

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

<b>Paul John Bojerski,</b>	X
<i>Petitioner,</i>	X
	X
v.	X
	X
	X
<b>Kristi Noem</b> , Secretary, U.S. Department of Homeland Security; <b>Garrett Ripa</b> , Field Office Director, U.S. Immigration and Customs Enforcement, Miami, Florida, <i>Respondents.</i>	X
	X
	X
	X
	/

Case No.:

**PETITION FOR A WRIT OF HABEAS CORPUS**  
**REQUEST FOR EXPEDITED HEARING**  
**REQUEST FOR ORAL ARGUMENT**

This is an action for habeas corpus relief under 28 U.S.C. § 2241 and the Suspension Clause of the United States Constitution. Petitioner seeks an Order releasing him from the custody of U.S. Immigration and Customs Enforcement (“ICE”) inasmuch as no legal basis exists for ICE to continue to maintain custody over Petitioner or to continue to detain Petitioner as is further explained herein.

**Subject Matter Jurisdiction**

1. That this Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §2241 *et seq.*, and Article I, §9, Clause 2 of the United States Constitution (“Suspension Clause”). *See INS v. St Cyr*, 533 U.S. 289 (2001); Demore v. Kim, 155 L.Ed. 2d 724, 123 S.Ct. 1708 (2003); Zadvydas v. Davis, 533 U.S. 678 (2001).
2. That Petitioner is in custody for purposes of habeas corpus relief. As will be explained in more detail, *infra*, Petitioner submits that he is currently detained under color of authority of the United States.
3. That the aid of the Court is invoked under 28 U.S.C. §2201 and §2202, authorizing a declaratory judgment.
4. That costs and attorneys’ fees will be sought pursuant to the Equal Access to Justice Act. 5 U.S.C. §504 and 28 U.S.C. §2412(d), *et seq.*

**Venue**

5. That venue lies in the Orlando Division of the U.S. District Court for the Middle District of Florida because this is the judicial district in which Petitioner submits that he is currently detained by Respondents.

## Parties

6. That Petitioner, **Paul John Bojerski** (A [REDACTED]), is an “alien.”
7. That Respondent, **Kristi Noem**, is the Secretary of Homeland Security and she is being sued in an official capacity. In her official capacity, Respondent Noem is in charge of enforcing the immigration laws of the United States. It is Respondent Noem’s refusal to release Petitioner from custody that is the subject of this petition.
8. That Respondent, **Garrett Ripa**, is the Field Office Director of ICE’s Miami Field Office and she is being sued in an official capacity. Respondent Ripa exercises authority over immigration enforcement matters within the Miami Field Office’s jurisdiction. It is Respondent Ripa’s decision to detain Petitioner that is the subject of this petition.

## Statement of Claim

9. That Petitioner was born in a displaced persons camp located in Germany following the end of hostilities relating to World War II.
10. That Petitioner’s biological mother and biological father were both Polish nationals at the time of his birth in Germany.
11. That Petitioner concedes that he is an “alien” as that term is defined at 8 U.S.C. §1101(a)(3).
12. That Petitioner initially arrived in the United States on or about January 29, 1952. At the time, records maintained by the legacy

Immigration and Naturalization Service (“INS”) referred to Petitioner as Zbigniew Janusz Bojerski<sup>1</sup>. Petitioner was admitted to the United States as a lawful permanent resident on this same date.

13. That on or about June 21, 1967, the INS issued a Form I-221, Order to Show Cause (“OSC”), against Petitioner. This OSC alleged that Petitioner was subject to deportation because of his criminal history.
14. That via written order dated August 13, 1968, a Special Inquiry Officer (“SIO”)<sup>2</sup> ordered Petitioner to be deported from the United States to Poland. West Germany was named as an alternate country for Petitioner’s deportation if Poland would not accept him.
15. That Petitioner thereafter filed an appeal seeking to challenge the Immigration Judge’s decision. This appeal was filed with the Board of Immigration Appeals (“Board”).
16. That via written order dated December 27, 1968, the Board affirmed the entry of an order of deportation against Petitioner.
17. That Petitioner concedes that the Board’s December 27, 1968 order was a final “order of deportation” as this phrase is defined at 8 U.S.C. §1101(a)(47).

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<sup>1</sup> While this appears to be the name used by Petitioner upon his initial arrival to the United States, his Affidavit indicates that he does not recall ever using this name while in the United States.

<sup>2</sup> Prior to enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009-546 (Sept. 30, 1996), the term “immigration judge” had never been defined by the Immigration and Nationality Act, 8 U.S.C. §1101 et seq.. At the time the deportation proceedings had been initiated against Petitioner, “immigration judges” were known as “Special Inquiry Officers.”

18. That based upon information and belief, Petitioner submits that the INS was unable to effectuate the order of deportation that had been entered against him. This was because neither Poland nor West Germany would issue a travel document to the INS such that Petitioner could board a common carrier as part of the INS executing the order of deportation entered against him.

