UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OUSMANE SAVANE,

Petitioner,

v.

LADEON FRANCIS, *et al.*,

Respondents.

Case No. 25 Civ. 6666 (GHW)

RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION TO THE PETITION FOR WRIT OF HABEAS CORPUS

JAY CLAYTON
United States Attorney
Southern District of New York
86 Chambers St., 3rd Floor
New York, New York 10007
Telephone: 212-637-2810
Facsimile: 212-637-2786
Attorney for Respondents

REBECCA L. SALK
Assistant United States Attorney
Of Counsel

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

BACKGROUND 2

A. Petitioner's Immigration History 2

B. Legal Background for Aliens Seeking Admission to the United States 4

ARGUMENT 5

I. PETITIONER'S CHALLENGES TO HIS DETENTION FAIL 5

A. Petitioner is Lawfully Detained Pursuant to Section 1225(b) and Is Not Entitled to a Bond Hearing 5

B. Petitioner's Due Process Rights Have Not Been Violated 10

C. Petitioner's Arrest Does Not Violate the Fourth Amendment 12

II. TO THE EXTENT THE COURT DETERMINES SECTION 1226(a) GOVERNS, PETITIONER MAY CHALLENGE HIS DETENTION VIA A BOND HEARING 13

A. Petitioner May Not Challenge His Detention Through a Habeas Petition Before Exhausting His Administrative Remedies 16

III. PETITIONER SHOULD NOT BE RELEASED PENDING ADJUDICATION OF THE PETITION 19

CONCLUSION 22

TABLE OF AUTHORITIES

Cases

Abbey v. Sullivan,
978 F.2d 37 (2d Cir. 1992) 17

Abel v. United States,
362 U.S. 217 (1960) 12

Araujo-Cortes v. Shanahan,
35 F. Supp. 3d 533 (S.D.N.Y. 2014) 16

Bastek v. Federal Crop Ins. Corp.,
145 F.3d 90 (2d Cir. 1998) 17

Beharry v. Ashcroft,
329 F.3d 51 (2d Cir. 2003) 17

Calley v. Callaway,
496 F.2d 701 (5th Cir. 1974) 20

Capunay Guzman v. Joyce,
25 Civ. 4777 (RA), 2025 WL 1696891 (S.D.N.Y. June 17, 2025) 18

Carlson v. Landon,
342 U.S. 524 (1952) 12, 15

Castaneda-Castillo v. Holder,
638 F.3d 354 (1st Cir. 2011) 20

Castillo Lachapel v. Joyce,
No. 25 Civ. 4693 (JHR), 2025 WL 1685576 (S.D.N.Y. June 16, 2025) 16, 18, 20

Ceballos v. Ridge,
No. 04 Civ. 7304 (LAK), 2004 WL 2849604 (S.D.N.Y. 2004) 16

Chipantiza-Sisalema, v. Francis,
No. 25 Civ. 5528 (AT), 2025 WL 1927931 (S.D.N.Y. July 13, 2025) 18

Cruz-Miguel v. Holder,
650 F.3d 189 (2d Cir. 2011) 14

D.A.V.V. v. Warden, Irwin County Detention Center,
No. 20 Civ. 159 (WLS) (MSH), 2020 WL 13240240 (M.D. Ga. Dec. 7 10

Daum v. Eckert,
No. 20-3354, 2021 WL 4057190 (2d Cir. Sept. 7, 2021) 20

Demore v. Kim,
538 U.S. 510 (2003) 4, 12

DHS v. Thuraissigiam,
591 U.S. 103 (2020 ..... 6, 7, 10

Diaz v. McElroy,
134 F. Supp. 2d 315 (S.D.N.Y. 2001) 17

Elkimya v. DHS,
484 F.3d 151 (2d Cir. 2007) 20

Foster v. INS,
376 F.3d 75 (2d Cir. 2004) 16

Gomes v. Hyde,
No. 25 Civ. 11571 (JEK), 2025 WL 1869299 (D. Mass. July 7, 2025) 16

Gonzales Garcia v. Rosen,
No. 19 Civ. 6327 (EAW), 513 F. Supp. 3d 329 (W.D.N.Y. 2021) 10

Guitard v. United States Sec'y of Navy,
967 F.2d 737 (2d Cir. 1992) 16

Guzman v. Tippy,
130 F.3d 64 (2d Cir. 1997) 10

Howell v. I.N.S.,
72 F.3d 288 (2d Cir. 1995) 16

Illarramendi v. United States,
906 F.3d 268 (2d Cir. 2018) 20

Jabarah v. Garcia,
No. 08 Civ. 3592 (DC), 2010 WL 3834663 (S.D.N.Y. Sept. 30, 2010) 20

Jennings v. Rodriguez,
583 U.S. 281 (2018) ..... passim

Johnson v. Guzman Chavez,
594 U.S. 523 (2021) 14

Landano v. Rafferty,
970 F.2d 1230 (3d Cir. 1992) 20

Landon v. Plasencia,
459 U.S. 21 (1982) 7, 11

Lopez Benitez v. Francis,
No. 25. Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) 7, 18

