

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 REPLY IN SUPPORT OF MOTION TO ENFORCE
THE COURT'S NOVEMBER 14, 2025 ORDER**

INTRODUCTION

Nowhere in their Response (Dkt. 22) do Respondents cite any case law, statute, or regulation authorizing them to unilaterally impose conditions of release that were expressly rejected by the immigration judge. Nor do they even attempt to refute Ms. Batz's arguments that ICE's actions constitute a gross infringement of her due-process rights. Instead, Respondents deploy an array of jurisdictional and procedural smokescreens and red herrings to argue that the Court cannot consider her claims on the merits. The Court should decline Respondents' invitation to excuse their serious due-process violation on any of the spurious bases they cite.

Although Respondents correctly note that they did hold a bond hearing (Dkt. 22 at 3), that hearing was essentially a sham, since ICE did not abide by its outcome. The IJ's bond order contained no requirement that Ms. Batz be subject to wearing an ankle monitor or other intrusive conditions of supervision, and indeed he explicitly stated on the record that he did not find any

such conditions necessary, yet Respondents unilaterally imposed these requirements anyway, a decision that is unreviewable through any administrative process. Because Respondents offer no legal justification for their imposition of a GPS ankle monitor, and because their argument that the Court cannot grant relief lacks merit, the Court should order Respondents to rescind any conditions of release not contained in the IJ's bond order.

ARGUMENT

I. It is well established that the Court has jurisdiction to enforce its own orders.

Respondents argue that “The Court lacks jurisdiction to review Petitioner’s conditions of release.” Dkt. 22 at 5. Two courts in this district have recently rejected challenges to their jurisdiction in similar circumstances. In *Cervantes Arredondo v. Baltazar*, 25-cv-3040-RBJ, Order, Dkt. 26 (D. Colo. Dec. 18, 2025), the petitioner filed a motion to enforce the court’s judgment, arguing that the respondents failed to comply with the court’s order regarding the allocation of the burden of proof at the bond hearing. *Id.* at 3. The Government argued, as it argues here, that “this Court lacks jurisdiction to order the requested relief because the IJ’s bond determination was discretionary and therefore unreviewable under the INA.” *Id.* at 4. Judge Jackson rejected this contention, noting that, “With respect to jurisdiction, the Court possesses inherent authority to enforce its own orders.” *Id.* (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991)). The court noted that it had “granted habeas relief, ordered that [petitioner] be provided a bond hearing, and specified procedural requirements necessary to satisfy due process under the circumstances. The Court retains jurisdiction to ensure compliance with that order.” *Id.* at 5. In another similar case, *Pena-Gil v. Lyons*, 25-cv-3268-PAB, 2026 WL 25143 (D. Colo. Jan. 5, 2026), Chief Judge Brimmer addressed a similar motion to enforce and noted that, “[B]ecause

a federal court always retains jurisdiction to enforce its lawful judgments, including habeas judgments, the court has the authority to see that its judgment is fully effectuated.” *Id.* at *2 (citing *Gall v. Scroggy*, 603 F.3d 346, 352 (6th Cir. 2010)).

In short, there is no question that this Court retains jurisdiction to enforce its lawful order.

II. There are no administrative remedies to which Ms. Batz could resort.

Respondents next argue that “Petitioner has not exhausted her administrative remedies for the relief sought in the Motion to Enforce.” Dkt. 22 at 6. Specifically, Respondent argues that, “Pursuant to 8 C.F.R. § 1236.1(d), Petitioner can challenge the conditions of release by requesting that the IJ review those conditions ... or by asking the ICE district director to change those conditions, *see* 8 C.F.R. § 1236.1(d)(2).” Dkt. 22 at 7. However, courts have rejected such a reading and have found that § 1236.1(d) offers no avenue for relief for a noncitizen in Ms. Batz’s position. *See, e.g., N-N- v. McShane*, 2025 WL 3143594, at *3-4 (E.D. Pa. Nov. 10, 2025).

