UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

EBOUBECRI JELALY, Petitioner, vs. PAMELA BONDI, Attorney General of the United States, *et al.*, Respondents.	)	Civil Action No. 1:25cv1083

MEMORANDUM OF LAW IN OPPOSITION TO PETITION FOR HABEAS CORPUS

Pursuant to this Court's order, respondents, through their undersigned counsel, hereby respectfully submit the instant memorandum of law in opposition to the petition for habeas corpus in the above-captioned action.

INTRODUCTION

The instant petition for a writ of habeas corpus creates a bit of judicial *déjà vu.* Less than two months ago, after an Immigration Judge dismissed his then-pending "regular" removal proceedings, federal immigration officials exercised their discretion to place petitioner Eboubecri Jelaly into "expedited removal" proceedings, and to detain him as a result of the same. Jelaly immediately filed a habeas petition in this Court challenging the propriety of his civil immigration detention. After the United States filed a comprehensive response to the petition pursuant to Judge Alston's order to show cause, explaining the constitutionality of expedited removal and the legitimacy of Jelaly's detention during such proceedings, Jelaly voluntarily dismissed his petition. But a mere two weeks later, Jelaly was back in this Court with a new habeas petition, arguing that his civil immigration detention under the expedited removal statute was improper because the

relevant paperwork failed to identify that he was inadmissible to the United States pursuant to one of the specific statutory provisions for which expedited removal is warranted. Contrary to Jelaly's position in this Court, his current civil immigration detention is entirely lawful.

Perhaps surprisingly, the United States concurs that Jelaly is not *currently* subject to detention pursuant to the expedited removal statute, but not for any reason that is identified in Jelaly's instant habeas petition. Instead, this conclusion is premised on the fact that nearly three weeks after the presiding Immigration Judge dismissed his ongoing "regular" removal proceedings and ICE placed him into expedited removal proceedings (and almost nearly simultaneously with the voluntary dismissal of his first habeas petition), Jelaly noticed an appeal of the dismissal of his "regular" removal proceedings to the Board of Immigration Appeals. That appeal keeps Jelaly's "regular" removal proceedings open, thus rendering his detention governed by the provision of the Immigration and Nationality Act governing detention during "regular" removal proceedings (8 U.S.C. § 1226) not the statutory provision governing detention during expedited removal proceedings (8 U.S.C. § 1225(b)(1)(B)(iii)(IV)).

But that does not alter the correct resolution of the instant habeas petition As this Court is well aware, pursuant to 8 U.S.C. § 1226(a), ICE is vested with the discretion to detain an alien during the pendency of his "regular" removal proceedings. Jelaly has been served with paperwork informing him of ICE's determination to so detain him and of his right to seek review of that determination in Immigration Court. As such, Jelaly's current detention is entirely lawful, and this Court should deny his petition.

STATUTORY & REGULATORY BACKGROUND

Before proceeding to the factual and legal premise of the instant habeas petition, it is important to explain the statutory and regulatory provisions governing petitioner's civil

immigration detention. The various statutory bases on which the United States may seek to remove a non-citizen from the country, the instances in which the United States is either required (or has the discretion) to detain such aliens, and the interaction between the two, have been the subject of extensive recent judicial discussion. *See generally DHS v Thuraissigiam*, 591 U.S. 103 (2020); *Jennings v Rodriguez*, 583 U.S. 281 (2018). The issues surrounding Jelaly's civil immigration detention concern two types of removal proceedings – "regular" removal proceedings, *see* 8 U.S.C. § 1229a, and "expedited" removal proceedings, *see id* § 1225(b) – and the detention of an alien within those proceedings.

Important to any understanding of this statutory scheme is the concept of "admission." As the Immigration and Nationality Act ("INA") provides, "admission" is "the lawful entry of [an] alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(13)(A). The Supreme Court has explained that "[t]he power to admit or exclude [non-citizens] is a sovereign prerogative," and that the Constitution gives "'the political department of the government' plenary authority to decide which [non-citizens] to admit." *Thuraissigiam*, 591 U S. at 132 (quoting *Nishimura Ekiu v United States*, 142 U.S. 651, 659 (1892)).

