UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA ALEXANDRIA DIVISION

ABDOUL KARIMOU DIALLO, *Petitioner*, v. DONALD J. TRUMP, *et al.*, *Respondents*.	Civil Action No. 1:25-cv-2012 Judge Jerry Edwards, Jr. Magistrate Judge Joseph H L Perez-Montes

REPLY MEMORANDUM IN FURTHER SUPPORT OF THE PETITION FOR WRIT OF HABEAS CORPUS

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PRELIMINARY STATEMENT

Respondents fail to acknowledge the relevant facts that plainly demonstrate (1) the unlawful nature of Petitioner Abdoul Karimou Diallo's re-detention, and (2) the egregious harm he continues to suffer while detained without adequate medical treatment. After fleeing persecution in Guinea, Abdoul entered the United States in December 2023, applied for asylum, and settled in New York. While in New York, Abdoul was lawfully employed, taking English courses, and receiving medical care for his HIV diagnosis and rectal pain.

Despite Abdoul doing all the right things, on May 30, 2025, U.S. Immigration and Customs Enforcement ("ICE") re-detained him without notice as he walked out of his immigration court hearing. Respondents deprived Abdoul of his liberty without affording him an opportunity to challenge Respondents' determination that he is subject to mandatory detention under 8 U.S.C. § 1225(b). A determination that this Court has now repeatedly held is erroneous. *See, e.g.*, *Martinez v. Rice*, No. 25-1780 SEC P, 2025 WL 3554620, at *2 (W.D. La. Dec. 11, 2025) (Edwards, J). Furthermore, the declaratory judgment issued in *Bautista v. Santacruz*, which merits preclusive effect, provides further reason to order Abdoul's release. --- F. Supp. 3d ---, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025).

In addition, Abdoul's re-detention violates his substantive due process rights under the Fifth Amendment. Respondents do not contend that Abdoul is a flight risk or danger to the community (nor could they), and do not meaningfully challenge Abdoul's position that Respondents have been deliberately indifferent to his medical needs. Indeed, to date, Abdoul has not received consistent access to required medication, nor has he received necessary treatment for his rectal pain. His civil detention has become punitive in purpose, which runs afoul of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001) (explaining the sole purposes

of immigration detention being to ensure the appearance at hearings and to prevent danger to the community). Accordingly, the Court should order Abdoul's immediate release.[1]

ARGUMENT

I. The Court Has Habeas Jurisdiction Over Abdoul's Petition.

The Court has jurisdiction over claims in the Petition for Writ of Habeas Corpus (the "Petition"). Relying on certain statutory provisions under the Immigration and Nationality Act ("INA"), Respondents contend that the Court lacks jurisdiction because Abdoul essentially challenges his removal proceedings. Respondents' Motion to Dismiss ("Motion") at 11-12. For the reasons stated below, the Court should reject each of Respondents' jurisdictional arguments.

Respondents argue that "[a]s a threshold issue," the Court does not have jurisdiction over challenges concerning "the commencement and adjudication of removal proceedings." *Id.* Respondents' argument misses the mark. Abdoul does not ask the Court to opine on the initiation or adjudication of removal proceedings. Instead, the Petition challenges the lawfulness of Abdoul's re-detention and that challenge is clearly subject to this Court's review. *See Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018).

Respondents also assert that the Court lacks jurisdiction because Abdoul challenges government policy concerning mandatory detention under § 1225(b), and such a challenge must be brought in the District of Columbia. Mot. at 12-13 (citing 8 U.S.C. § 1252(e)(3)). Not so. Section 1225(e)(3) concerns "[c]hallenges on validity of the system." 8 U.S.C. § 1252(e)(3). That statute requires that "any challenge to the legality or constitutionality of any regulation implementing the expedited removal procedures of § 1225(b) must be made" in the District of

[1] As stated in the Petition, Respondents' practice has been to invoke an automatic stay provision per 8 C.F.R. § 1003.19(i)(2) to prevent release of individuals even after bond is granted by an immigration judge. As such, release is the only appropriate remedy here.

Columbia. *Rodrigues v. McAleenan*, 435 F. Supp. 3d 731, 737 (N.D. Tex. 2020). "In other words, the statute funnels systemic 'facial challenges to the expedited removal process' itself to the District of Columbia." *Zafra v. Noem*, No. EP-25-CV-00541-DB, 2025 WL 3239526, at *2 (W.D. Tex. Nov. 20, 2025) (quoting *Rodrigues*, 435 F. Supp. at 738). Abdoul does not raise a systemic facial challenge to the expedited removal process, but rather an as-applied challenge to his individual detention. Section 1252(e)(3) does not bar the Court from considering that challenge. *See Zafra*, 2025 WL 3239526, at *2 ("Constitutional as applied challenges to an individual's detention during said removal process, however, are left to the regional federal courts.").

