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

MOHAMMAD NAWID EBRAHIMI;
MISAEL MARTINEZ RAMIREZ,

Petitioner,

v.

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

DAVID VENTURELLA,
In his official capacity as Acting Director, U.S. Immigration and Customs Enforcement;

MARKWAYNE MULLIN ,
In her official capacity as U.S. Attorney General;

TODD BLANCHE,
In his official capacity as Acting Secretary of Homeland Security,

Respondents.

Civil Action No. 9:26-cv-1436 (MAD)

Immigration Nos.:
[redacted] (Ebrahimi)
(Martinez Ramirez)

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

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PRELIMINARY STATEMENT

1. Today, Sunday, July 26, 2026, Respondents scheduled "check-in" appointments at the ICE ERO Sub-Office in Malta, New York for numerous noncitizens who are seeking protection or status in the United States and who have been dutifully complying with the reporting requirements that have been imposed upon them by ICE. These noncitizens have been unlawfully re-detained. A large bus is sitting in the parking lot of the Malta sub-office waiting to transport these people to the Buffalo Federal Detention Facility in Batavia, New York. These non-citizens have families and children who rely on them for their daily care and support. All of them were previously encountered by immigration authorities, and released from custody to pursue their asylum cases. Petitioners have a liberty interest that attached when they were previously released into the community after being deemed to be not a flight risk nor a danger to the community, and Respondents' arbitrary re-detention of Petitioners without due process violates their rights. Petitioners challenge the legality of their present detention and ask this Court to enjoin Respondents from moving them outside of the jurisdiction or deporting them pending resolution of these matters.

2. A prior petition naming 5 Petitioners was filed approximately one hour ago; undersigned counsel cannot file an amended petition to add the additional Petitioners since the matter has not yet been opened by the clerk's office. Due to the emergency nature of this matter, this Petition is being filed separately for these petitioners.

FACTS

3. Mohammad Nawid Ebrahimi, A[redacted] is a citizen of Afghanistan who entered the United States on an unknown date, was encountered, detained, and released from Respondents' custody and has a pending asylum matter before the EOIR.

4. Misael Martinez Ramirez, A [redacted], is a citizen of Mexico who entered the United States on an unknown date, was encountered, detained, and released from Respondents' custody and, upon information and belief, has a pending asylum matter before the EOIR.

5. This morning, the Petitioners were re-detained by Respondents after arriving at the ICE ERO Malta, New York sub-office for a routine "check-in" appointment.

6. Upon information and belief, all of the Petitioners had been complying with their reporting requirements.

7. Upon information and belief, no warrant for the arrest of Petitioners was issued prior to their arrests.

8. Upon information and belief, no final custody determination had been made before or contemporaneously with the arrest. Instead, ICE arrested Petitioners first and chose to make a post-hoc detention determination.

9. Upon information and belief, at the time of the seizure, agents did not present a judicial warrant.

10. Upon information and belief, the ICE agents did not present Respondents with any administrative arrest warrant before restraining their liberty.

11. Upon information and belief, no neutral decisionmaker made any pre-deprivation determination that Petitioners were a danger or flight risk.

12. No DHS officer gave Petitioners a meaningful opportunity to contest detention or to demonstrate that release on bond, recognizance, parole, or conditions would adequately ensure appearance and community safety.

13. Upon information and belief, the ICE agents did not provide Petitioners with any contemporaneous written custody determination before or at the time of his arrest.

14. Upon information and belief, the ICE agents did not provide Petitioners with any meaningful opportunity to be heard before depriving them of their liberty.

15. If Respondents later produce a Form I-200 or other administrative warrant, Petitioner pleads in the alternative that Respondents must prove the document was issued before the arrest by an authorized officer, was operative at the moment Petitioners were seized, was properly served or disclosed, and corresponds to the statutory basis Respondents now invoke.

16. Later-generated paperwork cannot retroactively create lawful authority that was absent at the moment of arrest.

17. Petitioners were not arrested at the border, at a port of entry, or shortly after entering the United States.

18. Upon information and belief, Respondents will attempt to detain Petitioner under a categorical no-bond theory, including 8 U.S.C. § 1225(b) and/or Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (B.I.A. 2025).

19. That theory is foreclosed in this Circuit by *Cunha* and repeatedly rejected in this District by Mendez, Aguiar Olivares, Gaspar, Perez, Martins, and related NDNY decisions.

20. If Respondents instead claim that Petitioners are detained under 8 U.S.C. § 1226(a), then Respondents were required to make a contemporaneous, individualized custody determination and provide the procedures required by the statute, regulations, and Due Process Clause before or at the time they deprived him of liberty.

21. If Respondents claim that Petitioners are subject to detention under any other statutory framework, Respondents must produce the complete administrative record, including all charging documents, custody documents, warrants, notices, removal orders, reinstatement documents, and any documents purporting to authorize his arrest or detention.

