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Elizabeth A. Wolford
Chief United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

November 20, 2025

Via CM/ECF, Service by CM/ECF to all parties

Re: 6:25-cv-06673-EAW, Ivonin v. Freden et al (Petition for Writ of Habeas Corpus)

Dear Hon. Elizabeth A. Wolford,

I am writing to inform the Court that I have received documentation indicating that Respondents detained Petitioner in this matter under the authority of 8 U.S.C. § 1226 (Section 236 of the INA). Nevertheless, ICE is taking the position that he is detained under

I enclose attachments of the documentation which indicates such.

1. Notice to Appear (Form I-862) indicating that he is not an arriving alien. Note that it specifically states that he was "admitted to the United States at JFK International Airport on or 11/19/2017" and also has an "X" in the checkbox which states "You have been admitted to the United States, but are removable for the reasons stated below."
2. A "Warrant for Arrest of Alien" (Form I-200) which states that such authority is "pursuant to sections 236 and 287 of the Immigration and Nationality Act."
3. A "Notice of Custody Determination" dated 11/14/2025, which explicitly states that "Pursuant to the authority contained in section 236 of the Immigration and Nationality Act..." Petitioner is to remain detained in the custody of Respondents.

4. Form I-213 "Record of Deportable/Inadmissible Alien" which indicates under "Current Administrative Charges" the following: "11/14/2025 – 237a1B – NONIMMIGRANT OVERSTAY".

Thus, although it appears that Respondents' position is that Petitioner is being detained "as an arriving alien," such authority would necessarily fall under 8 U.S.C. § 1225(b) (Section 235(b) of the INA), and although ICE represents that "He is not detained pursuant to the Hurtado framework" (Letter at Document 5), I see little distinction between this case and others in which individualized bond hearings are being denied on the same theory – that those detained under 8 U.S.C. § 1225(b) are not entitled to bond. Here, although voluminous documentation exists showing that ICE's initial determination was that Petitioner is held under 8 U.S.C. § 1226 and therefore should be granted a bond hearing, ICE is now taking the position that he is being held under the same provisions of law at issue in *Yajure Hurtado*.

Upon information and belief, Petitioner has a valid work authorization, owns a trucking business that employs approximately 16 employees, and is the father of a 16 year old U.S. Citizen daughter. His previous Immigration Court matter was administratively closed. His present detention appears to be unlawful on its face, particularly given the documentation issued by ICE which indicates that he is being held under 8 U.S.C. § 1226 yet denied an opportunity for a bond hearing.

We respectfully ask the court to hold Respondents to the original deadline for the Order to Show Cause in this matter, or otherwise schedule a conference on an expedited basis, as Petitioner suffers irreparable harm to his livelihood and his family as a result of his illegal detention by Respondents. I have spoken with Mr. Khalil about this matter and while I understand the difficulties encountered by the inability to locate the "A-file," I believe Respondents can provide the Court with sufficient information to allow the matter to proceed in an expedited fashion and, if they are unable to do so, the Court should base its decision on the information available to it.

Thank you in advance for your attention to this matter.

Sincerely,

____/s/ Matthew Borowski____

Matthew Borowski
Counsel for Mr. Ivonin

Encl.:

Notice to Appear, Warrant for Arrest of Alien, Notice of Custody Determination, I-213 Form