

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CINDY PAOLA AGUILAR RAMOS,

Petitioner,

v.

RUBEN PEREZ, in his official capacity as Acting
Assistant Field Office Director for the Newark Field
Office for Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement; and
KRISTI NOEM, in her official capacity as Secretary
of Homeland Security,

Respondents.

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Following a bond hearing, an Immigration Judge ordered Petitioner Cindy Paola Aguilar Ramos released from Immigration and Customs Enforcement (“ICE”) custody on \$8,000 bond during the pendency of her removal proceedings. The Immigration Judge (“IJ”)’s order did not include any conditions on Petitioner’s release aside from the \$8,000 bond. Yet, shortly after Petitioner was released, Respondents unilaterally enrolled her in its high-supervision Intensive Supervision Appearance Program (“ISAP”), which, among other burdens, requires her to wear an electronic ankle bracelet and attend frequent and time-consuming check-ins, and forbids her to travel outside of a small geographical area consisting of New Jersey and parts of Rhode Island, Connecticut, New York, Pennsylvania, Maryland, and Delaware.

2. Whether, and on what conditions, Petitioner should be released was a matter for the IJ to decide in the first instance, subject only to an appeal to the Board of Immigration Appeals

("BIA"). Respondents have no legal authority to impose conditions on Petitioner's release beyond those set forth in the IJ's order.

3. By purporting to impose additional conditions on Petitioner's release not included in the IJ's order, Respondents have violated their own regulations, the Administrative Procedure Act, and Petitioner's right to due process under the Fifth Amendment.

4. Accordingly, the Court should grant the writ, order Respondents to disenroll Petitioner from the Intensive Supervision Appearance Program, and permanently enjoin Respondents from re-enrolling Petitioner in that program or otherwise requiring her to wear an ankle bracelet, wrist bracelet, or be monitored by application.

PARTIES

5. Petitioner Cindy Paolo Aguilar Ramos is a citizen of Honduras and resident of Passaic, New Jersey.

6. Respondent Ruben Perez is named in his official capacity as the Acting Assistant Field Office Director for the Newark Field Office for ICE within the United States Department of Homeland Security ("DHS"). Mr. Perez is the Acting Field Office Director with DHS, ICE, Enforcement and Removal Operations, Newark Field Office whose duties include oversight of detention operations at the Delaney Hall Detention Facility in Newark, New Jersey. In his official capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations. Respondent Perez's address is U.S. Immigration and Customs Enforcement, 970 Broad Street, 11th Floor, Newark, New Jersey 07102.

7. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity he is responsible for administering and

enforcing the immigration laws in New Jersey. Respondent Lyons address is 500 12th Street SW, Washington, DC 20536.

8. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In her official capacity, Ms. Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); routinely transacts business in the District of New Jersey and is legally responsible for pursuing any effort to remove Cindy. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, D.C. 20528.

JURISDICTION AND VENUE

9. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of ICE custody. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Velasquez v. Kurzdorfer*, No. 25-cv-493-LJV, 2025 WL 1953796, at *4 (W.D.N.Y. July 16, 2025) (holding that district courts have habeas jurisdiction in immigration detention cases); *Juarez v. Moniz*, No. 25-cv-11266-MJJ, 2025 WL 1698600, at *2 (D. Mass. June 11, 2025) (asserting jurisdiction over challenges to immigration detention) (citing *Aguilar v. United States Immigr. & Customs Enf't Div. of Dep't. of Homeland Sec.*, 510 F.3d 1, 11 (1st Cir. 2007) (“[D]istrict courts retain jurisdiction over challenges to the legality of detention in the immigration context.”)). A requirement that a noncitizen wear an ankle monitor as a condition of release during pending removal proceedings qualifies as “custody” for purposes of habeas corpus. *Khabazha v. ICE*, No. 25-CV-5279 (JMF), 2025 WL 3281514, at *3 (S.D.N.Y. Nov. 25, 2025).

10. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States

Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

11. Venue is proper because Petitioner resides in Passaic, New Jersey and is required to regularly report to ICE's ISAP contractor in Newark for check-ins.

STATEMENT OF FACTS

12. Petitioner entered the United States on January 28, 2022. Upon her entry, the Department of Homeland Security determined she was an unaccompanied alien child ("UC") pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232. Pursuant to the TVPRA, Respondent was transferred to the custody of the Department of Health and Human Services, the Office of Refugee Resettlement, and later released to a sponsor in New Jersey.

13. On February 20, 2024, Petitioner was granted Special Immigrant Juvenile Status ("SIJS") by U.S. Citizenship and Immigration Services ("USCIS") Ex. 2. SIJS is a special protected status for immigrant youth who have been abused, neglected or abandoned by one or both parents.

