IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABDOURAHMANE KOUYATE *Petitioner,* v. KRISTI NOEM, ET AL., *Respondents.*	: : : : : : : : :	Case No. 2:26-cv-01047

RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

I. BACKGROUND

As the Court is undoubtedly aware, immigration detainees in this district have filed hundreds of petitions for writs of habeas corpus challenging the authority of the Secretary of the U.S. Department of Homeland Security (DHS) to detain them without setting a bond hearing. These cases involve individuals who have been detained pending the completion of their removal proceedings, including consideration of their asylum claims as a defense to removal, and break down into four categories:

- ***Hurtado*[1] cases:** individuals who entered the United States without inspection; after a passage of time, they were encountered by immigration authorities in the interior, placed in standard removal proceedings, and recently were detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g.,* C*antu-Cortes v. O'Neill,* No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025);

[1] "*Hurtado"* refers to the Board of Immigration Appeals' decision in *Matter of Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025).

- ***Q. Li*[2] cases:** individuals who entered the United States without inspection, were encountered near the border and detained without a warrant, released into the country, and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Cordero v. Rose*, No. 26-cv-534 (E.D. Pa. Jan. 29, 2026);
- **Arriving Alien cases:** individuals who presented at a port of entry without valid entry documents, were paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g.,* V*asquez-Rosario v. Noem,* No. 25-cv-7427, 2026 WL 196505, at *5 (E.D. Pa. Jan. 26, 2026).
- **Expedited Removal cases**: individuals who, based on certain conditions related to their time, manner, and place of entry, were placed into expedited removal proceedings, paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(1)(B)(iv); *see, e.g., Seminario Marcos v. Jamison*, No. 26-cv-421 (E.D. Pa. Feb. 6, 2026).

The first three categories of cases (*Hurtado*, *Q. Li*, and Arriving Alien) all share the same authority for mandatory detention: 8 U.S.C. § 1225(b)(2)(A). And while there are certain legal and factual distinctions among those cases, the fundamental point of departure between the government's position and the position advanced by petitioners, and adopted in over 200 decisions in this district, relates to the correct interpretation of § 1225(b)(2)(A):

> [I]n the case of an alien who is an **applicant for admission**, if the examining immigration officer determines that an **alien seeking**

[2] "*Q. Li*" refers to the Board of Immigration Appeals' decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025).

> **admission** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [8 U.S.C. § 1229a].

Id. (emphasis added).

Although petitioners in these cases are indisputably "applicants for admission," *see* 8 U.S.C. § 1225(a)(1), courts in this district (and many elsewhere) have concluded that § 1225(b)(2)(A) does not apply to applicants for admission who are present in the interior of the country because, these decisions conclude, the petitioners are no longer "seeking admission." Courts have reasoned that "seeking admission" should be given meaning beyond "applicant for admission" to avoid surplusage and have read the term to require active and ongoing efforts to be admitted at or near the border. *See, e.g., Kashranov v. Jamison*, No. 25-05555, 2025 WL 3188399, *6–7 (E.D. Pa. Nov. 14, 2025); *Vasquez-Rosario*, 2026 WL 196505, at *9.

By contrast, the government takes the position that "applicants for admission" are necessarily "seeking admission" until they have been admitted or until their removal proceedings are complete. While the government's position has been rejected by the vast majority of district courts to have considered it, the Fifth Circuit Court of Appeals has agreed with the government. *See Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330, at *1, *4–*6 (5th Cir. Feb. 6, 2026). As *Buenrostro-Mendez* explained,

> When a person applies for something, they are necessarily seeking it. [dictionary citations omitted]. Just as an applicant to a college seeks admission, an applicant for admission to the United States is "seeking admission" to the same, regardless whether the person actively engages in further affirmative acts to gain admission. The everyday meaning of the statute's terms confirms that being an "applicant for admission" is not a condition independent from "seeking admission."

