
**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**PETITIONER'S REPLY
TO THE GOVERNMENT'S
RESPONSE [ECF NO. 16]**

Petitioner

Case No: EP-26-CV-161-KC

v.

Kristi NOEM et al.,

Respondents.

PETITIONER'S REPLY TO THE GOVERNMENT'S RESPONSE [ECF NO. 16]

Pursuant to the Court's order [ECF No. 17], Petitioner provides this reply to the Government's Response to the Court's Order to Show Cause entered on March 11, 2026 [ECF. No. 15].

In the Order to Show Cause dated March 11, 2026, this Court ordered Respondents to explain what authority permits the imposition of an ankle monitor on the Petitioner, their position as to the reasonableness of an ankle monitor as a condition of release, and their position regarding the Court's authority to order them to remove the ankle monitor [ECF No. 15].

On March 18, 2026, Respondents filed a Response arguing that the Petitioner is still in immigration removal proceedings and, as such, she is subject to discretionary conditions of release under 8 U.S.C. § 1226(a) to address flight risk and public safety concerns. The Respondents assert that the ankle monitor "is reasonable as a condition of release." Finally,

in their Response, the Government asserts that the Petitioner was required to challenge the conditions of her release with the immigration court within seven days after her release, and that now, the application for modification of bond or release may be made only to DHS [ECF No. 16].

Following the Government's Response, this Court issued an order instructing the Petitioner to file a Reply to Respondents' Response, with citation to authority, addressing Respondents' arguments, and providing the following information: (1) Whether Escobar Maya was released pursuant to an order of an Immigration Judge ("IJ), and if so, the specific conditions of release ordered by the IJ; (2) whether Escobar Maya was released at the discretion of Immigration and Customs Enforcement ("ICE"); and (3) whether Escobar Maya has challenged ICE's imposition of an ankle monitor as a condition of her release with the immigration court.

As ordered by the Court, the Petitioner, through the undersigned attorneys, submits this Reply to the Government's Response. Regarding the first two questions, Ms. Escobar Maya was released on February 10, 2026, at the discretion of the Immigration and Customs Enforcement (ICE) and not pursuant to an order of an Immigration Judge. [ECF No. 9]. As of today, Ms. Escobar Maya has not had any bond or Master Calendar hearing scheduled in front of an Immigration Judge.

Ms. Escobar Maya was physically released on February 10, 2026, and placed on an Alternative to Detention Program (ATD) through an ankle monitor. This decision was made at the discretion of ICE officers and not at the discretion of an Immigration Judge. Ms. Escobar Maya initially asked DHS to remove the ankle monitor when she attended her first

ISAP appointment in Minnesota on Friday, February 27, 2026, and the ICE supervisor stated that the ankle monitor could not be removed that day.

Then, on March 5, 2026, the undersigned attorney submitted a written request to remove the ankle monitor before the ICE officers in the St. Paul Field Office, with supporting documents, including evidence that the Petitioner was in a severe car accident in 2005, and arguing that the ankle monitor was causing the Petitioner great distress.

At her following ISAP appointment, the Petitioner had her ankle monitor removed. However, she was placed in a very restrictive form of supervision instead. Now, Ms. Escobar Maya has to: (1) attend check-in appointments in person at the ICE office in St Paul every month; (2) she is subjected to ICE visits at her home every week, for which she needs to be available from 7 am to 8 pm because she does not know what time the ICE officers would come; and (3) she has to send a picture of herself through an app at random times upon ICE request.

The undersigned attorney, Ms. Bouvin Larsen, once again requested that the ICE officers reduce the monitoring Ms. Escobar was subject to, given that she is NOT a flight risk or a danger to the community, and the request was denied on March 20, 2026.

The Petitioner believes that the Respondents are still in violation of the court Order issued on February 3, 2026 [ECF No. 7] because these are not reasonable conditions of release as Ms. Escobar Maya is not a flight risk nor a danger to the community. As previously stated, the Petitioner has no prior record of nonappearance at immigration court proceedings. She last arrived in the United States approximately 22 years ago, and she has been regularly employed and has maintained a fixed address. The Petitioner has multiple family members

and friends with lawful status in the United States, including two U.S. citizen sons, and she has no criminal record.

As previously noted in ECF No. 14, other Courts have found it proper to ameliorate unlawful conditions of release pursuant to a habeas petition. *See Barreno v. Juan Baltasar, Warden, Aurora ICE Processing Ctr.*, 25-cv-03017-GPG-TPO, 2026 U.S. Dist. LEXIS 9571, *6-7 (D.C. Colo. January 15, 2026); *see also N-N v. McShane*, No. 25-5494, 2025 U.S. Dist. LEXIS 220871 (E.D. Pa. November 6, 2025) (concluding ICE's use of an ankle monitor when the IJ did not require one is a breach of its own rules); *see also Palacio v. Hermosillo*, No. C25-1983-RSM-MLP, 2025 U.S. Dist. LEXIS 270854 (W.D. Wa. December 22, 2025).

Additionally, this Court and at least two other circuits have noted that release, or even deportation, during immigration proceedings does not moot habeas claims where continuing conditions are imposed, or the court could still address collateral consequences. *See Guerrero v. Noem*, No. 1:25-CV-1334, 2025 U.S. Dist. LEXIS 273670 (W.D. Tex. Dec. 12, 2025) (quoting *Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 161 (3d Cir. 2018) (explain that § 2241 "'has not required that a prisoner be physically confined' so long as the release is 'not unconditional.'"); *see also Abdala v. I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007) ("Just as '[a] habeas petition challenging the underlying conviction is never moot simply because, subsequent to its filing, the petitioner has been released from custody' . . . a petitioner's deportation does not automatically render his claim moot."))

Finally, this court has jurisdiction to review ICE's new conditions of release because the Petitioner was detained at the time that she filed her habeas, and this Court retains jurisdiction to amend her remedies. *Zalawadia v. Ashcroft*, 371 F.3d 292, 300 (5th Cir 2004).

Consequently, Petitioner, by and through undersigned counsel, moves this Court to order Respondents to reduce the monitoring that the Petitioner is subject to, given that she is not a flight risk nor a danger to the community.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Maintain jurisdiction over this matter;
- b. Require Respondents to reduce the monitoring that the petitioner is subject to;
- and
- c. Grant any other and further relief that this Court deems just and proper.

Date: 03/26/2026

Respectfully Submitted:

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