UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

J.U.A.M. Petitioner, v. JASON STREEVAL, in his official capacity as *Warden of Stewart Detention center*; and LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office*, and TODD LYONS, in his official capacity as *Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General.* Respondents.	)	CASE NO.: 4:25-cv-519-CDL-AGH

PETITIONER'S RESPONSE TO ORDER TO SHOW CAUSE RETURN

Petitioner, J.U.A.M., is a 37-year-old noncitizen who has resided continuously in the United States for approximately four years, having entered the country through the Southern border in or about 2021. Petitioner previously sought asylum based on her fear of returning to her homeland. On July 23, 2021, Respondents, the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) initiated removal proceedings against Petitioner with the issuance of a Notice to Appear (NTA). ECF No. 7-3. ICE also released Petitioner from custody on her own recognizance having conducted an individualized analysis and found her not to be a flight risk or danger.

On September 16, 2022, Petitioner filed an application for relief from removal with the Immigration Court. On May 16, 2023, DHS moved to dismiss the removal proceedings against

Petitioner in the exercise of its prosecutorial discretion pursuant to 8 C.F.R. § 1239.2(c), which was granted by the immigration judge. *See* ECF No. 7-4. 8 C.F.R. § 1239.2(c) provides that "[a]fter commencement of proceedings pursuant to 8 C.F.R. § 1003.14, government counsel or an officer enumerated in 8 C.F.R. § 239.1(a) may move for dismissal of the matter on the grounds set out under 8 C.F.R. § 239.2(a). 8 C.F.R. § 239.2(a)(7) provides that "[a]ny officer authorized by § 239.1(a) to issue a notice to appear may cancel such notice prior to jurisdiction vesting with the immigration judge pursuant to § 3.14 of this chapter provided the officer is satisfied that: [] (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." At all times, Petitioner remained at liberty on her own recognizance.

On or about November 23, 2025, Petitioner was stopped by local law enforcement in Gainesville, Georgia, for a minor vehicle equipment issue involving a malfunctioning light. She was not charged with any serious criminal offense, and any local matters were resolved after payment of a fine. Despite the minor nature of the incident, ICE assumed custody of Petitioner on or about November 24, 2025, and transferred her to the Stewart Detention Center in Lumpkin, Georgia, where she remains detained without an individualized determination justifying her continued confinement. Petitioner was detained by ICE without a warrant, in violation of the Immigration and Nationality Act and applicable regulations. The only justification Respondents provide in their Response (Return) in ECF 7, is that her detention is authorized by 8 U.S.C. § 1225.

Petitioner is the primary caregiver and financial provider for her minor child, who depends on her for daily care and economic support. Prior to her detention, Petitioner maintained steady employment at a jewelry business and supported her household through lawful work. Her detention has abruptly deprived her family of its sole source of income and has caused significant hardship

to her child, who has been left without her primary caretaker. The disruption to Petitioner's family life and the resulting economic and emotional harm weigh heavily against her continued confinement. Prolonged detention under these circumstances imposes unnecessary hardship and violates Petitioner's right to due process and freedom from arbitrary detention.

Moreover, Petitioner poses no danger to the community. She has no criminal convictions, no history of violence, and no conduct suggesting dangerousness. Respondents themselves already released her on recognizance several years ago and agreed to terminate removal proceedings against her.

The events leading to her detention arose solely from a minor traffic-related stop and did not result in any criminal conviction. Petitioner has otherwise maintained a clean record during her residence in the United States. Petitioner also presents no risk of flight. She resided in Georgia, maintained stable employment, and cared for her child. She has strong ties to the community through her family and work history and has never attempted to evade law enforcement or immigration authorities. These factors demonstrate that continued detention is unnecessary to ensure her appearance in immigration proceedings. Petitioner is currently in active removal proceedings. She appeared at her scheduled Master Calendar Hearing on January 6th, 2026, before Immigration Judge Steven B. Fuller at the Stewart Detention Center and her case was rescheduled to January 23, 2026. Petitioner is in the beginning of her removal process and it may take several years before she incurs a final order of removal considering the current backlog of cases pending before the Board of Immigration Appeals.

I. Petitioner Is Subject to Immediate Release from Detention Under 8 U.S.C. § 1226(a)

A. This Court should follow the district precedent and hold that Petitioner is not an arriving alien and is not subject to mandatory detention under 8 U.S.C. § 1225.

