

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

RICARDO ABEL VELEZ CORONEL

Petitioner,

v.

Case No.: 2:26-cv-719-SPC-NPM

KEVIN GUTHRIE, et al.

Respondents.

MOTION TO ENFORCE COURT'S OPINION AND ORDER (Dkt. 8)

Petitioner, RICARDO ABEL VELEZ CORONEL, by and through undersigned counsel, respectfully moves this Court for entry of an order enforcing its order granting Petitioner's habeas corpus petition.

PROCEDURAL AND FACTUAL BASIS

1. On March 27, 2026, this Court ordered Petitioner's immediate release from Respondent's custody following an unlawful arrest that was made on the basis of an invalid warrant. (Doc. 8).
2. Petitioner was subsequently released.
3. Following Petitioner's release, Immigration and Customs Enforcement ("ICE") unlawfully enrolled Petitioner in their Intensive Supervision Appearance Program ("ISAP").
4. Prior to Petitioner's release, Petitioner was not a participant of ISAP or any other "Alternatives to Detention" programs imposed by ICE.

5. ICE placed Petitioner on GPS monitoring via an ankle bracelet.

6. Additionally, ICE is compelling Petitioner to conduct in-person check-ins at their Tampa field office location. Petitioner lives in Winter Haven. It takes Petitioner approximately 2-hours with traffic to travel from his home to the Tampa field office.

7. Since his release on March 27, 2026, ICE has required Petitioner to conduct 3 in-person check-ins within a 3-week period at the Tampa field office.

8. Petitioner has high blood pressure and was even hospitalized due to his condition during his illegal detention.

9. Respondents have no legal authority to place Petitioner under any conditions of supervision.

10. Even if they did, which they do not, their placement of Petitioner on such restrictive conditions violates 5 U.S.C. § 706.

LEGAL STANDARD

Federal Rule of Civil Procedure 70 governs enforcement of judgments that require a party to perform a specific act. Where a party fails to comply with such an order, the Court may issue further orders to secure compliance.

Furthermore, “jurisdiction attaches upon the initial filing of the § 2241 petition, and will not be destroyed by [a] [p]etitioner’s subsequent Government-effectuated transfer and accompanying change in physical custodian.” *Jian Bin Tang v. Gonzales*, No. 4:06-cv-277-MP/WCS, 2006 U.S. Dist. LEXIS 93572, at *3 (N.D. Fla. Aug. 18, 2006) (citing *Mujahid v. Daniels*, 413 F.3d 991, 994 (9th Cir. 2005)).

ARGUMENT

I. The restrictive conditions of supervision placed on petitioner by ICE amount to continued detention in violation of this Court's order.

The restrictive conditions imposed by ICE effectively subject Petitioner to ongoing constraints amounting to a continuation of their unlawful detention, despite the Court's order for immediate release. Apart from the fact that ICE has no legal authority to place Petitioner on any form of conditional release, *see infra*, these supervision conditions—weekly in-person check-ins requiring hours of commute, GPS monitoring via an ankle bracelet—undermine the Court's order and perpetuate Respondents' violation of Petitioner's due process rights.

Placing Petitioner on an ankle monitor, and even requiring frequent and onerous in-person check-ins can be fairly characterized to be like a form of detention. *Batz Barreno v. Baltasar*, Case No. 25-cv-03017-CPG-TPO, 2026 U.S. Dist. LEXIS 9571, at *4-5 (Dist. Colo. Jan. 15, 2026) (collecting cases); *see also Florida v. United States*, 660 F. Supp. 3d 1239, 1259 (N.D. Fla. 2023).

As such, ICE's continued restrictions on Petitioner's liberty amounts to continued detention in violation of this Court's order directing immediate release.

II. ICE lacks legal authority to place conditions on petitioner's release.

ICE's Alternatives to Detention ("ATD") program is intended "to provide supervised release and enhanced monitoring for a subset of foreign nationals subject

to removal whom ICE has released into the United States.”¹ The Intensive Supervision Appearance Program (“ISAP”) is the most current iteration of the ATD program.

When a noncitizen is taken into immigration custody under § 1226(a), ICE makes an initial custody determination, which may include continued detention, setting bond with conditions, or conditional parole. 8 C.F.R. § 236.1(c)(8). If ICE determines that it will continue to detain an alien arrested under § 1226(a), then the alien can request a custody redetermination hearing, which is then presented before an Immigration Judge, who then reviews ICE’s custody determination. *Id.*; 8 C.F.R. § 1003.19. This is what is commonly referred to as an immigration bond hearing.

ICE derives its authority to place aliens on ATD from 8 C.F.R. § 236.1(c)(8):

(8) Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) . . . of the Act [8 U.S.C. § 1226(a)(2)]; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.

