UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YOK

JOSE LUIS ROJAS FIGUERA,

Petitioner,

v.

Anthony J. LAROCCO, in his official capacity as Sherrif of Nassau County, William JOYCE, in his official capacity as Disrict Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Atttorney General.

Respondents.

Case No. 2:25-cv-03095

PETITIONER'S RESPONSE TO ORDER TO SHOW CAUSE AS TO VIABILITY OF APA CLAIMS AFTER *TRUMP v. J.G.G.*

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INTRODUCTION

Petitioner Jose Rojas Figuera is a 20-year-old Bronx resident and recent high school student who has challenged both his sudden redetention by Respondents on June 2, 2025 and the broader courthouse detention policy that led to Respondents to detain him. Respondents' actions stemmed from a major policy shift commenced in May 2025: pursuant to a new policy, immigration authorities are pursuing large-scale dismissals of removal proceedings followed by detentions at immigration courthouses across the country, without individualized review of each person impacted and without consideration of important factors and effects relevant to their new policy. Mr. Rojas has pled two claims. The first, under due process, challenges his confinement and the procedures governing his confinement, and the second under the Administrative Procedure Act challenges Respondents' newly commenced policy. *See* Amended Petition (filed June 18, 2025). On June 5, 2025, this Court ordered Petitioner to explain whether his claims under the Administrative Procedures Act (APA) should be dismissed in light of the Supreme Court's recent decision in *Trump v. J.G.G.,* 145 S. Ct. 1003 (2025). The answer is no for several reasons.

First, *J.G.G.'s* holding—that challenges under an eighteenth-century wartime statute, the Alien Enemies Act, must proceed through habeas—stems from statutory limitations specific to the that statute. The Court's decision contains no indication that it intended to extend this restriction beyond the Alien Enemies Act context or disturb the established principle that habeas and APA claims may coexist.

Second, even if J.G.G. has implications beyond the AEA context, its reach remains limited. At most, it stands for the proposition that habeas displaces core habeas claims while preserving any other remaining claims, including APA claims. Here, Petitioner challenges

Respondents' new policy of conducting mass dismissals and detentions without individualized consideration or due process safeguards. Because Petitioner seeks declaratory relief as to that policy—relief that falls outside the core of habeas—his claims remain cognizable under the APA even after *J.G.G.*

ARGUMENT

I. *J.G.G.* Focused Exclusively on the Unique Statutory Limitations of the Alien Enemies Act and Thus Does Not Control This Case.

First, the Supreme Court's per curiam holding in *Trump v. J.G.G.,* 145 S. Ct. 1003 (2025) is narrowly confined to habeas petitioners challenging actions under the Alien Enemies Act (AEA), 50 U.S.C. 21 et seq. Faced with a challenge by noncitizens subject to that statute, the Court determined that the petitioners could not proceed under the APA due to statutory jurisdictional limitations specific to the AEA. The Court's precise language emphasizes this limitation: "[c]hallenges to removal *under the AEA*, a statute which largely preclude[s] judicial review...must be brought in habeas." *J.G.G.*, 145 S. Ct. at 1005 (emphasis added); *see id.* at 1007 (dissent) (characterizing the majority as holding that "legal challenges to an individual's removal under the Alien Enemies Act must be brought in habeas petitions in the district where they are detained"). This conclusion flows directly from the Court's established precedent recognizing the AEA as an exceptional statute that precludes nearly all judicial review and renders Executive power as "unlimited as the legislature could make it." *J.G.G.*, 145 S. Ct. at 1005 (citing *Ludecke v. Watkins*, 335 U.S. 160, 164 (1948)). Invocation of the AEA also rests on a presidential proclamation—by its nature insulated from APA review. *Franklin v. Massachusetts*, 505 U.S.

788, 796 (1992).[1] Notably, the Supreme Court did not address the Immigration and Nationality Act, which governs Petitioner's removal proceedings, or any other statutory framework in its decision.

