UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Moboalji Olufunmilayo AOKO Petitioner, v. Kristi Noem, et. al Respondents.	No.**8:25-cv-03901-JRR**

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR HABEAS CORPUS AND MOTION TO DISMISS

Petitioner, by and through undersigned counsel, submits this Reply in opposition to Respondents' Motion to Dismiss and Reply to Respondent's Response to the Petition for Writ of Habeas Corpus. Respondents argue that (1) ICE may detain Petitioner under 8 U.S.C. § 1231(a)(6) because she is subject to a final order and was deemed inadmissible; (2) Petitioner's claim is "premature" because she has only been detained for approximately two weeks and Zadvydas provides a six-month "presumptively reasonable" period; (3) removal is imminent because Nigeria is issuing travel documents; and (4) Petitioner's Fourth Amendment claim fails because ICE allegedly arrested her pursuant to a "warrant of removal," Form I-205.

Respondents' Motion should be denied. Section § 1231 does allow detention authority in some circumstances, but that authority is not boundless: civil detention must still satisfy the Constitution. Petitioner plausibly argues that her sudden, warrantless-in-practice seizure at a routine check-in, followed by incarceration while her stay request and motion to reopen are

pending, which lacks any individualized justification tied to danger or flight risk and is therefore arbitrary and unlawful.

I. Respondents' "§ 1231(a)(6) therefore lawful" theory does not defeat Petitioner's Due Process claim.

Respondents contend that ICE may detain Petitioner under § 1231(a)(6) because she is inadmissible under § 1182(a)(6)(C)(i) and subject to a final order of removal. While § 1231 may authorize detention in aid of removal, the Constitution still limits how and why the Government may incarcerate a person. Petitioner is a 60-years-old nurse with deep family and community ties in Maryland, no criminal history, serious medical needs (including post-surgical pain and medication requirements), and a pending motion to reopen and stay with the BIA that places her case in active litigation posture, yet she was nevertheless taken into custody at a routine appointment without a judicial warrant and/or any individualized showing of necessity.

The core problem that Respondents do not address is that civil immigration detention should not be punitive and cannot be purely reflexive. Even under § 1231, detention must bear a reasonable relation to its purpose. Where Petitioner presented voluntarily for her check-in with counsel, has demonstrated long-term compliance over many years, and has substantial equities and meritorious claims pending before the BIA, incarceration without individualized justification plausibly violates due process.

Moreover, the Supreme Court clearly held in *Mathews v. Eldridge*, 424 U.S. 319, 331 (1976), that "a claim to a pre-deprivation hearing as a matter of Constitutional right rests on the proposition that full relief cannot be obtained at a post-deprivation hearing." No greater Due Process protection exists than the right to LIBERTY or freedom from unlawful detention. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A); see *also Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025);

Artiga v. Genalo, No. 25-cv-05208-OEM, 2025 (E.D.N.Y., 2025). Respondents, however, would ask this Court to deprive Petitioner of that most fundamental and cherished right without process. Such an argument should be immediately dismissed.

II. Respondents' Claim that Petitioner's *Zadvydas* claim is premature misframes Petitioner's claim.

Respondents insist the Petition fails because Petitioner has only been detained for "two weeks." Petitioner's claim is not limited to a post-six-month *Zadvydas* "no significant likelihood of removal" challenge. Petitioner claims, inter alia, she was arbitrarily seized and detained despite (a) presenting for a check-in with counsel, (b) having pending motions seeking reopening and a stay, and (c) having overwhelming ties and medical vulnerabilities that make detention, especially in the deplorable conditions alleged, constitutionally unreasonable absent individualized process. *Zadvydas's* six-month presumption does not give the Government a blanket "six-month grace period" to detain anyone for any reason.

In addition, Respondents' own narrative underscores that removal is not presently occurring because this Court has enjoined removal (ECF No. 9), which Respondents concede prevents ICE from placing Petitioner on a flight itinerary at this time. That posture further supports Petitioner's claim that continued incarceration, while removal is stayed and BIA stay/reopen motions remain pending, requires an individualized justification and cannot rest on conclusory invocations of statutory authority.