Mapp v. Reno,
241 F.3d 221 (2d Cir. 2001) 4, 19, 21

Matter of Barreiros,
10 I. & N. Dec. 536 (BIA 1964) 15

Matter of Cabrera-Fernandez,
28 I. & N. Dec. 747 (BIA 2023) 14

Matter of D-J-,
23 I. & N. Dec. 572 (A.G. 2003) 13, 15

Matter of Guerra,
24 I. & N. Dec. 37 (BIA 2006) 14, 15

Matter of Q. Li,
29 I. & N. Dec. 66 (BIA 2025) 17, 18

Mendez Ramirez v. Decker,
612 F. Supp. 3d 200 (S.D.N.Y. 2020) 10, 12

Nielsen v. Preap,
586 U.S. 392 (2019) 13

Ortega-Cervantes v. Gonzales,
501 F.3d 1111 (9th Cir. 2007) 14

Ozturk v. Trump, __ F. Supp. 3d ___,
2025 WL 1420540 (WKS) 19

Poonjani v. Shanahan,
319 F. Supp. 3d 644 (S.D.N.Y. 2018) 10

Prins v. Coughlin,
76 F.3d 504 (2d Cir.1996) 20

Reid v. Decker,
No. 19 Civ. 8393 (KPF), 2020 WL 996604 (S.D.N.Y. Mar. 2, 2020) 20

Reno v. Flores,
507 U.S. 292 (1993) 12

Rojas-Garcia v. Ashcroft,
339 F.3d 814 (9th Cir. 2003) 16

Salim v. Tryon,
No. 13 Civ. 6659 (JTC), 2014 WL 1664413 (W.D.N.Y. Apr. 25, 2014) 11

Samb v. Joyce,
No. 25 Civ. 5373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) 18

Shaughnessy v. United States ex rel. Mezei,
345 U.S. 206 (1953) ..... passim

Stolfa v. Holder,
498 F. App'x 58 (2d Cir. Aug. 16, 2012) 20

Thompson v. Choinski,
525 F.3d 205 (2d Cir. 2008) 20

U.S. ex rel. Knauff v. Shaughnessy,
338 U.S. 537 (1950) 7, 8, 10

United States ex rel. Kordic v. Esperdy,
386 F.2d 232 (2d Cir. 1967) 7

United States v. Gonzalez-Roque,
301 F.3d 39 (2d Cir. 2002) 18

United States v. Lui Kin-Hong,
83 F.3d 523 (1st Cir. 1996) 20

United States v. Mett,
41 F.3d 1281 (9th Cir. 1994) 20

Valdez v. Joyce,
25 Civ. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) 18

Velasco Lopez v. Decker,
978 F.3d 842 (2d Cir. 2020) 4, 12, 15

Wong Wing v. United States,
163 U.S. 228 (1896) 12

Zadvydas v. Davis,
533 U.S. 678 (2001) 7, 11

Statutes

8 U.S.C. § 1101(a)(13)(A) 4

8 U.S.C. § 1101(b)(4) 9

8 U.S.C. § 1158(a) 9

8 U.S.C. § 1182(a)(6) 5

8 U.S.C. § 1182(a)(6)(A)(i) 2

8 U.S.C. § 1182(d)(5)(A) 5, 9, 12

8 U.S.C. § 1225(a)(1) 4

8 U.S.C. § 1225(a)(3) 4

8 U.S.C. § 1225(b) 1, 3, 4

8 U.S.C. § 1225(b)(2)(A) ..... passim

8 U.S.C. § 1226 ..... 11, 13

8 U.S.C. § 1226(a)(1) 13

8 U.S.C. § 1226(a)(2) 14

8 U.S.C. § 1226(a)(2)(B) 6, 13, 14

8 U.S.C. § 1226(b) 14

8 U.S.C. § 1229a 5, 8, 9

8 U.S.C. § 1229a(a)(1) 9

8 U.S.C. § 1229a(b)(4)(A) 9

8 U.S.C. § 1229a(b)(4)(B) 9

8 U.S.C. § 1229a(c)(5) 9

8 U.S.C. § 1229a(c)(6) 9

8 U.S.C. § 1231(b)(3) 9

8 U.S.C. § 1252 9

28 U.S.C. § 1254(1) 9

Regulations

8 C.F.R. § 235.1 4

8 C.F.R. § 236.1(c)(8) 13, 14

8 C.F.R. § 1003.19(d) 13, 14

8 C.F.R. § 1003.29 9

8 C.F.R. §§ 212.5(b) 9

8 C.F.R. §§ 236.1(d)(1) 14

8 C.F.R. §§ 236.1(d)(3) 15

8 C.F.R. §§ 1003.1(b) 9

8 C.F.R. §§ 1240.7(a) 9

The Government respectfully submits this memorandum of law in opposition to the amended petition for writ of habeas corpus filed by petitioner Ousmane Savane ("Petitioner") on August 15, 2025. ECF No. 8.

PRELIMINARY STATEMENT

Petitioner is an applicant for admission from Guinea who was apprehended by officers of the U.S. Department of Homeland Security ("DHS") near Tecate, California in January 2024 after he unlawfully entered the United States. Because he is an alien who entered the United States without inspection or admission who was deemed inadmissible at that time, DHS had the discretion either to place Petitioner into removal proceedings under 8 U.S.C. § 1229a, or to issue an expedited removal order. Due to resource constraints, DHS opted at that time to place Petitioner in Section 1229a removal proceedings and release him in the interim on his recognizance.

On August 12, 2025, Petitioner appeared for a master calendar hearing in front of an immigration judge, during which he conceded the charge of removability. U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into custody immediately following that hearing. On August 13, 2025, Petitioner was transferred to Orange County Correctional Facility, where he remains detained pending his removal proceedings.

