

Congo, Aboubacar Aly Mohamed

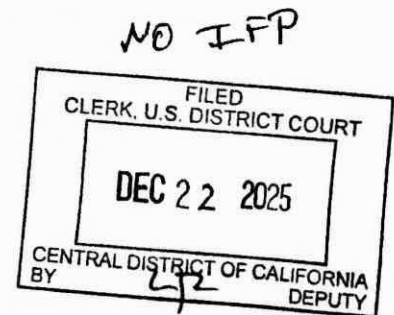
A# [REDACTED]

Adelanto ICE Processing Center

10250 Rancho Road

Adelanto, CA 92301

Petitioner, pro se



**UNITED STATES DISTRICT COURT
FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

5:25-cv-03608-SRM-AS

Congo, Aboubacar Aly Mohamed

Petitioner,

**PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

-VS-

**PAM BANDI,
KRISTI NOEM et al.,**

Respondents.

Aboubacar Congo has been detained in the custody of the United States Department of Homeland Security ("DHS") since December 28, 2023-more than 24 months. Hereby Congo petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging the validity of his detention at the Adelanto ICE Processing Center in California, to remedy petitioner unlawful detention by respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges the following

STATUS & CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the Adelanto ICE Processing Center in California. Petitioner has been in "ICE" custody SINCE December 28, 2023 until current, and Petitioner is under the direct control of Respondent and their agents.
2. Petitioner, Aboubacar Congo is a native and citizen of Burkina Faso. He entered the United States in 2012 as a visitor and was granted Asylum on 2013. On November 18, 2018, Congo was arrested in the State of Maine and charged with Conspiracy in scheduled drugs, unlawful trafficking of scheduled drugs, Congo was convicted in Maine Superior Court, Kennebec County, of Conspiracy in scheduled drugs. He was sentenced to 78 months' imprisonment. On December, 2023, DHS took Congo into custody and issued a "Notice to Appear," charging that Congo was subject to removal from the United States under the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101-1537. More specifically, DHS charged that Congo was subject to removal under section 1227(a)(2)(A)(iii) for having been convicted of an aggravated felony, namely a conspiracy, unlawful trafficking of controlled substance, *see 8 U.S.C. § 1101(a)(43)*. A few weeks later, Congo appeared before an Immigration Judge ("IJ") and requested and received a continuance so that he could retain legal counsel. On June 17, 2024, Congo, through counsel, filed Form I-589, Application for Asylum, Withholding of Removal, and Protection Under the Convention Against Torture.
3. On June 17, 2024, the IJ denied Congo's application for asylum. Congo then appealed the IJ's decision to the Board of Immigration Appeals ("BIA") and requested and received a three-week extension of the briefing schedule. On August 26, 2024, Congo submitted his brief to the BIA.
4. The BIA Remanded Congo's appeal back to the Court. On April 28, 2025, the IJ denied Congo's application again and order him removed to Burkina Faso. On July 22, 2025, Congo file an appeal again to the Board of Immigration Appeals ("BIA"). On October 14, 2025, The BIA dismissed Congo's

appeal, and Congo then filed a petition for review with the United States Court of Appeals for the Nine Circuit and it remained pending

JURISDICTION & VENUE

5. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104 – 208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 et seq.

6. This Court has jurisdiction under 28 U.S.C. § 2241; art. I § 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writ Act, 28 U.S.C. § 1651.

7. Petitioner has exhausted any and all administrative remedies to the extent required by law.

8. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 293-500 (1973), venue lies in the United States District Court for the District of California, the judicial district in which the petitioner resides. Venue is proper because Petitioner is currently being detained at the Adelanto ICE Detention Facility in Adelanto, California.

PARTIES

9. Petitioner is a native and citizen of Burkina Faso, Petitioner was first taken into ICE custody on December 23, 2023, and has remained in ICE custody continuously since that date.

10. Respondent, Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such Ms Pam has ultimate custodial authority over Petitioner.

11. Respondent Kristi Noem is the Secretary of the Department of *Homeland* Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner.

12. Respondent, Ernesto Santa Cruz is the Field Office Director of the Los Angeles Field Office of ICE and Petitioner's immediate custodian. See Vásquez v. Reno, 233 F. 3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S. Ct. 43 (2001).

