IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-3017-GPG-TPO

KHRISTYNE BATZ BARRENO,

Petitioner,

v.

JUAN BALTAZAR, *et al.*,

Respondents.

PETITIONER'S MOTION TO ENFORCE THE COURT'S NOVEMBER 14, 2025 ORDER

INTRODUCTION[1]

On November 14, 2025, this Court entered an order (Dkt. 18), requiring Respondents to provide Ms. Batz with a bond hearing within seven days. Dkt. 18 at 8. Implicit in this order was that Respondents would actually abide by the outcome of that hearing.

At the bond hearing, IJ Ivan Gardzelewski ordered Ms. Batz's release on $8,000 bond, with no additional conditions of release. ECF No. 21-1 (Order Granting Bond). Despite the IJ's order, ICE attached an ankle monitor to Ms. Batz and is subjecting her to 24/7 GPS monitoring and other restrictions on her freedom not authorized by the IJ.

[1] Pursuant to D. Colo. L. R. 7.1, counsel certifies that a good-faith effort was made to resolve this matter with opposing counsel prior to filing this motion. Specifically, counsel discussed this issue via email with counsel for Respondents and understands that Respondents are opposed the relief sought herein.

In factually and legally indistinguishable cases, a number of district courts around the country have found that ICE violates due process when it imposes additional restrictions on a noncitizen's liberty not contemplated in the IJ's bond order. This Court should do the same and order Respondents to comply with the IJ's bond order and remove any additional conditions of release, including the ankle monitor.

ARGUMENT

I. The IJ specifically declined to impose additional conditions, such as an ankle monitor, and ICE's unilateral imposition of 24/7 monitoring and other intrusive conditions violates Ms. Batz's right to due process.

In accordance with the Court's order, a bond hearing was held on November 20, 2025 before IJ Gardzelewski, at which Ms. Batz was represented by her immigration attorney, Jillian Wagman. *See* ECF No. 21-2 (Decl. of Jillian Wagman). After hearing the evidence and considering whether Ms. Batz posed a danger to the community or a flight risk, IJ Gardzelewski determined that a bond of $8,000 was adequate to ensure her appearance at future immigration court hearings. *See id.* IJ Gardzelewski specifically declined to impose any additional conditions beyond the monetary bond. *Id.* Indeed, at the hearing, DHS did not even argue that Ms. Batz was a flight risk; rather, it argued that her previous arrest and conviction for burglary meant she was a danger to the community, which the IJ apparently rejected. *Id.* After Ms. Batz posted bond, ICE released her with an ankle monitor. *See* ECF No. 21-3 (Decl. of Khristyne Batz Barreno). The ankle monitor is causing harm to Ms. Batz, including skin irritation, intense discomfort, and pain, and also creates significant difficulty in obtaining employment as well as embarrassment in social settings. *Id.* at 2. ICE has also imposed other invasive conditions besides the ankle monitor, including frequent appointments at the ISAP [Intensive Supervision Appearance

Program] office, one of which lasted an entire day, from early morning until after dark. *Id.* at 3. ICE has also informed Ms. Batz that it plans to conduct home visits, which will necessarily pose scheduling difficulties for Ms. Batz once she finds work or begins schooling. *Id.*

In at least four recent cases of which Petitioner is aware, district courts have found due process violations where an IJ ordered release without additional conditions and ICE unilaterally imposed an ankle monitor requirement. *See N-N- v. McShane*, 2025 WL 3143594, at *4 (E.D. Pa. Nov. 10, 2025); *Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 70 (D. Mass. 2025); *Ortiz Martinez v. Wamsley*, 2:25-cv-1822-TMC, 2025 WL 2899116, at *5 (W.D. Wash. Oct. 10, 2025); *Menjivar Sanchez v. Wofford*, 25-cv-1187-SKO, 2025 WL 3089712, at *10 (E.D. Cal. Nov. 5, 2025). The court in *N-N-* pointed to some of the significant restrictions on an individual's liberty that an ankle monitor causes, noting that "N- N- must do the following: (i) wear the ankle monitor 24/7; (ii) charge it for two to three hours daily with a battery that prohibits N- N-'s ability to walk; (iii) prevent water from coming into contact with the ankle monitor; [and] (iv) avoid running on treadmills." *N-N-*, 2025 WL 3143594, at *1. In fact, the ankle monitor is such an onerous restriction on a person's liberty that courts have found that, despite their release from detention, such individuals are still "in custody" for habeas purposes. *See, e.g., Orellana Juarez v. Moniz*, 788 F. Supp. 3d at 67-69 (D. Mass. 2025); *N-N-*, 2025 WL 3143594, at *2, n.1.

In *N-N-*, the petitioner was ordered released by an IJ on bond of $3,000 after the immigration court's finding that he was neither a danger or flight risk. 2025 WL 3143594, at *1. However, upon his release, ICE required him to wear an ankle monitor. *Id.* He filed a petition for writ of habeas corpus, arguing "that ICE may not impose supplementary conditions on his release ordered by an immigration judge." *Id.* at *2. The court agreed, and after carefully

analyzing the relevant regulations, it held that "[p]ermitting ICE to impose additional conditions *after* an immigration judge has ordered release and set conditions renders the administrative adjudicatory process null." *Id.* The court granted relief both because of ICE's failure to follow the relevant regulations and because "N- N-'s ankle monitor, removable solely at the discretion of ICE, violates Due Process." *Id.* at *4 (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)) ("[P]ermitting indefinite detention of [a noncitizen] would raise a serious constitutional problem.")

