IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

MUNIRA BEKMURATOVA,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-134-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
	:	
Respondent.	:	

RESPONSE

On April 23, 2025, the Court received Petitioner's petition for a writ of habeas corpus ("Petition"). ECF No. 1. On the same day, the Court ordered Respondent to file a comprehensive response within twenty-one days.[2] ECF No. 3. For the hereinbelow reasons, the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Uzbekistan who is mandatorily detained pre-final order of removal as an applicant for admission pursuant to 8 U.S.C. § 1225(b). Guerra Decl. ¶ 3 & Ex. A. On October 10, 2024, Petitioner unlawfully entered the United States without inspection near

[1] Petitioner names the United States Department of Homeland Security, United States Immigration and Customs Enforcement, and officials with both agencies as Respondents in her Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Steward Detention Center as the sole appropriately named respondent in this action.

[2] On April 29, 2025, the Court issued an order consolidating this case with Petitioner's second habeas petition received on transfer from the U.S. District Court for the Northern District of Georgia. ECF No. 4. This second petition was docketed in this Court as *M.B. v. Noem*, No. 4:25-cv-140, Pet. (M.D. Ga. Apr. 25, 2025), ECF No. 1. Respondent was neither served with this second petition nor otherwise received access to it.

San Luis, Arizona and was encountered by Customs and Border Protection ("CBP"). *Id.* ¶ 4 & Ex. A. She entered CBP custody on the same day and was processed for expedited removal pursuant to 8 U.S.C. § 1225(b)(1). *Id.* ¶ 4 & Ex. A. Petitioner entered Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") custody on October 25, 2024 and was transferred to Stewart Detention Center on November 11, 2024. *Id.* ¶ 5.

Petitioner "requested political asylum[.]" Pet. 2, ECF No. 1. She received a "credible fear interview and received a positive decision." *Id.* On December 9, 2024, United States Citizenship and Immigration Services ("USCIS") served Petitioner with a Notice to Appear ("NTA") charging her with inadmissibility pursuant to Immigration and Nationality Act ("INA") § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), based on her lack of a valid entry document at the time she applied for admission into the United States. Guerra Decl. ¶ 6 & Ex. B. On or about December 12, 2024, Petitioner requested release from ICE/ERO custody on parole. *Id.* ¶ 7. On or about December 13, 2024, ICE/ERO reviewed Petitioner's request and denied parole, finding that she should remain detained. *Id.*

On January 30, 2025, Petitioner appeared for a master hearing before an immigration judge ("IJ"), and Petitioner's counsel requested a continuance. *Id.* ¶ 8. The IJ granted the request and continued the case to February 20, 2025. *Id.* ¶ 8 & Ex. C. On February 17, 2025, Petitioner filed an application for relief from removal. *Id.* ¶ 9. The IJ continued Petitioner's master hearing from February 20, 2025 to March 30, 2025 due to an unplanned leave of absence. Guerra Decl. ¶ 10 & Ex. D. Petitioner requested bond through a custody redetermination hearing, and the IJ set a bond hearing for February 26, 2025. *Id.* ¶ 11. However, when Petitioner appeared for the bond hearing, her counsel withdrew the request for bond. *Id.* On March 30, 2025, the Petitioner appeared for her

master hearing, and the IJ continued the matter to June 10, 2025 for a merits hearing on her application for relief from removal. *Id.* ¶ 12 & Ex. F.

To the extent Petitioner becomes subject to a final order of removal, there is a significant likelihood of her removal in the reasonably foreseeable future. Uzbekistan is open for international travel and is issuing travel documents to facilitate removals. *Id.* ¶ 13. ICE/ERO is currently removing non-citizens to Uzbekistan. *Id.* To the extent necessary to secure a travel document for Petitioner's removal, ICE/ERO is in possession of Petitioner's valid Uzbekistani passport, and the passport remains valid through October 30, 2033. Guerra Decl. ¶ 13.

