

<sup>1</sup>This Court finds that there is no necessity to correct a manifest error of law or fact or newly discovered evidence that warrants reconsideration of its January 26, 2010 Order determining that Grenade made the necessary showing via his habeas petition that his detention no longer was reasonable such that he was entitled to a bond hearing before this Court. *See Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1995) (“The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence . . .”) Moreover, the issuance of a bond determination by the United States Immigration and Customs Enforcement (“ICE”) Office on January 29, 2010 did not divest this Court of its jurisdiction to conduct the bond hearing scheduled by the January 26 Order inasmuch as the fact that ICE set a bond did not convert

(continued...)

2. Pursuant to the Stipulation entered into by counsel on the record before this Court on February 17, 2010, a transcript of which is attached hereto, on or before March 15, 2010, counsel for Respondents shall file a status report indicating whether the conditions of the Stipulation have been met such that Grenade has been released.
3. An extension of the deadline set forth in paragraph 2 above may be granted upon motion.
4. This Court retains jurisdiction pending further order of court.

s/ John E. Jones III  
John E. Jones III  
United States District Judge

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<sup>1</sup>(...continued)

this Court's proceeding into a review of that determination. Rather, this Court maintained jurisdiction as a habeas court to conduct a hearing at which the government would bear the burden of justifying Grenade's continued detention based on traditional bail factors such as potential risk of flight and danger to the community in the event of release.

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

ALEXANDER ALLI and ELLIOT :  
GRENADA, on behalf of :  
themselves and all others :  
similarly situated, : Case No. 4:09-CV-00698  
Petitioners : (Judge Jones)  
vs. :  
THOMAS DECKER, et al., :  
Respondents :

TRANSCRIPT OF PROCEEDINGS  
IN RE: STIPULATION

Before: HONORABLE JOHN E. JONES, III

Date : February 17, 2010; 10:23 a.m.

Place : Courtroom Number 1, 9th Floor  
Federal Building  
228 Walnut Street  
Harrisburg, Pennsylvania

COUNSEL PRESENT:

AMERICAN CIVIL LIBERTIES UNION FOUNDATION  
BY: FARRIN R. ANELLO, ESQ.  
JUDY RABINOVITZ, ESQ.

For - Petitioners

UNITED STATES DEPARTMENT OF JUSTICE  
OFFICE OF IMMIGRATION LITIGATION  
BY: THEODORE W. ATKINSON, ESQ.

For - Respondents

Lori A. Shuey, RMR, CRR  
U.S. Official Court Reporter

1           THE COURT: We're assembled in the matter of Alli and  
2 Grenade versus Decker, et al. Counsel, would you enter your  
3 appearances, starting with counsel for the petitioner or  
4 petitioners.

5           MS. ANELLO: Your Honor, Farrin Anello for the  
6 petitioner.

7           MS. RABINOVITZ: And Judy Rabinovitz for the  
8 petitioner.

9           MR. ATKINSON: Good morning, Your Honor, Theodore  
10 Atkinson for the respondent, the United States.

11          THE COURT: Very well. And welcome, again, to  
12 counsel. The record should indicate that the Court has had  
13 extensive discussions with counsel in chambers.

14          First I'll note that the Court indicated to counsel  
15 off the record and will now place on the record that the Court  
16 is inclined to and, in fact, will deny the recently filed  
17 motion for reconsideration that has been filed by the  
18 respondents in this matter. With that being the case, the  
19 Court requested that there be some dialogue between the parties  
20 in this case that would potentially lead to a resolution.

21          Now, in our most recent conversation, it was indicated  
22 that counsel would, in particular, speak to -- petitioner's  
23 counsel would speak to Mr. Grenade. Do we have the framework  
24 of an agreement at this point?

25          MS. ANELLO: Yes, Your Honor.

1           THE COURT: All right. Why don't we have Mr. Atkinson  
2 place on the record what ICE is proposing to do in this case.  
3 Mr. Atkinson.

4           MR. ATKINSON: One moment, Your Honor.

5           THE COURT: Take your time.

6           MR. ATKINSON: Your Honor, what ICE has agreed would  
7 form the framework of a settlement agreement in this matter or  
8 at least an agreement on the terms of a bond given the Court's  
9 exercise of jurisdiction under habeas is as follows:

10           First, there would be a -- Mr. Grenade would be  
11 released without the posting of a cash bond.

12           Second, he would be required to participate in the  
13 ISAP program, which stands for the Intensive Supervision  
14 Appearance Program, which is maintained and operated by ICE and  
15 its agents. That would include the monitoring through an  
16 electronic monitoring device, such as an ankle bracelet or  
17 other appropriate device used by ISAP or ICE.

18           Three, ICE may find it necessary, prior to the entry  
19 of a bond, to set additional terms and conditions regarding  
20 reporting or monitoring with regard to Elliot Grenade.

