UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

G- T-,

Petitioner,

v.

BRIAN MCSHANE, in his official capacity as Acting Field Office Director of the Philadelphia Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

PAMELA BONDI, in her official capacity as Attorney General of the United States;

TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Case No.

INTRODUCTION

1. This case asks whether a government agency, Immigration and Customs Enforcement ("ICE"), can openly flout the order of an Immigration Judge ("IJ") by applying additional restraints on liberty not contained in an order granting a noncitizen's release on bond.

2. After he was detained in immigration custody for approximately six months, Petitioner G- T-[1] ("Petitioner"), a citizen and national of Mali, received a bond hearing.[2] After a full custody redetermination proceeding, the IJ found that Petitioner was neither a flight risk nor a danger to the community and ordered Petitioner released on a minimal $3,000 bond. That bond amount was the *only* condition of his release pursuant to the IJ's order.

3. Yet, when Petitioner posted bond and was released from immigration detention to reunite with his family, ICE unlawfully and unilaterally subjected him to a new form of custody that constitutes a continuing restraint on his liberty—an ankle monitor with 24/7 GPS tracking and onerous reporting conditions under their Intensive Supervision Appearance Program ("ISAP").

4. A recent ICE policy shift, described in a June 9, 2025 memorandum, instructs ICE officials to adhere GPS-enabled ankle monitors to noncitizens "whenever possible."[3] The internal memo from Acting Assistant Director Dawnisha Helland instructs agents to "escalate their supervision level to GPS ankle monitors . . . and increase reporting requirements" for individuals not being arrested ("Helland Memo"). ICE's blanket policy, as implemented by the Helland Memo, negates any individualized review that ICE, prior to June 9, 2025, conducted of a noncitizen before applying ankle monitoring. The Helland Memo mandates increased surveillance and carceral supervision conditions without consideration of a noncitizen's compliance history or other individualized analysis.

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[1] Petitioner will separately file motion for leave to proceed under pseudonym using Petitioner's initials, "G- T-."

[2] Petitioner had his first bond hearing on July 21, 2025. The IJ denied bond because she did not know the reason Petitioner's criminal charges had been withdrawn. Petitioner filed a Motion for Changed Circumstances after obtaining a letter from the Philadelphia District Attorney's Office explaining why the charges had been withdrawn. Petitioner had a subsequent bond hearing on September 15, 2025, at which the IJ granted bond.

[3] Douglas MacMillan & Aaron Schaffer, "ICE Moves to Shackle Some 180,000 Immigrants with GPS Ankle Monitors", Wash. Post (July 24, 2025), https://perma.cc/YU83-ZMQ7

5. Ankle monitors and attendant supervision conditions are applied by ICE through its contract with BI Incorporated ("BI"), the subsidiary of private prison company GEO Group, Inc. ("GEO"). ISAP's reliance on GPS monitoring and other forms of surveillance are a significant revenue source for GEO. Each Alternatives to Detention ("ATD") participant generates approximately $3.70 in daily revenue for the private prison company.[4] In the first six months of 2025, GEO reported a net income of $48.6 million[5] and stands to further increase profits in light of ICE's new ATD policy.[6]

6. In Petitioner's custody redetermination proceedings, the IJ neither authorized nor ordered 24/7 GPS monitoring through an ankle monitor or ISAP as a condition of release. ICE has not abided by and does not have authority to deviate from the IJ's order by imposing additional conditions to Petitioner's release.

7. Now subjected to ICE's ISAP program, Petitioner is in a digital cage. He is forced to wear an intrusive and painful ankle monitor weighing six ounces, about the same as a regulation hockey puck. His every move is subject to 24/7 GPS monitoring by ICE. His travel is restricted. And he is tormented with the constant barrage of reporting requirements and the threat of re-detention, exacerbating his pre-existing mental health conditions, including his Post-traumatic

[4] Pedro Camacho, "Private Prison Giant to Ramp Up Production of Ankle Monitors After ICE Announced Plan to Shackle 180,000 Immigrants: Report" Latin Times (Aug. 2, 2025) https://perma.cc/7YCC-CU3E.

[5] Geo Grp., "The GEO Group Reports Second Quarter 2025 Results and Announces $300 Million Share Repurchase Program" (Press Release, Aug. 6, 2025), https://perma.cc/4FDF-Y6TJ.

[6] Paul Mozur, Adam Satariano & Aaron Krolik, "This Company's Surveillance Tech Makes Immigrants 'Easy Pickings' for Trump", N.Y. Times (Apr. 15, 2025), https://perma.cc/TP4N-2Q9M ("Mr. Trump's immigration policies have sent Geo Group's stock price soaring and kept its share price afloat even as the stock market gyrates. While digital monitoring generates only about 14 percent of its $2.4 billion in annual revenue, the company, which is based in Boca Raton, Fla., has said its immigrant surveillance could more than double. Profit margins on the monitoring business hover at around 50 percent.").

Stress Disorder ("PTSD"). Petitioner was diagnosed with PTSD after his fiancée and unborn child were murdered in a senseless act of violence on October 5, 2024. The couple had long-awaited having a child together, after suffering a previous miscarriage while Petitioner was in ICE custody in October 2023 and due to the stress on Petitioner's fiancée because of his detention. Petitioner was prescribed an anti-depressant medication while in ICE detention, but he is unable to take his prescribed medication for fear that it will cause him to miss an alert from the ankle monitor while he is sleeping and that he will be re-detained for non-compliance, despite his inability to sleep at night and nightmares of his fiancée's murder absent this medication.

8. ICE's unilateral decision to place Petitioner in another form of custody contravenes the IJ's order and violates the Due Process Clause of the Fifth Amendment of the United States Constitution, the Administrative Procedure Act ("APA"), the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, and a non-statutory right against ultra vires agency action. Accordingly, Petitioner respectfully asks this Court to order his immediate release from his unlawful continuing custody.

9. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests an order to show cause be issued within three days.

JURISDICTION & VENUE

10. Petitioner is currently in federal immigration custody and seeks habeas corpus relief for ongoing violations of the U.S. Constitution, the Administrative Procedure Act, federal statutes, and applicable regulations. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9 cl. 2 of the U.S. Constitution ("Suspension Clause"); and 28 U.S.C. § 1331 (federal question jurisdiction).

11. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their custody. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

12. As the subject of ongoing governmental supervision through ISAP, Petitioner remains in government custody, infringing upon his "liberty to do those things which in this country free men are entitled to do," as fundamentally protected by the Due Process Clause. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963); *Justices of Boston Mun. Ct. v. Lydon*, 466 U.S. 294, 300-01 (1984) (holding that petitioner released on recognizance subject to conditions such as appearance as ordered by court is "in custody" for habeas purposes); *Romero v. Sec'y, U.S. Department of Homeland Security*, 20 F.4th 1374, 1379 (11th Cir. 2021) (the "in custody" requirement of 28 U.S.C. § 2241 "should be construed 'very liberally'" and habeas petitioners "need only show that they are subject to a significant restraint on their liberty that is not shared by the general public." (quoting *Howard v. Warden*, 776 F. 3d 772, 775 (11th Cir. 2015))).