LEGAL FRAMEWORK

Petitioner is detained pre-final order of removal as an applicant for admission.[3] 8 U.S.C. § 1225(a)(1) provides that "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed . . . an applicant for admission." "Applicants for admission fall into one of two categories: those covered by section 1225(b)(1) and those covered by section 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

First § 1225(b)(1) applies when an immigration officer initially determines an applicant for admission is inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(C) or 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. § 1225(b)(1)(A)(i); *see also Jennings*, 583 U.S. at 287. For these applicants for admission, "the officer shall order the alien[s] removed from the United States without further hearing or review unless the alien[s] indicate[] either an intention to apply for asylum . . . or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i). If the applicant for admission applies for asylum, the "officer shall refer the alien for an interview by an asylum officer[.]" 8 U.S.C. § 1225(b)(1)(A)(ii). "[I]f the officer determines that an alien does not have a credible fear of persecution, the officer

[3] Petitioner is not an arriving alien—a particular class of applicants for admission—within the meaning of the INA because she did not apply for admission at a port of entry. *See* 8 C.F.R. §§ 1.2, 1001.1(q)

shall order the alien removed from the United States without further hearing or review." 8 U.S.C. § 1225(b)(1)(B)(iii)(I). However, "[i]f the officer determines at the time of the interview that an alien has a credible fear of persecution[,] . . . the alien shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii).

Second, § 1225(b)(2) applies to an applicant for admission whom "the examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted[.]" 8 U.S.C. § 1225(b)(2)(A). Such applicants for admission are referred "for a [removal] proceeding under [8 U.S.C. §] 1229a[.]" *Id.*; *see also Jennings*, 583 U.S. at 287; *In re M.S.*, 27 I. & N. Dec. 509, 510 (A.G. 2019).

Detention of all applicants for admission is mandatory. 8 U.S.C § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that an alien has a credible fear of persecution[,] . . . the alien *shall be detained* for further consideration of the application for asylum." (emphasis added)); 8 U.S.C. § 1225(b)(2)(A) ("[I]f 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* for a proceeding under [8 U.S.C. §] 1229a . . . ." (emphasis added)). The only exception is that ICE/ERO may—in its discretion—release applicants for admission on parole. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5(b), 235.3(c).

ARGUMENT[4]

Petitioner appears to primarily assert that her continued detention violates her procedural due process rights because her detention has become prolonged.[5] Pet. 2-5, ECF No. 1. Petitioner also claims that "[t]he conditions at Stewart Detention Center can be classified as cruel" within the meaning of the Eighth Amendment. *Id.* at 4; *see also id.* (alleging "cruel, inhuman, and degrading treatment"). The Petition should be denied for two reasons. ***First***, Petitioner's detention complies with due process because as an applicant for admission, she is entitled to only the relief provided by the INA. Because the INA mandates detention of applicants for admission during removal proceedings and does not permit their release on bond, Petitioner cannot establish any violation of due process arising from her continued detention. ***Second***, Petitioner's conditions of confinement claim is not cognizable in habeas, and she is not entitled to release based on this claim.

I. Petitioner's mandatory detention as an applicant for admission complies with due process.

Petitioner asserts that her continued detention violates her Fifth Amendment procedural due process rights because there is no "justification for her detention." Pet. 3; *see also id.* at 3-4.

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[4] Petitioner's claims are unclear and cite multiple statutes, regulations, and standards applicable to different forms of immigration detention. *See* Pet. 2-5. Because Petitioner is detained under 8 U.S.C. § 1225(b), Respondent has liberally construed Petitioner's claims to raise a due process challenge to her detention as an applicant for admission. To the extent the Court construes the Petition as raising different claims for relief, Respondent respectfully requests the opportunity to submit supplemental briefing.