22. Petitioner is currently in ICE custody within the Northern District of New York.

23. Because ICE may transfer Petitioners at any moment, emergency relief is necessary to preserve this Court's jurisdiction and ensure meaningful habeas review.

24. Also, ICE is likely to imminently move Petitioners out of this judicial district. A bus is sitting in the Malta ICE parking lot waiting to transfer them to Batavia.

25. Without relief from this Court, Petitioners face the prospect of months, or even years, in immigration custody, or of being deported without having an opportunity to pursue due process.

26. The immigration court system has been compromised by the firings of roughly half of all immigration judges nationwide and by an immense amount of pressure placed upon the remaining judges to swiftly deport noncitizens without giving them due process.

27. Accordingly, Petitioners seek a writ of habeas corpus. Petitioners challenge the constitutionality of their present detention and ask this Court to enjoin Respondents from moving them outside of the jurisdiction or deporting them pending resolution of this matter. Further, Petitioners request an order requiring their immediate release.

THE PARTIES

28. Petitioners are detained in the custody of ICE. They are being held at the ICE ERO Malta, NY Suboffice or another facility in the Northern District of New York, under the auspices of the Acting Deputy Field Office Director based at the Buffalo Federal Detention Facility (BFDF) in Batavia, New York, which is a suboffice of the Buffalo, NY ICE Enforcement and Removal Operations (ERO) office. Petitioners' custody and governmental actions related to their removal are likewise controlled by the Buffalo Field office of ICE.

29. Respondent Philip Rhoney is the Buffalo, NY Acting Field Office Director for 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 (lst Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Rhoney'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.

30. Petitioners' custody and the governmental actions related to his potential removal from the district are likewise controlled by Respondents Venturella, Mullin, and Blanche.

CUSTODY

31. Petitioners are in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). The Deportation Officer responsible for their 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

32. 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.

33. This Court has jurisdiction under 28 U.S.C, § 2241, Art. I, § 9, el. 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.

34. 8 U.S.C. §§ 1252(e)(3), 1252(g), and 1252(b)(9) do not bar the Court from exercising jurisdiction over a habeas corpus petition for a non-citizen detainee. *Lieogo v. Freden, et al.*, No. 6:25-CV-06615 EAW, 2025 WL 3290694 (W.D.N.Y. Nov. 26, 2025); see also *Mahdawi v. Trump*, 136 F.4th 443, 450 (2d Cir. 2025) (holding that unlawful detention claims are collateral to removal process and fall outside § 1252(g)'s narrow jurisdictional bar); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) ("§ 1252(b)(9) does not present a jurisdictional bar where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined." (cleaned up)); *Jennings v. Rodriguez*, 583 U.S. 281, 295 n.3 (2018) ("The question is not whether detention is an action taken to remove an alien but whether the legal questions in this case arise from such an action. . . . [T]hose legal questions are too remote from the actions taken to fall within the scope of § 1252(b)(9).").

II. PERSONAL JURISDICTION

35. This Court has personal jurisdiction over Petitioners' immediate custodian (who is physically within the district).[1]

III. VENUE

36. 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 Northern District of New York, the judicial district in which Petitioners are being detained. Petitioners are being detained by Respondents in the Northern District and their detention falls under the jurisdiction of the ICE

[1] 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.

Field Office of Buffalo, New York, which encompasses the area where Petitioners are being detained, pursuant to 28 U.S.C. § 1391.

CLAIMS FOR RELIEF

COUNT 1: VIOLATION OF DUE PROCESS

37. Petitioners re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

38. 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).

39. Petitioners have a fundamental interest in liberty and being free from official restraint.

40. The government's arbitrary re-detention of Petitioners, after them being released on their own recognizance and/or on parole, violates due process, given that they have a substantial liberty interest.

COUNT 2: VIOLATION OF THE INA

41. Petitioners re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

42. The re-detention of Petitioners without a warrant as required under the INA, and potentially under a section of law that does not legally authorize their detention, violates the INA.

COUNT 3: VIOLATION OF ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A), (B)

43. Petitioner realleges all paragraphs above as if fully set forth here.

44. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B).

45. The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

46. Respondents' detention of Petitioners without a warrant was contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause, as explained above.

47. The detention was also not in accordance with the INA and implementing regulations.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Prevent the Petitioners' removal outside of this judicial district until this action is decided;

(3) Issue a temporary stay of Petitioners' removal until this action is decided;

(4) Issue a writ of habeas corpus requiring that Respondents release Petitioners immediately, and not re-detain Petitioners without a pre-deprivation hearing with adequate advance notice;

(5) Award Petitioners' 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; 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: July 26, 2026

/s/ Matthew K. Borowski

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