Id. *But see Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025) (concluding, upon review of an application for stay pending appeal,

that the government was not likely to succeed on the merits of its argument that individuals who were applicants for admission, and present in the United States, were subject to mandatory detention under § 1225(b)(2)(A)).

This case is an "*Q. Li*" case where the government has detained petitioner under 8 U.S.C. § 1225(b)(2)(A). The Petitioner, a noncitizen, crossed the border without inspection, but was encountered near the border in Arizona on December 7, 2023. *See* Form I-213, Record of Deportable/Inadmissible Alien (dated Dec. 9, 2023) attached hereto as Exhibit A, at 2.[3] Petitioner was charged with being an inadmissible alien, pursuant to 8 U.S.C. § 1182. *See id.* The Petitioner was placed in standard removal proceedings, issued a Notice to Appear, and released into the country. *See* Notice to Appear, attached hereto as Exhibit B; Order of Release of Recognizance, ECF No. 1-6.

On February 18, 2026, the government detained the Petitioner under 8 U.S.C. § 1225(b)(2)(A). *See* Form I-213, Record of Deportable/Inadmissible Alien (dated Feb. 18, 2026) at 2, attached hereto as Exhibit C. At the time the habeas petition was filed, Petitioner was detained within the Eastern District of Pennsylvania.

Thus, the case turns principally on the threshold question of statutory interpretation discussed above—whether petitioner is an "applicant for admission" that is "seeking admission" within the meaning of § 1225(b)(2)(A).[4] The government expands on that argument below in the context of Petitioner, who was first encountered near the border after entering without inspection (thereby falling

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[3] Certain identifying information from the documents submitted as exhibits has been redacted.

[4] In many of its prior responses filed in this district, the government has advanced various jurisdictional arguments that it is not advancing here. Of course, the Court may appropriately satisfy itself of its jurisdiction upon consideration of 8 U.S.C. §§ 1225(b)(9), 1252(a)(2)(B)(ii), 1252(g), and the Third Circuit's decision in *Khalil v. President, United States of America*, --- F.4th ---, 2026 WL 111933 (3d Cir. 2026).

within the scope of the BIA's decision in *Q. Li*), and addresses petitioner's separate argument alleging a violation of due process.

II. ARGUMENT

The Court should deny the petition because: (1) Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(a); and (2) Petitioner's detention does not violate constitutional due process.

A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2).

1. Petitioner is an "applicant for admission" "seeking admission."

An individual who "arrives in the United States," or is "present" in this country but "has not been admitted," is considered an "applicant for admission" under 8 U.S.C. § 1225(a)(1). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Buenrostro-Mendez*, 2026 WL 323330, at *2. Applicants for admission are covered by either § 1225(b)(1) or § 1225(b)(2). *See Jennings*, 583 U.S. at 287 (section 1225(b)(2) "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)") (emphasis added).

An alien remains an applicant for admission, and subject to § 1225(b)(2), so long as he is "not clearly and beyond a doubt entitled to be admitted" to the United States. *See* § 1225(b)(2)(A). *See also* 8 U.S.C. § 1225(a)(1) (defining applicant for admission as *either* "[a]n alien present in the United States who has not been admitted *or* who arrives in the United States (whether or not at a designated port of arrival …)") (emphasis added). Thus, Congress defined *all* aliens who are present in the United States without being admitted as "applicant[s] for admission," regardless of when they entered. *See id.*

When an immigration officer encounters and examines an applicant for admission who seeks to remain in the United States, and that alien (like Petitioner)

desires to remain in the United States, the applicant is necessarily "seeking admission" within the meaning of Section 1225(b)(2)(A). *See Buenrostro-Mendez*, 2026 WL 323330, at *4 ("There is no material disjunction—by the terms of the statute or the English language—between the concept of 'applying' for something and 'seeking' something." (citation omitted). "When a person applies for something, they are necessarily seeking it."). As the *Buenrostro-Mendez* opinion further explained,

> [Section] 1225(a)(3) specifies that "[a]ll aliens (including alien crewmen) who are applicants for admission or *otherwise* seeking admission or readmission to or transit through the United States shall be inspected by immigration officers" (emphasis added). The use of "or otherwise" suggests that "applicants for admission" are a subset of those "seeking admission." *See Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (concluding that the phrase "or otherwise" means "the first action is a subset of the second action"); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 483 (7th Cir. 2019) (same). As the government points out, when an English speaker uses a phrase such as "to bike, jog, or otherwise exercise," the first two items constitute one item out of the overall set. Accordingly, an "applicant for admission" is necessarily someone who is "seeking admission."

