

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
NDEILE YAKHOUB
(b) County of Residence of First Listed Plaintiff Erie, NY
(c) Attorney's (Firm Name, Address, and Telephone Number)
Anne E. Doebler, P.C.
14 Lafayette Sq. Suite 1800 Buffalo, NY 14203
(716) 898-8568

DEFENDANTS
Joseph Freden, David Kurtzdorfer,
Todd Lyons, Pamela Bondi,
Kristi Noem,
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each column contains a list of legal categories with checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2241
Brief description of cause:
Unlawful detention by DHS. Statutory misclassification

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE: 12/04/2025
SIGNATURE OF ATTORNEY OF RECORD: /S/ Anne E. Doebler

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NDEILE YAKHOUB,

Petitioner,

v.

Joseph Freden, Deputy Field Office Director,
Buffalo Federal Detention Facility;
David Kurtzdorfer, in his official capacity as Field Office
Director Buffalo Field Office of Immigration and
Customs Enforcement;
Todd Lyons, Director of ICE;
Pamela Bondi, Attorney General of the United States;
Kristi Noem, Secretary of Homeland Security;

DETAINED

A#



Case No. _____

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241 — STATUTORY MISCLASSIFICATION: § 235 vs. § 236(a))**

INTRODUCTION

1. Petitioner brings this action under 28 U.S.C. § 2241 because DHS is detaining him under the wrong statute and subjected him to re-detention after releasing him in 2023 under INA § 236 (8 U.S.C. § 1226).
2. DHS claims Petitioner is detained under INA § 235 (8 U.S.C. § 1225), (expedited removal processing), which is mandatory and provides no custody jurisdiction for the immigration court.
3. DHS cannot detain someone under INA § 235(b) (8 U.S.C. § 1125(b)), once DHS has issued an NTA under INA § 239 (8 U.S.C. § 1229), filed it with the immigration court, or taken actions that place the person into INA § 240 (8 U.S.C. § 1229a) removal proceedings.

4. Once DHS elects to process a noncitizen through INA § 240, 8 U.S.C. § 1229a proceedings, detention shifts by law to INA § 236(a) (8 U.S.C. § 1226(a)), not 8 U.S.C. § 1225, INA § 235.
5. Detaining a noncitizen under INA § 235(b) (8 U.S.C. § 1125(b)), while simultaneously placing them into INA § 240 (8 U.S.C. § 1229a) removal proceedings is ultra vires and violates the INA and the Due Process Clause.
6. DHS previously released Petitioner under INA § 236 (8 U.S.C. § 1226) on his own recognizance and provided Petitioner no explanation for his re-detention almost two years later.
7. Petitioner seeks a writ directing Respondents to:
 - a. recognize Petitioner's detention as governed by INA § 236(a) (8 U.S.C. § 1226(a));
 - b. Restore Petitioner's release on his own recognizance status which DHS determined was appropriate in 2023, as DHS has not argued Petitioner is a flight risk or danger to the community based on any events after his release from DHS custody in 2023; OR
 - c. provide an immediate custody redetermination hearing under INA § 236(a) (8 U.S.C. § 1226(a)) where the burden is on DHS to establish Petitioner is now a danger to the community or a flight risk.

JURISDICTION & VENUE

8. Jurisdiction exists under 28 U.S.C. §§ 1331 & 2241(c)(3). Petitioner is detained by DHS.
9. Venue is proper because Petitioner is detained in the Western District of New York in the Buffalo Federal Detention Facility, 4250 Federal Dr, Batavia, NY 14020.

PARTIES

10. Petitioner is a noncitizen detained at the Buffalo Federal Detention Facility in Batavia, New York. His residence address before detention was 3442 Main St. Apt. C8, Buffalo, NY 14202.
11. Respondent Kurzdorfer is Acting Field Office Director, ICE Buffalo Field Office
12. Respondent Freden is the Deputy Field Office Director of the Buffalo Federal Detention Facility.
13. Respondent Lyons is the Acting Director U.S. Immigrations and Customs Enforcement

14. Respondent Noems is the U.S. Secretary of Homeland Security
15. Respondent Bondi is the Attorney General of the United States

FACTUAL BACKGROUND

16. Petitioner was initially encountered by DHS on June 20, 2023 and released pursuant to INA § 236(a) on June 21, 2023.
17. DHS issued a Notice to Appear (NTA) under INA § 239 (8 U.S.C. § 1229), charging removability, initiating removal proceedings under INA § 240 (8 U.S.C. § 1229a) on June 21, 2023.
18. DHS failed to file the first Notice to Appear with EOIR served on Petitioner in 2023. When DHS failed to file the Notice to Appear, Petitioner filed his application for asylum with USCIS, as he wanted to pursue his request for asylum and there were no court proceedings with EOIR in which to file his I-589 application for asylum. DHS then exercised their discretion, did not file the original 2023 Notice to Appear with EOIR, and allowed Petitioner to continue to pursue his asylum case through USCIS.
19. DHS released Petitioner on a release on his own recognizance under INA § 236 (8 U.S.C. § 1226) on June 21, 2023. (Exhibit C)
20. DHS re-detained Petitioner for no apparent reason on November 2, 2025. Now DHS asserts that Petitioner is detained under INA § 235(b) (8 U.S.C. § 1125(b)) — mandatory detention.
21. The Immigration Court determined it lacked jurisdiction over a bond redetermination request because Petitioner is detained under INA § 235 (8 U.S.C. § 1225) (Exhibit H).

