IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

G.B.T., *Petitioner*, v. JOHN RIFE, et al., *Respondents*.	Case No. 2:26-cv-01842-JMY Judge John M. Younge

PETITIONER'S MOTION TO SET A CONSOLIDATED BRIEFING SCHEDULE

Petitioner G.B.T. ("Petitioner"), for the reasons outlined in the attached memorandum, hereby moves the Court to amend its case management order[1] (ECF No.11) to set a consolidated briefing schedule on his combined Petition for Writ of Habeas Corpus and Complaint for Injunctive and Declaratory Relief under the Administrative Procedure Act ("APA") (ECF No. 1) ("Pet. & Compl.").

Because the legal and factual issues under both causes of action are substantially intertwined, judicial economy and efficiency are best supported by omnibus briefing on Petitioner's habeas and APA claims in a single motion for summary judgment. That motion should be filed after Respondents' produce the administrative record necessary for judicial review of Petitioner's APA claims.

To assist the Court's full consideration of his claims, Petitioner proposes the following consolidated briefing deadlines:

[1] On March 26, 2026, this Court entered an order (ECF No. 11) requiring Respondents to submit a written response showing cause as to why "the said Petition should not be granted" within 20 days.

Respondents produce the administrative record:	April 15, 2026
Petitioner files consolidated summary judgement motion and brief on all claims:	April 29, 2026
Respondents file consolidated opposition and brief on all claims:	May 20, 2026
Petitioner files consolidated reply to Respondents' opposition:	June 3, 2026
Parties jointly file appendix containing copies of cited portions of the administrative record:	June 17, 2026

Pursuant to Local Civil Rule 7.1, Petitioner's counsel conferred with Respondent's counsel in a good faith effort to resolve this issue without Court intervention. Counsel for Respondents' indicated that Respondents oppose Petitioner's proposed briefing schedule.

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Dated: March 30, 2026

Respectfully submitted,

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Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Motion to Set a Consolidated Briefing Schedule using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania.

DATED: March 30, 2026

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UNITED STATES DISTRICT COURT
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G.B.T., *Petitioner*, v. JOHN RIFE, et al., *Respondents*.	Case No. 2:26-cv-01842-JMY Judge John M. Younge

[PROPOSED] ORDER

Upon consideration of Petitioner's Motion to Set a Consolidated Briefing Schedule, the Motion is GRANTED.

IT IS HEREBY ORDERED that:

1. Respondents are ORDERED to produce the administrative record on or before April 15, 2026;
2. Petitioner is ORDERED to file a consolidated motion for summary judgement and brief on all claims on or before April 29, 2026;
3. Respondents are ORDERED to file consolidated opposition and a brief on all claims on or before May 20, 2026;
4. Petitioner is ORDERED to file a consolidated reply to Respondents' opposition on or before June 3, 2026;
5. The parties are ORDERED to jointly file an appendix containing copies of cited portions of the administrative record on or before June 17, 2026.

IT IS SO ORDERED:

Dated:_____ _____

Judge John M. Younge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

G.B.T., *Petitioner*, v. JOHN RIFE, et al., *Respondents*.	Case No. 2:26-cv-01842-JMY Judge John M. Younge

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SET A CONSOLIDATED BRIEFING SCHEDULE

Petitioner G.B.T. ("Petitioner") moves this Court to amend its case management order[1] (ECF No.11) to set a consolidated briefing schedule on his combined Petition for Writ of Habeas Corpus and Complaint for Injunctive and Declaratory Relief under the Administrative Procedure Act ("APA") (ECF No. 1) ("Pet. & Compl."). Because the legal and factual issues under both causes of action are substantially intertwined, judicial economy and efficiency are best supported by omnibus briefing on Petitioner's habeas and APA claims in a single motion for summary judgment. That motion should be filed after Respondents' produce the administrative record necessary for judicial review of Petitioner's APA claims.

This case seeks Petitioner's release from unlawful supervision and vacatur of the policy of the Philadelphia Immigration and Customs Enforcement (ICE) Field Office that imposed it, under which the office shackles noncitizens with electronic GPS ankle monitors and intensive

[1] On March 26, 2026, this Court entered an order (ECF No. 11) requiring Respondents to submit a written response showing cause as to why "the said Petition should not be granted" within 20 days.

supervision appearance requirements without individualized review of their cases (the "Philadelphia ICE surveillance policy").