In this habeas petition, Petitioner asserts that his detention violates his substantive and procedural due process rights under the Fifth Amendment and that his re-arrest is unreasonable and violates the Fourth Amendment. He also argues that his detention pursuant to 8 U.S.C. § 1225(b) ("Section 1225") is unlawful and that he is entitled to release pending adjudication.

The petition should be denied. Because he is an applicant for admission in removal proceedings, ICE maintains that Petitioner is detained under Section 1225(b)(2)(A), and is thus subject to mandatory detention, subject to release on discretionary parole. Under Section

1225(b)(2)(A), Petitioner is not entitled to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

To the extent the Court determines Petitioner is detained under Section 1226(a), he would then be entitled to a bond hearing, if he requests one. In that event, Petitioner must exhaust this administrative remedy available to him before challenging his detention through a habeas petition, as a bond hearing is constitutionally adequate process through which to challenge his detention under §1226(a).

Finally, Petitioner should not be released pending the adjudication of these proceedings because there are no extraordinary circumstances warranting release.

BACKGROUND

A. Petitioner's Immigration History

Petitioner is a native and citizen of Guinea who unlawfully entered the United States on or before January 17, 2024. Declaration of Deportation Officer Jason Mascia, dated August 25, 2025 ("Mascia Decl.") ¶¶ 3, 4. On January 17, 2023, a Border Patrol Officer with the U.S. Customs and Border Protection ("CBP") encountered Petitioner in the vicinity of Tecate, California. *Id.* ¶ 4. Petitioner was arrested and transported to a border patrol facility for processing. *Id.* Petitioner admitted to CBP that he was not inspected by an immigration officer at the time of hist entry. *Id.*

On January 18, 2024, CBP issued and served Petitioner with a Notice to Appear ("NTA"), the charging document used to commence removal proceedings, charging him with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* ¶ 5. After processing, CBP released Petitioner on his own recognizance by issuing him a Form I-220A. *Id.*

On March 14, 2024, ICE filed the NTA with the Executive Office for Immigration Review, thereby commencing removal proceedings against Petitioner. *Id.* ¶ 6. The NTA directed Petitioner to appear for a hearing before an immigration judge on September 17, 2024, in New York, New York. *Id.* On September 17, 2024, Petitioner appeared *pro se* at his first master calendar hearing before an immigration judge in New York, New York. *Id.* ¶ 7. Petitioner was informed of his rights and his case was adjourned to August 12, 2025, to permit him an opportunity to secure counsel. *Id.* Petitioner then filed an application for asylum on December 18, 2024. *Id.* ¶ 8.

On August 12, 2025, Petitioner appeared without counsel for his second master calendar hearing before an immigration judge in New York, New York. *Id.* ¶ 9. During the hearing, Petitioner conceded all charges in the NTA. *Id.* The immigration judge sustained Petitioner's charge of removability. *Id.* Petitioner's case was then set for an individual (i.e., merits) hearing on his application for relief to occur on April 2, 2027. *Id.*

After the August 12 hearing, ICE took Petitioner into custody and escorted him to ICE's processing space at 290 Broadway, New York, New York and detained him under 8 U.S.C. § 1225(b)(2)(A). *Id.* ¶ 10. On August 13, 2025, Petitioner was transferred to Orange County Correctional Facility in Goshen, New York, where he remains detained as of the date of this filing. *Id.* ¶¶ 11-12.

Petitioner filed his habeas petition in this Court on August 12, 2025, ECF No. 1, and filed an amended petition on August 18, 2025, ECF No. 8 (the "Am. Pet."). Petitioner asserts: (1) violations of his substantive due process rights under the Fifth Amendment; (2) violations of his procedural due process rights under the Fifth Amendment; (3) unlawful arrest in violation of

the Fourth Amendment; and (4) unlawful application of 8 U.S.C. § 1225(b). Am. Pet. ¶¶ 51-73. He also maintains that he is entitled to release pending adjudication of this petition pursuant to *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001). *Id.* ¶¶ 74-77.

B. Legal Background for Aliens Seeking Admission to the United States

In the INA, Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. "Detention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)).

Pursuant to 8 U.S.C. § 1225(a)(1), an alien present in the United States who has not been admitted is "deemed . . . an applicant for admission." All applicants for admission are subject to inspection by immigration officers to determine if they are admissible to the United States. *See* 8 U.S.C. § 1225(a)(3). The term "admission" is defined by the INA to mean "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A); *see also* 8 C.F.R. § 235.1 (setting forth inspection procedures).

Section 1225(b)(1) provides for the inspection of aliens arriving in the United States who are applicants for admission. And, relevant here, Section 1225(b)(2)(A) provides for the inspection of all "other" applicants for admission and states that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking

admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 240."[1] 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

ARGUMENT

I. PETITIONER'S CHALLENGES TO HIS DETENTION FAIL

A. Petitioner is Lawfully Detained Pursuant to Section 1225(b) and Is Not Entitled to a Bond Hearing

Petitioner's detention is governed by 8 U.S.C. § 1225, which mandates that he remain in detention during the pendency of his removal proceedings, subject to DHS's discretionary release on parole under 8 U.S.C. § 1182(d)(5)(A). Pursuant to 8 U.S.C. § 1225(b)(2)(A), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240."

In the present case, Petitioner falls squarely within the ambit of Section 1225(b)(2)(A)'s mandatory detention requirement. First, Petitioner is an "applicant for admission" to the United States. As described above, an "applicant for admission" is an alien present in the United States who has not been admitted. 8 U.S.C. § 1225(a)(1). Second, because Petitioner has not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted," his detention is mandatory. 8 U.S.C. § 1225(b)(2)(A). Petitioner cannot demonstrate that he is "clearly and beyond a doubt entitled to be admitted" because, as he is present in the United States without being admitted or paroled, he is inadmissible under 8 U.S.C.

