

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BEKA BAKURADZE,

Petitioner,

CIVIL ACTION NO. 5:26-CV-18
(BAILEY, MAZZONE, PRINCE)

v.

MARY ADAMS, in her official
capacity as the Interim Superintendent
of the Northern Regional Jail and
Correctional Facility; MICHAEL T. ROSE,
Acting Field Office Director of Enforcement
and Removal Operations, Philadelphia
Field Office, Immigration and Customs Enforcement,

Respondents.

RESPONDENT MICHAEL T. ROSE'S REPLY TO OPPOSITION

Now comes the Respondent Michael T. Rose, by counsel, Christopher J. Prezioso, Assistant United States Attorney, to Reply to Petitioner Beka Bakuradze's Opposition to Respondent Michael T. Rose's Motion to Dismiss (Petitioner's Opposition).

As discussed in Respondent Michael T. Rose's Response to Order to Show Cause and Motion to Dismiss (Motion to Dismiss), the pending Petition for Writ of Habeas Corpus must be denied as Petitioner's detention is authorized by statute, regulation, and comports with the Constitution. ECF No. 6. On June 19, 2023, the U.S. Department of Homeland Security (DHS) processed Petitioner for expedited removal pursuant to 8 U.S.C. § 1225(b)(1) after he illegally entered the United States without inspection. After Petitioner claimed a fear of return to his home country, DHS placed him into removal proceedings under 8 U.S.C. § 1229a and paroled him from custody pursuant to 8 U.S.C. § 1182(d)(5) to facilitate this process. As an alien initially processed for expedited removal, Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1) and *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).

First, Petitioner's Opposition does not challenge any of the factual representations made in Respondent's Motion to Dismiss. ECF No. 8. Indeed, Petitioner does not contest these facts and impliedly concedes that DHS processed Petitioner for expedited removal after he illegally entered the United States without inspection. ECF No. 8, pp. 3-5. Contrary to many allegations set forth in the pending Petition for Writ of Habeas Corpus, the Board of Immigration Appeals' (BIA) decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025) is not implicated when an alien is processed for expedited removal. ECF No. 1, ¶¶ 29-31, 59. Upon review of Petitioner's Opposition, Petitioner appears to no longer place reliance on district court decisions analyzing the application of *Hurtado*. ECF No. 8, pp. 3-5. As correctly stated in Respondent's Motion to Dismiss, this matter fits squarely within the Attorney General's decision in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) and does not implicate *Hurtado*. ECF No. 6, p. 14.

Second, Petitioner heavily relies upon two unpublished orders issued by the United States District Court for the Southern District of West Virginia in *Gerson Anibal Umana Villatoro v. Warden*, 2:26-cv-0078. ECF No. 8, pp. 1-2; 8-1; 8-2. Respectfully, the orders cited and attached to Petitioner's Opposition do not set forth any findings of facts and should not be relied upon. *Id* Respondent further respectfully asserts that the January 8, 2026 unpublished opinion issued by the District Court of New Jersey in *Ali Sajad Faqirzada v. Eric Rokosky, et. all*, 3:25-cv-16639 is more persuasive.

In *Faqirzada*, Petitioner Ali Saja Faqirzada crossed the border illegally and was subjected to the expedited removal procedures outlined in 8 U.S.C. § 1225(b)(1) and its companion regulations. 3:25-cv-16639 at p. 2. The Court found that "even where an alien is granted humanitarian parole prior to a final decision on his removal proceedings, he does not cease being subject to § 1225(b)(1)." *Id* at p. 3. Further, the Court found:

Aliens who are paroled are thus subject to the “entry fiction” in which they are legally considered as if they remained at the border throughout and after their parole until removal or credible fear proceedings conclude. *See, e.g., Doe v. Rodriguez*, No. 17-1709, 2018 WL 620898, at *6 (D.N.J. Jan. 29, 2018); *see also Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657, at #1-2 (E.D. Va. Aug. 5, 2025). Federal courts generally lack jurisdiction to review the exercise of discretion embodied in the Government’s decision to grant or deny parole. *See Ashish v. Att’y Gen.*, 490 F. App’x 486, 487 (3d Cir. 2013) (citing 8 U.S.C. §§ 1182(d)(5)(A) & 1252(a)(2)(B)(ii)).