14. On August 28, 2025, Petitioner was subjected to a warrantless, suspicionless arrest by agents of the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE") in Paterson, New Jersey.

15. Petitioner was detained at Delaney Hall in Newark, New Jersey and placed into removal proceedings.

16. In the removal proceedings, Petitioner sought release on bond, pursuant to 8 U.S.C. § 1226(a). The IJ originally ruled that Petitioner was ineligible for bond, relying on the decision of

the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA Sept. 5, 2025), which held that all aliens who entered the United States without inspection are subject to mandatory detention while removal proceedings are pending, regardless of how long they have been in the United States.

17. On November 21, 2025, Petitioner was granted a writ of habeas corpus by this Court ordering the government to conduct “a statutorily proper bond hearing under 8 U.S.C. § 1226(a) before an immigration judge within seven days.” *Aguilar Ramos v. Soto*, Civ. No. 25-15315 (MAS), ECF Nos. 13, 14. Copies of the Opinion and Order from Petitioner’s prior habeas proceeding are attached hereto as Exhibits A and B, respectively.

18. At the November 25, 2025 bond hearing, the government opposed Petitioner’s release on bond, but did not seek any conditions on her release in the event the IJ granted bond.

19. At the November 25, 2025 bond hearing, the IJ granted Petitioner’s motion for release on bond and ordered her released on an \$8,000 bond. The IJ did not specify any other conditions on Petitioner’s release, and did not indicate that Petitioner was required to enroll in ISAP or wear an ankle bracelet.

20. The IJ’s subsequent written order likewise indicated that Petitioner was granted release on an \$8,000 bond, without indicating any other conditions of release. A copy of the IJ’s bond order is attached hereto as Exhibit C.

21. Following Petitioner’s release, ICE enrolled Petitioner in ISAP and demanded that Petitioner wear an electronic ankle monitor. According to ICE, Petitioner must wear the ankle monitor 24/7. She may not swim or run on a treadmill, and must charge the battery of the ankle monitor for two to three hours daily, during which time she must remain stationary and cannot walk around.

22. Moreover, as a result of her enrollment in ISAP, Petitioner has been required to attend check-ins at the Newark ISAP office every eight weeks, each of which takes several hours. She must visit the ISAP office if there are technical issues with her monitor, which has already happened once since her release, a visit that took several hours. Additionally, ISAP officers conduct home visits between 8 am and 5 pm every twelve weeks, requiring her to stay home the entire day as the ISAP officer may show up at any time and if she is not present when they show up, it is a violation of the program. Also, Petitioner must not leave a limited geographic area throughout the duration of the ISAP surveillance or else will be found in violation of the program.

23. Petitioner's immigration counsel has asked ICE to remove Petitioner from the ISAP program and remove the ankle monitor, but ICE has refused to do so.

LEGAL FRAMEWORK

Detention and Release of Aliens in Removal Proceedings

24. Section 1226(a) governs the detention of most noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a, including Petitioner. 8 U.S.C. § 1226(a); *see also* Ex. A.

25. Detention under Section 1226(a) is discretionary, not mandatory; the government “may release the alien on—(A) a bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]” 8 U.S.C. § 1226(a)(2)(A)-(B).

26. Pursuant to regulation, prior to detention pursuant to Section 1226(a), immigration officers must allow a noncitizen to “demonstrate to the satisfaction of the officer that . . . release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8).

27. A noncitizen who is unhappy with immigration officers' initial determination may ask for a hearing before an immigration judge. 8 C.F.R. §§ 1003.19, 1236.1(d)(1). A noncitizen need not be detained to request bond redetermination; thus, a noncitizen who is unhappy with the amount of the bond or other conditions of release imposed by immigration officials may challenge those decisions by seeking bond redetermination. *See* 8 C.F.R. § 1003.19(c) (specifying the office to which a bond redetermination application "shall be made," depending on whether the respondent is detained); *id.* § 1236.1(d)(1) (providing that, when a noncitizen seeks amelioration of conditions of release, the immigration judge is authorized to exercise the authority in section 236 of the [INA] to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released); *Matter of Garcia-Garcia*, 21 I & N Dec. 93 (BIA 2009) (recognizing that an IJ "has broad authority to review and modify the terms imposed by the DHS on an alien's release from custody").

28. An IJ's decision in a bond redetermination hearing "shall be entered on the appropriate form at the time such decision is made and the parties shall be informed orally or in writing of the reasons or the decision." 8 C.F.R. § 1003.19(f).