Respondents next contend that § 1252(g) deprives the Court of jurisdiction over challenges to "the government's decisions to charge [Abdoul] with removability and detain him, which arise from the decision [and] action to commence proceedings." Mot. at 13. Respondents' argument misconstrues the Petition. Section 1252(g) strips jurisdiction over "decisions 'to [1] commence proceedings, [2] adjudicate cases, or [3] execute removal orders.'" *Martinez*, 2025 WL 3554620, at *2 (quoting *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). Abdoul is not asking the Court to review Respondents' decisions in connection with any of the enumerated acts in § 1252(g). Rather, the Petition is squarely focused on Abdoul's re-detention, which he asserts is unlawful. Thus, "this Court's review is not precluded by § 1252(g)." *Id.*

Lastly, Respondents contend that Abdoul's "challenges to removal proceedings" must first be raised administratively and then in the court of appeals. Mot. at 15-16 (citing 8 U.S.C. §§ 1252(a)(5) and (b)(9)). As this Court has held, Respondents' position is "incorrect." *Martinez*, 2025 WL 3554620, at *1. Section 1252(b)(9) relates to "questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States . . . ." *Id.* In interpreting this statutory provision, the Supreme Court in *Jennings* "held that § 1252(b)(9) did

not bar review of a habeas petitioner's challenge to mandatory detention under § 1225(b)." *Id.* (citing *Jennings*, 583 U.S. at 292-93). Abdoul challenges the constitutionality of his purported mandatory detention without notice or process and without access to an individualized bond hearing. The Court has jurisdiction over that challenge. *See Martinez*, 2025 WL 3554620, at *1 ("Because Petitioner in this case is seeking 'an individualized bond hearing,' § 1252(b)(9) does not divest this Court's jurisdiction.").

For the above reasons, the Court has jurisdiction over the Petition.

II. Abdoul's Detention Is Not Authorized Under § 1225(b).

Respondents attempt to limit Abdoul's due process rights by wrongfully claiming that he is subject to mandatory detention under § 1225(b). But, as explained below, Abdoul does not fit within the categories of noncitizens subject to that subsection.

A. Section 1225(b)(2) Does Not Apply Because Abdoul Is Not "Seeking Admission."

Abdoul cannot be mandatorily detained pursuant to § 1225(b)(2) because he is not a noncitizen "seeking admission." Section 1225(b)(2) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The plain text and statutory scheme dictate that § 1225(b)'s provision for mandatory detention does not apply to individuals like Abdoul who are already present in the United States at the time of re-detention. *See e.g.*, *Martinez*, 2025 WL 3554620, at *3; *Kostak v. Trump*, No. 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

By its own terms, § 1225(b)(2)'s language does not apply to the circumstances here. A noncitizen is subject to mandatory detention under § 1225(b)(2) if "(1) the person is an 'applicant for admission'; (2) the person is 'seeking admission'; and (3) an 'examining immigration officer

determines' the person 'is not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 3554620, at *3. The term "applicant for admission" includes a noncitizen "present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). "The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." *Martinez*, 2025 WL 3554620, at *3 (quoting *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, at *6 (W.D. Tex. Nov. 26, 2025)). The phrase "seeking admission" is "undefined in § 1225(b)(2)(A)" but "necessarily implies some sort of present-tense action." *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 488 (S.D.N.Y. 2025).

Abdoul was not "seeking admission" when ICE agents re-detained him on May 30, 2025. He was *already* residing in the United States. As this Court, and the majority of courts, have squarely held, as someone who is no longer in the act of "seeking" admission, but is instead *already here*, Abdoul does not fall within the scope of § 1225(b)(2). *Martinez*, 2025 WL 3554620, at *4 ("Because Petitioner resided within the United States when detained . . . § 1226(a)—not § 1225(b)—governs Petitioner's detention and requires that Petitioner receive a bond hearing." (collecting cases)); *Argueta Coj v. Noem*, No. 1:25-CV-01655 SEC P, 2026 WL 86837, at *1-2 (W.D. La. Jan. 12, 2026) (Edwards, J.) (same).