13. Recently, district courts have found that ISAP GPS monitoring constitutes a restraint on liberty so great as to be "in custody" for habeas purposes. *See Orellana v. Moniz*,---F.Supp.3d---, 2025 WL 1698600 (D. Mass. June 11, 2025) (finding that additional conditions of release imposed by ICE satisfied "in custody" requirement for § 2241 habeas release); *Flores Salazar v. Moniz*, 2025 WL 1703516 (D. Mass. June 11, 2025) (same).

14. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable through habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review

to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Respondents' ongoing custody of Petitioner has adversely and severely affected Petitioner's liberty and freedom.

15. The case arises under the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., the regulations implementing the INA, the Administrative Procedure Act (APA), 5 U.S.C. §§ 551-559 et seq.; and 5 U.S.C. § 552 et. seq. Jurisdiction is proper under 28 U.S.C. § 1331, as this action arises under the laws and Constitution of the United States. The government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

16. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is in the custody of the Philadelphia ICE Field Office, in Philadelphia, Pennsylvania, within the jurisdiction of the Eastern District of Pennsylvania. In addition, a substantial part of the events giving rise to this action occurred and continues to occur within this district. Petitioner is a resident of Philadelphia, PA.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. Exhaustion is not required in this case because no alternative forum exists in which Petitioner can obtain relief on the claims presented here, nor is there any statutory requirement that Petitioner exhaust remedies before seeking habeas relief under 28 U.S.C. § 2241. *See Callwood v. Enos*, 230 F.3d 627, 634 (3d Cir. 2000) ("[T]here is no statutory exhaustion requirement attached to § 2241[.]"). Petitioner's claims—that his ongoing custody by Respondents outside the scope of his bond order is unlawful and unconstitutional—are not subject to any statutory requirements of

administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

18. Exhaustion is also not required before seeking judicial review of an agency decision when otherwise not required by the APA. *See Darby v. Cisneros,* 509 U.S. 137, 154 (1993) (holding that courts do not have the authority to require a plaintiff to exhaust available administrative remedies before seeking judicial review under the APA, where neither the relevant statute nor agency rules specifically mandate exhaustion as a prerequisite to judicial review); *Jie Fang v. Dir. U.S. Immigr. & Cust. Enfor.*, 935 F.3d 172, 181 (3d Cir. 2019) (reaffirming *Darby*).

19. With regard to prudential considerations, the Third Circuit has held that exhaustion is not required where the administrative remedy would be futile, there is a likelihood of irreparable injury absent immediate judicial relief, or the administrative remedy would not serve the requirement's underlying policy goals. *Brown v. Warden Canaan USP*, 763 F. App'x 296, 297 (3d Cir. 2019); *see also Cerverizzo v. Yost*, 380 F. App'x 115, 116 (3d Cir. 2010) ("[W]e have held that the administrative exhaustion requirement in this context may be excused if an attempt to obtain relief would be futile or where the purposes of exhaustion would not be served." (citing *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 236 n. 2 (3d Cir. 2005)); *Lyons v. U.S. Marshals*, 840 F.2d 202, 205 (3d Cir. 1988) (explaining, even when exhaustion is required by law rather than judicial discretion, that "[e]xhaustion is not required if administrative remedies would be futile, if the actions of the agency clearly and unambiguously violate statutory or constitutional rights, or if the administrative procedure is clearly shown to be inadequate to prevent irreparable injury"); *Carling v. Peters*, No. Civ. A. 00-CV-2958, 2000 WL 1022959, at *2 (E.D. Pa. July 10, 2000) (excusing a prisoner's failure to exhaust because he "would suffer irreparable injury if he is compelled to wait until an administrative petition is ruled upon").

20. Here, administrative exhaustion is excused where pursuing administrative remedies would be futile, unavailable, and unreasonable. Courts have routinely found that constitutional challenges in the immigration context, like Petitioner's claims, are exempt from exhaustion requirements. *See Sewak v. Immigration & Naturalization Serv.*, 900 F.2d 667, 670 (3d Cir. 1990) ("[T]he exhaustion of administrative remedies is not always required when the petitioner advances a due process claim.") (citing *Vargas v. United States Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987).

21. Further, the ongoing deprivation of Petitioner's liberty interest ultimately weighs against requiring administrative exhaustion. *See McCarthy*, 503 U.S. at 147 (finding that exhaustion might not be required if petitioner challenged an ongoing deprivation of her liberty interest). The Supreme Court has recognized that courts should not require exhaustion where there is an unreasonable or indefinite timeframe for administrative action. Exhaustion is thus not appropriate where plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* at 147. Petitioner has a constitutionally protected liberty interest in his freedom from government custody. *Zadvydas*, 533 U.S. at 690. His unlawful, indefinite custody by Respondents constitutes irreparable harm. *See Seretse-Khama v. Ashcroft*, 215 F. Supp.2d 37, 53 (D.D.C. 2002).

22. In any event, here, Petitioner has already exhausted all administrative remedies available to him. Petitioner does not challenge the IJ's decision regarding the bond order but rather challenges ICE's imposition of an alternative form of custody and additional conditions of release outside the scope of the IJ's order. Here, the administrative process—the bond adjudication that Petitioner seeks to uphold—has already been exhausted. After ICE made an initial custody determination, Petitioner requested a redetermination of that decision from the IJ via a bond

hearing. *See* 8 C.F.R. § 1003.19(a), (c), (f); § 1236.1(d). Following that administrative process, Petitioner was ordered released on a $3,000 bond with no other conditions. In defiance of that bond order, ICE applied additional conditions of Petitioner's release, the agency action he now challenges.

23. Accordingly, Petitioner has exhausted his administrative remedies to the extent required by law and his only remedy is by way of this judicial action.

PARTIES

24. Petitioner G- T- is a 31-year-old citizen and national of Mali who currently lives in Philadelphia. He suffers from mental health conditions, including PTSD and depression. On September 15, 2025, an IJ found that Petitioner presents no risk of danger or flight and ordered him released from immigration detention on a $3,000 bond with no additional conditions of release. But on September 22, 2025, ICE unilaterally enrolled Petitioner in ISAP, applying an ankle monitor with 24/7 GPS monitoring and other onerous reporting requirements and conditions without notice or motion to the immigration court.

25. Respondent Brian McShane is ICE's Acting Field Office Director for the Philadelphia Field Office of ICE Enforcement and Removal Operations. As Field Office Director, Respondent McShane oversees ICE's enforcement and removal operations in the Philadelphia Area of Responsibility ("AOR"). Petitioner is currently detained within this area of responsibility and, as such, Respondent McShane is a legal custodian of Petitioner. Upon information and belief, Respondent McShane is responsible for the decision to apply the ankle monitor and other ISAP conditions to Petitioner. He is sued in his official capacity.

26. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, she is responsible for overseeing

ICE's day-to-day operations, leading approximately 20,000 ICE employees, including Respondent Lyons. Secretary Noem is the ultimate legal custodian of Petitioner.