29. Either party may appeal the IJ's decision to the BIA within thirty days. 8 C.F.R. §§ 1003.19(f), 1003.38(b).

30. Once an IJ has made a custody redetermination, there are "only two ways" to modify it: "(a) appeal the immigration judge's order to the BIA or (b) after an initial bond redetermination, a detainee may request a subsequent bond redetermination upon a showing that their 'circumstances have changed materially since the prior bond redetermination.'" *N- N- v. McShane*, No. CV 25-5494, 2025 WL 3143594, at *3 (E.D. Pa. Nov. 10, 2025).

ICE's Intensive Supervision Appearance Program

31. ICE's Alternatives to Detention ("ATD") program is "a [noncitizen] compliance tool overseen by [Enforcement and Removal Operations]." ⁶ Electronic monitoring first became a part of ICE's ATD program in 2004, when Congress appropriated funding to DHS to create two new programs, including the Intensive Supervision Appearance Program ("ISAP").

32. A recent ICE policy shift, described in a June 9, 2025 memorandum sent by ICE Acting Assistant Director Dawnisha Helland to ICE Field Offices, instructs ICE officials to expand the number of individuals subjected to ISAP and to adhere GPS-enabled ankle monitors to noncitizens "whenever possible."

33. The restrictive measures imposed by Petitioner's forced enrollment in ISAP constitutes "custody" for purposes of habeas corpus. *See Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 68 (D. Mass. 2025) (explaining that restrictions imposed by ISAP are "analogous" to those imposed on a parolee in *Jones v. Cunningham*, 371 U.S. 236, 243 (1963)). In particular, several federal courts have recognized that, when the government requires a person to wear an electronic ankle monitor or suffer confinement, the ankle monitor constitutes "custody" for purposes of habeas corpus. *Khabazha v. ICE*, No. 25-CV-5279 (JMF), 2025 WL 3281514, at *3 (S.D.N.Y. Nov. 25, 2025); *N- N- v. McShane*, No. CV 25-5494, 2025 WL 3143594, at *2 n.1 (E.D. Pa. Nov. 10, 2025); *Flores Salazar v. Moniz*, No. CV 25-11159-LTS, 2025 WL 1703516, at *5 (D. Mass. June 11, 2025).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE *ACCARDI* DOCTRINE

34. Petitioner realleges and incorporates by reference each and every allegation contained above.

35. Respondents violated the *Accardi* doctrine in failing to follow its regulations, 8 C.F.R. § 1003.19(a), by imposing conditions on Petitioner's release beyond those required in the IJ's bond order.

36. In *Accardi* a noncitizen challenged his deportation, and the Supreme Court held that agencies are bound to follow their own rules that affect the fundamental rights of individuals. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (holding that the Board of Immigration Appeals must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures ... even where the internal procedures are possibly more rigorous than otherwise would be required.").

37. "[W]hen an agency promulgates a regulation protecting fundamental statutory or constitutional rights of parties appearing before it, the agency must comply with that regulation. Failure to comply will merit invalidation of the challenged agency action without regard to whether the alleged violation has substantially prejudiced the complaining party." *Leslie v. Attorney General*, 611 F.3d 171, 180 (3d Cir. 2010) (finding that the government's failure to implement its regulation requiring IJ's to advise noncitizens of their right to counsel violated noncitizens' right to counsel and undermined the structure of the hearing such that it automatically invalidated the agency action); *Aquino v. Attorney General*, 53 F.4th 761, 766 (3d Cir. 2022) ("So to clarify *Leslie*, we hold that for a regulation to protect a fundamental right, a violation must be a structural error that necessarily makes proceedings fundamentally unfair.").

38. In applying *Accardi* and determining whether a failure to comply with a regulation warrants invalidation of the agency action, the Third Circuit has focused on the significance of the right and the structure needed to secure that right. *See Leslie*, 611 F.3d at 176, 181 (drawing on

Accardi, in which the court prevented the Attorney General from “sidestep[ping] the Board or dictat[ing] its decision”).

39. The remedy for an *Accardi* violation is to set aside the agency action and enjoin the agency to follow its rules. *Accardi*, 347 U.S. at 268 (“If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing”).

