

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

MIGUEL HERNANDEZ,

Petitioner,

v.

DENNIS UDZINSKI, in his official
capacity as Warden of Hall County
Jail, *et al.*,

Respondents.

Civil Action No.
2:25-CV-00373-RWS

**THE FEDERAL RESPONDENTS' OPPOSITION TO MOTION TO
ENFORCE JUDGMENT OR, ALTERNATIVELY, FOR CONTEMPT**

The Court should deny Petitioner's motion (Doc. 16) because the federal Respondents are complying with both the letter and the spirit of this Court's order.

INTRODUCTION

The federal Respondents in this case are two officials at Immigration and Customs Enforcement (ICE), the Secretary of Homeland Security, and the Attorney General. The remaining Respondent (Warden Udzinski) is a state-level official, not represented by the undersigned U.S. Attorney's Office.

After ICE took petitioner Miguel Hernandez into custody and held him without bond, he petitioned this Court for a writ of habeas corpus and sought a

temporary retaining order or preliminary injunction seeking his release. This Court, in ruling on the TRO/PI, ordered the Respondents to provide a bond hearing to Hernandez or release him from custody. The order also enjoined Respondents from rearresting Hernandez “unless he has committed a new violation of any federal, state, or local law, or has failed to attend any properly noticed immigration or court hearing or is subject to detention pursuant to a final order of removal.”

ICE complied with that order and presented Hernandez for a bond hearing on November 26. (Bond hearings are conducted by the Executive Office for Immigration Review, part of the Department of Justice.) At that hearing, an Immigration Judge released Hernandez under a bond. The bond was paid, and Hernandez was released. He remains out of detention today.

Hernandez nonetheless argues that he has been “constructively” or “de facto” rearrested because ICE recently required him to start wearing an ankle monitor. He says that his constructive rearrest violates this Court’s order. He asks this Court to order the monitoring removed or, alternatively, to order Respondents to show cause why they should not be held in contempt.

This brief explains why this Court should deny the motion and why no contempt order is warranted here. In short, ICE’s actions are consistent with the text of this Court’s order because Hernandez has not been rearrested. ICE’s

actions are also consistent with the spirit of this Court's order because that order was about whether 8 U.S.C. § 1225 authorizes Hernandez's detention without bond, not about whether ICE could impose further, non-§-1225-based restrictions on him. Thus, no violation of this Court's order occurred, and Hernandez's motion should be denied.

BACKGROUND

Hernandez is a non-citizen – an “alien,” in legal terminology – who entered the United States without legal authorization in the 1990s. (Doc. 1 (“Pet.”) ¶ 22.)

(a) Hernandez's arrest

Hernandez states that he arrested by Gainesville police “after being involved in a car accident.” (Pet. ¶ 31.) In fact, he perpetrated a hit-and-run, for which he was arrested. (Graumenz Declaration ¶ 4, attached.) After his arrest, he was detained by ICE for potential removal from the United States due to his lack of legal status. (*Id.* ¶¶ 31–32.) He was initially detained without bond under 8 U.S.C. § 1225(b)(2), which states that aliens who are “applicants for admission” under § 1225(a) – a definition that includes Hernandez – “shall be detained” pending a removal proceeding. (*Id.* ¶¶ 2, 5.)

ICE has not historically used the detention authority provided by § 1225(b)(2) against aliens arrested in the interior who arrived more than two

years ago. (*Id.* ¶ 47.) That policy changed in July 2025 when an agency memorandum instructed all ICE employees to begin utilizing § 1225 in this way. (*Id.*) Hernandez was detained without bond under the new policy. (*Id.* ¶¶ 48–50.)