LEGAL ARGUMENT

22. DHS is detaining Petitioner under the wrong statute and in violation of his right to due process and a fundamentally fair procedure.
23. INA § 235(b) (8 U.S.C. § 1125(b)) applies only to individuals being processed for expedited removal or credible fear proceedings to determine if they have a viable asylum claim. These individuals have recently entered without inspection or presented themselves at a port of entry without a visa allowing admission to the United States.
24. INA § 236(a) (8 U.S.C. § 1226(a)) applies to all noncitizens in INA § 240 (8 U.S.C. § 1229a) removal proceedings unless they fall into the narrow mandatory-detention category in INA §

236(c) (8 U.S.C. § 1226(c)), relating to individuals with certain criminal convictions or others who pose security threats.

25. Once DHS issues an NTA under INA § 239 (8 U.S.C. § 1229a) or otherwise initiates INA § 240 (8 U.S.C. § 1229a) proceedings, the statutory basis for detention changes from INA § 235 (8 U.S.C. § 1225) to INA § 236 (8 U.S.C. § 1226).
26. DHS cannot lawfully “hold” someone under INA § 235(b) (8 U.S.C. § 1125(b)) after choosing to prosecute them under INA § 240 (8 U.S.C. § 1229a) as INA § 235(b) (8 U.S.C. § 1125(b)) is no longer applicable because DHS has either waived or completed the expedited removal asylum screening process.
27. DHS cannot mix statutory regimes if DHS places a person into INA § 240 (8 U.S.C. § 1229a) proceedings, detention must be governed by INA § 236 (8 U.S.C. § 1226), not INA § 235(b) (8 U.S.C. § 1125(b)).
28. ICE cannot use INA § 235(b) (8 U.S.C. § 1125(b)) to deny immigration judge jurisdiction over custody determination or release on his own recognizance determination once DHS has initiated INA § 240 (8 U.S.C. § 1229a) proceedings.
29. Petitioner did not violate the terms of his INA § 236(a) (8 U.S.C. § 1226(a)) and there was no lawful basis to re-detain Petitioner. Applying any change in the law argument to Petitioner to justify his detention would be unlawfully retroactive as he had a vested interest in pursuing his asylum claim on the EOIR non-detained docket and not being re-detained.
30. DHS’s misclassification is ultra vires and violates the INA.
31. The INA contains no provision permitting DHS to choose INA § 235(b) (8 U.S.C. § 1125(b)) detention when DHS has already placed the noncitizen into INA § 240 (8 U.S.C. § 1229a) proceedings. DHS cannot create a hybrid “INA § 235(b) (8 U.S.C. § 1125(b))-while-in-I INA § 240 (8 U.S.C. § 1229a) removal proceedings” category not provided by statute and assert it is lawful.
32. Under INA § 236(a) (8 U.S.C. § 1226(a)), a noncitizen is entitled to a custody redetermination hearing before an immigration judge.
33. DHS’s use of INA § 235(b) (8 U.S.C. § 1125(b)) to block a merits bond hearing — despite Petitioner being in INA § 240 (8 U.S.C. § 1229a) proceedings — deprives Petitioner of liberty without statutory or constitutional authority.
34. This is arbitrary and unlawful, violating: the Fifth Amendment’s Due Process Clause, the INA’s structure, and separation-of-powers principles with the agency acting without authority granted by Congress on the basis of a “Presidential Proclamation”.

35. DHS placed Petitioner into INA § 240 (8 U.S.C. § 1229a) removal proceedings by issuing and filing an NTA. DHS waived the INA § 235 (8 U.S.C. § 1225) credible fear screening and associated mandatory detention.
36. DHS is therefore required to treat Petitioner's detention as governed by INA § 236(a) (8 U.S.C. § 1226(a)).
37. DHS nevertheless claims INA § 235(b) (8 U.S.C. § 1125(b)) detention to deny bond eligibility and to argue the Immigration Judge has no jurisdiction based on the DHS assertion that Petitioner is detained pursuant to INA § 235(b) (8 U.S.C. § 1125(b)). The Immigration Judge found he had no jurisdiction over Petitioner's bond re-determination request. (Exhibit I)

REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

- A. Declare that Petitioner is detained under INA § 236(a) (8 U.S.C. § 1226(a));
- B. Hold that DHS's reliance on INA § 235(b) (8 U.S.C. § 1125(b)) is ultra vires and unlawful;
- C. Order Petitioner's prior INA § 236 bond to be restored and Petitioner released from custody;
- D. Order Respondents to provide Petitioner with an immediate custody redetermination hearing under INA § 236(a) (8 U.S.C. § 1226(a));
- E. Grant any further relief the Court deems just and proper.