27. Respondent Pamela Bondi is the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Petitioner's removal and bond proceedings, including the standards used in those proceedings, and as such, she is Petitioner's legal custodian. She is sued in her official capacity.

28. Respondent Todd Lyons is sued in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement, and as such is the legal custodian of Petitioner.

RELEVANT BACKGROUND AND STATEMENT OF FACTS

Statutory and Regulatory Background on Immigration Custody Proceedings

29. 8 U.S.C. § 1226(a) authorizes *both* ICE and the Attorney General to detain or release noncitizens who are not subject to mandatory detention during the pendency of removal proceedings. *See* 8 U.S.C. § 1226(a)(1), (2) (the Attorney General "may continue to detain the arrested alien" pending removal proceedings or it "may release the alien" on bond in the amount of at least $1500, or on "conditional parole"). This authority is not co-extensive, while ICE is authorized to make decisions about who to arrest, place into removal proceedings, and initially detain, the Attorney General, acting through the Executive Office of Immigration Review (EOIR), may review that initial determination. EOIR consists of the immigration courts, and the Board of Immigration Appeals (BIA), the highest immigration administrative appeals body at DOJ. *See* 8 C.F.R. § 1003.0.

30. This process begins with ICE. After a noncitizen has been placed into removal proceedings, ICE may "arrest[] and take[] [them] into custody." 8 C.F.R. 236.1(b)(1). ICE may also release noncitizens and set conditions of release, except for those subject to mandatory detention. 8 C.F.R. 236.1(c)(8). ICE's initial custody determination is not final—the noncitizen can seek de novo review of ICE's initial custody or bond determination under 8 U.S.C. § 1226(a) with an immigration judge. *See* 8 C.F.R. §§ 1003.19(a) ("Custody and bond determinations made by [ICE] pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236."); 8 C.F.R. 1236.1(d)(1) (describing how "[a]fter an initial custody determination by the district director [ICE] . . . the immigration judge is authorized to exercise the authority in section 236 of the Act. . . to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released. . ."). [7] This shifts jurisdiction from the arresting agency to the immigration court. *Id.; see Nielsen v. Preap*, 586 U.S. 392, 397-98, (2019) (describing how the Secretary of Homeland Security has discretion to detain or release a noncitizen and if that noncitizen is detained, he or she may seek review of his detention first with ICE, and then by an Immigration Judge); *Johnson v. Guzman Chavez*, 594 U.S. 523, 527–28 (2021) (after the initial detention determination, a petitioner may request a bond hearing before an IJ, who has the authority to redetermine "the alien's detention conditions.").

31. The IJ will then schedule a "custody redetermination hearing" to review ICE's decision, consider evidence by both parties including ICE counsel, and then issue a decision about whether to release a noncitizen on bond. Like ICE, IJs also have the authority to impose additional conditions on a noncitizen's release in addition to a cash bond, as the BIA has repeatedly

[7] If ICE, as part of the initial custody determination, decides to release the non-citizen and impose conditions on that release, 8 C.F.R. § 1236.1(d)(1) provides that the noncitizen may "request amelioration of the conditions under which he or she may be released" within seven days.

recognized. *See Matter of Garcia-Garcia*, 25 I&N Dec. 93, 96 (BIA 2009) (holding that IJs have authority to impose, modify, or remove conditions when releasing an individual); *see e.g.*, H-S-, AXXX XXX 365 (BIA Dec. 20, 2018) (BIA vacated an IJ imposed condition of release that noncitizen present his passport before he could post bond because the passport was lost).[8]

32. The IJ's decision must be entered on a form at the time the decision is made, and both the noncitizen and ICE must be informed of the decision orally or in writing. 8 C.F.R. § 1003.19(f). Both the noncitizen and ICE may appeal the IJ's decision on custody or bond to the Board of Immigration Appeals ("BIA"). *Id.* §§ 1003.1(d)(1), 1236.1(d)(3)(i). During removal proceedings, if ICE changes the location, releases, or re-detains a previously released noncitizen, it must immediately notify the IJ. *Id.* § 1003.19(g). The regulation also allows noncitizens to request a subsequent bond redetermination "upon a showing that the alien's circumstances have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e).

33. The regulations governing custody redetermination hearings provide for only two circumstances in which an IJ's bond order may be modified: (1) the noncitizen or ICE may appeal the IJ's custody redetermination to the BIA, *see* 8 C.F.R. § 1003.19(f); and (2) a noncitizen may later request a new custody re-determination hearing upon a showing of materially changed circumstances, *see id.* § 1003.19(e) (as was the case for Petitioner).

ICE's Intensive Supervision Appearance Program

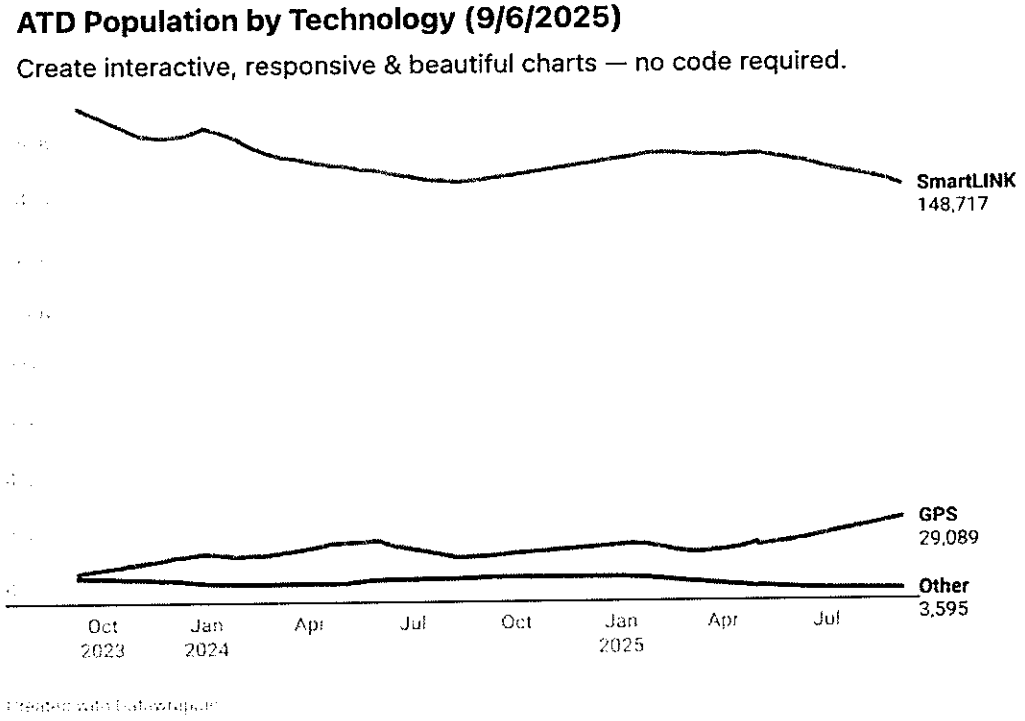
34. ICE's Alternatives to Detention ("ATD") program is "a [noncitizen] compliance tool overseen by [Enforcement and Removal Operations]."[9] Electronic monitoring first became a