Arguing that *Jennings* fails to support Abdoul's position that § 1226 applies to the circumstances here, Mot. at 23, Respondents ignore this Court's careful analysis and conclusion to the contrary. As this Court has explained, "The *Jennings* Court understood § 1225(b) to control the detention of aliens 'at the Nation's borders and ports of entry.'" *Argueta Coj*, 2026 WL 86837, at *2 (quoting *Jennings*, 583 U.S. at 287). "The Supreme Court's 'language does not indicate broad application to all unadmitted immigrants in the United States. Rather . . . this language indicates

that § 1225(b)(2) applies to those arriving in the country.'" *Id.* (quoting *Morales Chaves v. Dir. of Detroit Field Off.*, No. 4:25-cv-2061, 2025 WL 3187080, at *5 (N.D. Ohio Nov. 14, 2025)).

Section 1225(b)(2)(A) "applies only to those noncitizens who are actively 'seeking admission' to the United States" and "cannot, according to its ordinary meaning," apply to Abdoul, who had been residing in the United States for over a year at the time of his re-detention. *See Lopez Benitez*, 795 F. Supp. 3d at 489.

B. The Constitutional Violations in Abdoul's Case Independently Merit Release.

Abdoul's re-detention violates his procedural due process rights because he was not afforded notice or an opportunity to challenge his unlawful re-detention. Respondents focus on the constitutionality of the length of Abdoul's re-detention. Mot. at 32-33. But Abdoul's challenge is based on Respondents' failure to provide any process before re-detaining him.

Respondents fail to address the well-known test for constitutionality of process set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335. As Abdoul has set out, the deprivation of his liberty without so much as a word of explanation or opportunity to be heard does not pass constitutional muster. *See Valdez v. Joyce*, --- F. Supp. 3d ---, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) ("Respondents' ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *see Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sep. 8, 2025) ("The interest in being free from physical detention is the most elemental of liberty interests." (cleaned up)).

Furthermore, the lack of an individualized custody determination creates a heightened risk of erroneous deprivation of liberty. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 668, 686 (W.D. Tex. 2025). And the government's interest in providing a bond hearing is not "terribly burdensome." *Id.* at 687.

Here, after Abdoul was initially released on his own recognizance pursuant to § 1226(a),[2] Respondents changed course in their interpretation of § 1225 and unlawfully re-detained him. And Respondents did so without any notice, individualized analysis, or explanation for their decision to ignore the government's original determination that he was neither a flight risk nor a danger to the community when they decided to release him over a year ago. *See Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *8 (W.D. Tex. Oct. 21, 2025) ("'Respondents fail to contend with the liberty interests created by the fact that the Petitioner[ ] in this case [was] released on recognizance prior to the manifestation of this interpretation'" (quoting *Lopez-Arevelo*, 801 F. Supp. 3d at 677-78)). For these reasons alone, the Court should order Abdoul's release. *See Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *21 (W.D.N.Y. May 2, 2025) ("In sum, because ICE did not follow its own regulations in deciding to re-detain [petitioner], his due process rights were violated, and he is entitled to release. And even

[2] Respondents assert, without support, that Abdoul was initially processed for expedited removal under INA § 235(b)(1). Mot. at 16 & n.1. But Respondents are silent as to the manner of Abdoul's release. Abdoul maintains that he was released on his own recognizance under § 1226(a). Nevertheless, even if Respondents were correct, mandatory detention is not appropriate now. While § 1225(b)(1) allows for mandatory detention "for certain aliens undergoing expedited removal proceedings," Respondents do not dispute that "he is not currently subject to expedited removal proceedings and thus is not subject to Section 1225(b)(1)'s detention provisions." *Guo v. Vergara*, No. SA-25-CA-01814-XR, 2026 WL 94651, at *5 (W.D. Tex. Jan. 5, 2026); *Ballestros v. Noem*, No. 3:25-cv-594-RGJ, 2025 WL 2880831, at *3 (W.D. Ky. Oct. 9, 2025) ("[N]oncitizens cannot be in two parallel paths of removal proceedings" (citing *Patel v. Tindall*, --- F. Supp. 3d ---, 2025 WL 2823607, at *6-7 (W.D. Ky. Oct. 3, 2025))).

if that were not so, he still would be released because he was not afforded even the minimal due process that protects everyone—citizens and noncitizens—in the United States.").

C. The Declaratory Judgement in *Bautista* Applies to This Case.

By Order to Show Cause dated January 9, 2026, the Court instructed Respondents to "address whether they challenge Petitioner's class membership and explain under what authority this Court should ignore the judgment of another federal district court that purports to bind this Petitioner and Respondents legal position for denying bond eligibility." Order to Show Cause dated Jan. 9, 2026, ECF No. 28. At the outset, Respondents appear to concede that Abdoul is a class member. *See* Mot. at 36 ("The *Bautista* class sought a declaratory judgment that class members *such as Petitioner* were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a).") (emphasis added). Respondents, however, argue that the *Bautista* declaratory judgment is "neither binding nor applicable here." *Id.* For the reasons below, the Court should reject that position.

