UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOHAMED YAHYA BOUTTA,

Petitioner,

v.

KEVIN RAYCRAFT, Acting Detroit Field Office Director for U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity,

Respondents.

Case No. 1:25-cv-1559

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner Mohamed Yahya Boutta, a citizen and national of Mauritania is unlawfully detained in the physical and legal custody of Respondents at the North Lake Processing Center in Baldwin, Michigan. The Petitioner has been in the U.S. since he was released on his own recognizance more than two years ago.

2. On July 12, 2023, the Petitioner entered the United States. On July 13, 2025, the Petitioner was released on his own recognizance by the Respondents. **[Exhibit 1 – Order of Release on Recognizance]** The Respondents stated, "*In accordance with Section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:...*" Section 236 of the Immigration and Nationality Act is codified at 8 U.S.C. § 1226. The Petitioner has never violated the conditions of his release.

3. Also on July 13, 2023, the Petitioner was issued a Notice to Appear in immigration court for Section 240 (8 U.S.C. § 1229a) proceedings. **[Exhibit 2 – Notice to Appear]** The Notice to Appear, notably, does **not** charge the Petitioner as an Arriving Alien, and alleges that he arrived in the United States at or near Lukeville, Arizona.

4. The Petitioner, who struggles with severe mental health issues, with the help of his family attempted to file his application for asylum, withholding of removal and relief under the Convention Against Torture with the immigration court. However, the immigration court would not accept his application for asylum, because the Respondents **never filed the Notice to Appear with the immigration court.** On information and belief, the Respondents have never filed the Notice to Appear with the immigration court.

5. Because the Petitioner was unable to file his asylum application with the immigration court, he filed it with U.S. Citizenship and Immigration Services in September 2023. **[Exhibit 3 – Asylum Biometrics Notice]** That application is still pending. On the basis of his pending asylum application, the Petitioner was issued an I-766, Employment Authorization Document valid from March 30, 2024 through March 29, 2029. **[Exhibit 4 – Employment Authorization Document]**

6. The Department of Justice's Executive Office of Immigration Review ("EOIR") has issued precedential decisions of the Board of Immigration Appeals ("BIA") that purport to unlawfully subject the Petitioner to indefinite, mandatory detention in violation of his Due Process rights under the Constitution, and in violation of the Immigration and Nationality Act ("INA").

7. The Petitioner was arrested and detained in Detroit, Michigan on November 4, 2025 in a random sweep (he was not an enforcement target). Subsequent to his arrest and detention, the Petitioner was transferred by the Respondents to the North Lake Processing Center, which ICE

operates through a contract with The GEO Group, Inc., a company which operates private, for-profit prisons.

8. Petitioner has complied with everything required of him by the Government since his initial entry and conditional parole into the United States. It is unclear at the moment why Respondents have subjected the Petitioner to detention; however, in any case, Respondents' detention of Petitioner is unlawful.

9. Now that Respondents have unlawfully detained the Petitioner, they purport to subject him to expedited removal proceedings. Respondents conducted a credible fear interview ("CFI") without counsel on November 21, 2025 which resulted in a negative finding. The Petitioner is scheduled for review of the credible fear finding only on November 25, 2025 at 1:00 p.m. **[Exhibit 5 – Automated EOIR Case Status]**

10. Respondents have detained the Petitioner based not on his personal circumstances or individualized facts but because of Respondents' incorrect categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process of law.[1]

11. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide Petitioner at minimum with the rights available to Petitioner when Petitioner filed an application for asylum after releasing him into the United States and instituting full proceedings in immigration court.

12. To the extent that the Respondents intend to subject the Petitioner to expedited removal or to indefinite, mandatory detention throughout the remainder of his proceedings in the

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[1] *See, e.g.,* NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

United States based on the BIA's recent precedential decisions in *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (holding that "all noncitizens who fall within the scope of 8 U.S.C. § 1225(b)(1) (arriving aliens) must be detained under that section and are "ineligible for any subsequent release on bond" under § 1226(a)") and to oppose bond before the Immigration Judge (IJ) pursuant to *Matter of Yajure Hurtado*, 29 I &N Dec. 216, 229 (BIA 2025) (holding that IJs have no jurisdiction to consider bond for persons charged as "arriving aliens" in removal proceedings), Petitioner's detention is unlawful, in violation of his Due Process rights and the INA.