[1] Section 240 of the INA, codified at 8 U.S.C. § 1229a, refers to the full removal proceedings that the Petitioner is currently subject to before the Immigration Court.

§ 1182(a)(6). Accordingly, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which mandates that he "shall be" detained pending removal proceedings.

This reasoning is supported by the Supreme Court. As explained in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), applicants for admission fall into one of two categories: those covered by Section 1225(b)(1) and those covered by Section 1225(b)(2). 583 U.S. at 287. Section 1225(b)(1) applies to aliens arriving in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2), on the other hand, is "broader" and "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here)." *Jennings*, 583 U.S. at 287 (emphasis added). Put another way, while Section 1225(b)(1) applies to aliens "arriving" in the United States, Section 1225(b)(2) applies to all "other" aliens who are applicants for admission—like Petitioner. Simply put, an alien does not lose his "applicant for admission" status simply because he was inspected at a time other than his immediate arrival in the United States. Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See Jennings*, 583 U.S. at 302 ("[Section] 1225(b)(2) … mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.").

Petitioner remains an applicant for admission, notwithstanding his prior release by CBP on his own recognizance pursuant to 8 U.S.C. § 1226(a)(2)(B), which allowed his temporary release from detention. "[A]n alien who tries to enter the country illegally is treated as an 'applicant for admission,' § 1225(a)(1), and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry.'" *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Applicants for

admission are "treated, for constitutional purposes, as if stopped at the border," *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (internal quotation marks omitted), even if they are paroled into the United States for a limited purpose, *see United States ex rel. Kordic v. Esperdy*, 386 F.2d 232, 235 (2d Cir. 1967) ("A 'parolee,' even though physically in the country, is not regarded as having 'entered' and thus has not acquired the full protection of the Constitution.").

Petitioner was released on his own recognizance—i.e., conditional parole pursuant to Section 1226(a)(2)(B)—after his unlawful entry in January 2024. Petitioner's release was subsequently revoked on August 12, 2025, when he was arrested by ICE. His further release pending the resolution of his removal proceedings has not been authorized by ICE, and thus he remains detained. It is ICE's position that, after his rearrest, Petitioner is still considered to be an applicant for admission and his detention is subject to Section 1225(b)(2)(A).[2]

As a result, Petitioner is not entitled to a bond hearing. The Supreme Court "has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (citing cases). Because applicants for admission have not been admitted to the United States, their constitutional rights are truncated: "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (quoting *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)); *see also Thuraissigiam*,

---

[2] Although at least one judge in this District has determined that a similarly situated petitioner's detention was governed by Section 1226 and not Section 1225, *see Lopez Benitez v. Francis*, No. 25. Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025), ICE respectfully disagrees with the Court's decision, and has reserved all rights, including the right to appeal.

591 U.S. at 140 (under the Due Process Clause, applicants for admission have "only those rights regarding admission that Congress has provided by statute"). Here, "the procedure authorized by Congress" in § 1225(b) and related provisions expressly exclude the possibility of a bond hearing. *Mezei*, 345 U.S. at 212.

Among other things, aliens seeking admission may be detained without a bond hearing pending admission or removal. In *Mezei*, the Supreme Court held that an alien's detention at the border without a hearing to effectuate his exclusion from the United States did not violate due process. *Mezei*, 345 U.S. at 206. Mezei arrived at Ellis Island seeking admission into the United States; although he had resided in the United States previously, he had since been "permanently excluded from the United States on security grounds." *Id.* at 207. His home country would not accept him, and he had been detained for more than a year and a half to effectuate his exclusion when he filed a habeas petition seeking release into the United States. *Id.* at 207-08.

The Supreme Court held that Mezei's detention did not "deprive[ ] him of any statutory or constitutional right." *Id.* at 215. The Court reiterated that "the power to expel or exclude aliens" is a "fundamental sovereign attribute exercised by the Government's political departments" that is "largely immune from judicial control." *Id.* at 210. The Court recognized that "once passed through our gates, even illegally," aliens "may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law." *Id.* at 212. "But an alien on the threshold of initial entry stands on a different footing" than an alien within the United States. *Id.* For aliens seeking admission, "[w]hatever the procedure authorized by Congress is, it is due process." *Id.* (quoting *Knauff*, 338 U.S. 544).

The procedure Congress has established for applicants for admission like Petitioner does not include the provision of bond hearings. Instead, for applicants for admission such as Petitioner, "if the examining immigration officer determines that [he] is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240 [8 U.S.C. § 1229a." 8 U.S.C. § 1225(b)(2)(A). That is, Congress has provided that Petitioner shall be detained for removal proceedings before an immigration judge, which afford the alien a host of procedural protections.[3] *See* 8 U.S.C. § 1229a.

