UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ABDOURAHMANE KOUYATE,

Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity; **TODD M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement, in his official capacity; **MICHAEL ROSE**, Director of the Philadelphia Field Office of the U.S. Immigration and Customs Enforcement, In his official capacity; and **JAMAL L. JAMISON**, Warden of the Federal Detention Center in Philadelphia, in his Official Capacity

Respondents.

Case No. 2:26-cv-01047

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

EMERGENCY FILING TO PRESERVE JURISDICTION

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

Petitioner Abdourahmane Kouyate A# [redacted], respectfully petitions this Honorable Court for a writ of *habeas corpus* to remedy Petitioner's unlawful detention by Respondents, as follows:

I. INTRODUCTION

1. This Petition challenges Petitioner's unlawful civil detention by Immigration and Customs Enforcement ("ICE") following his parole into the United States pursuant to INA § 236(a), 8 U.S.C. § 1226(a). *See* **Exhibit D**.
2. Petitioner, Mr. Abdourahmane Kouyate, is a citizen of Guinea who was initially apprehended by the Department of Homeland Security ("DHS") following his voluntary surrender at the U.S. border located in Lukeville, Arizona on or about December 7, 2023. *See* **Exhibits A, D**.
3. Following his initial border apprehension, Petitioner was released on his own recognizance into the United States under DHS's discretionary parole authority under INA § 236(a), 8 U.S.C. § 1226(a). *See* **Exhibit D**. Although Petitioner was not granted *formal* parole prior to his release in 2023, DHS nonetheless exercised discretionary parole authority over Petitioner under 8 U.S.C. § 1226(a) by releasing him from detention. *Id.*

4. Petitioner subsequently received a Notice to Appear for a hearing on June 17, 2025, at the Philadelphia Immigration Court. The NTA charged Petitioner as being subject to removal for Entry Without Inspection ("EWI") under INA § 212(a)(6)(A)(i). *See* **Exhibit B**.

5. Prior to his release on recognizance, Petitioner's spouse, Mamadie Cisse, a legal permanent resident, filed a Form I-130 Petition on his behalf. *See* **Exhibit C, I.** On March 3, 2025, Petitioner's I-130 Petition was approved by USCIS. *See* **Exhibit H**.

6. Additionally, after his release into the United States, Petitioner sought additional immigration relief by filing an Application for Asylum and Withholding of Removal on the bases of political opinion, membership in a particular social group and protection under the Convention Against Torture, underscoring DHS's recognition that Petitioner was properly present in the United States following his release and eligible to pursue relief through established statutory processes. *See* **Exhibit E**.

7. Since entering the United States, Mr. Kouyate has complied with all conditions of supervision.

8. Nonetheless, ICE detained Petitioner, Mr. Abdourahmane Kouyate, on February 18, 2026, during his scheduled ICE check-in, without identifying any lawful statutory basis for his detention and without providing a bond hearing, in violation

of the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

9. Regardless of the manner of entry, DHS's discretionary decision to grant conditional parole terminated any mandatory detention authority under INA § 235(b), 8 U.S.C. § 1225(b). *Id.*; *see also Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).

10. Once DHS paroles a noncitizen into the United States, any subsequent detention authority, if it exists, arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025).

11. Because DHS previously exercised its parole authority over Petitioner by releasing him in 2023, its present detention of Petitioner is governed by 8 U.S.C. § 1226(a). The expiration or termination of parole does not revive mandatory detention under § 1225(b). As such, Petitioner is entitled to an individualized review of his ongoing detention.

II. PARTIES

12. Petitioner, Abdourahmane Kouyate, is a noncitizen currently detained by Respondents in the Eastern District of Pennsylvania. On February 18, 2026, the Department of Homeland Security ("DHS") issued a Form I-200, Warrant for

Arrest of Alien. Agents of Immigration and Customs Enforcement ("ICE") subsequently detained Petitioner during his scheduled ICE interview, despite his prior parole pursuant to INA § 236(a), 8 U.S.C. §1226(a).

13. Respondent Jamal L. Jamison is named in his official capacity as the Warden of the Federal Detention Center–Philadelphia ("FDC Philadelphia"), located in Philadelphia, Pennsylvania. Respondent Jamison has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a proper respondent to this habeas petition. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

14. Respondent Michael Rose is named in his official capacity as the Philadelphia Field Office Director for ICE Enforcement and Removal Operations ("ERO"). In this capacity, Respondent O'Neill is responsible for the administration and management of ICE detention and enforcement operations within the Eastern District of Pennsylvania and exercises legal control over Petitioner's custody.

15. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for the administration and enforcement of federal immigration laws, including detention determinations, and is a legal custodian of Petitioner. Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.

16. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act ("INA"), including the detention, parole, and removal of noncitizens. DHS exercises ultimate authority over ICE and Petitioner's detention.

17. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws and for Petitioner's detention. Secretary Noem is the ultimate legal custodian of Petitioner. Her office is located at the U.S. Department of Homeland Security, Washington, D.C. 20528.

18. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States and senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration of Appeals (BIA).

III. JURISDICTION AND VENUE

19. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

20. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et

seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

21. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. *See* 5 U.S.C. § 702.

22. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

IV. STATEMENT OF FACTS

23. Petitioner Abdourahmane Kouyate A# [redacted], is a noncitizen from Guinea, who was detained after voluntarily appearing at his regularly scheduled ICE check-in on February 18, 2026. He is currently detained at FDC in Philadelphia, Pennsylvania.

24. Petitioner was affirmatively released into the United States on or about December 8, 2023, pursuant to INA § 236(a), 8 U.S.C. § 1226(a), following his apprehension by Customs and Border Protection ("CBP") near the border.

25. Following his release from ICE custody in December of 2023, Petitioner fully complied with all conditions of release.

26. In early December 2024, Petitioner filed an application for asylum with Philadelphia Immigration proceedings.

27. After years of adherence to immigration conditions and establishing a presence in the community, Petitioner was abruptly detained while appearing for his regularly scheduled ICE check-in on February 18, 2026, without prior notice, without a bond hearing, and without any contemporaneous explanation of the statutory basis for this action.

28. To the extent ICE is asserting detention authority under 8 U.S.C. § 1225(b), as it has repeatedly done in materially identical cases throughout this District, such detention is unlawful because DHS already exercised parole authority under INA § 212(d)(5).

29. Because Petitioner is being detained without clear statutory authorization and in violation of the Fifth Amendment's Due Process Clause, Petitioner requests that this Court issue the writ of *habeas corpus* and order Petitioner's immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a).

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

30. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) ("[T]he exhaustion requirement imposed by

courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.").

31. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

32. Moreover, the exhaustion "doctrine is not without exception." *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). "Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if the plaintiff has raised a substantial constitutional question." *Id.* at 666-67.

33. Exhaustion is not required here because Petitioner entered the United States as an arriving alien and is therefore subject to mandatory detention without opportunity for bond or parole under although Petitioner is in pending removal proceedings, DHS did not file a charging document until the date Petitioner was detained. As such, Petitioner had no opportunity to seek relief through the Immigration Court prior to his detention.

34. Although DHS may have issued a Notice to Appear, it is well-established that removal proceedings do not commence unless and until a formal charging document is filed with the Immigration Court. 8 C.F.R. § 1003.14(a); *Pereira v.*

Sessions, 585 U.S. at 215–16. Because DHS did not file the charging document with EOIR until the day it ordered ICE to detain Petitioner, he had no opportunity to seek alternative relief and now bears the risk of a swift transfer to another facility.

35. Additionally, administrative relief would be futile in this matter, as recent decisions by the Board of Immigration Appeals ("BIA") have rendered bond hearings through the Immigration Courts illusory. The BIA has maintained its position that an Immigration Judge lacks jurisdiction to conduct a bond hearing or provide any relief, rendering administrative exhaustion futile.

36. Finally, the Immigration Court and/or BIA do not have jurisdiction to adjudicate Petitioner's present claim. The Third Circuit has held that the BIA does not have jurisdiction to adjudicate Constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Here, Petitioner raises a Constitutional due process issue, making his claim ripe for adjudication by this Court, rather than the Immigration Court. Therefore, any administrative proceedings would be futile. *Qatanani*, 144 F.4th at 500.

VI. LEGAL FRAMEWORK

A. PAROLE UNDER INA § 236(A)

Noncitizens Who Entered Without Inspection (EWI) and Were Released Into the Interior

37. The Government frequently asserts that noncitizens who entered without inspection ("EWI") are categorically subject to mandatory detention under 8 U.S.C. § 1225(b) based solely on the manner of their entry. Courts have repeatedly rejected that position. Entry without inspection, standing alone, does not permanently subject a noncitizen to mandatory detention under § 1225(b).

38. As courts in the Eastern District have emphasized, the legally operative event for determining detention authority is not the manner of initial entry, but DHS's affirmative decision to release the individual into the United States. See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025). Once DHS releases an EWI noncitizen into the interior—whether under supervision, on recognizance, or after service of a Notice to Appear—the individual is no longer "seeking admission" within the meaning of § 1225(b), and detention authority, if any, must arise under 8 U.S.C. § 1226(a).

39. In *Maldonado Bautista v. Santacruz*, the United States District Court for the Central District of California squarely rejected DHS's position that noncitizens who entered without inspection remain categorically subject to mandatory detention under § 1225(b) after release into the United States. The court held that noncitizens already present in the United States who entered without inspection and were not apprehended upon arrival are detained—if at all—under 8 U.S.C. §

1226(a) and are therefore entitled to individualized bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 12–16 (C.D. Cal. Nov. 20, 2025), final judgment entered, slip op. at 10–11 (C.D. Cal. Dec. 18, 2025).

40. The court further certified a nationwide Bond-Eligible Class consisting of:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 2, 15 (C.D. Cal. Nov. 25, 2025), clarified and incorporated into final judgment, slip op. at 2 (C.D. Cal. Dec. 18, 2025).

