

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

AMIN R. BASTAMI RAD,

Petitioner,

V.

**WARDEN, STEWART DETENTION
CENTER,¹**

Respondents.

Case No. 4:25-CV-256-CDL-CHW
28 U.S.C. § 2241

RESPONDENT'S RESPONSE AND MOTION TO DISMISS

On August 12, 2025, the Court received Petitioner’s Petition for a writ of habeas corpus (“Petition”). ECF No. 1. On August 25, 2025, the Court ordered Respondent to file a response within twenty-one days. ECF No. 4. As explained below, the Petition should be dismissed or, in the alternative, denied.

BACKGROUND

Petitioner is a native and citizen of Iran who is detained post-final expedited removal order pursuant to 8 U.S.C. § 1225(b). Declaration of Deportation Officer Tartanger L. Stephens (“Stephens Decl.”) ¶¶ 3, 4. On October 1, 2024, U.S. Border Patrol (“USBP”) encountered Petitioner near Jacumba, California, after he entered the United States unlawfully. *Id.* ¶ 5 & Ex.

¹ Along with the Warden of Stewart Detention Center, Petitioner names the United States Attorney General, United States Secretary of the Department of Homeland Security, United States Immigration and Customs Enforcement, and the Georgia Field Office Director for ICE in his 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 Stewart Detention Center as the sole appropriately named respondent in this action.

A. On October 1, 2024, USBP served Petitioner with a Notice and Order of Expediated Removal pursuant to INA § 235(b)(1) (8 U.S.C. 1225(b)(1)). *Id.* ¶ 6 & Ex. B.

On November 8, 2024, Petitioner requested a custody redetermination hearing. *Id.* ¶ 7 & Ex. C. On November 15, 2024, he appeared pro se and the Immigration Judge (“IJ”) denied the request for custody redetermination for lack of jurisdiction. *Id.* & Ex. D. Petitioner claimed entitlement to relief from removal. *Id.* ¶ 8. On December 16, 2024, United States Citizenship and Immigration Services (“USCIS”) issued a Form I-863 Notice of Referral to the IJ. *Id.* & Ex. E.

On December 23, 2024, Petitioner appeared pro se and the IJ denied his request for relief from removal and returned the case to the Department of Homeland Security (“DHS”) for removal. Stephens Decl. ¶ 9. Petitioner was scheduled for removal on April 9, 2025 through Atlanta Hartsfield-Jackson International Airport via a commercial flight. *Id.* ¶ 10. Petitioner willingly boarded the flight, but after approximately 5 minutes he informed the flight attendant he did not want to be there, and the pilot requested that Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE/ERO”) remove him from the aircraft. *Id.*

ICE has continued to pursue removal through alternative routes of travel including the possibility of chartered flights. Stephens Decl. ¶ 11. Iran is open for international travel and is issuing travel documents to facilitate removal of Iranian nationals. *Id.* Since January 1, 2025, ICE has removed approximately seventy-five (75) Iranian citizens to Iran. Declaration of Deportation and Detention Officer Quincy R. Hodges III (“Hodges Decl.”) ¶ 3. In August 2025, there have been negotiations for the Republic of Iran to accept a charter flight to facilitate the removal of a large number of Iranian citizens. *Id.* ¶ 4. During a meeting with the Director of the Interests Section of the Islamic Republic of Iran, the Iranian Interests Section represented that travel documents would be issued for individuals with Iranian identity documents and interviews would be

conducted for those without proper identification. *Id.* ¶ 5. Petitioner’s alien file (“A-file”) contains copies of Iranian identity documents. *Id.* ¶ 6. Based on the foregoing, there is a significant likelihood of Petitioner’s removal to Iran in the reasonably foreseeable future. *Id.* ¶ 7.