The district court in *N-N-* rejected an argument identical to the one Respondents make here:

The requirement that a *released* alien file an application for amelioration within seven days does not create, as ICE argues, a second pseudo appeal right to ICE’s additional conditions placed *after* an immigration judge has already entered an order under Section 1236.1(d)(1). ... If ICE’s interpretation of the process were correct – that ICE may initially determine release conditions under 8 C.F.R. Section 1236.1(c)(8), *N- N-* may appeal those conditions to an immigration judge under 8 C.F.R. Section 1236.1(d)(1), yet ICE can thereafter impose additional release conditions notwithstanding the immigration judge’s order, all while never having advocated for such conditions before the immigration judge or appealed to the BIA under Section 1236.1(d)(3) – then the administrative adjudicatory process would be rendered meaningless and superfluous ... Therefore, the regulations do not permit ICE to impose additional release conditions without utilizing the administrative appeal process.

Id.; *see also Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 67 (D. Mass. 2025) (“[I]t appears that Mr. Orellana Juarez has no avenue to seek relief in the immigration court as he has pointed to at

least one very recent case where an IJ determined that she did *not* have authority to alter additional conditions imposed by ICE, after she had determined that individual be released on bond.”). What ICE is arguing here is that it can unilaterally ignore an IJ’s bond decision, and if the noncitizen wants to contest ICE’s actions, she has to go back to the IJ again and essentially ask him to reissue the same decision he already issued, a process that, as the *N-N-* court recognized, makes the initial bond hearing “meaningless and superfluous.” *N-N-*, 2025 WL 3143594, at *3. It is clear, as the *N-N-* court found, that § 1236.1(d) is not intended to function in the way ICE is arguing here. Instead, under 8 U.S.C. § 1226(a), when a noncitizen is first detained, ICE has the initial authority to grant conditional parole, and if that is denied, the noncitizen may request an IJ’s review under § 1236.1(d). *See id.* The regulation, read in the context of the regulatory scheme as a whole, is plainly not intended to allow ICE to unilaterally circumvent an IJ’s bond order and then require a noncitizen to jump through administrative hoops to try to enforce compliance with that order in the manner Respondents argue here. *See id.*

In any event, even if there were some administrative remedy to which Ms. Batz could resort, Respondents’ argument that the Court should deny relief on that basis “is [] misplaced. In the immigration context, ‘exhaustion of remedies is statutorily required only for appeals of final orders of removal,’” not due-process challenges to detention. *Cervantes Arredondo*, 25-cv-3040-RBJ, Dkt. 26 at 6. “Where, as here, movant challenges the procedures employed by the IJ at his bond hearing, exhaustion is merely prudential, not mandatory.” *Id.* “Accordingly, whether to require exhaustion is committed to sound judicial discretion.” *Id.* (citing *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024)). As Judge Jackson noted in *Cervantes Arredondo*, “[t]he BIA takes an average of 190 days to issue a decision on a detained noncitizen’s appeal,” which

weighs in favor of a petitioner’s “individual interest ‘in immediate judicial review.’” *Id.* at 7 (citing *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992)); *see also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025) (noting “average processing time of 204 days for bond appeals” and “that 200 bond appeal cases ‘took a year or longer to resolve.’”). In sum, even if there were any administrative remedies available – which there are not – there is no statutory exhaustion requirement, and there are good prudential reasons to find that exhaustion should not be required here.

III. Respondents’ imposition of additional conditions not imposed by the IJ runs afoul of the Court’s order and principles of due process.

Respondents argue that “[i]n the November 14 Order, the Court directed Respondents to provide Petitioner with a bond hearing ... Petitioner received a bond hearing on November 20, 2025 ... Thus Respondents have fully complied with the November 14 Order.” Dkt. 22 at 3-4. But implicit in the Court’s order was not merely that a bond hearing would be held, but that Respondents would actually abide by its outcome. Here, where the IJ expressly declined to permit ICE to impose additional conditions of release, the Court should find that ICE’s imposition of an ankle monitor requirement violates the IJ’s order, and by extension this Court’s order. *See, e.g., Ortiz Martinez v. Wamsley*, 2025 WL 2899116, at *5 (W.D. Wash. Oct. 10, 2025); *Menjivar Sanchez v. Wofford*, 2025 WL 3089712, at *1, 9 (E.D. Cal. Nov. 5, 2025).

