

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

**Mr. Saidouba Sylla,**  
*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-1157

Immigration No. 

**EMERGENCY MOTION FOR A  
TEMPORARY RESTRAINING  
ORDER**

*Oral Argument Requested If  
Deemed Necessary By Court*

**EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER**

1. Mr. Saidouba Sylla (“Mr. Sylla”) is a citizen of Guinea who entered the United States without inspection on or about August 26, 2023 near San Ysidro, California. He was released from custody. He was issued a Notice to Appear (“NTA”) on September 8, 2023. He filed an asylum application on December 15, 2023. He was scheduled for an Individual Hearing

on June 29, 2026 at the Buffalo Immigration Court. Nevertheless, he was detained by Immigration and Customs Enforcement (“ICE”) on November 2, 2025 and is now being held at the Buffalo Federal Detention Facility (“BFDF”) in Batavia, New York.

2. Requesting a bond redetermination for Mr. Sylla would be an exercise in futility as the Immigration Courts are following a nationwide bond denial policy wherein they are following flawed precedent from the Board of Immigration Appeals, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which held that all persons who have entered the United States without admission or parole are now subject to mandatory detention under § 1225(b)(2)(A). This legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

3. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

4. Petitioner suffers irreparable harm to a substantial liberty interest as a result of his ongoing detention in violation of his statutory rights under the INA and his due process rights under the Fifth Amendment to the U.S. Constitution. 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).

5. This Court recently addressed a nearly identical scenario in *Alvarez Ortiz v. Freden*, No. 25-CV-960-LJV (W.D.N.Y. November 4, 2025). In that matter, the Hon. Lawrence J. Vilardo issued an order granting a TRO and ordering the government to release Petitioner or provide him with a bond hearing within 7 days where the government bears the burden of

proving by clear and convincing evidence that petitioner is a danger to the community or a flight risk.

6. Additionally, ICE has been moving detainees without notice to remote facilities. If Petitioner is moved, he will not have access to local counsel and will be placed in a position where he will not be able to meaningfully assist counsel with the preparation of his defense. This emergency motion for a temporary restraining order seeks to prevent irreparable harm that would be caused by his movement outside of this judicial district, to a remote facility where access to counsel is difficult or impossible.

7. Therefore, Petitioner asks this court to without delay issue a temporary restraining order to require Petitioner's release or for a bond hearing on the merits be held by Respondents within 7 days. In addition, Petitioner asks this Court to order that he not be moved outside the jurisdiction until such time as the Court may decide the matters on the merits.

Dated: November 7, 2025

/s/ Matthew K. Borowski

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