Id., at *5.

The government acknowledges that all courts in this district (and many more elsewhere) have reasoned that § 1225(b)(2)(A) requires that an "applicant for admission" be actively "seeking admission" at or near the border to fall within its scope. *See, e.g., Kashranov*, 2025 WL 3188399, *6–7; *Demirel v. Fed. Detention Ctr.*, No. 25-cv-5488, 2025 WL 3218243 (E.D. Pa. Nov. 18., 2025).[5] But, as noted, the Fifth Circuit Court of Appeals has agreed with the government. *See Buenrostro-Mendez*, 2026 WL 323330, at *1, *4–*6; *but see Castañon-Nava*, 161 F.4th at 1062.

[5] The government has filed protective notices of appeal in numerous cases and is awaiting final authorization decisions from the Solicitor General as to whether it may appeal.

Thus, Petitioner, who is indisputably an "applicant for admission," is also "seeking admission" and covered by § 1225(b)(2)(A).

2. Applicants for admission must be detained under 8 U.S.C. § 1225(b)(2)(A), absent discretionary parole.

Pursuant to Section 1225(b)(2)(A), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien **shall be detained** for a proceeding under section 1229a [removal proceedings]." § 1225(b)(2)(A) (emphasis added). The Supreme Court has held that Section 1225(b)(2)(A) is a mandatory detention statute and that individuals detained pursuant to that provision are not entitled to bond. *Jennings*, 583 U.S. at 287 ("Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.").

In *Q. Li*, the BIA expanded upon the Supreme Court's holding in *Jennings* and clarified the scope of §1225(b)(2) for applicants for admission, like Petitioner, who are "arriving" in the United States. 29 I&N Dec. at 68 (citing *Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) (defining the term "arriving" to apply to aliens "who [are] apprehended" just inside "the southern border, and not at a point of entry, on the same day [they] crossed into the United States"). For aliens in this category, the BIA affirmed that DHS may either place the alien into expedited removal proceedings under § 1225(b)(1) or full removal proceedings under § 1229a. *Id.* For the latter category—aliens arriving in and seeking admission into the United States who are placed directly into full removal proceedings—the Board held that § 1225(b)(2)(A) mandates detention "until removal proceedings have concluded." *Id.* (citing *Jennings*, 583 U.S. at 299).

Thus, the BIA held that an applicant for admission "who is arrested and detained without a warrant while arriving in the United States, whether or not at a

port of entry, and subsequently placed in removal proceedings," is detained under § 1225(b)(2) and is therefore ineligible for any subsequent release on bond. *But see Cabeza Cordero v. Rose,* No. 26-cv-534, ECF No. 5 at 5-6 (E.D. Pa. Jan. 29, 2026) (Marston, J.) (disagreeing with the United States' interpretation of *Q. Li* and concluding that petitioner, who entered the United States more than three years ago, was not an applicant for admission that was actively "seeking admission" within the meaning of § 1225(b)(2)); *Cajas-Duchimaza v. McShane*, No. 26-cv-621, ECF No. 6 (Feb. 3, 2026) (McHugh, J.) (similar); *Gurievi v. Rose*, No. 26-736, ECF No. 6 (Feb. 9, 2026) (Kearney, J.).

Respondents maintain that, Petitioner remains an applicant for admission seeking admission, as he has not clearly and beyond doubt established that he is entitled to be admitted to the United States. Consequently, he is subject to mandatory detention under § 1225(b)(2), and ineligible for a bond hearing before an immigration judge.

