their identity?

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1 A All of them provided a driver's license.

2 Q So, all 15 people, at the time you executed your affidavit,
3 identified themselves by way of a driver's license?

4 A Correct.

5 Q And was that a Colorado driver's license?

6 A Correct.

7 Q What type of Colorado driver's license was that?

8 A SB251 driver's license.

9 Q Pause real quick, because you used a term that I think you
10 and I are familiar with, but others may not be, which is what is
11 an SB251 driver's license?

12 A It's a driver's license that's given here in Colorado to a
13 group of individuals that may not be legal permanent residents
14 or U.S. citizens. And so the purpose of -- and please feel free
15 to stop me. The purpose of the driver's license was to make the
16 communities feel -- or to be safer; right? To make sure that
17 everyone would be able to get a driver's license independently
18 of their legal status.

19 Q And when -- in the consultations you've done, upon
20 presenting that identification, what's usually the next thing
21 that happens?

22 A They get asked to get out of their vehicle.

23 Q What happens after that?

24 A Then they get handcuffed and taken into -- it's either like
25 a van or a big SUV.

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1 Q Well, that's an interesting point. So, you said they get
2 handcuffed. So, they get arrested by ICE?

3 A Correct.

4 Q And are they put in an SUV on the side of the road?

5 A Yes.

6 Q Okay. Are they taken somewhere? Are they taken directly
7 to Centennial or GEO, or are they taken somewhere else?

8 A So, all of these cases, they said they get taken first to a
9 parking lot, and then they -- they are held there while -- and
10 transferred -- held there while they go and get more people and
11 fill up the van or the SUV.

12 Q So, people who are arrested are then taken to a van, a
13 staging area?

14 A Yes. Correct.

15 Q And they're kept there while ICE agents go out and arrest
16 other people?

17 A Correct.

18 Q Okay. And some of the people that you did consultations
19 with, when they were in that van, did they discuss how other
20 people came into custody in that van?

21 A Yes.

22 Q And how did they -- those other people come into custody in
23 that van?

24 A Similar, just getting pulled over while they were driving.

25 Q In doing these consultations with people, did you ask or

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1 try to obtain any information about whether ICE did a flight
2 risk assessment for anybody before they took them into custody?

3 A Yes. That's something that I always do.

4 Q Is that a common practice you have when you do
5 consultations with clients?

6 A Yes.

7 Q And how many of those 15 people during the timeframe of
8 your affidavit explained that ICE asked them questions about
9 their ties to the community before handcuffing them?

10 A None of them were asked anything.

11 Q About their family members in the country before
12 handcuffing them?

13 A No. They weren't asked about their family members.

14 Q About prior criminal history before handcuffing them?

15 A They weren't asked about that either.

16 Q About compliance with court orders before handcuffing them?

17 A They weren't asked.

18 Q Any questions around flight risk before ICE arrested them?

19 A No. None of those were asked.

20 Q Did that present a disturbing trend to you?

21 A Yes. One of the reasons why -- I mean, I was keeping track
22 of this, because it was very disturbing.

23 Q And just to kind of clarify here, had you seen this
24 practice really happen to this level before June of 2025?

25 A No, I had not.

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1 Q And when you did consultations with these folks at the GEO
2 detention center, the 15 people that I'm talking about and the
3 additional five to six in the last month, have you once seen a
4 warrant of arrest or indication that the warrant was issued
5 before the arrest?

6 A No, I have not.

7 Q Does that seem unusual to you?

8 A I mean, that's not common. Before this, we would always
9 have documents of what was going on. We would always have a
10 warrant. Many times we'd have the I-213 so we would know
11 whether they were inadmissible or they were deportable. We knew
12 what was going on. And with these cases, we have nothing.

13 Q How did you come as an attorney with ten years of
14 experience to suspect that immigration was conducting these
15 warrantless arrests during those consultations?

16 A So, first of all, the very first thing was clients telling
17 me; right? This is what happened. Them saying, I was just
18 pulled over as I was driving. So, that was the very first red
19 flag. Then the second thing is when I would go visit the
20 clients, and they would come to me, and they had no paperwork
21 whatsoever. That was the second thing, because it was probably
22 the first time in my experience that clients didn't have any
23 paperwork.

