UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IBRAHIMA DIALLO,

Petitioner,

v.

RAUL MALDONADO, JR., in his official capacity as Warden of the Metropolitan Detention Center; **WILLIAM JOYCE,** in his official capacity as Acting Director, New York Field Office for U.S. Immigration and Customs Enforcement; **KRISTI NOEM,** in her official capacity as Secretary, U.S. Department of Homeland Security; **TODD LYONS,** in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; **U.S. DEPARTMENT OF HOMELAND SECURITY;** and **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,**

Respondents.

Civil Action No.: 25-cv-5740 (DG)

REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

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PRELIMINARY STATEMENT

Petitioner Ibrahima Diallo ("Ibrahima" or "Petitioner") respectfully submits this reply brief in further support of his habeas petition, filed on October 13, 2025 (the "Petition"). (ECF No. 1.) Respondents principally argue that the Petition should not be granted because Ibrahima is subject to mandatory detention, pursuant to 8 U.S.C. § 1225(b)(2), asserting he is an "applicant for admission," and further asserting that Ibrahima fails to state any viable claims for relief.[1] Respondents' arguments are without merit and have been repeatedly rejected by district court after district court. For the reasons stated below, the Court should grant the Petition and order that Ibrahima be released immediately from the Metropolitan Detention Center.

ARGUMENT

I. The Record Demonstrates that Petitioner Is Being Detained Under 8 U.S.C. § 1226

As a threshold matter, the Court must determine whether Ibrahima is subject to detention pursuant to 8 U.S.C. § 1225 or 8 U.S.C. § 1226. As explained below, the Court should find that § 1226 applies.

A. The Statutory Framework

As set forth in the Petition, (Pet. ¶¶ 48-54), the Immigration and Nationality Act ("INA") broadly provides two statutory provisions that govern the detention of noncitizens, 8 U.S.C. §§ 1225 and 1226. As the Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 281, 289

[1] Respondents also argue that the Court lacks jurisdiction over Ibrahima's claims to the extent any purport to challenge the dismissal of removal proceedings and the commencement of expedited removal. *See* Respondents' Br. at 8 (ECF No. 14). Ibrahima challenges his unconstitutional detention. *See* Petition at 3, 20 (asking the Court to hold his detention is unlawful). Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024); *Artiga v. Genalo*, 25-CV-5208 (OEM), 2025 U.S. Dist. LEXIS 196847, at *8 (E.D.N.Y. Oct. 5, 2025).

(2018), noncitizens "seeking admission into the country,"—in other words, at a port of entry or who have been "apprehended trying to enter the country at an unauthorized location," *id.* at 285,—are subject to mandatory detention under §§ 1225(b)(1) and (b)(2). Section 1225(b)(1) provides detention authority for noncitizens subject to expedited removal while § 1225(b)(2) provides for mandatory detention of noncitizens who are *both* "applicants for admission," *and* who are "seeking admission." *Jennings*, 583 U.S. 287-89. By contrast, § 1226 "authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings." *Id.* at 289. Pursuant to regulation, prior to detention under § 1226(a), immigration officers must conduct an individualized custody determination, 8 C.F.R. § 1236.1(c)(8), and if the noncitizen is detained pursuant to Section 1226(a) pending removal proceedings, the noncitizen may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. § 1003.19.

B. The Government's Own Documents Demonstrate that Ibrahima Has Been Treated Pursuant to § 1226

Contrary to Respondents' assertion that Ibrahima is subject to mandatory detention under § 1225(b)(2)(A), (Resp. Br. at 16), the documents of the Department of Homeland Security ("DHS") make clear that Ibrahima was detained pursuant to DHS's discretionary authority under § 1226. Similar to the Petitioners in *Artiga v. Genalo*, 25-CV-5208 (OEM), 2025 U.S. Dist. LEXIS 196847 (E.D.N.Y. Oct. 5, 2025), *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 U.S. Dist. LEXIS 191630 (E.D.N.Y. Sept. 29, 2025) and *Lopez Benitez v. Francis*, No. 25-cv-5937 (DEH), 2025 U.S. Dist. LEXIS 157214 (S.D.N.Y. Aug. 8, 2025), Respondents' treatment of Ibrahima through his release on his own recognizance and warrant for his arrest, together with the notice of custody determination form, demonstrates that Ibrahima is being detained under § 1226. *See, e.g., Artiga*, 2025 U.S. Dist. LEXIS 196847, at *16. Specifically, Ibrahima entered the United States