(b) The precise nature of Hernandez’s petition

Hernandez petitioned this Court for a writ of habeas corpus. (Doc. 1 (“Pet.”)) He also filed a motion for a temporary restraining order or preliminary injunction. (Doc. 2 (“TRO/PI Mot.”)) In those filings, Hernandez argued that § 1225 does not grant ICE authority to detain an alien like himself, who illegally entered the country years ago and who is not currently attempting to legalize his status. He described and attached the July memo instructing ICE officers to begin relying on 1225. (Pet. ¶¶ 4, 46; TRO/PI Mot. at 13.) He cited and critiqued the Board of Immigration Affairs’ decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the internal decision that upheld ICE’s new policy. (Pet. ¶¶ 37, 49–50; TRO/PI Mot. at 5, 8, 10, 13.) And he cited the many other cases around the country where this exact same issue is being litigated. (Pet. ¶ 2; TRO/PI Mot. at 11.) In short, if one were to boil this case down to a single question, it would be, “Does 8 USC 1225(b)(2) allow ICE to detain without bond an alien who entered without inspection a long time ago?”

(c) This Court's order

This Court answered the above question “no,” at least on a preliminary basis. (Doc. 10 (“TRO/PI Order”).) The Court granted the TRO/PI and ruled that § 1225 does not apply to an alien who entered the country long ago and who is not currently “seeking admission” within the meaning of § 1225(b)(2). (*Id.* at 9-14.) The Court concluded that “Petitioner has clearly shown a substantial likelihood on the merits of his claim that Respondents have unlawfully detained him without bond under § 1225(b)(2)(A).” (*Id.* at 14.)

After announcing its ruling, the Court detailed the remedy. The following language from the order provided the relief sought:

Respondents are hereby **ENJOINED** from continuing to detain Petitioner unless they provide him with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) as soon as possible, but no later than seventy-two (72) hours from the entry of this Order.

If Respondents do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) [then they must release him].

Respondents are further **ENJOINED** from pursuing detention of Petitioner on the basis of 8 U.S.C. § 1225(b)(2)(A), which is inapplicable in this case, and he is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226(a)(1).

IT IS FURTHER ORDERED that Respondents shall file a Status Report [confirming the results of the bond hearing]

IT IS FURTHER ORDERED that, in the event Petitioner is released on bond, Respondents are **ENJOINED** from rearresting Petitioner, unless he has committed a new violation of any federal, state, or local law, or has failed to attend any properly noticed immigration or court hearing or is subject to detention pursuant to a final order of removal.

(TRO/PI Order at 16–18.) The parts most relevant to this brief are highlighted.

(d) Hernandez’s release on bond

In accordance with this Court’s order, Hernandez was brought before an Immigration Judge on November 26. The Immigration Judge ordered Hernandez released on bond of \$5,500. (Doc. 16-1.) An obligor completed the bond paperwork that day but after bond-posting hours, so the bond was not accepted

until the next business day, November 28. (Graumenz Decl. ¶¶ 5–8.) Hernandez was released that day. (*Id.* ¶ 8.)

(e) The addition of an ankle monitor and its legality

On December 2, Hernandez reported to ICE for a check-in meeting, where he was informed that he would be subject to check-ins, travel restrictions, and electronic monitoring via an ankle monitor. (Doc. 16-3.) This brief refers to these restrictions generally as “monitoring.”

Hernandez’s motion argues that ICE does not have the legal right to impose restrictions beyond those set by the Immigration Judge at the bond hearing. This brief does not offer a detailed defense of that practice because it is beyond the scope of the current relevant issue – which is whether this Court’s order was violated. (Hernandez’s challenge to his monitoring is beyond the scope of his habeas petition, and a contempt motion is not the proper vehicle for such a challenge.) But a few words about the history of the practice and its legality are appropriate now.

The imposition of restrictions and monitoring on aliens, even post-bond-hearing restrictions, is a longstanding practice that has nothing to do with the § 1225 policy that spawned the current case and others like it. Hernandez cites a policy change in June of this year that, he says, made digital monitoring more

common (*see* Doc. 16-5, cited by Hernandez) but was not the source of the overall practice.

