UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SYED SERAMAT SHAHRYAR,
Petitioner,

v.

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

DAVID J. VENTURELLA, in his official capacity as Senior Official Performing the Duties of Director, U.S. Immigration and Customs Enforcement;

TODD BLANCHE, in his official capacity as United States Attorney General;

MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security,

Respondents.

Case No. 9:26-cv-1831 AMN

Immigration No. [redacted]

VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND INCORPORATED MEMORANDUM OF LAW

U.S. DISTRICT COURT – N.D. OF N.Y.
FILED
Sep 25 - 2026
John M. Domurad, Clerk

FACTS AND PRELIMINARY STATEMENT

1. Petitioner Syed Seramat Shahryar ("Petitioner") is a citizen of Pakistan who entered the United States in 2022 pursuant to an F-1 student visa. He is a student at Hudson Valley Community College and has a pending asylum application. On September 25, 2026, federal immigration officers seized him during an interior roadside stop near the Walmart in Latham, New York. He was then taken to the ICE Enforcement and Removal Operations office serving the Albany area at 11 Old Stonebreak Road, Ballston Spa, New York, commonly referred to as the Malta office.
2. This Petition is being filed within hours of the arrest and before Respondents can transfer Petitioner from the Northern District of New York. At approximately 12:45 p.m. today, Petitioner communicated with his family and reported that he remained at the Malta office. That is his last confirmed location. Counsel presently has no information that he has been moved.
3. Because Respondents have detained Petitioner and have not yet provided counsel meaningful access to him or the agency records underlying the arrest, this Petition necessarily relies on the

information presently available from Petitioner's family. Petitioner reserves the right to amend as soon as Respondents disclose the warrant, charging, custody, and location records exclusively within their possession.

4. The stop occurred far inside the United States, not at a border, port of entry, or functional equivalent of the border. Upon information and belief, officers activated emergency lights and caused Petitioner to pull over near the Walmart in Latham. The available information identifies no criminal arrest or criminal charge arising from the stop.

5. Petitioner was admitted to the United States on an F-1 visa. He therefore is not an arriving alien and was not "seeking admission" when officers stopped him in Latham. Any present civil immigration custody is governed by 8 U.S.C. § 1226, not § 1225(b). *Barbosa da Cunha v. Freden*, 175 F.4th 61, 73-77 (2d Cir. 2026).

6. Section 1226(a) permits arrest and detention only "[o]n a warrant issued by the Attorney General," unless the narrow warrantless-arrest requirements of 8 U.S.C. § 1357(a)(2) are satisfied. The implementing regulation is equally direct: "[a] warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

7. No Form I-200 administrative warrant has been produced to Petitioner or supplied to his family or counsel. Upon information and belief, no valid I-200 had been issued before officers seized Petitioner. If Respondents contend otherwise, they should be required immediately to produce the operative warrant together with its native creation data, signature history, audit trail, and the charging document on which it purportedly rested.

8. Nothing presently known could support a reasonable belief that Petitioner was likely to escape before a warrant could be obtained. Respondents knew or readily could determine his identity and A-number. He had a known home, was enrolled at a local community college, and was pursuing a pending asylum application through the legal process. Officers had time to locate his

vehicle and effect a traffic-style stop. Those facts negate, rather than establish, the individualized escape exigency required by § 1357(a)(2).

9. Respondents also must disclose whether a Notice to Appear ("NTA") existed before the seizure, when it was served, and when it was filed with the immigration court. An NTA is the immigration charging instrument; it does not itself authorize an arrest. Under 8 C.F.R. § 1236.1(b)(1), an arrest warrant may issue only "at the time of the issuance of the notice to appear or at any time thereafter." A warrant or NTA generated after the roadside seizure cannot retroactively supply authority that did not exist when officers took Petitioner's liberty.

10. Courts in this Circuit have ordered immediate release where ICE arrested first and attempted to create or rely upon an I-200 or NTA later. *Yeleshev v. LaRocco*, No. 26-CV-2294-SJB, 2026 WL 1353806, at *6-8 (E.D.N.Y. May 14, 2026); *Franco Loaeza v. Bausch*, No. 1:26-CV-00945-MAV, Dkt. 34, at 2-5 (W.D.N.Y. July 27, 2026).

11. The warrantless-arrest rule has particular force in this District. *Sisalema Rae v. Ball*, No. 9:26-CV-01248, 2026 WL 1959270, at *2-4 (N.D.N.Y. July 2, 2026), recognized that § 1357(a)(2) supplies only limited warrantless-arrest authority and requires an actual reason to believe that the person will escape before a warrant can be obtained. Other judges in this District have ordered immediate release from detention initiated through a warrantless immigration arrest. *Perez v. Akshar*, No. 9:26-CV-00120-ECC (N.D.N.Y. Feb. 6, 2026); *Gaspar v. Akshar*, No. 9:26-CV-00118-BKS (N.D.N.Y. Feb. 5, 2026).

12. The same result follows from *Last Name Unknown v. Ball*, No. 1:26-CV-01249-LJV, Dkt. 12, at 5-10 (W.D.N.Y. July 21, 2026), which held that unlawful presence alone does not satisfy § 1357(a)(2), rejected a post hoc attempt to justify the seizure, and ordered release without bond.

13. Petitioner seeks immediate release because his arrest and resulting detention lack lawful statutory authority. In the alternative, if Respondents establish a valid statutory basis for prospective custody, Petitioner requests an immediate hearing at which the Government must

prove by clear and convincing evidence that detention is necessary, with consideration of less restrictive alternatives and ability to pay.

14. Petitioner also seeks an immediate order preserving this Court's jurisdiction by prohibiting Respondents from transferring him out of the Northern District while the Court conducts expedited review. Transfer to a remote detention facility could occur at any time, would impair access to counsel and family, and could place Petitioner beyond the territorial jurisdiction of the Court before the legality of today's seizure can be tested.

THE PARTIES

15. Petitioner Syed Seramat Shahryar, A# [redacted], is a citizen of Pakistan who was admitted to the United States in 2022 as an F-1 student. He is enrolled at Hudson Valley Community College, has a pending asylum application, and, as of the last confirmed report at approximately 12:45 p.m. on September 25, 2026, was in ICE custody at the Albany-area ERO office at 11 Old Stonebreak Road, Ballston Spa, New York 12020.

16. Respondent Philip Rhoney is the Acting Field Office Director of the Buffalo Field Office of ICE Enforcement and Removal Operations. The Buffalo Field Office supervises the Albany-area office and the counties in which Petitioner was arrested and is being held. Respondent Rhoney is the local federal official with legal control over Petitioner's custody, location, transfer, and release and is sued in his official capacity.

17. Respondent David J. Venturella is the Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity and has supervisory authority over ICE arrest, detention, and transfer policies.

18. Respondent Todd Blanche is the United States Attorney General. He is sued in his official capacity and oversees the Executive Office for Immigration Review, including the immigration courts and Board of Immigration Appeals.

19. Respondent Markwayne Mullin is the Secretary of Homeland Security. He is sued in his official capacity and supervises DHS and ICE, including the policies and practices governing Petitioner's arrest, detention, and transfer.

CUSTODY

20. Petitioner is physically restrained and unable to leave ICE custody. He therefore is "in custody" within the meaning of 28 U.S.C. § 2241. Respondents and their agents exercise direct legal and physical control over him.

21. Because Petitioner's last confirmed place of confinement is the ICE ERO office in Ballston Spa, Saratoga County, New York, his immediate custodian and the officials exercising legal control over that custodian are within the Northern District of New York.

JURISDICTION AND VENUE

I. SUBJECT MATTER JURISDICTION

22. This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 2241(c)(3), Article I, § 9, cl. 2 of the Constitution, the All Writs Act, 28 U.S.C. § 1651, and the Court's equitable habeas authority.

23. Petitioner does not ask this Court to review a removal order, decide whether he is removable, adjudicate his asylum application, or review a discretionary bond determination. He challenges the present fact of detention, the absence of lawful arrest authority, the failure to follow mandatory arrest procedures, and the constitutionally inadequate process attending the loss of his liberty.

24. No jurisdiction-stripping provision bars this claim. A challenge to unlawful detention is at the historic core of habeas corpus. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

II. PERSONAL JURISDICTION

25. This Court has personal jurisdiction over Respondent Rhoney because Petitioner is confined within the District under the authority of the Buffalo Field Office and its Albany-area office. The remaining Respondents are sued in their official capacities for relief arising from federal detention conduct implemented within this District. See 28 U.S.C. § 1391(e).