[8] Redacted unpublished decision on file with Petitioner's counsel. *Available at* https://www.scribd.com/document/398005307/H-S-AXXX-XXX-365-BIA-Dec-20-2018?secret_password=pwkM2sWKt0AhyOWwVpwo

[9] U.S. Immigr. & Customs Enf't, *Enforcement and Removal Operations Statistics*, (updated May 30, 2025), https://perma.cc/MXZ3-RMUG ("ATD uses technology and case management to more

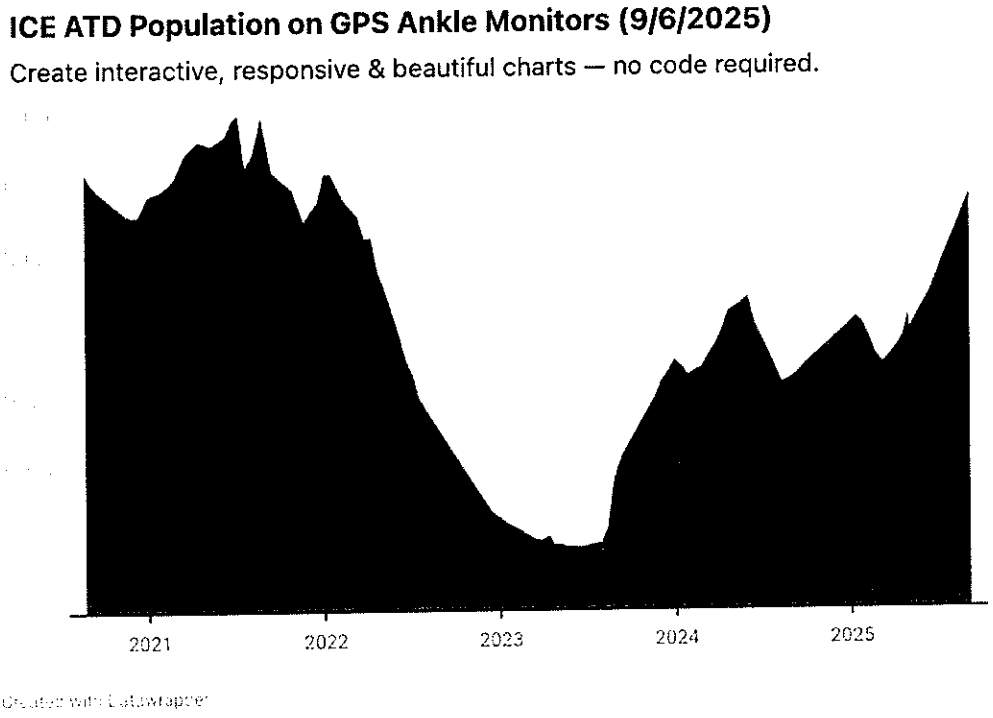
part of ICE's ATD program in 2004, when Congress appropriated funding to DHS to create two new programs, including ISAP. The ISAP contract was awarded to BI, a former cattle-tracking service based in Boulder, Colorado.

35. In recent years, the ATD program has rapidly expanded.[10]



closely monitor cases assigned to the non-detained docket where detention is not necessary or appropriate. The level of supervision and technology participants are assigned is based on their current immigration status, criminal history, compliance history, community or family ties, caregiver or provider status, and other humanitarian or medical conditions. Officials may enroll aliens in ATD following a border apprehension by CBP or an ICE interior administrative arrest, or at a later stage in removal proceedings."); *see also* U.S. Immigration and Customs Enforcement, *Alternatives to Detention* at 1 (updated February 27, 2025), https://perma.cc/W84B-2DAM ("Each [noncitizen] enrolled in ATD-ISAP receives an individualized determination as to their level of supervision. ERO may transition [a noncitizen]'s supervision level by considering certain factors. Factors considered in both initial placement and changes to supervision level, as relevant, include criminal history, compliance history, community or family ties, caregiver concerns, and other humanitarian or medical concerns.").

[10] Austin Kocher, "Immigration Arrests and Detention Numbers Decline Slightly, but Court Rulings and Flood of Funding Likely to Change All That" Substack (Sept. 12, 2025) https://perma.cc/66MV-7TL6.



36. In 2015, ICE reported that 26,625 people were enrolled in ISAP. That number increased by nearly 300% in 2019, with over 100,000 people enrolled in ISAP, and then tripled in 2022, with over 320,000 people enrolled in ISAP.[11]

37. The Helland Memo directs ICE Field Offices to expand the number of individuals subjected to ISAP. The new policy instructs ICE officials to monitor with GPS-enabled ankle monitors "whenever possible" and to "escalate their supervision level to GPS ankle monitors . . . and increase reporting requirements" for individuals not being arrested.[12]

[11] U.S. Immigr. & Customs Enf't, *Enforcement and Removal Operations Statistics*, (updated May 30, 2025), https://perma.cc/MXZ3-RMUG.

[12] Douglas MacMillan & Aaron Schaffer, "ICE Moves to Shackle Some 180,000 Immigrants with GPS Ankle Monitors", Wash. Post (July 24, 2025), https://perma.cc/YU83-ZMQ7

38. Data indicates that ICE currently monitors 182,584 families and single individuals through its ATD programs.[13] The Philadelphia ICE Field Office currently monitors 7,114 people on ATD programs, among the highest in the nation.[14]

39. The largest ICE ATD program is ISAP, which is administered by contractor BI Incorporated through its case specialists.[15] Under ISAP, individuals may be assigned to various forms of electronic monitoring technologies, including ankle monitors, telephonic reporting, and/or the smartphone application "SmartLINK." They may also be required to comply with periodic home and/or office visits.[16] ICE Enforcement and Removal Operations ("ERO") determines the intensity of the supervision and monitoring technology.[17]

40. According to a U.S. Government Accountability Office ("GAO") report from 2022, ICE ATD headquarters considers the ISAP handbook to be the program's standard operating procedure, and it is therefore reasonably understood as binding policy on ICE ATD officials.[18]

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[13] TRAC Reports, "Immigration Detention Quick Facts", (last accessed Sept. 23, 2025) (data current as of August 23, 2025) https://perma.cc/A4EN-JRKE (data current as of August 23, 2025).

[14] TRAC Reports, Immigration Detention Quick Facts, (last visited Sept. 23, 2025) (data current as of August 23, 2025) (Philadelphia ranks 10th among ICE Field Offices with highest number of people monitored on ATDs in the United States) https://perma.cc/9QK5-NJWW (data current as of August 23, 2025) (Philadelphia ranks 10th among the 25 ICE Field Offices with highest number of people monitored on ATDs in the United States).

[15] BI Incorporated operates ISAP under a contract with the Department of Homeland Security and Immigration and Customs Enforcement. *See* ISAP Intensive Supervision Appearance Program Participant Handbook, ISAP, https://perma.cc/6VC5-EGTZ (last accessed Aug. 29, 2025).

