

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

**Felix Tracy LORRY,**  
*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-1154

Immigration No. 

**VERIFIED PETITION FOR  
WRIT OF HABEAS CORPUS  
AND INCORPORATED  
MEMORANDUM OF LAW**

*Oral Argument Requested*

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### PRELIMINARY STATEMENT

1. Mr. Felix Tracy Lorry ("Mr. Lorry") is a Guyanese Citizen who entered the United States on May 6, 2015 as a nonimmigrant B1/B2 visa holder. He was denied bond by the Immigration Judge on November 6, 2015 in a bond hearing where the burden of proof was placed upon him to show that he is neither a flight risk nor a danger to the community. He is the father of two U.S. Citizen children, 8 years old and 2 years old, and has been in the U.S. for more than 10 years, making him *prima facie* eligible for cancellation of removal as a form of relief from removal. The Immigration Judge, Mary C. Baumgarten, violated the law by denying bond despite Mr. Lorry's strong family, business, and community ties to the United States.

2. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner requests an order requiring his release unless Respondents provide a bond hearing under § 1226(a) within seven days, with the burden being on the government to prove by clear and convincing evidence that he is a flight risk or a danger to the community such that his release on bond should not be permitted.

### THE PARTIES

3. Petitioner Mr. Felix Tracy Lorry ("Mr. Lorry"), is detained in the custody of ICE. He is being held at the Buffalo Federal Detention Facility in Batavia, New York. His custody and governmental actions related to his removal are likewise controlled by the Buffalo Field office, which is located within this judicial district.

4. Respondent Joseph Freden is the Buffalo, NY Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Freden's office is at 250 Delaware

Avenue, Floor 7, Buffalo, NY 14202 and/or at the Buffalo Federal Detention Facility, 4250 Federal Drive, Batavia, NY 14020.

5. Petitioner's custody within this judicial district and the governmental actions related to his potential removal from the district are likewise controlled by Respondents Kurzdorfer, Lyons and Noem.

### **CUSTODY**

6. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE") at the BFDF. The Deportation Officer responsible for his case is stationed at the Buffalo Federal Detention Facility ("BFDF"). The Petitioner is under the direct care, custody and control of Respondents and their agents.

### **JURISDICTION & VENUE**

#### **I. SUBJECT MATTER JURISDICTION**

7. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

8. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I, § 9, cl. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

#### **II. PERSONAL JURISDICTION**

9. This Court has personal jurisdiction over Mr. Alvarez's immediate custodian (who is physically within the district).<sup>1</sup>

### III. VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.484, 493-500 (1973), venue lies in the United States District Court for the Western District of New York, the judicial district in which Petitioner is being detained. Petitioner is being detained at the BFDF and his detention falls under the jurisdiction of the ICE Field Office of Buffalo, New York, which encompasses the area where Petitioner is being detained, pursuant to 28 U.S.C. § 1391.

### FACTS

11. Petitioner is a long-time resident of the United States who has resided here since 2015.

12. Petitioner is the father of two U.S. Citizen children.

13. Petitioner is *prima facie* eligible for relief from removal in the form of Cancellation of Removal.

14. On or about October 17, 2025, ICE arrested Petitioner. He is now detained at the Buffalo Federal Detention Facility (BFDF).

15. ICE placed Petitioner in removal proceedings before the Batavia Immigration Court.

16. Petitioner requested a bond redetermination hearing before an Immigration Judge ("IJ"). A hearing was held yesterday, November 6, 2025, but the IJ violated Petitioner's due

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<sup>1</sup> Petitioner asserts this Court has personal jurisdiction over the additional Respondents, however, in the interests of brevity, the Petitioner will brief this if (1) any governmental acts challenged herein are found to relate to those Respondents (instead of the immediate custodian) and (2) the Government seeks to argue against personal jurisdiction.

process rights and denied bond, finding him to be a flight risk, despite the fact that he is eligible for relief from removal, has 2 U.S. Citizen children, has no criminal record, and has substantial family, business, and community ties in the United States. In doing so, the Immigration Judge placed the burden of proof on Petitioner, where it should properly be placed on the government.

17. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody while he pursues his rights to relief from removal.

### **CLAIMS FOR RELIEF**

#### **COUNT 1: VIOLATION OF DUE PROCESS**

18. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

19. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20. Moreover, although "the liberty interest of a noncitizen detained under section 1226(a) may... be slightly less weighty than that of individuals facing indefinite and prolonged detention," it is "only slightly less." *Hernandez-Lara*, 10 F.4<sup>th</sup> at 29 (noting that "[t]he exact length of detention under section 1226(a) is impossible to predict and can be quite lengthy").

21. As the Second Circuit noted in *Velasco Lopez* "[d]etention under [section] 1226(a) is frequently prolonged because it continues until all proceedings and appeals are concluded." 978 F.3d at 852.



22. In the context of prolonged detention, the Second Circuit has found it "improper to allocate the risk of error evenly between the individual and the [g]overnment when the potential injury is as significant as the individual's liberty." *Velasco Lopez*, 978 F.3d at 856.

23. This Court has held that any interest the government has in the burden being on the petitioner in a section 1226(a) bond hearing is limited and does not outweigh the numerous factors militating toward shifting the burden onto the government. See *Alvarez Ortiz v. Freden*, 25-CV-960-LJV, November 4, 2025.

24. Petitioner has a fundamental interest in liberty and being free from official restraint.

25. The government's detention of Petitioner without a bond hearing in which the burden is on the government, violates his right to due process.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that the Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus requiring that Respondents release Petitioner unless Respondents provides Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) with the burden being on the government to demonstrate, by clear and convincing evidence, that he is a danger to the community or a flight risk, within 7 days;
- (3) Award Petitioner's attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
- (4) Prevent the Petitioner's removal outside of this judicial district until this action is decided;
- (5) Issue a temporary stay of Petitioner's removal until this action is decided; and

- (6) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners' rights under U.S. and international law.

Dated: November 7, 2025

/s/ Matthew K. Borowski

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 7, 2025

/s/ Matthew K. Borowski

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