The practice, as it exists, derives from the procedural aspects of bond hearings and the division of responsibilities between the Department of Homeland Security (DHS) and the Department of Justice (DOJ). Immigration Judges do not have the authority in the first instance to order conditions of release, such as monitoring. Instead, they sequentially review such conditions as initially set by DHS solely to determine whether those conditions should be “ameliorated.” *See* 8 C.F.R. § 1236.1(d)(1). Hernandez agrees with this. (*See* Mot. at 7.) This sequential procedure follows from the relevant statutory authorizations. DHS has sole authority to handle enforcement decisions, like whether monitoring is appropriate. *See* 8 U.S.C. § 1103(a)(1). Immigration Judges work for DOJ and review certain custody decisions, 8 C.F.R. § 1236.1(d)(1), but they are not part of DHS do not have authority to decide what is needed to ensure an alien’s compliance with the law. In sum, if ICE decides that an enforcement tool (like monitoring) is needed, then ICE imposes that requirement. In certain circumstances, the alien can then ask an Immigration Judge to review the requirement. The same is true even after an initial custody hearing (assuming there was one). DHS has the discretion to decide whether additional enforcement

tools should be required. The alien can potentially seek review from the Immigration Judge, just as before.

As this summary shows, the practice in immigration court is quite different from the criminal-bond process that occurs in federal criminal cases, where a magistrate judge sets conditions of release and approves modifications of those conditions. In immigration court, the enforcement agency sets and modifies the conditions, subject to review by an Immigration Judge. Hernandez thus misses the mark in his brief when he says that ICE should have appealed the Immigration Judge's order. (Mot. at 8.) The Immigration Judge has no authority to impose new conditions, even if ICE had asked. 8 C.F.R. § 1236.1(d)(1). Therefore, an appeal would have been similarly fruitless because DHS cannot ask the Board of Immigration Affairs to order Immigration Judges do something they cannot do.

The legality of the longstanding practice described above has never been squarely addressed by the Board of Immigration Affairs, the body that reviews decisions made by Immigration Judges. The Board briefly discussed the topic in *Matter of Aguilar-Aquino*, 24 I. & N. Dec. 747, 748-49, 753 (BIA 2009), but decided that it was not necessary to reach the issue. Hernandez cites a single district court decision, from last month, finding that imposing post-hearing conditions is inconsistent with agency regulations. (Mot. at 16 (discussing *N-N- v. McShane*,

No. 25-CV-5494, 2025 WL 3143594, (E.D. Pa. Nov. 10, 2025).) This issue is not properly before this Court. The only issue before this Court is whether ICE's use of this longstanding practice here violated this Court's TRO/PI order.

Soon after ICE told Hernandez about the monitoring, his counsel contacted the undersigned Assistant U.S. Attorney to advise that she would be filing a motion for contempt. She stated that the monitoring was a "constructive" re-detention of her client, in violation of this Court's order. The parties were unable to work out their disagreement, and Hernandez filed the current motion.

As far as the undersigned is aware, Hernandez did not ask an Immigration Judge to review whether the monitoring was an appropriate requirement to place on him.

LEGAL STANDARD

Hernandez's motion does not specify what form of contempt sanction he is seeking, civil or criminal. The Legal Standard section of his brief cites no cases on either standard. At times, Hernandez uses words that would be consistent with a request for criminal contempt—"defiance," "direct contravention," "flagrant," "willful and direct," and "blatant." (Mot. at 4, 6, 9, 14, 15, respectively.) But the motion overall seems to be requesting a finding of civil contempt, and even then only as a backup option. The title of the motion asks the Court to merely enforce its previous order or, alternatively, to issue a show cause order. And the relief

section of the motion does the same, asking the Court first to clarify and enforce its previous order and only then to hold respondents in contempt “should they fail to comply with this Court’s directives.” (*Id.* at 16.) These statements are an implicit recognition that the parties have a good-faith dispute over what the Court’s TRO/PI order requires. Thus, the Court need not even reach the issue of contempt. But if the Court does reach that issue, it should consider only civil contempt, not criminal.¹