41. Importantly, in entering final judgment, the court expressly clarified that the Board of Immigration Appeals' decision in *Matter of Yahure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), "cannot be squared" with its statutory analysis and that *Yahure Hurtado* is "no longer controlling," as "the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 6 (C.D. Cal. Dec. 18, 2025). The court emphasized that detention authority must be determined by DHS's custodial decisions—specifically, whether DHS elected to release the noncitizen into the interior—and not by the manner of entry alone. *Id.* at 6–8.

42. Accordingly, even where DHS argues that a noncitizen's EWI status places them outside the scope of § 1226(a), *Maldonado Bautista* confirms that such individuals are bond-eligible once released and that *Yahure Hurtado* cannot be relied upon to deny access to a bond hearing.

43. Accepting the Government's contrary theory—that all EWI noncitizens remain permanently subject to § 1225(b)—would effectively eliminate § 1226(a) for a broad class of individuals Congress plainly intended to place within the discretionary detention regime. Courts have rejected that interpretation as inconsistent with the INA's text, structure, and statutory design. See *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *9 (E.D. Pa. Nov. 18, 2025); *Kashranov*, 2025 WL 3188399, at *10.

44. Accordingly, once an EWI noncitizen has been released into the United States, any subsequent detention authority arises—if at all—under 8 U.S.C. § 1226(a), which requires individualized consideration and access to a bond hearing.

D. The INA Establishes Two Distinct and Mutually Exclusive Detention Regimes

45. The statutory structure of the Immigration and Nationality Act ("INA") establishes two distinct and mutually exclusive detention regimes governing noncitizens during removal proceedings. Mandatory detention under 8 U.S.C. § 1225(b) applies to noncitizens who are "*seeking admission*" at or near the border and

remain in the inspection process. By contrast, 8 U.S.C. § 1226 governs discretionary detention of noncitizens who are *already present in the United States* pending a decision on removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (distinguishing § 1225(b), which applies to noncitizens "seeking admission," from § 1226, which governs noncitizens "already in the country").

46. Courts have consistently recognized that these provisions "can be reconciled only if they apply to different classes of aliens." *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at *11 (D. Mass. Aug. 19, 2025) (quoting *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019)); see also *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *5 (E.D. Pa. Nov. 18, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025).

47. A noncitizen may not be simultaneously subject to both detention schemes. Once the Department of Homeland Security ("DHS") affirmatively releases a noncitizen into the United States—whether through humanitarian parole under INA §212(d) or, release on recognizance under INA §236(a), 8 U.S.C. § 1226(a)—the individual is no longer subject to the mandatory detention framework of INA §235(b), 8 U.S.C. § 1225(b). At that point, any subsequent detention authority arises, if at all, under § 1226, which provides for discretionary detention and access to an individualized bond hearing. *See Rios Porras v. O'Neill*, No. 25-6801, slip op. at 4–5 (E.D. Pa. Dec. 22, 2025).

48. As explained in the Argument section below, DHS's attempt to reclassify a noncitizen as subject to mandatory detention under § 1225(b) after an affirmative release into the interior finds no support in the INA's text or structure and has been uniformly rejected by courts.

B. 8 U.S.C. § 1225(B) DOES NOT APPLY AFTER PAROLE

49. Section 1225(b) applies only to individuals who are seeking admission and have not been admitted or paroled. 8 U.S.C. § 1225(b).

50. Once DHS paroles a noncitizen into the United States, § 1225(b) no longer governs detention authority. DHS may not later treat the same individual as an "arriving alien" subject to mandatory detention. *Rios Porras*, slip op. at 4–5.

51. Courts in this District have repeatedly rejected the Government's attempt to re-invoke § 1225(b) after parole. *See, e.g., Kashranov v. Jamison*, 2025 WL 3188399, at *5–6 (E.D. Pa. Nov. 14, 2025); *Ndiaye v. Jamison*, 2025 WL 3229307, at *3–4 (E.D. Pa. Nov. 19, 2025).

VII. ARGUMENT

A. PETITIONER'S DETENTION VIOLATES THE IMMIGRATION AND NATIONALITY ACT

52. DHS's detention of Petitioner under 8 U.S.C. § 1225(b) is unlawful because DHS already exercised its parole authority under INA § 236(a), 8 U.S.C. § 1226(a), thereby removing Petitioner from the statutory class governed by § 1225(b).

53. Section 1225(b) authorizes mandatory detention only for noncitizens who are seeking admission and who have not been admitted or paroled into the United States. 8 U.S.C. § 1225(b).

54. As the Eastern District of Pennsylvania recently explained in a materially identical case, DHS "cannot parole an individual into the United States and later claim that the same individual is 'present without admission or parole.'" *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 4 (E.D. Pa. Dec. 22, 2025). In *Rios Porras*, DHS apprehended the petitioner at the border, released him on parole, and then detained him years later at his home while asserting mandatory detention authority under § 1225(b). The court squarely rejected that theory, holding that parole is the legally operative act for detention purposes. *Id.* at 3–5.