The parties attempted to negotiate a briefing schedule in this case, but were unable to reach an agreement. On March 27, 2026, Respondents removed Petitioner's GPS-enabled ankle monitor and enrollment in their Intensive Supervision Appearance Program (ISAP). But on that date, they enrolled Petitioner into ICE's Compliance Assistance Reporting Terminal (CART) program, another monitoring program that requires periodic check-ins with ICE. Thus, Respondents' continue to subject Petitioner to supervision requirements beyond those ordered by the immigration judge, in fulfilment of the challenged Philadelphia ICE surveillance policy subjecting noncitizens to supervision "whenever possible," as instructed in a memo from ICE Acting Assistant Director Dawnisha Helland. Now, subject to ongoing reporting requirements by ICE, Respondents may also seek to unlawfully impose additional supervision requirement on Petitioner at future check-in dates.[2]

[2] Despite Respondents' removal of Petitioner's ankle monitor and ISAP enrollment, Petitioner's habeas claims are not moot for three reasons. First, Petitioner remains subject to CART—a form of supervision beyond the conditions ordered by the immigration judge in the bond order. Thus, petitioner remains "in custody" for habeas purposes. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963); *Justices of Boston Mun. Ct. v. Lydon*, 466 U.S. 294, 300–01 (1984) (holding that petitioner released on recognizance subject to conditions such as appearance as ordered by court "in custody" for habeas purposes). Second, voluntary cessation "will moot a case only if it is 'absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.'" *Harnett v. Pennsylvania State Educ. Ass'n*, 965 F.3d 301, 306 (3d Cir. 2020) (quoting *Fields v. Speaker of the Pa. House of Representatives*, 936 F.3d 142, 161 (3d Cir. 2019) (quoting *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 719, 127 S.Ct. 2738, 168 L.Ed.2d 508 (2007))). Respondents have not met their "heavy burden" to show that the allegedly wrongful conduct will not occur again. Third, cases that are "capable of repetition" while "evading review," *Turner v. Rogers*, 564 U.S. 431 (2011), fall within an exception to mootness. *See Diop v. ICE/Homeland Security,* 656 F.3d 221 (3d Cir. 2011). "This exception applies when '(1) the challenged action [is] in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party [will] be subjected to the same action again.'" *Id.* 656 F.3d at 227 (quoting *Weinstein v. Bradford,* 423 U.S. 147, 149, 96 S.Ct. 347, 46 L.Ed.2d 350 (1975)).

Because Petitioner's habeas and APA claims are substantially intertwined, the Court's resources would best be spent by evaluating both in a single set of summary judgment briefing. To assist the Court's full consideration of his claims, Petitioner proposes the following consolidated briefing deadlines:

Respondents produce the administrative record:	April 15, 2026
Petitioner files consolidated summary judgement motion and brief on all claims:	April 29, 2026
Respondents file consolidated opposition and brief on all claims:	May 20, 2026
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RELEVENT FACTUAL & PROCEDURAL BACKGROUND

This case challenges the Philadelphia ICE surveillance policy and its unlawful application to Petitioner. *See generally,* ECF No. 1, Pet. & Compl.

Respondents adopted the Philadelphia ICE surveillance policy after a June 2025 memorandum from the ICE Acting Assistant Director instructed ICE agents to "escalate [noncitizens'] supervision level to GPS ankle monitors . . . and increase reporting requirements" for individuals not being arrested "whenever possible." *See* ECF No. 1-4, Helland Memo; *see also* Douglas MacMillan & Aaron Schaffer, *ICE Moves to Shackle Some 180,000 Immigrants with GPS Ankle Monitors*, Wash. Post (July 24, 2025), https://perma.cc/YU83-ZMQ7. The Philadelphia ICE Field Office implemented that instruction by adopting a policy that flouts immigration judges' orders to release noncitizens from detention on payment of bond without further conditions and

instead imposes continued custody via GPS-enabled ankle monitoring and onerous reporting requirements. ECF No. 1, Pet. & Compl. at ¶¶ 41-51 (describing the Philadelphia ICE surveillance policy). After the Philadelphia ICE surveillance policy was adopted, there was a 167.5% increase in use of ankle monitors by the Philadelphia ICE Field Office compared with the previous fiscal year. *Id.* at ¶ 48. The policy caused the number of people on ankle monitors imposed by the Philadelphia ICE Field Office to nearly triple. *Id.*