Civil contempt is coercive in nature; its purpose is to remedy the situation where a party is refusing to do what is ordered. *Shillitani v. United States*, 384 U.S. 364, 368–70 (1966). Thus, where a party refuses to act in accordance with a court order, the other party may ask the court to order the offending party to show cause why it should not be held in contempt and sanctioned. *Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990). However, the civil contempt power of courts “is limited to the least possible power adequate to the end proposed.” *Id.* at 765 (quoting *Anderson v. Dunn*, 19 U.S. (6 Wheat.) 204, 231 (1821)); see also *Mobile Gathering, Inc. v. Watkins*, 943 F.2d 1297, 1304 (11th Cir. 1991) (same). This is

¹ If this were a matter of criminal contempt, then the federal Respondents would emphasize the reasonableness of their position and the lack of any evidence of willfulness. However, willfulness is not an issue in civil contempt, and its absence does not relieve the contempt. See *Newman v. Alabama*, 683 F.2d 1312, 1318 n.16 (11th Cir.1982). Even so, the Respondents note that they did and do intend to comply with whatever relief the Court has or will order.

because civil contempt is a “severe remedy.” *Taggart v. Lorenzen*, 587 U.S. 554, 561 (2019).

The party seeking civil contempt must show by clear and convincing evidence that the alleged contemnor violated the court’s prior orders. *United States v. Roberts*, 858 F.2d 698, 700 (11th Cir. 1988) (citation omitted); *Chairs v. Burgess*, 143 F.3d 1432, 1436 (11th Cir. 1998) (citing *Roberts*, 858 F.2d 698). The burden then shifts to the alleged contemnor to produce detailed evidence explaining why compliance was not possible, which requires more than a mere assertion of inability to comply. *See Roberts*, 858 F.2d at 701. The alleged contemnor must show that he has, in good faith, made all reasonable efforts to comply with the order. *Id.*; *Chairs*, 143 F.3d at 1436. If a sufficient showing is made, the burden shifts back to the party seeking to show contempt to prove the alleged contemnor’s ability to comply with the court’s order. *Commodity Futures Trading Comm’n v. Wellington Precious Metals, Inc.*, 950 F.2d 1525, 1529 (11th Cir. 1992).

“Conduct that evinces substantial, but not complete, compliance with the court order may be excused if it was made as part of a good faith effort at compliance.” *Howard Johnson Co. v. Khimani*, 892 F.2d 1512, 1516 (11th Cir. 1990). Accordingly, a “person who attempts with reasonable diligence to comply with a court order should not be held in contempt.” *Newman v. Graddick*, 740 F.2d 1513.

1525 (11th Cir. 1984); *see also Frenchy's Crop., Inc. v. Frenchy's Pizzeria & Taven Inc.*, 2018 U.S. Dist. LEXIS 104811, *7 (Fl. M.D., June 6, 2018); *see also Taggart*, 587 U.S. at 561 ("civil contempt may be improper if a party's attempt at compliance was 'reasonable.'") (citing to 11 A.C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 2960, pp. 430-431 (2013)).

ARGUMENT NO VIOLATION OCCURRED

The federal Respondents complied with both the text and the spirit of this Court's orders.

1. ICE complied with the text of the order because Hernandez has not been rearrested.

This Court enjoined the respondents from "rearresting" Hernandez absent certain conditions. (TRO/PI Order at 17-18.) Hernandez has not, in fact, been rearrested. He was released on November 26, per this Court's instructions and the Immigration Judge's bond order. He remains out of detention today, and ICE has not attempted to detain him again.

This reading of the Court's order is supported by the common usage of the term "arrest." "Arrest" has two dictionary definitions, (1) a "seizure or forcible restraint," and (2) the "taking or keeping of a person in custody." *Black's Law Dictionary* (9th ed.) Similarly, the Supreme Court in the Fourth Amendment context has described an arrest as the "quintessential" seizure of a person,

accomplished by “grasping or application of physical force with lawful authority[.]” *California v. Hodari D.*, 499 U.S. 621, 624 (1991). The Eleventh Circuit has recognized its own non-exclusive list of factors that may indicate an arrest, including “the blocking of an individual’s path or the impeding of his progress; the display of weapons; the number of officers present and their demeanor; the length of the detention; and the extent to which the officers physically restrained the individual.” *United States v. Hastamorir*, 881 F.2d 1551, 1556 (11th Cir. 1989).