The government's detention of J.U.A.M. is unlawful. As this Court noted in the Order to Show Cause (ECF No. 5), this Court's recent holdings in *J.A.M. v. Streeval*, No. 4:25-v-342-CDL-AGH (M.D. Ga. Nov. 1, 2025), and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), among others, rejecting the government's novel detention theory under 8 U.S.C. § 1225(b)(2) is controlling. This Court should adhere to its sound legal reasoning in those cases.[1] Petitioner's detention is not authorized by law and she is therefore entitled to immediate release. Immediate release is the appropriate remedy here because the government already previously determined that she is not a flight risk or danger when it released her in 2021.

B. Petitioner's release on her own recognizance constituted parole pursuant to 8 C.F.R. 236.1(c). Respondents are estopped from re-characterizing her detention status.

Petitioner was arrested in the interior of the United States four (4) years after entry, without a warrant or any notice or justification for her detention. Despite Respondents' claims, 8 U.S.C. § 1226(a) is the only applicable statutory authority for her possible detention. However, her detention was not lawful even under 8 U.S.C. § 1226(a) because that would have required Respondents to obtain a warrant for her arrest. Even assuming Respondents had obtained a warrant

[1] *See also O.G.L., v. Warden et al.*, No. 4:25-CV-508-CDL-AGH, 2026 WL 36498, at *1 (M.D. Ga. Jan. 6, 2026) (finding the petitioner is currently detained under 8 U.S.C. § 1226(a) and therefore not subject to mandatory detention as required by 8 U.S.C. § 1225(b)(2), citing to *J.A.M. v. Streeval*); *id.* at *1, n2 ("The brevity of this order is appropriate given that the issue presented is exactly the same as the issue previously decided on numerous occasions by the Court and **yet Respondents insist upon denying the relief that the Court has found is required.**" (emphasis added); *E.E.A.G. v. Warden, et al.*, No. 4:25-CV-510-CDL-AGH, 2026 WL 36499, at *1 (M.D. Ga. Jan. 6, 2026); *A.G.V. v. Warden, et al.*, No. 4:25-CV-511-CDL-AGH, 2026 WL 36535, at *1 (M.D. Ga. Jan. 6, 2026) (same); *J.G.L. v. Warden, et al.*, No. 4:25-CV-518-CDL-AGH, 2026 WL 36537, at *1 (M.D. Ga. Jan. 6, 2026) (same); *V.G.G. v. Warden et al.*, No. 4:25-CV-509-CDL-AGH, 2026 WL 36497, at *1 (M.D. Ga. Jan. 6, 2026); *E.E.R.B. v. Warden, et al.*, No. 7:25-CV-203-WLS-AGH, 2026 WL 36691, at *1 (M.D. Ga. Jan. 6, 2026) (same); *A.H.C.C. v. Warden, et al.*, No. 7:25-CV-192–WLS-ALS, 2026 WL 36692, at *1 (M.D. Ga. Jan. 6, 2026); *A.B.E. v. Warden, et al.*, No. 7:25-CV-195-WLS-AGH, 2026 WL 36693, at *1 (M.D. Ga. Jan. 6, 2026).

and detained her under a lawful arrest, 8 U.S.C. § 1226(a) provides for discretionary bond or release on recognizance. Instead, here, Respondents unlawfully arrested Petitioner and are now claiming she is an "arriving alien" detained under 8 U.S.C. § 1225(b)(2)—rendering her ineligible for bond under their new, unlawful policy.

But Petitioner was previously released on her own recognizance pursuant to 8 U.S.C. § 1226(a) and its implementing regulation, 8 C.F.R. § 236.1 (at the time of her entry to the U.S., at which time she was truly an arriving alien who is an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225). The most recent NTA, dated November 23, 2025, states that she was "paroled into the United States on June 23, 2021". Respondents have not offered any documentary proof that this parole was under 8 U.S.C. § 1225(d)(5)(A), as opposed to under the more common § 1226(a). They just state in their Response (ECF 7) that she was released on humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), however they do not offer any documentation (such as an I-94) to support that claim. In fact, all documentation provided by Respondents supports the opposite conclusion.

Humanitarian parole under 8 U.S.C. § 1182(d)(5)(A) is used to allow individuals to enter the United States temporarily for urgent humanitarian reasons or significant public benefit. It is most commonly used for individuals who need to enter the U.S. for medical treatment, family reunification, or other urgent reason. However, individuals who are paroled under 8 U.S.C. § 1182(d)(5)(A) receive an I-94 Form and DHS does not initiate removal proceedings against them.