19. That beginning in 1969, the INS issued a Form I-220B, Order of Supervision (“Form I-220B” or “OSUP”), to Petitioner.<sup>3</sup>

20. That an alien issued an OSUP is the subject of an administratively final order of deportation. While many aliens who are subject to an order of deportation are detained by the immigration authorities, the OSUP allows an alien to be released from custody and to apply for employment authorization. Aliens who are issued an OSUP are subject to a number of restrictions, usually including a requirement to report to a U.S. and Immigration and Customs Enforcement’s (“ICE”) local Office of Enforcement and Removal Operations (“ERO”). *See generally 8 C.F.R. §241.5.*

21. That 8 U.S.C. §1101(g) provides as follows:

“[f]or the purposes of this chapter any alien ordered deported or removed (whether before or after the enactment of this chapter) who has left the United States, shall be considered to have been deported

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<sup>3</sup> It appears that Petitioner was confined in Ohio during the time the deportation proceedings had been initiated against him. Based upon information and belief, Petitioner posits that this first OSUP was issued to him by INS following his release from his incarceration in an Ohio prison.

or removed in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.”

22. That on or about August 14, 1988, Plaintiff married Gayle Burke (“Gayle”) in Florida. Gayle is a natural born U.S. citizen (“USC”).
23. That following their marriage, Gayle and Petitioner traveled to Niagara Falls, Ontario, Canada for their honeymoon.
24. That neither Gayle nor Petitioner encountered any issue making an application for admission to Canada. Gayle and Petitioner drove from the United States to Canada, entering Canada at or near Buffalo, New York.
25. That Petitioner departed the United States and entered Canada while an outstanding order of deportation remained pending against him.
26. That Plaintiff submits that he self-deported upon his entry to Canada. *See* 8 C.F.R. §241.7 (“[a]ny alien who has departed from the United States while an order of deportation or removal is outstanding shall be considered to have been deported, excluded and deported, or removed...”).
27. That neither Gayle nor Petitioner encountered any issue returning to the United States following their honeymoon in Canada. Gayle and Petitioner drove from Canada to the United States, entering the United States at or near Detroit, Michigan, and presented themselves for inspection upon arrival.

28. That Petitioner can provide no written documentation issued by the INS or an INS Inspector that would corroborate his claim that he lawfully returned to the United States following his honeymoon in Canada.
29. That in or about 1992, Gayle and Petitioner took a vacation to Southern California. While there, Gayle and Petitioner took a day trip from Los Angeles, California to San Ysidro, California. Once in San Ysidro, Gayle and Petitioner entered Mexico with plans to spend the day in Tijuana, Baja, Mexico.
30. That neither Gayle nor Petitioner encountered any issue making an application for admission to Mexico. Gayle and Petitioner walked from the United States to Mexico at or near San Ysidro, California.
31. That neither Gayle nor Petitioner encountered any issue returning to the United States following their day trip to Mexico. To return to the United States, Gayle and Petitioner walked from Tijuana to San Ysidro and presented themselves for inspection upon arrival.
32. That Petitioner can provide no written documentation issued by the INS or an INS Inspector that would corroborate his claim that he lawfully returned to the United States following his day trip to Mexico.

33. That in or about 2008, representatives of ICE's Orlando ERO office contacted Petitioner regarding his immigration status in the United States.<sup>4</sup> This initial contact led to Petitioner being issued a new OSUP.
34. That the most recently issued OSUP was provided to Petitioner on or about June 15, 2010.
35. That Petitioner has been reporting on the aforementioned OSUP since its issuance on June 15, 2010.
36. That Petitioner's most recent call-in appointment on the aforementioned OSUP was on or about July 24, 2025.
37. That during Petitioner's most recent OSUP call-in, he was informed that he would be required to appear again on or about October 30, 2025. Moreover, a Form G-56, Call-In Letter, issued to Petitioner during his July 24, 2025 OSUP appearance states that "you are to present travel arrangements and travel docxuments (sic.) to depart the United States due to your removal order."

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<sup>4</sup> On or about June 4, 2008 a Deportation Officer employed by ERO created a Form I-213, Record of Deportable/Inadmissible Alien ("Form I-213"), relating to Petitioner. The narrative within this Form I-213 indicates that "SUBJECT claims he departed the USA on October 1988 to Toronto Canada on his honeymoon and again 07/1991 to Mexico to visit family members." As is explained in Gayle's Affidavit, she mistakenly believed that the day trip to Mexico occurred in July 1992. Photographs of this trip are available and are date stamped "AUG 1992."

## **Causes of Action**

38. **First Claim.** Petitioner's ongoing detention violates Petitioner's substantive and procedural due process rights under the Fifth Amendment of the United States Constitution. U.S. CONST. amend. V.
39. **Second Claim.** Petitioner's ongoing detention violates the Fourth Amendment of the United States Constitution because there are no reasonable, objective grounds for the detention. U.S. CONST. amend. IV.
40. **Third Claim.** Petitioner seeks a Declaratory Judgment concluding that he is not subject to any outstanding "order of deportation" as defined at 8 U.S.C. §1101(a)(47). 28 U.S.C. §2201; 28 U.S.C. §2202.

