IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00867-PAB

OUSSEMANE BA; and
MOHAMED SY,

Petitioners,

v.

GEORGE VALDEZ[1],Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement;
JUAN BALTAZAR, Warden of the Denver Contract Detention Facility;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; and
PAMELA BONDI, United States Attorney General,

Respondents.

MOTION TO SEVER PETITIONERS

Pursuant to Federal Rules of Civil Procedure 20 and 21, Respondents hereby move to sever Petitioners into two separate habeas actions.[2] The joinder of Petitioners in this action is improper for two reasons. First, habeas relief is individual relief and there is no authority for multiple petitioners to file a single petition for habeas corpus relief. Second, Petitioner's habeas claims challenging their detention are not part of the same transaction, occurrence, or series of transactions as required for joinder under

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[1] George Valdez, the Acting Field Office Director for ICE's Denver Field Office, is substituted for Robert G. Hagan pursuant to Fed. R. Civ. P. 25(d).
[2] Respondents certify pursuant to D.C.COLO.LCivR 7.1(a) that counsel for Respondents conferred with Petitioners' counsel regarding this motion. In that conferral, counsel explained the basis upon which Respondents would seek to sever. Petitioners oppose the motion.

Rule 20(a). Accordingly, Respondents request the Court sever Petitioners into two separate habeas civil actions, one for each Petitioner.

BACKGROUND

Petitioner Ba is a native and citizen of Mauritania and entered the United States at the southern border in June 2024. ECF No. 1 ¶ 1.[3] He was encountered near the border and released on his own recognizance. *Id.* In June 2025, Petitioner Ba "was detained at his home and given a credible fear interview." *Id.* ¶ 30. Thereafter, he was served with a Notice to Appear, charging him with removability under 8 U.S.C. §§ 1182(a)(6)(A)(i), and (a)(7)(A)(i)(I), because he was in the United States without being admitted or paroled and did not have a valid visa. *Id.* In his immigration proceedings, an Immigration Judge "pretermitted Mr. Ba's asylum application on the theory that he could be removed under an Asylum Cooperative Agreement to a country other than Mauritania, and issued a removal order. [Petitioner Ba] has filed an appeal with the Board of Immigration Appeals, which remains pending." *Id.* ¶ 31.

Petitioner Sy is a native and citizen of Mauritania and entered the United States at the southern border in June 2023. *Id.* ¶¶ 1 (providing Petitioner Sy entered in June 2023), 32 (providing Petitioner Sy entered in June 2003). He was encountered by the Department of Homeland Security ("DHS") shortly thereafter and placed in removal proceedings. *Id.* ¶ 32. He was released from custody on his own recognizance. *Id.* ¶ 33. In October 2025, Petitioner Sy was arrested and placed in immigration custody. *Id.* On February 18, 2026, an immigration judge denied his request for relief and issued a

[3] For purposes of this Motion, Respondents take the facts alleged in the Petition as true.

removal order. *Id.* An appeal of that order remains pending before the Board of Immigration Appeals. *Id.*

Petitioners jointly filed their Petition on March 3, 2026. ECF No. 1. In their Petition, Petitioners assert violations of the Immigration and Nationality Act ("INA") and the Fifth Amendment alleging that Respondents have unlawfully detained them under 8 U.S.C. § 1225(b)(2). *Id.* ¶¶ 51-70. Petitioners are both detained at the Denver Contract Detention Facility in Aurora, Colorado. *Id.* ¶ 4.

ARGUMENT

Petitioners are improperly joined in this habeas action for two reasons: (1) it is improper for two petitioners to be joined in a single habeas petition as a habeas petition is an individual action, and (2) under Federal Rule of Civil Procedure 20(a), Petitioners claims do not arise out of the same transaction or occurrence because they were detained under distinct factual circumstances. Therefore, the Court should sever Petitioners into two separate habeas actions.

I. It is improper for two petitioners to file a single habeas petition.

As an initial matter, it is improper for two petitioners to be joined in a single habeas petition. "Petitions for a writ of habeas corpus are by nature an individual action." *Borzych v. Bertrand*, 974 F. Supp. 1220, 1222 (E.D. Wis. 1997). "[C]ourts across the country agree that two petitioners cannot join a single habeas petition." *Buriev v. Warden, Geo, Broward Transitional Ctr.,* No. 25-CV-60459, 2025 WL 1906626, at *1 (S.D. Fla. Mar. 18, 2025) (collecting cases); *Henry v. Barr*, No. 3:20-CV-01114-C (BT), 2020 WL 6877703, at *1 (N.D. Tex. Oct. 30, 2020) (noting that the court

severed Petitioner's petition from "five other ICE detainees" because "there is not authority for permitting multiple petitioners to file one single petition for habeas corpus relief" (cleaned up)), *report and recommendation adopted sub nom. Henry v. Moore*, No. 3:20-CV-1114-C-BT, 2020 WL 6873604 (N.D. Tex. Nov. 23, 2020). "[S]ince both [petitioners] are challenging their *own* detention, the facts related to each petitioner will be different, and the procedural limitations on habeas corpus petitions will apply differently to each petitioner based on those facts, requiring independent examination for each litigant just the same as if [two] separate actions had been filed." *Buriev*, 2025 WL 1906626, at *2 (internal citations omitted). Furthermore, "[a] joint habeas petition involving several petitioners is improper because none of the petitioners has any interest in the illegal restraint of the other petitioners." *Rouse v. Michigan*, No. 2:17-CV-12276, 2017 WL 3394753, at *1 (E.D. Mich. Aug. 8, 2017).