without inspection on December 23, 2023, and after being detained for approximately three days, he was released on his own recognizance pursuant to Section 236 of the INA i.e., § 1226. *See* Pet. Exs. A, B. (ECF No. 2-1, 2-2.) When Petitioner was arrested on June 20, 2025, Immigration and Customs Enforcement ("ICE") did so pursuant to a warrant under § 1226. *See* Pet. Ex J. (ECF Nos. 10.) ICE also served Ibrahima with a Notice of Custody Determination, indicating that Ibrahima is subject to § 1226 and reflecting an initial custody determination, (Morrow Supp. Decl. Ex. A), which the government contends was an error.[2] *See* Resp. Br. at 7, Morrow Decl. ¶ 12. In fact, none of the DHS records support a finding that Ibrahima is being detained pursuant to § 1225, except for a Notice and Order of Expedited Removal, dated June 25, 2025, that has been cancelled and thus carries no weight. *See* Morrow Decl. ¶ 15, Morrow Supp. Decl. Ex. B. Respondents' arguments appear to be nothing more than an attempt to reclassify Ibrahima's detention as pursuant to § 1225 after-the-fact. *See, e.g.; Lopez Benitez*, 2025 U.S. Dist. LEXIS 157214, at *13-25 (where arrest warrants and the record referenced § 1226 as a basis for detention, the government could not justify mandatory detention pursuant to § 1225). Taken together, the documents show that Respondents have consistently treated Ibrahima "not as mandatorily detained as a noncitizen seeking admission under § 1225(b), but rather as someone already in the country pursuant to Respondents' discretionary authority under § 1226(a)." *See, e.g., Artiga*, 2025 U.S. Dist. LEXIS 196847, at *16. Thus, Respondents cannot credibly claim negligence in its use of forms, (Resp. Br. at 25), and unlike the Petitioner in *Rodriguez-Figueroa v. Barr*, 442 F. Supp. 3d 549 (W.D.N.Y. 2020), Ibrahima was originally released and then arrested pursuant to § 1226. *See, e.g., Artiga,* 2025 U.S. Dist. LEXIS 196847, at *15 (distinguishing *Rodriguez-Figueroa*).

[2] Notably, the initial Morrow Declaration failed to mention that the Initial Notice of Custody Determination form, purportedly completed in error, indicates that Ibrahima was subject to § 1226.

C. Respondents' Expansive Construction of § 1225(b)(2) Does Not Comport with the Statutory Interpretation by Article III Courts

Respondents seek to have the Court adopt an expansive construction of § 1225(b)(2) beyond the historical distinction drawn between §§ 1225 and 1226—a stark departure from "decades of practice" by the immigration agencies. *Martinez v. Hyde*, No. 25-CV-11613 (BEM), 2025 U.S. Dist. LEXIS 141724, at *12 (D. Mass. Jul. 24, 2025). Respondents' position is wrong based on the statutory text; the Supreme Court's explication of the relevant detention authorities; and the overwhelming weight of district court decisions, including from within this Circuit.

First, the "active construction" of the "seeking admission" clause in § 1225(b)(2)(A) "necessarily implies some sort of present-tense action." *See, e.g., Lopez Benitez*, 2025 LEXIS 157214, at *19 (citing *Martinez*). Respondents' reading of § 1225(b)(2)(A) would render the phrase "seeking admission" as mere surplusage. *Id.* at 18-19 (explaining how Respondents' reading would violate the rule against surplusage and negate the plain meaning of the text).[3] Second, as explained above, the Supreme Court in *Jennings* specifically distinguished between detention authority at the borders pursuant to § 1225 and the detention authority applicable to noncitizens "already in the country" pursuant to § 1226. 583 U.S. at 285, 289. Respondents' reliance on *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), is misplaced because it concerned the ability of a noncitizen to challenge an order of expedited removal through habeas. *See* 591 U.S. 103, 136 (2020). Moreover, the petitioner there had been apprehended "a mere 25 yards after crossing the border," and was "at the threshold of initial entry," not in the interior. *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *26 (citing *Thurassigiam*, 591 U.S. at 114 (2020)). Finally, the "vast