LEGAL FRAMEWORK

Petitioner is an arriving alien detained pursuant to an expedited removal order. As a result, his detention is mandatory pursuant to 8 U.S.C. § 1225(b)(1)(A). Expedited removal orders permit ICE/ERO to remove specific classes of inadmissible non-citizens without conducting removal proceedings under INA section 240 (8 U.S.C. § 1229a): (1) arriving aliens, and (2) certain inadmissible non-citizens who have not otherwise been admitted or paroled. *See* 8 C.F.R. § 253.3(b)(1), (b)(2)(ii). First, 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.” These non-citizens—known as “arriving aliens”—are subject to expedited removal orders in two ways. 8 C.F.R. § 253.3(b)(1)(i). “If an immigration officer determines that an alien . . . who is arriving in the United States . . . is inadmissible under [8 U.S.C. §§] 1182(a)(6)(C) or 1182(a)(7)[,] the officer shall order the alien removed from the United States without further hearing or review unless the alien” intends to apply for asylum or claims a fear of persecution. 8 U.S.C. § 1225(b)(1)(A)(i). For arriving aliens who claim a fear of persecution, “if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.” 8 U.S.C. § 1225(b)(1)(B)(iii)(I).

Second, 8 U.S.C. § 1225(b)(1)(A)(iii)(I) provides that DHS/ERO may apply expedited removal proceedings to an additional class of non-citizens. *See also* 8 C.F.R. § 253.3(b)(1)(ii). Specifically, this includes non-citizens who (1) have “not been admitted or paroled into the United

States,” and (2) have “not affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility[.]” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

If an immigration officer determines that a non-citizen is inadmissible and subject to expedited removal in one of these two manners, the “immigration officer shall advise the alien of the charges against him or her on Form I-860, Notice and Order of Expedited Removal, and the alien shall be given an opportunity to respond to those charges[.]” 8 C.F.R. § 253.3(b)(2)(i). If the charges are sustained, the “immigration official shall serve the alien with Form I-860[.]” *Id.* Thereafter, the non-citizen will be processed for removal. 8 C.F.R. § 253.3(b)(8).

Non-citizens subject to expedited removal orders “shall be detained pending . . . removal, except that parole of such alien, in accordance with section 212(d)(5) of the Act [(8 U.S.C. § 1182(d)(5))], may be permitted[.]” 8 C.F.R. § 253.3(b)(2)(iii); *see also* 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (“Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.”).

ARGUMENT

Petitioner claims that his continued detention violates his due process rights and that he is entitled to release from custody as a remedy. Pet 6. The Petition should be dismissed for five reasons. **First**, the Court lacks jurisdiction to review Petitioner’s expedited removal order. **Second**, Petitioner is not entitled to release from custody because as an arriving alien, his detention is mandatory, and his due process rights are limited to those provided by statute. **Third**, even assuming the Court applies *Zadvydas*—which it should not—then Petitioner is now mandatorily

detained based on his failure to comply with ICE/ERO's efforts to remove him. **Fourth**, also assuming the Court determines that Petitioner may have additional rights arising from the length of his detention—which it should not—there is a significant likelihood of removal in the reasonably foreseeable future. **Fifth**, any of Petitioner's medical claims potentially regarding the conditions of his confinement are not cognizable in a habeas corpus proceeding.

I. The Court lacks jurisdiction to review Petitioner's expedited removal order.

Judicial review of expedited removal orders is limited. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 111-12 (2020). The IIRIRA provides that “no court shall have jurisdiction to review:” (1) “any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of” an order of expedited removal, (2) “a decision by the Attorney General to invoke the provisions of” § 1225(b)(1) (governing expedited removal), (3) “the application of such section to individual aliens,” including the credible fear determination and the finding of negative credible fear, or (4) “procedures and policies adopted by the Attorney General to implement the provisions of” § 1225(b)(1). *See* 8 U.S.C. §§ 1252(a)(2)(A)(i)-(iv).

The INA does provide for limited habeas review, but only to determine “(A) whether the petitioner is an alien; (B) whether the petitioner was ordered removed under [the expedited removal statute, 8 U.S.C. § 1225], and (C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee . . . , or has been granted asylum[.]” 8 U.S.C. § 1252(e)(2)(A)-(C). Courts lack jurisdiction to review expedited removal orders beyond these three bases. *See Javier Gonzalez v. U.S. Attorney Gen.*, 844 F. App'x 129, 131-32 (11th Cir. 2021) (per curiam).

