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

JORGE FIDEL CANACA MELENDEZ,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:26-CV-00086-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
	:	
Respondent.	:	

RESPONSE TO PETITION

On January 16, 2026, Petitioner Jorge Fidel Canaca Melendez filed his Petition for Writ of Habeas Corpus (Petition). ECF No. 1.[2] Petitioner claims, among other things, that he is entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). ECF No. 1. On January 20, 2026, 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 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

[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.

[2] The Petition improperly joined two Petitioners in one habeas action, and Respondent filed a motion to sever on January 27, 2026. *See* ECF No. 5. This response applies only to Petitioner Jorge Fidel Canaca Melendez. Respondent will file his responses to both Petitioners' claims in compliance with the current deadline and can re-file one or both responses under a newly issued case number if the Court severs the Petition.

(M.D. Ga. Nov. 24, 2025). ECF No. 4. Respondent now files this response to the Petition and shows that the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Honduras. Declaration of Deportation Officer Courtney Jackson at ¶ 4. On March 11, 2013, U.S Customs and Border Protection (USCBP) encountered Petitioner when he applied for admission at the Paso Del Norte Port of Entry in El Paso, Texas. *Id.* at ¶ 5. USCBP determined Petitioner was inadmissible pursuant to § 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA) and processed him for expedited removal under section 235(b)(1) of the INA. *Id.* at ¶ 6. Petitioner requested referral to U.S. Citizenship and Immigration Services (USCIS). *Id.* at ¶ 7. After an interview, USCIS issued Petitioner a Notice to Appear and placed him into removal proceedings. *Id.* On May 29, 2013, Petitioner was paroled from custody. *Id.* at ¶ 8.

On January 7, 2026, ICE/ERO encountered Petitioner near, Charlotte, North Carolina, and took him into custody. *Id.* at ¶ 9. Petitioner's removal proceedings are pending in the Charlotte Immigration Court. *Id.* at ¶ 10. He is scheduled for a master hearing on January 29, 2026. *Id.* Petitioner is currently being detained as an arriving alien at Stewart Detention Center in Lumpkin, Georgia, pursuant to INA § 235(b)(1)(B)(ii).

LEGAL FRAMEWORK

Petitioner's Petition is premised entirely on the mistaken contention that he is being improperly detained under 8 U.S.C. § 1225(b)(2)(A) and the Board of Immigration Appeals' (BIA) recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Pet. ¶¶ 24-37. Petitioner is not detained under § 1225(b)(2)(A). Rather, he is detained pre-final order of removal as an arriving alien under 8 U.S.C. § 1225(b)(1). Jackson Decl. at ¶¶ 6, 11.

8 U.S.C. § 1225(a)(1) provides that "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed . . . an applicant for admission." 8 C.F.R. §§ 1.2 and 1001.1(q) define an "arriving alien"—a particular type of applicant for admission—as

> an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport.

If an immigration officer determines an arriving alien is inadmissible, the officer "shall order the [non-citizen] removed from the United States without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i). If the arriving alien "indicates either an intention to apply for asylum . . . or a fear of persecution," 8 U.S.C. § 1225(b)(1)(A)(i), the "officer shall refer the alien for an interview by an asylum officer," 8 U.S.C. § 1225(b)(1)(A)(ii). "If the officer determines at the time of the interview that an alien has a credible fear of persecution[,] . . . the alien shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii).

Detention of all arriving aliens is mandatory. 8 U.S.C § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that an alien has a credible fear of persecution[,] . . . the alien *shall be detained* for further consideration of the application for asylum." (emphasis added)); 8 U.S.C. § 1225(b)(2)(A) ("[I]f the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under [8 U.S.C. §] 1229a . . . ." (emphasis added)). The only exception is that ICE/ERO may—in its discretion—release arriving aliens on parole. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5(b), 235.3(c).

ARGUMENT

Petitioner raises two claims for relief, but they are both premised on the factually and legally erroneous contention that he is being improperly detained under 8 U.S.C. § 1225(b)(2)(A) and the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Pet. ¶¶ 24-37. Petitioner's claims should be denied because he is not detained under § 1225(b)(2)(A), and he has no due process right to a bond hearing as an arriving alien.

I. The Petition should be denied because Petitioner's mandatory detention as an arriving alien complies with due process.

Petitioner claims that Respondent has violated the INA and his due process rights by detaining him pursuant to 8 U.S.C. § 1225(b)(2)(A)—as opposed to 8 U.S.C. § 1226(a)—without an individualized bond determination to determine whether he is a flight risk or a danger to the community. Pet. ¶¶ 24-37. As set forth above, however, Petitioner is not detained under § 1225(b)(2)(A). Rather, he is detained pre-final order of removal as an arriving alien under 8 U.S.C. § 1225(b)(1). Jackson Decl. at ¶¶ 6, 11. And under § 1225(b)(1), Petitioner's detention is mandatory and he is not entitled to a bond hearing.