The Court cited *Heikkila v. Barber*, 345 U.S. 229 (1953), a case challenging removal "under immigration statutes that 'preclud[ed] judicial intervention' beyond what was necessary to vindicate due process rights." *Id.* However, those immigration statutes *preceded* the Immigration and Nationality Act of 1952, which expanded the scope of judicial review and subsequently allowed for both APA and habeas review. *See Shaughnessy v. Pedreiro*, 349 U.S. 48, 49-52 (1955) (APA's "generous review" provisions applied in immigration challenges); *Brownell v. We Shung*, 352 U.S. 180, 181 (1956) (habeas and APA both available).

While certain types of challenges to immigration removal orders under the INA have been channeled into the petitions for review process following the INA of 1961, APA review remains available where not specifically precluded by statute. *See Dep't of Homeland Sec. v. Regents of the Univ. of Calif.*, 591 U.S. 1, 16-17 (2020) ("The APA establishes a 'basic presumption of judicial review [for] one suffering legal wrong because of agency action.'") (quoting *Abbot Lab'ys v. Gardner*, 387 U.S. 136, 140 (1967)); *see also Darby v. Cisneros*, 509 U.S. 137, 146 (1993); *Bowen v. Massachusetts*, 487 U.S. 879, 903 (1988). The Second Circuit has held the same. *Larson v. United States*, 888 F.3d 578, 588 (2d Cir. 2018). This is true even in the immigration context. *See Sharkey v. Quarantillo*, 541 F.3d 75, 84 (2d Cir. 2008) ("[w]e begin

[1] The case also presented a venue concern which is not present here, where habeas and APA claims are pled together in the district of confinement. The petitioners in *J.G.G.* had ceded their habeas claims before the district court, leaving *only* APA claims at issue in the District of Columbia. The D.C. Circuit has long recognized in an analogous context that "the availability of a habeas remedy in another district oust[s] us of jurisdiction over an alien's effort to pose a constitutional attack on his pending deportation by means of a suit for declaratory judgment." *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir.1996).

with the strong presumption that Congress intends judicial review of administrative action.") (quoting *Bowen,* 476 U.S. at 670).

Reflecting this strong consensus, courts in this circuit regularly consider APA challenges pled in habeas cases. *See, e.g.*, *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020) (finding likelihood of success in class action raising both APA and habeas claims against the detention policies of ICE field office); *L.V.M. v. Lloyd*, 318 F. Supp. 3d 601, 608–09 (S.D.N.Y. 2018); *You, Xiu Qing v. Nielsen*, 321 F. Supp. 3d 451, 468 (S.D.N.Y. 2018); *Calderon v. Sessions*, 330 F. Supp. 3d 944, 958 (S.D.N.Y. 2018); *Ceesay v. Kurzdorfer*, --- F.Supp.3d. ---, No. 25-CV-267-LJV, 2025 WL 1284720, at *14, n. 20 (W.D.N.Y. May 2, 2025); *Gonzalez Evangelista v. Decker*, No. 20 CIV. 8758 (AKH), 2021 WL 101201, at *1 (S.D.N.Y. Jan. 12, 2021).

Likewise, the Supreme Court has on multiple occasions considered cases brought by detained noncitizens raising various APA, statutory and constitutional claims, even concurrently with habeas. *See Reno v. Flores*, 507 U.S. 292, 299-301 (1993); *Jean v. Nelson*, 472 U.S. 846, 849-50 (1985); *Nielsen v. Preap*, 586 U.S. 392, 401 (2019). Nothing in *J.G.G.* disturbs the reasoning of those cases, as the Supreme Court was solely addressing the scope of review in the AEA context.