Petitioner primarily challenges his continued detention. Pet. 2. Petitioner also states that he “has submitted a Colorable defense against removal to the USCIS, and notified the Immigration court.” Pet 5. He requests his immediate release and, in the alternative, requests a bond hearing. *Id.* 6. Petitioner has not asked this Court to review whether he is an alien. Petitioner has not asked this Court to review whether he was ordered removed under 8 U.S.C. § 1225(b). Petitioner has not shown, by a preponderance of the evidence, that he has been lawfully admitted for permanent residence, has been admitted as a refugee, or that he has been granted asylum. As such, this Court lacks jurisdiction to review Petitioner’s challenge to the extent he seeks review of his expedited removal order.

II. Petitioner’s detention complies with due process because his detention is mandatory.

The Petition should be denied because Petitioner’s detention pursuant to section 1225(b) is mandatory. As an arriving alien, his due process rights are limited to those provided by statute. Because the INA does not permit bond or release for arriving aliens—aside from discretionary parole—Petitioner cannot establish a due process right to release from custody.

A. As an arriving alien 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 arriving aliens’ due process rights are limited to those provided by statute, and the Court’s decisions arise from fundamental principles which apply in all contexts.

As a starting point, Congress and the Executive have plenary power over the admission of arriving aliens 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.” *Thuraissigiam*, 591 U.S. at 139. “[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 arriving aliens seeking admission into the United States—like Petitioner here—are limited to only the procedures provided by statute. *Thuraissigiam*, 591 U.S. at 107 (“Congress is entitled to set the conditions for an alien’s lawful entry into this country and [] as a

result [] an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause.”); *id.* at 140 (An arriving alien “has only those rights regarding admission that Congress has provided by statute” and “the Due Process Clause provides nothing more[.]”); *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 (1892) (“[T]he decisions of executive or administrative officers, acting within powers expressly conferred by congress, are due process of law.”).

B. Petitioner fails to establish a due process violation because the INA mandates detention until the completion of applicable proceedings.

The Supreme Court has made clear that the INA mandates detention of arriving aliens like Petitioner, and they have no due process right to release from custody aside from the discretionary parole under 8 U.S.C. § 1182(d)(5)(A). 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 to arriving aliens subject to expedited orders of removal, like Petitioner here, the applicable provision mandates detention “until removed.” 8 U.S.C. § 1225(b)(I)(B)(iii)(IV). Petitioner remains detained under this provision while awaiting removal. Because Petitioner is not entitled to any due process rights beyond this statutorily mandated detention, he cannot establish a due process right to release from custody.

Indeed, this Court has thoroughly analyzed these circumstances and held that arriving aliens mandatorily detained under section 1225(b) have no due process right to release from custody other than the parole procedures set forth in 8 U.S.C. § 1182(d)(5)(A). 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 arriving alien filed a habeas petition, claiming, *inter alia*, that the length of her mandatory detention under section 1225(b) violated due process. *D.A.V.V.*, 2020 WL 13240240, at *1-2. The Court denied the arriving alien's claim because "longstanding Supreme Court precedent" makes clear that "arriving aliens' 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 arriving aliens 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: arriving aliens' due process rights are limited to the procedures provided by statute. *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); *accord Immigr. & Customs Enf't v. Padilla*, -- U.S. --, 141 S. Ct. 1041 (Mem.) (2021) (vacating Ninth Circuit opinion that arriving aliens had a procedural due process right to a bond hearing in light of *Thuraissigiam*).

The Court should apply the same reasoning here. The INA mandates the detention of arriving aliens detained pursuant to expedited orders of removal until removal and does not allow for release aside from discretionary parole. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *Jennings*, 583 U.S. at 302. Because arriving aliens’ due process rights are limited to those provided by the INA, *Thuraissigiam*, 591 U.S. at 139-40, Petitioner is not entitled to release, *D.A.V.V.*, 2020 WL 13240240, at *4-6. Petitioner’s claim should be denied.