I. DETENTION DURING "REGULAR" REMOVAL PROCEEDINGS

The INA lists a number of different reasons that render an alien inadmissible to the United States in the first instance, *see* 8 U.S.C. § 1182(a), and, even if admitted to the country after inspection by an immigration officer, removable from the United States, *see id.* § 1227. Some of these reasons overlap; others do not. For instance, an alien can be inadmissible to *or* removable from the United States because they committed a "crime involving moral turpitude," *id.* §§ 1182(a)(2)(A)(i); 1227(a)(2)(A)(i), or "engaged in terrorist activities," *id* §§ 1182(a)(3)(B); 1227(a)(4)(B). But an alien can also be "inadmissible" to the United States for other independent

reasons, including for being an alien previously removed from the United States without first obtaining permission to return, *id.* § 1182(a)(9)(A), or for being a "practicing polygamist," *id.* § 1182(a)(10). And an alien can be "removable" from the United States for other independent reasons as well, including falsely claiming citizenship, *id.* § 1227(a)(3)(D), or for committing an aggravated felony, *id.* § 1227(a)(2)(A)(iii), after admission to the United States.

A. PROCEEDINGS

In many instances, once federal immigration officials conclude that an alien is inadmissible to, or removable from, the United States, those officials place the alien into removal proceedings governed by 8 U.S.C § 1229a. In various places, these have been termed "full" or "regular" removal proceedings. *See, e.g.*, *Innovation Law Lab v. McAleenan*, 924 F.3d 503, 507 (9th Cir. 2019); *In re M-S-*, 27 I. & N. Dec. 509, 509 (A.G. 2019). Those proceedings commence when federal immigration officials file, with the Executive Office for Immigration Review, a Notice to Appear ("NTA") – which, akin to an indictment, identifies the grounds on which the United States believes the alien to be inadmissible to, or removable from, the country. *See* 8 C F.R. § 1239.1(a). Once before an Immigration Judge, both the Department of Homeland Security ("DHS") and the alien (through counsel) are entitled to present evidence on inadmissibility (or removability), as well as on whether the alien is entitled to any relief from removal. *See* 8 U S.C. § 1229a(a)(4); *see also* 8 C.F.R. §§ 1240.3-1240.11 And after the presiding Immigration Judge issues his or her decision, either DHS or the alien may notice an appeal to the Board of Immigration Appeals ("BIA"). *See* 8 C.F.R. § 1240.15 If the alien remains dissatisfied after the BIA issues its appellate decision, he or she may seek Article III judicial review by filing a petition for review in the appropriate circuit court of appeals *See* 8 U.S.C. § 1252(b)(2).

B. DETENTION

Detention of those aliens who have only been placed within these "regular" proceedings through the issuance of a NTA is governed by two different subsections of 8 U.S.C. § 1226. *See Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) ("Separate provisions of § 1226 provide the government with authority to detain aliens."). As this Court is well aware, Congress generally vested federal immigration authorities (as well as Immigration Judges) with discretion either to detain these aliens or to release them on some form of bond. *See* 8 U.S.C. § 1226(a). But on the contrary, Congress mandated that certain aliens – primarily those aliens who have engaged in identified criminal conduct – be detained during the pendency of these "regular" removal proceedings without the possibility of release on bond. *See id.* § 1226(c); *see also Demore v. Kim*, 538 U.S. 510, 514 (2003).

II. DETENTION DURING "EXPEDITED" REMOVAL PROCEEDINGS

Congress provided a different, and more truncated, path for certain aliens – what the statute itself calls "expedited removal." *See* 8 U.S.C. § 1225(b); *see also Las Americas Imm Advocacy Ctr v. Wolf*, 507 F. Supp. 3d 1, 18 (D.D C. 2020) (explaining that through "expedited removal," Congress "unquestionably intended to permit the government to remove certain noncitizens from the United States expeditiously"). This path statutorily applies to those who are apprehended upon "arriv[al]" in the United States (typically at a port of entry) and determined to be inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(C) (for "seek[ing] to procure . . . admission into the United States" either "by fraud or willfully misrepresenting a material fact") or § 1182(a)(7) (for "not [being] in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document"). *See id.* § 1225(b)(1)(A). But the Secretary of Homeland Security may, in his or her sole discretion, expand eligibility for "expedited removal"

"to any or all aliens" who meet the following definition: "an alien . . . who has not been admitted or paroled into the United States, and who has not . . . been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." *Id.* § 1225(b)(1)(A)(iii). Put simply, the Secretary may apply "expedited removal" to any alien who is inadmissible under the above subsections to § 1182 and has been apprehended by federal immigration authorities within two years of entering the United States. Any such expansion (or contraction) of this eligibility on the part of the Secretary is unreviewable. *See Make the Road New York v. Wolf*, 962 F.3d 612, 632 (D.C. Cir. 2020).