The record of this matter makes clear that Petitioner was apprehended shortly after crossing the border and within a few miles of the nearest border crossing, and as such was subject to expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1).[] *Id.*; *see also* 8 U.S.C. § 1182(d)(5)(A) (alien whose humanitarian parole is terminated is to be treated as any other applicant for admission). That detention remains lawful and mandatory under the statute unless and until Petitioner’s removal and credible fear proceedings run their course and finish, either with a grant of relief or a final order of removal. *Jennings*, 583 U.S. at 287-88, 300-03. Petitioner’s current detention is thus lawful, and Petitioner is not entitled to a bond hearing under the statute that governs his detention. *Id.* Petitioner’s contention that he is not subject to mandatory detention is without merit.

The alien in *Faqirzada*, like Petitioner Beka Bakuradze, was initially processed for expedited removal and subject to mandatory detention pursuant to § 1225(b)(1). As such, Respondent asks the Court to consider making similar findings of fact and conclusions of law and deny the pending Petition for Writ of Habeas Corpus.

Third, Petitioner does not address the February 6, 2026 published opinion issued by the United States Court of Appeals for the Fifth Circuit in *Victor Buenrostro-Mendez v. Pamela Bondi, et al.*, 25-20496 (5th Cir. Feb. 6, 2026), which is set forth in Respondent’s Notice of Supplemental Authority. ECF No. 7. Although the Fifth Circuit did not directly address mandatory detention for aliens processed for expedited removal under § 1225(b)(1), the Court, through dicta, recognizes the appropriateness of detention under § 1225(b)(1). *Victor Buenrostro-Mendez*, 25-20496, p. 4. In Footnote 2, the Court recognizes that “Section 1225(b)(1) lays out an alternative framework for detention and removal of aliens who qualify for expedited removal proceedings.” *Id.*

Fourth, for the first time, Petitioner argues that service of the Notice to Appear (NTA) “supersedes” the June 2023 Order of Expedited Removal. ECF No. 8, pp. 2-5. There is no legal merit to this argument, and the Court should disregard the same. Petitioner incorrectly alleges that the issuing of the Notice of Appear indicates that DHS, its sub-agency U.S. Citizenship and Immigration Services (“USCIS”) and ICE “had no intention of actually removing Petitioner based on his expedited removal order.” *Id.* Respondent denies this is the applicable legal standard at issue and denies that these actions are indicative of having “no intention” to remove Petitioner. Respondent notes that the detention framework of the INA set forth in the pending Motion to Dismiss supports Respondent’s position. As additional support, Respondent notes an NTA 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. In this case, the NTA did just that and was simply part of the process that has no impact on Petitioner being subject to mandatory detention under § 1225(b)(1). Specifically, DHS identifies the following reasons why petitioner is subject to removal from the United States:

- “1. You are not a citizen or national of the United States;
2. You are a native of Georgia and a citizen of Georgia;
3. You entered the United States at or near San Luis, AZ on or about 6/19/2023;
4. You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document;
5. You were not then admitted or paroled after inspection by an Immigration Officer.”

(ECF No. 6-4; 1-2; 8-1)

Clearly, the NTA relied upon by Petitioner is not proof that DHS, UCIS, and ICE had “no intention” to remove Petitioner and does not impact the fact that Petitioner is subject to mandatory detention pursuant to § 1225(b)(1). Likewise, the August 8, 2023 Interim Notice cited by Petitioner

does not negate that Petitioner is subject to mandatory removal. Petitioner cites no legal authority for these propositions and is simply incorrect.

CONCLUSION

As an alien initially processed for expedited removal, Petitioner is subject to mandatory detention pursuant to § 1225(b)(1). Respondent respectfully requests that the pending Petition for Writ for Habeas Corpus be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the *Reply* was electronically filed with the Clerk of the Court by using the CM/ECF system on the 26th day of February, 2026.

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