[16] ISAP Intensive Supervision Appearance Program Participant Handbook, ISAP, https://perma.cc/6VC5-EGTZ (last accessed Aug. 29, 2025).

[17] ICE, "Alternatives to Detention: ISAP Transition" (updated Feb. 27, 2024), https://perma.cc/NG9S-SQGA.

[18] *See* U.S. Gov't Accountability Off., GAO-22-104529, *Alternatives to Detention: ICE Needs to Better Assess Program Performance and Improve Contract Oversight* 27 (June 22, 2022), https://perma.cc/G348-VYC7 ("The ATD Handbook, published in 2017, outlines these policies and procedures, which ATD headquarters officials stated they consider the program's standard operating procedure."). ICE 2017 Handbook: https://perma.cc/FDV5-W78V.

Petitioner's Immigration History

41. Petitioner G- T- was born in August 1994, in Mali. In October 2014, Petitioner came to the United States on an F-1 visa to study computer science at Temple University. Due to financial constraints, he was unable to continue his schooling and later dropped out.

42. In June 2020, Petitioner began a relationship with Ms. L- D-, a U.S. Citizen ("Ms. D-" or "fiancée"). The couple fell in love and became engaged, with plans to marry in 2024. Throughout the course of their relationship, they cohabitated in Philadelphia along with Ms. D-'s two U.S. citizen children from a prior relationship. Petitioner became a father to these children providing financial and emotional support. Exh. A, Declaration of Petitioner, dated October 6, 2025 ("Petr. Decl.").

43. Ms. D- and Petitioner became pregnant in October 2023 with an expected due date of July 2024. However, Petitioner was detained by ICE in October 2023.[19] Unfortunately, Ms. D- miscarried while Petitioner was in ICE custody due to the stress caused by Petitioner's detention.

44. While in ICE custody, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal, on December 13, 2023, based on his fear of return to Mali on account of his religion, nationality, membership in a particular social group, and he also requested protection under the Torture Convention. Exh. A. Petitioner had his first custody redetermination hearing on December 18, 2025, and was granted release from custody on a bond in the amount of $1,500. Exh. B, Bond Order, Dated Dec. 18, 2023.

45. Petitioner returned home to his fiancée and children. Exh. A. He obtained his employment authorization card and began working in the cafeteria at Villanova University, along

[19] Petitioner was arrested by ICE after a dispute with his partner in August 2023. All the charges against him were withdrawn on December 14, 2023 and Petitioner has no criminal convictions stemming from this incident.

with his fiancée. *Id.* In 2024, the couple became pregnant again with a boy due February 22, 2025. *Id.* Unfortunately, Petitioner's world came crashing down when his fiancée was murdered in a senseless act of violence on October 5, 2024. *Id.* That night, Ms. D- and their unborn child were shot and killed outside of a Wawa in Collingdale, Pennsylvania. *Id.*

46. Petitioner fell into a deep depression after his fiancée's abrupt and tragic death. *Id.* He had to leave his job at Villanova and experienced persistent nightmares and visions of seeing her body on the ground the night of the murder. *Id.*

47. Despite this, Petitioner continued to work with the District Attorney's Office of Delaware County, PA to bring the perpetrator of the crimes against Ms. D- and his unborn child to justice. *See* Exh. A.

48. Still coping with the loss, on March 11, 2025, Petitioner affirmatively called the police on an acquaintance who kept insisting that Petitioner allow him to stay in Petitioner's home, often without permission. *Id.* The police arrived at Petitioner's residence, but arrested Petitioner, who the acquaintance had falsely accused of an assault. *Id.* Petitioner was released shortly after his arrest and the District Attorney's Office withdrew all charges on April 7, 2025, after the police found no evidence of an assault or of Petitioner's involvement. Exh. C, Petitioner's Renewed Motion for Custody Redetermination, Dated Sept. 4, 2025.

Petitioner's Most Recent Bond Proceedings and Release from Immigration Detention

49. Due to the false accusation against Petitioner on March 11, 2025, ICE agents arrested Petitioner on March 23, 2025. Petitioner was initially held at the Federal Detention Center, then transported to the Pike County Correctional Facility ("Pike"), on April 2, 2025, where he was detained in ICE custody. Exh. D, DHS Notice of Custody Determination, Dated March 23, 2025.

50. DHS issued a "Notice of Custody Determination" on March 23, 2025, deciding that Petitioner would be detained by DHS pending an administrative determination in his case. *Id.* Petitioner checked the box to request a review of DHS' custody determination by an immigration judge.

51. While detained, Petitioner underwent a psychological evaluation on July 19, 2025, and was diagnosed with PTSD. Exh. E, Psychological Evaluation.

52. Petitioner requested an IJ review of DHS' custody determination. Exh. A. The IJ scheduled a custody redetermination hearing (also known as a bond hearing) on July 21, 2025. The IJ denied bond during the initial custody redetermination hearing on July 21, 2025, because she did not know the reason Petitioner's criminal charges had been withdrawn; she found that Petitioner failed to meet his burden to establish that he was not a danger. *Id.* Petitioner filed a Motion for Changed Circumstances after obtaining a letter from the Philadelphia District Attorney's Office explaining charges had been withdrawn because there was no evidence of guilt, or even of a crime occurring. Exh. C; *see* 8 C.F.R. § 1003.19(e). Petitioner also filed an enrollment letter and detailed reentry plan, new medical records, and evidence that Petitioner filed an application for U Nonimmigrant Status ("U visa"), a special status set aside for victims of certain crimes who have assisted law enforcement with the investigation and prosecution of criminal activity, and that Petitioner intended to give a victim impact statement at the sentencing of the individual who murdered his fiancé. Exh. F.

53. On September 15, 2025, Petitioner had a custody redetermination hearing before IJ Leo A. Finston. *See* Exh. G, IJ Bond Order, Dated Sept. 15, 2025. IJ Finston found that Petitioner established changed circumstances and is not a danger to the community or a flight risk. *Id.* The IJ thus granted Petitioner's request for custody redetermination and ordered a low bond of $3,000.

Id. IJ Finston did not impose any additional conditions for his release. *Id.* DHS did not appeal this bond decision.

54. On September 18, 2025, DHS released Petitioner from custody pursuant to the payment of the bond. Exh. A. Upon his release, he returned to his home in Philadelphia, Pennsylvania and was referred to clinical therapy. *Id.*

55. Upon release, DHS gave Petitioner a DHS Call-In Letter, instructing him to come to the "Philadelphia BI Office" on September 22, 2025, at 9:00 am and to ask for the Duty Officer for ATD enrollment. *See* Exh. H, Department of Homeland Security Call-In Letter, Dated September 18, 2025.

