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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MAMADOU MALIENNE DOUCOURÉ,

Petitioner,

v.

CHRISTOPHER LAROSE, warden of Otay Mesa Detention Center
PATRICK DIVVER, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO");
TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE");
MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS");
TODD BLANCHE, Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: '26CV3995 JAO DDL

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Agency Doc. No.: [redacted]

Petitioner, MAMADOU MALIENNE DOUCOURÉ, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

INTRODUCTION

1. Petitioner, MAMADOU MALIENNE DOUCOURÉ ("Mr. Doucouré" or "Petitioner"), by and through his undersigned counsel, hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Doucouré's release from immigration detention by the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE"). Mr. Doucouré seeks immediate release from custody because Respondents have held him since October 18, 2025—a prolonged period. After his entry into the United States, he was transferred to the Otay Mesa Detention Center and allowed to have his case to move forward. He filed all his required documents and was prepared to have his asylum application heard. However, that opportunity was snatched away from him. Mr. Doucouré had been waiting nearly six months to have his asylum application adjudicated. On March 27, 2026, Respondents moved to have his application barred and have him ordered to Uganda under the pretext that he could have a fair hearing there to have his asylum application adjudicated. The Immigration Court granted the motion and he was ordered removed without ever having his asylum claim considered. On April 24, 2026 the BIA received his appeal. Mr. Doucouré has already been waiting 9 months to have his case heard on the

merits. His appeal will take at least another 6 months to a year. This will anywhere from 15 to 21 months he will be detained without ever having his asylum application heard. There is no possibility of his removal in the foreseeable future. His continued detention without a hearing as to flight risk and danger to the community violates the U.S. Constitution and federal law.

CUSTODY

2. Mr. Doucouré is currently in Respondents' legal and physical custody. They are detaining him at the Otay Mesa Detention Center in San Diego, California. He is under Respondents' and their agents' direct control.

PARTIES

3. Mr. Doucouré is a 33-year-old citizen of Mali [redacted] He is currently detained at the Otay Mesa Detention Center in San Diego, California.

4. Mr. Doucouré is currently in Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland corporation, operates that facility.

5. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of Respondents Freden, Lyons and Noem. Respondent Christopher LaRose is a custodian of Petitioner and is named in his official capacity.

6. Respondent Patrick DIVVER is the Acting Field Office Director of ICE in San Diego, California and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

7. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271, and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining Mr. Doucouré. Respondent Lyons has custodial authority over Mr. Doucouré, who names him in his official capacity.

8. Respondent Markwayne MULLIN is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency responsible for enforcing immigration laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Noem has ultimate custodial authority over Mr. Doucouré, who names her in her official capacity.

9. Respondent Todd BLANCHE is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in his official capacity. He is responsible for the Immigration and Nationality Act's implementation and enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office for Immigration Review, the office that administers Mr. Doucouré's

removal proceedings and is responsible for adjudicating Mr. Doucouré's asylum application. Mr. Doucouré names her in her official capacity.

10. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

11. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

JURISDICTION AND VENUE

12. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Mr. Doucouré's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

13. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701–706 (Administrative Procedure Act, "APA"); and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution. Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). The Court may grant relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

14. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Mr. Doucouré's detention. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions. Because Mr. Doucouré seeks the traditional habeas remedy of release from allegedly unlawful detention, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir. 2011)). And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Mr. Doucouré's detention.

15. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have happened here, Mr. Doucouré is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Mr. Doucouré's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J., concurring).

FACTUAL BACKGROUND

16. Mr. Doucouré was born in Mali. In 2024 country-wide human rights abuses were carried out by insurgent groups, radical Islamist groups and by the Mali government itself. "By late August, 2024, over 600,000 Malians were displaced within and outside of the country, and over 10,000 Malian asylum seekers and migrants had arrived by boat to Spain's Canary Islands, surpassing all other nationalities."[1] The United States State Department has documented these abuses in its annual human rights report.

