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

WALTER ELIAS ALAS RAMIREZ,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-394-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
	:	
Respondent.	:	

ABBREVIATED RESPONSE TO PETITION
AND RESPONSE TO ORDER TO SHOW CAUSE

On November 19, 2025, Petitioner filed a petition for a writ of habeas corpus ("Petition") claiming that (1) he is not subject to mandatory pre-final order of removal detention pursuant to 8 U.S.C. § 1225(b)(2)(A), and (2) even if he is, that statute is unconstitutional on its face because it violates due process. ECF No. 1. On November 25, 2025, the Court issued an Order to Show Cause directing Respondent to show cause within seven (7) days why the Petition should not be granted in light of the Court's ruling in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH (M.D. Ga. Nov. 1, 2025). ECF No. 3.

As explained below, Respondent acknowledges this Court's prior ruling in *J.A.M.*, concerning a similar challenge to the detention authority at issue in this case, which would control

[1] In addition to the Warden of Stewart Detention Center, Petitioner names officials with the Department of Justice, Department of Homeland Security ("DHS"), and Immigration and Customs Enforcement ("ICE"), as well as DHS and ICE as Respondents. "[T]he default rule [28 U.S.C. § 2241 petitions] 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.

the result in this case should the Court adhere to its legal reasoning in that prior decision.[2] While reserving all rights, including the right to appeal, Respondent submits this abbreviated response in lieu of an exhaustive responsive brief to preserve the legal issues and to conserve the resources of the Court and the parties. Should the Court prefer to receive a more exhaustive response brief, Respondent respectfully requests leave to file such a brief and will do so upon the Court's request.

BACKGROUND

Petitioner is a native and citizen of El Salvador who has been mandatorily detained pre-final order of removal pursuant to 8 U.S.C. § 1225(b)(2)(A) at Stewart Detention Center in Lumpkin, Georgia since September 18, 2025. Declaration of Walkiria Gloster ("Gloster Decl.") ¶¶ 3, 9.

Petitioner entered the United States without inspection or admission on or about September 4, 2016 near Hidalgo, Texas. *Id.* ¶ 3. On September 5, 2016, the United States Customs and Border Protection served the petitioner a Notice to Appear (NTA) charging him with inadmissibility pursuant to Immigration and Nationality Act ("INA") § 212(a)(6)(A)(i) (8 U.S.C. § 1182 (a)(6)(A)(i)). *Id.* ¶ 4. On the same day, Petitioner entered Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") custody. *Id.* He was released to his sponsor on October 5, 2016. *Id.* ¶ 5.

On November 28, 2016, Petitioner and his sponsor appeared at his initial master calendar hearing. *Id.* ¶ 6. Petitioner requested a continuance to find an attorney and the Immigration Judge ("IJ") re-set the case to June 21, 2017. *Id.* On April 17, 2017, the IJ re-scheduled Petitioner's master calendar hearing to June 22, 2017. Gloster Decl. ¶ 7. On June 22, 2017, Petitioner did not appear

[2] Respondent acknowledges the recent class action decision in *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr. et al.*, Case No. 5:25-cv-1873-SSS-BFM (C.D. Cal. Nov. 20, 2025), ECF Nos. 81, 82. Respondents recognize that Petitioner may be covered by the class decision but represents that the Department is still developing its position on the application or non-application of that decision to these facts. Respondents therefore reserve the right to present additional argument on the issue when more facts and information become available.

but his sponsor appeared for his master calendar hearing and the IJ ordered Petitioner removed *in absentia*. *Id.* ¶ 8.

On or about September 18, 2025, ICE/ERO encountered Petitioner at Lithia Springs, Georgia and he was taken into custody pursuant to his final order of removal. *Id.* ¶ 9. On October 16, 2025, the IJ granted Petitioner's motion to reopen/rescind the order of removal *in abstentia*. *Id.* ¶ 10. Petitioner's next master calendar hearing is scheduled for December 5, 2025. *Id.* ¶ 11.

Following the reopening of removal proceedings, Petitioner is detained at Stewart Detention Center pursuant to INA § 235(b)(2)(A) (8 U.S.C. § 1225(b)(2)(A)). Gloster Decl. ¶ 12. If Petitioner becomes subject to a final order of removal to El Salvador, ICE/ERO will be able to effectuate his removal to El Salvador. *Id.* ¶ 13. El Salvador is open for international travel, and ICE/ERO is currently removing non-citizens to El Salvador. *Id.*

LEGAL FRAMEWORK

Congress enacted a multi-layered statutory scheme for the detention of aliens pending a final order of removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The interplay between these statutes is at issue here.

"To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering." *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step in this process, *id.*, stating that all alien "applicants for admission . . . shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3). The statute defines "applicant for admission" to encompass ***both*** an alien "present in the United States who has not been admitted ***or*** [one] who arrives in the United States[.]" *Id.* § 1225(a)(1) (emphasis added).

