


IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ZU PING CHEN )  
Reg NO.  )  
 )  
Petitioners, )  
 )  
v. ) Civil Action No.: 3:25-cv-00970-BL-JTA  
 )  
MELISSA B. HARPER Field Director )  
New Orleans Field Office, *et al* )  
 )  
Respondents. )

**RESPONDENTS' SUPPLEMENTAL RESPONSE  
TO THE ORDER TO SHOW CAUSE**

Comes now the Respondents, by and through Kevin P. Davidson, Acting United States Attorney for the Middle District of Alabama, and hereby submit this supplemental response to the Court's order to show cause why a preliminary injunction should not issue. The short answers to the Court's questions are as follows:

- Mr. Chen's transportation to Louisiana in 2024 was done neither pursuant to § 241.4 or § 241.13 because at that time, Mr. Chen was not subject to an OSUP. Mr. Chen was transported pursuant to a "bag and baggage" letter.
- On information and belief, Mr. Chen was not removed in 2024 because he was still healing from his accident. Instead, he was placed on an OSUP.
- The ankle monitor did not revoke or modify the OSUP. The ankle monitor was placed pursuant to Alternative to Detention ("ATD") plan known as the Intensive Supervision Appearance Program ("ISAP"). The paperwork Mr. Chen produced at the hearing documents this

enrollment and provides a path to administrative appeals should Mr. Chen wish to challenge his monitoring.

Due to time constraints and leave, the United States has been unable to obtain a declaration certifying the facts contained in this supplement. Should the Court wish for verification or additional information, the United States will attempt to obtain it.

**I. FACTS RELATED TO QUESTIONS 1 AND 2.**

Mr. Chen was initially detained on August 12, 1999. He was an unaccompanied juvenile on a merchant vessel. He was placed into removal proceedings where he presented claims for asylum, withholding, and protection under the convention against torture. All relief was denied. His appeals were dismissed on April 15, 2003. Since that time, Mr. Chen has been subject to a final order of removal.

Mr. Chen has appealed this decision through various programs. Each appeal was denied. His last appeal to the Board of Immigration appeals was denied on May 31, 2023.

Enforcement and Removal Operations first tried to enforce the removal order in 2024. On October 22, 2024, Mr. Chen reported to Enforcement and Removal Operations. He was taken into custody for “bag and baggage” processing for removal.

After Mr. Chen had been transported to Louisiana, his attorney requested a stay of removal. This motion was granted due to Mr. Chen’s ongoing medical treatment. As a condition of this release, Mr. Chen was given an Order of

Supervision (“OSUP”). Before 2024, Mr. Chen was not subject to an OSUP. Thus, Mr. Chen’s detention in 2024 was not made pursuant to an OSUP revocation.

## **II. THE INTENSIVE SUPERVISION APPEARANCE PROGRAM.**

### **A. Requiring Mr. Chen to Wear an Ankle Monitor Did Not Revoke or Modify the OSUP.**

The United States placed Mr. Chen in an ankle monitor when it enrolled him in the Alternative to Detention (“ATD”) plan known as the Intensive Supervision Appearance Program (“ISAP”) on December 16, 2025. ISAP has been available since 2004. *See* Intensive Supervision Appearance Program Report to Congress, at 3, *available at*, <https://www.dhs.gov/sites/default/files/2022-06/ICE%20-%20Intensive%20Supervision%20Appearance%20Program%2C%20FYs%202017%20-%202020.pdf> (last visited Dec. 23, 2025). ICE’s ability to place immigrants on ISAP supervision has been upheld by the Courts. *Nguyen v. B.I. Inc.*, 435 F. Supp. 2d 1109, 1114 (D. Or. 2006) (upholding ICE’s authority to electronically monitor immigrants’ locations through ISAP). Electronic monitoring or other restrictions imposed by ISAP are not detention. *Id.* Thus, electronic monitoring does not place Mr. Chen in custody.

Mr. Chen’s documents which were produced and made an exhibit to the hearing document his placement in the ISAP plan. The document (written in Chinese for Mr. Chen’s convenience) contains information concerning his rights as an ISAP participant. While an official translation can be obtained, Google Translate indicates that the form has the following relevant terms:

Participants who are dissatisfied with any part of this program, the monitoring program, or any decision made by the program may

choose to file an appeal. Appeals will be submitted to the ISAP Program Manager, who will discuss them and, if possible, resolve them within three business days. If a complaint is not resolved or if you feel uncomfortable reporting a complaint to the ISAP Program Manager, you may notify ICE.

I confirm that I have received the following resources that I am encouraged to dedicate my time to making the ISAP program effective and successful: a list of local community resource services, a list of local free legal service providers, and the ISAP Participant Handbook. Know Your Rights is available to all ISAP participants online at [youtube link]

I agree to participate in this program and agree to the terms above. I attended a detailed briefing on December 16, 2025. I have read and understood all the terms above and reference documents including the ISAP Participant Handbook, and agree to achieve the contractual objectives. I understand and agree that I may request an audit of this contract should circumstances change. I will make every reasonable effort to achieve the established objectives and understand that failure to do so may result in the termination of ISAP.

A second form in the packet is the GPS consent form (in Chinese) which translated includes the following sentence:

I agree to wear a nonremovable ankle bracelet attached by my case officer during the electronic monitoring program and to have a beacon placed at my residence.

The ICE Participant Handbook also includes details on how to file an administrative grievance. ICE Participant Handbook at 3 (Grievance Procedure) available at [https://www.law.berkeley.edu/wp-content/uploads/2022/05/2022-12-09\\_ISAP-FOIA\\_ICEProduction2Re-Release\\_ISAP-IVParticipantHandbookEnglish.pdf](https://www.law.berkeley.edu/wp-content/uploads/2022/05/2022-12-09_ISAP-FOIA_ICEProduction2Re-Release_ISAP-IVParticipantHandbookEnglish.pdf) (last visited Dec. 23, 2025). The same handbook provides instructions and a toll free number to call if the program participant “experiences pain or discomfort with the GPS device . . . .” *Id.*

There is no statement in the ISAP paperwork which revokes or modifies the OSUP. Thus, the ISAP and the ankle monitor did not involve a revocation of the OSUP.

**B. Mr. Chen's Claims Concerning the Ankle Monitor Are Not Ripe Because He Has Failed to Exhaust His Administrative Remedies.**

Any claim Mr. Chen seeks to raise concerning the ankle monitor is not ripe. Despite being provided information telling him how to do so, he has not filed an administrative grievance asking the ankle monitor to be removed. He has not informally reached out to his case manager or the toll-free number concerning any discomfort caused by the ankle monitor. In short, he has not exhausted his administrative appeals.

Administrative exhaustion is "required as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors, to afford the parties and the courts with the benefit of its experience and expertise, and to compile a record which is adequate for judicial review." *Weinberger v. Salfi*, 422 U.S. 749, 765 (1975). The record shows that Mr. Chen has previously sought and received administrative relief. The Court should require him to do so again to give ICE a chance to formally review the terms of the ISAP and address any grievances Mr. Chen may have.

**CONCLUSION**

For the foregoing reasons, the Court should deny Petitioner's motion for a preliminary injunction.

Respectfully submitted this 23rd day of December, 2025.

Respectfully submitted,

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Acting United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that I have filed this case with the CM/ECF system which provided a copy of the same to all counsel of record.

Dated this 23rd day of December, 2025.

/s/ Stephen D. Wadsworth  
Assistant United States Attorney