40. Here, Respondents have promulgated agency rules that require ICE to obey an IJ’s order following a custody determination at a bond hearing. *See* 8 C.F.R. § 1003.19(a) (“Custody and bond determinations made by [ICE] pursuant to 8 C.F.R. part 1236 may be reviewed by an Immigration Judge pursuant to 8 C.F.R. part 1236.”); *Id.* § 1236.1(d)(1). (“[T]he immigration judge is authorized to exercise the authority in section 236 of the Act . . . to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released”). These rules protect the fundamental right to liberty of a noncitizen in removal proceedings. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U. S. 71, 80 (1992)). Allowing the government to bypass the bond order of an IJ and apply conditions outside those ordered after a full custody hearing “undermines the structure of the hearing and necessarily prejudices the outcome.” *Aquino*, 53 F.4th at 766. Regardless, ICE’s failure to follow its rules is prejudicial to Petitioner where the rule implicates her fundamental liberty interest and due process rights. *See Leslie*, 611 F.3d at 182; *see also Delgado-Corea v. INS*, 804 F.2d 261, 263 (4th Cir. 1986) (holding that “violation of a regulation can serve to invalidate a deportation order when the regulation serves a purpose to benefit the [noncitizen]” and the violation affected “interests of the [noncitizen] which were protected by the regulation” (internal quotations and citation omitted)). If ICE were to follow its rules and obey the

IJ's order—requiring release with only the condition of payment of a \$8,000 bond—it would be required to discontinue Petitioner's enrollment in ISAP and release her from the ankle monitor.

41. Under the Accardi doctrine, Petitioner has a right to set aside ICE's decision to impose electronic surveillance on her and to enjoin ICE from defying the IJ's order by imposing additional restraints on her liberty beyond the IJ's order. *See N- N-*, 2025 WL 3143594, at *4 (granting habeas relief where ICE required petitioner to wear an ankle monitor despite the absence of such a condition in the IJ's bond order); *Orellana Juarez*, 788 F. Supp. 3d at 69 (granting habeas relief from conditions of release imposed by ICE in spite of bond or

COUNT TWO
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

42. Petitioner realleges and incorporates by reference each and every allegation contained above.

43. The Administrative Procedure Act provides that a court "shall ... hold unlawful and set aside agency action ... found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

44. Respondents' actions were arbitrary, capricious, an abuse of discretion, and contrary to law. By purporting to impose conditions on Petitioner's release beyond those set forth in the IJ's order, Respondents contravened the IJ's authority under 8 U.S.C. § 1226(a) to set conditions of release pursuant to 8 C.F.R. § 1236.1(d)(1).

COUNT THREE
VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS

45. Petitioner realleges and incorporates by reference each and every allegation contained above.

46. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

47. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty” under case law interpreting the Due Process Clause. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at 333 (citation modified).

48. ICE has deprived Petitioner of a protected liberty interest by enrolling her in ISAP, requiring her to wear an ankle monitor, limiting her physical movement to a small geographic zone, requiring her to travel to Newark frequently for several-hour check-ins, requiring her to stay home for full days every few months for home visits, and monitoring her every movement. Moreover, it did so without affording her notice or an opportunity to be heard.

49. The Third Circuit applies the *Mathews v. Eldridge* factors to determine what due process requires in the context of immigration detention, balancing: (i) “the private interest that will be affected by the official action”; (ii) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (iii) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Gayle*, 12 F.4th at 331 (citation modified) (quoting *Mathews*, 424 U.S. at 335).

50. The first factor, the private interest at issue, favors Petitioner. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at

the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690 (emphasis added).

51. Second, there is not so much a risk as a certainty of erroneous deprivation of liberty where ICE imposes conditions of confinement not authorized by an IJ’s bond order. The IJ already determined the appropriate conditions for Petitioner’s release—posting an \$8,000 bond. The IJ did not require Petitioner to enroll in ISAP or wearing an electronic monitor. Nor did the government request those conditions. Requiring Respondents to follow the procedures set forth in the INA and Respondents’ own regulations—and to respect the outcomes of those procedures—would significantly reduce the risk of erroneous deprivation.

52. Third, following the procedures already in place and respecting the outcomes that result from following them is also in the government’s interest. Moreover, Petitioner does not seek any additional procedural safeguards, but only that the government follow the procedures its laws require and abide by the outcome that resulted from them.

53. Accordingly Respondents’ enrollment of Petitioner in ISAP, its demand that she be constantly monitored via electronic device and via a phone application, and that she must stay within a limited geographic zone, or otherwise will face detention, violated the rights guaranteed to her by the Due Process Clause of the Fifth Amendment to the United States Constitution.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Direct Respondents to file a response to the Petition within 7 days;
- (3) Declare that Petitioner’s detention violates the *Accardi* doctrine, 5 U.S.C. § 706(2)(A), and the Due Process Clause of the Fifth Amendment;

- (4) Grant the writ and enjoin Respondents from requiring Petitioner's enrollment in ISAP or wearing an electronic monitor as a condition of her continued release;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

DATED this 6th of January, 2026

Respectfully submitted,

/s/ Scott M. Weingart
Scott M. Weingart
Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Cindy Paola Aguilar Ramos, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of January, 2026.

/s/ Scott M. Weingart
Scott M. Weingart