[5] Petitioner references statutes, regulations, and cases concerning post-final order of removal detention. Pet. 2-4. To the extent Petitioner seeks relief under any of these authorities, the Petition should be denied because Petitioner is mandatorily detained pre-final order of removal under 8 U.S.C. § 1225(b), and therefore none of these authorities apply. Petitioner also cites authorities concerning fear-based claims for relief from removal. *Id.* at 4-5. To the extent Petitioner seeks judicial review of legal or factual determinations made during her removal proceedings, the Court lacks subject matter jurisdiction over these claims. 8 U.S.C. § 1252(a)(5), (b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482-83 (1999); *Linares v. Dep't of Homeland Sec.*, 529 F. App'x 983, 984-85 (11th Cir. 2013) (per curiam); *Mata v. Sec'y of Dep't of Homeland Sec.*, 426 F. App'x 698, 700 (11th Cir. 2011).

Petitioner appears to claim that she is entitled to a bond hearing, stating that ICE/ERO must provide "periodic review of [her] detention status." *Id.* at 5. Petitioner fails to establish a due process violation, and her claim should be denied. As an applicant for admission, Petitioner's due process rights are limited to the procedures and relief provided by statute. Because her immigration proceedings remain ongoing, Petitioner's detention is mandated by statute, and she has no right to release from custody or bond other than discretionary parole. Accordingly, her due process claim should be denied.

A. As an applicant for admission who has never effected entry into the United States, Petitioner's due process rights are limited to those provided by statute.

The Supreme Court has long held that the due process rights of applicants for admission are limited to the procedures provided by statute, and the Court's decisions define those due process rights broadly based on fundamental principles which apply in all contexts.

As a starting point, Congress and the Executive have plenary power over the admission of applicants for admission like Petitioner. "For reasons long recognized as valid, the responsibility for regulating the relationship between the United States and our alien visitors has been committed to the political branches of the Federal Government." *Mathews v. Diaz*, 426 U.S. 67, 81 (1976). Indeed, "over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo v. Bell*, 430 U.S. 787, 792 (1977) (internal quotations and citations omitted). For this reason, the Supreme Court has "long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control." *Id.* (collecting cases).

"[A] concomitant of that power [over the admission of aliens] is the power to set the procedures to be followed in determining whether an alien should be admitted." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). "[T]hat the formulation of these

policies is entrusted exclusively to Congress has become about as firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government." *Kleindienst v. Mandel*, 408 U.S. 753, 767 (1972).

In assessing due process protections arising from the application of these procedures, the Supreme Court has recognized that while all non-citizens are entitled to due process protections, this "does not lead . . . to the conclusion that all aliens must be placed in a single homogeneous legal classification." *Mathews v. Diaz*, 426 U.S. at 77-78. Rather, "[t]he distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citations omitted); *see also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) ("[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.").

In recognition of these plenary powers to determine the procedures for admission, over the course of more than a century, the Supreme Court has consistently held in multiple contexts that the due process rights of applicants for admission seeking initial entry into the United States—like Petitioner here—are limited to only the procedures provided by statute. *Thuraissigiam*, 591 U.S. at 138-40 ("[A]n alien [who is an applicant for admission] has only those rights regarding admission that Congress has provided by statute."); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) ("This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." (citations omitted)); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." (internal quotations and citation

omitted)); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) (same); *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1392) ("[T]he decisions of executive or administrative officers, acting within powers expressly conferred by congress, are due process of law."). The Eleventh Circuit has reached this same conclusion. *Jean v. Nelson*, 727 F.2d 957, 968 (11th Cir. 1984) ("Aliens seeking admission to the United States . . . have no constitutional rights with regard to their applications and must be content to accept whatever statutory rights and privileges they are granted by Congress.").

B. Petitioner fails to establish a due process violation because the INA mandates detention until the completion of applicable proceedings, and Petitioner's proceedings remain ongoing.

