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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

MARCOS PAULO GUERCIO
SANDOLI



Petitioner,

vs.

CHARLES WALL, Acting Director,
U.S. Immigration and Customs
Enforcement;

ERNESTO SANTACRUZ, JR, Los
Angeles Field Office Director,
Enforcement and Removal Operations,
United States Immigration and
Customs Enforcement (ICE);

MARKWAYNE MULLIN, Secretary,
United States Department of Homeland
Security,

Respondents.

Case No.:

'26CV3110 RSH BJW


PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND REQUEST FOR
DECLARATORY AND
INJUNCTIVE RELIEF

I. INTRODUCTION

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3 1. Petitioner challenges ICE’s unilateral imposition of GPS ankle
4 monitoring despite his lawful entry to the United States on a B-2 visa and his
5 consistent compliance with all supervision requirements. He has never been
6 arrested or detained by ICE; although he missed one call from his ICE officer, he
7 promptly returned the call and appeared in person at the ICE office to ensure full
8 compliance. The government nevertheless imposed continuous physical
9 surveillance without any individualized finding, material change in circumstances,
10 or meaningful opportunity to be heard.
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14 2. This case presents a straightforward constitutional question: whether
15 ICE can escalate from minimal supervision to continuous physical monitoring
16 without due process where the noncitizen has never been arrested or detained and
17 has remained compliant with supervision.
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II. PARTIES

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21 3. Petitioner Marcos Paulo Guercio Sandoli  is an
22 individual subject to supervision by U.S. Immigration and Customs Enforcement.
23 He was lawfully admitted to the United States on a B-2 visa and has at all times
24 complied with the conditions of his supervision.
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1 conditions impose substantial restraints not shared by the public generally, *Jones*
2 *v. Cunningham*, 371 U.S. 236, 240–43 (1963), and a person released on
3 recognizance is likewise “in custody” where continued liberty depends on
4 compliance with conditions backed by the threat of arrest and confinement,
5 *Hensley v. Municipal Court*, 411 U.S. 345, 351–53 (1973). Those principles apply
6 here with even greater force because Petitioner are subject to non-removable GPS
7 ankle monitors, continuous location tracking, geographic restrictions, schedule
8 restrictions, inspection obligations, and the immediate threat of re-detention for
9 alleged noncompliance.
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14 8. Jurisdiction is also proper because this petition challenges ongoing
15 immigration restraints in this District and names the officials responsible for those
16 restraints. District courts retain habeas jurisdiction over challenges to the legality
17 of immigration detention and related custody restraints. See *Kong v. United States*,
18 62 F.4th 608, 614 (1st Cir. 2023). And in this District, courts have exercised § 2241
19 jurisdiction to review ICE custody and release-condition challenges, including
20 challenges to heightened conditions imposed after an immigration judge has
21 authorized release. See *Orellana Juarez v. Moniz*, No. 25-cv-11266-MJJ (D. Mass.
22 June 11, 2025). Because Petitioner resides in Escondido, CA, he is supervised
23 through the BI ISAP office in San Bernardino, and challenge restraints
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1 administered by Respondents in this District, this Court may grant habeas,
2 declaratory, and injunctive relief.
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4 IV. FACTS