55. Once parole is granted, detention authority—if any—arises under 8 U.S.C. § 1226(a), which governs the discretionary detention of noncitizens pending a decision on removal and requires an individualized bond hearing. *Id.*; *Demirel v. Fed. Det. Ctr. Phila.*, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025). Section 1226(a) does not authorize categorical or mandatory detention; rather, it permits release on bond or conditional parole after individualized consideration. 8 U.S.C. § 1226(a)(2).

56. Under U.S.C. § 1226(a), a noncitizen is eligible for custody redetermination unless there is evidence of their involvement with foreign terrorist groups or they present a danger to public safety and/or national security. 8 U.S.C. § 1227(a)(4)(A).

57. Because Petitioner does not fall within one of the categories enumerated in § 1227(a)(4)(A) and his current detention is governed by § 1226(a)(2), he is entitled to an individualized custody determination.

58. Here, DHS has provided Petitioner with no bond hearing at all, despite having paroled him into the United States under INA § 236(a). Because Petitioner remains categorized as an "arriving alien," he cannot request bond or conditional parole through the Immigration Court despite DHS granting him parole in the past. Detention without a bond hearing under these circumstances exceeds DHS's statutory authority and violates the plain language of the INA. See *Rios Porras*, slip op. at 4–5; *Demirel*, 2025 WL 3218243, at *3.

59. Regardless of the manner of entry, DHS's discretionary decision to grant parole, whether through INA § 236(a) or INA § 212(d), terminated any detention authority under 8 U.S.C. § 1225(b). See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).

B. INITIAL BORDER APPREHENSION IS LEGALLY IRRELEVANT

60. The Government frequently argues that initial apprehension at or near the border permanently subjects a noncitizen to mandatory detention under § 1225(b), even after DHS has exercised parole authority. Courts have uniformly rejected that argument.

61. As multiple courts in this District have explained, initial apprehension is not the legally operative event for detention purposes. Rather, the operative event is DHS's affirmative decision to parole the individual into the United States. *Rios Porras*, slip op. at 3–4. Once DHS chooses parole, it cannot later erase the legal consequences of that decision by invoking a statute that applies only to individuals who have not been admitted or paroled. *Id.*

62. The Eastern District has repeatedly emphasized that DHS may not "toggle" between detention statutes based on enforcement preference. See *Kashranov v. Jamison*, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025) ("The government's attempt to resurrect § 1225(b) after parole finds no support in the statutory text."). In *Kashranov*, as here, DHS argued that the petitioner's original border encounter justified continued mandatory detention notwithstanding parole. The court rejected that position, holding that once parole is granted, § 1225(b) no longer applies "regardless of where or how the individual was first encountered." *Id.*

63. Accordingly, the fact that Petitioner was initially apprehended at the border is legally irrelevant. DHS's own discretionary act of parole governs the applicable detention framework, and that framework does not permit mandatory detention without a bond hearing.

64. THE GOVERNMENT'S INTERPRETATION IS AN EXTREME OUTLIER REJECTED BY THE OVERWHELMING NATIONAL CONSENSUS

65. Federal courts across the country have repeatedly addressed the precise legal question presented here: whether DHS may categorically treat all individuals who entered the United States without inspection as "applicants for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), thereby denying them access to bond hearings.

66. As Judge Diamond recently summarized:

> "As of November 2025, at least 289 district court decisions have addressed this issue. In all but six, the Government's interpretation of the INA—the same interpretation it urges here—was rejected." *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025).

67. Courts have concluded that DHS has misread the INA, that detention in these circumstances is governed by 8 U.S.C. § 1226(a)—which provides access to a bond hearing—not § 1225(b), and that the Government's categorical application of § 1225(b) in this context violates the Fifth Amendment's Due Process Clause. *See, e.g.*, *Demirel*, 2025 WL 3218243, at *6–9; *Kashranov*, 2025 WL 3188399, at *12–13; *Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025); *Bethancourt Soto v. Soto*, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Sanchez Ballesteros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *Hernandez-Alonso v. Tindall*, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); *Rodriguez Serrano v. Noem*, 2025 WL 3122825

(W.D. Mich. Nov. 7, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Rosales Ponce v. Olson*, 2025 WL 3049785 (N.D. Ill. Oct. 31, 2025); *Loza Valencia v. Noem*, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

68. Petitioner's case falls within this overwhelming national consensus. Like the petitioners in these cases, Mr. Kouyate was initially encountered at the border, released into the United States under INA § 236(a), 8 U.S.C. § 1226, lived in the community pursuant to DHS supervision, and was later re-detained without a meaningful bond determination. Courts have uniformly rejected the Government's attempt to resurrect INA § 235(b), 8 U.S.C. § 1225(b), mandatory detention after such release.