In contrast, parole under § 1226(a) is generally a form of **conditional release from detention pending a decision on removal proceedings**. It is not based on humanitarian grounds but rather on the discretion of DHS used for individuals who may usually be subject to mandatory detention as "arriving aliens" or "applicants for admission" into the United States under 8 U.S.C.

§ 1225. Instead of detaining them, they are released to await a decision on their removal from the U.S. based on individuals DHS has no interest in detaining. Since Petitioner was given a Notice to Appear (ECF 7-3) and released pending her removal proceedings which DHS initiated against her, the evidence presented do not indicate parole under 8 U.S.C. § 1182(d)(5)(A).

Further, both federal courts and the Board of Immigration Appeals have repeatedly recognized that a release on one's own recognizance at the border constitutes a release under § 1226(a) pending removal proceedings—not parole under 8 U.S.C. § 1182(d)(5)(A). *See, e.g., Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 485 (S.D.N.Y. 2025) (Release on one's own recognizance is done pursuant to § 1226; it is a form of "conditional parole" from detention, authorized under § 1226); *Martinez v. Hyde*, 792 F. Supp. 3d 211, 215 (D. Mass. 2025) (explaining that petitioner's release on her own recognizance "does not indicate that she was examined or detained under section 1225 but instead explicitly premises her release on section 1226");[2] *see also Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (BIA 2023) (This binding precedent on Respondents held that release on one's own recognizance is a release under INA 236(a)(2)(B), 8 U.S.C. § 1226(a)(2)(B), therefore § 1225(b) could not possibly apply to Petitioner's case).

Here, DHS's release of J.U.A.M. on her own recognizance without conditions four years

[2] As the district court in *Martinez v. Hyde*, explained, individuals detained following examination under section 1225 can only be paroled into the United States "for urgent humanitarian reasons or significant public benefit". 792 F. Supp. 3d at 215, (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A) ("section 1182(d)(5)(A)"))). Tellingly, release on recognizance is not "humanitarian" or "public benefit" "parole into the United States" under section 1182(d)(5)(A) but rather a form of "conditional parole" from detention upon a charge of removability, authorized under § 1226. *Id.* This distinction reflects more than an officer's choice of paperwork because, although both styled as "parole," these two mechanisms serve fundamentally different purposes. *Id.* Parole "into the United States," under section 1182(d)(5)(A), permits a non-citizen to physically enter the country, subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). Section 1226 governs a separate (non-mandatory) detention scheme applicable when an individual is "already in the country" and Conditional parole, under section 1226(a)(2)(B), instead releases a non-citizen already in the country from domestic detention. *Martinez*, 792 F. Supp. 3d at 215, citing *Jennings*, 583 U.S. at 289.

ago, as well as their affirmative request to dismiss her removal proceedings as a matter of prosecutorial discretion in 2023—because 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—completely discredits Respondents' unsupported claim that she is now subject to mandatory detention under § 1225(b). *Lopez Benitez*, 795 F. Supp. 3d at 483–84 (consistent treatment of petitioner as subject to detention or parole on a discretionary basis under § 1226(a) "is fatal to a claim of mandatory detention under § 1225(b).").

Respondents are barred by the doctrine of collateral estoppel from re-characterizing the statutory basis for Petitioner's detention. This eleventh-hour attempt to retroactively apply § 1225(b) after a new arrest in the interior is an impermissible post hoc rationalization that the Court must reject. *Cf. Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22 (2020) (holding an agency must defend its actions based on the reasons it gave when it acted, not on subsequent justifications). By releasing Petitioner on her own recognizance (and dismissing her removal proceedings), the government made a binding legal determination that it cannot now abandon simply because it has changed its litigation posture.

The doctrine of collateral estoppel, or issue preclusion, bars a party from re-litigating an issue of fact or law if four elements are met: (1) the issue is identical to one decided in a prior proceeding; (2) the issue was actually litigated and determined; (3) the determination was a critical and necessary part of the prior decision; and (4) the party against whom estoppel is asserted had a full and fair opportunity to litigate the issue. All four elements are satisfied here.

First, the issue is identical. The question then, as now, is whether Petitioner's custody is governed by the discretionary release framework of 8 U.S.C. § 1226(a) or the mandatory detention framework of 8 U.S.C. § 1225(b). **Second, the issue was actually determined by DHS.** The

government's own evidence confirms that on July 23, 2021, Respondents paroled J.U.A.M. into the U.S. and released her on her own recognizance. **Third, the determination was critical and necessary to the release.** A decision to release a noncitizen on their own recognizance is a discretionary act authorized only under § 1226(a). Conversely, § 1225(b) mandates detention generally. **Fourth, the party against whom estoppel is asserted—the government—is the same party that made the original determination to release her on her own recognizance** and thereafter dismiss her removal proceedings. DHS had a full and fair opportunity to assess the facts and law when it chose to proceed under § 1226(a). It is now bound by that decision.