21           All of this would be conditioned upon Mr. Grenade  
22 finding a permanent residence in New York prior to his release  
23 so that ICE could effectively locate him, know where he is at,  
24 and which address is required for successful participation in  
25 the ISAP program.

1 I believe that is the general framework of the bond  
2 that ICE is willing to accept to resolve this case.

3 THE COURT: All right. Do you want to respond for  
4 petitioner?

5 MS. ANELLO: Yes, Your Honor. Mr. Grenade would  
6 accept those terms and also would ask that this Court maintain  
7 jurisdiction over the case so that we could revisit this issue  
8 if in the event he is not able to find an appropriate permanent  
9 residence.

10 MR. ATKINSON: Your Honor, I'm sorry, I wrote it down  
11 and yet I still may have forgotten and I just want to make sure  
12 the record is clear, this also would require that he find  
13 residence in New York because that's the only location to which  
14 there's any demonstrable ties and at least that's where his  
15 proceedings are and where he's being detained right now.

16 THE COURT: As we discussed in chambers, "residence"  
17 would constitute, as the Court understands it, someplace that  
18 has a dedicated address, not a group center, shelter, et  
19 cetera, but a place where he can be appropriately monitored.  
20 Is that ICE's position?

21 MR. ATKINSON: That's correct, Your Honor.

22 THE COURT: What I proposed in chambers, as counsel  
23 knows and we'll revisit it on the record, is that -- and I'm  
24 certainly willing to continue and maintain jurisdiction, retain  
25 jurisdiction in this case, but I proposed a 20-day period for a

1 status report. Does that still work for everybody?

2 MR. ATKINSON: It does, Your Honor.

3 MS. ANELLO: Yes, Your Honor.

4 THE COURT: All right. So what I would propose is  
5 that I will promulgate an order. It may take a couple days  
6 because as I expressed to counsel in chambers, I'm going to be  
7 in transit for a couple days, but you can work on this because  
8 we have the stipulation on record.

9 But I will issue an order no later than Monday that  
10 memorializes everything that we've accomplished today in the  
11 form of an order giving 20 days from today's date, requesting  
12 that at or by that date -- and it can be sooner, obviously. If  
13 Mr. Grenade finds a place in New York and has met, otherwise,  
14 the conditions that ICE has established, then I can be so  
15 notified, obviously, and we will close the file at that point  
16 by separate order.

17 Alternatively, it's my understanding that based on the  
18 agreement that has been reached, that inasmuch as I am  
19 retaining jurisdiction, that if -- for example, a scenario may  
20 be that Mr. Grenade cannot find a place in New York and wishes  
21 to revisit this on the merits, that is, have the bond hearing  
22 that we're not going to have today, that we'll reschedule that  
23 forthwith upon notification that Mr. Grenade wishes to do so.  
24 Is that your understanding?

25 MS. ANELLO: Yes, Your Honor.

1 THE COURT: Your understanding, Mr. Atkinson?

2 MR. ATKINSON: Yes, Your Honor.

3 THE COURT: All right. Anything else that you want to  
4 put on the record today?

5 MS. ANELLO: No, Your Honor.

6 MR. ATKINSON: No, Your Honor.

7 THE COURT: All right. And I commend counsel. I  
8 think that we have a reasonable framework for an agreement.  
9 Mr. Grenade, is this agreeable to you?

10 MR. GRENADE: Yes, sir.

11 THE COURT: Then we're going to do our best to see if  
12 this can be implemented. I understand you're going to make  
13 every effort to find a place in New York. If we need to extend  
14 the period, if you're making progress and you haven't quite  
15 completed it within the 20-day period, that's all right, too.  
16 I'm perfectly willing to do that.

17 So if we get towards the elapse of the 20-day period  
18 and you want to extend the period for some reasonable time,  
19 that's perfectly all right. Just tell me that, and we can kick  
20 out an order that does that if you find the 20 days is not  
21 enough time and you're making progress but you haven't quite  
22 achieved all the benchmarks. So keep that in mind, too, as you  
23 approach the 20-day deadline. All right?

24 That's all for now, and hopefully that will wrap the  
25 matter up, but if not, we'll revisit it as necessary. Thank



1     you, and particularly I thank counsel for their efforts today.

2             COURTROOM DEPUTY: All rise.

3             (Whereupon, the proceedings were adjourned at 10:32 a.m.)

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1 CERTIFICATION

2 I hereby certify that the proceedings and  
3 evidence are contained fully and accurately in  
4 the notes taken by me on the within  
5 proceedings and that this copy is a correct  
6 transcript of the same.

7 Dated in Harrisburg, Pennsylvania, this  
8 18th day of February, 2010.

9  
10 /s/ Lori A. Shuey

11 Lori A. Shuey, RMR, CRR  
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13 United States Courthouse  
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