UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

R.R.C., A# [redacted] Petitioner, vs. 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-525-CDL-CHW

PETITIONER'S REPLY TO GOVERNMENT'S RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW Petitioner, R.C.C., and respectfully submits this reply to the government's "Abbreviated Response to Petition and Response to Order to Show Cause" (ECF No. 7) and to the Court's footnote 2 in the Order to Show Cause (ECF No. 5).

ARGUMENT

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

The government's detention of Petitioner is unlawful. As Respondent concedes, this Court's recent decisions 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), which rejected the government's novel detention theory, are controlling. This Court should adhere to its sound legal reasoning in those cases. *See* ECF No. 7 at 2.

Moreover, this Court's conclusion is consistent with the overwhelming consensus of federal courts nationwide. As detailed in the Petition and ECF No. 1-2, over 200 federal district court decisions have concluded that the government's application of 8 U.S.C. § 1225(b) to noncitizens arrested within the interior of the United States is unlawful. *See, e.g., Perez-Regalado v. Feeley*, No. 2:25-CV-02409-RFB-EJY, 2026 WL 36112, at *1 (D. Nev. Jan. 6, 2026); *Barco Mercado v. Francis*, No. 1:25-CV-06852, at *9-10 (S.D.N.Y. Nov. 26, 2025). Petitioner's detention is not authorized by law and he is therefore entitled to release under the discretionary framework of 8 U.S.C. § 1226(a).

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

Given that Petitioner's detention is unlawful, the appropriate remedy is immediate release, not merely a bond hearing that would prolong his illegal confinement. *See* ECF No. 1 at 47-50. Petitioner was **previously released on an Order of Release on Recognizance (OREC) without bond and, for years, complied unfailingly with all conditions of his supervised release**. ECF No. 1-3. His recent re-detention was not based on any new facts suggesting he is a flight risk or danger, but solely on the government's incorrect interpretation of the law when he came to check in with ICE Atlanta.

Once released, Petitioner acquired a significant, constitutionally protected interest in his continued liberty. In *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), the Supreme Court recognized that the revocation of conditional liberty inflicts a "grievous loss" that triggers due process protections. Applying this principle, courts have held that the government's decision to release a noncitizen creates an "implicit promise" that liberty will be revoked only for cause. *Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. 2025) (quoting *Morrissey*, 408 U.S. at 482). The *Pinchi* court held that "[a]lthough in some circumstances the initial decision to detain

or release an individual may be within the government's discretion, the government's decision to release an individual from custody 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]." 792 F. Supp. 3d 1025 (N.D. Cal. 2025),[1] quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). *See also Chavarria v. Chestnut*, No. 25-cv-01755-DAD-AC, 2025 WL 3533606, at *3 (E.D. Cal. Dec. 9, 2025).

The government already determined Petitioner was not a flight risk or danger when it released him on his own recognizance. Because his re-detention is based on a flawed legal theory and infringes on his heightened liberty interest, 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."

[1] 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.

- 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 in R.R.C.'s case. *See e.g., Arizmendi v. Noem*, No. 25-CV-7056, 2025 WL 3723960 (E.D. NY Dec. 24, 2025) (immediate release granted in a TRO); *Ye v. Maldonado*; 25-CV-6417; 2025 WL 3521298 (EDNY Dec. 8, 2025) (Court grants habeas, orders immediate release.); *Ibarra v. Warden of the Federal Detention Center Philadelphia*; 25-cv-6312; 2025 WL 3294726, (E.D. Pa. Nov. 25, 2025). (Grants habeas and orders release.); *Buele Morocho v. Jaminson*; 5:25-cv-05930; 2025 WL 3296300 (E.D. Pa. Nov. 26, 2025). (Grants habeas and orders immediate release. If redetained, government must afford him due processing, including a bond hearing upon request.); *Ousmane Soumare v. Jamai L. Jamison*; CV 25-6490; 2025 WL 3461542 (E.D. Pa. Dec. 2, 2025). (Grants habeas, orders immediate release.) *Yilmaz v. Warden of Fed. Det. Ctr. Philadelphia*; CV 25-6572; 2025 WL 3459484 (E.D. Pa. Dec. 2, 2025). (Court orders immediate release, finding no flight risk or danger); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Penn. Dec. 9, 2025). (Grants habeas and order release); *Alberto Picon v. O'Neill*; CV 25-6731, 2025 WL 3634212 (E.D. Pa. Dec. 15, 2025). (Grants habeas and orders immediate release) *see also Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *2 (D.R.I. Dec. 5, 2025) (Finding that

Mr. Mendes is constitutionally entitled to a bond hearing but also holding that "because the Government has put forth no evidence to suggest that Mr. Mendes poses a flight risk or is a danger to the community, the Court finds that his **immediate release is appropriate.**") (emphasis added); *Barrera Rodriguez v. Hyde*, No. 25-cv-607-JJM-PAS, 2025 WL 3274606, at *2 (D.R.I. Nov. 25, 2025) (same); *Cordova v. Ladwig*, No. 1:25-CV-03037-TLP-JAY, 2025 WL 3679764, at *7 (W.D. Tenn. Dec. 18, 2025) (finding Petitioner is therefore subject to the discretionary bond process under § 1226 and entitled to a bond hearing but also ordering immediate release pending the bond hearing); *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).

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

Petitioner respectfully submits that retaining all named Respondents—including those beyond the immediate habeas custodian—is essential for this Court to grant complete and effective relief. [2] The Magistrate Judge's suggestion (ECF 5, FN 2) to dismiss the non-habeas respondents misapprehends the nature of Petitioner's claims for prospective relief and, if adopted, would render any favorable ruling from this Court unenforceable. While the "immediate custodian" rule from *Rumsfeld v. Padilla*, 542 U.S. 426 (2004) is true for core

[2] 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.

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*, established that for a "core" habeas petition challenging present physical confinement under 28 U.S.C. § 2241, the proper respondent is the immediate physical custodian, and the petition should be filed in the district of confinement. That bright-line rule 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). Although the Supreme Court found this "control" test insufficient to override the immediate custodian rule for the habeas claim itself, the Second Circuit's reasoning remains dispositive for identifying the correct defendants in an action for an injunction. 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. As the Second Circuit noted in Padilla's own case, only the Secretary, not the immediate brig commander, could make the

ultimate decision to end the detention. *Padilla*, 352 F.3d at 707. 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 he 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.

This action is, for the purposes of the non-habeas claims, a suit against officials acting outside their statutory authority, for which naming the responsible federal officials is proper. *See Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963). These Federal officials who have the authority to implement systemic changes to facilitate comprehensive relief, implement policy changes, and ensure compliance with Court orders) DHS/ICE officials are responsible for executing bond orders and setting supervision conditions, while EOIR officials oversee the regulatory framework affecting Petitioner's detention. Their inclusion is vital to address the systemic issues raised in the non-habeas claims and to ensure that any relief granted by the Court is effectively implemented at the agency level. *See* Fed. R. Civ. P. 65(d)(2) (injunctive orders bind parties, their officers, agents, servants, employees, and those in active concert).

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.

In conclusion, Petitioner seeks an order granting him immediate and unconditional release from custody, as a result of his Order of Release on Recognizance unlawfully revoked.

Respectfully Submitted,

This 7th day of January 2026.

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CERIFICATE OF SERVICE

I hereby certify that on January 7, 2026, the 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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