For years, Petitioner relied on the government's determination and did not have any criminal or immigration-related incidents. To permit Respondents to unilaterally reverse their position now—without any change in facts or law, and for the first time in this litigation—would be fundamentally unfair and would render the agency's own custody adjudications meaningless. Having made its choice, the government is estopped from claiming § 1226 never applied.

II. The Court Should Order Petitioner's Immediate and Unconditional Release

Petitioner's detention is not the result of an initial custody determination but an unlawful re-arrest executed in violation of mandatory federal regulations, her constitutional right to due process, and the agency's own prior binding finding that she was eligible for discretionary release on recognizance. As such, her detention was unlawful ab initio. Given that Petitioner's detention is unlawful, the appropriate remedy is immediate release, not merely a bond hearing that would prolong her illegal confinement. *See* ECF No. 1 at 47-50; *see also Flores-Boziere v. Bondi et al.*, 5:24-cv-1853-JKP, 2026 U.S. Dist. LEXIS 1859 *12, 2026 LX 29597 (WDTX January 5, 2026) (finding that because Petitioner cannot be detained under 1225(b)(2) and Respondents do not assert that they are detaining Petitioner under 1226, the Court should order outright release).

A. Respondents' Re-Detention Violated Mandatory Procedural Regulations.

Respondents' evidence demonstrates that Petitioner was previously paroled into the United States via release on her own recognizance. *See* ECF Nos. 7, 7-1, 7-3. And Respondents do not provide any documentary evidence to show that her parole was under 1225(d)(5)(A) versus 1226(a). In their response to the Order to Show Cause, Respondents wholly ignore Petitioner's valid claim that Respondents unlawfully revoked her release in violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions. By not disputing this claim, Respondents essentially concede that Respondents failed to lawfully or properly revoke J.U.A.M.'s release on her own recognizance.

As Petitioner outlined in the Petition, to revoke an individual's release on recognizance, Respondents must provide (a) a written notice; (b) a statement of reasons for redetention; (c) an interview or opportunity to respond; (d) identification of the authorized official who ordered the revocation; or (e) any warrant, charging document. See 8 C.F.R. §§ 236.1(d)(1)–(3) (outlining the procedures for revoking an Order of Release on Recognizance) and 236.1(c)(9) (outlining the supervisory authority required to revoke the same). To date, Respondents have still not provided Petitioner with any written revocation notice, no pre-deprivation hearing, nor any meaningful opportunity to be heard. These are not mere formalities but substantive safeguards to ensure any deprivation of liberty is based on individualized information and subject to fair adjudication. Here, none of these mandatory procedures were followed and this failure to comply renders the revocation invalid. *See, e.g.*, *Santamaria Orellana v. Baker*, No. 1:25-cv-02841 (D. Md. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at 10 (E.D.N.Y. Sept. 29, 2025).

Alternatively, even if Respondents had paroled J.U.A.M. into the United States under § 1225(d)(5)(A), which provides in pertinent part that "in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States"—as Respondents' now baldly claim—they still would have had to provide J.U.A.M. with notice and follow the procedures to revoke such parole, especially after four years of release without any incidents and the government's decision to formally dismiss J.U.A.M.'s removal proceedings in 2023, determining that continuation is no longer in the best interest of the government. Under either circumstance, Respondents cannot unilaterally arrest an individual and deprive her of her liberty with a warrant, a reason, or notice. Yet, that is exactly what Respondents have done here.

B. The Revocation of Petitioner's Liberty Violated Her Fifth Amendment Right to Due Process.

Respondents' argument that Petitioner is owed only the process Congress provides to arriving aliens is fundamentally flawed and ignores the critical facts of this case. The government's reliance on the plenary power doctrine and cases like *Department of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), is misplaced. This is not a case about the process due to an alien at the border seeking initial admission. It is a case about the constitutional protections owed to an individual who was released into the United States, lived here for years and then had her liberty summarily revoked without Due Process.

The government's position ignores the crucial distinction between an alien at the "threshold of initial entry" and one who has been released into the interior. In *Thuraissigiam*, the noncitizen was apprehended just 25 yards from the border and had been in the country for less than 30 minutes; his detention was part of the initial screening process. In stark contrast, Petitioner

was released on her own recognizance in July 2021 and lived openly in the United States for over four years without incident.