56. On September 22, 2025, Petitioner and Mike Geoffino, an attorney from the Nationalities Service Center, attended this appointment. Exh. A. Petitioner and Attorney Geoffino arrived at the ISAP office (1015 Chestnut Street) in Philadelphia around 9:30 am. They spoke with the front desk secretary and explained that Petitioner was there for an appointment. *Id.*

57. The receptionist told them that she can inform DHS that the noncitizen has arrived for their scheduled appointment only after they have checked-in, and then BI has to wait to get information from DHS regarding their release program. She said that DHS does not give this information to BI prior to the appointment, even though DHS required Petitioner to attend the BI appointment on a certain time and day. She further said that DHS has been very busy lately and it can take a few hours to get a response from them, requiring noncitizens to wait. *Id.*

58. Petitioner and Attorney Geoffino saw Petitioner's case specialist, around 11:00 am. *Id.* At this appointment, the case specialist stated that everyone is getting an ankle monitor and reporting through the ISAP application as of about two or three months ago. *Id.* She said that there is no individualized determination. *Id.*

59. The case specialist notified Petitioner that they were going to monitor Petitioner with an ankle monitor for at least three months. *Id.* She informed Petitioner that after three months, he could request to remove the ankle monitor, but it is not guaranteed, and his caseworker would need approval from ICE. *Id.*

60. DHS placed Petitioner in the "Pre-Order" supervision plan and ordered him to comply with office visits, ISAP case management, ISAP court tracking, and ISAP home visits, in addition to wearing the ankle monitor. Exh. I, ISAP Paperwork.

61. DHS provided Petitioner with paperwork detailing the requirements of his ISAP supervision, and also gave him verbal instructions beyond the requirements described in his official paperwork. *Id.*; Exh. A. Altogether, DHS instructed Petitioner that he must fully comply with the following restrictions and requirements:

- Petitioner must wear the ankle monitor 24/7. The ankle monitor may emit messages. To hear or stop hearing messages from the ankle monitor, a person must tap it twice. *Id.*

- Petitioner must charge the battery of the ankle monitor for two to three hours daily before going to sleep. *Id.*; Exh. A. To charge the ankle monitor, Petitioner has to attach a battery to the ankle monitor. The ankle monitor beeps at night when it needs to be charged and beeps again when charging is completed.

- Petitioner must not go swimming with the device, since this will damage the device. Exh A.

- Petitioner cannot play soccer or run because this could lead to a false alert that he is tampering with the ankle monitor. *Id.*

- Petitioner must attend regular in-person office visits and virtual office visits. Exh. I (ISAP Paperwork); Exh. A. Petitioner's paperwork states that he is required to attend in-person office visits every 8 weeks, contradicting his caseworker's verbal instruction that he is required to report in-person every 32 weeks. Exh. I, Exh. A. Petitioner's caseworker also verbally instructed him that he would be required to attend "virtual office visits" every 8 weeks, although his paperwork states that his office visits every 8 weeks are in-person.

- Petitioner must attend in-person home visits every 32 weeks. Exh. I; Exh. A There is not a specific time for the home visits; rather, Petitioner must be home and available the

entire day. Exh. A. Petitioner is also required to report via the SmartLINK phone application. *Id.*

- Petitioner must attend virtual home visits every eight weeks during which time he must be home to receive this phone call. *Id.*

- Petitioner's movement is restricted to a geographic area of Pennsylvania, New Jersey, and Delaware. Exh. A. He must secure advance permission to travel outside of those states and/or to move addresses within those states. *Id.* The geographic restrictions also apply even if he has work in another state. *Id.* If he wishes to travel to another state, even for work, he has to secure permission five days in advance. *Id.*

62. However, during Petitioner's ISAP in-person appointment on October 6, 2025, his caseworker informed him that they were doing away with virtual home and office visits so he will likely have to come in person for future appointments. *Id.* His caseworker told him that his application calendar would update accordingly. *Id.*

Impact of Petitioner's Ongoing Supervision by the Philadelphia ICE Field Office

63. Petitioner has remained on 24/7 digital supervision since the ankle monitor was placed on him on September 22, 2025. Petitioner states that this has been a "horrible" experience for him that has "interfered with [his] sleep, made [him] embarrassed to go out in public, and made [him] afraid of being discriminated against." Exh. A.

64. The ankle monitor weighs heavy on Petitioner because he constantly fears that the battery will die, and he will be blamed and redetained. This fear drastically affects his mental health because he cannot follow his doctor's prescribed treatment plan for managing his depression and poor sleep due to the ankle monitor. Ever since his fiancée's murder, Petitioner has struggled with depression, suffering visions and flashbacks about her death at night that prevent him from sleeping. Exh. A; *see also* Exh. E (noting that Petitioner suffers "severe sleep disturbance, generally unable to sleep at night but catching up for a few hours during the day"). Petitioner's doctor prescribed him medication to treat his severe sleep issues, but Petitioner had to stop taking

the medication in order to manage the requirements of the ankle monitor. Exh.s A; E. The ankle monitor beeps and vibrates throughout the night whenever the battery needs to be charged and again when charging is complete. Petitioner fears that his sleep medication will cause him to miss an alert from the ankle monitor and that he will be penalized for non-compliance, so he felt he had no choice but to stop taking the medication, despite his inability to sleep at night and horrific nightmares of his fiancée's murder. Exh. A.

65. Petitioner describes one example of an evening when he had already fallen asleep, until the ankle monitor woke him up with its beeping and vibrating. *Id.* Petitioner got up to plug the ankle monitor into the wall, but then had to go back to sleep with his foot in an elevated position so that the charging cord could reach the wall. Even after he managed to fall asleep in this awkward position, the monitor woke him up again a few hours later with further buzzing and vibrating announcing that the charge was complete. *Id.*

66. The fear that the ankle monitor's battery will die has also changed his daily routines and social life, further psychologically tormenting him and contributing to his depression. Prior to having the ankle monitor surveillance, Petitioner had a routine of going to work, going to his mosque, then visiting friends who would cook and eat together. However, the ankle monitor is physically uncomfortable and hot on his skin, and it is burdensome to Petitioner to carry the heavy, bulky charger for it everywhere he goes in case the battery happens to run low while he is out. *Id.* Recently, his ankle monitor began beeping while he was grocery shopping, causing him to abandon this very basic task to return home to charge it. *Id.* These physical discomforts from the ankle monitor have made it difficult for Petitioner to be out and away from his home and caused him to withdraw from his regular activities.

67. Moreover, the ankle monitor is also causing Petitioner significant emotional distress. Petitioner reports that the ankle monitor makes him feel ashamed, and he experiences anxiety that people in public will see the monitor and assume that he is a criminal or a terrorist. *Id.* Out of embarrassment from being openly shackled and fear that he will face prejudicial or discriminatory treatment, Petitioner has stopped going to his mosque and limited other social activities, furthering his isolation and disrupting the coping mechanisms that had helped him manage his depression and PTSD. *Id.*

68. Petitioner is also worried about the impact of the ankle monitor on his fiancée's children's lives and on his ability to seek employment. *Id.* He does not want the children to see the ankle monitor because of how embarrassed he feels. *Id.* He is also anxious that future employers will think that he is on house arrest. *Id.*

69. Despite Petitioner's best intentions and efforts to comply with his ISAP and ankle monitor reporting requirements, the challenge of keeping up with the surveillance obligations has become a new source of anxiety for him. He is afraid to take psychiatric medication because it might allow him to sleep, thereby interfering with his ability to comply with the ankle monitor's demands. *Id.* He now lives in constant fear that his ankle monitor will run out of battery and he will be unable to recharge it, or that he will miss a reporting requirement on the app which sometimes does not allow him to log in. *Id.* After multiple periods of detention in ICE custody, Petitioner dreads the possibility of being penalized for the slightest error or mishap related to his ankle monitor. Rather than promoting his ability to heal and seek treatment for his depression and PTSD upon his release from ICE custody, the ankle monitor has added new stressors to his life and caused him to live in constant fear that he will be sent back to detention.