13. Respondent, Fereti, Semaia Warden of ADELANTO ICE PROCESSING CENTER, where the Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

EXHAUSTION OF REMEDY

14. There is no statutory exhaustion requirement for a petition challenging immigration detention. See Araujo-Cortes v. Shanahan, 35F. Supp. 3D 533,538 (S.D.N.Y. 2014).

15. I am not required to exhaust administrative venue to challenge my detention because the statutory authority subjects me to mandatory detention and, as such, does not provide me with any meaningful administrative options with which to challenge my detention see 8 U.S.C. § 1226(c); see also Cave v. east Meadow Union Free Sch. Dist., 514 F.3d 240,249 (2d Cir. 2008) ("The exhaustion requirement is excused when exhaustion would be futile because the administrative procedure do not provide an adequate remedy.") (citing Hong v. Doe, 484 U.S. 305,327 (1998)).

LEGAL ARGUMENT

16. 28 U.S.C. § 2241 "authorizes a district court to grant a writ of habeas corpus whenever a petitioner is 'in custody in violation of the Constitution or laws or treaties of the United States.'" Wang v. Ashcroft, 320 F.3d 130, 140 (2d Cir. 2003) (quoting 28 U.S.C. § 2241(c)(3)).

17. The government maintains that Congo is validly detained under 8 U.S.C. § 1226(c) because he is a non-citizen with pending removal proceedings who has been convicted of trafficking.

18. Congo disagrees on a single ground: He contends that his detention for over six months "has become unreasonably prolonged" and therefore constitutes a violation of procedural due process under the Fifth Amendment of the United States Constitution.

19. The Fifth Amendment's Due Process Clause forbids the federal government from depriving any "person . . . of . . . liberty . . . without due process of law." U.S. Constitution. amendment. V.

- 20.** The Supreme Court "has held that the Due Process Clause protects {2024 U.S. Dist. LEXIS 5} individuals against two types of government action." *United States v. Salerno*, 481 U.S. 739, 746, 107 S. Ct. 2095, 95 L. Ed. 2D 697 (1987). "So-called 'substantive due process' prevents the government from engaging in conduct that shocks the conscience, . . . or interferes with rights implicit in the concept of ordered liberty." *Id.* (citations omitted). "When government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Id.* "This requirement has traditionally been referred to as 'procedural' due process." *Id.*
- 21.** "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001). "[G]overnment detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections . . . or, in certain special and narrow non-punitive circumstances, . . . where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (emphasis in original) (citations and internal quotation marks omitted).
- 22.** Other than those unique, special, and narrow circumstances, {2024 U.S. Dist. LEXIS 6} "[o]nly a jury, acting on proof beyond a reasonable doubt, may take a person's liberty. That promise stands as one of the Constitution's most vital protections against arbitrary government." *United States v. Haymond*, 588 U.S. 634, 139 S. Ct. 2369, 2373, 204 L. Ed. 2D 897 (2019)
- "[Non-citizens], even [non-citizens] whose presence in this country is unlawful, have long been recognized as 'persons' guaranteed due process of law by the Fifth . . . Amendment[]." *Plyler v. Doe*, 457 U.S. 202, 210, 102 S. Ct. 2382, 72 L. Ed. 2D 786 (1982); see *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 97 L. Ed. 956 (1953) ("It is true that [non-citizens] who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law.").
- 23.** At the same time, Congress has "broad power over naturalization and immigration, [permitting it to] make rules that would be unacceptable if applied to citizens." *Demore v. Kim*, 538 U.S. 510, 521, 123 S. Ct. 1708, 155 L. Ed. 2D 724 (2003) (quoting *Mathews v. Diaz*, 426 U.S. 67, 79-80, 96 S. Ct. 1883, 48 L. Ed. 2D 478 (1976)).
- 24.** Congo challenges the procedural safeguards that apply to his continued detention.
- 25.** The Due Process Clause is not offended by the mandatory detention of non-citizens for the "brief period necessary for their removal proceedings," *Demore*, 538 U.S. at 513 (emphasis added), but may

be violated by detention beyond that "brief" period, depending on the balance of the individual's and the government's interests, see, e.g., *id.* Petitioner could be entitled to an individualized determination as to his risk of flight and dangerousness if the continued detention bec[omes] unreasonable or unjustified."); see also *Landon v. Plasencia*, 459 U.S. 21, 34, 103 S. Ct. 321, 74 L. Ed. 2D 21 (1982) ("The constitutional sufficiency of procedures provided in any situation, of course, varies with the circumstances.").