When read in conjunction with § 1226 (a)(2), 8 C.F.R. § 236.1(c)(8) authorizes ICE to release a noncitizen into pending removal proceedings on either (A) “a bond of at least \$1,500 . . . and containing conditions prescribed by” themselves, or (B) “conditional parole.

¹ CRS Report R45804, *Immigration: Alternatives to Detention (ATD) Programs* (2019). <https://www.congress.gov/crs-product/R45804>

Read by itself, § 1226 authorizes the Attorney General to do the same. The Attorney General, as the head of the Department of Justice, presides over the Executive Office for Immigration Review (“EOIR”) and the Board of Immigration Appeals (“BIA”). Thus, § 1226, standing on its own, authorizes the EOIR and BIA to place conditions on any bond or parole that they grant for noncitizens.

On the other hand, 8 C.F.R. § 236.1(c)(8) authorizes ICE officers to place conditions only on aliens that ICE released in its own discretion. It does not confer to ICE the authority to place conditions on any custody determinations made by any other body whether it is the EOIR, BIA, or a federal district court.

The most recent publicly available USCIS ISAP field guide states that “[t]he ATD Program may be appropriate for an alien who is released pursuant to: an Order of Release on Recognizance (OREC), an Order of Supervision (OSUP), a grant of parole; or a bond (unless the immigration judge or Board of Immigration Appeals determined custody and did not include ATD as a provision).” Exhibit 1; *Alternatives to Detention Handbook – Intensive Supervision Appearance Program*, ICE (2019) (“ATD Handbook”), at pg. ii. See also *id.*, at pg. 7 (II.B: Program Ineligibility) ([D]o not enroll an alien if any of the following applies . . . The immigration court has imposed conditions of release that do not include ATD, absent a change in circumstances that justifies a custody redetermination.”).

The ATD Handbook is intending to make clear to the reader that if the conditions of an alien's release are determined by a reviewing body other than ICE, the alien is ineligible for ISAP enrollment.²

On this basis alone, ICE is not authorized to enroll Petitioner in ISAP. More to the point, perhaps, ICE has no legal authority to place conditions on an illegally arrested alien who was subsequently ordered by a federal court to be released without any additional conditions imposed. Although ICE wishes to partake in the fruit of the poisonous tree, such actions, once again, run afoul of the law.

Moreover, ICE's imposition of such restrictive and demanding supervision violates 5 U.S.C. § 706, in that it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; and without observance of procedure required by law.

The ATD Handbook provides that “[t]he level of supervision and technology to which a participant is assigned is determined by criteria that includes, but is not limited to: current immigration status, criminal history, compliance history, community or family ties, caregiver or provider concerns, and other humanitarian or medical conditions”. *Alternatives to Detention Handbook – Intensive Supervision Appearance Program*, ICE (2019), at pg. 2 (I.C: Enrollment Options & Considerations). ICE did

² It makes sense that the ATD Handbook only references custody determinations by Immigration Judges or the BIA when classifying which aliens are ineligible for ISAP, since in the normal course of immigration procedure, the only bodies that would make a custody determination would be ICE, Immigration Judges, and the Board of Immigration Appeals. The wave of federal courts court decisions ordering immediate release (i.e. determining custody) of noncitizens unlawfully arrested was not occurring at the time the ATD Handbook was authored.

not apply any of these criteria in making a determination to place Petitioner such a highly restrictive form of supervision.

ICE has no legitimate basis to place Petitioner on such restrictive supervision. Requiring Petitioner to wear an ankle monitor and travel approximately 2 hours once every week for an in-person check-in appears to be nothing more than retaliation by Respondents against Petitioner because he dared exercise his Constitutional rights.

Petitioner's enrollment in ISAP is without legal basis and in violation of this Court's order directing Respondent's to immediately release Petitioner.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court enter an order:

1. Enforcing the Court's Opinion and Order entered on March 27, 2026, ordering Respondent's to immediately release Petitioner;
2. Directing Respondents lift any conditions of supervision imposed on Petitioner, remove Petitioner's GPS ankle monitor, and refrain from imposing any supervision conditions on Petitioner.

LOCAL RULE 3.01 CERTIFICATION

Undersigned counsel certifies that he conferred with the opposing party regarding the substance of this motion via email, and the opposing party does not agree on all or part of the motion.

Respectfully submitted,

/s/ Nicholas Ravinet

NICHOLAS RAVINET, ESQ.

Florida Bar No. 113599

ILABACA LAW, PLLC
300 N Ronald Regan Blvd, #305
Longwood, FL 32750
Tel.: 407.917.2087
nravinet@ilabacalaw.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 27, 2026, a true and correct copy of the foregoing document was electronically filed with the Clerk of Court via the CV/ECF system.

/s/ Nicholas Ravinet
NICHOLAS RAVINET, ESQ.