But aliens detained under 8 U.S.C. § 1225(b)(2)(A) generally cannot be released from custody during their removal proceedings. The statute mandates detention during the pendency of removal proceedings, and its exclusive means of release for an applicant for admission such as Petitioner is DHS's discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A). *See Jennings*, 583 U.S. at 298-301; 8 U.S.C. § 1182(d)(5)(A) (parole may be granted for "urgent humanitarian reasons or significant public benefit"); 8 C.F.R. §§ 212.5(b), 235.3(c) (elaborating on instances where parole may be appropriate). As the Supreme Court has emphasized, "neither § 1225(b)(1)

---

[3] During removal proceedings, aliens may apply for various forms of relief or protection from removal, such as asylum, withholding of removal, and protection under the Convention Against Torture. *See, e.g.*, 8 U.S.C. § 1158(a); 8 U.S.C. § 1231(b)(3). The decision whether to order such an alien removed is made by an immigration judge (not an immigration officer). 8 U.S.C. § 1101(b)(4); 8 U.S.C. § 1229a(a)(1). Aliens may obtain continuances during their proceedings for good cause. 8 C.F.R. § 1003.29. They have a right to counsel of their choice at no expense to the government, 8 U.S.C. § 1229a(b)(4)(A); the right to testify; and the right to "examine the evidence against [them]," "to present evidence," and "to cross-examine witnesses presented by the Government," 8 U.S.C. § 1229a(b)(4)(B); *see* 8 C.F.R. §§ 1240.7(a), 1240.46(c). Aliens ordered removed may ask the immigration judge to reconsider that determination. 8 U.S.C. § 1229a(c)(6). They are also informed that they have a right to appeal, 8 U.S.C. § 1229a(c)(5), and they may file an appeal with the BIA, 8 C.F.R. §§ 1003.1(b), 1003.38(a). If an alien appeals and the BIA enters a final removal order, the alien may file a petition for review in a court of appeals, 8 U.S.C. § 1252, and thereafter seek review in the Supreme Court, 28 U.S.C. § 1254(1).

nor § 1225(b)(2) says anything whatsoever about bond hearings." *Jennings*, 583 U.S. at 297. Petitioner is therefore lawfully detained pursuant to Section 1225(b) and is not entitled to a bond hearing.

B. Petitioner's Due Process Rights Have Not Been Violated

Because Petitioner is lawfully detained pursuant to Section 1225(b), neither his procedural nor substantive due process rights have been violated. First, with respect to his procedural due process rights, the Supreme Court has made clear that "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Mezei*, 345 U.S. at 212 (citing *Knauff*, 338 U.S. 544); *cf. Guzman v. Tippy*, 130 F.3d 64, 66 (2d Cir. 1997) (the rights of excluded aliens "are determined by the procedures established by Congress and not by the due process protections of the Fifth Amendment").

Indeed, as Judge Sullivan correctly recognized in a similar case (decided after *Jennings*) involving an applicant for admission, "because the immigration statutes at issue here do not authorize a bond hearing, *Mezei* dictates that due process does not require one here." *Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 649 (S.D.N.Y. 2018). This Court has held the same. *See Mendez Ramirez v. Decker*, 612 F. Supp. 3d 200, 220-21 (S.D.N.Y. 2020) (following *Mezei*, holding constitutional due process rights for alien deemed at threshold of entry extended no further than the process outlined by statute). As have other judges. *See, e.g.*, *Gonzales Garcia v. Rosen*, No. 19 Civ. 6327 (EAW), 513 F. Supp. 3d 329, 333-36 (W.D.N.Y. 2021) (applying *Mezei* and *Thuraissigiam* and holding that an applicant for admission is not entitled to procedural protections beyond those provided by statute); *D.A.V.V. v. Warden, Irwin County Detention Center*, No. 20 Civ. 159 (WLS) (MSH), 2020 WL 13240240, at *4-6 (M.D. Ga. Dec. 7, 2020) ("Applying this rule in *Thuraissigiam*, which squares with longstanding Supreme Court precedent, this Court

similarly holds that arriving aliens' procedural due process rights entitle them only to the relief provided by the INA."); *Salim v. Tryon*, No. 13 Civ. 6659 (JTC), 2014 WL 1664413 (W.D.N.Y. Apr. 25, 2014) ("The Due Process Clause provides an inadmissible alien no procedural protection beyond the procedure explicitly authorized by Congress, nor any right to be free from detention pending removal proceedings.").

Moreover, more than a century of precedent from the Supreme Court confirms that applicants for admission are treated differently under the law for due process purposes from other categories of detained aliens. *See, e.g.*, *Zadvydas*, 533 U.S. at 693 ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law."). In the relevant provisions of the INA, Congress has decided to treat applicants for admission differently, in order to effectuate their exclusion from the United States while considering whether to admit them, by holding them in detention during those ongoing proceedings. Unlike admitted aliens placed in removal proceedings and detained under 8 U.S.C. § 1226, applicants for admission are "request[ing] a privilege," *Landon*, 459 U.S. at 32, and therefore "stand[ ] on a different footing," *Mezei*, 345 U.S. at 212-13. Their lack of entitlement to a bond hearing thus flows logically from their lack of admission to the United States in the first instance. Given that the constitutional due process rights of applicants for admission are limited to the process that Congress chooses to provide, Petitioner cannot show that he has suffered a procedural due process violation.

Similarly, Petitioner's claim that his detention violates his substantive due process rights is without merit. For more than a century, the immigration laws have authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to

detain aliens for removal proceedings. *See Demore*, 538 U.S. at 523–26; *Abel v. United States*, 362 U.S. 217, 232–37 (1960) (discussing longstanding administrative arrest procedures in deportation cases). "Detention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez*, 978 F.3d at 848 (citing *Demore*, 538 U.S. at 523); *see Demore*, 538 U.S. at 523 n.7 ("prior to 1907 there was no provision permitting bail for any aliens during the pendency of their deportation proceedings"); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure."). Indeed, removal proceedings "'would be [in] vain if those accused could not be held in custody pending the inquiry into their true character.'" *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *cf. Reno v. Flores*, 507 U.S. 292, 306 (1993) ("Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.").