III. VENUE

26. Venue lies in the Northern District of New York because Petitioner was arrested in Albany County and his last confirmed place of confinement is in Saratoga County, both within this District. 28 U.S.C. §§ 112(a), 1391(e); *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

IV. EXHAUSTION DOES NOT BAR EMERGENCY REVIEW

27. No administrative remedy can determine whether Respondents complied with the federal statutes governing the arrest itself, order the production of the pre-arrest warrant and its creation history, prevent transfer from this District, or remedy the completed unlawful seizure. A bond hearing addresses prospective release under assumed custody authority; it does not retroactively validate an arrest that lacked authority when made.

28. Requiring Petitioner to await removal proceedings or a routine bond process would be futile and would inflict the very irreparable injury this action seeks to prevent: continued physical detention and transfer before judicial review can occur. The legal and constitutional claims presented are therefore properly before this Court now.

LEGAL FRAMEWORK AND ARGUMENT

I. SECTION 1226(a) GOVERNS THIS INTERIOR ARREST OF AN ADMITTED NONCITIZEN

29. The INA contains distinct detention regimes. Section 1225(b) concerns applicants for admission at the threshold of entry. Section 1226 governs detention "pending a decision on whether the

alien is to be removed from the United States." Section 1231 generally governs detention after entry of a final order of removal.

30. Petitioner was admitted on an F-1 visa in 2022 and was seized in Latham, New York, years after entry. He was not approaching the border or seeking admission. Under binding Second Circuit law, the Government may not transform an interior arrest of an admitted noncitizen into mandatory detention under § 1225(b). *Barbosa da Cunha*, 175 F.4th at 73-77.

31. Section 1226(a) is therefore the only presently apparent arrest authority. It authorizes arrest "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a). Because the warrant requirement is written directly into the grant of detention authority, compliance is a condition precedent to a lawful arrest and detention.

II. RESPONDENTS MUST ESTABLISH A VALID PRE-ARREST WARRANT OR THE NARROW ESCAPE EXCEPTION

32. The INA separately permits a warrantless civil immigration arrest only when an authorized officer has "reason to believe" both that the person is present in violation of law and that the person "is likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2). Both predicates are mandatory.

33. The regulation confirms that the warrant is the rule and escape exigency the exception: "A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii). A warrantless arrestee also must be examined by an officer other than the arresting officer, and the examining officer must determine whether prima facie evidence supports further immigration action. 8 C.F.R. § 287.3(a).

34. The "reason to believe" standard requires probable cause. *Au Yi Lau v. U.S. Immigration & Naturalization Service*, 445 F.2d 217, 222-23 (D.C. Cir. 1971); *Tejeda-Mata v. Immigration & Naturalization Service*, 626 F.2d 721, 725 (9th Cir. 1980). The escape determination must rest

on individualized, contemporaneous facts; it cannot be supplied after the arrest through generalized assertions about immigration status.

35. On the presently available facts, no escape exigency existed. Petitioner maintained a known home, attended a local college, and affirmatively sought protection through a pending asylum application. Officers located him in the community and initiated a vehicle stop using emergency lights. If officers possessed enough advance information to identify and target him, they had the ability and obligation to obtain a warrant before taking his liberty.

36. Courts applying the same statutory text have rejected warrantless interior arrests lacking a genuine escape finding. *Salazar v. Dedos*, No. 1:26-CV-00251-WJ-JHR, 2026 WL 555336, at *5-6 (D.N.M. Feb. 27, 2026); *Chogllo Chafla v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025); *Mayen v. Warden, California City Detention Center*, No. 1:26-CV-02354-DAD-AC, 2026 WL 1158217, at *2-3 (E.D. Cal. Apr. 28, 2026).

37. Courts within the Second Circuit, including this District, have granted immediate release on materially the same ground. *Sisalema Rae*, 2026 WL 1959270, at *2-4; *Last Name Unknown*, No. 1:26-CV-01249-LJV, Dkt. 12, at 5-10; *Curimilma Quille v. Blanche*, No. 26-CV-2818, 2026 WL 1453889, at *5-6 (E.D.N.Y. May 22, 2026).

38. A later-generated I-200 cannot cure the defect. The relevant question is whether a valid warrant existed before the seizure and authorized the arrest when made. *Perez Juarez v. Guadian*, No. 1:26-CV-03109-BAH, ECF No. 11, at 7-9 (D. Md. Sept. 4, 2026); *Santos Gomez v. Guadian*, No. GLR-26-3078, 2026 WL 2546049, at *3-4 (D. Md. Aug. 28, 2026).

III. A POST-ARREST NTA CANNOT CREATE RETROACTIVE DETENTION AUTHORITY

39. An NTA is the immigration equivalent of a charging instrument and begins the removal process when filed with the immigration court. *Yeleshev*, 2026 WL 1353806, at *2. It is not an arrest warrant.

40. The implementing regulation requires an I-200 arrest warrant to issue "at the time of the issuance of the notice to appear or at any time thereafter." 8 C.F.R. § 1236.1(b)(1). That required sequence prevents DHS from arresting first and creating both the charging paper and warrant later.

41. Counsel presently has no NTA, proof of service, EOIR filing record, I-200, or audit data. Those records are solely within Respondents' control. The Court should require their immediate production. If the NTA or I-200 did not exist until after the stop, § 1226(a) did not authorize the seizure and the writ should issue. *Franco Loaeza*, No. 1:26-CV-00945-MAV, Dkt. 34, at 2-5; *Yeleshev*, 2026 WL 1353806, at *6-8.

IV. CONTINUED DETENTION WITHOUT LAWFUL AUTHORITY OR ADEQUATE PROCESS VIOLATES DUE PROCESS

42. "Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty" protected by the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. Freedom from physical restraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

43. Respondents may not deprive Petitioner of that liberty through procedures contrary to the mandatory statutes and regulations governing arrest. An agency must follow the rules it promulgates, particularly where those rules protect individual liberty. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

44. The abrupt seizure of an admitted student during an interior traffic-style stop, without production of a pre-arrest warrant, individualized escape determination, neutral post-arrest examination, or prompt hearing, presents an intolerably high risk of erroneous imprisonment. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Petitioner's extraordinary liberty interest, the risk of error, and the modest burden of requiring Respondents to produce the documents that purportedly authorized the seizure all favor immediate judicial review.

45. If the Court concludes that Respondents possess lawful prospective detention authority, due process at minimum requires a prompt hearing at which the Government bears the burden of proving by clear and convincing evidence that detention is necessary. *Velasco Lopez v. Decker*, 978 F.3d 842, 851-56 (2d Cir. 2020); *Black v. Decker*, 103 F.4th 133, 151-55 (2d Cir. 2024). Petitioner's residence, education, and pending asylum application also require consideration of less restrictive alternatives and any ability to pay.

V. THE COURT SHOULD PRESERVE ITS JURISDICTION AND PROHIBIT TRANSFER

46. A habeas petition challenging present physical custody is filed in the district of confinement against the official exercising immediate control. *Rumsfeld v. Padilla*, 542 U.S. 426, 442, 447 (2004). Petitioner satisfies that rule based on his last confirmed custody at the Albany-area ERO office in Ballston Spa.

47. Respondents should not be permitted to defeat meaningful review by moving Petitioner after the Petition is presented. A transfer does not eliminate jurisdiction when an appropriate respondent remains within the Court's reach, *Ex parte Endo*, 323 U.S. 283, 306-07 (1944), and the All Writs Act authorizes orders necessary to prevent frustration of the Court's jurisdiction. 28 U.S.C. § 1651(a).

48. A short no-transfer order preserves the status quo. Petitioner faces irreparable loss of liberty, access to counsel, and meaningful review if moved before the Court can act. Respondents suffer no cognizable harm from maintaining him at his present location long enough to produce the arrest records and answer. The public interest favors compliance with federal law and prompt review of physical detention. See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Citigroup Global Markets, Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 35 (2d Cir. 2010).

CLAIMS FOR RELIEF

COUNT ONE
DETENTION WITHOUT A VALID PRE-ARREST WARRANT VIOLATES THE INA

49. Petitioner incorporates all preceding allegations.

50. Petitioner's arrest is governed by § 1226(a), which authorizes arrest only on a warrant unless the narrow requirements of § 1357(a)(2) are satisfied.

