

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

GUERLINE CACOUTE,	:	
	:	
Petitioner,	:	
	:	Case No. 4:25-CV-366-CDL-CHW
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER, ¹	:	
	:	
Respondent.	:	

RESPONSE TO ORDER TO SHOW CAUSE

On November 6, 2025, Petitioner filed her Petition for Writ of Habeas Corpus (“Petition”), asserting that her detention violates the Immigration and Nationality Act and its implementing regulations as well as her Fifth Amendment due process rights because she is improperly designated as subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) instead of § 1226(a). ECF No. 1. On November 12, 2025, the Court issued an Order to Show Cause directing Respondent to show cause why the Petition should not be granted in light of the Court’s prior ruling in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025). ECF No. 3. Respondent now files this response to the Court’s Order to Show Cause, and respectfully shows the Court that Petitioner’s circumstances are different from the petitioner in *J.A.M.* for the reasons detailed below. Further, given that the Court has not yet ordered Respondent

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement 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.” *Runsfeld 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.

to respond to the Petition, Respondent respectfully requests twenty-one (21) days following the Court's resolution of the question of whether *J.A.M.* applies to this case to file that response.

BACKGROUND

Petitioner is a native and citizen of Haiti. Declaration of Supervisory Detention and Deportation Officer Tartanger L. Stephens ("Stephens Decl.") ¶ 4 & Ex. A. On June 27, 2024, Petitioner arrived at the Hidalgo, Texas port of entry without documents to enter the United States. *Id.* ¶ 4. & Ex. A. That same day, Customs and Border Protection ("CBP") issued Petitioner a Notice to Appear ("NTA") charging her as inadmissible under Immigration and Nationality Act ("INA") Section 212(a)(7)(A)(i)(I) (8 U.S.C. § 1182(a)(7)(A)(i)(I)). *Id.* ¶ 4 & Ex. B. CBP paroled Petitioner into the United States. *Id.* ¶ 4. On or about January 7, 2025, Petitioner filed an application for relief from removal with the Atlanta Immigration Court. *Id.* ¶ 5.

On May 30, 2025, an Immigration Judge ("IJ") granted the Department of Homeland Security's ("DHS") motion to dismiss removal proceedings, so that Petitioner could be processed for expedited removal pursuant to INA § 235 (8 U.S.C. § 1225(b)(1)). *Id.* ¶ 6 & Ex. C. The same day, Petitioner entered ICE/ERO custody for the first time. *Id.* ¶ 5. On August 13, 2025, Immigration and Customs Enforcement ("ICE")/Enforcement and Removal Operations ("ERO") placed Petitioner into expedited removal proceedings under INA § 235(b)(1). *Id.* ¶ 7. However, following the initiation of such proceedings ICE decided not to proceed with expedited removal due to the shifting legal landscape. Stephens Decl. ¶ 7.

On September 16, 2025, Petitioner appeared for a bond hearing before an IJ pursuant to a motion for custody redetermination filed by Petitioner's attorney of record in the immigration proceedings. *Id.* ¶ 8. Petitioner, through counsel, withdrew the motion at the hearing. *Id.* ¶ 8 & Ex. D.

On November 19, 2025, ICE/ERO issued Petitioner an NTA charging her with inadmissibility under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the INA (8 U.S.C. §§ 1182(a)(6)(A)(i) and (a)(7)(A)(i)(I)). *Id.* ¶ 9. That same day, ICE/ERO issued a superseding NTA only charging Petitioner with inadmissibility pursuant to INA § 212(a)(7)(A)(i)(I) (8 U.S.C. § 1182(a)(7)(A)(i)(I)). *Id.* ¶ 9 & Ex. E.

Petitioner is currently detained at Stewart Detention Center pursuant to INA § 235(b)(1) and 8 C.F.R. 235.3(c). *Id.* ¶ 10. In the event Petitioner becomes subject to a final order of removal to Haiti, ICE/ERO will be able to effectuate her removal as ERO is currently able to remove non-citizens to Haiti. Stephens Decl. ¶ 11.