17. Mr. Doucouré has been living with the horror of this unrest and indiscriminate murdering of civilians and believed if he stayed, his life would be forfeit. As the situation escalated, he realized he would only be safe if he escaped Mali.

18. He made his way to Mexico and finally crossed into the United States on October 18, 2025. He immediately encountered CBP officers and was taken into custody. He has been in detention at Otay Mesa Detention Center since October 23, 2025.

19. Respondents initially participated in Mr. Doucouré's bid for asylum. He was allowed to filed his I-589 application for Asylum, Withholding of Removal and Protection under the Convention Against Torture. He was finally given an individual hearing for March 2025. However, Respondents suddenly changed their position. A motion to pretermit was filed and Respondents argued that Mr. Doucouré was

[1] Human Rights Watch: Mali, Events of 2024: https://www.hrw.org/world-report/2025/country-chapters/mali

barred from his right to request asylum in the United States. He could file for asylum and have his case heard in Uganda, they argued and, pursuant to a special agreement with Uganda, Respondents could deport him to that country, against his will and like so much baggage, he could have his asylum case heard there.

20. Mr. Doucouré was dismayed by this intentional delay by Respondents. They are actively preventing him from ever having his case heard. On April 24, 2026 Mr. Doucouré filed a timely appeal with the B.I.A. This process will take another six months to a year. Respondents seek to keep Petitioner locked up this entire time with no opportunity for a custody redetermination.

21. There is no end in sight to Mr. Doucouré's detention ... not because he is a flight risk or a threat to the community. That has never been determined. He remains in detention because the administration insists that all people that lack a green card or citizenship must be detained.

22. On July 8, 2025, the Department of Homeland Security ("DHS") instituted a notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Notice") requiring, in general, that anyone arrested in the United States and charged with being inadmissible to be considered an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

23. In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared

the Notice unlawful under the Administrative Procedures Act but did not issue a final judgment. On December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF No. 94.

24. Mr. Doucouré did not try to ask for a bond because IJ's have consistently ruled that they do not have jurisdiction to redetermine the conditions of custody over individuals who have been apprehended shortly after entering the United States and who have been processed under Section 235(b)(1) expedited removal statute, and who have been placed in removal proceedings. Even after *Maldonado, supra*, was decided, Immigration Judges have still held that they do not have jurisdiction to conduct bond hearings. So, at this point in San Diego getting a bond is a game of roulette based on which judge is assigned to your request.

25. Mr. Doucouré has come to believe that his detention will have no end. The only end seems to be that he finally breaks down and agrees to voluntary departure. There is no other logical explanation for what is currently going on.

26. Mr. Doucouré's continued detention without a tenable justification and without a demonstration that removal is significantly likely in the reasonably foreseeable future violates constitutional due process. Zadvydas v. Davis, 533 U.S. 678 (2001); Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

27. The government has failed to effectuate Mr. Doucouré's removal within a reasonable period of time or present any evidence that his removal is significantly likely to occur in the reasonably foreseeable future.

28. Mr. Doucouré's detention without a tenable justification violates his rights under the Due Process Clause of the Fifth Amendment.

EXHAUSTION OF REMEDIES

29. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (*quoting Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

30. Exhausting administrative remedies here is futile because Respondents contend Mr. Doucouré is subject to mandatory detention. Since March of 2026, Immigration Courts in the Southern District have been stayed from implementing the holding of *Maldonado, supra.* As such, any attempts to exhaust administrative remedies would be entirely futile.

31. Moreover, no statutory exhaustion requirements apply to Petitioner's claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile

exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

32. More importantly, every day that Petitioner remains detained causes him harm that cannot be repaired. His continued detention puts his mental health at greater risk, further warranting a finding of irreparable harm and the waiver of the prudential exhaustion requirement. He cannot get the medical attention he requires while he is detained.