Under any of the above definitions, Hernandez has not been rearrested. No one has forcibly restrained him. No one has grasped or touched him. No one has blocked his path, impeded his progress, or displayed a weapon before him. He is not in a police station, a jail, or an immigration detention center. To put the point differently, compare Hernandez now to when he filed his petition. At that time, he had been arrested by the Gwinnett police. He was detained at the station, awaiting pickup by ICE. He had been fingerprinted and searched. He was not free to leave, and if he had attempted to leave officers would have used physical force to stop him. That was an arrest. Because none of the above conditions apply to Hernandez now, it follows that he has not been rearrested and this Court’s order has not been violated. True, he is *subject to* being rearrested, should he violate the terms of his release, but he has not done so and, thus, has not been rearrested. Later, this brief discusses why the Court’s order

should not prohibit Hernandez's rearrest in that circumstance, but the point for now is that it has not happened.

Hernandez relies on two arguments to bridge the gap between his argument (that he has been rearrested) and the facts (he has not). *First*, he just describes himself that way, stating that he is "de facto" arrested or in "constructive" detention. These words are conclusory. He does not rely on any caselaw or dictionaries. He uses adjectives in place of argument.

Second, he cites cases concerning the jurisdictional limits of 28 U.S.C. § 2241, including the Eleventh Circuit's decisions in *Howard v. Warden*, 776 F.3d 772 (11th Cir. 2015) and *Romero v. Sec'y, U.S. Dep't of Homeland Sec.*, 20 F.4th 1374 (11th Cir. 2021). These cases discuss the limits on a court's power to issue a writ of habeas corpus to a person who is not in physical custody. In general, these cases find that a person is "in custody" for the purpose of the habeas statute when he or she is subject to a "significant restraint on their liberty that is not shared by the general public." *Howard*, 776 F.3d at 775. This type of restriction, these cases hold, is sufficient to empower the district courts to issue relief under 28 U.S.C. § 2241. Hernandez then grafts this jurisdictional standard onto this Court's TRO/PI order. The result, according to Hernandez, is that when this Court ordered that Hernandez not be "rearrested," this Court was actually ordering that ICE could not impose any enforcement requirements on

Hernandez that would give jurisdiction to a district court if Hernandez were to challenge that requirement in a new habeas corpus action.

The Court should reject that interpretation. The outer limit of 28 U.S.C. § 2241 is a question of subject-matter jurisdiction, not the appropriate measure for evaluating compliance with this Court's order. Nowhere in its order did the Court discuss the scope of § 2241 or suggest that Hernandez must be released such as to be beyond the reach of that statute. In fact, the Court did not order that Hernandez had to be released *at all*; rather, the Court ordered that he be given a bond hearing at which the Immigration Judge could have denied bond. (TRO/PI Order at 10 (stating that if Hernandez is potentially "subject to detention" under § 1226(a)(1) and then asking for a status report on the bond hearing, including whether "bond was granted or denied."))

Hernandez does not acknowledge that he is asking the court to interpret "arrest" using a subject-matter-jurisdiction standard, so he offers no justification for that choice. One could just as easily argue that the term should be interpreted using the subject-matter-jurisdictional limits found in immigration laws, where certain statutes and regulations give different rights to an alien in custody versus one not in custody. In that context, the Board of Immigration Affairs has specifically rejected the board meaning of "custody" under 28 U.S.C. § 2241 and instead held that, as a matter of immigration law, "custody" requires "actual

physical restraint or confinement within a given space.” *Matter of Aguilar-Aquino*, 24 I. & N. Dec. 747, 752 (BIA 2009). Hernandez offers no reason why the Court’s order was silently adopting one jurisdictional limit over the other.