Paragraph (b) of § 1225 dictates the procedures applicable to all applicants for admission. They "fall into one of two categories: those covered by § 1225(b)(1) and those covered by

§ 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to those "arriving in the United States" and "certain other"[3] aliens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." 8 U.S.C. § 1225(b)(1)(A)(i), (iii). Aliens falling under this subsection are generally subject to expedited removal proceedings "without further hearing or review." *See id.* § 1225(b)(1)(A)(i). But where the applicant "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer him or her for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An applicant "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate intent to apply for asylum, express a fear of persecution, or is "found not to have such a fear," he is detained until removal from the United States. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is "broader" than (b)(1), "serv[ing] as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Jennings*, 583 U.S. at 287. Subject to inapplicable exceptions, "if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall* be detained for a removal proceeding." 8 U.S.C. § 1225(b)(2)(A) (emphasis added); *see also Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (B.I.A. 2025) ("[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, . . . 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'" (citing *Jennings*, 583 U.S. at 299)). DHS retains sole discretionary authority to temporarily release on parole "any alien applying for

[3] These "certain other aliens" are addressed in § 1225(b)(1)(A)(iii), which gives the Attorney General sole discretion to apply (b)(1)'s expedited procedures to an alien who "has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." The statute therefore explicitly confirms application of its inspection procedures to those already in the country, including for a period of years.

admission" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

"Even once inside the United States, aliens do not have an absolute right to remain here. For example, an alien present in the country may still be removed if he or she falls 'within one or more . . . classes of deportable aliens.' § 1227(a)." *Jennings*, 583 U.S. at 288 (citing 8 U.S.C. § 1227(a), which outlines "classes of deportable aliens" among those already "in *and admitted* to the United States") (emphasis added)). "Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal." *Id.* For aliens arrested under § 1226(a), the Attorney General and DHS have broad discretionary authority to detain an alien during removal proceedings. *See* 8 U.S.C. § 1226(a)(1) (DHS "may continue to detain the arrested" alien during the pendency of removal proceedings).

Following apprehension under § 1226(a), a DHS officer makes an initial discretionary determination concerning release. *See* 8 C.F.R. § 236.1(c)(8). DHS "may continue to detain the alien." 8 U.S.C. § 1226(a)(1). "To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (B.I.A. 1999)). If DHS decides to release, it may set a bond or condition the release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).

If DHS determines that an alien detained under § 1226(a) should remain detained during removal proceedings, the alien may request a bond hearing before an IJ. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The IJ decides whether release is warranted based on a variety of factors, including ties to the United States and risks of flight or danger to the community. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (B.I.A. 2006); 8 C.F.R. § 1003.19(d) ("The determination . . . as to

custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].").

Section 1226(a) does not grant "any *right* to release on bond." *Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). Nor does it address the applicable burden of proof or particular factors that must be considered. *See generally* 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad discretionary authority to determine, after arrest, whether to detain or release an alien during his removal proceedings. *See id.* If, after the bond hearing, either party disagrees with the decision of the immigration judge, that party may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3).

In *In the Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals ("BIA") recently held that non-citizens unlawfully present in the United States without prior inspection and admission are applicants for admission within the meaning of § 1225(a)(1) and subject to mandatory pre-final order of removal detention pursuant to § 1225(b)(2)(A) under the plain meaning and legislative history of that provision. 29 I. & N. Dec. at 220-28. Accordingly, those non-citizens are not entitled to bond hearings before IJs pursuant to § 1226(a) its implementing regulations. *Id.*

ARGUMENT

Petitioner frames his argument as challenging the application of mandatory detention pursuant to § 1225(b)(2) to him on statutory and due process grounds. Pet. ¶¶ 39-54. As a remedy, Petitioner requests a bond hearing before an IJ or his immediate release. *Id.* at 14 (Prayer for Relief).

The Petition should be denied for three reasons. ***First***, to the extent Petitioner intends to challenge the designation that he is detained pursuant to § 1225(b)(2), the Court lacks subject matter jurisdiction because 8 U.S.C. § 1252(e)(3) vests jurisdiction over claims challenging the implementation of § 1225(b)(2) only in the U.S. District Court for the District of Columbia. ***Second***,

in the alternative, a proper interpretation of the relevant statutes establishes that § 1225(b)(2)(A) governs Petitioner's detention because he is an applicant for admission who is present in the United States without admission. As a result, he is subject to mandatory pre-final order of removal detention, and neither § 1226(a) nor its concomitant bond procedures apply. ***Third***, Petitioner's due process claim should be denied because mandatory detention pursuant to § 1225(b)(2)(A) is facially constitutional and complies with due process.

Respondent previously raised these same arguments in *J.A.M. See J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Resp. (M.D. Ga. Oct. 31, 2025), ECF No. 11. In *J.A.M.*, however, the Court held that (1) it retains subject matter jurisdiction, and (2) non-citizens who are present in the United States without admission are not subject to detention under § 1225(b)(2)(A) because they are not "seeking admission" within the meaning of that provision. *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Order 3-15 (M.D. Ga. Oct. 31, 2025), ECF No. 12. The Court determined that § 1226(a) governs those non-citizens' pre-final order of removal detention and ordered that they be provided bond hearings pursuant to § 1226(a) and 8 C.F.R. §§ 236.1 and 1236.1. *Id.* at 15.

Respondent acknowledges that questions of law in this case substantially overlap with those at issue in *J.A.M.* Accordingly, while preserving all rights, Respondent incorporates by reference the legal arguments it presented in that case. *See J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Resp. (M.D. Ga. Oct. 31, 2025), ECF No. 11. If the Court prefers to receive a formal and exhaustive responsive brief in this matter, Respondent will provide such a brief upon the Court's request. Further, to the extent the Court reconsiders its prior ruling or intends to address the due process issue based on a finding that § 1225(b)(2)(A) applies, Respondent respectfully requests the opportunity to address those matters. Finally, consistent with *J.A.M.*, Respondent contends that should the Court determine that § 1226(a) governs Petitioner's detention, the only appropriate remedy is a bond hearing before an IJ, during which an immigration judge can properly determine in the first instance

whether Petitioner is a flight risk or danger to the community. *See J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Order 15 (M.D. Ga. Oct. 31, 2025), ECF No. 12.

CONCLUSION

For the reasons set forth in this Abbreviated Response and those previously set forth in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Resp. (M.D. Ga. Oct. 31, 2025), ECF No. 11, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 2nd day of December, 2025.

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