IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

LEONEL ANTONIO ORDONEZ LUNA;

JUAN FERNANDO PINEDA JIMENEZ;

Petitioners,

v.

MICHAEL BALL,
In his official capacity as Acting Deputy Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement;

DAVID VENTURELLA,
In his official capacity as Acting Director, U.S. Immigration and Customs Enforcement;

MARKWAYNE MULLIN ,
In her official capacity as U.S. Attorney General;

TODD BLANCHE,
In his official capacity as Acting Secretary of Homeland Security,

Respondents.

Civil Action No. 9:26-cv-1227 (ECC/PJE)

Immigration Nos.:
[redacted]
(Ordonez Luna)
(Pineda Jimenez)

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

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PRELIMINARY STATEMENT

1. This matter involves two Niacaraguan citizens who were arbitrarily and unlawfully detained, without warrants, this morning in the Syracuse area. Mr. Leonel Ordonez Luna, ("Mr. Ordonez"), an asylum seeker from Nicaragua who entered the United States on March 2, 2020 without inspection, was detained by Respondents and released to pursue his asylum claim. Mr. Fernando Pineda Jimenez is a Nicaraguan citizen who entered the United States on July 15, 2022 without inspection, was detained by Respondents and released to pursue his asylum claim. Both of these noncitizens were arbitrarily and unlawfully re-detained without a pre-deprivation hearing this morning, June 13, 2026, at or near Syracuse, New York. ICE detained them, upon information and belief, without a warrant, after a traffic stop in the Syracuse area. Respondents will purport to hold Petitioners under 8 U.S.C. § 1225(b)(2)(A) and/or 8 U.S.C. § 1226(a) and will likely assert that they are, therefore, not entitled to due process or a bond hearing. However, Petitioners have a liberty interest that attached when they were previously released into the community after being deemed to be not a flight risk nor a danger to the community, and Respondents' arbitrary re-detention of Petitioners without due process violates their rights. Petitioners challenge the legality of their present detention and ask this Court to enjoin Respondents from moving them outside of the jurisdiction or deporting them pending resolution of these matters.

FACTS

2. Petitioner Leonel Antonio Ordonez Luna ("Ordonez") is a native and citizen of Nicaragua.

3. Ordonez resides in the Oswego area and has a wife who is disabled [redacted] and cannot work. He is the sole provider for his three children.

4. Ordonez entered the United States on or about March 2, 2020, without inspection, and was immediately detained.

5. Ordonez went through the credible fear process, was determined to have a credible fear of return to Nicaragua due to persecution, and was subsequently released by Respondents to pursue his asylum claim, after Respondents determined that he poses neither a flight risk nor a danger to the community.

6. Ordonez has resided continuously in the U.S. since March 2020 and has attended all of his immigration court appearances. He is currently awaiting final adjudication of his case.

7. Petitioner Fernando Pineda Jimenez ("Pineda") is a native and citizen of Nicaragua.

8. Pineda entered the United States on July 15, 2022 at or near Yuma, Arizona and was subsequently released from custody to pursue his asylum claim, after Respondents determined that he poses neither a flight risk nor a danger to the community.

9. Pineda has resided continuously in the U.S. since July 2022 and has attended all of his immigration court appearances. He is also awaiting final adjudication of his case.

10. This morning, Petitioners were re-detained by Respondents after a traffic stop.

11. Upon information and belief, the traffic stop was premised on racial profiling and was not targeted specifically against Petitioners.

12. Upon information and belief, no warrant for the arrest of Petitioners was issued prior to their arrests.

13. Upon information and belief, no final custody determination had been made before or contemporaneously with the arrest. Instead, ICE arrested Petitioners first and chose to make a post-hoc detention determination.

14. Upon information and belief, at the time of the seizure, agents did not present a judicial warrant.

15. Upon information and belief, the ICE agents did not present Respondents with any administrative arrest warrant before restraining their liberty.

16. Upon information and belief, no neutral decisionmaker made any pre-deprivation determination that Petitioners were a danger or flight risk.

17. No DHS officer gave Petitioners a meaningful opportunity to contest detention or to demonstrate that release on bond, recognizance, parole, or conditions would adequately ensure appearance and community safety.

18. Upon information and belief, the ICE agents did not provide Petitioners with any contemporaneous written custody determination before or at the time of his arrest.

19. Upon information and belief, the ICE agents did not provide Petitioners with any meaningful opportunity to be heard before depriving him of his liberty.

20. If Respondents later produce a Form I-200 or other administrative warrant, Petitioner pleads in the alternative that Respondents must prove the document was issued before the arrest by an authorized officer, was operative at the moment Petitioners were seized, was properly served or disclosed, and corresponds to the statutory basis Respondents now invoke.

21. Later-generated paperwork cannot retroactively create lawful authority that was absent at the moment of arrest.

22. Petitioners were not arrested at the border, at a port of entry, or shortly after entering the United States.

23. Upon information and belief, Respondents will attempt to detain Petitioner under a categorical no-bond theory, including 8 U.S.C. § 1225(b) and/or Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (B.I.A. 2025).

24. That theory is foreclosed in this Circuit by Cunha and repeatedly rejected in this District by Mendez, Aguiar Olivares, Gaspar, Perez, Martins, and related NDNY decisions.

25. If Respondents instead claim that Petitioners are detained under 8 U.S.C. § 1226(a), then Respondents were required to make a contemporaneous, individualized custody determination and provide the procedures required by the statute, regulations, and Due Process Clause before or at the time they deprived him of liberty.