33. The Court must consider this in its irreparable harm analysis of the effects on Petitioner as his detention continues. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner "continues to suffer significant psychological effects from his detention, including anxiety caused by the threats of other inmates and two suicide attempts," in finding that petitioner would suffer irreparable harm warranting waiver of exhaustion requirement).

FIRST CAUSE OF ACTION
Fifth Amendment Due Process Violation

34. Mr. Doucouré re-alleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-33 above.

35. The Supreme Court has long recognized that the Fifth and Fourteenth Amendments refer to all "persons," not just "citizens." Aliens, even inadmissible or removable aliens, must be afforded due process protection. *See Yick Wo v. Hopkins*,

118 U.S. 356, 369 (1886) ("The Fourteenth Amendment to the Constitution is not confined to the protection of citizens."). As stated by the Court, the provisions of the Fourteenth Amendment "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality" Id. (emphasis added).

36. The Supreme Court has held that "even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due Process Clauses of the Fifth and Fourteenth Amendments]" *Mathews v. Diaz.*, 426 U.S. 67, 75 n.7 (1976); see also *Plyler v. Doe*, 457 U.S. 202, 210 (1982) ("Whatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term."); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("Persons within the territory of the United States... even aliens... [may not]... be deprived of life, liberty or property without due process of law.").

37. As there is no final order of removal, and there doesn't appear to be one in the reasonably foreseeable future, Mr. Doucouré may not be removed from the United States. His removal is not reasonably foreseeable, and his detention no longer serves any legitimate purpose under the INA.

38. In *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this District granted habeas relief in a substantially similar case, applying a six-factor balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), which considers: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal

proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. The court determined that prolonged detention, when considered alongside other due process concerns, can rise to the level of a constitutional violation warranting release. *Kydyrali*, 499 F. Supp. 3d at 773.

39. Applying the Banda six-factor framework here supports granting Mr. Doucouré's petition.

40. The final factor—finality—strongly supports the grant of this habeas petition. Mr. Doucouré has been languishing in detention for over 13 months with no end in sight.

41. No delay is attributable to Mr. Doucouré. He has been ready to defend his application since he arrived. The long delay is entirely the fault of the government. They have convinced the Immigration Court that he must not have his case heard in this country. They insist he must by flown in shackles to another country, half way around the world, and have his claim heard there.

42. Mr. Doucouré has now been detained by ICE for nearly 10 months since his arrival in the United States on October 10, 2025. This period is well beyond the presumptively reasonable six-month period set forth in *Zadvydas, 533 U.S.* at 701. Courts consistently find detention beyond this threshold triggers due process scrutiny. *See Kydyrali*, 499 F.Supp. 3d at 774–75.

43. Conditions of confinement also raise constitutional concerns as the medical treatment available at the Otay Mesa Detention Center is not adequate to address Mr. Doucouré's health conditions.

44. Mr. Doucouré poses no risk of flight and no danger to the community. He has no criminal history, has demonstrated compliance with all prior immigration requirements, and has community support in the United States.

45. Mr. Doucouré's continued detention without a tenable justification violates his Fifth Amendment right to due process.

PRAYER FOR RELIEF

Mr. Doucouré asks this Court to grant the following relief:

1. Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Doucouré from custody immediately or, in the alternative, order Respondents to conduct a custody redetermination hearing before a neutral third party where Respondents bear the burden, by clear and convincing evidence, to show that Petitioner is either a flight risk or a danger to the community;

2. Declare the continued detention of Mr. Doucouré without a tenable justification a violation of the Due Process Clause of the U.S. Constitution;

3. Order Respondents to show cause why Mr. Doucouré is being subjected to unlawful and unconstitutional detention; and

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4. Grant any other relief that may be fit and proper.

Dated: July 12, 2026

Respectfully submitted,

By: /s/ Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

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

Executed on this 12th day of July, 2026, in San Diego, California.

/s/ Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Attorney for Petitioner