13. Any characterization of Petitioner's status as an "arriving alien" pursuant to 8 U.S.C. § 1225(b) and his detention without bond by ICE, an agency within DHS, is in violation of 8 U.S.C. § 1226(a).

14. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioner's transfer out of this district; and (c) to order either a bond hearing before an immigration judge or to order the Respondent's immediate release from detention, or, in the alternative, to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION AND VENUE

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

18. The federal government's sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

19. Venue is proper because Petitioner is detained in Respondents' custody at the North Lake Processing Center in Baldwin, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

20. Venue is further proper because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Michigan.

21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Michigan, the judicial district in which the Petitioner is currently detained.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

23. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "prudential" exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court's sound judicial discretion, provided that such discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

24. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

25. As noted above, the precedential decisions issued by the BIA in *Matter of Q. Li* and *Matter of Yajure-Hurtado* stand for the proposition that the Petitioner is subject to indefinite, mandatory detention and is ineligible for a bond hearing before an immigration judge.

26. The BIA's precedential decisions "serve as precedents in all proceedings involving the same issue or issues." 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioner to seek a bond hearing and, when denied, appeal that denial to the BIA will certainly result in a holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled," will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

27. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention, which is a purely legal question of statutory interpretation which would not be impacted by any administrative record developed in immigration court or on appeal to the BIA.

28. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the APA are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

29. Finally, the Petitioner's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

30. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner.

31. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

32. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

33. Petitioner Boutta is a 31-year-old citizen of Mauritania who has been in immigration detention since November 4, 2025. Petitioner initially entered the United States on or about July 12, 2023 and was released on July 13, 2023 on conditional parole. **[Exhibit 1 – Order of Release on Recognizance]** Respondents erred procedurally in placing the Petitioner in "expedited removal" more than two years later and after clearly paroling him pursuant to Section

1226(a), and Petitioner is unable to obtain review of his custody by an immigration judge. Even if Respondents were to go forward in 240 proceedings, their position would be that the Petitioner is ineligible for bond pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner is present within the Western District of Michigan as of the time of filing this petition, as he is currently detained at the North Lake Processing Center in Baldwin, Michigan.

34. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioner's detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). He is sued in his official capacity.

35. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security.

36. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

LEGAL FRAMEWORK

Expedited Removal

37. Expedited removal proceedings, is a "streamlined" removal process that "lives up to its name." *Make the Road New York v. Wolf*, 962 F.3d 612, 619 (D.C. Cir. 2020). During

expedited removal proceedings, an immigration officer, not an immigration judge, asks a series of questions to determine the individual's identity, alienage, and inadmissibility. 8 C.F.R. § 235.3(b)(2)(i). Noncitizens are also asked whether they intend to seek asylum, have a fear of persecution or torture, or have a fear of returning to their country of origin, also referred to as a credible fear interview. 8 C.F.R. § 235.3(b)(4).

38. The credible fear determination is reviewed by an immigration judge within three days and is the only part of the expedited removal process subject to review. *Make the Road*, 962 F.3d at 619. If the immigration officer determines the noncitizen is inadmissible and makes a negative credible fear determination, the immigration officer issues a Notice and Order of Expedited Removal. 8 C.F.R. § 235.3(b)(2)(i); *Make the Road New York v. Noem*, 25-cv-190, 2025 WL 2494908, at *3 (D.D.C. Aug. 29, 2025). Once a supervising officer signs off on the determination, the noncitizen is ordered removed. *Make the Road*, 2025 WL 2494908 at *3. Expedited removal proceedings do not include the right of appeal to an immigration judge, the Board of Immigration Appeals, or (aside from two narrow exceptions) a judicial court. *Id.* Such proceedings can conclude in a matter of days. *Id.*

39. Noncitizens are eligible for expedited removal if they are: (1) "arriving in the United States," that is, appearing at a port of entry; or (2) have "not been admitted or paroled into the United States" and they cannot affirmatively show that they have been "physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." *Espinoza*, 2025 WL 2675785 at *5 (citing *Coalition*, 2025 WL 2192986 at *5); *Pedro Yimi Cardin Alvarez v. David Rivas*, No. CV 25-02943-PHX-GMS, 2025 WL 2898389, at * 12 (D. Ariz. Oct. 7, 2025).

