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BY ECF

Hon. Evelyn Padin, U.S.D.J.
U.S. District Court for the District of New Jersey
50 Walnut Street
Newark, NJ 07102

**Re: *Moreira Da Silva v. Bondi*, No. 25-17095
Response Concerning Terms of Release**

Dear Judge Padin:

This Office represents Respondents in this habeas matter filed by a noncitizen who successfully challenged his detention by U.S. Immigration and Customs Enforcement (“ICE”) pursuant to 8 U.S.C. § 1225(b)(2). We write to respond to Petitioner’s emergency motion to remove conditions of release and to return documents. ECF No. 11.

On November 13, 2025, this Court granted Petitioner’s habeas petition. ECF No. 6. The Court found that ICE improperly detained Petitioner under § 1225(b)(2) and “that Petitioner’s detention is authorized only by 8 U.S.C. § 1226(a).” ECF No. 6 at 2. The Court ordered Respondents to facilitate the immigration court holding an individualized bond hearing “in accordance with 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(d)[.]” *Id.* at 3. On November 18, the immigration court held the bond hearing and ordered Petitioner released under bond of \$8,500.00. ECF No. 11-1, Order of Immigration Judge dated Nov. 18, 2025. Petitioner posted bond on November 20, and ICE released him from detention. ECF No. 11-1, Immigration Bond. ICE Enforcement and Removal Operations (“ERO”), the ICE component responsible for detention and removal of noncitizens, imposed terms of supervised release on Petitioner, including placing him in the Intensive Supervision Appearance Program (“ISAP”), imposing home confinement and home visits, restricting geographic travel, and affixing an ankle monitor. ECF No. 11 at 3-4. ICE also retained certain of Petitioner’s personal documents—namely, his Employment Authorization Document (“EAD”), driver’s license, social security card, and bank card. *Id.* at 6. Petitioner filed the instant motion to have the Court invalidate the terms of release and return the documents.

The Immigration and Naturalization Act (“INA”) grants ICE discretion to impose terms of supervised release on a noncitizen granted release under bond. Specifically, § 1226(a) provides that “the Attorney General . . . may release the alien on bond . . . and containing conditions prescribed by the Attorney General[.]” 8 U.S.C. § 1226(a)(2)(A). The Board of Immigration Appeals (“BIA”), the highest administrative body with authority to interpret the INA, recognized that this section gives both the Attorney General and the Secretary of Homeland Security the “shared” authority “to place conditions on an alien’s release from custody when setting a monetary bond[.]” *Matter of Garcia-Garcia*, 25 I&N Dec. 93, 96 (BIA 2009).

Moreover, the DHS regulations promulgated under § 1226 permit a noncitizen who disagrees with the terms of release set by ICE to appeal those terms to the immigration court—here, the same court that granted Petitioner’s request for release on bond. 8 C.F.R. § 1236.1(d) (permitting immigration court to review “application for amelioration of the terms of release”); 8 C.F.R. § 236.1(d) (same); 8 C.F.R. § 1003.19(a) (“Custody and bond determinations made by the service pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge[.]”); *see also Matter of Garcia-Garcia*, 25 I&N Dec. at 96 (holding “the Immigration Judge has broad authority to review and modify the terms imposed by the DHS on an alien’s release from custody” and affirming immigration judge’s power to review noncitizen’s motion to be removed from ISAP).

Respondents accordingly adhered to these provisions when it imposed conditions of release after the immigration court granted bond. *But see Garcia Sandoval v. Bondi*, No. 25-17229-SDW, ECF No. 13 (D.N.J. Dec. 2, 2025) (ordering respondents to remove conditions of supervised release after court ordered petitioner’s immediate release from custody).¹

As to documents, ICE is permitted to confiscate documents of noncitizens in removal proceedings, as Petitioner is.² *See* ICE ERO, *Policy Directive 11311, Confiscation and Return of Original Documents* (Jan. 13, 2023), https://www.ice.gov/doclib/foia/dro_policy_memos/11311_OrgDocConfiscationReturn.pdf (“ERO will generally retain all confiscated documents of noncitizens in removal proceedings, with some exceptions, and those of noncitizens with final orders of removal released from ERO custody.”). The noncitizen can “request access to the

¹ To the extent Petitioner disagrees with necessity for the specific terms of release, the Court would lack jurisdiction over that claim under 8 U.S.C. § 1226(e), which provides, “[t]he Attorney General’s discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or parole.”

² According to ICE, the immigration court ordered Petitioner removed on September 9, 2025, but that order of removal is not final because Petitioner has appealed it.

documents in ERO’s possession,” and ERO “shall make a determination on a case-by-case basis” weighed against “ICE’s operational and evidentiary need for the document[.]” *Id.* at § 2.3. ICE should return the document if it “has no operational need to retain the document[.]” *Id.* § 5.2. Because it does not appear that Petitioner has requested ERO return the documents, ERO has not had an opportunity to make an individualized determination under this Policy Directive.

We thank the Court for its attention to this matter.

Respectfully submitted,

By: *s/ Alex Silagi*
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cc: Counsel of record (by ECF)