69. IIRIRA CONFIRMS THAT § 1226(a), NOT § 1225(b), GOVERNS THE DETENTION OF INDIVIDUALS LIKE PETITIONER WHO WERE RELEASED INTO THE UNITED STATES AND LATER DETAINED IN THE INTERIOR

70. The Immigration and Nationality Act contains multiple detention provisions that apply at different stages of the removal process. Section 1226(a) governs discretionary detention of noncitizens arrested within the United States pending a

decision on removal and entitles many of such individuals to an individualized bond hearing. 8 U.S.C. § 1226(a); INA § 236(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates a narrow exception for certain noncitizens with specified criminal convictions, requiring mandatory detention without bond. Section 1225(b), by contrast, governs mandatory detention of noncitizens subject to expedited removal under § 1225(b)(1) and other recent arrivals who are "seeking admission" under § 1225(b)(2). Finally, § 1231 governs post-final-order detention.

71. Both § 1226(a) and § 1225(b)(2) were enacted as part of IIRIRA. Pub. L. No. 104-208, Div. C §§ 302–03, 110 Stat. 3009-546. In enacting § 1226(a), Congress expressly stated that the provision "restates the current provisions in the predecessor statute," which had long permitted noncitizens who entered without inspection to seek release on bond. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

72. Consistent with that understanding, shortly after IIRIRA's enactment, EOIR promulgated regulations clarifying that noncitizens who entered without inspection and were later present in the United States were generally detained under § 1226(a), not § 1225(b), and were eligible for bond hearings. *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without

having been admitted or paroled … will be eligible for bond and bond redetermination.").

73. For decades thereafter, the government uniformly treated noncitizens who had entered the United States, even without inspection, and were placed in standard removal proceedings as subject to § 1226(a), with access to bond hearings unless barred by criminal history. *See, e.g., Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025). That practice was consistent not only with IIRIRA, but with longstanding pre-IIRIRA practice under which noncitizens physically present in the United States were entitled to custody determinations before an immigration judge. *See* 8 U.S.C. § 1252(a) (1994).

74. Only recently did DHS reverse course. In July 2025, ICE issued an internal memorandum asserting—contrary to decades of practice—that § 1225, rather than § 1226, governs the detention of noncitizens present in the United States without admission. *Diaz Martinez*, 2025 WL 2084238, at *4. Shortly thereafter, the Board of Immigration Appeals adopted that position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that all noncitizens present without admission are subject to mandatory detention under § 1225(b)(2)(A).

75. Federal courts have overwhelmingly rejected that interpretation as inconsistent with the INA's text, structure, and history. *Demirel*, 2025 WL 3218243, at *6–9; *Kashranov*, 2025 WL 3188399, at *6–10; *Diaz Martinez*, 2025 WL 2084238, at *6–8; *Lopez Benitez v. Francis*, 2025 WL 2371588, at *6–9 (S.D.N.Y. Aug. 13, 2025).

76. The statutory text confirms why. Section 1226(a) applies by default to noncitizens detained "pending a decision on whether the alien is to be removed." *Jennings v. Rodriguez*, 583 U.S. at 288. It expressly applies to individuals charged as inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Indeed, Congress's recent enactment of the Laken Riley Act—which carved out specific categories of inadmissible noncitizens from § 1226(a)'s bond provision—confirms that, absent those narrow exceptions, inadmissible noncitizens are ordinarily governed by § 1226(a). *See Rodriguez Vazquez*, 2025 WL 1193850, at *12.

77. By contrast, § 1225(b)(2) applies only to individuals who are both applicants for admission and actively "seeking admission." 8 U.S.C. § 1225(b)(2)(A). Courts have correctly recognized that the phrase "seeking admission" denotes present-tense, border-focused conduct, not individuals who entered the United States, were released into the interior, and are pursuing relief from removal. *Diaz Martinez*, 2025 WL 2084238, at *6; *Lopez Benitez*, 2025 WL 2371588, at *6. Reading § 1225(b)(2) to apply to all inadmissible noncitizens would render the "seeking admission" language meaningless and violate the canon against surplusage. *See Gomes v. Hyde*, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025).

78. Applying § 1226(a) to individuals like Petitioner is also consistent with the government's longstanding practice, which "can inform a court's determination of what the law is." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024). DHS's

abrupt reversal of that practice underscores, rather than undermines, the conclusion that § 1226(a) is the correct statutory framework.

79. Finally, construing § 1225(b)(2) to mandate detention without bond for all noncitizens present without admission would raise serious constitutional concerns. Detention without any individualized determination of flight risk or danger implicates both substantive and procedural due process. Where a statute is susceptible to two interpretations, courts must adopt the construction that avoids serious constitutional doubts. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005).

80. Because Petitioner was initially detained at the border but then released under INA § 236(a) and permitted to live in the community for an extended period, his detention falls within § 1226(a). DHS's attempt to resurrect § 1225(b) after that release is inconsistent with IIRIRA's text, history, and structure and cannot sustain Petitioner's continued detention without a lawful, individualized bond determination.

C. PETITIONER'S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT

i. Procedural Due Process

81. The Fifth Amendment's Due Process Clause protects all "persons" within the United States—including noncitizens—from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Diaz*, 426 U.S.

67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

82. At minimum, procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before liberty is restrained. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In the immigration detention context, that principle is typically satisfied through an individualized bond hearing where the government must justify continued detention.