Were it otherwise, such a sweeping change in jurisprudence would have been made explicitly, along with the necessary *stare decisis* analysis or at least it would have reconciled such a broad holding with prior cases that permit concurrent habeas and APA claims. *See generally Gamble v. United States*, 587 U.S. 678, 691 (2019) (emphasizing that "a departure from precedent demands special justification") (cleaned up). Instead, the Court's limited analysis—on its emergency docket, no less—strongly suggests a narrower holding confined to

the AEA's specific statutory framework. *Woman's Health v. Jackson*, 141 S. Ct. 2494, 2497 (2021) (Roberts, C.J., dissenting) (explaining emergency docket's limited role in settling novel legal questions).

Because the Supreme Court's holding in *J.G.G.* is limited to the AEA context, it does not bar Petitioner's APA claim.

II. Even if *J.G.G.* signaled a retreat in habeas and APA jurisprudence, claims that do not sound in "core habeas" remain reviewable under the APA.

Alternatively, even if *J.G.G.* has some bearing on APA claims beyond the AEA context, its impact remains circumscribed by well-established precedent. It is black-letter law that habeas remedies displace other legal claims only when success in the non-habeas action would "necessarily vitiate the legality of ... confinement." *J.G.G. v. Trump*, No. CV 25-766 (JEB), 2025 WL 1577811, at *13 (D.D.C. June 4, 2025). Under this rule, habeas controls challenges to the fact or duration of detention but preserves non-habeas challenges to inadequate detention procedures. *See Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005) (rejecting claim that challenges to unfavorable parole determinations had to be brought in habeas because success "means at most" a new hearing); *see also Edwards v. Balisok*, 520 U.S. 641, 648 (1997) (noting that challenger's request for an injunction against future allegedly unconstitutional procedures could be challenged outside of habeas).

The APA challenge brought by Petitioner, alleging that Respondents' courthouse arrest policy is unlawful, falls squarely within the ambit of *Wilkinson*. The core of Petitioner's APA claims reach Respondents' new policy, implemented in May, of moving to dismiss cases en masse and then detaining individuals like Jose. He asks that this policy be declared arbitrary and capricious as it fails to consider the individual circumstances of petitioner or others impacted and

other crucial factors. Such a finding would not necessarily lead to his release. Instead, declaring such acts unlawful would prevent Respondents from again taking the same action against Petitioner, if it orders his release under his habeas claim.

Raspoutny v. Decker, 708 F. Supp. 3d 371 (S.D.N.Y. 2023) does not demand a contrary result. There, the petitioner sought habeas and APA relief after ICE arrested him outside a New York State courthouse. *Id.* at 376. Although he pled a claim for APA relief, he did not distinguish the legal basis or remedies sought through that claim. The court was left to construe his parallel APA and habeas claims as seeking identical relief: release or a "new bond hearing." *Id.* at 379. The district court dismissed the APA claims on two narrow grounds: (i) no statute specifically authorized review of ICE's streetside arrest, and (ii) in any event, habeas relief would fully afford Raspoutny a "new bond hearing."

This reasoning represents a straightforward application of *Wilkinson* in that the district court recognized that the unlawful action challenged under the APA (the constitutional inadequacy of his bond hearing) fell squarely within the core of Raspoutny's parallel habeas claim. By contrast, where distinct relief is sought, the Second Circuit has expressly held that habeas review does not supplant the APA. *Sharkey*, 541 F.3d at 90; *see also Valez-Chavez v. McHenry*, 549 F. Supp. 3d 300, 305 (S.D.N.Y. 2021). Accordingly, *Raspoutny* does not stand for the broader, sweeping proposition that habeas and APA relief are fundamentally incompatible in the non-AEA context, particularly where distinct APA claims remain after the core habeas claim is resolved.

CONCLUSION

For the foregoing reasons, Petitioner's APA claims should not be dismissed.

Dated: June 18, 2025

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CERTIFICATE OF SERVICE

I certify that on June 18, 2025, I electronically filed the attached the foregoing Petitioner's Response to Court Order to Show Cause with the Clerk of the Court for the United States District Court for the Eastern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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