5 9. Petitioner Marcos Paulo Guercio Sandoli is a native and citizen of
6 Brazil who was admitted to the United States on a nonimmigrant visa and has
7 remained present in the United States since that time.
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9 10. On or about June 13, 2025, the Department of Homeland Security
10 issued a Notice to Appear initiating removal proceedings against Petitioner under
11 section 237(a)(1)(B) of the Immigration and Nationality Act.
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13 11. Petitioner's immigration proceedings are pending before the
14 Immigration Court in San Diego, California, and he has been required to appear
15 for hearings, including a scheduled master calendar hearing.
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17 12. At no point has Petitioner been arrested, taken into ICE custody, or
18 detained by immigration authorities.
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20 13. Instead, ICE has permitted Petitioner to remain at liberty subject to
21 supervision conditions.
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23 14. On October 28, 2025, ICE issued Petitioner a call-in notice directing
24 him to appear at the San Bernardino Sub Office for a case follow-up appointment.
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1 15. Petitioner complied with ICE's supervision requirements, including
2 attending scheduled appointments and maintaining contact with ICE officers as
3 directed.
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5 16. On one occasion, Petitioner missed a call from his ICE officer, but he
6 promptly returned the call and appeared in person at the ICE office to ensure full
7 compliance with all supervision requirements.
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9 17. ICE enrolled Petitioner in the Intensive Supervision Appearance
10 Program ("ISAP"), a program operated under contract with the Department of
11 Homeland Security to monitor non-detained individuals while their immigration
12 proceedings are pending.
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15 18. As an ISAP participant, Petitioner has been required to comply with
16 program rules, attend scheduled appointments, maintain a verified address, and
17 remain in communication with program officers.
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19 19. His individual service plan identifies no criminal history and states
20 that he must report in person, with recurring office visits.
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22 20. Notwithstanding that longstanding supervision, ICE abruptly
23 escalated Petitioner's conditions on April 22, 2026, by requiring him to sign BI GPS
24 and SmartLINK agreements and to wear non-removable GPS ankle monitors.
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1 21. The GPS agreement signed by Petitioner on April 22, 2026, required
2 him to wear a non-removable ankle monitor, keep the device charged, refrain from
3 removing or tampering with it except in narrow circumstances, permit inspection
4 and maintenance of the equipment, comply strictly with any approved schedule or
5 curfew, request schedule changes at least twenty-four hours in advance, remain
6 within an ICE-designated geographic area unless permission to leave is granted,
7 and accept the risk of arrest, detention, and criminal prosecution if the equipment
8 is damaged.
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12 22. The SmartLINK provisions additionally required him to maintain a
13 charged mobile phone with push notifications enabled, maintain mobile-data or
14 Wi-Fi access, report changes to the device or email address, keep the operating
15 system updated, and refrain from driving while using the application. ICE imposed
16 these conditions without providing Petitioner with any individualized explanation
17 for why continuous bodily surveillance had become necessary after release on less
18 restrictive supervision.
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22 23. The program documents also show that the ISAP Program Rules
23 dictate that any perceived noncompliance could result in greater case management,
24 additional technology, or detention. That agreement states that participants may be
25 required to confirm his location at any time, twenty-four hours a day, seven days a
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1 week; must attend all ICE and ISAP appointments; must permit home visits; and
2 may file complaints about program sanctions through the ISAP Program Director
3 or directly with ICE.
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5 24. Yet nothing in the materials provided to Petitioner identifies any
6 violation, missed appearance, criminal conduct, or changed circumstance that
7 would justify the sudden imposition of ankle monitors.
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9 25. To the contrary, the individual service plan for Petitioner expressly
10 records no criminal history, confirms ongoing case-management supervision in the
11 community, and reflects a routine office-reporting schedule rather than any finding
12 of heightened risk.
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15 **V. LEGAL STANDARD – CUSTODY**

16 26. Habeas jurisdiction extends beyond formal incarceration to restraints
17 on liberty that are substantial, immediate, and not shared by the public generally.
18 The Supreme Court has long recognized that custody includes significant
19 noncarceral restraints, and that principle applies with special force where the
20 government requires a person to wear a physical monitoring device that enables
21 continuous surveillance and carries the ongoing threat of re-detention for alleged
22 noncompliance. See *Jones v. Cunningham*, 371 U.S. 236 (1963); *Hensley v.*
23 *Municipal Court*, 411 U.S. 345 (1973).
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1 30. The Fifth Amendment bars the federal government from imposing a
2 serious deprivation of liberty without constitutionally adequate procedure. Under
3 *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court weighs the private interest
4 affected, the risk of erroneous deprivation under the procedures used and the value
5 of additional safeguards, and the government's asserted interests. Applied here,
6 each factor favors pre-deprivation process, or at the very least a prompt and
7 meaningful post-deprivation hearing, before ICE may escalate supervision from
8 release on recognizance to round-the-clock GPS surveillance.
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12 **A. Private Interest.**
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14 31. The private interest at stake is profound. A GPS ankle monitor is a
15 physical device attached to the body that enables continuous state surveillance and
16 marks the wearer in daily life as someone under official control.
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18 32. It burdens movement, privacy, employment, family life, and dignity.
19 Courts within the Ninth Circuit have likewise recognized the intrusiveness of
20 continuous electronic monitoring and related supervision conditions. In
21 *Harrington v. Albarran*, the Northern District of California found that ankle
22 monitoring and ISAP enrollment imposed by ICE significantly interfered with an
23 individual's liberty where those conditions were imposed without a further hearing
24 or individualized justification. See *Harrington v. Albarran*, No. 26-cv-01889 (N.D.
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1 Cal. Mar. 23, 2026). While arising in a different procedural posture, such decisions
2 underscore that continuous GPS tracking and associated supervision conditions
3 substantially restrict physical liberty and autonomy. These authorities confirm that
4 mandatory, around-the-clock electronic monitoring is not a minimal condition of
5 release, but rather a severe intrusion into daily life that demands meaningful
6 constitutional protections before it may be imposed.
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9 33. That interest is even stronger here because Petitioner had already been
10 released on less restrictive terms after the government concluded detention was
11 unnecessary. Once the government has determined that physical confinement is
12 unwarranted, a later decision to impose a bodily tracking device represents a major
13 escalation in restraint and therefore demands correspondingly meaningful
14 procedure.
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18 **B. Risk of Error and Value of Additional Safeguards.**