In conclusion, Hernandez has not been “rearrest” under the common meaning of that word. Hernandez’s use of descriptors (like “de facto”) and his unjustified adoption of subject-matter-jurisdiction definition of “custody” do not suffice to change the fact that he is not currently arrested. Absent a rearrest, no violation occurred.

2. The federal Respondents complied with the spirit of the order because ICE ceased detaining Hernandez under 8 U.S.C. § 1225 and is treating him like any other alien subject to 8 U.S.C. § 1226.

The Court’s order focused on the proper authority for detaining Hernandez. ICE was detaining him under 8 U.S.C. § 1225, and Hernandez was arguing that § 1225 did not apply to him and that he could be held, if at all, only under § 1226. Hernandez never raised – and so the Court never addressed – the legality of the requirements that ICE might place on him after he was released.

With the above context in mind, ICE did not violate the spirit of the Court’s order. ICE simply imposed compliance requirements on an alien, the same way that ICE might have done if Hernandez had originally been arrested and held under § 1226 or even as an alternative to holding him at all. As discussed above in the Facts section, ICE has long claimed the authority to

impose such requirements. The alien, if he wishes and if the regulations permit, can challenge those requirements before an Immigration Judge. But all of this is regular procedure in immigration court and has nothing to do with the new § 1225 policy that motivated the current lawsuit.

To be fair, the Court's order does not explicitly authorize placing conditions beyond bond on Hernandez's release. The order mentions only the possibility of bond and does not discuss any other requirements that the Immigration Judge or ICE could have imposed. One could argue that the Order therefore silently prohibits *any* condition besides bond. However, under that reading, if ICE had requested and the Immigration Judge had required, say, regular drug tests, that would have violated the Court's order too. ICE respectfully submits that the Court did not intend to prevent any enforcement requirements from ever being placed on Hernandez.² Indeed, Hernandez does not advance such a reading of the order, perhaps because Hernandez recognizes that it would be implausible. But once Hernandez concedes that *some* requirements are appropriate, his argument turns into a procedural question of *who* can impose those requirements. He is not objecting to the requirements. He is objecting that the requirements were imposed by a DHS official and not by the

² To the extent the Court did mean that, the federal Respondents would ask the Court to reconsider that aspect of its order.

Immigration Judge. Yet as a matter of immigration practice, most restrictions are imposed first by DHS and then potentially reviewed by an Immigration Judge. That's what happened here, and it's no different from what happens in many other non-§-1225 cases.

For all the above reasons, ICE respectfully submits that it has complied with not only the letter but also the spirit of the Court's order. After the Court ruled that § 1225 could not be used to detain Hernandez, ICE ceased relying on that provision and has not resumed. Thus, ICE is complying with the order and has addressed the concerns that are at the heart of this case.

CONCLUSION

The federal Respondents respectfully ask the Court to deny Hernandez's motion because no violation of the Court's order has occurred. The Court may also wish to clarify its injunction to specify that ICE can impose conditions on Hernandez's release (and potentially rearrest him in the future for violating those conditions), so long as ICE is following its regular procedure for aliens held under 8 U.S.C. § 1226 and not relying on § 1225 in any way.

If the Court disagrees and believes the monitoring should be removed, then that can be done via an order merely clarifying and enforcing the previous

injunction. That is the primary relief Hernandez requests, and he suggests a contempt order only as an alternative.³

Finally, if this Court disagrees and wishes to further investigate the allegations of contempt, then the Court should set the matter for a show-cause hearing. *Mercer v. Mitchell*, 908 F.2d 763, 768 (11th Cir. 1990) (“If the court finds that the conduct as alleged would violate the prior order, it enters an order requiring the defendant to show cause why he should not be held in contempt and conducts a hearing on the matter.”) At that hearing, the Court will determine three items:

- (1) Whether a violation occurred, as shown by clear and convincing evidence.
- (2) What coercive sanction, if any, is needed to ensure compliance. (The Respondents would argue that this amount should be \$0 because they are credibly promising to comply with the Court’s order. *See Jove Eng’g, Inc. v. I.R.S.*, 92 F.3d 1539, 1559 (11th Cir. 1996) (holding that district court did not abuse its discretion by refusing to award coercive sanctions against party that ceased violating earlier order); *Citronelle-Mobile Gathering, Inc. v. Watkins*, 943 F.2d 1297, 1304 (11th Cir. 1991)

³ If this Court orders ICE to remove the monitoring, ICE asks for two business days to implement that change.