[3] Ibrahima's Notice to Appear ("NTA") further corroborates that he is not actively "seeking admission": it charges him with inadmissibility for being present without being admitted or paroled, or as one who arrived not at a port of entry. *See* Petition, Ex. A., ECF No. 2-1.; *Martinez*, 2025 U.S. Dist. LEXIS 141724, at *13.

majority of the numerous courts" to consider whether § 1225(b)(2) or § 1226(a) applies to noncitizens in Ibrahima's position have rejected the government's arguments. *Duarte Escobar v. Perry*, No. 25-CV-758, 2025 U.S. Dist. LEXIS 212098, at *10 (E.D. Va. Oct. 27, 2025); *Soto v. Soto*, No. 25-CV-16200, 2025 U.S. Dist. LEXIS 207818, at *19 (D.N.J. Oct. 22, 2025) (collecting twenty-two cases rejecting Respondents' arguments as of October 22, 2025).

While the government has identified a few cases seeking to bolster its position, these cases are outliers. Resp Br. at 17, 20, 25 (citing *Pena v. Hyde*, No. 25-cv-11983 (NMG), 2025 LEXIS 144234 (D. Mass. July 28, 2025); *Chavez v. Noem*, No. 3:25-cv-02325 (CAB) (SBC), 2025 LEXIS 192940 (S.D. Cal. Sept. 24, 2025); *Romero v. Bondi*, No. 25-cv-993 (RDA) (WEF), 2025 U.S. Dist. LEXIS 172449 (E.D. Va. July 2, 2025)). *Pena* and *Romero* predated *Yajure Hurtado*, 29 I&A Dec. 216 (BIA 2025), and include only limited analyses of § 1225 as opposed to § 1226 detention, and *Pena* hinged on the effect of the petitioner's I-130 petition. The *Chavez* court did not discuss "the statutory requirement that for § 1225(b)(2)(A) to apply, the noncitizen must be 'seeking admission.'" *Castellanos Lopez v. Warden, Otay Mesa Det. Ctr.*, 25-cv-2527 (RSH) (SBC), 2025 U.S. Dist. LEXIS 211493, at *12 n.1 (S.D. Cal. Oct. 27, 2025). Notably, these out-of-circuit cases have all have been distinguished by other courts in their respective districts and are thus of limited persuasive value. *See Romero v. Hyde*, No. CV 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622, at *1-2 & n.1 (D. Mass. Aug. 19, 2025) (distinguishing *Pena*); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB) (IDD), 2025 U.S. LEXIS 184734, at *17 (E.D. Va. Sept. 19, 2025) (rejecting *Romero*); *Castellanos Lopez*, 2025 LEXIS 211493, at *12 n.1 (distinguishing *Chavez*).

II. ICE's Detention of Petitioner Violates the Due Process Clause and Petitioner Should be Released

The Fifth Amendment's Due Process Clause prevents the Government from depriving any person, including noncitizens, of "life, liberty, or property, without due process of law." U.S. Const. amend. V. The *Mathews v. Eldrige* three-factor balancing test applies when determining the adequacy of process in the context of civil immigration detention. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). The Court must consider (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail. *Mathews v. Eldridge,* 424 U.S. 319, 335 (1976). With respect to the first factor, Ibrahima clearly has an interest in being free from imprisonment. With respect to the second factor, the record demonstrates that (i) no individualized custody determination was made prior to or contemporaneously to Ibrahima's detention because Respondents claim that the individualized custody determination was an error and (ii) there has been no change in the circumstances between the time that Ibrahima was released on his own recognizance and his June 2025 arrest. *See, e.g., Artiga*, 2025 U.S. LEXIS 196847, at *26-27. With respect to the third and final factor, the Attorney General has the discretion to detain individuals under § 1226(a) where "it advances a legitimate governmental purpose," such as "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." *J.U.*, 2025 U.S. Dist. LEXIS 191630, at *30. Here, nothing in the record suggests that Ibrahima is a flight risk or a danger to the community sufficient to justify detention. He has been in the United States since December 2023, timely filed for asylum and Special Immigrant Juvenile Status ("SIJS"), was appointed a guardian by the Bronx Family Court, has no criminal history, and is a member of The Door. *See Artiga*, 2025 U.S. LEXIS 196847, at *26-27; *J.U.*,