19 34. The risk of erroneous deprivation is extraordinarily high when ICE
20 imposes GPS monitoring without notice of the factual basis, without individualized
21 findings, and without an opportunity to contest either the asserted need for the
22 device or the adequacy of less restrictive alternatives. A simple requirement that
23 the agency provide notice, state its reasons, and offer a hearing would dramatically
24 reduce that risk.
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1 35. This principle is consistent with due-process decisions in the
2 immigration context within the Ninth Circuit requiring individualized process
3 before liberty is curtailed. Courts in this Circuit have emphasized that, where the
4 government seeks to impose or maintain restrictions on a noncitizen's physical
5 liberty, it must provide adequate procedural safeguards and justification. See
6 *Harrington v. Albarran*, No. 26-cv-01889 (N.D. Cal. Mar. 23, 2026) (granting
7 injunctive relief where ICE imposed ankle monitoring and ISAP conditions
8 without a further hearing following an immigration judge's release order); see also
9 *Ba v. Lyons*, No. 3:25-cv-2871 (S.D. Cal. Jan. 27, 2026) (addressing habeas
10 challenge to newly imposed GPS monitoring and related conditions following
11 release). These authorities reflect the same core due process principle: that
12 significant restraints on physical liberty require individualized justification and
13 meaningful procedural protections before the government may impose or expand
14 such conditions.
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21 36. The recent decisions in this District reinforce the same point. In
22 *Orellana Juarez*, the court granted habeas relief from ICE-imposed conditions
23 because the agency had layered additional restraints onto an immigration judge's
24 release determination without adequate legal basis. And in *Sampiao*, the court
25 ordered release without additional conditions beyond those imposed by the
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1 immigration judge. These authorities underscore that liberty may not be curtailed
2 by executive escalation untethered to individualized process. At a minimum, due
3 process requires a meaningful opportunity to be heard at a meaningful time and in
4 a meaningful manner before such burdens are imposed.
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7 **C. Government Interest.**

8 37. The government's interest does not justify dispensing with process.
9 To be sure, ICE has legitimate interests in ensuring appearance and managing
10 supervision efficiently.
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12 38. But those interests are weakened where, as here, Petitioner has already
13 demonstrated compliance and the agency previously determined that detention and
14 more restrictive measures were unnecessary. Requiring notice, reasons, and an
15 opportunity to contest GPS monitoring would impose only modest administrative
16 burdens, particularly compared with the severity of the restraint. Under *Mathews*,
17 that balance favors procedural safeguards rather than unilateral agency action.
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20 39. Indeed, the absence of any alleged noncompliance or changed
21 circumstances makes the government's interest in immediate, no-hearing
22 imposition of ankle monitoring especially weak. Where the executive seeks to
23 intensify restraints after an initial release decision, due process demands more than
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1 a bare directive; it demands an individualized explanation and a real chance to
2 object.

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4 40. Balancing all three factors, the Constitution required ICE to provide
5 Petitioner with, at minimum, notice of the proposed escalation, the factual grounds
6 supporting it, and a meaningful opportunity to challenge the necessity of GPS
7 monitoring before or promptly after the monitors were imposed. Because ICE
8 offered none of those safeguards, the challenged action violates the Fifth
9 Amendment.
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12 VII. CLAIM TWO – ARBITRARY ESCALATION

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14 41. ICE’s unilateral escalation from release on recognizance and ordinary
15 supervision to continuous GPS monitoring is also arbitrary in a more fundamental
16 sense. The agency previously made, or accepted, a release determination that
17 Petitioner could live in the community without detention.
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19 42. It then reversed course and imposed a materially more severe
20 condition without identifying any intervening facts, changed circumstances, or
21 individualized risk assessment.
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23 43. Administrative action that so sharply burdens liberty without
24 explanation offends basic due-process norms and cannot be squared with the
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1 reasoned decision-making the Constitution demands when the government
2 imposes substantial restraints on personal freedom.
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4 44. The point is not merely that ICE chose a severe condition; it is that
5 the agency chose it arbitrarily, without process, and in derogation of the prior
6 judgment that less restrictive supervision was sufficient. That unexplained
7 departure from a less restrictive status quo independently supports habeas and
8 equitable relief.
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11 **VIII. RELIEF REQUESTED**

12 WHEREFORE, Petitioner respectfully requests that this Court:

13 a. Grant the Petition for Writ of Habeas Corpus and Complaint for
14 Declaratory and Injunctive Relief;

15 b. Declare that Respondents' imposition of GPS ankle monitoring without
16 individualized process violates the Due Process Clause of the Fifth Amendment;

17 c. Order Respondents immediately to remove Petitioner's GPS ankle
18 monitor and restore him to his prior supervision conditions;

19 d. Enjoin Respondents from imposing materially more restrictive
20 supervision conditions absent constitutionally adequate notice, individualized
21 findings, and a meaningful opportunity to be heard; and
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1 e. Grant such other and further relief as the Court deems just and proper,
2 including appropriate declaratory and injunctive relief to prevent the reimposition
3 of these unlawful conditions.
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6 Respectfully submitted on May 19, 2026
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8 /s/ Marcelo Gondim

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