

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

DIALLO, MAMADOU SANOUSSY

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Petitioner,

v.

TODD LYONS, Acting Director, U.S. Immigration and Customs
Enforcement

MARKWAYNE MULLING, in his official capacity as Secretary of the
United States Department of Homeland Security,

TODD BLANCHE, in his official capacity as Attorney General, US
Department of Justice,

Raul Maldonado Jr., WARDEN, Metropolitan Detention Center,
Brooklyn New York

Respondents

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28
U.S.C § 2241; APPLICATION FOR TEMPORARY RESTRAINING ORDER; ORDER
TO SHOW CAUSE; AND REQUEST FOR NO-TRANSFER ORDER**

Counsel for Petitioner: Ugo C. Ugeh, Esq.

Primary Bar No. 4964763; New York Appellate Div., 2nd Department

Address: 8900 Sutphin Blvd, Suite 204, Jamaica NY 11434

INTRODUCTION AND OVERVIEW OF UNLAWFUL DETENTION

1. Mamadou Sanoussy Diallo (A#: [REDACTED]) is a 26 year old man. He fled his native country, Guinea and entered the United States without inspection on or about September 2023. He subsequently retained an attorney and requested Political Asylum.
2. On May 13, 2024, Mr. Diallo was scheduled for an Immigration hearing before the Immigration Court at 290 Broadway, New York NY. However, his attorney did not inform him of the scheduled hearing and he failed to appear for the hearing. An Immigration Judge ordered him removed *in absentia*. With the help of the same attorney, Mr. Diallo subsequently filed a Motion to Reopen which was denied on November 12, 2025.
3. Mr. Diallo has family members in the New York area who are lawfully in the United States. He resides with his father and an uncle who are Lawful Permanent Residents.
4. On or about April 14, 2026, Mr. Diallo was detained by ICE officers who showed up to his home and lied to his father with a claim that his son's identity had been stolen.
5. Mr. Diallo has resided in the United States for three years. He has no criminal record whatsoever. Although he currently has a removal order, he maintains that his failure to appear in Court was due to attorney error. As such, he is eligible to

have his case reopened based on Ineffective Assistance of Counsel under Matter of Lozada, 19 I. & N. Dec 637 (1988).

6. Mr. Diallo is neither a flight risk nor a danger to himself or others. He seeks an order to immediately release him so he may return to his family because Respondents violated the Constitution, the Immigration and Nationality Act ("INA"), associated regulations, and longstanding agency policies and practices when taking him into custody. His detention is unlawful and unconstitutional. Petitioner therefore brings this petition for a writ of habeas corpus, requesting immediate release.

PARTIES

7. Petitioner Mamadou Sanoussy Diallo is a citizen of Guinea who entered into the United States to seek Political Asylum.

8. Respondent Todd Lyons is sued in his official capacity as the Acting Director, U.S. Immigration and Customs Enforcement. He has legal authority to order Petitioner's release from detention.

9. Respondent Markwayne Mulling is sued in his official capacity as Secretary of the United States Department of Homeland Security. He is the executive officer who has been given authority to manage and control Immigration and Customs Enforcement. As such, he is Petitioner's ultimate legal custodian and has the authority to order Petitioner's release.

10. Respondent Todd Blanche is sued in his official capacity as Attorney General of the US Department of Justice.

11. Respondent Raul Maldonado Jr. is the Warden of the Metropolitan Detention Center (MDC) where Mr. Diallo is currently detained. He is Mr. Diallo's physical custodian, and is sued in his official capacity only.

JURISDICTION AND VENUE

The Court has jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus jurisdiction) to review the legality of Petitioner's civil immigration detention, including constitutional and statutory claims. The Court also has jurisdiction under 28 U.S.C § 1331 (federal question jurisdiction); and 28 U.S.C § 1361 (jurisdiction over actions in the nature of mandamus). The aid of the Court is further invoked under 28 U.S.C § 2201 and 2202, authorizing a declaratory judgment, as well as the All Writs Act, 28 U.S.C. § 1651. The underlying legal questions arise under the INA, the APA, and the due process clause of the United States Constitution.

Petitioner does not challenge a final order of removal; he challenges present custody and unlawful arrest/recapture. Venue is proper in the Eastern District of New York because Petitioner is detained at Metropolitan Detention Center (MDC) in Brooklyn, New York and this Court can make the writ effective.

ARGUMENT

DHS may grant parole case-by-case under 8 U.S.C. § 1182(d)(5)(A) and has promulgated binding regulations governing parole and its termination, including 8 C.F.R. § 212.5(e). DHS must follow its own regulations and procedures. See *Accardi* principles.