26. If Respondents claim that Petitioners are subject to detention under any other statutory framework, Respondents must produce the complete administrative record, including all charging documents, custody documents, warrants, notices, removal orders, reinstatement documents, and any documents purporting to authorize his arrest or detention.

27. Petitioner is currently in ICE custody within the Northern District of New York.

28. Because ICE may transfer Petitioners at any moment, emergency relief is necessary to preserve this Court's jurisdiction and ensure meaningful habeas review.

29. Also, ICE is likely to imminently move Petitioners out of this judicial district.

30. Without relief from this Court, Petitioners face the prospect of months, or even years, in immigration custody, or of being deported without having an opportunity to pursue due process.

31. The immigration court system has been compromised by the firings of roughly half of all immigration judges nationwide and by an immense amount of pressure placed upon the remaining judges to swiftly deport noncitizens without giving them due process.

32. Accordingly, Petitioners seek a writ of habeas corpus. Petitioners challenge the constitutionality of their present detention and ask this Court to enjoin Respondents from moving them outside of the jurisdiction or deporting them pending resolution of this matter. Further, Petitioners request an order requiring their immediate release.

THE PARTIES

33. Petitioners are detained in the custody of ICE. They are being held at the ICE Syracuse Suboffice or another facility in the Northern District of New York, under the auspices of the Acting Deputy Field Office Director based at the Buffalo Federal Detention Facility (BFDF) in Batavia, New York, which is a suboffice of the Buffalo, NY ICE Enforcement and Removal Operations (ERO) office. Petitioners' custody and governmental actions related to their removal are likewise controlled by the Buffalo Field office of ICE.

34. Respondent Michael Ball is the Buffalo, NY Acting Deputy Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F,3d 688, 690 (lst Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Ball's office is at 250 Delaware Avenue, Floor 7, Buffalo, NY 14202 and/or at the Buffalo Federal Detention Facility, 4250 Federal Drive, Batavia, NY 14020.

35. Petitioners' custody and the governmental actions related to his potential removal from the district are likewise controlled by Respondents Venturella, Mullin, and Blanche.

CUSTODY

36. Petitioners are in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). The Deportation Officer responsible for their case is stationed at the Buffalo Federal Detention Facility ("BFDF"). The Petitioner is under the direct care, custody and control of Respondents and their agents.

JURISDICTION & VENUE

I. SUBJECT MATTER JURISDICTION

37. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

38. This Court has jurisdiction under 28 U.S.C, § 2241, Art. I, § 9, el. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

39. 8 U.S.C. §§ 1252(e)(3), 1252(g), and 1252(b)(9) do not bar the Court from exercising jurisdiction over a habeas corpus petition for a non-citizen detainee. *Lieogo v. Freden, et al.*, No. 6:25-CV-06615 EAW, 2025 WL 3290694 (W.D.N.Y. Nov. 26, 2025); see also *Mahdawi v. Trump*, 136 F.4th 443, 450 (2d Cir. 2025) (holding that unlawful detention claims are collateral to removal process and fall outside § 1252(g)'s narrow jurisdictional bar); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) ("§ 1252(b)(9) does not present a jurisdictional bar where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined." (cleaned up)); *Jennings v. Rodriguez*, 583 U.S. 281, 295 n.3 (2018) ("The question is not whether detention is an action taken to remove an alien but whether the legal questions in this

case arise from such an action. . . . [T]hose legal questions are too remote from the actions taken to fall within the scope of § 1252(b)(9).").

II. PERSONAL JURISDICTION

40. This Court has personal jurisdiction over Petitioners' immediate custodian (who is physically within the district).[1]

III. VENUE

41. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.484, 493-500 (1973), venue lies in the United States District Court for the Northern District of New York, the judicial district in which Petitioners are being detained. Petitioners are being detained by Respondents in the Northern District and their detention falls under the jurisdiction of the ICE Field Office of Buffalo, New York, which encompasses the area where Petitioners are being detained, pursuant to 28 U.S.C. § 1391.

CLAIMS FOR RELIEF

COUNT 1: VIOLATION OF DUE PROCESS

42. Petitioners re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

43. 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

[1] Petitioner asserts this Court has personal jurisdiction over the additional Respondents, however, in the interests of brevity, the Petitioner will brief this if (1) any governmental acts challenged herein are found to relate to those Respondents (instead of the immediate custodian) and (2) the Government seeks to argue against personal jurisdiction.

heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

44. Petitioners have a fundamental interest in liberty and being free from official restraint.

45. The government's arbitrary re-detention of Petitioners, after them being released on their own recognizance and/or on parole, violates due process, given that they have a substantial liberty interest.

COUNT 2: VIOLATION OF THE INA

46. Petitioners re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

47. The re-detention of Petitioners without a warrant as required under the INA, and potentially under a section of law that does not legally authorize their detention, violates the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that the Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Prevent the Petitioners' removal outside of this judicial district until this action is decided;

(3) Issue a temporary stay of Petitioners' removal until this action is decided;

(4) Issue a writ of habeas corpus requiring that Respondents release Petitioners immediately, and not re-detain Petitioners without a pre-deprivation hearing with adequate advance notice;

(5) Award Petitioners' attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

(6) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners' rights under U.S. and international law.

Dated: June 13, 2026

/s/ Matthew K. Borowski

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