UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

LASHA NIKABADZE, Petitioner, v. KRISTI NOEM, *et. al.*, Respondents.	§ § § § § § § § § § §	CIVIL NO. 5:25-cv-00236

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR SUMMARY JUDGMENT

Pursuant to the Court's order of December 12, 2025, The Government[1] hereby responds to Petitioner Lasha Nikabadze's habeas petition, moves for summary judgment, and requests that the Court deny the petition.

SUMMARY OF ARGUMENT

Mr. Nikabadze is an immigration detainee in the custody of the Department of Homeland Security/U.S. Immigration and Customs Enforcement ("DHS/ICE") and is presently detained at the Webb County Detention Center. Dkt. 1, ¶ 5. Petitioner brought this habeas corpus petition against the Government seeking release from immigration detention.

As discussed below, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1) because he is an alien who was placed in expedited removal proceedings upon his

[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

illegal entry into the United States, and he returned to that custody status upon expiration of his parole. For this reason and all the reasons discussed below, the petition for a writ of habeas corpus should be denied and summary judgment entered in favor of the government.

BACKGROUND

Petitioner, Mr. Nikabadze, is a citizen and native of Georgia. Dkt. 1 at ¶ 1. He entered the United States in December of 2021. *Id.* Petitioner entered the United States without being admitted or paroled and was taken into immigration custody and placed in expedited removal proceedings under 8 U.S.C. § 1225(b)(1). Government's Ex. 1, Signed Declaration. Petitioner was released on parole on February 8, 2022, pursuant to 8 U.S.C. § 1225(d)(5). *Id.* During his time in immigration custody, DHS endeavored to conduct a credible fear interview but was not able to do because it was not able to locate an interpreter for the language requested by Petitioner. *Id.* Petitioner's parole lasted for a duration of one year, from February 8, 2022, through February 8, 2023, when it automatically expired. There are no records to show the parole was ever extended. *Id.* Petitioner filed an application for asylum on or around December 13, 2022. *Id.* Dkt. 1, ¶ 4. He was subsequently issued a Notice to Appear (NTA) on January 2, 2025. Government's Ex. 1, ¶ 9; Dkt. 2, ¶ 8, Dkt. 2-2. The NTA charged the Petitioner with removability under § 212(a)(6)(A)(i) and § 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA), 8 U.S.C. §§1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General and, who at the time of application for admission did not possess a valid entry document. *Id*; Dkt. 2-2. DHS filed the application for asylum with the Immigration Court on January 14, 2025. Government's Ex. 1, ¶ 10.

On or around September 16, 2025, Petitioner was encountered and detained in Laredo, Texas. Dkt. 2, ¶ 5. He was transferred to the Webb County Detention Center in Texas. *Id.* Mr. Nikabadze has a final hearing on the merits of his asylum claim on December 23, 2025. Government's Ex. 1, ¶ 12

APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality of his restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See*, *e.g.*, *Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it comes to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as "[d]etention is necessarily a part of th[e] deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."). As the Supreme Court has stated in no unmistakable terms, "[d]etention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003).

ARGUMENT

I. PETITIONER IS SUBJECT TO MANDATORY DETENTION.

Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1). As the Court is aware, there is a high volume of habeas matters across the country raising the issue of whether a detained alien is subject to mandatory detention under § 1225(b)(2) or discretionary detention under § 1226. This is not one of those cases. The typical § 1225/1226 case involves

someone who, after being encountered by immigration authorities for unlawfully entering the United States, was served with a Notice to Appear, thereby placing them in full removal proceedings under 8 U.S.C. § 1229a.

This case, by contrast, involves an alien who was placed in expedited removal proceedings after he unlawfully entered the United States and was detained pending a credible fear interview after claiming fear of returning to his country. Although Petitioner was paroled from custody, once his parole expired on February 8, 2023, Petitioner returned to the custody under Section 1225(b)(1) "from which he was paroled." 8 U.S.C. § 1182(d)(5)(A). . Because Petitioner was placed directly in expedited removal proceedings upon his unlawful entry into the United States, the law requires that Petitioner remain detained until his asylum application has been adjudicated, or until he is removed. 8 U.S.C. § 1182(b)(1)(B)(ii), (iii)(IV). Petitioner is subject to mandatory detention even if he has been transferred from expedited removal proceedings to full removal proceedings. *See Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).

To the extent that Petitioner argues that the fact that he is not in expedited removal proceedings removes him from the ambit of § 1225(b)(1), which it does not, then the government argues, in the alternative, that he is subject to mandatory detention under § 1225(b)(2)'s "catchall provision." *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (noting that § 1225(b)(2) "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)"); *see also Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331, at *1 (S.D. Tex. Nov. 13, 2025). The respondent is an applicant for admission because he is present in the United States without having been admitted. *See* 8 U.S.C. § 1225(a). 8 U.S.C. § 1225(b)(2)(a) requires that Petitioner "be detained for a proceeding under section 1229a."

Petitioner may "at any time, be permitted to withdraw [his] application for admission and depart immediately from the United States." 8 U.S.C. § 1225(a)(4).

II. PETITIONER'S REMAINING CLAIMS ALSO FAIL.

The Court should deny Plaintiff's remaining claims concerning an alleged Due Process violation (Second Claim for Relief) and the Administrative Procedure Act (APA) (Third Claim for Relief). First, Petitioner fails to identify a Due Process violation. Procedural due process protects an individual's right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridg*e, 424 U.S. 319, 332-333 (1976). In the instant case, Petitioner's Due Process claims are based on his "detention without access to an individualized custody redetermination." Dkt. 2, p. 13-16. But the lack of a bond hearing, does not establish a Due Process violation. *See Jimenez v. Thompson*, 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025). Moreover, because Petitioner is in full removal proceeding, he will be afforded numerous procedural protections in immigration court. Thus, there is no showing that his due process rights have been violated. Finally, the threshold question in assessing substantive due process is whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience. *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in Petitioner's case acted in a manner that could be characterized as egregious or that would shock the conscience. Thus, the substantive due process claim set forth in the petition fails and should be denied.

Second, Petitioner cannot bring an APA claim in this habeas action. Petitioner's APA claim is merely a repeat of the statutory arguments set forth in Count I. *See* Dkt. 2, p. 16. The

APA only provides a basis for relief when "there is no other adequate remedy" available. 5 U.S.C. § 704. Here, habeas itself provides an adequate remedy to address his statutory arguments regarding the availability of a bond. Thus, his APA claim fails. *See Trump v. J.G.G.*, 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring) (noting that the availability of habeas relief constitutes an "adequate remedy" barring suit under the APA).

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court deny the habeas petition and grant the instant motion.

Dated: December 17, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 17, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

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