III. To the extent the Court applies *Zadvydas*, the Petition is premature because the mandatory “removal period” has been tolled by Petitioner’s obstructionist behavior and thus has not expired.

Even if the Court applies *Zadvydas*, then an alien “shall” be detained during the removal period. 8 U.S.C. § 1231(a)(2). The removal period lasts for 90 days. 8 U.S.C. § 1231(a)(1)(A). But the removal period “shall be extended beyond a period of 90 days[,] and the alien may remain in detention[,] . . . if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure.” 8 U.S.C. § 1231(a)(1)(C). The Eleventh Circuit has routinely upheld the dismissal of § 2241 habeas petitions based on prolonged detention where an alien refused to sign his travel documents or otherwise acted to prevent his removal. *See, e.g., Vaz v. Skinner*, 634 F. App’x 778, 782 (11th Cir. 2015) (affirming dismissal of habeas petition where alien “refus[ed] to voluntarily sign his travel document or inform [his home country] that he is willing to return”); *Linares v. Dep’t of Homeland Sec.*, 598 F. App’x 885, 887 (11th Cir. 2015) (explaining that petitioner’s “acts to prevent [his] removal . . . extended the removal period beyond the 90 days following the finalization of his removal order”); *Oladokun v. U.S. Attorney Gen.*, 479 F. App’x 895, 897 (11th Cir. 2012) (affirming denial of habeas petition where petitioner “thwarted his removal”); *see also Hook v. Lynch*, 639 F. App’x 229, 230 (5th Cir. 2016) (“Hook’s failure to cooperate with the efforts to remove him tolled the running of the removal period.”); *Xi*

v. *INS*, 298 F.3d 832, 843 (9th Cir. 2002) (Rymer, J., dissenting) (“[T]he 90–day removal period . . . is tolled until the alien cooperates in obtaining the necessary travel papers.”).

Here, USBP served Petitioner with Notice and Order of Expediated Removal pursuant to INA § 235(b)(1) on October 1, 2024. Stephens Decl. ¶ 6. Petitioner entered custody on the same day. *Id.* ¶ 6. On April 9, 2025, Petitioner was set for removal through Atlanta Hartsfield-Jackson International Airport via a commercial flight. *Id.* ¶ 10. Originally, Petitioner willingly boarded the flight, but after approximately 5 minutes he informed the flight attendant he did not want to be there and the pilot requested that ICE/ERO remove him from the aircraft. *Id.* ¶ 11. Because Petitioner did not comply with the requirement that he not obstruct his removal, his removal period tolled and he cannot show that his detention is prolonged under *Zadvydas*.

Although ICE/ERO did not issue Petitioner a failure to comply notice, this is not dispositive. Rather, the applicable regulations make clear that the removal period is extended—and the *Zadvydas* six-month period tolled—even if ICE/ERO fails to serve the non-citizen with a failure to comply notice. Specifically, 8 C.F.R. § 241.4(g)(5)(iv) provides that “[t]he fact that [ICE/ERO] does not provide a Notice of Failure to Comply, within the 90-day removal period, to a[] [non-citizen] who has failed to comply with the requirements of [8 U.S.C. § 1231(a)(1)(C)], shall not have the effect of excusing the [non-citizen’s] conduct.”

Based on this language, district courts have recognized that a non-citizen’s failure to comply with removal efforts extends the removal period pursuant to § 1231(a)(1)(C) even where ICE/ERO fails to issue a failure to comply notice. *Cyclewala v. Searls*, No. 6:21-CV-06372, 2021 WL 5989781, at *4 (W.D.N.Y. Dec. 16, 2021); *Glushchenko v. U.S. Dep’t of Homeland Sec.*, 566 F. Supp. 3d 693, 708-10 (W.D. Tex. 2021); *De Souza Neto v. Smith*, No. 17-11979-RGS, 2017 WL 6337464, at *1 n.2 (D. Mass. Oct. 16, 2017). The Court should recognize the same here and

find that Petitioner's failure to comply with removal efforts extends the removal period and tolls the *Zadvydas* presumptively reasonable six-month period despite ICE/ERO not issuing a failure to comply notice.