Once the government released Petitioner, she acquired a significant, constitutionally protected liberty interest in her continued freedom that is far greater than that of an applicant for admission. Her situation is therefore governed not by cases concerning initial entry, but by the Supreme Court's decision in *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). In *Morrissey*, the Court recognized that the revocation of conditional liberty inflicts a "grievous loss" that triggers robust due process protections. The government's decision to release a noncitizen on supervision creates an "implicit promise," upon which that individual may rely, that their liberty "will be revoked only if [they] fail[ ] to live up to the... conditions [of release]." *Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. 2025)[3] (quoting *Morrissey*, 408 U.S. at 482); *see also Chavarria v. Chestnut*, No. 25-cv-01755-DAD-AC, 2025 WL 3533606, at *3 (E.D. Cal. Dec. 9, 2025).

The government cannot now ignore the liberty interest it created. Having determined Petitioner was not a flight risk or danger and released her, it cannot strip her of her freedom based on a "flawed legal theory" without affording her any process whatsoever. The summary revocation of Petitioner's release, without notice, a statement of reasons, or an opportunity to be heard, is a flagrant violation of the Fifth Amendment's Due Process Clause.

The government already determined Petitioner was not a flight risk or danger when it released her on her own recognizance, and subsequently exercised its prosecutorial discretion to

[3] The *Pinchi* court explained that the petitioner's release from ICE custody after her initial apprehension reflected a specific regulatory determination by the government that she was neither a flight risk nor a danger to the community, citing 8 C.F.R. § 1236.1(c)(8). And the two years that she has spent out of custody only heightened her liberty interest in remaining out of detention unless she no longer meets those criteria. Therefore, the court ordered that the government may not re-detain Ms. Pinchi during the pendency of these proceedings without providing her with a pre-detention bond hearing before a neutral immigration judge at which the government must demonstrate by clear and convincing evidence, that she is a flight risk or a danger to the community and that no conditions other than her detention would be sufficient to prevent such harms.

dismiss her removal proceedings upon determining that circumstances of the case changed after the notice to appear was issued to such an extent that continuation was no longer in the best interest of the government. Respondents' unlawful re-detention based on a flawed legal theory, blatantly infringes on J.U.A.M.'s heightened liberty interest and outright release is the only just remedy.

Numerous courts in identical circumstances have so ordered:

- In *Pineda v. Chestnut*, No. 1:25-CV-01970-DC-JDP (HC), 2026 WL 25510, at *4-6 (E.D. Cal. Jan. 5, 2026), the court ordered that the petitioner "shall be released immediately from the Respondents' custody with the same conditions she was subject to immediately prior to her detention." "Respondents shall not impose any additional restriction on her, such as electronic monitoring, unless that is determined to be necessary at a future pre-deprivation/custody hearing;" and "[i]f the government seeks to re-detain Petitioner, it [] must hold a pre-deprivation bond hearing before a neutral arbiter, at which Petitioner's eligibility for bond must be considered."
- In *Barrientos v. Chestnut*, No. 1:25-CV-01490-SKO (HC), 2025 WL 3677319, at *5 (E.D. Cal. Dec. 18, 2025), the court ordered immediate release and forbade re-detention unless the government could prove at a pre-deprivation bond hearing before a neutral decisionmaker by clear and convincing evidence at a hearing that the petitioner was a flight risk or danger to the community such that her physical custody is legally justified.
- In *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *2 (D.R.I. Dec. 5, 2025), the court found immediate release appropriate "because the Government has put forth no evidence to suggest that Mr. Mendes poses a flight risk or is a danger to the community."

This Court should order the same relief here. The summary revocation of Petitioner's release, without notice, a statement of reasons, or an opportunity to be heard, is a flagrant violation

of the Fifth Amendment's Due Process Clause and binding agency regulations. Respondents' unlawful re-detention based on a flawed legal theory blatantly infringes on J.U.A.M.'s heightened liberty interest, and outright release is the only just remedy.

C. Given the Unlawful Nature of Petitioner's Re-Detention, Immediate and Unconditional Release is the Only Appropriate Remedy

While a bond hearing may suffice for minor procedural defects, it is an inadequate remedy for a detention that is unlawful *ab initio* for multiple, independent reasons. Where, as here, the government has failed to establish any lawful basis for confinement, immediate release is the only remedy that comports with law and justice.