40. Numerous district courts have held that § 1225 does not authorize expedited removal of noncitizens who have been paroled into the United States under either § 1225(b)(1)(A)(i) (arriving aliens) or § 1225(b)(1)(A)(iii)(II) (individuals not admitted or paroled into the United States and who have not been continuously present for at least two years, regardless of the status of that parole). *See E.V. v. Raycraft*, No. 4:25-CV-2069, 2025 WL 2938594, at *2–3 (N.D. Ohio Oct. 16, 2025) (citing *Coalition*, 2024 WL 2192986 at *30; *Munoz Materano*, 2025 WL 2630826 at * 11; *Espinoza*, 2025 WL 2675785, at *5; *Pedro Yimi Cardin Alvarez*, 2025 WL 2898389 at *13.

41. Respondents will argue that this Honorable Court does not have jurisdiction to hear these claims. It is uncontested that enjoining Respondents from executing a valid order of removal is insulated from the Court's review. *See* 8 U.S.C. § 1252(g); *Moussa v. Jenifer*, 389 F.3d 550, 554 (6th Cir. 2004); *Rranxburgaj v. Wolf*, 825 Fed. Appx. 278, 283 (6th Cir. 2020). That, however, is not the issue presented here.

42. Petitioner here challenges the Respondents' as-applied *implementation* of expedited removal under the Immigration and Nationality Act, rather than its constitutionality. Consequently, 8 U.S.C. § 1252 does not strip the Court's power to review Petitioner's narrow claims or grant his desired relief. *See Munoz Materano v. Arteta*, 2025 WL 2630826 (S.D.N.Y. September 12, 2025) at *10; *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493, 2025 WL 1953796, at *7 (W.D.N.Y. July 16, 2025) (holding that § 1252(e)(3) cannot bar jurisdiction when the petitioner argued the Government did not have the lawful authority to initiate the expedited removal process against him at that time, rather than arguing the constitutionality of expedited removal generally).

43. Furthermore, this Honorable Court has jurisdiction pursuant to 28 U.S.C. § 1331 to review agency action—including DHS action—under the Administrative Procedure Act. *See Jama v. Dep't of Homeland Security*, 760 F.3d 490, 494 (6th Cir. 2014).

44. Further, the Sixth Circuit distinguishes challenges to noncitizen removal from challenges to noncitizen detention. *See Hamama v. Adducci*, 912 F.3d 869, 877 (6th Cir. 2018) (holding that a "district court's jurisdiction over the detention-based claims is independent of its jurisdiction over the removal-based claims.") Thus, if a petitioner "raise[s] a challenge that [does] not require the district court to address the merits of [their] order of removal," jurisdiction is not precluded by 8 U.S.C. § 1252(g). *Napolitano*, 600 F.3d at 605; *see* 8 U.S.C. § 1252(g).

45. Despite substantial overlap, the Petitioner's detention claims are not inextricable from his removal proceedings. *See Mahdawi*, 136 F.4th at 452.

46. Section 1252(g) "does not preclude jurisdiction over the challenges to the legality of [a noncitizen's] detention." *Kong*, 62 F.4th at 609; *see also Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999). Consequently, holding a challenge to *detention* as inherently implicating a challenge to *removal* would lead to "absurd" results. *Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018) (opinion of Alito, J., joined by Roberts, C.J., and Kennedy, J.)

