

January 23, 2026

By ECF
The Honorable Hector Gonzalez
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Courtroom: 6A South

Re: Ndiaye v. Francis, 1:26-cv-00069
Letter-Motion for Clarification

Dear Judge Gonzalez,

Our office represents Petitioner Issa Ndiaye in his Petition for a Writ of Habeas Corpus, which the Court granted on January 14, 2026. ECF No. 8. In its Order, the Court directed Respondents to "release Petitioner immediately" and prohibited his re-detention absent notice, an opportunity to be heard, and a pre-deprivation hearing at which Respondents would bear "the burden of showing that his detention is authorized under 8 U.S.C. § 1226(a)." *Id.* We write to inform the Court that while Respondents released Petitioner from their *physical* custody on January 14th, they simultaneously imposed new restraints on his liberty—namely a GPS ankle monitoring device. Petitioner submits this new restraint, in addition to being intrusive, constitutes a form of ongoing custody that contravenes this Court's Order. The parties have conferred regarding whether the Court's Order prohibits such additional restraints but have been unable to resolve this matter. Accordingly, Petitioner respectfully seeks this Court's intervention in the form of an order clarifying that its prior decision was intended not merely to release Petitioner from physical custody but to restore him to the same conditions that existed prior to his unlawful detention on June 23, 2025—at which point Petitioner was not subject to a GPS monitoring system.

This Court has broad authority to ensure its judgments are faithfully implemented. It has the "intrinsic authority to supervise compliance with its original order." *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 333 (W.D.N.Y. 2018); *see also Berger v. Heckler*, 771 F.2d 1556, 1568 (2d Cir. 1985) ("Where a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable

remedies.") (cleaned up). This authority is further reflected in Federal Rule of Civil Procedure 60(a). Under Rule 60(a), the Court may issue a clarifying order "to correct a judgment 'for the purpose of reflecting accurately a decision that the court actually made.'" *Hodge ex rel. Skiff v. Hodge*, 269 F.3d 155, 158 (2d Cir. 2001) (citing *Truskoski v. ESPN, Inc.*, 60 F.3d 74, 77 (2d Cir. 1995)); *accord Paddington Partners v. Bouchard*, 34 F.3d 1132, 1140 (2d Cir. 1994) ("To be correctable under Rule 60(a), the [alleged error] in a judgment must fail to reflect the actual intention of the court.").

This Court's prior Order concluded that Respondents' decision to detain Petitioner was unlawful. The Court rejected Respondents' argument that 8 U.S.C. § 1225(b)(2) authorized Petitioner's detention and noted that, regardless of such statutory authority, Petitioner's "arrest and detention [did] not comport with due process." ECF No. 8 at 5. Given this finding of illegality, Petitioner submits that Respondents' imposition of an ankle monitor on Petitioner after his habeas petition was granted directly contravenes the text, if not the spirit, of this Court's Order. The reason is plain: such restrictions on his liberty constitute an extension of Respondents' custody over Petitioner. *See Khabzha v. U.S. Immigr. & Customs Enf't*, No. 25-cv-05279 (JMF), 2025 WL 3281514 (S.D.N.Y. Nov. 25, 2025) (concluding that imposition of GPS ankle monitor was, for habeas purposes, tantamount to custody and therefore required its removal in granting petition); *see also Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (ordering that noncitizen "shall remain free of detention or any other restraint under the immigration laws of the United States to which he was not subject upon his release on bond in 2022").

Moreover, the Court's prior Order plainly sought to restore Petitioner's liberty. Indeed, the Court's two remedial directives—one addressing his immediate release and the other preventing the future unlawful infringement of Petitioner's liberty—were complementary. ECF No. 8 at 6. They demonstrate that the Court was concerned not only with Petitioner's physical custody but also with protecting him against further unlawful restrictions on his liberty. By contrast, nowhere in its Order did the Court suggest that Respondents could come into compliance by merely releasing Petitioner from physical custody and imposing new, non-physical restrictions on his liberty.

Nonetheless, to the extent clarification is required, Petitioner respectfully requests that the Court explicitly order Respondents to remove his GPS ankle monitor and to refrain from imposing any conditions beyond those that existed at the time of his arrest on June 23, 2025. [1] Such clarification accords with how courts in this Circuit have construed the release remedy and its scope in similar circumstances. *See Campbell v. Almodovar*, No. 1:25-CV-09509 (JLR), 2025 WL 3626099, at *1 (S.D.N.Y. Dec. 15, 2025) (clarifying that prior release order meant "any form of re-detention — including electronic monitoring and mandatory reporting — violates Petitioner's due process rights and shall not be undertaken at this time"); *Alberto Martinez v. Joyce*, No. 25-cv-10376 (GBD) (ECF No. 20) (S.D.N.Y. Jan. 13, 2026) (reaffirming prior release order and

[1] This aligns with Petitioner's pleadings, which requested as relief that he be released without new conditions that did not exist at the time of his unlawful arrest in June 2025. *See* ECF No. 1 at 14

noting that "Mr. Martinez's release from custody shall be without any physical or electronic monitoring or restraint condition. All such devices shall be removed.").

Should the Court require it, our office is available for a telephonic conference at the Court's convenience.

We thank the Court for its time and consideration of this submission.

Respectfully,

/s/ Harold A. Solis
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Cc: Counsel of Record (by ECF)