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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CIVIL DIVISION

Claudy Dornevil, Petitioner, v. KRISTI NOEM, ET AL. Respondents.	Case No. 4:25-cv-1809 JUDGE BENITA Y. PEARSON PETITIONER'S SHOW CAUSE

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BACKGROUND

Petitioner Claudy Dornveil is an applicant for asylum who fled from gang violence in Cabaret, Haiti. In 2021, the President of Haiti, Jovenel Moïse, was assassinated, setting off a crisis of gang violence that has spiraled through several parts of Haiti. Petitioner Claudy Dornveil's hometown of Cabaret, Haiti, has been struck by gang violence, causing Petitioner to flee for his personal safety and seek asylum in the United States.

Petitioner was arrested while attending Immigration Court Proceedings following a motion to Dismiss proceedings by the Department of Homeland Security. Petitioner has since been detained contrary to operations of law and without proper due process (ECF No. 1, Petition *et seq*). Petitioner filed a petition for a writ of habeas corpus with this court, and Respondents replied with a motion to dismiss, citing 8 U.S.C. 1252(e) and the judicially-constructed doctrine of prudential exhaustion.

On September 25, 2025, Respondents filed an update with this Court asserting that "Section 240 of the Immigration and Nationality Act and is being detained pursuant to Section 235(b)(1), and further asserted that Petitioner has not filed an asylum application in current proceedings. ECF No. 8 at PageID #72.

Petitioner asserted five claims in his original Petition for relief under 28 U.S.C. § 2241:

(Count 1)—Violation of the Fifth Amendment's Due Process Clause for denying his right to apply for asylum. ECF No. 1 at PageID ##:16–19.

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(Count 2)—Violation of 5 U.S.C. § 706(2)(A) of the Administrative Procedure Act ("APA") for revoking his release and detaining him without individualized consideration. ECF No. 1 at PageID ##: 19–20.

(Count 3)—Violation of the Fifth Amendment's Due Process Clause for retroactive application of expedited removal designation. ECF No. 1 at PageID ##: 20–21.

(Count 4)—Violation of 5 U.S.C. § 706(2)(A) of the APA for initiating expedited removal proceedings. ECF No. 1 at PageID #:21–22.

(Count 5)—Violation of the Fifth Amendment's Due Process Clause for revoking his release and detaining him without individualized consideration. ECF No. 1 at PageID #: 22.

ORDER FROM THE COURT

On November 7, 2025 The Court ordered Petitioner to show cause, given updated facts, why:

(1) Why Count 1 should not be dismissed for lack of standing;

(2) why Count 3 and Count 4 should not be dismissed as moot;

(3) Whether Petitioner has received individualized consideration justifying his detention; and

(4) Petitioner's desired relief under his designation of regular instead of expedited removal status. ECF No. 10 at PageID #84.

UPDATE OF RELEVANT FACTS

1. On December 3, 2024, Petitioner Claudy Dornevil applied for asylum, withholding of removal, and for the convention against torture. In his application, with his limited English, he was able to express that he fled Haiti to Mexico because his mother's house was burned down by attackers looking for him. (See attached Exhibit 1 First Asylum

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Application).

2. On July 7 2025, upon a motion by Respondent Department of Homeland Security pursuant to 8 C.F.R. § 1239.2(c). The Respondent, in its motion, cited 8 C.F.R. § 1239.2 (a)(7) "Circumstances of the case have changed after the notice to appear was issued to such an extent that continuation is no longer in the best interest of the government," but failed to cite any changed circumstances to support its motion.

3. Petitioner Claudy Dornevil was unrepresented at this hearing. Although he was given the opportunity to object to the Department's motion, the Immigration Judge did not explain what expedited removal was.

4. Petitioner Claudy Dornevil's application was not assessed on its merits when proceedings were dismissed.

5. The purpose of dismissing Removal Proceedings against Petitioner was to place Petitioner in Expedited Removal Proceedings, even though he was ineligible for Expedited Removal, and the Respondents knew or should have known Respondent was ineligible for Expedited Removal.

6. Had the Department of Homeland Security detained Respondent during pending removal proceedings, the Department would have had to have granted Petitioner a bond hearing under the precedents that were then in effect at the time of his arrest, where he could have been found eligible for a bond if he had established ties to the United States and was not a flight risk.