VERIFICATION

I verify under penalty of perjury that the foregoing is true and correct.

Date:12/4/2025

/S/ Anne E. Doebler

Anne E. Doebler

Anne E. Doebler, P.C.

14 Lafayette Square. Suite 1800

Buffalo, NY 14203

(716) 898-8568

annedoeblerpc@gmail.com

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NDEILE YAKHOUB,

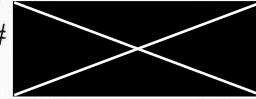
Petitioner,

v.

Joseph Freden, Deputy Field Office Director,
Buffalo Federal Detention Facility;
David Kurtzdorfer, in his official capacity as Field Office
Director Buffalo Field Office of Immigration and
Customs Enforcement;
Todd Lyons, Director of ICE;
Pamela Bondi, Attorney General of the United States;
Kristi Noem, Secretary of Homeland Security;

DETAINED

A#



Case No. _____

Respondents.

**EXHIBIT LIST
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR TEMPORARY RESTRAINING ORDER**

Petitioner respectfully submits the following exhibits in support of the § 2241 Petition and Motion for Temporary Restraining Order:

EXHIBIT _____	PAGE
EXHIBIT A — Notice to Appear (NTA) Under INA § 240 • DHS Form I-862 served on Petitioner in 2025 not yet filed with EOIR.	1
EXHIBIT B — ICE Record of Deportable/Inadmissible Alien (Form I-213, 2025)	5
EXHIBIT C — NTA Dated June 21, 2023, I-220A, and I-385, 2023 showing Released on Recognizance in 2023	10
EXHIBIT D — Petitioner’s receipt notice for his I-589 asylum application that is pending with USCIS.	16

EXHIBIT	PAGE
EXHIBIT E — Petitioner Declaration	18
• Sworn declaration from Petitioner describing:	
• Interior arrest	
• § 240 processing	
• No expedited removal	
• Lack of bond hearing	
• Harm caused by misclassification	
EXHIBIT F — Attorney Affirmation	21
• Affirmation submitted by Petitioner’s counsel documenting the procedural history and statutory misclassification.	
EXHIBIT G - Employment Authorization based on pending asylum application with USCIS	26
EXHIBIT H - Immigration Judge Order denying bond for lack of jurisdiction.	28

CERTIFICATION

I certify that the above exhibits are true and correct copies of documents relied upon in support of the accompanying Petition and Motion.

/S/ Anne E. Doebler



Dated: 12/4/2025

Respectfully submitted,
Anne E. Doebler
Anne E. Doebler, P.C.
14 Lafayette Square. Suite 1800
Buffalo, NY 14203
(716) 898-8568
annedoeblerpc@gmail.com

EXHIBIT

A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: 
Even 

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject 

FINS: 

File No: 245 029 121

In the Matter of:

Respondent: YAKHOUB NDEILLE currently residing at:

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MAURITANIA and a citizen of MAURITANIA;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

4250 FEDERAL DR, RM F108 BATAVIA, NEW YORK 14020. EOIR SPC Batavia, NY

(Complete Address of Immigration Court, including Room Number, if any)

on November 24, 2025 at 9:00 am to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

T 8925 JORDAN - SDDO

(Signature and Title of Issuing Officer)

TIMOTHY D
JORDAN

Digitally signed by TIMOTHY D
JORDAN
Date: 2025.11.02 13:23:01
-05'00'

Date: _____

Batavia, NY
(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR, 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

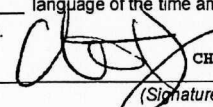
Certificate of Service

This Notice To Appear was served on the respondent by me on November 2, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent If Personally Served)

 CHRISTIAN KOZELL - Deportation Officer
(Signature and Title of officer)

U.S. Department of Homeland Security


Continuation Page for Form I-862

Alien's Name NDEILE, YAKHOUB	File Number 	Date 11/02/2025
ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW: -----		
212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.		
212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.		
Signature T 8925 JORDAN	TIMOTHY D JORDAN <small>Digitally signed by TIMOTHY D JORDAN Date: 2025.11.02 13:22:05 -05'00'</small>	Title SDDO

EXHIBIT

B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
BATAVIA, NEW YORK

IN THE MATTER OF NDEILE, YAKHOUB RESPONDENT	IN REMOVAL PROCEEDINGS CASE # 
---	---

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day, I caused to be served the **Form I-213**

- an identical copy in a sealed envelope with postage thereon fully prepaid and causing the same to be deposited with the U.S. Postal Service to the person at the precise and complete address set forth below. (*See* Immigration Court Practice Manual, Chapter 3.2)
- an identical copy hand-delivered to a responsible person at the address, set forth below, of the individual being served. (*See* Immigration Court Practice Manual, Chapter 3.2)
- via ECAS which will automatically notify both parties that a new document has been filed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 18, 2025.