First, Petitioner's recent arrest by ICE was warrantless and contravened 8 U.S.C. § 1357. This statute, along with its implementing regulation at 8 C.F.R. § 287.8(c)(2)(ii), establishes a clear rule: a warrant is required for a civil immigration arrest unless an officer has reason to believe the individual "is likely to escape before a warrant can be obtained." Respondents cannot meet this exception, as Petitioner was already in the custody of state authorities and thus posed no risk of escape. Respondents have not provided any such warrant within their Return and therefore her warrantless transfer to ICE was legally and procedurally defective. A warrant is required for a civil immigration arrest under § 1226(a). This procedural failure renders her detention void from the outset.

Whether based on Respondents' flawed "arriving alien" theory, the flagrant violation of Petitioner's Fifth Amendment right to due process, or the procedurally defective warrantless arrest, the conclusion is the same: Petitioner's detention is fundamentally unlawful. In such circumstances where the government has not established any lawful basis for detention, federal courts across the country have repeatedly found that the only appropriate remedy is immediate and unconditional release. An overwhelming number of recent district court decisions have so ordered:

Eastern District of Pennsylvania

- *Ibarra v. Warden of the Federal Detention Center Philadelphia*, 25-cv-6312, 2025 WL 3294726 (E.D. Pa. Nov. 25, 2025) (granting habeas and ordering release).
- *Buele Morocho v. Jaminson*, 5:25-cv-05930, 2025 WL 3296300 (E.D. Pa. Nov. 26, 2025) (granting habeas and ordering immediate release; requiring due process, including a bond hearing, for any re-detention).
- *Ousmane Soumare v. Jamal L. Jamison*, CV 25-6490, 2025 WL 3461542 (E.D. Pa. Dec. 2, 2025) (granting habeas and ordering immediate release).
- *Yilmaz v. Warden of Fed. Det. Ctr. Philadelphia*, CV 25-6572, 2025 WL 3459484 (E.D. Pa. Dec. 2, 2025) (ordering immediate release after finding no flight risk or danger).
- *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025) (granting habeas and ordering release).
- *Alberto Picon v. O'Neill*, CV 25-6731, 2025 WL 3634212 (E.D. Pa. Dec. 15, 2025) (granting habeas and ordering immediate release).

Eastern District of New York

- *Arizmendi v. Noem*, No. 25-CV-7056, 2025 WL 3723960 (E.D.N.Y. Dec. 24, 2025) (ordering immediate release in a TRO).
- *Ye v. Maldonado*, 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025) (granting habeas and ordering immediate release).

Southern District of New York

- *Gonzalez v. Joyce*, No. 25 Civ. 8250, 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) (ordering immediate release after unlawful immigration court arrest).
- *Munoz Materano v. Arteta*, 25 Civ. 6137, 2025 WL 2630826 (S.D.N.Y. Sep. 9, 2025)

(same).

- *Valdez v. Joyce*, 25 Civ. 4627, 2025 WL 1707737 (S.D.N.Y. Jun. 18, 2025) (same).

District of Rhode Island

- *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *2 (D.R.I. Dec. 5, 2025) (finding immediate release appropriate "because the Government has put forth no evidence to suggest that Mr. Mendes poses a flight risk or is a danger to the community.").
- *Barrera Rodriguez v. Hyde*, No. 25-cv-607-JJM-PAS, 2025 WL 3274606, at *2 (D.R.I. Nov. 25, 2025) (same).

Western District of Tennessee

- *Cordova v. Ladwig*, No. 1:25-CV-03037-TLP-JAY, 2025 WL 3679764, at *7 (W.D. Tenn. Dec. 18, 2025) (finding petitioner subject to the discretionary bond process but ordering immediate release pending the bond hearing).

District of Idaho

- Quijaba Cordoba v. Knight, 1:25-cv-00605-BLW, --- F.Supp.3d ---- , 2025 WL 3228945 (D. Id., Nov. 19, 2025) (Court ordering immediate release as the remedy. "**In many circumstances akin to the present case, a bond hearing would indeed be sufficient to rectify the violation of Petitioner's unlawful detention.**" *See E.C. v. Noem*, No. 2:25-cv-01789, 2025 WL 2916264, at *12 (D. Nev. Oct. 14, 2025); see also *Hernandez-Lara v. Lyons*, 10 F.4th 19, 45-46 (1st Cir. 2021). Here, however, **Respondents have failed utterly to articulate a legitimate interest in the Petitioner being detained. <u>There is no evidence</u> that he is a flight risk or poses a danger to the community.** To the contrary, Petitioner's lack of criminal record, residence in the United States in the past year without incident, and familial ties to the United States all indicate that he is neither a danger nor a flight risk")