B. Petitioner's detention does not violate constitutional due process.

Congress broadly crafted "applicants for admission" to include undocumented persons, like Petitioner, who are present within the United States. *See* 8 U.S.C. § 1225(a)(1). In so doing, Congress made a legislative judgment to detain undocumented persons during removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *Jennings*, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.").

The Supreme Court has repeatedly recognized this profound interest. Petitioner's mandatory detention pursuant to §1225(b) will only last the duration of his removal proceedings. *Demore v. Hyung Joon Kim*, 538 U.S. 510, 528 (2003) (explaining that, because "the statutory provision at issue governs detention of

deportable criminal aliens pending their removal proceedings," detention "necessarily serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings"); *see also Jennings*, 583 U.S. at 304. In light of Congress's interest in regulating immigration, including by keeping specified persons in detention pending the removal period, the Supreme Court dispensed of any due process concerns without engaging in the test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See generally Demore*, 538 U.S. at 531.

Petitioner's recent detention pending his removal proceedings does not violate the Due Process Clause. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). Congress made the decision to detain him pending removal, which is a "constitutionally permissible part of that process." *Demore*, 538 U.S. at 531.

The Third Circuit has recognized that there may come a time when mandatory civil detention without a bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, Petitioner does not challenge the reasonableness of his detention under *German Santos* at this time.

III. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the petition for writ of habeas corpus be denied. A proposed order accompanies this response.

Dated: February 20, 2026

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM ANDY SALAS-ALBERNOZ	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 26-CV-906
	:	
BRIAN MCSHANE, ET AL.,	:	
	:	
Respondents.	:	

ORDER

AND NOW, this _____ day of_____,2026, upon consideration of the Petition for Writ of Habeas Corpus and the government's response thereto, it is hereby ORDERED that the Petition is DENIED.

BY THE COURT:

_____
HONORABLE NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

CERTIFICATE OF SERVICE

I certify that on this date, I caused the foregoing Response in Opposition to Petition for Writ of Habeas Corpus to be filed via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: February 20, 2026

/s/ Erin Lindgren
ERIN LINDGREN
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABDOURAHMANE KOUYATE, *Petitioner*, v. KRISTI NOEM, ET AL., *Respondents*.	Civil Action No. 2:26-cv-01047

Exhibit List

Exhibit A: Kouyate Form I 213 redacted

Exhibit B: Kouyate-433 NTA redacted

Exhibit C: Kouyate Form I 213 redacted

Exhibit A

U.S. Department of Homeland Security Subject ID : [redacted]

Record of Deportable/Inadmissible Alien

Family Name (CAPS)	First	Middle
KOUYATE, ABDOURAHMANE		

Sex	Hair	Eyes	Cmplxn
M	BLK	BRO	MED

Country of Citizenship	Passport Number and Country of Issue	File Number
GUINEA	[redacted] GUINEA	[redacted]

Height	Weight	Occupation
70	187	

U.S. Address

Scars and Marks

Date, Place, Time, and Manner of Last Entry	Passenger Boarded at
12/07/2023 12:00, LUK, PWA (AFOOT)	

F.B.I. Number [redacted]

☐ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence

Method of Location/Apprehension: PB

Date of Birth	Date of Action	Location Code	At/Near	Date/Hour
[redacted] Age: 27	12/09/2023	AJO	, , , ,	12/07/2023 18:17

City, Province (State) and Country of Birth	AR ☒	Form : (Type and No.) Lifted ☐ Not Lifted ☐	By
GUINEA			MATTHEW CLARK

NIV Issuing Post and NIV Number	Social Security Account Name	Status at Entry	Status When Found

Date Visa Issued	Social Security Number	Length of Time Illegally in U.S.