U.S. Department of Homeland Security


Subject ID XXXXXXXXXX

Record of Deportable/Inadmissible Alien

Family Name (CAPS) NDEILE, YAKHOUB		First	Middle	Sex M	Hair BLK	Eyes BRO	Cmptsn LBR
Country of Citizenship MAURITANIA	Passport Number and Country of Issue See Narrative		XXXXXXXXXX	Height 69	Weight 141	Occupation LABORER	
U.S. Address 470 E FERRY ST BUFFALO, NEW YORK, 14208,				Scars and Marks			
Date, Place, Time, and Manner of Last Entry Unknown Date Unknown Time,			Passenger Boarded at				
Number, Street, City, Province (State) and Country of Permanent Residence				FBI Number <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth XXXXXXXXXX Age: 36				Date of Action 11/02/2025		Location Code BUF/BUF	
City, Province (State) and Country of Birth KIFFA, MAURITANIA		AR <input checked="" type="checkbox"/> Form (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>		Method of Location/Apprehension NCA			
NIV Issuing Post and NIV Number		Social Security Account Name		At/Near		Date/Hour 11/02/2025 11:44	
Date Visa Issued		Social Security Number		By CHRISTIAN KOZELL			
Immigration Record NEGATIVE		Criminal Record		Status at Entry		Status When Found	
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)				Number and Nationality of Minor Children None			
Father's Name, Nationality, and Address, if Known SADVE NATIONALITY: MAURITANIA ADDRESS: N/A KIFFA, LISSABA, MAURITANIA		Mother's Present and Maiden Names, Nationality, and Address, if Known MARIEH NATIONALITY: MAURITANIA ADDRESS: N/A KIFFA, LISSABA, MAURITANIA					
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Systems Checks See Narrative		Charge Code Word(s) See Narrative	
Name and Address of (Last/Current) U.S. Employer See Narrative		Type of Employment See Narrative		Salary		Employed from/to Hr 11/02/2025 11/02/2025	
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FIN: 1340413864 Left Index fingerprint Right Index fingerprint							
							
Subject Health Status ----- The subject claims good health. -----							
Current Administrative Charges ----- 11/02/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs) 11/02/2025 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA ----- ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges		<u>11/2/25 CR</u> (Date/Initials)		CHRISTIAN KOZELL Deportation Officer (Signature and Title of Immigration Officer)			
Distribution: 1 - A File 2 - Copy		Received: (Subject and Documents) (Report of Arrest) (By) Officer CHRISTIAN KOZELL on November 2, 2025 (time) Disposition Warrant of Arrest/Notice to Appear Examine Officer JORDAN, T 8925 TIMOTHY D JORDAN <small>Digitally signed by Timothy D Jordan</small>					




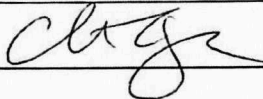
U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name NDEILE, YAKHOUB		File Number [REDACTED]	Date 11/02/2025
<p>RECORDS CHECKED ----- CIS Pos EARM Pos IAFIS Pos NCIC Pos TECS Pos</p> <p>NAME AND ADDRESS OF US EMPLOYER ----- UBER, Unknown Buffalo , NEW YORK, 14208, UNITED STATES</p> <p>TYPE OF EMPLOYMENT ----- Operators, Fabricators, and Laborers</p> <p>Record of Deportable/Excludable Alien: -----</p> <p>PREDICATION: In response to the President's declaration of a national emergency related to illegal immigration, ICE ERO Buffalo arrested Yakhoub NDEILE [REDACTED]</p> <p>ENCOUNTER: On November 2, 2025, at approximately 1130 hours while conducting a targeted enforcement operation in Buffalo, NY members of FOT2 observed a [REDACTED] bearing VA registration [REDACTED] parked in the street outside of 470 E. Ferry St. Buffalo, NY 14208. Record checks revealed that this vehicle is associated with Mamadou DIALLO A# [REDACTED]. A few minutes later members of FOT2 observed an individual matching the targets description exit the residence of 470 E. Ferry St and enter the target vehicle. The individual entered the driver side of the [REDACTED] and closed the door and proceeded to pull away. Members of FOT2 maintained surveillance on the vehicle and subsequently initiated a vehicle stop on E. Ferry St. near Masten Ave. ICE ERO Buffalo in conjunction with CBP Buffalo and HSI Buffalo approached the vehicle ICE/Police identifiers on their outer clothing and wearing a body camera identified themselves as Law Enforcement Officers. Members of FOT2 engaged in conversation with the driver who identified himself as Yakhoub NDEILE. NDEILE was asked for identification, and he provided a NYS driver's license bearing Yakhoub NDEILE. Record checks revealed that NDEILE was originally arrested at the US/Mexico border but his WA/NTA was never served on the court. NDEILE was asked to exit the vehicle and was subsequently placed under arrest. NDEILE was subsequently transported without incident, to 4250 Federal Drive Batavia, NY 14020 for further processing.</p> <p>IMMIGRATION HISTORY: On June 21 2023, A Border Patrol Agent encountered this subject in the Ajo, Arizona, Border Patrol Sector Area of Responsibility. As per the field form, the subject admitted that they had unlawfully entered the United States of America from Mexico, at a time and place other than as designated by immigration officers of the United States of America. As per the field form, the subject was apprehended for illegally entering the United States.</p> <p>CITIZENSHIP: NDEILE is a native and citizen of Mauritania by virtue of birth.</p> <p>CRIMINAL HISTORY: NDEILE has no known criminal history or warrants in the United States.</p>			
Signature CHRISTIAN KOZELL 		Title Deportation Officer	