83. Petitioner received no such process. After being paroled into the United States and complying with all requirements for years, he was detained at his home without notice, without explanation, and without any hearing. DHS provided no individualized determination that detention was necessary and no opportunity for Petitioner to contest his confinement.

84. Courts in this District have found materially identical conduct to be procedurally unconstitutional. See *Rios Porras*, slip op. at 4–5 (finding detention without a bond hearing after parole violated due process). The absence of any hearing or individualized assessment creates a substantial risk of erroneous deprivation of liberty and fails even the most basic procedural requirements of the Fifth Amendment.

85. The due process violation is compounded by the absence of any administrative forum. Because of Petitioner's status as an "arriving alien," he is barred from receiving bond from an Immigration Judge. As a result, Petitioner has no means to

challenge his detention on the basis of his prior parole except through the instant petition.

ii. Substantive Due Process

86. Substantive due process imposes an independent constraint on civil detention. Even where procedures are provided, detention must bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

87. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Detention that does not reasonably further either purpose violates substantive due process.

88. Petitioner's detention serves neither. DHS itself determined that Petitioner was suitable for parole, and permitted him to live in the community for years. There has been no individualized finding, or even allegation, that Petitioner poses a danger to the community.

89. Detention imposed under these circumstances is arbitrary. As the Supreme Court has cautioned, justification based on flight risk "is weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Moreover, detention imposed without statutory authorization is itself substantively

unconstitutional. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005) (holding that detention beyond statutory limits violates due process).

90. Because DHS lacks statutory authority to detain a paroled individual without a bond hearing, Petitioner's continued confinement is not merely excessive—it is unlawful and unconstitutional.

D. IN THE ALTERNATIVE, PETITIONER IS ENTITLED TO A BOND HEARING UNDER *MALDONADO BAUTISTA*

85. Even if this Court were to conclude that Petitioner is detained under 8 U.S.C. § 1225(b), which he is not, his continued detention without a bond hearing is independently unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

86. On November 20, 2025, the United States District Court for the Central District of California granted partial summary judgment holding that noncitizens detained under circumstances identical to Petitioner's are properly detained under 8 U.S.C. § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide Bond Eligible Class and expressly extended that declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

87. Critically, on December 18, 2025, the court entered final judgment after finding that immigration courts and the Department of Homeland Security were continuing to deny bond hearings and disregard the Court's declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025) (entering final judgment pursuant to Fed. R. Civ. P. 54(b) based on evidence of agency noncompliance). The court expressly recognized that immigration judges had been instructed to continue following *Matter of Yajure Hurtado* despite the Court's ruling, and that such noncompliance created exigent circumstances and ongoing irreparable harm to detained class members. *Id.* at 8–9.

88. The *Maldonado Bautista* declaratory judgment, now a final judgment**,** holds that application of mandatory detention under § 1225(b)(2) to Bond Eligible Class members violates the Immigration and Nationality Act, and that such individuals are detained under § 1226(a) as a matter of law. *Maldonado Bautista*, 2025 WL 3289861, at *11. That judgment has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

89. Courts in the Eastern District of Pennsylvania have repeatedly relied on *Maldonado Bautista* in ordering release or bond hearings for similarly situated petitioners. See, e.g., *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *5 (E.D. Pa. Nov. 18, 2025); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025).

90. Accordingly, even under Respondents' erroneous theory of detention, Petitioner is entitled to immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days.

91. Where detention exceeds statutory or constitutional limits, habeas relief is appropriate. *Zadvydas*, 533 U.S. at 699–701.

92. Courts in this District regularly order immediate release or bond hearings in materially similar cases. *Rios Porras*, slip op. at 5; *Ndiaye*, 2025 WL 3229307, at *4.

VIII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act
Unlawful Detention and Denial of Bond Hearing
8 U.S.C. §§ 1225(b), 1226(a)

93. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

94. The mandatory detention provision at 8 U.S.C. § 1225(b) applies only to noncitizens who are seeking admission and who have not been admitted or paroled. It does not apply once the Department of Homeland Security ("DHS") has affirmatively exercised its discretionary authority to parole a noncitizen into the United States pursuant to INA § 212(d)(5) or INA §236(a)

95. Petitioner Abdourahmane Kouyate was paroled into the United States by the Department of Homeland Security ("DHS") on or about December 8, 2023, at the port of entry in Lukeville, Arizona, pursuant to DHS's discretionary parole authority. Regardless of the manner of entry, DHS's discretionary decision to grant parole extinguished any detention authority under 8 U.S.C. § 1225(b). See Rios Porras v. O'Neill, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); Kashranov v. Jamison, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).

91. Following his parole pursuant to INA § 236(a), Petitioner sought additional immigration relief by filing an Application for Asylum and Withholding of Removal on the bases of political opinion, membership in a particular social group and protection under the Convention Against Torture with U.S. Citizenship and Immigration Services ("USCIS"), underscoring DHS's recognition that Petitioner was properly present in the United States following his release and eligible to pursue relief through established statutory processes.