CLAIMS FOR RELIEF

COUNT ONE:

VIOLATION OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION

Substantive Due Process

70. Petitioner realleges all paragraphs above as if fully set forth here.

71. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. Under the substantive due process doctrine, restraints on liberty associated with civil detention are only permissible if they serve a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997).

72. ISAP "relies on the use of electronic ankle monitors, biometric voice recognition and image recognition software, unannounced home visits, employer verification, and in-person reporting to supervise participants." *Mathon v. Searls*, 623 F. Supp. 3d 203, 217 (W.D.N.Y. 2022). The program can be understood as "a form of supervised parole." *Nken v. Napolitano*, 607 F. Supp. 2d 149, 151 (D.D.C. 2009).

73. Petitioner's ankle monitor constitutes a "significant restraint on [his] liberty," where his movements and daily activities are restricted and subject to 24/7 surveillance. *Romero*, 20 F.4th at 1379.

74. Respondents' imposition of electronic surveillance on Petitioner serves no legitimate nonpunitive objective. Neither public safety nor flight risk are at issue here. An IJ has already determined that Petitioner is not a danger to the community and that the only condition necessary to ensure his future appearance in immigration court is payment of a cash bond.

75. Because Respondents have no legitimate nonpunitive objective in imposing electronic surveillance on Petitioner in defiance of an IJ's order, they violate the substantive due process clause doctrine of the Fifth Amendment.

COUNT TWO:

VIOLATION OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION

Procedural Due Process

76. Petitioner realleges all paragraphs above as if fully set forth here.

77. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty" under case law interpreting the Due Process Clause. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333.

78. Under *Mathews v. Eldridge*, courts must balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the Government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. *Id.* at 333.

79. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, *or other forms of physical restraint*—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690 (emphasis added).

80. Here, the private interest at stake is Petitioner's freedom from the government's ongoing surveillance through ankle monitoring, which has significantly and severely interfered with his quality of life by preventing him from getting necessary care for his mental health

conditions, inflicting constant physical pain and discomfort, causing daily psychological distress, and subjecting him to social stigma and ridicule. Petitioner has been forced to withdraw from his prescribed medical treatment plan for PTSD and severe sleep issues in order to be alert throughout the night and comply with ankle monitor charging requirements whenever necessary. In light of the government's new policy encouraging blanket application of ankle monitors, Petitioner faces the prospect of having this infringement on his liberty interest continue indefinitely.

81. The second factor, the risk of erroneous deprivation of liberty, favors Petitioner. In fact, here, an "erroneous deprivation" of Petitioner's liberty interest is not merely at risk, it has been realized and may continue indefinitely because the process available to him to challenge the conditions of his custody has already occurred during his custody hearing before the IJ. When the government defies an IJ's order that restrains it from imposing surveillance, the risk of erroneous deprivation of liberty is not just high—it is certain. The value of requiring ICE to follow an IJ's reasoned order is also certain because it guarantees that any restrictions on liberty were justified by findings obtained at a hearing before a neutral decision-maker at which both parties were able to present evidence and arguments.

82. The third factor, the government's interest, also favors Petitioner. During Petitioner's bond hearing, the government was represented by counsel who presented evidence and the government's position concerning Petitioner's conditions of release. Following the custody determination by the IJ, the government did not appeal. If the government is permitted to defy an IJ's order by placing additional restraints on liberty that are not made on the basis of individualized evidence, a noncitizen's only recourse will be to seek relief in a habeas corpus petition before the federal courts. The resultant glut of increased legal filings will impose greatly heavier administrative and fiscal burdens on the government than would simply requiring an ICE trial

attorney to seek reporting or surveillance conditions at the original bond hearing before an immigration judge.

83. For these reasons, the imposition of electronic surveillance on Petitioner in defiance of an IJ's order violates the procedural due process doctrine of the Fifth Amendment.

COUNT THREE:

VIOLATION OF ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A), (B)

Contrary to Law and Constitutional Right

84. Petitioner realleges all paragraphs above as if fully set forth here.

85. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B).

86. The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, any law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

87. The IJ's authority to set conditions of release derives from the INA, 8 U.S.C. § 1226(a). *See* 8 CFR § 1236.1(d)(1) ("[T]he immigration judge is authorized to exercise the authority in section 236 of the Act"). ICE's failure to comply with that authority is therefore a violation of the INA.

88. ICE's refusal to follow the IJ's order also violates 8 C.F.R. § 1003.19(a), under which "[c]ustody and bond determinations made by [ICE] pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236."

89. ICE's refusal to follow the IJ's order also violates substantive and procedural due process under the Fifth Amendment's Due Process Clause, as described in Counts One and Two.

See also Torres-Jurado v. Biden, 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (finding violation of procedural due process where ICE failed to follow regulations for revocation of an order of supervision).

90. ICE's policy is not in accordance with law because it is contrary to the INA, its implementing regulations, and the Due Process Clause of the Constitution's Fifth Amendment.

COUNT FOUR:

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

Arbitrary and Capricious

91. Petitioner realleges all paragraphs above as if fully set forth here.

92. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).

93. ICE's policy of ignoring an IJ's order and unilaterally imposing additional restraints on liberty not contained in the order, is arbitrary and capricious because it violates statute, regulation, and the Constitution, as described above in Counts One, Two, and Three.

94. ICE's policy also "failed to consider important aspects of the problem" before the agency, rendering it arbitrary and capricious in multiple respects. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

95. First, the policy fails to address the serious constitutional concerns arising from a practice to ignore the orders of a neutral decisionmaker, including harms to the liberty interests of people adjudicated to not need surveillance in order to guarantee court appearance and harms caused to the rule of law by agency action that fails to follow reasoned decision-making.

96. Second, the policy ignores the increased administrative burden on the government caused by subjecting people to unnecessary electronic surveillance and reporting, including

financial costs to the government from contracts for services with private companies that run surveillance programs and personnel costs spent on processing unnecessary requests for surveillance.

97. Third, the policy fails to consider reasonable alternatives, like following an IJ's order or requiring ICE attorneys to raise arguments for surveillance and reporting at a bond hearing in order to obtain an IJ order for such. This alternative would vindicate the government's interests in imposing surveillance on people likely to abscond and save it the unnecessary expense of imposing surveillance on those who do not need it in order to guarantee court appearance.

98. Fourth, the policy fails to consider the substantial reliance interests of people subject to unwarranted surveillance, who might have raised arguments against its imposition at a bond hearing had they been given notice.