Again, Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) for the duration of his removal proceedings is mandatory, subject only to the possibility of release on discretionary parole by ICE under 8 U.S.C. § 1182(d)(5)(A). *See Jennings*, 583 U.S. at 298-301. And relevant Supreme Court precedent forecloses any such relief because, again, "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Mezei*, 345 U.S. at 212; *see also Mendez Ramirez*, 612 F. Supp. 3d at 220-21. Petitioner's due process claims should therefore be denied.

C. Petitioner's Arrest Does Not Violate the Fourth Amendment

Petitioner's Fourth Amendment claim, Am. Pet. ¶¶ 64-69, should also be rejected because the Fourth Amendment has no applicability in the context of an arrest in the immigration context. *Abel*, 362 U.S. at 232-37 (discussing longstanding administrative arrest procedures in deportation cases). As the Supreme Court explained in *Abel*, there is "overwhelming historical legislative

recognition of the propriety of administrative arrest for deportable aliens such as petitioner." *Id.* at 233. Here, Petitioner was initially arrested by CBP in January 2024 and released on his own recognizance, *see* 8 U.S.C. § 1226(a)(2)(B), and DHS may revoke such release and return him to custody, *id.* § 1226(b). Accordingly, the Fourth Amendment offers no relief to Petitioner.

II. TO THE EXTENT THE COURT DETERMINES SECTION 1226(a) GOVERNS, PETITIONER MAY CHALLENGE HIS DETENTION VIA A BOND HEARING

Section 1226 "generally governs the process of arresting and detaining [aliens who have already entered the United States] pending their removal." *Jennings*, 583 U.S. at 288. Section 1226(a) provides that "an alien *may* be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a) (emphasis added). The Attorney General and DHS thus have broad discretionary authority to detain an alien during removal proceedings. *See* 8 U.S.C. § 1226(a)(1) (DHS "may continue to detain the arrested alien" during the pendency of removal proceedings);[4] *Nielsen v. Preap*, 586 U.S. 392, 409 (2019) (highlighting that "subsection (a) creates authority for *anyone's* arrest or release under § 1226—and it gives the Secretary broad discretion as to both actions"). When an alien is apprehended, a DHS officer makes an initial custody determination. *See* 8 C.F.R. § 236.1(c)(8). DHS "may continue to detain the arrested alien." 8 U.S.C. § 1226(a)(1). "To secure release, the alien must show that he does not

---

[4] Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General's authority—delegated to immigration judges, *see* 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for noncitizens under section 1226(a) is "one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings." *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

pose a danger to the community and that he is likely to appear for future proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8)). If DHS decides to release the alien, it may set a bond or place other conditions on release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).[5] Even after DHS decides to release an alien, it may "at any time" revoke such release, "rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b).

If DHS determines that an alien should remain detained during the pendency of his removal proceedings, the alien may request a custody redetermination hearing (*i.e.*, a "bond hearing") before an immigration judge. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration judge then conducts a bond hearing and decides whether to release the alien, based on a variety of factors that account for the alien's ties to the United States and evaluate whether the alien poses a flight risk or danger to the community. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *see also* 8 C.F.R. § 1003.19(d) ("The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].").

Section 1226(a) does not provide an alien with an absolute right to release on bond. *See Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). Nor

---

[5] In addition to bond, the government may release an alien detained under Section 1226(a) on his own recognizance, which is a form of conditional parole. *See* 8 U.S.C. § 1226(a)(2)(B); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (BIA 2023) ("The respondents were . . . released on their own recognizance pursuant to DHS' conditional parole authority under . . . 8 U.S.C. § 1226(a)(2)(B)[.]"); *see also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the [government] used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a)."); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).

does the Constitution. *Velasco Lopez*, 978 F.3d at 848. Furthermore, § 1226(a) grants DHS and the Attorney General broad discretionary authority to determine whether to detain or release an alien during his removal proceedings. *See id.* In the exercise of this broad discretion, and consistent with DHS regulations, the BIA—whose decisions are binding on immigration judges—has placed the burden of proof on the alien, who "must establish to the satisfaction of the Immigration Judge . . . that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight." *Matter of Guerra*, 24 I. & N. Dec. at 38. The BIA's "to the satisfaction" standard is equivalent to a preponderance of the evidence standard. *See Matter of Barreiros*, 10 I. & N. Dec. 536, 537 (BIA 1964).[6] If, after the bond hearing, the immigration judge concludes that the alien should not be released, or the immigration judge has set a bond amount that the alien believes is too high, the alien may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3).

In this case, Petitioner was released by CBP on his own recognizance after his unlawful entry in January 2024. He was subsequently arrested by ICE on August 12, 2025. To the extent the Court determines his current detention is pursuant to Section 1226(a), then Petitioner would be entitled to a bond hearing in immigration court and may challenge his detention through that

---

[6] The Second Circuit has not issued a generally applicable rule with respect to the allocation and quantum of the burden of proof at initial Section 1226(a) immigration court bond hearings. Rather, the Second Circuit held only that when an alien demonstrates that his detention has become unreasonably prolonged (in that case, for 15 months) in violation of due process, he is entitled to receive a new bond hearing at which DHS bears the burden of demonstrating by clear and convincing evidence that the alien is either a danger to the community or a flight risk. *See Velasco Lopez*, 978 F.3d at 855.

administrative process. *Cf. Gomes v. Hyde*, No. 25 Civ. 11571 (JEK), 2025 WL 1869299, at *5-9 (D. Mass. July 7, 2025).

A. Petitioner May Not Challenge His Detention Through a Habeas Petition Before Exhausting His Administrative Remedies

To the extent the Court determines Petitioner is detained pursuant to Section 1226(a), Petitioner should be required to exhaust his challenges to his detention in immigration court and at the BIA before bringing those challenges in federal court. While it is true that "[t]here is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention [in federal court]," *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014), "district courts in this Circuit have recognized such a requirement as a prudential matter," *Castillo Lachapel v. Joyce*, No. 25 Civ. 4693 (JHR), 2025 WL 1685576, at *3 (S.D.N.Y. June 16, 2025) (internal quotation marks omitted). "Under the doctrine of exhaustion of administrative remedies, 'a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself.'" *Howell v. I.N.S.*, 72 F.3d 288, 291 (2d Cir. 1995) (quoting *Guitard v. United States Sec'y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992)); *Foster v. INS*, 376 F.3d 75, 78 (2d Cir. 2004) ("We have been nothing if not clear in requiring that a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself.") (internal quotation marks omitted); *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003) (a petitioner "must exhaust administrative remedies before raising . . . constitutional claims in a habeas petition when those claims are reviewable by the BIA on appeal"); *cf. Ceballos v. Ridge*, No. 04 Civ. 7304 (LAK), 2004 WL 2849604, at *2 (S.D.N.Y. 2004) (alien's request for release from custody was unexhausted and would not be considered by district court); *Diaz v.*

McElroy, 134 F. Supp. 2d 315, 319-20 (S.D.N.Y. 2001) (claim unexhausted where petitioner failed to appeal custody decision by INS District Director to BIA). Indeed, judicial exhaustion "serves myriad purposes, including limiting judicial interference in agency affairs, conserving judicial resources, and preventing the frequent and deliberate flouting of administrative processes [that] could weaken the effectiveness of an agency." *See Bastek v. Federal Crop Ins. Corp.*, 145 F.3d 90, 93-94 (2d Cir. 1998) (internal quotation marks omitted).

Where the exhaustion requirement is "judicially imposed instead of statutorily imposed," several exceptions permit courts to excuse a party's failure to exhaust administrative remedies. Such exceptions include when: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (internal quotation marks omitted). However, "[e]xhaustion is the rule, waiver the exception." *Abbey v. Sullivan*, 978 F.2d 37, 44 (2d Cir. 1992).

In light of the extensive process available to Petitioner—if the Court determines he is detained under Section 1226(a)—his detention challenge is premature. Petitioner, who has been detained for less than two weeks, can seek a custody redetermination with the immigration court. Petitioner argues that he may not get a bond hearing because the Government is "likely to now contend in administrative pleadings that [Petitioner] is ineligible for bond under *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025)," and that "[m]andatory detention without access to a bond hearing violates Petitioner's right to due process." Am. Pet. ¶ 62. But, as stated above, if the Court determines Petitioner is detained under Section 1226(a), then he is entitled to a bond hearing.

In *Valdez v. Joyce*, the court excused the petitioner from exhausting his administrative remedies because he "may not be entitled to a bond hearing," which would not be the case if the Court determines that Section 1226(a) applies here. 25 Civ. 4627 (GBD), 2025 WL 1707737, at *1 n.1 (S.D.N.Y. June 18, 2025). But as two other judges in this district recently held, those who are detained under Section 1226(a) are required to exhaust their administrative remedies before they may resort to a habeas petition. *See Castillo Lachapel*, 2025 WL 1685576, at *3-4; *Capunay Guzman v. Joyce*, 25 Civ. 4777 (RA), 2025 WL 1696891, at *2-3 (S.D.N.Y. June 17, 2025); *but see Samb v. Joyce*, No. 25 Civ. 5373 (DEH), 2025 WL 2398831, at *3 (S.D.N.Y. Aug. 19, 2025); *Lopez Benitez,* (DEH), 2025 WL 2371588, at * 14; *Chipantiza-Sisalema, v. Francis*, No. 25 Civ. 5528 (AT), 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025). Were this Court to determine that Section 1226(a) applies to this Petitioner, it is entirely speculative that the immigration judge would disregard this Court's decision and nevertheless apply *Matter of Q. Li.*

Further, none of the exceptions to exhaustion applies here. Petitioner has been detained for less than two weeks, and there is no indication that he has requested and been denied a bond hearing by an immigration judge. He cannot demonstrate that requesting a bond hearing would be futile or that it would not provide a genuine opportunity for adequate relief. Nor can he avoid the requirement of exhaustion by merely invoking the language of due process. *See, e.g.*, *United States v. Gonzalez-Roque*, 301 F.3d 39, 47 (2d Cir. 2002) ("'Due process' is not a talismanic term which guarantees review in this court of procedural errors correctable by the administrative tribunal."). In short, Petitioner should be required to exhaust his request for a bond hearing with the immigration court in the first instance. *Cf. Michalski v. Decker*, 279 F. Supp. 3d 487, 496-97 (S.D.N.Y. 2018) ("Because [petitioner's] bond hearing may provide him with the relief he seeks

. . . this Court concludes in the exercise of discretion that [petitioner] must exhaust these avenues before seeking judicial relief.").

