UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ASLEY DASSAS
Petitioner,

v. **Case No. 2:26-cv-247-JES-DNF**

MATTHEW MORDANT, WARDEN of Glades County Detention Center, TODD LYONS, Acting Director U.S Immigration and Customs Enforcement, KRISTI NOEM, U.S. Secretary of Homeland Security, PAMELA BONDI, Attorney General of the United States,

Respondents.
_____/

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

In his Amended Petition (Dkt. 4), Petitioner Asley Dassas challenges the Government's decision to require him to wear an ankle monitor. In doing so, he stretches § 1254a(a)(4)(B) and § 1254a(d)(4) too far, and he seeks to undermine the discretion afforded by § 1226(a)(2)(B).

I. FACTS

Petitioner is a national and citizen of Haiti. See Dkt. 1 at ¶ 1. Petitioner has applied for Temporary Protected Status (TPS) under 8 U.S.C. §1254a and his application "remains pending with United States and Immigration Citizenship Services (USCIS)." See id. at ¶ 1; see also Dkt. 4 at ¶ 1. Petitioner was detained by

ICE on or about November 21, 2025, and held thereafter at "the Glades County Detention Center in Moore Haven, Florida." See Dkt. 1 at ¶¶ 5, 8. On February 5, 2026, Petitioner filed his original Petition seeking release from that facility. See generally Dkt. 1. On or about February 6, 2026, Petitioner was released from that facility and ordered to appear before ICE on February 9, 2026. See Dkt. 4-2 (Order of Release on Recognizance).[1] That Order provides Petitioner was released pursuant to INA § 236, 8 U.S.C. § 1226, contingent on his "enrollment and successful participation in [ICE's] Alternative to Detention" ("ATD") program, under which he "will be subject to electronic monitoring . . . ." See id. (The ATD is part of ICE's Intensive Supervision Appearance Program, or ISAP.) That electronic monitoring is an ankle monitor, which Petitioner must now wear. See Dkt. 4-3.

Pursuant to 28 U.S.C. § 2243, "The person to whom the writ or order is directed shall make a return certifying the true cause of the detention." Without conceding that the electronic monitoring of Petitioner is detention, ICE has advised Petitioner of his release, including the requirement of electronic monitoring, pursuant to INA § 236, 8 U.S.C. § 1226. See Dkt. 4-2. Petitioner bears the burden to prove his custody violates federal law. Whitfield v. U.S. Sec'y of State, 853 F. App'x 327, 329 (11th Cir. 2021).

[1] The undersigned has no documents or other indication that the filing of the Petition did or did not cause ICE to release Petitioner from the facility.

II. ARGUMENT

Title 8 U.S. Code § 1254a provides that under certain conditions the Attorney General may designate certain foreign states (i.e., other countries), see 8 U.S. Code § 1254a(b)(1), whereupon aliens of that foreign state may apply for temporary protected status. Aliens who obtain such temporary protected status shall not be removed from the United States and shall be authorized to work while present in the United States. See 8 U.S. Code § 1254a(a)(1)(A),(B).

Petitioner cites 8 U.S.C. § 1254a(d)(4), which provides "[a]n alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States," in arguing he cannot be subjected to electronic monitoring. See Dkt. 4 at ¶ 2 (emphasis added by Respondents). However, Petitioner has not been provided protected status under § 1254a because, by his own admission, his application "remains pending with . . . USCIS." See Dkt. 4 at ¶ 1.

Further, Petitioner cites 8 U.S.C. § 1254a(a)(4)(B), which provides "In the case of an alien who establishes a prima facie case of eligibility for benefits under paragraph (1) [i.e., § 1254a(a)(1)], until a final determination with respect to the alien's eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits." See Dkt. 4 at ¶¶ 3, 41. Petitioner is thus apparently arguing that, because he has a pending TPS application, § 1254a(d)(4) precludes his detention, including being subject to electronic monitoring. Without conceding that electronic monitoring

is detention, and without conceding whether Petitioner can establish a prima facie case of eligibility under § 1254a(a)(1),[2] his argument again over-reads the statute. The rights that § 1254a(a)(4)(B) provides to an alien who has established a prima facie case of eligibility and who is pending a final determination of eligibility are only those rights under § 1254a(a)(1) – i.e., the right not to be removed from the United States and the right to work while here. Nothing in § 1254a(a)(1) precludes the Government's exercise of its discretion under § 1226(a)(2)(A) to "release [an] alien on bond . . . with security approved by, and containing conditions prescribed by, the Attorney General."

The case of Hernandez v. Udzinski, No. 2:25-CV-373-RWS, 2025 WL 4093557, (N.D. Ga. Dec. 16, 2025), involved an alien subject to custodial detention, who filed a habeas petition and was released with an ankle monitor, and who then challenged that monitoring in his habeas action. Id. at *1. In considering several issue, the Court noted the discretionary bond provisions of § 1226, holding that "nothing in the statutes or regulations indicate that ankle monitoring or enrollment in ISAP are inherently improper." Id. at * 2.

III. ARGUMENT

As noted, INA § 236 grants various authority, including that to release an alien "on bond . . . and containing conditions prescribed by [ ] the Attorney General." 8

[2] That prima facie determination is one to be made by USCIS.

U.S.C. § 1226(a)(2)(A). Further, that section provides that, "[t]he Attorney General's discretionary judgment regarding the application of this section shall not be subject to review." 8 U.S.C. § 1226(e). Accordingly, subject matter jurisdiction is lacking to review the Government's exercise of its discretion whether to impose electronic monitoring as a condition of release of Petitioner on his own recognizance. But see Hernandez v. Sessions, 872 F.3d 976, 988 (9th Cir. 2017) (holding § 1226(e) does not limit habeas jurisdiction over questions of law).

The ATD ISAP is a longstanding ICE program with a published guidance handbook. See ATD Handbook-ISAP (Aug. 16, 2017), available at https://www.ice.gov/doclib/foia/policy/handbookATD_08.16.2017.pdf. When determining the level of supervision under the ISAP, ICE considers things like "current immigration status, criminal history, compliance history, community or family ties, caregiver or provider concerns, and other humanitarian or medical conditions." Id. at I.C. (PDF pg. 6). Adult aliens are eligible for ISAP if they are currently in removal proceedings or have SLRRFF after a final order of removal. Id. at II. (PDF pg. 11). Among other things, the program aims to "improve immigration court appearance rates and compliance with other release conditions." Id. at II. (PDF pg. 10). The decision to employ electronic monitoring here is a facially reasonable exercise of the statutory discretion expressly granted in § 1226.

IV. PROPER PARTIES-RESPONDENT

The Petition names various ICE and DHS officials, as well as DHS Secretary Kristi Noem and Attorney General Pamela Bondi, as Respondents. However, the only appropriate respondent named in a habeas case is the official with physical custody of Petitioner. 28 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having custody of the person detained."); see also Padilla, 542 U.S. at 434-36 ("[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."). Accordingly, without conceding that the electronic monitoring of Petitioner is detention, and without conceding that habeas relief is otherwise available here, the only proper respondent in this case is the official requiring Petitioner to be on electronic monitoring. See, e.g., Vandersnick v. Sec'y, Fla. Dep't of Corr., No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021) (citing Padilla, 542 U.S. at 435).

CONCLUSION

Wherefore, Petitioner' Amended Petition for Writ of Habeas Corpus should be denied.

February 24, 2026

Respectfully submitted,

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s/ Charles T. Harden III
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CERTIFICATE OF FILING

I hereby certify that, on the date set forth above, I filed the foregoing documents and any exhibits referenced therein using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

s/ Charles T. Harden III
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