In recent years, the exercise of the Secretary's discretion to expand the class of aliens subject to "expedited removal" – beyond those aliens encountered and deemed inadmissible at a port-of-entry (*i e.*, "arriving aliens") – has vacillated with the change in presidential administration. On July 23, 2019, the then-Acting Secretary of Homeland Security issued a notice that, for all intents and purposes, expanded the class of aliens subject to "expedited removal" to its statutory limit; *i e* , all aliens who were deemed inadmissible pursuant to 8 U S C. §§ 1182(a)(6)(C) or (a)(7), "who [were] physically present in the United States without having been admitted or paroled following inspection by an immigration officer," and who had not been "continuously present" in the United States for two (2) years at the time they encountered a federal immigration officer and were deemed inadmissible. *Designating Aliens for Expedited Removal*, 84 Fed. Reg. 35409, 35414 (July 23, 2019).[1] After a change in administration, on May 21, 2022, the then-Secretary of

[1]The actual notice created a distinction between those aliens who are apprehended within 100 air miles of the United States border and those who are apprehended more than 100 air miles from the United States border. *See Designating Aliens*, 84 Fed. Reg. at 35414. That is only because a *previous* designation – issued back in August 2004 – had *already* extended application of "expedited removal" to those aliens apprehended within 100 air miles of the border who had not been physically present in the United States for 14 days. *See Designating Aliens for Expedited Removal*, 69 Fed. Reg. 48877, 48880 (Aug. 11, 2004). The more recent notices issued during the

Homeland Security rescinded the aforementioned notice, which thus returned the expanded class of aliens subject to "expedited removal" to its pre-July 2019 state: those aliens "encountered within 100 air miles of the border and within 14 days of their date of entry regardless of the [] method of arrival " *Rescission of the Notice*, 87 Fed. Reg. 16022, 16022-24 (May 21, 2022) And most recently, as directed in a presidential Executive Order, *see Exec. Ord.* 14,159, § 9, 90 Fed. Reg 8443 (Jan. 20, 2025), on January 24, 2025, the then-Acting Secretary of Homeland Security rescinded the May 2022 notice, restoring the previous August 2019 definition of the expanded class of aliens who were subject to "expedited removal." *See Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139, 8139-40 (Jan. 25, 2025) ("[T]he designation . . . restores the scope of expedited removal to the fullest extent authorized by Congress ").

Accordingly, the following aliens are currently eligible for "expedited removal":

> All aliens who were deemed inadmissible pursuant to 8 U.S.C. §§ 1182(a)(6)(C) or (a)(7), "who [were] physically present in the United States without having been admitted or paroled following inspection by an immigration officer," and who had not been "continuously present" in the United States for two (2) years at the time they encountered a federal immigration officer and were deemed inadmissible.

Id.

A. PROCEEDINGS

"Expedited removal" proceeds as follows An alien to whom the United States wishes to apply "expedited removal" must be "order[ed] . . . removed from the United States" by a federal immigration officer "without further hearing" – including any appearance before an Immigration Judge – "unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i). If the alien "indicates either an intention to apply for asylum . or a fear of persecution," the federal immigration officer must "refer the alien for an

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past several presidential administrations simply built upon (or maintained) this extension as opposed to replacing it entirely.

interview by an asylum officer." *Id.* § 1225(b)(1)(A)(ii). At this interview, the asylum officer determines whether "the alien has a credible fear of persecution," *id.* §1225(b)(1)(B)(ii); *i.e.*, whether "there is a significant possibility, taking into account the credibility of the statements made by the alien . . . and such other facts as are known to the officer, that the alien could establish eligibility for asylum," *id.* § 1225(b)(1)(B)(v). What happens next is dictated by the officer's "credible fear" determination.