2025 U.S. Dist. LEXIS 191630, at *30-31. Accordingly, Respondents have failed to show a significant interest in Petitioner's continued detention. [4]

III. ICE's Detention of Petitioner Violates the APA and Petitioner Should be Released[5]

Respondents attempt to stretch *Trump v. J.G.G.* beyond the Supreme Court's ruling in that case. *See* Resp. Br. at 11 (citing 604 U.S. 670 (2025)). There, plaintiffs who were in custody in Texas had brought APA claims in a district other than the district of confinement. The Supreme Court ruled that because they challenged their confinement and removal under the Alien Enemies Act, "their claims f[e]ll within the 'core' of the writ of habeas corpus and must be brought in habeas." 604 U.S. 670, 672 (2025). But the Supreme Court never stated that if a petitioner challenges their detention in habeas, they therefore cannot also bring other claims, including APA claims. *See Munoz Materano v. Arteta,* No. 25 CIV. 6137 (ER), 2025 U.S. Dist. LEXIS 179608, at *43 n.27 (S.D.N.Y. Sept. 12, 2025).

Ibrahima does not challenge his removal order but the government's decision to detain him (after having moved for dismissal of his proceedings) as contrary to law, and arbitrary and capricious. The decision to arrest him was a consummation of the agency's decision-making process and one from which legal consequences flow. *See Bennett v. Spear,* 520 U.S. 154, 178, 117 S.Ct. 1154, 137 L.Ed.2d 281 (1997) (internal citations omitted).[6]

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[4] Even if Respondents had not claimed error with respect to the Notice of Custody Determination and stood by the determination made therein, a determination to detain Ibrahima is not grounded in the record.

[5] If the Court finds that Ibrahima's due process rights were violated, it does not need to address Ibrahima's alternative claims. *See, e.g.*, *Hasan*, 2025 U.S. LEXIS 184734, at *2 n.1.

[6] A federal court in this Circuit has already found that the immigration court dismissal policy to which Ibrahima was subjected was likely contrary to law under 5 U.S.C. § 706(2)(A). See *Afr. Communities Together v. Lyons*, No. 25-CV-6366 (PKC), 2025 U.S. Dist. LEXIS, at *13 (S.D.N.Y. Sept. 12, 2025); *see also Gonzalez v. Joyce*, No. 25-cv-8250 (AT), 2025 U.S. Dist. LEXIS 208578, at *8 (S.D.N.Y. Oct. 19, 2025) (calling ICE's detention policy in similar circumstances arbitrary).

Finally, Ibrahima has sufficiently stated an *Accardi* violation because DHS did not follow its own regulations in detaining him. As the court in *Hyppolite v. Noem* explained, § 1226(a) and its regulations "clearly circumscribe the conditions under which [petitioner] may (and may not) be detained while in removal proceedings," and require the opportunity to seek relief before an immigration judge. No. 25-cv-4304, 2025 U.S. Dist. LEXIS 197628, at *18 (E.D.N.Y. Oct. 6, 2025); *see* 8 C.F.R. § 1236.1(d). And even if Ibrahima *were* subject to mandatory detention under § 1225(b)(2), he would at least have the opportunity to seek parole. *See Jennings*, 583 U.S. at 288. But ICE itself has taken the position that Ibrahima is subject to mandatory detention and that they will not release him, with no opportunity for parole or individualized consideration of his circumstances. *See* Petition, Ex. L, ECF No. 2-12. Thus, the agency has violated the statute, regulations, and its own policies to consign Ibrahima to a black hole.