Because binding Supreme Court precedent makes clear that the scope of Petitioner's due process rights is limited to the procedures provided by statute, the question is whether section 1225(b) permits bond hearings for applicants for admission. But the Supreme Court has answered this question as well. Specifically, the Court has held that section 1225(b)—which governs Petitioner's detention—"unequivocally mandate[s] that aliens falling within [its] scope shall be detained." *Jennings*, 583 U.S. at 300 (internal quotations omitted). As the Court recognized, "neither [section] 1225(b)(1) nor [section] 1225(b)(2) says anything whatsoever about bond hearings." *Id.* at 297. Rather, "the plain meaning" of the statute "is that detention must continue until . . . removal proceedings have concluded[.]" *Id.* at 299 (citing 8 U.S.C. § 1225(b)(2)(A)). Because "'[d]etained' does not mean 'released on bond,'" the Court concluded that the statute does not permit bond hearings for applicants for admission. *Id.* at 312. "In sum, [sections] 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings[.]" *Id.* at 302.

Here, Petitioner's removal proceedings remain ongoing, so she cannot establish that her mandatory detention violates due process. Petitioner's removal proceedings commenced on December 9, 2024 when she was issued an NTA charging her with inadmissibility. Stephens Decl. ¶ 7 & Ex. B. On February 17, 2025, Petitioner filed an application for relief from removal in her removal proceedings. *Id.* ¶ 9. The IJ has set a final merits hearing on this application for relief for June 10, 2025. *Id.* ¶ 12. Thus, Petitioner remains mandatorily detained pending "the completion of applicable proceedings." *Jennings*, 583 U.S. at 302. Because Petitioner is detained while awaiting the conclusion of proceedings and because the INA does not permit bond hearings or release, Petitioner has no independent due process right to a bond hearing or release. *Thuraissigiam*, 591 U.S. at 107, 140.

This Court has addressed the precise issue presented here and, in light of the longstanding principles discussed above, held that an applicant for admission has no due process right to a bond hearing or release from custody while removal proceedings remain ongoing. In *D.A.V.V. v. Warden, Irwin Cty. Det. Ctr.*, No. 7:20-cv-159-CDL-MSH, 2020 WL 13240240 (M.D. Ga. Dec. 7, 2020), an applicant for admission filed a habeas petition, claiming, *inter alia*, that her mandatory detention under 8 U.S.C. § 1225(b) without a bond hearing violated due process. *D.A.V.V.*, 2020 WL 13240240, at *1-2. The Court denied the applicant for admission's claim because "longstanding Supreme Court precedent" makes clear that applicants for admission's "procedural due process rights entitle them only to the relief provided by the INA." *Id.* at *6 (citing *Thuraissigiam*, 591 U.S. at 140; *Landon*, 459 U.S. at 32; *Mezei*, 345 U.S. at 212; *Nishimura Ekiu*, 142 U.S. at 660). "[B]ecause the INA does not provide [applicants for admission] the right to bond, Petitioner has no independent procedural due process right to a bond hearing." *Id.* (citations omitted).

Courts throughout the country have reached the same conclusion as this Court: the due process rights of applicants for admission are limited to the procedures provided by statute, and they do not have a due process right to a bond hearing. *See Mendoza-Linares v. Garland*, No. 21-cv-1169, 2024 WL 3316306, at *2 (S.D. Cal. June 10, 2024); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 676-79 (S.D. Tex. 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 332-336 (W.D.N.Y. 2021); *Ford v. Ducote*, No. 20-1170, 2020 WL 8642257, at *2 (W.D. La. Nov. 2, 2020); *Bataineh v. Lundgren*, No. 20-3132-JWL, 2020 WL 3572597, at *8-9 (D. Kan. July 1, 2020); *Mendez-Ramirez v. Decker*, 612 F. Supp. 3d 200, 220-21 (S.D.N.Y. 2020); *Gonzalez Aguilar v. McAleenan*, 448 F. Supp. 3d 1202, 1208-12 (D.N.M. 2019).

The Court should apply the same reasoning here. The INA mandates the detention of applicants for admission until the completion of proceedings and does not allow for bond hearings or release. *Jennings*, 583 U.S. at 302. Because Petitioner's due process rights are limited to those provided by the INA, *Thuraissigiam*, 591 U.S. at 139-40, Petitioner is not entitled to a bond hearing or release, *D.A.V.V.*, 2020 WL 13240240, at *4-6. Petitioner's claim should be denied.

