

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/new-york-immigrant-family-unity-project-lays-groundwork-for-constitutional-victory>

Public Facing Advocacy Writing

A recent decision by the United States Court of Appeals for the Second Circuit established that an immigrant is constitutionally entitled to a bond hearing within six months of being detained and must be released on bond unless the government provides compelling evidence that he or she is a flight risk or danger to the community. This important decision was the result of representation provided by the groundbreaking New York Immigrant Family Unity Project ([NYIFUP](#)), the first government-funded universal representation project in the United States for detained immigrants facing deportation.

[Research shows](#) that the two most important variables affecting the ability to win an immigration case are being free from detention and having representation. Despite facing the significant possibility of permanent exile from the United States, immigrants in deportation proceedings are not constitutionally entitled to a lawyer if they are unable to afford one. As a result, most detained immigrants are [unrepresented](#). This invariably leads to people being deported who had a right to remain in the country and to serious inefficiencies in the immigration court proceedings.

Vera's Center for Immigration and Justice has long championed the provision of counsel in immigration proceedings and is a founder of [NYIFUP](#), together with the [Immigration Justice Clinic of Cardozo Law School](#), the [Northern Manhattan Coalition for Immigrant Rights](#), the [Center for Popular Democracy](#), and [Make the Road New York](#). Funded by the New York City Council and the New York State Assembly, NYIFUP [provides representation for all indigent detained people](#) in deportation proceedings at the Varick Street Immigration Court, and a portion of people at the Elizabeth, NJ; Ulster, NY; and Batavia, NY immigration courts. This innovative program increases the chances that immigrants will win their cases by [1,000 percent](#).

NYIFUP attorneys are able to advance legal arguments that are beyond the capabilities of most unrepresented immigrants. That is exactly what happened in *Lora v. Shanahan*, the recently decided Second Circuit case, after nearly two years of petitions and appeals. Alexander Lora was detained at the Hudson County (NJ) Correctional Center pursuant to an immigration statute that mandates detention without bond for people with most criminal convictions. Because he was the primary caretaker for his two-year-old son, the boy was placed in foster care while Mr. Lora was detained.

Mr. Lora was denied a bond hearing in immigration court, leading his NYIFUP attorneys at [Brooklyn Defender Services](#) to file a petition for a federal writ of habeas corpus contesting his prolonged detention. The federal District Court and then the Court of Appeals ruled that failure to grant him a bond hearing was a denial of due process. Since being [released](#), Mr. Lora has regained custody of his son and found work.

In November alone, NYIFUP attorneys at Brooklyn Defender Services were able to help 10 additional clients obtain release under *Lora*. Without the representation provided by NYIFUP, neither Mr. Lora nor the other NYIFUP clients would likely have been released from detention. Because NYIFUP has been replicated only in New Jersey, there is a pressing need to expand government-funded representation nationwide so that others like Mr. Lora can have their rights protected, and their families and communities left intact.

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