

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KEVIN JOSUE HERNANDEZ,

Petitioner,

- against -

JOSEPH McELROY, Superintendent, Orange  
County Correctional Facility; TODD LYONS,  
Director of U.S. Immigration and Customs  
Enforcement; KRISTI NOEM, U.S. Secretary of  
Homeland Security; PAMELA BONDI, Attorney  
General of the United States,

Respondents.

**No. 26 Civ. 127 (JLR)**

**STIPULATION AND  
~~PROPOSED~~ ORDER**

WHEREAS, petitioner Kevin Josue Hernandez (“Mr. Hernandez”), a noncitizen detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Orange County Jail in Goshen New York while his removal proceedings are pending, brought this habeas action under 28 U.S.C. § 2241 seeking an order from this Court preventing ICE from transferring him to a different detention facility or a facility outside the Southern District of New York while the habeas action is pending;

WHEREAS, while he is detained at Orange County Jail, Mr. Hernandez is seeking to marry his fiancée, and ICE has approved Mr. Hernandez’s request to marry his fiancée while in detention;

WHEREAS, it is the government’s position that ICE has broad discretion concerning where to detain noncitizens pending removal proceedings, and decisions concerning detention location often involve considerations of availability of bedspace and detainee risk classification, among other factors; and

WHEREAS, based on the specific facts and circumstances of this case, and without conceding the merits of the case, and without waiver or prejudice to the government's ability to defend its detention authority in other similar or dissimilar cases, and in the interests of preserving party and judicial resources and expediting the resolution of this case, ICE agrees to keep Mr. Hernandez at the Orange County Jail at least until the marriage ceremony takes place; therefore

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, that:

1. This action shall be and hereby is dismissed without prejudice and without costs or attorney's fees to either party.
2. ICE agrees that Mr. Hernandez will remain detained at the Orange County Jail in Goshen, New York, at least until the marriage to his fiancée takes place.
3. The Court shall retain jurisdiction to enforce compliance with this stipulation and order.
4. The government has agreed to take this action based on the specific facts and circumstances presented in this matter, and nothing in this stipulation shall be construed as an admission of liability or wrongdoing by the government, or a concession of any rights or arguments by the government or by the petitioner; nor shall it be construed to require the government to agree to similar requests for any other noncitizen in similar or dissimilar circumstances, and this agreement shall in no way be used to undermine the government's litigation position in any other case.

*[remainder of page intentionally left blank]*

Princeton, New Jersey  
January 28, 2026

LAW OFFICE OF SUSAN G. ROY, LLC  
*Attorney for Petitioner*


/s/ Susan G. Roy<sup>1</sup>  
Susan G. Roy, Esq.  
163 Cranbury Road, Suite 101  
Princeton, New Jersey 08550  
Tel. (609) 716-7400

New York, New York  
January 28, 2026

JAY CLAYTON  
United States Attorney for the  
Southern District of New York  
*Attorney for Respondents*

/s/ Brandon M. Waterman  
Brandon M. Waterman, Esq.  
Assistant United States Attorney  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel. (212) 637-2743

SO ORDERED:

  
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HON. JENNIFER L. ROCHON  
UNITED STATES DISTRICT JUDGE

Dated: January 29, 2026  
New York, New York

<sup>1</sup> Consent for signature obtained pursuant to S.D.N.Y. ECF Rule 8.5(c)