IV. ICE's Detention of Petitioner Violates His Constitutional and Statutory Rights to an Adjudication of SIJS Protection

ICE's detention fails to consider Ibrahima's *prima facie* eligibility for SIJS and the Bronx Family Court's Special Findings Order. Congress expressly designed SIJS to allow young people like Ibrahima to remain in the United States to pursue lawful permanent resident ("LPR") status. *See* 8 U.S.C. § 1255(h) (deeming SIJ youth "paroled" for adjustment); 8 U.S.C. § 1227(c) (waiving specified removal grounds for SIJ); *cf.* 8 U.S.C. § 1155; 8 C.F.R. § 205.2 (revocation only with notice, reasons, and an opportunity to respond). The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people like Ibrahima the right to seek LPR status. *See* 8 U.S.C. § 1255(h). Accordingly, youth with SIJS must be "provide[d] . . . an opportunity to pursue adjustment of status." *Del Cid, et al., v. Bondi*, No. 3:25-CV-00304, 2025 U.S. Dist. LEXIS 209136, at *10 (W.D. Pa. Oct. 23, 2025). In *Del Cid*, the court found that two SIJS recipients with

no criminal record may not be detained pursuant to § 1225 but rather must be detained (if at all) under §1226(a). *Id.* at *44.

As explained, *supra,* Respondents provided no process at all in Ibrahima's detention, and his SIJS eligibility was not considered when he was detained. Despite the claims in the June 20, 2025, warrant that Ibrahima has no ties to the United States, the Special Findings Order (Petition, Ex. G, ECF No. 2-7) submitted as part of his SIJS petition shows otherwise. A Bronx family court judge found that it is in Ibrahima's best interest to "remain here in the United States under the care of his guardian, Hannah Merryman Mayhew, where he is safe and has opportunities to excel as an ambitious young man." His ties to the United States—and New York City specifically—are also shown though his membership at The Door and connection to the community. *See* Petition at 28.

V. Should the Court Deny Petitioner's Request for Immediate Release, in the Alternative, Petitioner is Entitled to a Bond Hearing

Should the court deny Ibrahima's request for immediate release, this Court, pursuant to its inherent authority, should grant bail pending adjudication of the Petition, particularly where, as here, any bond hearing before the immigration court would be futile in light of *Yajure Hurtado. Mapp v. Reno*, 241 F.3d 221 (2d Cit 2001); *see also L.G.M. v. LaRocco*, 25-cv-2631 (PKC), 2025 U.S. Dist. LEXIS 144418, at *7-10, (E.D.N.Y. June 25, 2025) (finding the district court could hold bond hearing and referring to cases where district courts found bond hearings by immigration judges to be constitutionally lacking); *L.G.M. v. LaRocco*, 25-cv-3631 (PKC), 2025 U.S. Dist. LEXIS 147451 (E.D.N.Y. Jul. 31, 2025) (granting bail subject to restrictions). The authority to release a habeas petitioner *pendente lite* ensures that the writ of habeas corpus remains an effective remedy under extraordinary circumstances. *Mapp* at 230. Extraordinary circumstances—a pending SIJS petition as well as a courthouse arrest that was part of a scheme to place people in

expedited removal proceedings and has been largely enjoined—exist here.[7] Moreover, Ibrahima has no criminal history and is not a flight risk or danger to the community. Rather, Ibrahima has substantial community ties, from which he was torn away, when detained. Therefore, this Court should grant bail pending adjudication of his petition pursuant to the Court's inherent habeas authority if it does not order Petitioner's immediate release.

VI. Conclusion

For the foregoing reasons, Ibrahima's Petition for a Writ of Habeas Corpus should be granted, and the Court should order that Ibrahima be immediately released from custody.

Respectfully Submitted,

DATED: October 31, 2025
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[7] *See Afr. Communities Together v. Lyons*, No. 25-CV-6366 (PKC), 2025 U.S. Dist. LEXIS, at *13 (S.D.N.Y. Sept. 12, 2025).