If the asylum officer concludes that the alien *does not* have a "credible fear of persecution," the alien is to "be ordered removed from the United States without further hearing or review." *Id.* § 1225(b)(1)(B)(iii)(I). Nevertheless, the statute – and governing federal regulations – provide some *modicum* of review, but only of the asylum officer's "credible fear" determination. Put simply, an alien may request extremely limited (and "prompt") review of the adverse "credible fear" determination from an Immigration Judge, which must provide "an opportunity for the alien to be heard and questioned by the Immigration Judge," and must occur within seven (7) days. *Id.* § 1225(b)(1)(B)(iii)(III); *see also* 8 C.F.R. §§ 235 6(a)(2); 1235.2(a)(2).

If, however, the asylum officer concludes that the alien *does* have a "credible fear of persecution" (or the Immigration Judge reverses – on the aforementioned limited review – a negative "credible fear" determination), the alien is entitled to a "referral" to an Immigration Judge for "further consideration of [his or her] asylum application." 8 U.S.C. § 1225(b)(1)(B)(ii). Pursuant to federal regulation, that "consideration" occurs within "regular" removal proceedings – with the exception that such proceedings only seek to determine whether the alien is entitled to asylum or withholding of removal. *See* 8 C.F.R. §§ 208.30(f)(1); 1208.30(g)(2)(iv)(B).

B. DETENTION

Unlike aliens placed in "regular" removal proceedings, the statute is clear that those aliens placed in "expedited removal" proceedings must be detained – save for exceedingly minor circumstances in which federal immigration officers can exercise discretion in favor of release – while their proceedings play out.

First, the statute provides that "an alien" placed in "expedited removal" who is still undergoing the "credible fear" interview process – including any review of a negative "credible fear" determination by an Immigration Judge – "shall be detained pending a final determination of credible fear . . . and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). *Second*, if an asylum officer determines that an alien placed in "expedited removal" has a "credible fear of persecution," the statute provides that "the alien shall be detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). As the Supreme Court has held, these statutes "mandate detention . . . until certain proceedings have concluded" (including those for "further consideration of the application for asylum"), without the possibility of release on bond, regardless of the length of time that those proceedings continue. *Jennings*, 583 U.S. at 297; *see also id.* at 299 (holding that "detention must continue until immigration officers have finished 'consider[ing]' the application for asylum"). Accordingly, the mere fact that the "application for asylum" of an alien placed in "expedited removal" is "considered" during "regular" removal proceedings does not change the fact that the statute mandates that the alien be

detained during those proceedings – thus rendering the alien ineligible for release on bond.[2] *See In re M-S-*, 27 I. & N. Dec. at 515.[3]

In short, although detention is mandatory for those aliens placed in "expedited removal," it is not indefinite. On the contrary, "§§ 1225(b)(1) and (b)(2) . . . provide for detention for a specified period of time" – "until immigration officers have finished 'consider[ing]' the application for asylum or until removal proceedings have concluded." *Jennings*, 583 U.S. at 299. "Once those proceedings end, detention under § 1225(b) must end as well." *Id.* at 297.

BACKGROUND

1. Petitioner Eboubecri Jelaly is a native and citizen of Mauritania. *Pet.* (Dkt. No. 1), ¶1. On October 5, 2023, petitioner was apprehended shortly after he illegally crossed the border between the United States and Mexico – without inspection by a federal immigration officer – near to San Ysidro, California.[4] *Pet.*, ¶10; *Respondent's Exhibit* ("REX") A. Inasmuch as petitioner was not at that time eligible for expedited removal (given the regulation then in force), the Border Patrol officer issued petitioner a NTA, thus commencing "regular" removal proceedings, *see* 8 U.S.C. § 1229a, in the New York–Federal Plaza Immigration Court, with an initial appearance on May 30, 2024. *Pet.*, ¶11; REX A. The NTA charged petitioner with being inadmissible to the United States

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[2]Although § 1225(b) does not provide for bond hearings, *see Jennings*, 583 U.S. at 297-303, it does contain "a specific provision authorizing release from . . detention": The Secretary of Homeland Security "may 'for urgent humanitarian reasons or significant public benefit' temporarily parole aliens detained under §§ 1225(b)(1) and (b)(2)," *id.* at 300 (quoting 8 U S C. § 1182(d)(5)(A)).