II. Petitioner's conditions of confinement claim is not cognizable in habeas, and she is not entitled to release on the basis of this claim.

Petitioner raises a challenge to the conditions of her confinement, asserting that she has not received adequate medical care or hygiene. Pet. 4. Petitioner's conditions of confinement claim should be denied for two reasons. First, conditions of confinement claims are not cognizable in a habeas corpus proceeding. Second, allegations concerning conditions of confinement, even if proven, do not entitle Petitioner to release.

First, Petitioner's claim should be denied because it is not cognizable in habeas. "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v.*

Rodriguez, 411 U.S. 475, 484 (1973). "[W]here an inmate seeks injunctive relief challenging the fact of his conviction or the duration of his sentence . . . [s]uch claims fall within the 'core' of habeas corpus[.]" *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). "By contrast, constitutional claims that merely challenge the conditions of a prisoner's confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core[.]" *Id.* For these reasons, in the immigration context, the Eleventh Circuit has held that a "§ 2241 petition is not the appropriate vehicle for raising . . . a claim challeng[ing] the conditions of confinement, not the fact or duration of that confinement." *Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015) (per curiam) (affirming dismissal of immigration detainee's habeas petition alleging the denial of inadequate medical care because the claim was not cognizable in habeas).

In reliance on these principles, courts throughout the Eleventh Circuit have held that immigration detainees' claims concerning their conditions of confinement are not cognizable in habeas. *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 3839938, at *4 (S.D. Ga. July 8, 2020); *Louis v. Martin*, No. 2:20-cv-349-FtM-60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020); *A.S.M. v. Warden, Stewart Cnty. Det. Ctr.*, 467 F. Supp. 3d 1341, 1348-49 (M.D. Ga. 2020); *Archilla v. Witte*, No. 4:20-cv-00596-RDP-JHE, 2020 WL 2513648, at *12 (N.D. Ala. May 15, 2020); *Matos v. Lopez Vega*, 614 F. Supp. 3d 1158, 1167-68 (S.D. Fla. 2020). Petitioner similarly attempts to challenge her conditions of confinement in immigration custody through a habeas petition under section 2241. The Court should deny this claim because it is not cognizable in this habeas proceeding.

Second, Petitioner's claim should be denied because she is not entitled to release from custody to remedy any purportedly unlawful condition of confinement. "[E]ven if a prisoner proves an allegation of mistreatment in prison that amounts to cruel and unusual punishment, he

is not entitled to release." *Gomez v. United States*, 899 F.2d 1124, 1126 (11th Cir. 1990) (citing *Cook v. Hanberry*, 596 F.2d 658, 660 (5th Cir. 1979), *cert. denied*, 442 U.S. 932 (1979)). Rather, "[t]he appropriate Eleventh Circuit relief from prison conditions that violate the Eighth Amendment during legal incarceration is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment." *Id.*

The Eleventh Circuit has specifically held that "even if [an immigration detainee] established a constitutional violation [in a habeas proceeding], he would not be entitled to the relief he seeks because release from imprisonment is not an available remedy for a conditions-of-confinement claim." *Vaz*, 634 F. App'x at 781 (citing *Gomez*, 899 F.2d at 1126); *see also A.S.M.*, 467 F. Supp. 3d at 1348 ("Release from detention is not available as a remedy for unconstitutional conditions of confinement claims." (citations omitted)). Accordingly, even assuming Petitioner could establish an unlawful condition of confinement arising from the treatment of her medical condition, her habeas claim should be denied because she is not entitled to release from custody as a remedy.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Petition be denied.

Respectfully submitted this 14th day of May, 2025.

C. SHANELLE BOOKER
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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Response with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Murina Bekmuratova
A# [redacted]
Stewart Detention Center
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This 14th day of May, 2025.

BY: *s/ Roger C. Grantham, Jr.*
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