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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ALASSANE DEMBELE Petitioner v. MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security, TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, GEORGE VALDEZ, in his official capacity as ICE Field Office Director, JUAN BALTAZAR, in his official capacity as the warden of the Aurora Immigration Detention Facility, Respondents.	Case No. _____ **VERIFIED PETITION FOR HABEAS CORPUS** IMMIGRATION HABEAS CASE

INTRODUCTION

Alassane Dembele (Petitioner), through counsel, petitions for a writ of habeas corpus. Petitioner, a citizen of Mauritania, entered the United States on or about October 22, 2023 without parole or inspection and has resided here continuously since. (Exhibit 1). He was apprehended by DHS on or about March 18, 2026 and is currently detained at the Aurora Immigration Detention Facility without a bond hearing. (Exhibit 2). He has no disqualifying criminal history under 8

U.S.C. § 1226(c). This case presents a legal question courts in this District have now resolved many times: Respondents have misclassified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) when, in fact, 8 U.S.C. § 1226(a) governs his detention and entitles him to a bond hearing.

Petitioner has not requested a bond hearing because the BIA has predetermined the issue in *Matter of Yajure Hurtado*, 20 I&N Dec. 216, 228 (BIA 2025), rendering administrative exhaustion futile. Courts in this District have consistently rejected Respondents' § 1225(b)(2) mandatory-detention theory and ordered bond hearings under § 1226(a). *See, e.g., Martinez Torres v. Mullin*, No. 26-cv-01062-CYC (D. Colo. Mar. 30, 2026); *Lira-Jarquin v. Noem*, No. 26-cv-00588-STV (D. Colo. Mar. 30, 2026). This Court should do the same.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241 and § 1331. "Challenges to immigration detention are properly brought through habeas." *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004). Venue is proper in this District because Petitioner is detained at the Aurora Immigration Detention Facility. No exhaustion is required because the BIA has predetermined the § 1225(b) issue. *See Garza v. Davis*, 596 F.3d 1198, 1203 (10th Cir. 2010) (futility exception).

FACTUAL BACKGROUND

Petitioner entered the United States on or about October 22, 2023 near Lukeville, AZ without inspection and was placed in removal proceedings. (Exhibit 1). He relocated to Denver, CO and has resided there continuously. He timely filed an I-589 asylum application on March 7, 2024. Over the following two years he attended every required hearing, obtained employment authorization and actively litigated his asylum claim. On March 18, 2026—over two years after

his entry—ICE arrested him at his immigration check-in. (Exhibit 2). He has been detained without a bond hearing since.

LEGAL ARGUMENT

I. Section 1226(a), Not § 1225(b)(2), Governs Petitioner's Detention.

This question has been resolved consistently in this District. Section 1225(b)(2)(A) authorizes mandatory detention only of a noncitizen who is "seeking admission." "Admission" is "lawful entry . . . after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Accordingly, "seeking admission" requires that the noncitizen continue to want to go into the country—a condition that cannot apply to someone already living here. *Lira-Jarquin*, No. 26-cv-00588-STV, slip op. at 9 ("One cannot seek to go into the place where they already are."). Section 1226(a), by contrast, is "the default rule" for noncitizens already present pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

Petitioner has resided in the United States for over two years. He is not "seeking admission." The Court "remains firmly convinced" that § 1226(a) governs detention of noncitizens in Petitioner's position. *Martinez Torres*, No. 26-cv-01062-CYC, at 3–4. Accord *Hernandez-Redondo v. Bondi*, 2026 WL 290989 (D. Colo. Feb. 4, 2026); *Inestroza Paguada v. Choate*, 2026 WL 621282 (D. Colo. Mar. 5, 2026); *Aleman Hernandez v. Baltazar*, 2025 WL 3718159 (D. Colo. Dec. 23, 2025).

II. The Fifth Circuit's Contrary Decision Is Not Persuasive.

Respondents will likely cite *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026). Courts in this District have uniformly rejected that divided decision. *Martinez Torres*, slip op. at 3–4 (incorporating Judge Sweeney's analysis in *Singh v. Baltazar*, 2026 WL 352870, at *3–6 (D.

Colo. Feb. 9, 2026)); *Lira-Jarquin*, slip op. at 9. Non-binding Fifth Circuit authority does not require this Court to depart from the well-settled consensus in this District, and there is no material distinction between Petitioner's facts and those of prior petitioners. *Martinez Torres*, slip op. at 4.

III. Petitioner's Continued Detention Without a Bond Hearing Violates Due Process.

Because § 1226(a) governs, Petitioner is entitled to an individualized bond hearing before a neutral immigration judge. His detention without any such hearing violates the Fifth Amendment's guarantee of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (due process protects all persons in the United States regardless of immigration status). The appropriate remedy at this stage is a bond hearing within seven days—not immediate release—because § 1226(a) itself authorizes detention pending that determination. *Lira-Jarquin*, slip op. at 9–10.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;

B. Order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within seven (7) days of this Court's order, where the government bears the burden of proving by clear and convincing evidence that Petitioner is a danger to the community or flight risk.

C. Enjoin Respondents from denying bond solely on the basis that Petitioner is subject to § 1225(b)(2)(A); and

D. Order Respondents to file a status report within ten (10) days confirming compliance, including whether bond was granted or denied and the reasons for any denial.

Dated this 30th day of March, 2026.

Respectfully submitted,

/s/ Jonathon Bell
Jonathon Bell
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner as one of his attorneys. I have discussed the events described in this Petition with Petitioner and verify that the statements herein are true and correct to the best of my knowledge.

Dated this 30th day of March, 2026.

/s/ Jonathon Bell

Jonathon Bell