Respondents first argue that the *Bautista* court "lacked jurisdiction to issue habeas relief to all class members who are confined outside the Central District of California." *Id.* at 38. The *Bautista* court acknowledged that affording "habeas relief on a nationwide level" might run afoul of the Supreme Court's district-of-confinement rule in *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). 2025 WL 3713987, at *14, 30. It is why the court "only extend[ed] its declaratory judgment regarding the illegality of the DHS Policy for purposes of the APA claim." *Id.* at *30. The *Bautista* court did not purport to extend nationwide habeas relief for eligible class members. Thus, the *Bautista* court had jurisdiction to issue its declaratory judgment and that judgment applies here. Furthermore, Respondents should not be allowed to re-litigate the government's challenge to the *Bautista* court's jurisdiction. The government challenged the *Bautista* court's jurisdiction at length. "So this jurisdictional attack is one that is routed to the appellate courts rather than to other trial

courts faced with a binding final judgment against the same defendants." *Zepeda Ramirez v. Smith*, No. 5:25-cv-186-BJB, No. 5:25-cv-190-BJB, 2026 WL 228778, at *5 (W.D. Ky. Jan. 28, 2026).

Respondents' second argument fares no better. Respondents contend that the Court should not give preclusive effect to the *Bautista* declaratory judgment because it is on appeal. Mot. at 39. But that position is at odds with the general rule that "a judgment is entitled to preclusive effect even though an appeal is pending." *Stevens v. St. Tammany Par. Gov't*, 17 F.4th 563, 571 (5th Cir. 2021) (quoting 18 WRIGHT & MILLER'S FEDERAL PRACTICE & PROCEDURE § 4404 (3d ed. 2004)).

Respondents also raise several prudential concerns with giving preclusive effect to the *Bautista* declaratory judgment. Mot. at 40-42. None has merit. First, Respondents invoke 28 U.S.C. § 2202 and appear to suggest that a motion to enforce the declaratory judgment would need to be brought in the Central District of California. But Abdoul simply asks the Court to afford the *Bautista* judgment preclusive effect and does not, "strictly speaking, [move] to enforce the *Bautista* judgment; that is, [Petitioner does not] seek a coercive order requiring the Government to afford bond hearings or set aside a DHS guidance document." *Zepeda Ramirez*, 2026 WL 228778, at *6.

Second, Respondents contend that "the circumstances of this case also counsel against applying issue preclusion against the government." Mot. at 40. Respondents' argument assumes that Abdoul invokes the doctrine of nonmutual collateral estoppel. *Id.* Not so. This is a matter of mutual estoppel because Abdoul is a "member[] of the class that benefits from a judgment binding the Respondents here." *Zepeda Ramirez*, 2026 WL 228778, at *7.

Third, Respondents raise doubt that "issue preclusion is ever appropriate in the habeas context." Mot. at 42. But "[b]ecause this Court is merely applying a binding civil judgment, not revisiting any issue in the context of postconviction review, this argument, too, doesn't limit the effect of the declaration." *Zepeda Ramirez*, 2026 WL 228778, at *7.

Accordingly, the Court should give preclusive effect to the *Bautista* declaratory judgment.[3]

D. Abdoul's Deteriorating Health Further Warrants Release.

Respondents fail to engage with the facts showing that Abdoul is suffering from serious medical conditions that continue to worsen and go untreated. Instead, they merely argue that Abdoul cannot invoke this Court's habeas jurisdiction to challenge the conditions of confinement. But Abdoul raises facts about his health and lack of treatment to show that his detention has become unlawfully "punitive" and not "reasonably related to a legitimate, non-punitive governmental objective" such as flight risk or danger to the community. *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997). As described in his Petition and motion for release on bail, Respondents have been aware of Abdoul's deteriorating health but have failed to adequately address his medical concerns. Because Respondents have no legitimate justification for Abdoul's re-detention and have been indifferent to his medical needs, his re-detention is unlawfully punitive "in purpose and effect" and thus violates the Fifth Amendment. *See Zadvydas*, 533 U.S. at 690.

CONCLUSION

For the foregoing reasons, Petitioner's detention is unlawful and the Court should order his release.

[3] Abdoul is aware of at least one decision in this District declining to afford preclusive effect to the *Bautista* declaratory judgment. *Mendoza v. Rice*, No. 1:26-cv-00058-TAD-MLH (W.D. La. Jan. 14, 2026), ECF No. 5. For the reasons herein, Abdoul respectfully requests that the Court decline to follow *Mendoza*.

Dated: February 3, 2026

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