

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

Pedro Torres Alonzo,
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-1172

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. Pedro Torres Alonzo (“Mr. Torres”) is a citizen of Mexico who entered the United States without inspection on or about March 15, 2006 in Arizona. He has four U.S. citizen children and resides in Warsaw, NY. In 2012 he was briefly detained by ICE and placed into removal proceedings; he was then released on a \$5,000.00 bond on or about March 15, 2012

and has been checking in regularly with ICE since then. He has no criminal record. Despite having paid a \$5,000 bond and being scheduled for an individual hearing in immigration court on October 27, 2025, ICE detained him shortly prior to that date, causing that hearing to be cancelled. He is presently detained at the Buffalo Federal Detention Facility (BFDF) in Batavia, NY despite having paid the \$5,000 bond in 2012 and despite continuing to comply with the conditions of that bond. DHS continues to be in possession of the \$5,000 bond money, despite having purportedly unilaterally revoked the bond.

2. 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. Upon information and belief, ICE unilaterally revoked Petitioner's bond under this "bond denial policy" – when he was detained, his family was told that he is being detained because "the law has changed."

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 bond denial 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 with no notice, regardless of whether the noncitizen is represented by local counsel or has an upcoming hearing at the immigration court with jurisdiction over the facility wherein he is detained. 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, given that he had already been issued a bond, the Respondents continue to retain that \$5,000 bond money, and the Respondents have unilaterally revoked his bond with no opportunity for a hearing.

8. Alternatively, Petitioner asks this court to order the Respondents to hold a bond hearing on the merits within 7 days, with the burden placed on the government to prove by clear and convincing evidence that Petitioner is a flight risk or a danger to the community. Petitioner asks this Court to require that, at any such bond hearing, the immigration judge must take into account Petitioner's ability to pay a monetary bond amount, and must consider release on

recognizance, particularly given that Petitioner's \$5,000 bond money remains in the hands of the government. 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 12, 2025

/s/ Matthew K. Borowski

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