26. For that reason, this Court "should evaluated the procedural due process challenges to immigration detention with a two-step inquiry." *Hemans v. Searls*, 2019 U.S. Dist. LEXIS 31353, 2019 WL 955353, at *5 (W.D.N.Y. Feb, 27, 2019). "A[t] the first step, the Court should considers whether the [non-citizen's] detention has been unreasonably prolonged." *Id.* "If it has not, then there is no procedural due process violation." *Id.* "But if it has, the Court should proceeds to step two and 'identifies the specific dictates of due process' by considering the *Mathews v. Eldridge* factors." *Id.* (alteration omitted) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 47 L. Ed. 2D 18 (1976)). "If the government has not provided the procedural safeguards dictated by the *Mathews* factors to a [non-citizen] subject to unreasonably prolonged detention, then Petitioner continued detention violates procedural due process." *Id.*

CLAIM FOR RELIEF

COUNT ONE:

PETITIONER'S PROLONGED DETENTION VIOLATES THE UNITED STATES CONSTITUTIONS

27. I reallege and incorporates by reference each and every allegation set forth in the preceding paragraphs.

28. Non-citizens who have been detained by DHS pursuant to its statutory authority under 8 U.S.C. § 1231(a) for over six months must be release from custody if there is no significant likelihood that they will be removed in the reasonable foreseeable future.

29. Continuing to detain me under 8 U.S.C. § 1231(a)(6) while there is no significant likelihood of my removal in the reasonable foreseeable future deprives me of my "strong interest in liberty", and therefore violates the Fifth Amendment of the United States Constitution. *U.S. v. Slarno* 481 U.S.

739.750 (1987). It further poses actual and substantial hardships and irreparable injuries to me, to my family and love ones.

30. I have no adequate remedy at law other than the instant petition for a writ of habeas corpus.

PRAYER FOR RELIEF

WHEREFORE, I pray that this Court grants the following relief

- 1.** Assume Jurisdiction of this matter;
- 2.** Use its authority under 28 U.S.C. § 2243 to
 - I.** Order the Respondent to file an answer and Return within 3 days of the filing of the petition, unless they can show good cause for additional time;
 - II.** Order Petitioner's Reply be filed 15 days after the Court sets the deadline for Respondent's Answer and Return;
 - III.** Order the Respondent not to transfer Petitioner outside the Central District of California during the pending of this Petition;
- 3.** Issue a writ of habeas corpus ordering the Respondent to immediately release Petitioner with reasonable terms of supervised release; and
- 4.** Grant any further relief that this Court deems just and proper.

I affirm, under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct.

Respectfully Submitted,



Adelanto ICE Processing Center
10250 Ranch Rd
Adelanto, CA 92301

CERTIFICATE OF SERVICE

I, Aboubacar Aly Mohamed, Congo, hereby certify that On December 01st, 2025, I caused to be served a true copy of this forgoing Motion for a Writ of Habeas Corpus to the following address:

X. By sending via First Class mail to:

- 1. Office of the Clerk,**
United States District Courthouse
225 East Temple St, Room 180
Los Angeles, CA 90012
- 2. DHS Chief Counsel**
Department of Homeland Security
10250 Rancho Road
ADELANTO, CA 92301

I certify under the penalty of perjury that the foregoing is true and correct pursuant to **28 U.S.C. § 1746.**

Respectfully Submitted,

/s/ 

Adelanto ICE Processing Center
10250 Rancho Road
Adelanto, CA 92301
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PETITIONER SUPPLEMENT TO PRO SE HABEAS PETITION OF REMOVAL CHALLENGE TO PROLONGED DETENTION

Re: Congo (Petitioner) v. PAM BANDI, KRISTI NOEM et al. (Respondents)