(emphasis added). Additional cases ordering the same:

- *Camacho v. Hollinshead*, No. 1:25-cv-00593-BLW, 2025 WL 3228998 (D. Id., Nov. 19, 2025);
- *Elias v. Knight*, No. 1:25-cv-00594-BLW, 2025 WL 3228262 (D. Id., Nov. 19, 2025);
- *Casares v. Thompson*, No. 1:25-cv-00596-BLW, 2025 WL 3228988 (D. Id., Nov. 19, 2025);
- *Ibarra v. Knight*, No. 1:25-cv-00597-BLW, 2025 WL 3228968 (D. Id., Nov. 19, 2025);
- *Torres v. Hollinshead*, No. 1:25-cv-00599-BLW 2025 WL 3228974 (D. Id., Nov. 19, 2025);
- *Rodriguez v. Knight*, No. 1:25-cv-00600-BLW, 2025 WL 3228285 (D. Id., Nov. 19, 2025);
- *Esparza v. Knight*, 1:25-cv-00601-BLW (D. Id., Nov. 19, 2025);
- *Gonzalez v. Knight*, No. 1:25-cv-00602-BLW, 2025 WL 3228975 (D. Id., Nov. 19, 2025);
- *Elias v. Knight* No. 1:25-cv-00604-BLW, 2025 WL 3229013 (D. Id., Nov. 19, 2025);
- *Rangel v. Knight*, No. 1:25-cv-00607-BLW, 2025 WL 3229000 (D. Id., Nov. 19, 2025);
- *Rodriguez v. Hollinshead*, No. 1:25-cv-00609-BLW, 2025 WL 3228972 (D. Id., Nov. 19, 2025);
- *Martinez v. Knight*, No. 1:25-cv-00610-BLW, 2025 WL 3228987 (D. Id., Nov. 19, 2025);
- *Lopez v. Anderson*, No. 1:25-cv-00621-BLW, 2025 WL 3228997 (D. Id., Nov. 19, 2025)).

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One particular case with persuasive reasoning in a similar case of undersigned counsel's, *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025), granting immediate release without bond to a Petitioner detained under 8 U.S.C. § 1225(b)(2) who has been in the country for 19 years and twice bonded in immigration proceedings

in the past. "All this begs the question whether the court should order immediate release or a hearing. The court is uninclined to order a hearing consistent with the procedures under §1226(a) and give the government a pass for not securing a warrant before Mr. De Jesús Aguilar's arrest, particularly when the government has not asserted this a basis for his continued detention" … [where there is no] "basis for his continued detention today or extraordinary circumstances or some likelihood of his escape (perhaps a tough position when he has been in the country for 19 years and twice bonded in immigration proceedings)." … "The simple matter is this: the government has not established a lawful basis for detention— or, otherwise put, Mr. De Jesús Aguilar has established his detention is today unlawful— and the government must live by the rules that Congress has instituted.) These cases demonstrate that federal courts are exercising their equitable habeas powers to grant the only meaningful remedy for a fundamentally unlawful detention: unconditional release, which is the appropriate remedy in this case due to the unlawful arrest and lack of any legitimate reason for Petitioner's detention.

III. All Named Government Respondents Are Necessary Parties to Afford Complete and Final Relief.

Respondents improperly disregarded the federal respondents beyond the warden. *See* ECF no. 7 at 1, n.1 ("Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action."). Retaining all named Respondents—including those beyond the immediate habeas custodian—is essential for this Court to grant complete and effective relief. [4] While the "immediate custodian" rule from *Rumsfeld v. Padilla*, 542 U.S. 426

[4] Petitioner acknowledges that under *Rumsfeld v. Padilla*, the proper respondent to the habeas claim is the immediate custodian (Respondent Normand), and he does not rely on the named Respondent officials from DHS, ICE, and the U.S. Department of Justice (DOJ) (such as Lyons, Noem, Bondi) as "habeas respondents." 542 U.S. 426 (2004). See ECF 1, Complaint. To the extent the Court deems them improper Respondents on the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as Respondents-Defendants on the non-core claims, so that effective, agency-directed relief can issue to the officials with authority to implement it.

(2004) is true for core habeas claims, it does not control the distinct claims for declaratory and injunctive relief that are vital to securing a meaningful remedy.