24 And then the third thing was putting those things
25 together, and the trend that, historically speaking, ICE always

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1 had a reason to know who the people were. Like, ICE was always
2 looking for people; right? And they knew, okay, we're looking
3 for Arturo, and they knew who Arturo was. These people, they
4 had no idea who they were. That was like the third red flag,
5 and saying, okay, they don't have a warrant. It's warrantless
6 arrests.

7 Q And did some of these arrests also involve people who were
8 passengers in the car?

9 A In my consultations, I think there was like maybe three,
10 three cases that that was the case.

11 Q And did the pattern of contact and arrest, was that similar
12 to what was done with drivers?

13 A Yes. Because they also had -- they were also asked for
14 identification and provided the same identification.

15 Q Okay. The people you consulted with, how many of them had
16 criminal convictions previously that might have like alerted
17 immigration to do that investigation and have a warrant?

18 MR. BROWN: Objection. Foundation.

19 THE COURT: Overruled.

20 THE WITNESS: None of them did.

21 Q. (By Mr. Meyer) And just to address that question in more
22 detail, how would you know whether or not somebody had a prior
23 criminal conviction? Would they bring you paperwork or
24 information that would help you understand that?

25 A Yes. So, they would bring me paperwork, and then they

1 would tell me. And usually before I speak to them, I also talk
2 to their family. So, it's always, okay, what's going on with
3 your family member, and they also tell me. And yes, I know,
4 people may lie, but it's rare, because what they want to see is
5 how can their family get out of the detention center. So, it's
6 rare that they lie.

7 Q And I'm assuming you tell clients how important it is that
8 they tell you the truth so you can give an accurate defense?

9 A Correct.

10 Q And if they give you money and don't disclose criminal
11 convictions, they're going to spend the money?

12 A Yes.

13 MR. BROWN: Leading.

14 THE COURT: What did you say?

15 MR. BROWN: Leading.

16 THE COURT: Sustained.

17 MR. MEYER: Question withdrawn.

18 Q. (By Mr. Meyer) Out of everybody you consulted with, did
19 you have anybody who had prior removal orders?

20 A None of them had prior removal orders.

21 Q So, there's -- so, in terms of prior immigration
22 violations, determining which are violations, the removal order
23 situation, you never saw in one of those 15 people?

24 A No.

25 Q So, there was no major immigration law violation that would

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1 flag them for immigration?

2 MR. BROWN: Leading.

3 THE COURT: Sustained.

4 Q. (By Mr. Meyer) If a person had a prior removal order,
5 would that help flag them for ICE because they had a record?

6 MR. BROWN: Foundation.

7 THE COURT: Overruled.

8 THE WITNESS: Yes. Definitely. And that's one of
9 those cases where even if they didn't have a criminal record,
10 but they had a prior removal order, then they would be on ICE's
11 radar, and then they would still have some kind of warrant, and
12 it would be understandable as to why ICE picked them up.

13 Q. (By Mr. Meyer) But in the 15 people you met with, none of
14 them had a prior removal?

15 A As I mentioned, no. None of them did.

16 Q And the five or six people you met with this month, none of
17 them?

18 A None of them had.

19 Q But they also fit the same description of this traffic
20 stop?

21 A Correct.

22 Q Okay. I want to talk about a couple of other observations
23 that you made based on your consultations with these 20 odd
24 people. Of all the people who have described a traffic stop
25 scenario to you, what was the race or ethnicity of those people?

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1 A They were all Latin, Hispanic.

2 Q Was anybody white?

3 A No.

4 Q Anybody Black?

5 A No.

6 Q All Hispanic or Latino people?

7 A Yes.

8 Q All 20?

9 A Yes.

10 Q Of those 20 people in that timeframe, and we've sort of
11 touched on this, how many of them were immediately arrested
12 after presenting this license?

13 A All of them.

14 Q And this license is the SB251 license?

15 A Correct.

16 Q Let me ask you just a couple questions about this SB251
17 license. You talked about what an SB251 license is. How can
18 you tell the difference? We sort of discussed this. How can
19 you tell the difference between an SB251 license and a normal --
20 quote/unquote, normal Colorado driver's license?

21 A So, like I mentioned earlier, it's a Colorado thing; right?
22 So, the SB251 license has a black stripe, and it says it's not
23 valid for federal purposes. It's just a Colorado thing. And
24 that's how an officer, when they look at these licenses, can
25 tell this is a SB251. That's only issued to individuals that

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1 are either legal permanent -- or that are not legal permanent
2 residents or U.S. citizens.

3 Q Let's talk about that one point for a little bit. Now, are
4 the only people eligible for SB251 licenses people who are
5 undocumented?

6 A No.

7 Q Okay. Who else is eligible for an SB251 license that might
8 not be removable?

9 A So, it's, for example, individuals that have things like
10 TPS, which is temporary protective status, or people that are
11 like under DACA, which is deferred action for childhood
12 arrivals, or individuals that are in the process of getting
13 legal status through like a family member. People that are
14 applying for asylum, anyone that has a work permit is also
15 eligible, who -- usually if you have a work permit, it's because
16 you are allowed to be in the country while your case is pending.
17 So, there's a lot of people who have some kind of lawful status
18 or have permission to be in the United States, and may
19 potentially still have one of these licenses.

20 Q So, would it be fair to say that there are some people who
21 have a SB251 that might be removable?

22 A Yes.

23 Q And there's a big population of people who have a SB251
24 license that are not removable?

25 A Correct.

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1 Q And have you had experience in your practice in the last
2 ten years of a client who got an SB251 license, and then later
3 got some sort of status?

4 A Oh, yeah. A lot.

5 Q But then just kept their SB251 license because they didn't
6 feel like renewing and paying for a different license?

7 A Yes.

8 Q Does that happen frequently?

9 A Yes.

10 Q So, like if I was undocumented and got an SB251 license,
11 and then I got temporary protected status, I might just keep my
12 SB251 license; is that fair?

13 A Yes.

14 MR. BROWN: Calls for speculation.

15 THE COURT: Overruled.

16 THE WITNESS: Yeah. That could happen, or also if you
17 don't have status, then you get status, you just don't change it
18 because your license hasn't expired.

19 Q. (By Mr. Meyer) Your license is for driving, which is what
20 it's for?

21 A Correct.

22 Q And if you got status, you got a federal document, if
23 immigration sent it to you, that shows that you have a valid
24 status?

25 A Correct.

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1 Q And in your experience, when people maybe obtain status or
2 get granted status, does it sometimes take months for the
3 federal government to actually mail a person a photo ID
4 documenting their actual status?

5 A Yes.

6 Q Does this happen frequently?

7 A It can, yes.

8 Q So, you might even have people who actually have status
9 here, but can't prove it with a photo ID, because it hasn't been
10 sent to them yet?

11 A Yes.

12 Q So, they have to continue to drive with an SB251 license?

13 A Yes.

14 Q I want to talk a little bit about this issue of flight risk
15 assessments. You're an immigration attorney. You understand
16 what ICE's duty is for assessing flight risk prior to making a
17 warrantless arrest?

18 THE COURT: I can't hear you.

19 Q. (By Mr. Meyer) As an immigration attorney, are you aware
20 of ICE's statutory obligation to assess flight risk before
21 making a warrantless arrest?

22 A Yes.

23 Q And as we've discussed before, how many people explained to
24 you that ICE did that flight risk assessment of those 20 people
25 before they arrested them on those traffic stops?

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1 A So, ICE never did the assessment on anyone.

2 Q Why do you ask clients about that information related to
3 flight risk?

4 A So, one of the main reasons is it's important for me to
5 understand what was going on at the time of their detention, and
6 to see what ICE asked them, what ICE was thinking at the time
7 that they were apprehended. Also, it's been my experience that
8 more than -- on more than one occasion, or I guess it used to be
9 that many times, for example, ICE would be like, oh, well, we
10 see that you qualified through 245(i) or we see that you came in
11 on this date, and ICE may have mistaken their facts. And based
12 on what they're saying, then I can be like, oh, now I see why
13 you were detained even though you shouldn't have been detained,
14 and they thought this happened. And that's the importance of me
15 asking them what are these questions that ICE was asking you?

16 Q At the time you did all these consultations, at the time
17 you did the consultations in your affidavit, were any of those
18 people aware that there was going to be any potential litigation
19 against ICE?

20 A No.

21 Q In those consultations, did you reiterate the importance to
22 people -- to people you were consulting with to be honest,
23 detailed, and truthful with you in those consultations?

24 A Yes.

25 Q As an officer of the court, do you take your obligations

1 both ethically and legally seriously?

2 A Very, yes.

3 Q Of the people who you consulted with during that timeframe,
4 did any of them end up hiring you to help them?

5 A No.

6 Q Okay. I want to focus on that very briefly to end. Why
7 not?

8 A So, around the same time when I started noticing these
9 changes, there was a change in the interpretation of who could
10 be released from the detention center. And basically, it was
11 individuals that entered the country without inspection were not
12 allowed to be released, because the judges -- immigration judges
13 started saying they didn't have jurisdiction. So, this was a
14 practice that had been going on for decades -- I mean, many,
15 many years, decades, and then all of the sudden the judges
16 started saying we no longer have jurisdiction. So, I knew I
17 couldn't represent them, and I was not going to just take their
18 money. And so I was not able to take their cases. And there
19 are other things that could be done, but we don't do federal
20 litigation, so that's where I stopped taking those cases.

21 Q So, for people, right, picked up, let's say hypothetically,
22 in a warrantless arrest that violates federal statute, what's
23 the practical effect for them of that denial of bond?

24 A What was that? I'm sorry?

25 Q What's the practical effect of the Court saying it doesn't

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1 have jurisdiction to grant bond even where a person is arrested
2 in violation of federal statute?

3 A They're stuck. They can't -- they can't get out, and they
4 have to remain there. They're hopeless, I guess. There's not
5 much that they can do.

6 Q And did most of those people give up?

7 A I assume, yeah. I didn't end up representing them, but in
8 my experience, people don't want to stay there. They -- they
9 can technically fight their case to remain in the United States,
10 but it's a long, long process, and most people don't want to be
11 detained. So, they end up just not fighting it.

12 Q So, this change in interpretation at the immigration
13 courts, does that coincide in timeframe with what you saw in the
14 increase in warrantless arrests?

15 A Yeah. It was right around the same time when judges
16 started saying we're not going to grant bond, people have to
17 stay inside, and that's when I started noticing that they were
18 detaining people to keep them in there.

19 Q So, there could be -- so, there are many more warrantless
20 arrests during the June and July, August, September timeframe?

21 A Yes.

22 MR. BROWN: Leading.

23 THE COURT: Sustained.

24 Q. (By Mr. Meyer) In your experience, was there an increase
25 in warrantless arrests from June moving forward?

1 A Yes.

2 Q And that coincided at the same time with the courts
3 deciding to deny bond?

4 A Yes.

5 Q In your opinion as an immigration attorney -- this is your
6 opinion, and we're going to draw an objection, and we'll see
7 what the judge says about it -- but if immigration courts are
8 going to deny people the right to bond, do you think that can
9 provide a perverse incentive to ICE agents to conduct
10 warrantless arrests in violation of federal statute?

11 MR. BROWN: My objection is, just to be clear, that
12 he's offering lay testimony. He's not offering opinion as an
13 expert.

14 THE COURT: Okay. Understood.

15 THE WITNESS: Yes. I believe that's exactly what it's
16 doing. It's creating an incentive for this type of practice to
17 exist.

18 MR. MEYER: I don't have any more questions.

19 THE COURT: All right. Cross examination?

20 **CROSS EXAMINATION**

21 BY MR. BROWN

22 Q Good afternoon, Mr. Vazquez, or Vazquez?

23 A Vazquez.

24 Q Vazquez?

25 A And good afternoon.

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1 Q You are an attorney who specializes in immigration law and
2 practices in Colorado; is that correct?

3 A Yes.

4 Q And you represent people who have been arrested by ICE; is
5 that correct?

6 A People that are -- well, yes.

7 Q And those people pay you to represent them; is that
8 correct?

9 A Yes.

10 Q How much do they pay you to represent them?

11 MR. MEYER: Objection. Relevance.

12 MR. BROWN: It goes to the bias of the witness, Your
13 Honor.

14 THE COURT: The objection is overruled.

15 THE WITNESS: It varies. I mean, it's all over the
16 place.

17 Q. (By Mr. Brown) Can you give me an example of if you
18 are -- if someone has been arrested, and you want to file a
19 habeas petition, how much do you charge?

20 A I mentioned earlier, I don't do federal litigation. I
21 don't do habeas petitions.

22 Q What sort of immigration representations do you do?

23 A So, I do, for example -- I mean, so, I even do pro bono
24 work; right? So, sometimes I do stuff for free. And I do
25 stuff, for example like a consultation, sometimes we charge like

1 \$50 just to go and talk to someone. A bond hearing, sometimes
2 \$2,000. Sometimes \$3,000. So, it really varies on a
3 case-by-case basis.

4 Q So, you charge people for consultations; is that right?

5 MR. MEYER: Asked and answered.

6 THE COURT: Sustained.

7 Q. (By Mr. Brown) When you're consulting with someone, are
8 you offering them legal advice?

9 A Yes. Correct.

10 Q And when you consult with someone who has been detained,
11 are they generally looking for an attorney to represent them?

12 A They're generally looking to see what their options are.

13 Q And they give you -- they provide you with their
14 information in order to figure out their options from an
15 attorney; is that correct?

16 A Correct.

17 Q So, in your declaration here and today in your testimony,
18 you talked a lot about a pattern that you've observed about
19 arrests based on individuals you've consulted with; is that
20 right?

21 A Yes.

22 Q And to be clear, this pattern is based on what other people
23 have told you; right?

24 A Yes. And what I seen. So, what they told me and what I
25 seen.

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1 Q But for these 20 individuals, you were not present when
2 they arrested; right? When they were arrested; right?

3 A I was not present when they were arrested, no.

4 Q You did not hear what any of these individuals said to the
5 officers; right?

6 A Correct.

7 Q You did not hear what any of the officers said to these
8 individuals; right?

9 A Correct.

10 Q You have not spoken to any of the arresting officers;
11 right?

12 A No, I have not.

13 Q You don't know what investigations the officers had done
14 into any of these individuals prior to arresting them; right?

15 A No. But I know they didn't have any of the paperwork, and
16 none of them did.

17 Q But my question was you don't know what investigations the
18 officers did prior to arresting these individuals; right?

19 A Correct.

20 Q And you don't know what information the officers had
21 learned about the individuals or anyone they were with before
22 stopping them; right?

23 A Correct.

24 Q So, in your discussion about this pattern that you have
25 observed, you didn't actually tell us about the specific facts

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1 of any individual arrests by ICE; right?

2 A Correct.

3 Q So, now I want to talk about these 20 individuals who you
4 consulted with. Can you tell me their names.

5 A No. I don't have them.

6 Q You don't remember any of their names?

7 A I do not.

8 Q How did they reach out to you to seek your representation?

9 A It was through a family member.

10 Q Do you know any of the family members' names?

11 A I do not.

12 Q You don't remember?

13 A I don't.

14 MR. BROWN: That's all my questions, Your Honor.

15 THE COURT: Redirect?

16 MR. MEYER: If I may have just a moment, Your Honor?

17 Thank you, Your Honor. I have no more questions.

18 THE COURT: All right. Thank you, sir. You are
19 excused, and free to go. I don't imagine you have a ten-minute
20 witness?

21 MR. KAWANABE: We do not.

22 THE COURT: So, we will adjourn for the day, and start
23 up again at 9 o'clock in the morning. Have a nice evening.

24 (Proceedings concluded at 4:50 p.m.)

25

REPORTER'S CERTIFICATE

I, KEVIN P. CARLIN, Official Court Reporter for the United States District Court for the District of Colorado, a Registered Merit Reporter and Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the proceedings contained herein at the time and place aforementioned and that the foregoing pages constitute a full, true, and correct transcript.

Dated this 12th day of November, 2025.



Kevin P. Carlin, RMR, CRR
Official Court Reporter