

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

GILBERTO SALGADO GUTIERREZ,

Petitioner,

v.

WARDEN, STEWART DETENTION
CENTER,¹

Respondent.

Case No. 4:25-cv-00528-CDL-CHW

**ABBREVIATED RESPONSE TO PETITION
AND RESPONSE TO ORDER TO SHOW CAUSE**

On December 29, 2025, Petitioner filed a petition for a writ of habeas corpus (“Petition”) claiming, among other things, 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 December 30, 2025, the Court issued an Order to Show Cause directing Respondent to show cause within seven days why the Petition should not be granted in light of the

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 his 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.” *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.

Court's rulings in *J.A.M. v. Streeval*, No. 4:25-cv-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). ECF No. 2.

Respondent acknowledges this Court's prior rulings in *J.A.M.* and *P.R.S.*, concerning similar challenges to the detention authority at issue in this case, which would control the result in this case should the Court adhere to its legal reasoning in those prior decisions. Should the Court determine that § 1226(a) governs Petitioner's detention, the only appropriate remedy is a bond hearing before an immigration judge, 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. Respondent reserves all rights, including the right to appeal, and reasserts the arguments raised in response to the petitions at issue in *J.A.M.* and *P.R.S.* by reference herein.² 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.

Respectfully submitted this 6th day of January, 2026.

² Respondent notes that, contrary to the allegations in the Petition, Petitioner does not appear to be a member of the certified non-opt out class in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025), as he was apprehended upon entry into the United States in 2004.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

By: *s/W. Taylor McNeill*
W. Taylor McNeill
Assistant United States Attorney
Georgia Bar No. 239540
United States Attorney's Office
Middle District of Georgia
P.O. Box 1702
Macon, GA 31202
Tel.: 478.752.3511
Email: taylor.mcneill@usdoj.gov