[3]And as such, practically speaking, aliens placed in "expedited removal" are treated – for detention purposes – identically to those aliens who are placed in "regular" removal proceedings and are subject to "mandatory detention" without eligibility for release on bond pursuant to 8 U.S.C. § 1226(c).

[4]Despite averring that he "enter[ed] the United States without inspection" "[o]n or about October 5, 2023," *Pet.*, ¶10, the instant petition simultaneously alleges that petitioner "has been in the United States since May 2024," *id.* ¶5.

pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled after inspection by a federal immigration officer. *Id.* ¶12; REX A. The Border Patrol officer, under then-existing DHS policy, released petitioner on his own recognizance. *See Florida v. United States*, 660 F. Supp. 3d 1239, 1252 (N.D. Fla. 2023) (identifying prior policy colloquially known as "catch and release"). During petitioner's "regular" removal proceedings – which were transferred to the Sterling Immigration Court after petitioner moved his residence to Northern Virginia – petitioner filed an application for asylum and withholding of removal in the United States. *Pet.*, ¶13.

ICE subsequently decided to exercise its discretion to place petitioner into expedited removal – for which he was eligible under the Secretary of Homeland Security's expansion of the class of aliens to whom expedited removal could apply.[5] On May 21, 2025, the presiding Immigration Judge granted ICE's motion to terminate petitioner's "regular" removal proceedings before resolution of petitioner's application for relief from removal in the form of asylum. *Pet.*, ¶14; REX B. That same day, ICE placed petitioner in expedited removal proceedings, pursuant to 8 U.S C. § 1225(b)(1), through a Notice and Order of Expedited Removal (Form I-860). *Pet.*, ¶15; DEX C. Simultaneously, ICE took petitioner into its custody, and detained him at the Farmville Detention Center in Virginia. *Pet.*, ¶¶1; 5.

2. On May 29, 2025, slightly more than one week after being taken into ICE custody, petitioner – through counsel – filed a petition for writ of habeas corpus in this Court. *See Jelaly v. Bondi*, 1:25cv920 (E.D. Va.) (Alston, J.). Judge Alston issued an order to show cause, requiring the United States to respond to the petition on or before June 12, 2025, and setting a hearing on

[5]Because he was apprehended within 100 miles of the border and within 14 days of his entry into the United States, petitioner is eligible for expedited removal even pursuant to the *original* expansion of eligibility issued by the then-Secretary of Homeland Security in May 2004. *See Designating Aliens*, 69 Fed. Reg. at 48880.

the petition for June 18, 2025. *Id.* (Dkt. No. 2). The United States filed a comprehensive response to the petition on June 12, 2025, as required by the order. *Id.* (Dkt. No. 6). On June 17, 2025, however, one day before the scheduled hearing, Jelaly elected to voluntarily dismiss his petition, which Judge Alston "so ordered" the same day. *Id.* (Dkt. No. 7-8).

3. On the same day that he dismissed his first habeas petition, June 17, 2025, Jelaly also noticed an appeal to the BIA from the Immigration Judge's earlier dismissal of his "regular" removal proceedings.[6] REX D. Jelaly's appeal currently remains pending before the BIA.

4. Approximately two weeks later, on June 30, 2025, Jelaly filed the instant petition, his second request for a writ of habeas corpus in a month's time. Jelaly's second petition provides the same factual discussion as did his first. *Pet*, ¶¶10-14. The gravamen of this second petition, however, is Jelaly's position – one that was available to him during the litigation concerning his *first* habeas petition – that he was "wrongfully placed in expedited removal proceedings." *Id.* ¶15. More specifically, in the "Legal Claims" section of his petition,[7] Jelaly maintains that the form that ICE uses to notify an alien of his placement into expedited removal proceedings (Form I-860) "was improperly filled out and did not state the factual basis or specific charge of inadmissibility" for which he would be subject to expedited removal. *Id.* ¶19. Jelaly further avers that the charge of inadmissibility identified in his original NTA – 8 U.S.C. § 1182(a)(6)(A)(i) – is not one for which the INA authorizes expedited removal. *Id* ¶¶17-18. It is on this sole basis that Jelaly maintains that his current immigration-related detention is unlawful. *Id* ¶¶17-20.