DISCUSSION

Petitioner filed the instant Petition on November 6, 2025, inaccurately describing her detention as pursuant to 8 U.S.C. § 1225(b)(2) and the Board of Immigration Appeals' *Matter of Yajure Hurtado* decision. 29 I&N Dec. 216 (BIA 2025). *See* Pet. 2-3. The Court issued an Order on November 12, 2025 indicating that it appeared that the Court's decision in *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) might apply to the Petition, and directing Respondent to show cause why this Petition should not be granted. ECF No. 3.

Respondent respectfully shows the Court that Petitioner is not in the same factual situation as the petitioner in *J.A.M.* The issue in *J.A.M.* centered on a question of statutory interpretation regarding 8 U.S.C. §§ 1225(b)(2) and 1226(a) and whether noncitizens who have been present in the United States without admission, but who are not classified under 8 U.S.C. § 1225(b)(1) can be subject to mandatory detention without a bond hearing under 8 U.S.C. § 1225(b)(2). Petitioner does not fall within this parameter. Rather, Petitioner has always been classified under 8 U.S.C.

§ 1225(b)(1)—not § 1225(b)(2)—as an “arriving alien.” *See* Stephens Decl. ¶ 4 & Exs. A, B. *J.A.M.* did not address detention under § 1225(b)(1) at all.

When Border Protection officials first encountered Petitioner, she was placed in removal proceedings and designated as an “arriving alien.” *See* Stephens Decl. Ex. B; *see also* 8 C.F.R. § 1.2 (defining “arriving alien”). Petitioner “applied for admission to the United States at the Hidalgo, Texas Port of Entry.” *Id.* Although she was paroled into the United States, this does not constitute an admission, and does not change her status as an “arriving alien.” *See* 8 U.S.C. § 1182(d)(5) (“[S]uch parole of such alien shall not be regarded as an admission of the alien[.]”). These facts are incompatible with her allegation that she is held under 8 U.S.C. § 1225(b)(2) and the *Hurtado* decision.

Rather, since her initial encounter with immigration authorities, Petitioner has been designated as an “arriving alien” under § 1225(b)(1), and those provisions govern her present detention. *See* Stephens Decl. ¶ 4 & Ex. B; *see also* 8 C.F.R. § 235.3(b)(2)(iii). Petitioner acknowledges that she filed a “Form I-589, Application for Asylum and Withholding of Removal.” Pet. 11. Petitioner was taken into custody on May 30, 2025, after the IJ dismissed the removal proceedings under INA § 240 so that DHS could proceed with expedited removal. *See* Stephens Decl. ¶ 5 & Ex. C. On August 13, 2025, ICE/ERO placed Petitioner into expedited removal proceedings, but did not complete the process. *Id.* ¶ 6. On November 19, 2025, ICE/ERO issued Petitioner the now-operative NTA, and Petitioner’s detention is mandatory at this stage of her removal proceedings because she is an “arriving alien.” *See* 8 CFR 235.2(d). Thus, the decision in *J.A.M.* has no bearing on the question presented by the Petition. The relevant question of law here is entirely distinct from the issues presented in *J.A.M.*, which concerned only the interpretation of

8 U.S.C. §§ 1225(b)(2) and 1226(a). Given that Petitioner is detained under a different authority— § 1225(b)(1)— *J.A.M.* does not apply, and this case should be considered in the normal course.

CONCLUSION

For the reasons stated herein, Respondent submits that *J.A.M.* does not apply to Petitioner and therefore the Petition should not be granted on that basis. Furthermore, Respondent requests the Court set a deadline for filing his response to the Petition to be due twenty-one (21) days from the Court's resolution of the question of whether *J.A.M.* applies to this case, on which date Respondent will file a comprehensive response to the Petition or other appropriate motion.

Respectfully submitted this 20th day of November, 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