U.S. Department of Homeland Security

Continuation Page for Form I-213


Alien's Name NDEILE, YAKHOUB	File Number 	Date 11/02/2025
<p>REMOVABILITY: NDEILE is removable pursuant section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.</p> <p>TRAVEL DOCUMENTS: NDEILE was not in possession of a passport at time of arrest.</p> <p>FAMILY/ DERIVATIVE CITIZENSHIP: NDEILE has made no claim to United States citizenship, and there is no indication that SYLLA derived or acquired United States citizenship.</p> <p>CONSULATE NOTIFICATION: Mauritania is not a mandatory notification country. NDEILE was notified of his right to communicate with a consular officer from their country as per Article 36(a)(b) of the Vienna Convention of Consular Relations.</p> <p>DISPOSITION: On 11/2/2025, NDEILE was arrested by ICE ERO and served DHS form I-200 Warrant For Arrest of Alien, I-862 Notice to Appear and detained at the Buffalo Federal Detention Facility in Batavia, NY pending his immigration proceedings.</p> <p>VOLUNTARY DEPARTURE: NDEILE was offered voluntary departure and denied offer.</p> <p>Other Identifying Numbers ----- ALIEN- </p> <p>PASSPORT NUMBER AND COUNTRY OF ISSUE -----  MAURITANIA Comment: MAURITANIE PASSPORT</p> <p>P. 3392 NOTTE</p>		
Signature CHRISTIAN KOZELL		Title Deportation Officer




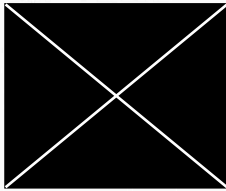
EXHIBIT

C

FINS #:1340498300

Subject ID 

Event No 

1. FAMILY NAME (Capital Letters) NDEILE, YAKHOUB		First Name	Middle Name	2. Age 34	3. Country of Citizenship MAURITANIA	
4. Alias			5. Date Apprehended June 20, 2023		6. Office TCA/AJO	
7. Birth Date 	8. Birth Place KIFFA, LISSABA, MAURITANIA					
9. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	10. OSC/WA Served <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Explain) NTA/OR					
11. File Number 	12. Bond \$					
13. CINS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	14. Medical Alert <input type="checkbox"/> No <input type="checkbox"/> Yes (Explain)					
15. TRANSFER DATE		FROM		TO		
A						
B						
C						
16. ADMITTED BY:		19. RELEASED TO: <input type="checkbox"/> V/R <input type="checkbox"/> Deport		22. Rt. Index Print - In		23. Rt. Index Print - Out
17. SEARCHED IN BY:		20. RELEASED BY:				
18. DATE ADMITTED:		21. DATE RELEASED:				
24. Remarks: HOLD FOR REMOVAL PROCEEDINGS/DO NOT VR						
FORM I-385 (08/01/07)				ALIEN BOOKING RECORD UNITED STATES DEPARTMENT OF HOMELAND SECURITY		

Part II BAGGAGE CHECK

16745804

6/20

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [Redacted]

FINS [Redacted]
DOB: [Redacted]

File No: [Redacted]

In the Matter of: YAKHOUB NDEILE

Respondent: [Redacted] currently residing at:
[Redacted]

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MAURITANIA and a citizen of MAURITANIA ;
3. You arrived in the United States at or near LUKEVILLE, AZ , on or about June 20, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

290 BROADWAY, STE 2900, NEW YORK, NY 10007

(Complete Address of Immigration Court, including Room Number, if any)

on January 17, 2024 at 09:00 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

DARREN ELLIOTT
Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer) (Sign in ink)

DARREN ELLIOTT
Date: 2023.06.21 20:38 -07:00
0832257741 CBP

Date: June 21, 2023

Naco, Arizona

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

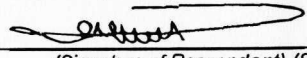
U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:



(Signature of Respondent) (Sign in ink)

ROBERT F KOPTA JR
Date: 2023.06.21 21:07:04
0854234019.CBP.1

BORDER PATROL AGENT

Date: 06/21/2023

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on June 21, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the ARABIC language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.