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[6] Jelaly's notice of appeal identifies the date of the Immigration Judge's dismissal order as June 17, 2025, REX C, despite the fact that the Immigration Judge's order was actually issued over three weeks earlier, on May 21, 2025, *Pet.*, ¶14; REX B.

[7] The numbering sequence for the paragraphs in Jelaly's petition starts to become out of order after his "Factual Background" section. As such, for the remainder of this discussion of the petition, the citations are to the numbering sequence found in the petition's "Legal Claims" section.

On July 1, 2025, this Court entered an order to show cause requiring, *inter alia*, respondents to file a response to Jelaly's second petition on or before July 18, 2025.

ARGUMENT

Petitioner's current civil immigration detention is completely lawful. But petitioner is correct about one thing – he is not subject to mandatory detention as a part of expedited removal proceedings, at least not *at the current time*. To this end, ICE's continued detention (again, *at the current time*) is premised upon the detention authorization found in 8 U.S.C. § 1226. *Cf Weaver v. Markley*, 332 F.2d 34, 35 (7th Cir. 1964) (explaining that issuance of a habeas writ depends "upon whether the custody was lawful or unlawful at the time the release under habeas corpus would be effected"). And this conclusion has nothing to do with the rationale asserted in Jelaly's instant petition; rather, it is exclusively premised on a fact that is omitted from that petition – Jelaly's notice of appeal to the BIA from the Immigration Judge's dismissal of his "regular" removal proceedings.

A more detailed explanation is appropriate here. On June 17, 2025 – after ICE placed Jelaly into expedited removal proceedings subsequent to the Immigration Judge's dismissal of his "regular" removal proceedings and Jelaly dismissed his first habeas petition in this Court – Jelaly filed a notice of appeal to the BIA from the Immigration Judge's dismissal. REX D. The act of filing that notice of appeal impacted the character of Jelaly's removal proceedings in that it kept his "regular" removal proceedings administratively open and prevented the continuation of any "expedited" removal proceedings. And while those "regular" removal proceedings remain pending before the BIA, as explained above, Jelaly's civil immigration detention is governed by § 1226

Congress authorized two types of detention through § 1226: discretionary detention, *see* 8 U.S.C. § 1226(a), and mandatory detention, *see id.* § 1226(c). Because, as least to ICE's knowledge, Jelaly has not engaged in any of the conduct listed within § 1226(c) that would render him subject to mandatory detention, he is currently subject to what the Supreme Court has called the "default rule" – discretionary detention under § 1226(a), which allows "for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States.'" *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1226(a)). To this end, ICE has now issued Jelaly a "Notice of Custody Determination" (Form I-286), which identifies ICE's determination that he will be detained "pending a final administrative determination" in his removal proceedings. REX E. And consistent with the discretionary nature of § 1226(a) detention, that notice advises Jelaly that he may ask an Immigration Judge to "review this custody determination." *Id.* There is thus nothing remotely unlawful about Jelaly's detention. *See Miranda*, 34 F.4th at 358-66.

Although this is sufficient to require the denial of the instant habeas petition, a quick note is in order about the assertions contained within Jelaly's petition about his eligibility for expedited removal. ICE has already cured the putative defect in its earlier-issued expedited removal documents; in documents that it issued over a month ago, ICE "determined" that Jelaly was inadmissible to the United States pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I) – as an alien immigrant "not in possession of a valid unexpired immigrant visa . . . or other valid entry document" – and was thus subject to expedited removal. REX F. As such, if the BIA were to affirm the Immigration Judge's dismissal of his "regular" removal proceedings, Jelaly would automatically transition into expedited removal proceedings (including the provision of a "credible fear" determination), and his detention would become mandatory pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

CONCLUSION

For the foregoing reasons, this Court should deny the instant petition for a writ of habeas corpus.

Respectfully submitted,

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DATE: July 18, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing ("NEF") to the following:

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