UNITED STATES DISTRICT COURT
THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-01047-CNS

LUZ AGUIRRE HERNANDEZ
Petitioner-Plaintiff

v.
JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,
GEORGE VALDEZ, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity, [1]
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity,
TODD LYONS, Acting Director of Immigration and Customs Enforcement, in his official capacity,
TODD BLANCHE, Attorney General, U.S. Department of Justice, in his official capacity,
Respondents

MOTION TO ENFORCE

Introduction

Petitioner Luz Aguirre Hernandez ("Ms. Aguirre") respectfully moves this Court for an expedited order enforcing its March 23, 2026 Minute Order, ECF 13, granting Ms. Aguirre's Verified Petition for a Writ of Habeas Corpus ("Petition"), ECF 1. When granting Ms. Aguirre's petition, this Court ordered Immigration and Customs Enforcement ("ICE") to release Ms. Aguirre "from custody subject to, and in accordance with, the terms and conditions, including bond conditions, imposed by the immigration judge in his March 5, 2026 Order. Respondents SHALL NOT IMPOSE any conditions beyond those imposed by the immigration judge in the March 5, 2026 order." ECF 13 (emphasis in original).

[1] George Valdez, Acting Field Office Direct for ICE's Denver Field Office, is substituted for Robert Hagan pursuant to Fed. R. Civ. Pr. 25(d).

ICE violated this Court's explicit order by imposing release conditions on Ms. Aguirre not imposed by the immigration judge ("IJ"). *Compare* ECF 4-2 (Order of the IJ, ordering release upon payment of $5,000 without any additional conditions or restrictions on liberty) *with* Exh. 1 (Call in Letter, requiring Ms. Aguirre to report to ICE in person on March 31, 2026) *and* Exh. 3 (Email from ICE confirming that Ms. Aguirre's presence at ICE check-ins is a condition of her liberty because the check-ins are required and that it may reincarcerate her if she fails to report). ICE's violation of this Court's order is unfortunately not surprising as ICE likely "violated more court orders in January 2026 than some federal agencies have violated in their entire existence." *Juan T.R. v. Noem*, 26-cv-0107 (PJS/DLM), 2026 WL 232015, at *1 (D. Minn. Jan. 28, 2026).

Factual and Procedural Background

On March 23, 2026 this Court found Respondents' incarceration of Ms. Aguirre pursuant to 8 U.S.C. § 1225(b)(2) unlawful and ordered Respondents to immediately release Ms. Aguirre on the bond conditions ordered by the IJ. ECF 13. The Court emphasized that ICE "SHALL NOT IMPOSE any conditions beyond those imposed by the immigration judge" in the IJ's March 5, 2026 bond order. *Id.* (emphasis in original). The IJ bond order contained no conditions on Ms. Aguirre's liberty upon payment of $5,000 bond. ECF 4-2.

Nevertheless, ICE imposed conditions upon Ms. Aguirre's liberty immediately upon her release. Specifically, ICE ordered Ms. Aguirre to report to ICE for an in-person appointment on March 31, 2026. Exh. 1. Prior to that appointment, Assistant Field Office Director William H. Wilkinson III rescheduled Ms. Aguirre's March 31, 2026 appointment for June 25, 2026. Exh. 2. Shortly thereafter, undersigned emailed ICE four times (March

30, 2026, March 31, 2026, April 4, 2026, and April 6, 2026) requesting information on, *inter alia*, what consequences existed for Ms. Aguirre should she fail to appear at her June 25, 2026 appointment or any future appointment with ICE. Exh. 3.

After not receiving a response after four tries, undersigned counsel emailed again on April 9, 2026 and included AUSA Benjamin Gibson in the email. *Id.* Supervisory Detention and Deportation Officer ("SDDO") Garcia responded on April 13, 2026 detailing the consequences for Ms. Aguirre if she does not appear. *Id.* First, SDDO Garcia clarifies that "Ms. Aguirre Hernandez's presence is *required* at her June check-in." *Id.* (emphasis added). SDDO Garcia states that "[f]ailure to attend could . . . result in a *new detention*" and that ICE intends to require Ms. Aguirre to continue to report to ICE on an annual basis. *Id* (emphasis added).