After Petitioner was detained in immigration custody for approximately three months, he received a bond hearing where the immigration judge found that he was not a danger to the community and that any flight risk would be addressed by payment on a $7,000 bond alone. *See* ECF No.1-5, Bond Order. That bond amount was the *only* condition of his release pursuant to the IJ's order. ECF No. 1, Pet. & Compl. at ¶¶ 59-69 (describing Petitioner's custody proceedings). The government did not appeal the IJ's bond decision. *Id.* at ¶ 69. Yet, when Petitioner posted bond and was released from immigration detention to reunite with his family in Philadelphia, Pennsylvania, ICE unlawfully and unilaterally subjected him to a new form of custody—an ankle monitor with 24/7 GPS tracking and onerous reporting conditions under ISAP. *Id.* at ¶¶ 64-68.

ICE's unilateral decision to place Petitioner in another form of custody is an implementation of the Philadelphia ICE surveillance policy. The policy reverses the Field Office's previous practice of conducting individualized review of a noncitizen's case before applying ankle monitoring. *Id.* at ¶¶ 43-46 (describing ICE's previous practice of alternative to detention (ATD) implementation). It mandates increased surveillance and carceral supervision conditions without consideration of a noncitizens' compliance history or other individualized analysis, even in direct violation of immigration and federal court orders. *Id.* at ¶ 51; ECF No.1-6 (collecting reports that

the Philadelphia ICE office imposes ankle monitors and onerous reporting requirements on individuals following release on bond and habeas).

In response to the filing of the Pet. & Compl., on March 27, 2026, Respondents removed Petitioner's ankle monitor and unenrolled him from ISAP. However, on that date, Respondents enrolled Petitioner into ICE's CART program, a check-in process for non-detained noncitizens that uses biometrics and facial recognition technology to monitor noncitizens. Thus, Petitioner's travel and movement remain restricted by forced compliance with the CART program. And he remains psychologically tormented with the reporting requirements and the threat of re-detention, exacerbating his pre-existing mental health conditions, including his Post-traumatic Stress Disorder and Obsessive-Compulsive Disorder. ECF No. 1, Pet. & Compl. at ¶ 70.

ARGUMENT

The Philadelphia ICE surveillance policy is arbitrary and capricious, in excess of statutory authority, and contrary to law under the APA. Its application to Petitioner violates the Due Process Clause of the Fifth Amendment of the United States Constitution and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, and a non-statutory right against *ultra vires* agency action. Accordingly, Petitioner's Pet. & Compl. asks this Court to set aside the policy and order his immediate release from his unlawful continuing custody. *See* ECF No. 1, Pet. & Compl. at ¶¶ 75-132. Because Petitioner's habeas and APA claims both implicate the Philadelphia ICE surveillance policy, consolidated briefing after the production of the administrative record will best enable this Court to efficiently and comprehensively consider Petitioner's claims.

I. PETITIONER IS ENTITLED TO THE ADMINISTRATIVE RECORD PRIOR TO THE ADJUDICATION OF HIS CLAIMS.

Petitioner is entitled to the administrative record because it is required for this Court to adequately evaluate whether the Philadelphia ICE surveillance policy and its application to

Petitioner are unlawful. *See NVE, Inc. v. Dep't of Health & Human Servs.*, 436 F.3d 182, 190–97 (3d Cir. 2006) (describing district courts' reliance on the administrative record in APA cases).

Petitioner brings this action under the APA seeking judicial review of the Philadelphia ICE surveillance policy. Section 706 of the APA requires courts to "review the whole record" underlying an agency's decision. 5 U.S.C. § 706. *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971) (judicial review of agency action requires examination of "the full administrative record that was before the [agency] at the time [it] made [its] decision."); *Hill Dermaceuticals, Inc. v. Food & Drug Admin.*, 709 F.3d 44, 47 (D.C. Cir. 2013) ("But of course, it is black-letter administrative law that in an APA case, a reviewing court 'should have before it neither more nor less information than did the agency when it made its decision.'") (quoting *Walter O. Boswell Mem'l Hosp. v. Heckler,* 749 F.2d 788, 792 (D.C.Cir.1984)).

It is well established that "when courts must determine whether the adjudicatory process was reasonable and whether the decision was consistent with Congressional intent[,] they must look to the administrative record." *Vargus v. McHugh*, 87 F. Supp. 3d 298, 301 (D.D.C. 2015) (citation modified). The "function of the district court [in such cases] is to determine whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did." *Zemeka v. Holder*, 963 F. Supp. 2d 22, 24 (D.D.C. 2013) (quoting *Cottage Health Sys. v. Sebelius*, 631 F. Supp 2d 80, 89-90 (D.D.C. 2009)). "Without the administrative record, the court is unable to perform this function." *Swedish Am. Hosp. v. Sebelius*, 691 F. Supp. 2d 80, 88 (D.D.C. 2010).

Under the APA, a reviewing court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706; *see also Chao v. Roy's Const., Inc.*, 517 F.3d 180, 186 (3d Cir. 2008). "The APA's arbitrary-

and-capricious standard requires that agency action be reasonable and reasonably explained." *Fed. Commc'ns Comm'n v. Prometheus Radio Project*, 592 U.S. 414, 423, 141 S.Ct. 1150, 209 L.Ed.2d 287 (2021). "[A] court may not substitute its own policy judgment for that of the agency." *Id.* Rather, it "simply ensures that the agency has acted within a zone of reasonableness and, in particular, has reasonably considered the relevant issues and reasonably explained the decision." *Id.* Thus, a court must "review an administrative record" to determine whether "the agency has made a reasoned decision based on reasonable extrapolations from some reliable evidence" and "to ensure that the agency has examined the relevant data and articulated a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Trenton Threatened Skies, Inc. v. Fed. Aviation Admin.*, 90 F.4th 122, 130–31 (3d Cir. 2024) (citation modified); *SIH Partners LLLP v. Comm'r of Internal Revenue*, 923 F.3d 296, 302 (3d Cir. 2019) (finding that a court must confine its review "to the full administrative record that was before the [agency] at the time it took the action under review.") (citation modified).

Further, where "one party might be unaware of some parts of the record, failure to produce the Record in its entirety would produce 'asymmetry in information [that] undermines the reliability of a court's review upon those portions of the record cited by one party or the other.'" *Vargus*, 87 F. Supp. 3d at 302 (quoting *Boswell Memorial Hosp.*, 749 F.2d at 793). Among other things, to "review less than the full administrative record might allow a party to withhold evidence unfavorable to its case" *Id.* at 301 (citation modified).

To facilitate swift resolution of claims under the APA, reviewing courts have the power to compel government defendants to produce the administrative record on an expedited basis. *See, e.g., Saleh v. Pompeo*, 393 F. Supp. 3d 172, 181 (E.D.N.Y. 2019) (ordering expedited production

of administrative record); *Nat'l Ass'n of Mortg. Brokers v. Bd. of Governors of the Fed. Reserve Sys.*, 770 F. Supp. 2d 283, 289 (D.D.C. 2011) (same). Although this District Court's local rules do not contemplate procedures governing the production of the administrative record in an APA case, the local rules for the U.S. District Court for the District of Columbia—which routinely adjudicates APA cases—are instructive.

Under D.D.C. Local Civil Rule 7(n),[3] Respondents would be required to "file a certified list of the contents of the administrative record with the Court . . . simultaneously with the filing of a dispositive motion." This generally requires the record to be compiled at that point, when it is often produced to plaintiffs. D.D.C. Local Civil Rule 7(n)(1) further provides that "[t]hereafter, counsel shall provide the Court with an appendix containing copies of those portions of the administrative record that are cited or otherwise relied upon in any memorandum in support of or in opposition to any dispositive motion." *Id.* The rule thus contemplates that the agency will produce the administrative record in a timely fashion so that the opposing party may rely on it in opposing the motion, regardless of whether the agency relied on the record in its motion.

Thus, courts in the U.S. District Court for the District of Columbia regularly decline to address agencies' arguments that they complied with the APA without the benefit of the full administrative record. *See Zemeka*, 963 F. Supp. 2d at 26; *Swedish Am. Hosp.*, 691 F. Supp. 2d at 89; *Vargus*, 87 F. Supp. 3d at 302-03; *see also District Hosp. Partners, L.P. v. Sebelius*, 794 F. Supp. 2d 162, 171-73 (D.D.C. 2011) (denying motion to dismiss in part because agency had not yet produced the administrative record).

[3] In cases "involving the judicial review of administrative agency actions [under the Administrative Procedure Act ("APA")], unless otherwise ordered by the Court, the agency must file a certified list of the contents of the administrative record with the Court within 30 days following service of the answer to the complaint or simultaneously with the filing of a dispositive motion." L. Civ. R. 7(n)(1).

Because "the focal point for judicial review should be the administrative record," where the legal issues in this case are substantially intertwined, to promote judicial economy and efficiency, Petitioner proposes that this Court consolidate briefing on Petitioner's habeas and APA claims with the benefit of the production of the administrative record. *Camp v. Pitts*, 411 U.S. 138, 142 (1973).

II. A CONSOLIDATED BRIEFING SCHEDULE WILL PROMOTE JUDICIAL ECONOMY AND EFFICIENCY.

Because Petitioner's habeas and APA claims are substantially intertwined, it would more efficient for the court to consider them contemporaneously. Here, Petitioner raises four habeas claims (Counts I-IV) that allege that Respondents' implementation of the Philadelphia ICE surveillance policy deprived him of his procedural and substantive due process rights, violated the *Accardi* doctrine, and were *ultra vires.*

To determine, for example, whether Respondents' actions failed to follow government regulations requiring compliance with an immigration judge bond order, the Court would benefit from the production of the administrative record, which is likely to contain documents illustrating ICE's interpretation of the regulations at issue and their decision-making with regard to Respondents' implementation of monitoring on Petitioner. ECF No. 1, Pet. & Compl. at ¶¶ 83-93 (Count II: Violation of the *Accardi* doctrine). As described *supra*, Respondents' decision-making process with regard to the Philadelphia ICE surveillance policy and their interpretation of their regulations and prior policy directives is likewise central to Petitioner's APA claims challenging the policy itself (Claims V-VII), which require the production of the administrative record.

Thus, a consolidated briefing schedule following the production of the administrative record will allow this Court to most efficiently and effectively consider Petitioner's claims without the need for duplicative briefing. Here, there is substantial overlap between the legal issues to be

decided on a response to Petitioner's habeas and a motion for summary judgment on his APA claims. And district courts routinely implement consolidated briefing schedules for dispositive motions after production of the administrative record. *See, e.g., Nagaiah v. Allen*, 784 F.Supp.3d 798, 808 (E.D. Pa. 2025) ("The Court also ordered Defendants to file a certified administrative record by July 12, 2024, and set the summary judgment deadline for September 10, 2024."); *Gresham v. Azar*, No. 18-cv-1900-JEB, ECF No. 23 (D.D.C. Sept. 27, 2018) (granting joint briefing schedule proposing deadlines for production of the administrative record and motions for summary judgment in lieu of an answer).

Indeed, "[w]here, as here, a party seeks judicial review of agency action, summary judgment is appropriate, since whether an agency action is supported by the administrative record and consistent with the APA standard of review is decided as a matter of law." *Kapoor v. U.S. Citizenship & Immigr. Servs.*, 763 F. Supp. 3d 247, 252 (E.D.N.Y. 2025) (citation modified); *Zemeka*, 963 F. Supp. 2d at 26 (same); *Neto v. Thompson*, 506 F. Supp. 3d 239, 244 (D.N.J. 2020) ("Summary judgment is the proper mechanism for deciding, as a matter of law, whether an agency action is supported by the administrative record and consistent with the APA standard of review.") (quoting *Tomasi v. Township of Long Beach*, 364 F. Supp. 3d 376, 389 (D.N.J. 2019), *aff'd*, 796 F. App'x 766 (3d Cir. 2020)). As courts have recognized, wading "into the details" of an agency's decision-making process on a motion to dismiss only "invites error." *Banner Health v. Sebelius*, 797 F. Supp. 2d 97, 113-14 (D.D.C. 2011).

Petitioner's habeas and APA claims invoke legal issues that are substantially intertwined and would benefit from joint adjudication rather than piecemeal ruling. Because Petitioner is entitled to the administrative record—which is necessary to this Court's adjudication of his

challenge to the Philadelphia ICE surveillance policy—in the interest of judicial economy and efficiency, this Court should order consolidated briefing on Petitioner's claims.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court amend its order (ECF No. 11) to order the proposed consolidated briefing schedule on Petitioner's habeas and APA claims following Respondents' production of the administrative record.

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Dated: March 30, 2026

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Pro Bono Counsel for Petitioner

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I, undersigned counsel, hereby certify that on this date, I filed this Motion for Consolidated Briefing Schedule using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania.

DATED: March 30, 2026

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