A recent case from the Southern District of New York is on point. In *Campbell v. Almodovar*, 2025 WL 3626099, at *1 (S.D.N.Y. Dec. 15, 2025), the court granted a habeas petition and ordered a petitioner’s immediate release after finding that his detention violated due process. After DHS released the petitioner from custody, it ordered him to be fitted with a GPS ankle monitor and to comply with ongoing supervision requirements. *Id.* The court noted that,

“In ordering Petitioner’s release, the Court held that detention pursuant to DHS’s discretionary authority under 8 U.S.C. § 1226(a) must be premised on an individualized custody determination based on [Petitioner’s] dangerousness and flight risk.” *Id.* (internal quote marks omitted). The court ordered the ankle monitor removed, finding that there had been no “individualized determination” showing that the petitioner was a danger or a flight risk such that electronic monitoring was justified, and therefore the imposition of an ankle monitor violated due process. *Id.*¹

Similarly, this Court ordered a bond hearing for the purpose of making an individualized determination of any danger or flight risk posed by Ms. Batz. Dkt. 18 at 8. Specifically, Respondents bore the burden of proof of showing that Ms. Batz’s continued detention was proper. *Id.* They failed to do so, and the IJ ordered her release. Just as in *Campbell*, “in the absence of such an [individualized] assessment, any form of re-detention – including electronic monitoring and mandatory reporting – violates Petitioner’s due process rights.” 2025 WL 3626099, at *1; *see also Quiva Palacio v. Hermosillo*, 25-cv-1983-RSM-MLP, Dkt. 14 at 6 (W.D. Wash. Dec. 22, 2025), *report and recommendation adopted by* 2026 WL 84930 (W.D. Wash. Jan. 12, 2026) (applying three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976), and concluding that ICE’s imposition of an ankle monitor without

¹ Although Respondents in this case argue that Ms. Batz is no longer “in custody” for habeas purposes (Dkt. 22 at 8, n.1), the *Campbell* court and other courts have disagreed. *Campbell*, 2025 WL 3626099, at *1 (citing *Khabzha v. U.S. Immigr. & Customs Enf’t*, 2025 WL 3281514, at *3 (S.D.N.Y. Nov. 25, 2025)); *N-N-*, 2025 WL 3143594, at *2, n.1; *Orellana Juarez*, 788 F. Supp. 3d at 67-68; *Quiva Palacio v. Hermosillo*, 25-cv-1983-RSM-MLP, Dkt. 14 at 3-4 (W.D. Wash. Dec. 22, 2025), *report and recommendation adopted by* 2026 WL 84930 (W.D. Wash. Jan. 12, 2026).

demonstration of an individualized determination of dangerousness or flight risk violates due process).²

Respondents suggest that the IJ in this case “observed that ICE may impose additional release conditions.” Dkt. 22 at 3. But it is obvious from reading the IJ’s comments that he was using “may” in a predictive, not a permissive, sense: “There will be no additional conditions ordered by the Court. I believe that is consistent with the decision from Judge Gallagher. ICE may impose conditions and the respondent may address those, but I believe that should be done before Judge Gallagher, but this court will not order or agree to any additional conditions.” Dkt. 21-2 at 2. In other words, the IJ expressly declined to impose additional conditions of release and merely mused that ICE might try to do so, and in such a case, he indicated that any challenge to such conditions would properly be raised in this Court, not before the immigration court, just as Ms. Batz is doing.

IV. Although the cases cited by Petitioner arose in slightly different procedural postures, Respondents fail to distinguish them on the merits.

Respondents argue that the four cases cited by Petitioner in her Motion to Enforce (Dkt. 21 at 3) are distinguishable because they arose in different procedural postures. Dkt. 22 at 9-10. While the postures may be different, the underlying legal principles are the same. In each of those cases, ICE unilaterally imposed an ankle monitor requirement that had not been authorized either by an IJ or the district court, and in each case the district court found a due-process violation. A fifth case, decided this week in the Western District of Washington, is also relevant here: in *Quiva Palacio*, like this case, a noncitizen challenged DHS’s decision to unlawfully

² The Report and Recommendation is not publicly viewable on PACER because of Fed. R. Civ. P. 5.2, but it is attached hereto as an exhibit.