(Signature of Respondent if Personally Served) (Sign in ink)

ROBERT F KOPTA JR
ROBERT KOPTA, BORDER PATROL AGENT
Date: 2023.06.21 21:07:04
0854234019.CBP.1

(Signature and Title of officer) (Sign in ink)

DEPARTMENT OF HOMELAND SECURITY
NOTICE OF CUSTODY DETERMINATION

Alien's Name: YAKHOUB NDEILE

A-File Number: [REDACTED]

Date: 06/21/2023

Event ID: [REDACTED]

Subject ID: [REDACTED]

FIN: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- Detained by the Department of Homeland Security.
- Released (check all that apply):
 - Under bond in the amount of \$ _____
 - On your own recognizance.
 - Under other conditions. [Additional document(s) will be provided.]

DARREN ELLIOTT
 DARREN E ELLIOTT
 Date: 2023.06.21 08:31 -07:00
 0832257741.CBP

 Name and Signature of Authorized Officer

06/21/2023 2033

 Date and Time of Custody Determination

Acting/Patrol Agent in Charge

 Title

Naco, Arizona

 Office Location/Address

You may request a review of this custody determination by an immigration judge.

- I acknowledge receipt of this notification, and
 - I **do** request an immigration judge review of this custody determination.
 - I **do not** request an immigration judge review of this custody determination.

[Signature]

 Signature of Alien

06/21/2023

 Date

The contents of this notice were read to YAKHOUB NDEILE in the ARABIC language.

 (Name of Alien) (Name of Language)

KOPTA, ROBERT
 ROBERT F KOPTA JR
 Date: 2023.06.21 05:44 -07:00
 0854234019.CBP

 Name and Signature of Officer

CBP TRANSLATE

 Name or Number of Interpreter (if applicable)

BORDER PATROL AGENT

 Title

U.S. Department of Homeland Security

Order of Release on Recognizance

File No: [Redacted]
Date: June 21, 2023
Event No: [Redacted]

Name: YAKHOUB NDEILE

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- [X] You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.
[X] You must surrender for removal from the United States if so ordered.

[X] You must report in (writing) (person) to IMMIGRATION AND CUSTOMS ENFORCEMENT
26 Federal Plaza, 9th Floor, Suite 9-110, New York, NY 10278 on 07/22/2023 at [Redacted]

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- [X] You must not change your place of residence without first securing written permission from the immigration officer listed above.
[X] You must not violate any local, State, or Federal laws or ordinances.
[X] You must assist the Department of Homeland Security in obtaining any necessary travel documents.
[X] Other: [Redacted]

[] See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

DARREN E ELLIOTT
Date: 2023.06.21 20:56:23
0832257741.CBP



(Signature of DHS Official)
DARREN ELLIOTT
Acting/Patrol Agent in Charge
(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the ARABIC language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

ROBERT KOPTA
ROBERT F KOPTA JR
Date: 2023.06.21 21:00:24-07:00
0854234019.CBP.F

[Signature of Alien]

06/21/2023
(Date)

Cancellation of Order

I hereby cancel this order of release because: [] The alien failed to comply with the conditions of release.

[] The alien was taken into custody for removal.
(Signature of Immigration Officer Canceling Order) (Date)

EXHIBIT

E

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NDEILE YAKHOUB,

Petitioner,

v.

Joseph Freden, Deputy Field Office Director,
Buffalo Federal Detention Facility;
David Kurtzdorfer, in his official capacity as Field Office
Director Buffalo Field Office of Immigration and
Customs Enforcement;
Todd Lyons, Director of ICE;
Pamela Bondi, Attorney General of the United States;
Kristi Noem, Secretary of Homeland Security;
Respondents.

DETAINED

A#



Case No. _____

**PETITIONER'S AFFIRMATION
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

I, NdeileYakhoub, hereby affirm under penalty of perjury:

1. I am the Petitioner in this action, and I submit this affirmation in support of my Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241.
2. I am currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Buffalo Federal Detention Facility, 4250 Federal Dr, Batavia, NY 14020, and have been in continuous detention since November 2, 2025.
3. My continued detention, without a meaningful bond hearing, violates my due process rights under the Fifth Amendment.
4. I was released on my own recognizance for two years and then DHS chose not to file my NTA as I had filed my I-589 with USCIS.. I retained an attorney, filed an application for asylum withholding and protection under the Convention Against Torture, received work authorization from USCIS and I was awaiting my asylum interview with USCIS.
5. I was totally confused and stressed by my sudden detention for no apparent reason after DHS had previously released me from custody and advised I could pursue my asylum application with USCIS.
6. More than two years ago DHS made a determination that I am neither a flight risk nor a danger to the community.

