

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RUBEN LUCIANO-JIMENEZ)	
)	
Petitioner,)	Case No.: 3:20-cv-2384-MEM
v.)	
ADAM OGLE, Warden, et al.)	(Judge Mannion)
)	
Respondents.)	

**PETITIONER’S MOTION TO ENFORCE THIS COURT’S ORDER REQUIRING
PETITIONER’S RELEASE FROM DETENTION, OR IN THE ALTERNATIVE FOR
RELIEF PURSUANT TO FED. R. CIV. P. 60(b)**

Petitioner Ruben Luciano-Jimenez (“Luciano”) respectfully moves for this Court to enforce its order dated July 6, 2021 requiring Petitioner’s release pursuant to conditions of supervised release in the Southern District of New York. (Doc. 36). This Court determined that the Constitution’s Due Process Clause prohibited Petitioner’s continued detention pending a final decision on his underlying immigration proceeding because Respondents failed to establish by clear and convincing evidence that Petitioner presented a current danger or flight risk. *Id.*; Report and Recommendation, (Doc. 3) (July 3, 2021). In accordance with this Court’s order, Petitioner fulfilled his conditions of supervised release, and his immigration case remains ongoing with a merits hearing currently scheduled for February 25, 2026.

Although Respondents initially complied with this order, they have since violated it, necessitating this motion to enforce. On or around June 19, 2025, officers

from Immigration and Customs Enforcement (ICE) arrested and detained Petitioner, and he currently incarcerated at the Orange County Correctional Facility in Goshen, New York. Respondents have not yet provided a single piece of evidence to support their decision to arrest Petitioner; they have never come to this Court to provide any evidence, let alone clear and convincing evidence, to show that Petitioner is currently a danger or a flight risk. Petitioner has not been convicted of any new crime since his release in 2021. Although he has been arrested, his charges have either been adjourned, dismissed or have not gone forward, with the exception of a recent third-degree misdemeanor charge that is pending. But detention based on arrests, without proof of any underlying conduct, does not satisfy the Due Process Clause. *Chavez-Rivas v. Olsen*, 207 F. Supp. 2d 326, 340 (D.N.J. 2002) (“[C]ontinued detention based on the fact that an alien had been arrested, without any proof that an alien in fact committed the underlying offense, would be no better than the ‘grudging and perfunctory’ review condemned in *Ngo [v. INS]*, 192 F.3d 390, 398 (3d Cir. 1999)] as inadequate to satisfy substantive due process.”)

Allowing Respondents to re-detain Petitioner without proving dangerousness or flight risk by clear and convincing evidence will subject Petitioner to the same constitutional violation that required his release. If Respondents wish to re-detain Petitioner, the Due Process Clause requires them to provide notice and a hearing prior to detaining him.

Accordingly, Petitioner requests that this Court enforce its order and grant the following relief:

1. Order Respondents to immediately release Petitioner from custody;
2. Order that if Respondents seek to re-detain Petitioner, Petitioner is entitled to pre-deprivation notice and a hearing before a neutral decision-maker at which Respondents must prove by clear and convincing evidence that Petitioner is a current danger or flight risk;
3. Order Respondents not to transfer Petitioner to a different detention facility while this motion is pending;
4. Promptly schedule this matter for a hearing;
5. Order any other relief that is just and proper.

A supporting brief accompanies this motion and a proposed order is attached.

Respectfully submitted,

/s/ Richard H. Frankel

June 24, 2025

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Attorney for Petitioner

CERTIFICATE OF NON-CONCURRENCE

I, Richard Frankel, counsel for Petitioner, hereby certifies that he contacted opposing counsel regarding this motion, but did not receive a response prior to filing.

/s/ Richard H. Frankel

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2025, I served via ECF the foregoing Motion to Enforce on the following:

Joanne Sanderson
Timothy Judge
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/s/ Richard H. Frankel