47. In line with this guidance, this Honorable Court should find that its jurisdiction over the Petitioner's detention-based claims exists independently of Petitioner's removal-based claims. *See Zhen v. Doe*, No. 3:25-CV-01507-PAB, 2025 WL 2258586, at *3 (N.D. Ohio Aug. 7, 2025) (citing *Karki v. Jones*, No. 1:25-CV-281, 2025 WL 1638070 (S.D. Ohio June 9, 2025); *see* 28 U.S.C. § 2241 (authorizing any person to claim in federal court that they are being held "in custody in violation of the Constitution or laws...of the United States."); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

48. The Petitioner's detention-based claims are therefore resolvable without obstructing the Respondents' undisputed right of removal. The Petitioner will be filing a motion for an administrative stay concurrently with his habeas petition with regard to the removal proceedings pending merits review. *See Higuchi Int'l. Corp. v. Autoliv ASP, Inc.*, 103 F.4th 400, 404 (6th Cir. 2024).

Asylum and Refugee Law

49. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

50. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

51. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

52. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to

return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

53. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

54. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility).

55. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

56. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the BIA of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq*.

Release and Indefinite, Mandatory Detention

57. As this Honorable Court has jurisdiction over this Petition for a Writ of Habeas Corpus, it must next determine whether the Petitioner's detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b)(2) or the discretionary detention provisions in 8 U.S.C. § 1226(a).

58. Noncitizens detained under Section 1225(b)(2) **must remain in custody for the duration of their removal proceedings**, while those detained under Section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025).

59. At the time of the Petitioner's initial parole into the United States on July 13, 2023, there is no question that he could have been subjected to mandatory detention. **[Exhibit 1]**

60. It is undisputed that from the Petitioner's conditional parole on July 13, 2023, through his collateral arrest and detention on November 4, 2025, the Petitioner was not in custody.

61. For that reason, the Petitioner is subject to detention currently pursuant to 8 U.S.C. § 1225(a)(1), which provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. § 1225(a)(1).

62. In other words, § 1225(b)(2)(A) generally requires mandatory detention of certain "applicant[s] for admission" during their removal proceedings.

63. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

64. Unlike § 1225(b)(2)(A), noncitizens who fall under § 1226(a) are not subject to mandatory detention. Pending a removal decision, the Attorney General may continue to detain an arrested noncitizen, release them on bond, or release them on conditional parole, unless they fall

within certain exceptions involving criminal offenses and terrorist activities. *See* 8 U.S.C. § 1226(a) (1)-(2), (c).

65. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and "courts are not free to read into the language [of a statute] what is not there." *See O'Hara v. Nika Techs., Inc.*, 878 F.3d 470, 475 (4th Cir. 2017).

66. First, the Respondents' treatment of the Petitioner since his conditional parole on an Order of Recognizance on July 13, 2023 supports the conclusion that he is detained pursuant to § 1226(a). The Petitioner entered the country on July 12, 2023. It is undisputed that Respondents failed o comply with the "mandatory" detention requirement of 8 U.S.C. § 1225(b)(2).

67. Rather, since July 13, 2023 through November 4, 2025, Respondents have consistently treated the Petitioner as subject to § 1226(a).

68. Individuals detained under § 1225(b) **may not be released on recognizance**; they may only be paroled into the country under § 1182(d)(5)(A) (release on recognizance is a form of "conditional parole" from detention under § 1226 that is distinct from parole under § 1182(d)(5)(A)). *See Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025))). That distinction is significant.

69. The INA allows an individual paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) to physically enter the country subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

70. By contrast, Respondents conditionally paroled the Petitioner into the United States, but did **not** parole the Petitioner into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) subject to a reservation of rights.

71. Further, applying § 1225 to all persons who have not been admitted or conditionally paroled into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice.

72. "[O]ne of the most basic . . . . canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

73. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

74. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

75. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1225(a). In *Jennings*, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas §

1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

76. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Leng May Ma*, 357 U.S. at 187 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *accord Zadvydas*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law."). Having been present subsequent to conditional parole for a period of more than two years, the Petitioner is no longer "on the threshold of initial entry." Rather, he was conditionally paroled into the United States and then rearrested and detained pursuant to § 1226(a).

77. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioner who were detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

78. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioner's position who are arrested (in this case, re-arrested) well after arriving to this country.

FACTUAL BACKGROUND

79. Petitioner Boutta fled Mauritania after suffering violent persecution due to his caste (Moulamine).Although slavery was abolished in Mauritania in 1981, the deeply rooted caste system persists in practice, and members of the Moulamines remain systematically oppressed.

Petitioner Boutta was violently assaulted during the 2018 elections after protesting the removal of an anti-slavery candidate Biram Ould Abeid's representatives. He began to suffer severe mental health issues. In 2023, the Mauritanian police accused Petitioner Boutta of heresy (a crime punishable by death) after secretly recording him critiquing how certain religious texts are used to justify caste-based discrimination. Fearing for his life, the Petitioner fled to the United States. Petitioner initially entered the United States on July 12, 2023 without inspection.

80. After entering the United States and surrendering to Customs and Border Patrol, the Petitioner was given a notice to appear and released as a conditional parolee. **[Exhibits 1, 2]** Petitioner relocated to New York initially, and then to Detroit, where he has been living and legally working until his unlawful detention on November 4, 2025.

81. At the time of his warrantless arrest and detention on November 4, 2025, Petitioner had been issued a notice to appear **[Exhibit 2 - Notice to Appear]**, a pending asylum application **[Exhibit 3 – Asylum Biometrics Notice],** and a valid and current employment authorization document. **[Exhibit 4 - Employment Authorization Document]**

82. Petitioner has no criminal history in the United States or anywhere else in the world and has participated fully and actively in pursing relief under the laws of this country. Petitioner has complied with everything required of him by the Respondents since his initial entry and conditionally parole into the United States.

83. Petitioner remains in detention and without relief from this court with regard to the as-applied *implementation* of expedited removal to him under the Immigration and Nationality Act, will lose the process which he is due under the law.

CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

84. Petitioner restates and realleges all paragraphs as if fully set forth here.

85. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

86. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

87. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

88. The Petitioner was detained without a warrant after conditional parole based on no individualized circumstances applicable to him. Further, the Petitioner was and is detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of his custody. Finally, Petitioner challenges the implementation of expedited removal in his case under the Immigration and Nationality Act. All of the foregoing violates his due process rights.

89. Subjecting the Petitioner to indefinite, mandatory detention violates his due process rights.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations
Unlawful Detention

90. Petitioner restates and realleges all paragraphs as if fully set forth here.

91. On information and belief, Respondents have made no finding that Petitioner is a danger to the community or a flight risk.

92. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioner into the United States, on information and belief, there have been no changes to Petitioner's facts or circumstances that support detention.

93. Respondents have already considered Petitioner's facts and circumstances and determined that Petitioner was not a flight risk or danger to the community when they initially paroled him into the United States. On information and belief, there have been no changes to the facts that justify his detention.

94. Detention that is unlawful under the Immigration and Nationality Act is a violation of the Petitioner's due process rights.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
As-applied Expedited Removal Challenge

95. Petitioner restates and realleges all paragraphs as if fully set forth here.

96. Respondents erred procedurally when they determined that the Petitioner should be subjected to expedited removal after conditionally paroling him into the United States for almost two and a half years based on the statutory and regulatory scheme.

97. Petitioner does not challenge the Respondents' decision to remove him, but challenges Respondents' legal authority to revoke or terminate his conditional parole without due process of law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

a) Assume jurisdiction over this matter;
b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
c) Declare that Petitioner's warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately, or, in the alternative, to promptly provide him with a bond hearing before an immigration judge;
e) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
f) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
g) Grant any further relief this Court deems just and proper.

Dated this 24th day of November, 2025,

Respectfully submitted,

s/ Amy Maldonado
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ATTORNEY FOR PETITIONER

VERIFICATION

On this 24th day of November, 2025, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of the Petitioner, Mohamed Yahya Boutta, because the Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner, Mohamed Yahya Boutta.

Dated: 11/24/2025

East Lansing, MI

s/ Amy Maldonado

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