detain him under 8 U.S.C. § 1225(b). The day after the habeas petition was filed, DHS released him from custody, but with an ankle monitor. *Quiva Palacio*, 25-cv-1983, Dkt. 14 at 2. In *Quiva Palacio*, as here, “Respondents assert[ed] that the government is entitled to add new conditions such as an ankle monitor, but they cite no case law or support.” *Id.* at 5. Noting that “[o]ther courts have granted habeas relief from electronic monitoring imposed arbitrarily,” the court found that “Petitioner has no way to administratively challenge or appeal” the ankle monitor requirement and that it “appears to have been imposed arbitrarily without regard to assessing Petitioner’s flight risk or danger to the community.” *Id.*

In short, while each of these cases arises in a slightly different posture, the bottom line is the same: in all of them, ICE imposed a serious infringement on a noncitizen’s liberty without any apparent legal authority and without any individualized showing of a need for such a deprivation. In fact, as Petitioner has argued (and Respondents have not denied), ICE has ordered its agents to put ankle monitors on as many noncitizens as possible, without regard to whether it is actually necessary to prevent flight or danger to the community in any particular case. *See* Dkt. 21-4 (DHS Helland Memo, mandating ankle monitoring across the board for all released noncitizens).

Finally, if this Court determines that the relief sought here – removal of GPS monitoring and other intrusive conditions – would more properly be brought with a different type of motion, such as a motion to clarify or reconsider the Court’s earlier order, Petitioner respectfully asks the Court to construe her motion as such. *See, e.g., Arnold v. Navika Capital Group, LLC*, 2015 WL 12990468, *2, n.3 (N.D. Okla. July 1, 2015) (“When construing a motion, ordinarily its substance is controlling over its form; that is, even though a party generally bears the burden to

correctly label its motion so as to inform the adversary of the nature of the motion and the relief sought, the nature of a motion is ordinarily determined by its essence or substance or the relief sought, not by its title, label, or caption.”) (citing 56 Am. Jur. 2d Motions § 3). Indeed, in both *Campbell* and *Ortiz Martinez*, the courts ordered removal of ankle monitors through clarifications of their earlier orders. *Campbell*, 2025 WL 3626099, at *1; *Ortiz Martinez*, 2025 WL 2899116, at *5. Judgment has not yet been entered in this case, and it is well settled that this court “always has the inherent power to reconsider its interlocutory rulings before final judgment is entered.” *Spring Creek Expl. & Prod. Co., LLC v. Hess Bakken Inv., II, LLC*, 887 F.3d 1003, 1023-24 (10th Cir. 2018) (citing Fed. R. Civ. P. 54(b) (“any order ... that adjudicates fewer than all the claims ... may be revised at any time” before entry of final judgment)). In considering whether to amend or revise an interlocutory order, “the district court is not bound by the strict standards for altering or amending a judgment encompassed in Federal Rules of Civil Procedure 59(e) and 60(b).” *Id.* at 1024 (citing *Fye v. Okla. Corp. Comm’n*, 516 F.3d 1217, 1223 n.2 (10th Cir. 2008)). In other words, if the Court determines that the relief sought by Ms. Batz is in the nature of a motion to clarify or reconsider the Court’s earlier ruling, instead of to enforce it, the Court has inherent authority to amend its order to clarify the scope of the relief the Court envisioned, since no final judgment has yet been entered.³

³ Ms. Batz acknowledges that if the Court denies relief, she could file a new habeas case to challenge the ankle monitor. She notes, however, that according to HabeasDockets.org, as of the time of filing this motion, there were 11,080 immigration habeas cases in the federal courts, and principles of judicial economy weigh in favor of resolving this issue here, rather than adding an 11,081st case to the judiciary’s already congested dockets. *See, e.g., Timmons v. United Parcel Serv.*, 2022 WL 1136311, at *2 (D. Kan. April 18, 2022) (“Allowing Plaintiff to proceed in this case would promote judicial economy in that these actions would not need to be repeated in a new case.”); *In re Watkins*, 461 B.R. 57, 61 (W.D. Mo. 2011) (judicial economy warranted resolution of issues in current case, rather than requiring plaintiff to file a new case).

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: January 14, 2026

Respectfully submitted,

/s/ James D. Jenkins

James D. Jenkins (MO #57258, WA #63234)

P. O. Box 6373

Richmond, VA 23230

(804) 873-8528

jjenkins@valancourtbooks.com

Attorney for Petitioner

Certificate of Service

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 14th day of January, 2026, which sent notice of such filing to all parties.

/s/ James D. Jenkins

Attorney for Petitioner