7. I have been granted a bond hearing but the Immigration Judge held he had no authority to set bond because DHS stated I was detained pursuant to INA § 235. The DHS attorney also told the Immigration Judge that an NTA was being filed and they were addressing a rejection by EOIR.

8. There has been no determination, under the proper standard, that I pose a flight risk or danger that cannot be mitigated through conditions of release.

9. I am ready and willing to comply with any conditions of supervision that a court or immigration judge deems appropriate (e.g., electronic monitoring, reporting, financial bond).

10. I continue to suffer from the severe hardship of detention, emotional distress, limited access to my attorney, difficulty in obtaining documents due to limitations on communication over seas and financial stress as I must pay for an interpreter and additional legal expenses due to my detention.

11. My release would significantly ameliorate these harms, and there is no adequate remedy at law other than through this habeas petition.

12. I respectfully request that this Court order a bond hearing before a neutral decision maker, where the Government must bear the burden of proving, by clear and convincing evidence, that my continued detention is necessary. I also ask that the decision maker consider my ability to pay in setting any bond.

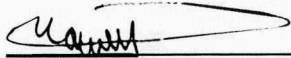
13. Alternatively, if the Court finds that a hearing is not timely or adequate, I request immediate release from ICE custody.


I make this affirmation freely, based on my own knowledge, and believe all statements herein to be true. This statement was read aloud to me in Arabic by a telephonic professional interpreter from LanguageLine Solutions before I signed the statement.

WHEREFORE, I respectfully request that this Court grant the relief sought in my Petition for Writ of Habeas Corpus.

Date: 11/22/25

Detention Facility: Buffalo Federal Detention Facility, 4250 Federal Dr, Batavia, NY 14020



Ndeile Yakhoub
A#: 

EXHIBIT

F

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NDEILE YAKHOUB,

Petitioner,

v.

Joseph Freden, Deputy Field Office Director,
Buffalo Federal Detention Facility;
David Kurtzdorfer, in his official capacity as Field Office
Director Buffalo Field Office of Immigration and
Customs Enforcement;
Todd Lyons, Director of ICE;
Pamela Bondi, Attorney General of the United States;
Kristi Noem, Secretary of Homeland Security;

DETAINED


A# 

Case No. _____

Respondents.

**ATTORNEY AFFIRMATION
IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER
AND PETITION FOR WRIT OF HABEAS CORPUS**

I, Anne E. Doebler, an attorney duly admitted to practice before this Court, hereby affirm under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I represent Ndeile Yakhoub, A#  who is currently detained by Immigration and Customs Enforcement (“ICE”) at the Buffalo Federal Detention Facility in Batavia, New York. I represent him on a pro bono basis on this Habeas Corpus petition and on a retained basis for his removal proceedings.
2. I submit this affirmation in support of Petitioner’s Motion for a Temporary Restraining Order (“TRO”) and accompanying Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.
3. On or about November 2, 2025, ICE officers apprehended Petitioner inside the United States, pursuant to a “traffic stop” in Buffalo, NY, not at a port of entry, border crossing, checkpoint, or other location associated with seeking admission.
4. After arrest inside the United States, DHS served Petitioner with a Notice to Appear initiating INA § 240 (8 U.S.C. § 1229a) removal proceedings on November 2, 2025.