After Ms. Aguirre's release and ICE's imposition of reporting requirements not ordered by the IJ, Counsel for Ms. Aguirre and AUSA Gibson conferred to avoid further litigation. While cordial and in good faith, that conferral did not result in ICE removing the conditions it unilaterally placed on Ms. Aguirre. This Motion follows.

Legal Standard

"[F]ederal courts are not reduced to issuing [orders] . . . and hoping for compliance." *Hutto v. Finney*, 437 U.S. 678, 690 (1978). "The power of a federal court to protect and enforce its judgments is unquestioned." *Marshall v. Loc. Union No. 639*, 593 F.2d 1297, 1302 (D.C. Cir. 1979). Indeed, "courts of justice are universally acknowledged to be vested, by their very creation, with power to impose . . . submission to their lawful mandates." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991); *Hayes v. SkyWest Airlines, Inc.*, 12 F.4th 1186, 1194 (10th Cir. 2021) (same). Those powers include "the

control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Hayes*, 501 12 F.4th at 1194.

ARGUMENT

ICE violated this Court's explicit order to not impose additional conditions on Ms. Aguirre's liberty not imposed by the IJ. Considering ICE's recalcitrance to follow Court orders, Ms. Aguirre respectfully requests that the Court remind ICE that it is not a "law unto itself." *Juan T.R.*, 2026 WL 232015, at *1.

I. ICE's Imposition of Release Conditions Flouts this Court's Order and is Unsupported by the Statute and Regulations.

This Court ordered Ms. Aguirre released without conditions unless the IJ imposed conditions beyond the payment of $5,000 bond. ECF 13. The IJ did not impose any such conditions. ECF 4-2. While ICE permitted Ms. Aguirre to pay the $5,000 bond "ICE's use of . . . other measures instead of a ball and chain" to restrict Ms. Aguirre's liberty after payment of bond violates this Court's order. *See Batz Barreno v. Baltasar*, ---F.Supp.3d---, 2026 WL 120253, at *2 (D. Colo. Jan. 15, 2026). That addition measure is an annual, mandatory, and in-person reporting requirement that if violated can result in ICE reincarcerating Ms. Aguirre. ECF 3. Ms. Aguirre was not subject to reporting requirements prior to ICE incarcerating her and the IJ did not impose reporting requirements on Ms. Aguirre when he granted her $5,000 bond. ECF 4-2. ICE's unilateral imposition of reporting requirements on Ms. Aguirre ignores the IJ's order and violates this Courts order. It is also in violation of the statute and regulations.

While section 1226(a) and 8 C.F.R. § 236.1(c)(8), 1236.1(c)(8) provide ICE with authority to *initially* set" conditions of release, ICE's unilateral imposition of conditions after an IJ orders release on bond ignores the regulations' "sequential framework."

Orellana Juarez v. Moniz, 788 F.Supp.3d 61, 69 (D. Mass 2025) (emphasis in original). "The implementing regulations for 8 U.S.C. § 1226(a) create a two-level administrative review over conditions of supervised release initially set by any officer authorized to issue a warrant of arrest." *da Silva v. LaForge*, No. 25cv17095 (EP), 2026 WL 45165, at *4 (D.N.J. Jan. 7, 2026). "The first level of review is before the [IJ]" and the "second level is an appeal to the BIA." *Id.* "The authority to impose conditions of supervised release is not shared across the established procedures" once a noncitizen requests EOIR's review of ICE's initial custody determination *Id.*

Instead, "based on ICE's own regulations, an [IJ] and the BIA may determine custody conditions. Permitting ICE to impose additional conditions *after* an [IJ] has ordered release and set conditions renders the administrative adjudicatory process null." *N-N- v. McShane*, 813 F.Supp.3d 496, 500 (E.D. Pa. 2025) (emphasis in original). This Court agrees. *Cortes v. Guadian*, 1:26-cv-00294-CNS, 2026 WL 265688, at *2 (D. Colo. Feb. 2, 2026) ("Respondents may not impose additional conditions *after an IJ has ordered release on bond and set conditions of release*") (emphasis in original) (citation and quotation omitted).