Here, Petitioners each challenge the legal basis for their detention through a single habeas petition. But joining petitioners in a single habeas petition is improper because each Petitioner challenges their *own* detention and neither has an interest in the detention of the other. And, as discussed more fully below, Petitioners each were detained under unique factual circumstances such that a single habeas petition is improper. *See infra* 6-7. Accordingly, Petitioners should be severed into separate habeas petitions.

II. Petitioners' claims do not arise out of the same transaction or occurrence as required for joinder under Rule 20(a).

Even if joinder were permissible in habeas petitions, Petitioners have not met both requirements for permissive joinder under Rule 20(a). Petitioners assert that they

are properly joined because "[t]he dispositive issue is the same for both Petitioners in this case: did DHS's initial release of [Petitioners] on their own recognizance . . .mean the government did not process either petitioner under 8 U.S.C. § 1225(b)?" ECF No. 1 ¶ 25. But that argument only addresses the second requirement for joinder—a common question of law. Petitioners, however, do not meet the first requirement for joinder, that is, their right to relief does not arise "out of the same transaction or occurrence."

Federal Rule of Civil Procedure 20(a) imposes two specific requirements for the permissive joinder of parties: (1) a right to relief must be asserted by, or against, each plaintiff or defendant relating to or arising out of the same transaction or occurrence or series of transactions or occurrences; and (2) some question of law or fact common to all parties must arise in the action. "*Both* of these requirements must be satisfied." *Fisher v. Pathway Leasing LLC*, No. 17-cv-01329-CMA-NYW, 2017 WL 6311369, at *2 (D. Colo. Dec. 11, 2017) (citation omitted) (emphasis added). "It is settled that joinder is improper where 'the plaintiff[s] d[o] no more than assert that the defendants merely committed the same type of violation in the same way.'" *Id.* at *4 (quoting *Peterson v. Regina*, 935 F. Supp. 2d 628, 638 (S.D.N.Y. 2013)). Indeed, "[i]f the transaction test could be satisfied by merely alleging that the plaintiffs suffered the same harm . . . there would be virtually no limit to the number of parties that could be joined, which would effectively nullify the transactional requirement." *Id.* (citation and quotation marks omitted).

One court previously held that even though two petitioners were both housed at the same prison and had the same ethnicity, they were convicted of different crimes

and, as such, their "claims did not arise out of the same transaction or occurrence . . . under these circumstances relating to the executions of their sentences." *Banks v. Pearson*, No. CIVA508CV313DCBMTP, 2008 WL 5146416, at *1 (S.D. Miss. Dec. 8, 2008) (ordering the cases severed "into two separate habeas civil actions, one for each petitioner").

Misjoinder occurs when "there is no common question of law or fact or when . . . the events that give rise to the plaintiff's claims against defendants do not stem from the same transaction." *Nasious v. City and Cty. of Denver–Denver Sheriff's Dep't*, 415 Fed. App'x. 877, 880 (10th Cir. 2011) (citation omitted). The remedy for misjoinder is not dismissal of the action. *See* Fed. R. Civ. P. 21 ("Misjoinder of parties is not a ground for dismissing an action"). To remedy misjoinder, in its discretion, the court may order: (1) misjoined parties may be dropped on just terms, or (2) any claims against misjoined parties may be severed." *Fisher*, 2017 WL 6311369, at *3 (internal quotation marks and citation omitted).

Here, while Petitioners do assert a common legal issue, their detention does not arise from the same "transaction or occurrence" to meet the first prong required for joinder under Rule 20(a). Petitioners are both natives and citizens of Mauritania, but each of their detentions are based on different facts. For instance, Petitioners entered the country at different times. ECF No. 1 ¶ 1 (alleging Petitioner Sy entered in June 2023 and Petitioner Ba entered in June 2024). Petitioners also have been detained for different lengths of time. *Id.* ¶ 33 (alleging Petitioner Sy has been detained since October 2025), 30 (alleging Petitioner Ba was initially detained at home starting in June

2025). Each of these factual differences demonstrates that petitioners should not be joined in a single habeas petition as each of their detentions do not arise out of the same transaction or occurrence. *See Buriev*, 2025 WL 1906626, at *2. Accordingly, Petitioners do not meet the first requirement of joinder, and the Court should sever Petitioners into two separate habeas actions. *See Fisher*, 2017 WL 6311369, * 5 ("Both requirements [common transactions and common questions of law] must be satisfied" in order for the cases to be properly joined).

And, while Petitioners do raise a common legal issue, this legal issue is common to numerous petitioners who have asserted habeas claims in this district and across the country. *See, e.g., J.A.S.H. v. Lynch*, No. 1:25-CV-1389, 2025 WL 3235739, at *4 n. 3 (W.D. Mich. Nov. 20, 2025) (noting that "[o]ver the last eleven weeks the Court has received more than 100 petitions from noncitizens seeking release under § 2241" and holding that "joinder is not advisable" because "whether or not the government is properly holding a noncitizen detainee without a bond hearing under 8 U.S.C. § 1225 requires an individualized inquiry into that detainee's circumstances . . . such that judicial economy is not furthered by joinder."). Permitting joinder here would result in there being "virtually no limit to the number of parties that could be joined, which would effectively nullify the transactional requirement" of Rule 20(a). *See Fisher*, 2017 WL 6311369, at *4 (quotation marks and citation omitted).

CONCLUSION

For the foregoing reasons, Respondents request the Court sever Petitioners into two separate habeas civil actions, one for each Petitioner.

Dated: March 13, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

s/ Julia M. Prochazka
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