Respondents rely on district court decisions (*Tanha v. Warden,* No. 1:25-cv-02121-JRR, 2025 WL 2062181 (D. Md. July 22, 2025); *Ghamelian v. Baker*, Civil No. SAG-25-02106, 2025 WL 2049981 (July 22, 2025)) to argue the *Zadvydas* "clock" does not run while a person is released. Petitioner is not arguing that a "clock" expired years ago; rather, Petitioner alleges this re-detention is arbitrary and unlawful now, because Respondents have not tied custody to danger

or flight risk, nor provided any meaningful process to justify incarceration in light of Petitioner's equities and pending legal proceedings.

III. *Castaneda v. Perry* does not require dismissal here.

Respondents cite *Castaneda v. Perry*, 95 F.4th 750 (4th Cir. 2024), to support the proposition that detention remains lawful while a noncitizen pursues post-order relief, and that such proceedings are "finite." But *Castaneda* involved a different posture and does not resolve the constitutional question presented by Petitioner's allegations: whether ICE may abruptly incarcerate a longtime Maryland resident, with extensive family ties and no criminal history, at a routine check-in, without a judicial warrant or any individualized showing that detention is necessary to serve the only recognized civil-detention purposes, community safety or flight prevention.

Moreover, Respondents' insistence that removal is "imminent" rests on their own declaration that travel documents will be issued once an itinerary is provided. Yet Respondents also acknowledge they cannot take that step because removal is presently enjoined. At minimum, these facts confirm that detention is not a simple ministerial prelude to immediate removal, and they strengthen the need for an individualized process before continued incarceration.

IV. Petitioner plausibly states a Fourth Amendment claim.

Respondents argue the Fourth Amendment claim fails because ICE arrested Petitioner pursuant to a signed Warrant of Removal/Deportation (Form I-205). However, a Form I-205 is not a judicial arrest warrant. Thus, unless Respondents can show that Petitioner's seizure was supported by individualized probable cause and necessity, and whether the arrest was constitutionally reasonable, the warrantless arrest was a violation of her Fourth Amendment Rights. Critically, a Form I-205 is an agency document; it does not automatically establish that the seizure complied

with the Fourth Amendment's core requirement of reasonableness in light of the circumstances here, namely, a routine check-in by a non-dangerous individual with deep ties, ongoing compliance, and pending legal proceedings. Petitioner has plausibly alleged an unreasonable seizure, and dismissal is therefore inappropriate. *See Escobar Molina v. U.S. DHS*, 1:25-C-V-03417-BAH, (D.D.C., Dec. 2, 2025)

V. Conclusion

For the foregoing reasons, Respondents' Motion to Dismiss should be denied. Petitioner has shown that her re-detention at a routine ICE check-in, despite extensive community and family ties, serious medical needs, no criminal history, and pending motions for reopening and a stay, constitutes arbitrary civil incarceration that violates due process and the Fourth Amendment. Respondents' reliance on § 1231, *Zadvydas*, *supra,* and *Castaneda, supra,* does not eliminate constitutional scrutiny, and their factual assertions (including the "imminent removal" narrative) do not warrant dismissal at the pleading stage.

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Deny Respondents' Motion to Dismiss;
2. Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release on reasonable conditions of supervision; **or**, in the alternative,
3. Order Respondents to provide Petitioner with a prompt, individualized custody hearing before a neutral adjudicator at which the Government bears the burden of justifying continued detention; and
4. Grant such other and further relief as the Court deems just and proper.

Dated: December 29, 2025

Respectfully submitted,

/s/ Ronald D. Richey
Ronald D. Richey, Esq.
MD Bar# 0906240005
Law Office of Ronald D. Richey
19785 Crystal Rock Dr., Ste. 307
Germantown, MD 20874
T: (301) 738-2338
info@immigrationlawrichey.com
Attorney for Petitioner