To Your Honorable Judge

I'm writing this **28(J) Letter** in support of my Habeas Petition, The Government continue detention without an adequate bond hearing, because I was being held under 1226(c) which stated that mandatory detention which has been refuted by the United States Court of Appeal for the Second Circuit in the case of *Black v. Dir Thomas Decker*, 103 F.4th 133 (2d Cir. 2024) and a companion case *Keisey G.M v. Decker*,

.First, in *Black/GM* the court explained that the interest 1226(c)-detained non-citizens hold “is the most significant liberty interest there is__the interest in being free from imprisonment.” *Black*, 103 F.4th at 151 (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). The Court noted that non-citizens detained under 8 U.S.C. § 1226(c) possess the same liberty interest as non-citizens detained under any other statute. *See id.* and, it highlighted that 1226(c)-detained non-citizens lack any administrative mechanisms by which they could challenge their detention. *See id.* Here, because [Aboubacar Congo] has been detained in civil immigration detention since on or about [December, 28 2023], [Aboubacar Congo], too, possesses the same liberty interest as *Black* and *G.M.*

.Second, The *Black* Court found that there is high risk of erroneous deprivation of rights for 1226(c)-detained non-citizens because there are “almost nonexistent procedural protection in place for section 1226(c) detainees[.]” *Id.* at 152. The court observed that while 1226(c)-detained non-citizens possess due process protections in other adjacent domains__such as the ability to ask for *Matter of Joseph* hearings, which resolve whether they may be subjected to mandatory detention__those mechanisms are insufficient in covering over the deficient processes non-citizens possess for requesting their actual release. *See id.* The court thus concluded that 1226(c)-detained non-citizens are faced with even higher “risk[s] of erroneous deprivation” of their private liberty interests than 1226(a)-detained non-citizens. *See id.* Here, [Aboubacar Congo] has not received any mechanism that would ensure an impartial adjudication of his continued detention. Rather, the only review of [Aboubacar Congo] of continued detention has been by ICE. Therefore, [Aboubacar Congo] risk of erroneous deprivation is thus markedly high.

.Third and lastly, the Second Circuit determined that the competing government interest in preventing a 1226(c)-detained non-citizen from receiving a bond hearing is minimal. The court outline that the government possesses two primary interests in denying

mandatorily-detained non-citizens from receiving a bond hearing at this stage: ensuring the non-citizen's appearance at proceeding and protecting the community from danger. *See id.* at 153-54. The court, however, indicated these interests are not undercut by the relief *Mathews* provides in a procedural sense. It assessed "at any ordered bond hearing, the IJ would assess on an individualized basis whether the non-citizen presents a flight risk or a danger to the community, as IJ's routinely do for other non-citizens detainees." *Id.* Since the procedural protection that flows out of the first two *Mathews* factors does not overburden the government's interest at the third factor, the court found relief reasonable and necessary.

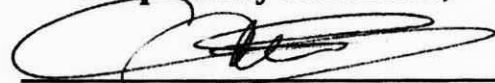
In light of this 3 *Mathews* factor highlighted by the petitioner in the ruling of *Black* by the Second Circuit, Petitioner [Aboubacar Congo] filed this **28(J) Letter** humbly requesting that this Honorable Court should consider and apply the three *Mathews* factors in Petitioner Habeas ruling by:

- i. Grant a Writ of Habeas Corpus directing the Respondent to release me from further unlawful detention with reasonable terms of supervised release;
- ii. Enter preliminary and permanent injunctive relief enjoining Respondent from unlawful detaining me any further;
- iii. In the alternative, issue a conditional Writ of Habeas Corpus requiring Respondent to provide me with an individualized fair and impartial bond hearing before a neutral arbiter at which Respondent must bear the burden of establishing by clear and convincing evidence that my continued detention is justified;
- iv. Order that in considering my detention, The Court should require Respondents must consider alternatives to detention and my ability to be able to pay when setting a huge monetary bond.

Petitioner Thanks this Honorable Court for it's consideration in this Important Matter.

DATED: 12/01/2025

Respectfully Submitted,



Aboubacar Aly Mohamed, Congo

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