III. PETITIONER SHOULD NOT BE RELEASED PENDING ADJUDICATION OF THE PETITION

Petitioner also seeks immediate release under the Court's inherent authority and *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001). *See* Am. Pet. ¶¶ 74-77. However, such release is warranted only when a petitioner (i) raises substantial claims and (ii) extraordinary circumstances (iii) make the grant of bail necessary to make the habeas remedy effective. *Mapp*, 241 F.3d at 230. This standard is "a difficult one to meet," and the burden is on the petitioner to make the necessary showings. *Id.* No such claims or circumstances are raised here, and immediate release is not necessary to make the habeas remedy effective. As such, *Mapp* release should be denied.

First, for the reasons already discussed, Petitioner has not raised substantial claims. His detention is mandatory under 8 U.S.C. § 1225. Petitioner's claims are no different than those brought by others in removal proceedings, and he does not raise any novel issues concerning the applicability of the immigration laws. *Cf. Ozturk v. Trump*, __ F. Supp. 3d ___, 2025 WL 1420540 (WKS), at *5-*6 (D. Vt. May 16, 2025) (alien who had formally entered the United States raising First Amendment retaliation claim regarding the institution of removal proceedings).

Second, Petitioner has not shown extraordinary circumstances. Petitioner argues that "[h]e is an asylum applicant who fears return to his country of origin, as to return would expose him to death or serious injury"; "he complied fully with immigration authorities"; "he was confined in inhumane conditions at 26 Federal Plaza"; and he is now confined "without access to religiously

appropriate food."[7] Am. Pet. ¶ 76. But he is no longer in the temporary holding facility of which he previously complained and the other alleged circumstances do not satisfy Petitioner's burden. The Second Circuit has not elaborated in great detail on the extraordinary circumstances requirement,[8] but other circuits have noted that special circumstances include: (1) a serious deterioration of health while incarcerated, (2) unusual delay in the appeal process, (3) short sentences for relatively minor crimes so near completion that extraordinary action is essential to make collateral review truly effective. *See, e.g.*, *United States v. Mett*, 41 F.3d 1281, 1282 n.4 (9th Cir. 1994) (listing circumstances (1) and (2)); *Calley v. Callaway*, 496 F.2d 701, 702 n.1 (5th Cir. 1974) (internal citations omitted) (listing circumstance (3)); *see also Castaneda-Castillo v. Holder*, 638 F.3d 354, 361 n.7 (1st Cir. 2011) (holding that special circumstances may include delayed extradition hearing); *United States v. Lui Kin-Hong*, 83 F.3d 523, 524 (1st Cir. 1996) (same); *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992) (extraordinary circumstances "seem to

---

[7] To the extent Petitioner is raising a claim regarding the conditions of his confinement at 26 Federal Plaza, any such claim is moot because he has been transferred out of that facility. *See Thompson v. Choinski*, 525 F.3d 205, 209 (2d Cir. 2008) (dismissing conditions of confinement claim as moot after inmate was transferred to different facility); *Prins v. Coughlin*, 76 F.3d 504, 506 (2d Cir.1996) ("It is settled in this Circuit that a transfer from a prison facility moots an action for injunctive relief against the transferring facility."); *Jabarah v. Garcia*, No. 08 Civ. 3592 (DC), 2010 WL 3834663, at *3 (S.D.N.Y. Sept. 30, 2010) ("When an inmate is transferred from a prison facility, any pending injunctive action against the transferring facility is moot, regardless of whether the action was filed prior to the transfer.").

[8] In *Elkimya v. DHS*, 484 F.3d 151, 154 (2d Cir. 2007), the court did not find extraordinary circumstances because the plaintiff there offered no reason "other than convenience, why his continued detention by the INS would affect th[e] Court's ultimate consideration of the legal issues presented in his petition for review." In *Daum v. Eckert*, No. 20-3354, 2021 WL 4057190, at *2 (2d Cir. Sept. 7, 2021), the court held that COVID-19 was not an extraordinary circumstance warranting bail. Other cases summarily reject assertions of extraordinary circumstances. *See, e.g.*, *Illarramendi v. United States*, 906 F.3d 268, 271 (2d Cir. 2018); *Stolfa v. Holder*, 498 F. App'x 58, 60 (2d Cir. Aug. 16, 2012).

be limited to situations involving poor health or the impending completion of the prisoner's sentence"). None of these circumstances are present here.

Third, release is not necessary to make the habeas remedy effective in this case. Petitioner can continue to pursue immigration relief in his removal proceedings. While Petitioner and his family are undoubtedly affected by his detention, the effects do not require release to make the remedy effective. Moreover, Petitioner has not yet sought release with the immigration judge, which counsels against granting immediate release here. *Cf. Reid v. Decker*, No. 19 Civ. 8393 (KPF), 2020 WL 996604, at *13 (S.D.N.Y. Mar. 2, 2020) (denying release under *Mapp* for habeas petitioner because the petitioner failed to establish the existence of extraordinary circumstances that made the grant of bail necessary to make the habeas remedy effective, given that the court was granting the relief sought in the petition for a bond hearing).

Accordingly, the Court should deny the request for release pending adjudication and any request for transfer.

CONCLUSION

For the foregoing reasons, the Court should deny the petition for writ of habeas corpus.

Dated: New York, New York
August 25, 2025

Respectfully submitted,

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

By: */s/ Rebecca L. Salk*
REBECCA L. SALK
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: 212-637-2614
rebecca.salk@usdoj.gov

Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c), the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 6,729 words.