(“sanctions cannot be any greater than necessary to ensure [] compliance”).)

(3) What compensatory sanction, if any, is owed to the moving party. The compensation can include attorney’s fees, but only to the extent such an award is consistent with other laws such as Equal Access to Justice Act. *See Jove Eng’g*, 92 F.3d at 1559; *see also E.E.O.C. v. Guardian Pools, Inc.*, 828 F.2d 1507, 1515 (11th Cir. 1987) (discussing compensatory sanctions).

But the federal Respondents respectfully suggest that no such hearing is needed, and the Court should instead deny the motion or simply issue a clarifying order.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Local Rule 7.1(D), that the above memorandum was prepared in 13-point, Book Antiqua font. Also, the Court granted ten additional pages for this pleading. (Doc. 23.)

s/ Anthony C. DeCinque
ANTHONY C. DECINQUE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed using the Court's CM/ECF system, which will provide notice to all counsel of record.

This 10th day of December, 2025.

s/ Anthony C. DeCinque
ANTHONY C. DECINQUE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

Miguel Hernandez)	
)	
Petitioner,)	Case No. 2:25-cv-373-RWS
)	
v.)	
)	
DENNIS UDZINSKI, <i>et al.</i> ,)	
)	
Respondents.)	

DECLARATION OF David Graumenz

I, David Graumenz, declare as follows:

1. I have been employed with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE/ERO”) since January 2007. I am currently a Deportation Officer at Stewart Detention Center in Lumpkin, Georgia.
2. I provide this declaration based on my personal knowledge, belief, reasonable inquiry, and information obtained from various records, systems, databases, other DHS employees, employees of DHS contract facilities, and information portals maintained and relied upon by DHS in the regular course of business.
3. In my capacity as Deportation Officer, I am familiar with the case Miguel Hernandez (“Petitioner”), whose alien registration number is A XXXXXXXXXX. I have reviewed documents and official government records pertaining to the Petitioner and, unless otherwise stated, this declaration is based on that review.
4. On November 16, 2025, ICE/ERO encountered Petitioner at the Hall County Jail after his arrest for Hit and Run. ICE/ERO assumed custody of Petitioner the next day, November 17, 2025.

5. On November 26, 2025, the Executive Office of Immigration Review held a bond hearing during which an Immigration Judge granted Petitioner release upon posting of a \$5,500 bond. Both parties waived appeal.
6. On November 26, 2025, an obligor submitted a bond payment request in CeBonds, ICE's web-based system used to verify bond information and post case immigration bonds for detained aliens. The request was approved the same day, and the obligor submitted the bond payment and a I-352 bond contract which was routed to the Chicago field office for review at 3:02pm EST, after bond posting hours.
7. Bond posting hours are Monday through Friday from 9:00am to 3:00pm excluding government holidays. Bond posting hours are applied in the time zone where the alien is detained.
8. November 27, 2025, was Thanksgiving Day. On November 28, 2025, ICE the bond contract was given final approval and signed. Petition was released from ICE custody that same day and given a call-in letter directing him to report to an ICE contractor office in Norcross, Georgia on December 2, 2025.
9. On December 2, 2025, Petitioner reported to the office where he was enrolled in ICE's Alternatives to Detention program and placed on a GPS monitoring device consistent with ICE's current reporting requirements for aliens released from custody.

Pursuant to Title 28, U.S. Code Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, this December 10, 2025.



David Graumenz
Department of Homeland Security

Immigration & Customs Enforcement