In other words, the regulations provided ICE a process to express its displeasure of the IJ's bond redeterimination through an appeal to the BIA. 8 C.F.R. §§ 1236.1(d)(2); 236.1(d)(3); *Mojica v. Lyons et al.*, 25-cv-13783-ADB, 2026 WL 266502, at *1 (D.Mass. Feb. 2, 2026) ("[T]here is nothing in the procedural scheme that authorizes ICE to impose additional conditions following the immigration judge's decision. ICE's only recourse following a decision not to its liking is an appeal to the BIA"). The statute and regulations

do not, on the other hand, give ICE unilateral authority to impose conditions of release not ordered by the IJ after a bond redetermination hearing. *E.g. id.*[2]

Beyond violating the regulations and statute, ICE's decision to unilaterally impose annual, mandatory in-person reporting requirements with ICE upon Ms. Aguirre's release on bond violates this Court's order. *See* ECF 13. That is especially true where, as here, ICE threatens to reincarcerate (and claims the authority to reincarcerate) Ms. Aguirre should she fail to appear for one of the mandatory check-ins. Exh. 3.

CONCLUSION

Based on ICE's violation of this Court's order to not impose any conditions on his release beyond those set by the IJ, Ms. Aguirre respectfully requests that this Court order ICE to immediately remove the additional conditions ICE unilaterally imposed on Ms. Aguirre, including the ICE check-in on June 25, 206 and any subsequent in-person appointments ICE intends to impose. Ms. Aguirre also respectfully requests that this Court explicitly enjoin ICE from imposing any and all additional conditions in the future. That order is necessary considering ICE's recalcitrance here and across the country to follow the law. Ms. Aguirre also respectfully requests this Court order any additional relief the

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[2] SDDO Garcia's unanalyzed citation to 8 U.S.C. 1101(a)(1), (3) as authority for ICE to ignore this Court's order misses the mark. In fact, the Tenth Circuit criticized the legacy INS when it relied on the same statute to try and limit a noncitizen's rights to seek judicial review. *See Nagahi v. I.N.S.*, 219 F.3d 1166 (10th Cir. 2000). There, the Tenth Circuit noted that the INS regulation at issue "was not due any deference because it fell outside of the delegated authority granted by Congress." *Id.* at 1170. Here, ICE's use of call-in letters suffers from a similar fatal flaw. ICE cannot unilaterally disobey a federal court order, ignore the binding regulations, and supersede the statutory authority Congress vested in ICE by unilaterally imposing conditions after a bond hearing. This Court already held as much. *See Cortes*, 2026 WL 265688, at *2. ICE is not a law unto itself. *Juan T.R.*, 2026 WL 232015, at *1.

Court deems fair and appropriate, including attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law

"ICE is not a law unto itself." *Juan T.R.*, 2026 WL 232015, at *1. Ms. Aguirre respectfully requests this Court remind ICE of that fact.

Dated: April 21, 2026

Respectfully submitted,

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CERTIFICATE OF CONFERRAL

I hereby certify, consistent with D. Colo. Local Rule 7.1, that I conferred via email and telephone with counsel for Respondents, Tim Jafek of the US Attorney's Office for the District of Colorado, regarding the relief requested herein. Respondents oppose this motion.

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CERTIFICATE OF SERVICE

I, Conor T. Gleason, hereby certify that on April 21, 2026 I filed the foregoing with the Clerk of the Court using the CM/ECF system.

/s/ Conor T. Gleason
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