

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mamadou Kaly Bah v. Luis Soto, et al.

Kaly Bah · No. 25-cv-17337-ESK · Decided November 26, 2025

SUMMARY

The United States District Court for the District of New Jersey granted Mamadou Kaly Bah's petition for a writ of habeas corpus under 28 U.S.C. § 2241 and his motion for an order to show cause. The court held that detention under 8 U.S.C. § 1225(b)(2) was improper for a noncitizen arrested within the United States and ordered respondents to treat Bah as detained under § 1226(a) and provide an individualized bond hearing.

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY MAMADOU KALY BAH, Case No. 25–cv–17337–ESK Petitioner, v. OPINION AND ORDER LUIS SOTO, et al., Respondents. THIS MATTER comes before the Court upon petitioner Mamadou Kaly Bah's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Petition) (ECF No. 1) and motion for an order to show case (Motion) (ECF No. 2.)

Petitioner alleges that he is unlawfully detained by immigration authorities under 8 U.S.C § 1225(b)(2) without a bond hearing. (ECF No. 1 p. 6.) Respondents filed a letter brief in response to the Petition stipulating that petitioner entered the United States without inspection in 2024, and he was arrested by Immigration and Customs Enforcement (ICE) officers on October 23, 2025.

(ECF No. 4 p. 1.) Respondents further stipulate that petitioner is in ICE detention without bond pursuant to the Department of Homeland Security's interpretation of "applicants for admission" under § 1225(b)(2) and the Board of Immigration Appeals' (BIA) recent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025). (Id. p. 2.) Respondents acknowledge that that their answer to this Petition relies on the same statutory arguments made before this Court in *Ayala Amaya v. Bondi*, No. 25-cv-16428, 2025 WL 3033880 (D.N.J.

Oct. 30, 2025), and this Petition asserts the same relevant facts as those in *Ayala Amaya*. (Id. pp. 2, 3.) I concluded in *Ayala Amaya* that mandatory detention under § 1225(b)(2) applied exclusively to encounters at or near the border, while discretionary detention under 8 U.S.C. § 1226(a) applies to noncitizens, like petitioner, who were already present in the country, albeit unlawfully, at the time of their arrest by immigration authorities under § 1226(a).

Ayala Amaya, 2025 WL 3033880, at *3. Petitioner is unlawfully detained under § 1225(b)(2); therefore, I will grant the Petition and Motion. Respondents are ordered to treat petitioner as

detained under § 1226(a) and provide him with an individualized bond hearing. IT IS on this 26th day of November 2025 ORDERED that: 1.

The Petition at ECF No. 1 and Motion at ECF No. 2 are GRANTED. 2. Respondents shall treat petitioner as detained under 8 U.S.C. § 1226(a) and provide him with an individualized bond hearing before an immigration judge. 3. Respondents shall file a letter on the docket within 7 days of this Opinion and Order indicating whether the hearing has taken place. If a hearing has not been held, respondents shall give a detailed explanation for same. /s/ Edward S. Kiel EDWARD S. KIEL UNITED STATES DISTRICT JUDGE