Immigration Record	Criminal Record
NEGATIVE	

Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate)	Number and Nationality of Minor Children
	None

Father's Name, Nationality, and Address, if Known	Mother's Present and Maiden Names, Nationality, and Address, if Known
KOUYATE, MAMAUDOU NATIONALITY: GUINEA	SOUT, MARIAMA NATIONALITY: GUINEA

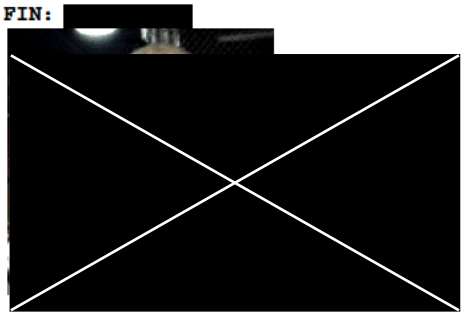
Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted? ☒ Yes ☐ No	Systems Checks	Charge Code Words(s)
None Claimed		See Narrative	See Narrative

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
		Hr	

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: [redacted]

Left Index fingerprint



Right Index fingerprint

FAMILY INFORMATION

Father:KOUYATE, MAMAUDOU is a citizen of GUINEA.
Mother:SOUT, MARIAMA is a citizen of GUINEA.
Spouse:Subject is not married.
Child:Subject does not have children or dependents.

CURRENT CRIMINAL CHARGES

12/07/2023 - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212 ...(CONTINUED ON I-831)

BRENDAN PREUSS
Border Patrol Agent

Alien has been advised of communication privileges _____ (Date/Initials) (Signature and Title of Immigration Officer)

Distribution:

Received: (Subject and Documents) (Report of Interview)

Officer: BRENDAN PREUSS

on: December 9, 2023 (time)

Disposition: Notice to Appear Released (I-862)

Examining Officer: MARTIN, ANTONIO

U.S. Department of Homeland Security **Continuation Page for Form I-213**

Alien's Name	File Number	Date
KOUYATE, ABDOURAHMANE	[redacted] Event No: [redacted]	12/09/2023

CURRENT ADMINISTRATIVE CHARGES

12/07/2023 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

RECORDS CHECKED

CIS checked on 12/09/2023 with Negative result.ABIS checked on 12/08/2023 with Negative result.EARM checked on 12/09/2023 with Negative result.NCIC checked on 12/09/2023 with Negative result.TECS checked on 12/09/2023 with Negative result.NGI checked on 12/08/2023 with Negative result.

RECORD OF DEPORTABLE/EXCLUDABLE ALIEN:

IMMIGRATION HISTORY:
See attached records.
CRIMINAL HISTORY:
See attached records.

ENCOUNTER:
A Border Patrol Agent encountered this subject in the Tucson, Arizona Border Patrol Sector Area of Responsibility. As per the field form, the subject admitted that they arrived in the United States at a time and place other than as designated by the Attorney General or the Secretary of Homeland Security by walking across the international boundary and entering illegally. As per the field form, the subject was apprehended for illegally entering the United States.

After determining that this subject is an alien who illegally entered the United States, the subject was arrested and transported to the Yuma, Arizona Border Patrol Station for further processing using the E3/IDENT and NGI systems.

IMMIGRATION VIOLATION:
At the Yuma Border Patrol Station, the subject stated they are a citizen and national of GUINEA without the necessary legal documents to enter, pass through, or remain in the United States. Subject stated their father and mother, were both born in GUINEA. Both of subject's parents are citizens and nationals of GUINEA. Neither the subject nor their parents have ever been citizens or nationals of any other countries. The subject also admitted they illegally crossed the international boundary without being inspected by an Immigration Officer at a designated Port of Entry.

CONSULAR NOTIFICATION:
The subject was notified of their right to communicate with a Consular Officer from their country as per Article 36(1) (b) of the Vienna convention on Consular Relations. The subject indicated they understood this right but declined to speak with anyone at this time.
This subject was processed as an NTA/OR and being served with 8 USC 1182 due to detention capacity limitations at Yuma, Arizona.
CBP Phone Translation Service was used to communicate with the subject in their native language.
TCA Decompression.