99. For these and other reasons, ICE's policy is arbitrary and capricious.

COUNT FIVE:

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(C)

In Excess of Statutory Authority

100. Petitioner realleges all paragraphs above as if fully set forth here.

101. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

102. "An agency . . . literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute." *FEC v. Cruz*, 596 U.S. 289, 301 (2022) (internal quotation marks and citation omitted).

103. No statute authorizes ICE to unilaterally overrule an IJ's order at a bond hearing.

104. ICE's policy is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.

COUNT SIX:

VIOLATION OF THE *ACCARDI* DOCTRINE

105. Petitioner realleges all paragraphs above as if fully set forth here.

106. Respondents violated the *Accardi* doctrine in failing to follow its regulations, 8 C.F.R. § 1003.19(a), requiring compliance with an IJ bond order.

107. In *Accardi* a noncitizen challenged his deportation, and the Supreme Court held that agencies are bound to follow their own rules that affect the fundamental rights of individuals. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (holding that the Board of Immigration Appeals must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required").

108. "[W]hen an agency promulgates a regulation protecting fundamental statutory or constitutional rights of parties appearing before it, the agency must comply with that regulation. Failure to comply will merit invalidation of the challenged agency action without regard to whether the alleged violation has substantially prejudiced the complaining party." *Leslie v. Attorney General*, 611 F.3d 171, 180 (3d Cir. 2010) (finding that the government's failure to implement its regulation requiring IJ's to advise noncitizens of their right to counsel violated noncitizens' right to counsel and undermined the structure of the hearing such that it automatically invalidated the agency action); *Aquino v. Attorney General*, 53 F.4th 761, 766 (3d Cir. 2022) ("So to clarify *Leslie*,

we hold that for a regulation to protect a fundamental right, a violation must be a structural error that necessarily makes proceedings fundamentally unfair").

109. In applying *Accardi* and determining whether a failure to comply with a regulation warrants invalidation of the agency action, the Third Circuit has focused on the significance of the right and the structure needed to secure that right. *See Leslie*, 611 F.3d at 176, 181 (drawing on *Accardi,* in which the court prevented the Attorney General from "sidestep[ping] the Board or dictat[ing] its decision").

110. The remedy for an *Accardi* violation is to set aside the agency action and enjoin the agency to follow its rules. *Accardi*, 347 U.S. at 268 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

111. Here, Respondents have promulgated agency rules that require ICE to obey an IJ's order following a custody determination at a bond hearing. *See* 8 C.F.R. § 1003.19(a) ("Custody and bond determinations made by [ICE] pursuant to 8 C.F.R. part 1236 may be reviewed by an Immigration Judge pursuant to 8 C.F.R. part 1236."); *Id.* § 1236.1(d)(1). ("[T]he immigration judge is authorized to exercise the authority in section 236 of the Act . . . to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released"). These rules protect the fundamental right to liberty of a noncitizen in removal proceedings. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690 (citing *Foucha* v. *Louisiana,* 504 U. S. 71, 80 (1992)). Allowing the government to bypass the bond order of an IJ and apply conditions outside those ordered after a full custody hearing "undermines the structure of the hearing and necessarily prejudices the outcome." *Aquino,* 53 F.4th at 766.

112. Regardless, ICE's failure to follow its rules is prejudicial to Petitioner where the rule implicates his fundamental liberty interest and due process rights. *See Leslie*, 611 F.3d at 182; *see also Delgado-Corea v. INS*, 804 F.2d 261, 263 (4th Cir. 1986) (holding that "violation of a regulation can serve to invalidate a deportation order when the regulation serves a purpose to benefit the [noncitizen]" and the violation affected "interests of the [noncitizen] which were protected by the regulation" (internal quotations and citation omitted)). If ICE were to follow its rules and obey the IJ's order—requiring release with only the condition of payment of a $3,000 bond—it would be required to discontinue Petitioner's enrollment in ISAP and release him from the ankle monitor.

113. Under the *Accardi* doctrine, Petitioner has a right to set aside ICE's decision to impose electronic surveillance on him and to enjoin ICE from defying the IJ's order by imposing additional restraints on his liberty beyond the IJ's order.

COUNT SEVEN:

ULTRA VIRES ACTION

114. Petitioner realleges all paragraphs above as if fully set forth here.

115. The Supreme Court has held that after the initial detention determination, a petitioner may request a bond hearing before an IJ, who has the authority to determine "the alien's detention conditions." *See Johnson*, 594 U.S. at 527–28; *see also Huanga v. Decker*, 599 F. Supp. 3d 131, 138 (S.D.N.Y. 2022) ("Section 1226(a) gives the Attorney General the choice to 'continue to detain the arrested alien,' or 'release the alien on (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.' The Attorney General has delegated this authority to immigration judges").

116. Although an IJ determined that Petitioner is not a flight risk or a danger to the community, ordering him released from custody on a minimal $3,000 bond with no additional conditions, ICE is unlawfully subjecting him to an alternative form of custody through the ankle monitor and other onerous conditions.

117. ICE's unlawful application of conditions outside the IJ Order reflects its new policy, as described in the Helland Memo, to outfit noncitizens with ankle monitors "whenever possible."

118. Petitioner received a bond hearing because he is eligible for an IJ to review his detention and order him released. *See* 8 U.S.C. § 1226(a). Bond hearings before an IJ provide an impartial proceeding where ICE and the noncitizen are present and have access to counsel. At this hearing, both sides have the opportunity to present evidence, make legal arguments, and appeal an unfavorable decision. *See* 8 C.F.R. §§ 1003.19, 1236.1(d). Thus, here, the administrative process has been completed and an IJ determined the conditions of Petitioner's release—a $3,000 bond. Even if ICE is dissatisfied with the outcome of that process, it has no authority to unilaterally impose additional conditions of release in violation of the IJ's bond order. If DHS is dissatisfied by the decision to release Petitioner on a $3,000 bond, DHS has the ability to appeal the decision to the BIA – which it did not do. Instead, DHS is trying to do an end run around the IJ bond hearing and the procedural protections it ensures.

119. There is no statute, constitutional provision, or other source of law that authorizes this action or ICE's new policy regarding broad implementation of ankle monitors. And the policy is contrary to law and constitutional right, as set forth above.

120. Petitioner has non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a) Assume jurisdiction over this matter;

b) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from the supervision of ISAP/BI Incorporated and remove the ankle monitor and other supervision requirements;

c) Set aside defendants' decision to place Petitioner on electronic surveillance, supervision requirements, and any other restraint on liberty that goes beyond the IJ's custody redetermination;

d) Enjoin defendants from imposing electronic surveillance and supervision requirements in the future absent a showing of changed circumstances that make Petitioner a flight risk;

e) Declare unlawful, set aside, and enjoin from carrying out defendants' policy and practice of imposing additional restraints on liberty that go beyond an immigration judge's custody redetermination;

f) Grant any further relief this Court deems just and proper.

Dated: October 7, 2025

Respectfully submitted,

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Complaint and Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: October 7, 2025

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania.

DATED: October 7, 2025

/s/Jonah Eaton

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