92. Once DHS paroles a noncitizen into the United States, any subsequent detention authority—if it exists at all—arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025).

93. Nonetheless, Respondents have detained Petitioner without providing a bond hearing and without identifying any lawful statutory basis for detention.

Respondents' application of § 1225(b) to Petitioner is contrary to the plain language of the INA and violates 8 U.S.C. § 1226(a).

SECOND CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act
Alternative Claim Under *Maldonado Bautista*
8 U.S.C. § 1226(a)

94. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

95. In the alternative, even if this Court were to conclude that Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)—which they may not—Petitioner's continued detention without a bond hearing is unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

96. In *Maldonado Bautista*, the district court granted partial summary judgment holding that similarly situated noncitizens are detained under § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025).

97. The court subsequently certified a nationwide Bond Eligible Class and extended declaratory relief to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

98. On December 18, 2025, the court entered final judgment after finding that immigration courts and DHS were continuing to deny bond hearings and disregard the court's declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025). The court expressly recognized that such noncompliance created exigent circumstances and ongoing irreparable harm to detained noncitizens.

99. The declaratory judgment in *Maldonado Bautista*—now reduced to final judgment—has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Respondents' continued detention of Petitioner without a bond hearing therefore violates the INA.

THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act Arbitrary, Capricious, and Contrary to Law Agency Action 5 U.S.C. § 706(2)

100. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

101. The Administrative Procedure Act ("APA") requires courts to hold unlawful and set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

102. Respondents' detention of Petitioner under § 1225(b), despite DHS's prior grant of parole and binding federal court decisions holding such detention unlawful, is contrary to the INA and reflects an unexplained and unjustified

departure from settled law and practice. See *Rios Porras*, slip op. at 3–5; *Demirel*, 2025 WL 3218243, at *5.

103. Respondents have failed to articulate a reasoned explanation for treating Petitioner as subject to mandatory detention, have relied on factors Congress did not intend them to consider, and have disregarded binding judicial authority. Their actions are therefore arbitrary, capricious, and not in accordance with law in violation of the APA.

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause Procedural and Substantive Due Process

104. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

105. The Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty without due process of law. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

106. Procedural due process requires, at minimum, notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Petitioner was detained without notice, without a hearing, and without any individualized determination, rendering his detention procedurally unconstitutional.

107. Substantive due process further requires that civil immigration detention bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

108. Petitioner poses no flight risk and no danger to the community. DHS paroled him into the United States, permitted him to reside in the community for years, and detained him without notice. Detention imposed without statutory authorization and without any individualized justification violates substantive due process. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Grants the Petition for Writ of Habeas Corpus;
2) Orders Petitioner's immediate release from ICE custody;
3) In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

4) Awards Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

5) Grants such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: February 18, 2026

VASSOR LAW, LLC.

/s/ Dean Vassor

Dean Vassor, Esq.
Attorney for Petitioner
Vassor Law, LLC
6622 Castor Avenue
Philadelphia, PA, 19149
Dean@vassorlawfirm.com
215-437-0546

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: February 18, 2026 VASSOR LAW, LLC.

_/s/ Dean Vassor

Dean Vassor, Esq.
Attorney for Petitioner
Vassor Law, LLC
6622 Castor Avenue
Philadelphia, PA, 19149
Dean@vassorlawfirm.com
215-437-0546

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Kouyate, Abdourahmane

(b) County of Residence of First Listed Plaintiff Philadelphia County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Dean Vassor, Esq.; 6622 Castor Ave., Philadelphia, PA 19149; 215-437-0546

DEFENDANTS

U.S. DHS - Noem, Kristi, Sec' y; U.S. DOJ - Bondi, Pamela, Att' y Gen.; U.S. ICE - Lyons, Todd M., Acting Dir.; U.S. ICE, Phila. Field Office - Rose, Michael, Dir.; FDC Philadelphia - Jamison, Jamal L., Warden

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☒ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. Section 2241

Brief description of cause:
Unlawful detention

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE
02/18/2026

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: Habeas Petition for Abdourahmane Kouyate

RELATED CASE IF ANY: Case Number:_____ Judge:_____

1. Does this case involve property included in an earlier numbered suit? Yes ☐
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes ☐
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes ☐
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes ☐
5. Is this case related to an earlier numbered suit even though none of the above categories apply? If yes, attach an explanation. Yes ☐

I certify that, to the best of my knowledge and belief, the within case ☐ **is** / ☐ **is not** related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☒ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. Cases Seeking Systemic Relief ***see certification below***
- ☐ 16. All Other Federal Question Cases. *(Please specify)*:_____

B. *Diversity Jurisdiction Cases:*

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (*Please specify*):_____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: *(Please specify)*_____

I certify that, to the best of my knowledge and belief, that the remedy sought in this case ☐ **does** / ☒ **does not** have implications beyond the parties before the court and ☐ **does** / ☒ **does not** seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

☑ Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of $150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

☐ None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS #: [redacted] File No: [redacted]