OTHER IDENTIFYING NUMBERS

ALIEN-[redacted]

Signature	Title
BRENDAN PREUSS	Border Patrol Agent

Exhibit B

Uploaded on: 02/07/2024 at 01:07:02 PM (Eastern Standard Time) - Base City: PHL

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

ANTONO M MARTIN
Date: 2023.12.09 [illegible] -07:00
0098808855.CBP

(Signature and Title of Issuing Officer)

Date: December 08, 2023 Yuma, Arizona

(City and State)

EOIR – 1 of 3

Uploaded on: 02/07/2024 at 01:07:02 PM (Eastern Standard Time) Base City: PHL
Case 2:26-cv-01047-NIQA Document 4-2 Filed 02/20/26 Page 3 of 4

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/ero**, 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.

(Signature of Respondent)

Before:

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

Border Patrol Agent
(Signature and Title of Immigration Officer)

Date: 12/09/2023

Certificate of Service

This Notice To Appear was served on the respondent by me on December 08, 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)

EOIR – 2 of 3

Uploaded on: 02/07/2024 at 01:07:02 PM (Eastern Standard Time) Base City: PHL

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.

EOIR – 3 of 3

Exhibit C

U.S. Department of Homeland Security Subject ID : [redacted]

Family Name (CAPS)	First	Middle
KOUYATE, ABDOURAHMANE		

Country of Citizenship	Passport Number and Country of Issue	File Number
GUINEA	[redacted] GUINEA	[redacted]

U.S. Address: [redacted]

Date, Place, Time, and Manner of Last Entry	Passenger Boarded at
12/07/2023 18:17, LUK,	

Number, Street, City, Province (State) and Country of Permanent Residence:

Date of Birth	Date of Action	Location Code
[redacted] Age: 29	02/18/2026	PHI/PHI

City, Province (State) and Country of Birth	AR [X]	Form : (Type and No.) Lifted [ ] Not Lifted [ ]
GUINEA		

NIV Issuing Post and NIV Number	Social Security Account Name

Date Visa Issued	Social Security Number

Sex	Hair	Eyes	Cmplxn
M	BLK	BRO	MED

Height	Weight	Occupation
70	187	Laborer

Scars and Marks: None Visible - None

F.B.I. Number: [redacted]

Marital Status: [ ] Single [ ] Divorced [■] Married [ ] Widower [■] Separated

Method of Location/Apprehension: NCA

At/Near	Date/Hour
See I-831	02/18/2026 12:47

By: ALEX MARIANI

Status at Entry	Status When Found

Length of Time Illegally in U.S.:

Immigration Record	Criminal Record
NEGATIVE	

Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate):

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known	Mother's Present and Maiden Names, Nationality, and Address, if Known
KOUYATE, MAMAUDOU NATIONALITY: GUINEA	SOUT, MARIAMA NATIONALITY: GUINEA

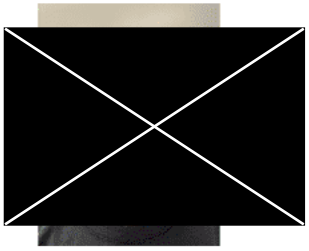
Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted? [■] Yes [ ] No	Systems Checks	Charge Code Words(s)
None Claimed		See Narrative	See Narrative

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
	Unemployed or Retired	Hr	

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: [redacted]

Left Index fingerprint



Right Index fingerprint

FAMILY INFORMATION

Father:KOUYATE, MAMAUDOU is a citizen of GUINEA.
Mother:SOUT, MARIAMA is a citizen of GUINEA.
Spouse:Subject is not married.
Child:Subject does not have children or dependents.

SUBJECT HEALTH STATUS

The subject does not claim good health. Please contact your local IHSC health care staff member for additional
...(CONTINUED ON I-831)

ALEX MARIANI
Deportation Officer

Alien has been advised of communication privileges _____ (Date/Initials) (Signature and Title of Immigration Officer)

Distribution:

Received: (Subject and Documents) (Report of Interview)

Officer: ALEX MARIANI

on: February 18, 2026 (time)

Disposition: Other

Examining Officer: DEMURGUIONDO, ASD8132

[redacted] (Rev. 08/01/07)

Alien's Name	File Number	Date
KOUYATE, ABDOURAHMANE	[redacted] Event No: [redacted]	02/18/2026

information.