Also on point is *Orellana Juarez*, in which an IJ ordered the petitioner released on bond with certain conditions that did not include GPS monitoring. 788 F. Supp. 3d at 66. Upon release, ICE required the petitioner to wear a GPS monitor and remain within a certain geographic area, along with other restrictions. *Id.* at 65. He argued before the district court that "the indefinite conditions set by ICE … are an unlawful restriction on his liberty and a violation of his right to due process of law." *Id.* at 68. Reviewing the statutory and regulatory framework, the court concluded that, "Respondents have provided no supporting authority for the proposition that they may deviate from an IJ's bond hearing determination." *Id.* at 69. Instead, the court found that, "Respondents may not impose additional conditions *after an IJ has ordered release on a bond and set conditions of release*." *Id.* (emphasis in original). As in *N-N-*, the *Orellana Juarez* court cited *Zadvydas* for the proposition that "Freedom from … government custody, detention, or other forms of physical restraint [] lies at the heart of the liberty that [the Due Process] Clause protects" and "permitting indefinite detention of [a noncitizen] would raise a serious constitutional problem." *Orellana Juarez*, 788 F. Supp. at 69-70 (citing *Zadvydas*, 533 U.S. at 690). Accordingly, the court found that "Petitioner may not be subjected to conditions of release

that are not consistent with the terms as set by the Immigration Judge after the bond hearing." *Id.* at 70.

Two other recent cases, though containing less analysis, reach the same result. In *Menjivar Sanchez*, the court ordered that "DHS SHALL REMOVE the electronic ankle monitoring device, and SHALL NOT impose any additional restrictions on Petitioner, unless that is determined to be necessary at a later custody hearing." *Menjivar Sanchez*, 2025 WL 3089712, at *10. Similarly, in *Ortiz Martinez* the court noted that the IJ's bond order did not impose any additional conditions of release, including an ankle monitor, and therefore found it necessary to order the respondents "to remove [petitioner's] ankle monitor to comply with the Immigration Judge's [] order." *Ortiz Martinez*, 2025 WL 2899116, at *5.

In short, this Court should follow the lead of these other four courts (indeed, Petitioner could locate no case holding to the contrary) and order Respondents to remove the ankle monitor in order to comport with the IJ's order and due process.

II. Respondents' ankle monitor requirement is further violative of due process because it is potentially indefinite in scope, lacks any substantive means of review, and is not based on any individualized finding of flight risk or dangerousness.

In cases in this district – including the Court's opinion in this case – courts have found that the Government bears a burden of proving an individual's dangerousness or flight risk in order to justify their detention. *See, e.g.,* Dkt. 18 at 7-8; *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1185 (D. Colo. 2024) ("It would stand to reason if a noncitizen was neither a flight risk nor dangerous, there would be no government or public interest in detention."). Indeed, "the prolonged detention of [a noncitizen] without an individualized determination of his dangerousness or flight risk would be constitutionally doubtful." *Rodriguez v. Robbins*, 715 F.3d

1127, 1137 (9th Cir. 2013); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (noting that "[f]reedom from … government custody, detention, or other forms of physical restraint [] lies at the heart of the liberty [the Due Process] Clause protects"). Although not exactly "detention," the 24/7 GPS monitoring and other intrusive conditions in this case constitute the sorts of "government custody … or other forms of physical restraint" envisioned in *Zadvydas* and should accordingly be based on an individualized determination of dangerousness or flight risk. *See generally E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025) (applying balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), and rejecting "any suggestion that government agents may sweep up any person they wish and hold that person" indefinitely "without consideration of dangerousness or flight risk") (cleaned up); *L.G.*, 744 F. Supp. 3d at 1185. Yet in this case the IJ found that Ms. Batz was neither a danger nor a flight risk and ordered her released; therefore, there has been no individualized determination that additional restraints on her liberty are warranted.

In the course of the *N-N-* litigation, the Government produced a memo addressed to all ICE Enforcement and Removal Operations personnel, mandating "GPS ankle monitors whenever possible" and ordering officers "not [to] release any aliens on Order of Release on Recognizance (OREC) or Order of Supervision (OSUP) without technology." ECF No. 21-4 (Helland Memo); *see also* Douglas MacMillan & Aaron Schaffer, "ICE Moves to Shackle Some 180,000 Immigrants with GPS Ankle Monitors," *Washington Post* (July 24, 2025), https://perma.cc/YU83-ZMQ7. Under ICE's new policy as laid out in the Helland Memo, ICE personnel are to fit as many noncitizens with ankle monitors as possible and not to release "any" noncitizens without one. This is a far cry from the sort of individualized determination of

dangerousness or flight risk that due process requires; indeed, in this case an IJ has determined that Ms. Batz is neither a danger nor a flight risk, as evidenced by her release on bond.

In sum, because ICE's decision to impose onerous restrictions on Ms. Batz's liberty is both potentially indefinite and not based on any individualized determination of her flight risk or dangerousness (indeed, it is *contrary* to the IJ's individualized determination), it violates her right to due process.

CONCLUSION

The Court should order Respondents to remove the GPS ankle monitor device and any other intrusive conditions of release that were not ordered by the Immigration Judge.

Dated: December 15, 2025

Respectfully submitted,

/s/ James D. Jenkins
James D. Jenkins (MO #57258, VA #96044)
P. O. Box 6373
Richmond, VA 23230
jjenkins@valancourtbooks.com
(804) 873-8528

Attorney for Petitioner

Certificate of Service

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 15th day of December, 2025, which sent notice of such filing to all parties.

/s/ James D. Jenkins
Attorney for Petitioner