51. Upon information and belief, no valid I-200 had been issued before Petitioner was seized, and no officer made an individualized contemporaneous finding that Petitioner was likely to escape before a warrant could be obtained.

52. Because the arrest lacked statutory authority, Petitioner is in custody in violation of the laws of the United States and is entitled to immediate release under 28 U.S.C. § 2241(c)(3).

COUNT TWO
FAILURE TO FOLLOW MANDATORY ARREST PROCEDURES VIOLATES DUE PROCESS

53. Petitioner incorporates all preceding allegations.

54. Sections 287.3, 287.8, and 1236.1 of Title 8 impose mandatory safeguards governing warrantless arrest, neutral examination, custody action, and the sequence of an NTA and I-200.

55. Respondents' failure to follow those mandatory safeguards deprived Petitioner of liberty through arbitrary and ultra vires action, contrary to *Accardi* and the Fifth Amendment.

COUNT THREE
CONTINUED DETENTION WITHOUT PROMPT, MEANINGFUL REVIEW VIOLATES DUE PROCESS

56. Petitioner incorporates all preceding allegations.

57. Petitioner has been physically confined without a prompt judicial determination of lawful arrest authority and without an individualized custody hearing at which the Government bears the burden of justifying detention.

58. If immediate release is not ordered on Count One or Count Two, due process requires a prompt hearing under § 1226(a) at which the Government bears the burden by clear and convincing evidence and the decisionmaker considers less restrictive alternatives and ability to pay.

EMERGENCY RELIEF REQUESTED

59. The Court should direct Respondents immediately to confirm Petitioner's present location and prohibit his transfer outside the Northern District pending further order. His last confirmed location was within this District only hours ago, and the practical ability to obtain meaningful review may be lost if ICE moves him before the Court can act.

60. The Court should require Respondents, within twenty-four hours or such shorter period as the Court finds practicable, to produce: (a) every I-200 associated with Petitioner; (b) native creation, modification, signature, and audit data; (c) every NTA and its issuance, service, and EOIR filing records; (d) the I-213 and arrest report; (e) any contemporaneous escape-risk determination; (f) the neutral-officer examination and custody determination required by 8 C.F.R. § 287.3; and (g) all transfer orders or requests.

61. Section 2243 directs courts to act "forthwith" on a habeas petition and permits summary disposition as law and justice require. The extraordinary urgency here warrants an immediate Order to Show Cause, a telephonic conference at the Court's earliest availability, and preservation of the status quo pending review.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction and issue an immediate Order to Show Cause;

(2) Direct Respondents immediately to disclose Petitioner's present physical location and the identity of the official exercising immediate custody;

(3) Pending adjudication, enjoin Respondents and all persons acting in concert with them from transferring Petitioner outside the Northern District of New York without advance authorization from this Court;

(4) Order Respondents to produce within twenty-four hours the warrant, charging, arrest, custody-review, escape-risk, and transfer records identified above;

(5) Issue the writ and order Petitioner's immediate release because Respondents lacked lawful authority to arrest and detain him;

(6) Declare that Petitioner's interior custody is governed by 8 U.S.C. § 1226 rather than § 1225(b);

(7) Alternatively, require within three days a constitutionally adequate custody hearing under § 1226(a) at which the Government bears the burden by clear and convincing evidence, and at which the decisionmaker considers less restrictive alternatives and Petitioner's ability to pay;

(8) Retain jurisdiction to enforce the Court's order; and

(9) Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,
Dated: September 25, 2026
/s/ Matthew K. Borowski
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VERIFICATION BY A PERSON ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on his behalf because ICE detained him only hours ago and he has not been made available to sign. Based on information furnished to counsel by Petitioner's family, the family communication reflecting his last known location, and the emergency circumstances described above, I verify that the factual statements in this Petition are true and correct to the best of my knowledge, information, and belief. Matters not yet confirmed are expressly pleaded on information and belief, and Petitioner reserves the right to amend when Respondents disclose additional records or facts.

Dated: September 25, 2026
/s/ Matthew K. Borowski
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