CURRENT ADMINISTRATIVE CHARGES

02/18/2026 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)02/18/2026 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA

RECORDS CHECKED

EARM checked on 02/18/2026 with Positive result.TECS checked on 02/18/2026 with Positive result.NCIC checked on 02/18/2026 with Negative result.

ARRESTED AT/NEAR
---
114 N 8TH ST, PHILADELPHIA, PENNSYLVANIA, 19107, UNITED STATES

RECORD OF DEPORTABLE/EXCLUDABLE ALIEN:

Abdourahmane Kouyate is subject to President Donald Trump's Executive Order, titled "Protecting the American People Against Invasion," signed on January 20, 2025.

Encounter:
On February 18, 2026, Abdourahmane Kouyate, [redacted], a native and citizen of Guinea reported to the Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Philadelphia Field Office for his scheduled check-in appointment. The Philadelphia Non-Detained Unit confirmed KOUYATE's identity & alienage and took him into custody without incident. ICE served him with a Warrant of Arrest, Form I-200.

Alienage & Removability:
KOUYATE is a citizen of Guinea and a national of the Guinea by virtue of birth, who entered the United States illegally without being admitted or paroled by an immigration officer. Numerous checks using databases with the Department of Homeland Security (DHS) and the Department of Justice (DOJ) show no pending applications, waivers, or petitions.

Family/ Derivative Citizenship:
KOUYATE has not asserted any claim to United States citizenship, nor do any records indicate that he has obtained or derived such citizenship.

Immigration History:
On 12/07/2023, a Border Patrol Agent encountered this subject in the Tucson, Arizona Border Patrol Sector Area of Responsibility. As per the field form, the subject admitted that they arrived in the United States at a time and place other than as designated by the Attorney General or the Secretary of Homeland Security by walking across the international boundary and entering illegally. As per the field form, the subject was apprehended for illegally entering the United States. After determining that this subject is an alien who illegally entered the United States, the subject was arrested and transported to the Yuma, Arizona Border Patrol Station for further processing using the E3/IDENT and NGI systems.

On October 16, 2024 KOUYATE filed an Application for Asylum and Withholding of Removal, Form I-589, with U.S. Citizenship and Immigration Services (USCIS).

On 07/22/2025 KOUYATE Application for Employment Authorization was printed card #[redacted].

Signature	Title
ALEX MARIANI	Deportation Officer

U.S. Department of Homeland Security **Continuation Page for Form I-213**

Alien's Name	File Number	Date
KOUYATE, ABDOURAHMANE	[redacted] Event No: [redacted]	02/18/2026

Health & Humanitarian:
KOUYATE denied any significant humanitarian concerns.

KOUYATE made a 5-minute phone call to Mamaolie at [redacted].

KOUYATE declined his right to speak with the Guinean Consulate. Consular notifications are not mandatory.

KOUYATE claimed no fear of removal to Guinea.

KOUYATE claims to have diabetes and takes medication for that.

KOUYATE claims to be married.

KOUYATE claims to have a child.

KOUYATE stated that he did not serve in the United States Military.

Foreign Identity and Travel Documents:

At the time of arrest, ERO was able to obtain a copy of KOUYATE's foreign identity/travel document: Guinea Passport No. [redacted].

Signature	Title
ALEX MARIANI	Deportation Officer

U.S. Department of Homeland Security **Continuation Page for Form I-213**

Alien's Name	File Number	Date
KOUYATE, ABDOURAHMANE	[redacted] Event No: [redacted]	02/18/2026

Disposition:
ICE served KOUYATE with a Warrant of Arrest, Form I-200. An I-830 was completed, uploaded and placed in file.

OTHER IDENTIFYING NUMBERS

ALIEN-[redacted]

Signature	Title
ALEX MARIANI	Deportation Officer