7. Because Petitioner had been given a work permit, a social security number, was employed at the time of his arrest, and because he was arrested in the halls of a Federal Courthouse after attending his removal hearing, it is likely he would have been deemed to have

made connections to the United States and was not a flight risk, thus becoming eligible for an immigration bond.

8. By dismissing removal proceedings against Petitioner, and placing him in Expedited Removal Proceedings, Respondent is no longer considered eligible for an immigration bond pending the resolution of his asylum claim.

9. Respondent passed his credible fear interview following his placement into Expedited Removal Proceedings. His credible fear interview was conducted by the Department of Homeland Security without presence of counsel, even though the parties are in in this present civil litigation.

10. Following the credible fear interview, Respondent Department of Homeland Security filed a Notice to Appear with the Immigration Court on September 16, 2025, docketing Petitioner for a October 2, 2025 master hearing. Counsel for the Petitioner was not served with a copy of this Notice to Appear, nor notified of the hearing date by Respondents, even though the parties are in this present civil litigation.

11. The Notice to Appear alleges that Petitioner entered the United States at an Unknown location on July 7, 2024 (see attached Exhibit 2 Form I-862 Notice to Appear).

12. On October 25, 2025, Respondent Department of Homeland Security filed a form I-213 "Record of Deportable/Inadmissible Alien" showing that Respondent in fact arrived on July 24, 2024 with a scheduled CBP One appointment at Brownsville, Texas, and was paroled into the United States (see attached Exhibit 3 Form I-213).

13. Notwithstanding the contradictions between the Notice to Appear and the Government's own I-213, the Immigration Judge on October 30, 2025 sustained the factual

allegation that Petitioner entered the United States at an unknown location July 7, 2024, and gave Petitioner until November 13, 2025 to file an asylum application.

14. On November 10, 2025, the Executive Office of Immigration Review gave counsel access to Petitioner's previous Removal Proceedings, where Petitioner's original asylum application was obtained. Petitioner's Counsel filed this application with the Immigration Court the same day, because the Immigration Court was proceeding as if Petitioner had never filed an Asylum Application in the past, despite the Executive Office of Immigration Review being in possession of the application.

15. On November 12, 2025, Petitioner filed an updated Asylum Application with assistance of Counsel.

ARGUMENTS

WHY COUNT 1 SHOULD NOT BE DISMISSED FOR LACK OF STANDING

Petitioner filed his original asylum application on December 3, 2024. Counsel for the Respondents' statements to the contrary are inaccurate. A copy is attached as Exhibit 1.

WHY COUNTS 3 AND 4 SHOULD NOT BE DISMISSED AS MOOT

Although Petitioner no longer faces continued expedited removal proceedings, Respondent continues to be injured due to the application of expedited removal proceedings against him. 8 U.S.C. § 1225(B)(iii)(IV) requires detention of all aliens who pass a credible fear interview: "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.".

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The dismissal of Removal Proceedings and the initiation of expedited removal proceedings had the effect of making Petitioner presumptively eligible for a bond, to completely ineligible for a bond. Because the dismissal of his original petition was conducted in an arbitrary and capricious manner, and because Petitioner was not eligible for Expedited Removal proceedings, as someone who had previously been paroled, his continued detention without bond eligibility harms him, and is therefore not moot.

WHETHER PETITIONER HAS HAD AN INDIVIDUALIZED CONSIDERATION JUSTIFYING HIS DETENTION

Petitioner will need discovery from Respondents to fully answer this question. The clear factual errors and omissions in Respondent's official documents (see Exhibits 2 and 3), suggests that careful consideration was not made in the decisions to detain and re-initiate removal proceedings against Petitioner.

PETITIONER'S DESIRED RELIEF FROM ORDINARY VERSUS EXPEDITED REMOVAL PROCEEDINGS

Petitioner wishes to be released from immigration detention and to continue removal proceedings in a non-detained manner, as he had before he was detained while reporting to Immigration Court on July 7, 2025. In Expedited Removal Proceedings, he is ineligible for an immigration bond, and can only be released with the Department of Homeland Security's discretion. The fact that he was detained while reporting to his master hearing as scheduled

indicates that he is clearly not a flight risk. He holds a work permit, has a social security card, and he has demonstrated that he is willing and able to find meaningful work during the pendency of his removal proceedings. At minimum, Petitioner seeks a finding of eligibility for a bond hearing, and for Respondents to be restrained from finding Petitioner ineligible for an immigration bond as a matter of law.

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Dated: October 13, 2025