

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

Mr. Jorge Humberto ALVAREZ ORTIZ,
Petitioner,

v.

JOSEPH FREDEN,
in his official capacity as Field
Office Director, Buffalo Field
Office, U.S. Immigration &
Customs Enforcement;

STEVEN KURZDORFER,
In his official capacity as Acting
Field Office Director, Buffalo Field
Office, U.S. Immigration & Customs
Enforcement;

TODD LYONS,
In his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement,

KRISTI NOEM,
In her official capacity as Secretary
of Homeland Security,

Respondent.

Civil Action No. 25-cv-960

Immigration No. A 

EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING
ORDER

Oral Argument Requested

EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER

1. Mr. Jorge Humberto Alvarez Ortiz (“Mr. Alvarez”) is a Guatemalan Citizen who entered the United States without inspection on or about April 2003. He is being held without bond at the Buffalo Federal Detention Facility (BFDF). DHS and EOIR are systemically misclassifying people arrested inside the United States as being subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). This legal interpretation is plainly contrary to the statutory framework and contrary to decades of

agency practice applying § 1226(a) to people like Petitioner. This misclassification is contrary to almost 30 years of settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country—in some cases, decades ago.

2. Today, October 15, 2025, Mr. Alvarez was denied bond by an Immigration Judge, on this flawed basis. See *Exhibit A*, IJ's Bond Order of October 15, 2025.

Therefore, Mr. Alvarez asks this court to without delay issue a temporary restraining order to require Mr. Alvarez's release or for a bond hearing on the merits be held by Respondents within 7 days, as Mr. Alvarez is suffering irreparable harm due to his present detention in violation of his statutory and due process rights.

Dated: October 15, 2025

/s/ Matthew K. Borowski

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