5. Petitioner was not issued a Form I-860, expedited removal order, or other document associated with INA § 235(b)(1) (8 U.S.C. § 1225(b)(1)) processing.
6. DHS did not assert that Petitioner was an arriving alien at the time of arrest or during initial processing and instead released him pursuant to INA § 236 (8 U.S.C. § 1226) on his own recognizance.
7. Despite being arrested inside the United States and placed into § 240 proceedings, and released pursuant to INA § 236 (8 U.S.C. § 1226) and then having DHS determine to exercise prosecutorial discretion to not place Petitioner in removal proceeding, DHS later designated Petitioner as being detained under INA § 235(b) (8 U.S.C. § 1125(b))
8. DHS failed to file the first Notice to Appear with EOIR served on Petitioner in 2023. When DHS failed to file the Notice to Appear, Petitioner filed his application for asylum with USCIS, as he wanted to pursue his request for asylum and there were no court proceedings with EOIR in which to file his I-589 application for asylum. DHS then exercised their discretion, did not file the original 2023 Notice to Appear with EOIR, and allowed Petitioner to continue to pursue his asylum case through USCIS.
9. DHS indicated at Petitioner's bond hearing on November 20, 2025 that they intended to file the 2025 Notice to Appear continued in the exhibits, but as of this morning the EOIR electronic filing system does not indicate the Notice to Appear was filed with EOIR. It is unclear why DHS has not re-filed the EOIR rejected 2025 Notice to Appear. This raises a potential issue about the basis of Petitioner's detention distinct from the primary argument raised in the Habeas Corpus petition. Counsel anticipates DHS will shortly resolve this issue, but Petitioner may seek to amend his Habeas Corpus petition if the Notice to Appear is not filed and Petitioner is not restored to the position of being non-detained with an affirmatively pending asylum application with USCIS.
10. This classification is contrary to:
 - A. The plain text of the INA,
 - B. Longstanding distinctions between INA §§ 235 and 236, (8 U.S.C. §§ 1125(b) and 1226)
 - C. DHS's own regulatory structure, and
 - D. DHS's own prior determination that INA § 236 (8 U.S.C. § 1226) was the statutory release provision.
9. DHS's designation of INA § 235 (8 U.S.C. § 1125) as the statute under which Petitioner is detained functions to deny Petitioner eligibility for a merits bond hearing, even though INA § 236 (8 U.S.C. § 1226) expressly grants that right.
10. DHS's determination to re-detain Petitioner violated his right to due process, a fundamentally fair procedure, and his right to be free from retroactive application of law that

deprived him of his vested right to pursue his asylum claim on the non-detained EOIR docket.

11. Immediate relief is necessary to remedy the harm.
12. Each day Petitioner is detained under the wrong statute, he is deprived of the statutory procedures he is entitled to—namely a custody redetermination before an Immigration Judge under INA § 236 (8 U.S.C. § 1226), and the freedom from detention he previously enjoyed for two years.
13. Courts, including the WDNY, have recognized that unlawful detention constitutes irreparable harm, particularly where the petitioner is being denied a legal right.
14. No factual development is needed to resolve this issue. It is a pure question of statutory misclassification, DHS has not asserted Petitioner violated the conditions of his release on his own recognizance or presents a danger to the community.
15. Petitioner seeks release through this TRO as he asks that he be restored to his previous release on his own recognizance bond status.
16. In the alternative, Petitioner seeks:
 - an order prohibiting DHS from continuing to hold him under INA § 235 (8 U.S.C. § 1125), and
 - an order compelling DHS to classify him under INA § 236 (8 U.S.C. § 1226) and provide a prompt bond hearing where the burden of proof is on DHS to establish he is a danger to the community or a flight risk.
 - an order that DHS not move him out of the Western District of New York.
17. Bond hearings for § INA § 236 (8 U.S.C. § 1226) detainees occur weekly at the Batavia Immigration Court.
18. Granting this TRO imposes no meaningful administrative burden on Respondents.
19. Petitioner exhausted his administrative remedies when he pursued bond and it was denied by the Immigration Judge based on a lack of jurisdiction. Further exhaustion would be fruitless.
20. Counsel represents Petitioner in this action on a pro bono basis and could not continue to do so if his detention location was moved outside the Western District of New York. Moving of his detention location would also unnecessarily delay these proceedings.
21. For these reasons, the Court should grant the TRO and require DHS to:

- A. cease detaining Petitioner under INA § 235 (8 U.S.C. § 1125);
- B. classify Petitioner appropriately under INA § 236 (8 U.S.C. § 1226); and
- C. order DHS to restore Petitioner's release on his own recognizance bond status and release the Petitioner, or in the alternative
- D. provide a custody redetermination (bond hearing) before an Immigration Judge within 7 days, where the burden is on DHS to establish Petitioner is a danger to the community or a flight risk;
- E. direct DHS not move Petitioner's detention outside the Western District of New York.

I affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on: 12/3/2025

At: Buffalo, NY

/S/ Anne E. Doebler

Anne E. Doebler

Attorney for the Petitioner

Anne E. Doebler, P.C.

14 Lafayette Square. Suite 1800

Buffalo, NY 14203

(716) 898-8568

annedoeblerpc@gmail.com

EXHIBIT

H



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BATAVIA IMMIGRATION COURT**

Respondent Name:

YAKHOUB, NDEILE

To:

Doebler, Anne Elizabeth
14 Lafayette Square
Suite 1800
Buffalo, NY 14203

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

11/20/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because
The Court does not have jurisdiction to set bond. Respondent entered the United States without inspection. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).
- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:
- Other:
Oral decision this date incorporated into this order by this reference.



Immigration Judge: COUNIHAN, BRIAN J 11/20/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 12/22/2025

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Respondent Name : YAKHOUB, NDEILE | A-Number : 

Riders:

Date: 11/20/2025 By: Lang, Erika, Court Staff