DOB: [redacted] Event No: [redacted]

In the Matter of:

Respondent: ABDOURAHMANE KOUYATE currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of GUINEA and a citizen of GUINEA ;
3. You arrived in the United States at or near LUKEVILLE, AZ , on or about December 7, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are 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.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

900 MARKET STREET, SUITE 504 PHILADELPHIA PA 19107

(Complete Address of Immigration Court, including Room Number, if any)

on June 17, 2025 *(Date)* at 08:30 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

ANTONIO MARTIN
Acting/Patrol Agent in Charge

ANTONIO M MARTIN
Date: 2023.12.09 02:49:53 -07'00'
0099808853.CBP

(Signature and Title of Issuing Officer)

Date: December 08, 2023 Yuma, Arizona

(City and State)

DHS Form I-862 (6/22) Page 1 of 3

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/erg, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

BRENDAN J PREUSS
Date: 2023.12.09 03:06:46 -07'00'
0489439524 CBP

Border Patrol Agent
(Signature and Title of Immigration Officer)

(Signature of Respondent)

Date: 12/09/2023

Certificate of Service

This Notice To Appear was served on the respondent by me on December 09, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the FRENCH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

BRENDAN PREUSS, Border Patrol Agent

BRENDAN J PREUSS
Date: 2023.12.09 03:06:49 -07'00'
0489439524 CBP

(Signature and Title of officer)

DHS Form I-862 (6/22) Page 2 of 3

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Order of Release on Recognizance

File No: [redacted]
Date: December 08, 2023
Event No: [redacted]

Name: ABDOURAHMANE KOUYATE

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

☒ You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.

☒ You must surrender for removal from the United States if so ordered.

☒ You must report in (~~writing~~) (person) to _____
(Name and Title of Case Officer)

at As indicated on the attached OREC G-56 on _____ at _____
(Location of DHS Office) (Day of each week or month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

☒ You must not change your place of residence without first securing written permission from the immigration officer listed above.
☒ You must not violate any local, State, or Federal laws or ordinances.
☒ You must assist the Department of Homeland Security in obtaining any necessary travel documents.
☒ Other: Employment not authorized

☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

ANTONO M MARTIN
Date: 2023.12.09 02:58:32 -07'00'
0098808855 CBP
(Signature of DHS Official)

ANTONIO MARTIN
Acting/Patrol Agent in Charge
(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the FRENCH language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

BRENDAN PREUSS
BRENDAN J PREUSS
Date: 2023.12.09 03:09:27 -07'00'
0489419524 CBP
(Signature of Immigration Officer Serving Order)

(Signature of Alien)

12/08/2023
(Date)

Cancellation of Order

I hereby cancel this order of release because: ☐ The alien failed to comply with the conditions of release.
☐ The alien was taken into custody for removal.

(Signature of Immigration Officer Canceling Order) (Date)

Form I-220A (Rev. 08/01/07) N

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

OREC G-56

Subject ID: [redacted]

File Number: [redacted] DOB: [redacted]

Name: ABDOURAHMANE KOUYATE

Date: 12/09/2023

Home Address: [redacted]

Please present this notice to your local ICE office upon request

OFFICE LOCATION	Find ICE reporting locations by visiting our website at www.ice.gov/check-in or by scanning the below provided QR Code. If you need additional assistance with finding an ICE office location, please contact us at 1-888-351-4024.
DEADLINE	Within 60 days of your release, you must schedule a date to report to your local ICE office using the ICE Appointment Scheduler. Instructions for accessing this Scheduler are listed below.
REQUEST	ICE Deportation Officer for continued processing and consideration for enrollment in ATD.
REASON FOR APPOINTMENT	You have been released into the United States at the discretion of the U.S. Customs and Border Protection and are now subject to certain reporting requirements. Once you schedule a report date with ICE, you will then be required to report in person, as indicated through the scheduler. Once you report to ICE, ICE will evaluate and advise you of future reporting requirements.
BRING WITH YOU	Identification document (birth certificate, government-issued identity documents such as a driver's license or cédula) and all immigration documents.

One Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

FAILURE TO CONTACT THE LOCAL ICE OFFICE AS INSTRUCTED MAY RESULT IN YOUR ARREST AND/OR A LOSS OF THE RIGHT TO ANY POSSIBLE RELIEF. THANK YOU FOR YOUR COOPERATION.

Navigate the ICE Check-in page

To find information about ICE office locations, scheduling appointments to appear at an ICE office, check court dates with EOIR and registering a change of address, visit: www.ice.gov/check-in

To schedule an appointment (if needed), visit: www.ice.gov/check-in and select "Schedule or Change Appointment"

Address changes must be made within 5 business days of moving. To change your address, visit: www.ice.gov/check-in and follow instructions for "Update Address"

Bring all your immigration documents to your appointment. I-94, I-862, or I-385 if you have them.

Bring a form of identification to your appointment. Driver's license, passport, or birth certificate if you have them.

Scan for ICE ERO Check-in Page

ERO

ICE Form OREC G-56 (6/23)

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