Petitioner's failure to comply in good faith with the attempt to finalize and effectuate his removal has extended the removal period under 8 U.S.C. § 1231(a)(1)(C). Were it not for Petitioner's willful intransigence, Petitioner's removal likely already would have been completed. Because the removal period has not expired, Petitioner's continued detention is mandatory, and his request for habeas relief should be dismissed.

IV. There is a significant likelihood of removal in the reasonably foreseeable future.

Even if *Zadvydas* applied to an arriving alien with an expedited removal order—which it does not—and even if the presumptively reasonable six-month detention period under *Zadvydas* has run—which it has not—Petitioner has nevertheless failed to carry his evidentiary burden of demonstrating that there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. To satisfy his burden, Petitioner must provide “*evidence* of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Akinwale*, 287 F.3d at 1052 (emphasis added). Petitioner has failed to make this showing.

Petitioner has presented no evidence to show that he is unlikely to be removed in the reasonably foreseeable future. Petitioner does not even address his removal to Iran. In fact, but for Petitioner's failure to comply at the airport, Petitioner would have already been removed to Iran. Stephens Decl. ¶ 10. Because Petitioner has not presented any evidence, he is unable to show that there is no significant likelihood of removal in the reasonably foreseeable future.

Even if Petitioner had offered evidence sufficient to shift the burden to Respondent to show a likelihood of removal, Respondent has easily met his burden. Instead, Iran is open for international travel and is issuing travel documents to facilitate removals of Iranian nationals. Stephens Decl. ¶ 12. ICE/ERO has removed seventy-five (75) Iranian citizens to Iran since January 1, 2025. Hodges Decl. ¶ 3. As recently as August 2025, there were negotiations with the Islamic Republic of Iran to accept a charter flight to facilitate the removal of a large number of Iranian citizens. *Id.* ¶ 4. During a meeting with the Director of the Interests Section of the Islamic Republic of Iran, it was confirmed that travel documents would be issued for individuals with Iranian identity documents, and interviews would be conducted for those without proper identification. *Id.* ¶ 5. Petitioner's A-file contains copies of his Iranian identity documents. *Id.* ¶ 6. Accordingly, the evidence supports a conclusion that there is a significant likelihood of removal in the reasonably foreseeable future, *id.* ¶ 17, and the Petition, accordingly, should be denied.

V. The conditions of Petitioner's confinement are not cognizable in a habeas corpus proceeding.

The Petitioner alleges that he is being "housed [in] worse than Prison-like conditions." Pet. 3. He states that he finds his detention to be "mentally and physically challenging." *Id.* He alleges that the "conditions at SDC are by far worse than that of a penal institution." *Id.* To the extent that Petitioner is alleging issues with the conditions of his confinement, then those claims 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 his conditions of confinement in immigration custody through a habeas petition under § 2241. The Court should deny this claim because it is not cognizable in this habeas proceeding.

Second, Petitioner’s claim should be denied because he 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 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, his habeas claim should be denied because he is not entitled to release from custody as a remedy.

CONCLUSION

The record is complete in this matter and the case is ripe for adjudication on the merits. For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition. In the alternative, the Petition should be denied.

Respectfully submitted this 15th day of September, 2025.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney
Georgia Bar No. 545410
United States Attorney's Office
Middle District of Georgia
P. O. Box 2568
Columbus, Georgia 31902
Phone: (706) 649-7728
michael.morrill@usdoj.gov

CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Response and Motion to Dismiss 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:

Amin R. Bastami Rad
A# 
Ste  ter
P.O. Box 248
Lumpkin, GA 31815

This 15th day of September, 2025.

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney