

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

STATE OF FLORIDA,

Plaintiff,

v.

Case No. 3:23-cv-9962-TWK-ZCB

ALEJANDRO MAYORKAS;
et. al,

Defendants.

DEFENDANTS’ DECEMBER 2024 SUPPLEMENTAL REPORT

In accordance with the Court’s December 20, 2023 Order (ECF No. 65), Defendants submit the attached Declaration of Donna M. Vassilio-Diaz (“Vassilio-Diaz Decl.”) with attached reporting data. The Court’s most recent order required Defendants’ subsequent reports to focus on the 438 noncitizens who are either “unaccounted for” or have not been issued a Notice to Appear (“NTA”) as of Defendants’ December 2023 supplemental report, in lieu of the information required by prior orders. ECF No. 65. Specifically, the Court required Defendants report the following information in regard to the 2,572 noncitizens who were released from U.S. Customs and Border Protection (“CBP”) after 11:59 p.m. ET on May 11, 2023: (1) an updated summary of the status of all 2,572 noncitizens who were released after the Court enjoined the PWC policy—i.e., checked in and issued an NTA, checked in but

not issued an NTA, or not checked in/unaccounted for; (2) an updated summary chart of the check-in locations; (3) the number of unaccounted for noncitizens who have checked in since the last report, along with the date and location of the check-in, whether an NTA was issued at check-in, and whether any enforcement action was taken against the noncitizen other than the issuance of an NTA; (4) the number of noncitizens who have been issued an NTA since the last report, along with when and how the NTA was issued, whether the alien was released or detained after the NTA was issued, and what legal authority the release were based; and (5) how many of 2,572 noncitizens who were released after the PWC policy was enjoined are still in the country and, of those, how many are detained. ECF No. 65.

As explained in the attached declaration of Donna M. Vassilio-Diaz, in response to the Court's first question, ICE reports that of the 2,572 noncitizens identified for this reporting, 2,548 have checked in with ICE, while 24 have not checked in. Vassilio-Diaz Decl. ¶ 5. Out of the 2,547 noncitizens who have checked in, 2,228 individuals have been served with a charging document currently pending on an EOIR docket. *Id.* ¶ 8.

In response to the Court's second question, ICE provides the following breakdown of the number of noncitizens who checked in with specific ICE ERO Offices:

Check-In Location	Count
Atlanta, GA	146
Baltimore, MD	48
Boston, MA	202
Buffalo, NY	17
Chicago, IL	255
Dallas, TX	118
Denver, CO	101
Detroit, MI	73
El Paso, TX	24
Harlingen, TX	1
Houston, TX	61
Los Angeles, CA	101
Miami, FL	175
New Orleans, LA	83
New York City, NY	430
Newark, NJ	147
Philadelphia, PA	59
Phoenix, AZ	25
Salt Lake City, UT	63
San Antonio, TX	46
San Diego, CA	7
San Francisco, CA	177
Seattle, WA	49
St. Paul, MN	43
Washington, DC	97
Total	2,548

Id. ¶ 6. The “Check-In Location” for an in-person check-in reflects the Area of Responsibility (AOR) where it occurred. *Id.* For an online check-in, “Check-in Location” reflects the location where the appointment was made. *Id.*

In response to the Court’s third question, ICE reports that there were no new check-ins since the last report. *Id.* ¶ 7.

In response to the Court's fourth question, out of the 2,547 noncitizens who have checked in, 2,228 individuals have been served with a charging document. *Id.* ¶ 8. There were four (4) new charging documents issued since last month's report. *Id.* Three were served by regular mail, and one charging document was served in person. *Id.* The noncitizen that was served a charging document in person was released on their own recognizance. *Id.*

In response to the Court's fifth question, 17 noncitizens were either removed by ICE, ICE has verified their departure from the United States, or they are deceased. *Id.* ¶ 9. One noncitizen is currently detained in ICE custody. *Id.* ICE cannot provide additional information on the remaining individuals as ICE does not have the ability to readily confirm when an individual leaves the United States except through removal efforts or verified departures. *Id.*

Date: December 18, 2024

Respectfully submitted,

JASON R. COODY
United States Attorney

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

MARIE A. MOYLE
Assistant United States Attorney
Northern District of Florida

EREZ REUVENI
Counsel

BRIAN C. WARD
Senior Litigation Counsel

ERIN T. RYAN
JOSEPH A. DARROW
Trial Attorneys

/s/ Elissa P. Fudim

ELISSA P. FUDIM

Trial Attorney

U.S. Department of Justice

Office of Immigration Litigation

District Court Section

P.O. Box 868, Ben Franklin Station

Washington, DC 20044

Tel.: (202) 598-6073

Elissa.p.fudim@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 18, 2024, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which provided an electronic notice and electronic link of the same to all attorneys of record.

/s/ Elissa P. Fudim

Elissa Fudim

Trial Attorney

United States Department of Justice

Civil Division

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

STATE OF FLORIDA,

Plaintiff,

v.

ALEJANDRO MAYORKAS, et al.,

Defendants.

Civil Action No. 3:23-cv-09962-TKW-ZCB

**DECLARATION OF ACTING ASSISTANT DIRECTOR
DONNA M. VASSILIO-DIAZ**

I, Donna M. Vassilio-Diaz, pursuant to 28 U.S.C. § 1746, and based upon my personal knowledge, experience as a law enforcement officer, and documents and information made known or available to me from official records and reasonably relied upon in the course of my employment, hereby declare as follows:

1. I am providing this declaration in accordance with the orders issued by the U.S. District Court for the Northern District of Florida, Pensacola Division, in *Florida v. Mayorkas*, No. 23-9962 (N.D. Fla. May 16, 2023). ECF Nos. 31, 54, 58, 65. In the court’s December 20 order, ICE shall (1) “provide an updated summary of the status of all 2,572 aliens who were released after the court enjoined the PWC policy—i.e., checked in and issued an NTA, checked in but not issued an NTA, or

not checked in/unaccounted for;” (2) “provide an updated summary chart of the check-in locations;” (3) “identify the number of unaccounted for aliens who have checked in since the last report, along with the date and location of the check-in, whether an NTA was issued at check in, and whether any enforcement action was taken against the alien other than the issuance of an NTA;” (4) “identify the number of aliens who have been issued an NTA since the last report, along with when and how the NTA was issued, whether the alien was released or detained after the NTA was issued, and what legal authority the releases were based;” and (5) “identify how many of the 2,572 aliens who were released after the PWC policy was enjoined are still in the country and, of those, how many are detained.” ECF No. 65.

2. This declaration is based upon my personal knowledge and information obtained from other individuals employed by ICE and DHS records. This declaration also incorporates the information previously provided in prior declarations filed by ICE with the Defendant’s Response to the Court’s May 16 and 22, 2023 Orders. ECF Nos. 53, 55, 56.
3. Attached hereto as Exhibit 1 is a true and accurate copy of “Parole with Conditions (PAWC) Report_20241204” that ICE generated on December 4, 2024, at 1:50 PM in response to the Orders. This report is based on data provided by U.S. Customs and Border Protection (CBP), which identified 2,572 noncitizens released after 11:59 PM on May 11, 2023, and processed under the memorandum from Raul L. Ortiz, former Chief, U.S. Border Patrol, *Policy on Parole with Conditions in Limited Circumstances Prior to the Issuance of a Charging Document (Parole with*

Conditions) (May 10, 2023).¹ This data has been manually edited to amend discrepancies as described in the February 16th and November 18th declarations submitted to the Court. ECF Nos. 70, 85. Additional discrepancies (*e.g.*, incorrect A#s, or up-to-date subsequent encounters in EARM) were identified and, after receiving confirmation from CBP or updating EARM, manually edited by ICE.

4. Understanding that these reports shall be filed on the public docket, this information has been anonymized to ensure the personal identifying information of the noncitizens remains private. ERO Law Enforcement System and Analysis (LESA) Statistical Tracking Unit (STU) considered ICE guidance for the identification and disclosure of information protected by 8 U.S.C. § 1367 (Section 1367) in its analysis and did not identify noncitizens with protected status for this production.
5. In response to question number one, the attached data shows that of the 2,572 noncitizens identified in this cohort, as of December 4, 2024, 2,548 have checked in with ICE, while 24 have not checked in.
6. In response to question number two: below is a breakdown of the number of noncitizens who checked in with specific ICE ERO Offices:

Check-In Location	Count
Atlanta, GA	146
Baltimore, MD	48
Boston, MA	202
Buffalo, NY	17
Chicago, IL	255
Dallas, TX	118
Denver, CO	101

¹ This report attached as Exhibit 1 reflects data from the following sources: 1) The Unified Immigration Portal (UIP); 2) Check in and charging document data extracted from the Enforcement Integrated Database (EID); 3) FOAS data; 4) EARM data; 5) EOIR data; 6) ECCO data, or 7) OCOA data.

Detroit, MI	73
El Paso, TX	24
Harlingen, TX	1
Houston, TX	61
Los Angeles, CA	101
Miami, FL	175
New Orleans, LA	83
New York City, NY	430
Newark, NJ	147
Philadelphia, PA	59
Phoenix, AZ	25
Salt Lake City, UT	63
San Antonio, TX	46
San Diego, CA	7
San Francisco, CA	177
Seattle, WA	49
St. Paul, MN	43
Washington, DC	97
Total	2,548

Please note that the “Check-In Location” for an in-person check-in reflects the Area of Responsibility (AOR) where it occurred and for an online check-in, Check-in Location reflects the location where the appointment was made.

7. In response to question three, there are no new check-ins identified since the last report.
8. In response to question four, out of the 2,548 noncitizens who have checked in, 2,228 individuals have been served with a charging document. There are four new charging documents that have been issued since the prior report. Three charging documents were served by Regular Mail and one charging document was served in person. The noncitizen served a charging document in person was released on their own recognizance.

9. In response to question five, 17 noncitizens were either removed by ICE, ICE has verified their departure from the United States, or they are deceased. One noncitizen is currently detained in ICE custody. ICE cannot provide additional information on the remaining individuals as ICE does not have the ability to readily confirm when an individual leaves the United States except through removal efforts or verified departures.

Executed this December 18, 2024, in Washington, D.C.

Donna Vassilio-Diaz
Acting Assistant Director
Law Enforcement Systems and Analysis
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security