## **Exhaustion**

41. That Petitioner challenges the constitutionality of his ongoing, indefinite and unlawful detention. He neither challenges the Department of Homeland Security's authority to conduct administrative proceedings seeking his deportation and removal nor any other action taken by the federal government.
42. That the Immigration and Nationality Act ("INA" or Act") provides that

"[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. §1252(g).

43. That while Petitioner notes that the language at §1252(g) prohibits an alien from bringing an action challenging an agency decision to “execute removal orders,” Petitioner submits that no such “order of deportation” actually exists inasmuch as any such order of deportation was effectuated when he departed the United States and entered Canada in or about 1988. *See 8 U.S.C. §1101(g).* Accordingly, Petitioner submits that any attempt by ICE to continue to detain him, or to otherwise make any attempt to execute a non-existent “order of deportation” violates his Constitutional rights as otherwise detailed in this Petition.

44. Petitioner has exhausted his administrative remedies.<sup>5</sup> The administrative process allows for no remedy for the injuries inflicted by Respondents’ actions as described herein. Rather, ICE has continued to maintain custody over Petitioner via the aforementioned OSUPs and has required Petitioner to “present travel arrangements and travel [documents] to depart the United States...” at his upcoming call-in appointment on October 30, 2025. Petitioner submits that no administrative remedies exist to consider any of the issues of concern described in this Complaint.

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<sup>5</sup> On or about January 12, 2009, U.S. Citizenship and Immigration Services (“USCIS”) received Petitioner’s Form I-485, Application to Register Permanent Residence or Adjust Status (“Form I-485”). This benefit application was denied. The reasoning provided in support of this denial was that Petitioner could not establish that he had been “inspected and admitted” to the United States at some point following the entry of an “order of deportation” against him by the Board via its December 27, 1968 decision.

45. To the extent that any administrative process may exist, exhaustion of administrative remedies, which is a prudential requirement, is not required here because any administrative process would be futile, and because Petitioner raises serious Constitutional questions herein.

**Prayer For Relief**

Petitioner respectfully prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner is currently detained in the custody of Respondents in violation of the Constitution and laws of the United States and that Petitioner is being detained indefinitely without any means of recourse before any administrative agency;
3. Grant temporary and permanent injunctive relief requiring Petitioner to be released from ICE's custody;
4. Issue a declaratory judgment concluding that Petitioner is not currently subject to any "order of deportation" as defined at 8 U.S.C. §1101(a)(47);
5. Award Petitioner his costs and reasonable attorneys' fees in this action as provided by 28 U.S.C. §2412 or other statute; and
6. Grant such further relief as the Court deems just and proper.

Dated: October 24, 2025

Respectfully submitted,

/s/ David Stoller /s/  
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## Table of Contents

### Documents in Support of Complaint

**Paul John Bojerski v.  
Kristi Noem, Secretary, U.S. Department of Homeland Security, et al.**

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Exhibit 1: Documents relating to deportation proceedings brought against Petitioner by the legacy Immigration and Naturalization Service:

- Form I-221, Order to Show Cause (June 21, 1967);
- Order of the Special Inquiry Office (August 13, 1968);
- Order of the Board of Immigration Appeals (December 27, 1968).

Exhibit 2: Form I-213, Record of Deportable/Inadmissible Alien (June 4, 2008);

Exhibit 3: Denial of Form I-485, Application to Register Permanent Residence or Adjust Status (January 25, 2010);

Exhibit 4: Affidavit of Paul John Bojerski (including Florida Driver License);

Exhibit 5: Affidavit of Gayle Bojerski (including Florida Driver License);

Exhibit 6: Photographs of trip to Canada (1988);

Exhibit 7: Copies of Canadian Lottery Tickets purchase by Petitioner and Gayle Bojerski during their 1988 visit to Canada;

Exhibit 8: Photographs of trip to Mexico (1992) (“AUG 1992” imprinted on back side of each photograph);

Exhibit 9: Photographs of Niagara Falls, Ontario, Canada:

- Boat used to go over Niagara Falls currently housed at the IMAX Theater in Niagara Falls, Ontario, Canada;
- Niagara Falls Walkway (overlooking Niagara Falls on the Canadian side);
- Still shot from Superman (overlooking Niagara Falls on the Canadian side);
- Queen Victoria Restaurant (Niagara Falls, Ontario, Canada);

Exhibit 10: Photographs of Tijuana, Baja, Mexico:

- Hard Rock Café, Tijuana;

Exhibit 11: Form I-220B, Order of Supervision, issued to Petitioner on or about June 15, 2010;

Exhibit 12: Form G-56, Call-In Letter, issued to Petitioner and requiring his presence at the Orlando Office of Enforcement and Removal Operations on October 30, 2025.