Civil immigration arrests are governed by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8; absent exigency (likelihood of escape), ICE ordinarily effects arrests via administrative warrants. Post-release custody in these circumstances falls under 8 U.S.C. § 1226(a), which requires an individualized custody assessment and permits release on bond or conditions; blanket or automatic detention is unlawful.

The Fifth Amendment prohibits arbitrary detention and requires notice and an opportunity to be heard before revoking a previously granted liberty interest such as parole into the United States.

In *Cunha v. Freden*, No. 25-3141 (2d Cir. Apr. 28, 2026), the Second Circuit recently ruled that long-term, non-detained immigrants already living in the United States are not subject to mandatory, no-bond detention. The court affirmed that they are entitled to bond hearings. Based on this recent ruling, Mr. Sanoussy Diallo is at the very least entitled to a bond hearing.

CLAIMS FOR RELIEF

CLAIM ONE: — Administrative Procedure Act & *Accardi* (Agency Must Follow Its Own Rules) DHS/ICE re-detained Petitioner without first issuing **prior written termination of parole** with reasons as contemplated by 8 C.F.R. § 212.5(e).

Revoking liberty without following binding regulations violates the **Accardi** doctrine and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law under 5 U.S.C. § 706(2).

Relief: Immediate release; or, in the alternative, a lawful § 1226(a) custody redetermination within 48–72 hours, with the government bearing the burden and issuing written reasons; and production of any termination decision.

CLAIM TWO — INA § 1357(a)(2) & 8 C.F.R. § 287.8 (Warrantless Seizure)

The targeted seizure occurred **without an administrative warrant** and with no showing of exigency. The arrest was **ultra vires** under the governing statute and regulations, rendering the present detention unlawful.

Relief: Immediate release or remand for a lawful individualized custody determination.

CLAIM THREE — Fifth Amendment Due Process (Procedural and Substantive).

Having granted parole and released Petitioner to the community, the government may not abruptly revoke that liberty without notice, reasons, and an opportunity to respond, nor may it rely on blanket sweep rationales untethered to individualized findings.

The multi-hour delay in access to family/counsel and failure to provide any contemporaneous explanation further shows arbitrariness.

Relief: Immediate release or expedited § 1226(a) hearing with the government's burden (clear and convincing) and issuance of written, reviewable reasons; **no-transfer order** to preserve jurisdiction and access to counsel.

CLAIM FOUR — Misclassification of Custody Authority (INA § 1226(a))

On these facts—prior parole and no written termination—Petitioner's custody is governed by **§ 1226(a)**, which requires individualized determination and allows release on conditions; any contrary blanket detention is unlawful.

Relief: As above.

● **REQUEST FOR RELIEF**

Petitioner respectfully requests that the Court:

- A. Grant the writ and order **immediate release** on recognizance or the least restrictive conditions; or Alternatively, issue an **Order to Show Cause** directing Respondents to provide, within **48 hours**, (i) all documents relied upon to detain Petitioner, including any **parole termination** and **administrative warrant(s)**, and (ii) to conduct a **§ 1226(a) custody redetermination within 48–72 hours** with the government bearing the burden and issuing written reasons;
- B. Enter a NO-TRANSFER ORDER enjoining Respondents from transferring Petitioner outside the Northern District of New York (or from Buffalo Detention Center) without prior leave of Court;
- C. Require Respondents to provide **access to counsel** and reasonable attorney-client calls/visits; and
- D. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Ugo C. Ugeh, Esq.



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Dated: May 15, 2026

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PROPOSED ORDER — TEMPORARY RESTRAINING ORDER, ORDER TO SHOW CAUSE, AND NO-TRANSFER ORDER

Upon the Emergency Petition of Petitioner Mamadou Sanoussy Diallo, and the supporting exhibits, it is **ORDERED** that:

No-Transfer: Respondents are **ENJOINED** from transferring Petitioner from Broome Federal Detention Center, Binghamton, or outside the Northern District of New York without prior leave of this Court.

Production: Within **48 hours**, Respondents shall file and serve: (a) all documents related to Petitioner's arrest and detention, including any **administrative warrant(s)** (I-200/I-205), any **parole termination** or revocation, and custody classification records; and (b) a declaration explaining the legal authority for Petitioner's detention.

Show Cause: Respondents shall **SHOW CAUSE** on _____, 2026, at : __.m., why the writ should not issue and why Petitioner should not be released or afforded a prompt, lawful **§ 1226(a)** custody hearing with the **government bearing the burden** and issuing **written reasons**.

Interim Relief: Pending further order, Respondents shall ensure Petitioner has reasonable **access to counsel** (including confidential legal calls/visits).

The Clerk shall serve this Order pursuant to Fed. R. Civ. P. 4(i) and local practice.

SO ORDERED this ____ day of _____, 2026.

United States District Judge