The Supreme Court's holding in *Rumsfeld v. Padilla* was created to address the specific jurisdictional requirements of the habeas statute and prevent forum shopping in challenges to physical custody. It does not, however, foreclose naming other federal officials as respondents in parallel claims for prospective equitable relief brought under the Administrative Procedure Act, 5 U.S.C. § 702, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 and declaratory and injunctive orders under 28 U.S.C. § 1331. For these distinct non-habeas claims, the proper defendants are the officials who exercise the "legal reality of control" over the policies and actions at issue. *See Padilla v. Rumsfeld*, 352 F.3d 695, 707 (2d Cir. 2003), *rev'd on other grounds*, 542 U.S. 426 (2004). An injunction must bind the party with the actual power to act. Here, the immediate custodian at Stewart Detention Center is merely an agent acting at the direction of ICE and DHS. The non-habeas Respondents—the Secretary of Homeland Security and the ICE Field Office Director—are the officials with the exclusive legal authority to order Petitioner's release, implement bond orders, and set conditions of supervision pursuant to federal regulations. *See* 8 C.F.R. §§ 236.1, 1003.19. To dismiss the officials in control would render any prospective order from this Court a nullity.

Furthermore, retaining these policymaking officials Respondents is critical to prevent the government from frustrating judicial review and providing a final, complete remedy. First, dismissing the non-habeas Respondents creates a significant risk that the government could moot this litigation by simply transferring Petitioner to a different facility outside this district—a tactic that would create serious jurisdictional hurdles. The *Padilla* litigation itself highlights this exact danger. *See Rumsfeld*, 542 U.S. at 441 (noting *Padilla* was moved before the petition was filed).

Keeping the officials with national and regional transfer authority as parties ensures the Court's power to adjudicate the claims and provide "complete relief," consistent with the principles of Federal Rule of Civil Procedure 19.

Second, the necessity of retaining the federal Respondents extends beyond preventing the mooting of this litigation. Even if this Court grants the writ and orders Petitioner's immediate release, that order would be hollow if the non-habeas Respondents are not bound by a corresponding injunction. Having been dismissed from the action, these officials—who wield the ultimate authority to detain—would be free to re-detain Petitioner under the same unlawful interpretation of their authority the moment she is released. This would nullify the Court's ruling and force Petitioner to begin this entire process anew, transforming the Great Writ into a revolving door of litigation. The prospective declaratory and injunctive relief sought is therefore not ancillary but essential to ensure any remedy is both meaningful and final. Only by keeping the officials with the power to detain as parties can the Court enjoin them from re-detaining Petitioner without due process and prevent such a perverse outcome. This comprehensive approach is consistent with this Court's own holding in *J.A.M. v. Streeval*, No. 4:25-v-342-CDL-AGH (M.D. Ga. Nov. 1, 2025), and the dozens of other district court decisions cited in the Complaint, which have uniformly retained non-habeas federal officials to ensure their orders could be effectively implemented. None of these courts dismissed the non-habeas Respondents.

Therefore, Petitioner respectfully requests that the Court to confirm in its final order that all named government Respondents/Defendants remain in this action. While the Warden is the proper Respondent for the § 2241 challenge to current physical custody under *Rumsfeld v. Padilla*, the non-habeas Respondents are necessary and proper defendants for the claims seeking prospective declaratory and injunctive relief, which are essential to ensuring that any remedy

afforded is both complete and final.

IV. CONCLUSION

The Great Writ of habeas corpus is, at its core, an equitable remedy that vests this Court with broad and flexible power to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. The Supreme Court has long affirmed that in a habeas proceeding, the court is "invested with the largest power to control and direct the form of judgment to be entered." *Harris v. Nelson*, 394 U.S. 286, 299 (1969). This authority is not a "static, narrow, formalistic remedy," but one that must retain the "ability to cut through barriers of form and procedural mazes" to protect fundamental liberty. *Id.* at 291. While a bond hearing may be an adequate remedy to correct a procedural defect in an otherwise lawful detention, it is wholly insufficient where, as here, the detention is unlawful *ab initio*. Respondents have failed to establish any lawful basis for Petitioner's confinement, having ignored mandatory regulations, violated her due process rights, and effected her arrest without a warrant. Under these circumstances, a bond hearing would merely prolong an illegal detention. The Court should therefore exercise its inherent equitable power to order the only remedy that comports with law and justice: immediate and unconditional release and enjoining Respondents from re-detaining Petitioner in the future without first affording her full Due Process, including a pre-deprivation bond hearing before a neutral decisionmaker.

Respectfully Submitted,

This 9th day of January, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2026, this Foregoing Document was served, via electronic delivery to Respondents' counsel via the CM/ECF system, which will forward copies to Counsel of Record.

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