The Supreme Court has long held that arriving aliens' due process rights are limited to the procedures provided by statute, and the Court's decisions define those due process rights broadly based on fundamental principles which apply in all contexts. This Court has thoroughly analyzed these binding precedents as applied in this exact context and held that arriving aliens mandatorily detained under section 1225(b) have no due process right to a bond hearing. Accordingly, the Court should deny Petitioner's claim based on these binding precedents.

As a starting point, Congress and the Executive have plenary power over the admission of arriving aliens like Petitioner. "For reasons long recognized as valid, the responsibility for regulating the relationship between the United States and our alien visitors has been committed to

the political branches of the Federal Government." *Mathews v. Diaz*, 426 U.S. 67, 81 (1976). Indeed, "over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo v. Bell*, 430 U.S. 787, 792 (1977) (internal quotations and citations omitted). For this reason, the Supreme Court has "long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control." *Id.* (collecting cases).

"[A] concomitant of that power [over the admission of aliens] is the power to set the procedures to be followed in determining whether an alien should be admitted." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). "[T]hat the formulation of these policies is entrusted exclusively to Congress has become about as firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government." *Kleindienst v. Mandel*, 408 U.S. 753, 767 (1972). In assessing due process protections arising from the application of these procedures, the Supreme Court has recognized that while all non-citizens are entitled to due process protections, this "does not lead . . . to the conclusion that all aliens must be placed in a single homogeneous legal classification." *Mathews v. Diaz*, 426 U.S. at 77-78. Rather, "[t]he distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citations omitted); *see also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) ("[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.").

In recognition of these plenary powers to determine the procedures for admission, over the course of more than a century, the Supreme Court has consistently held in multiple contexts that

the due process rights of arriving aliens seeking admission into the United States—like Petitioner here—are limited to only the procedures provided by statute. *Thuraissigiam*, 591 U.S. at 138-40 ("[A]n alien [who is an arriving alien] has only those rights regarding admission that Congress has provided by statute."); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) ("This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." (citations omitted)); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." (internal quotations and citation omitted)); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) (same); *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892) ("[T]he decisions of executive or administrative officers, acting within powers expressly conferred by congress, are due process of law.").

This Court has applied these principles and addressed the precise issue presented here. In *D.A.V.V. v. Warden, Irwin Cty. Det. Ctr.*, No. 7:20-cv-159-CDL-MSH, 2020 WL 13240240 (M.D. Ga. Dec. 7, 2020), an arriving alien filed a habeas petition, claiming, *inter alia*, that her mandatory detention under 8 U.S.C. § 1225(b) without a bond hearing violated due process. *D.A.V.V.*, 2020 WL 13240240, at *1-2. The Court denied the arriving alien's claim because "longstanding Supreme Court precedent" makes clear that "arriving aliens' procedural due process rights entitle them only to the relief provided by the INA." *Id.* at *6 (citing *Thuraissigiam*, 591 U.S. at 140; *Landon*, 459 U.S. at 32; *Mezei*, 345 U.S. at 212; *Nishimura Ekiu*, 142 U.S. at 660). "[B]ecause the INA does not provide arriving aliens the right to bond, Petitioner has no independent procedural due process right to a bond hearing." *Id.* (citations omitted).

Courts throughout the country have reached the same conclusion as this Court: arriving aliens' due process rights are limited to the procedures provided by statute, and they do not have a due process right to a bond hearing. *See Mendoza-Linares v. Garland*, No. 21-cv-1169, 2024 WL 3316306, at *2 (S.D. Cal. June 10, 2024); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 676-79 (S.D. Tex. 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 332-336 (W.D.N.Y. 2021); *Ford v. Ducote*, No. 20-1170, 2020 WL 8642257, at *2 (W.D. La. Nov. 2, 2020); *Bataineh v. Lundgren*, No. 20-3132-JWL, 2020 WL 3572597, at *8-9 (D. Kan. July 1, 2020); *Mendez-Ramirez v. Decker*, 612 F. Supp. 3d 200, 220-21 (S.D.N.Y. 2020); *Gonzalez Aguilar v. McAleenan*, 448 F. Supp. 3d 1202, 1208-12 (D.N.M. 2019); *Moore v. Nielsen*, 4:18-cv-01722-LSC-HNJ, 2019 WL 2152582, at *3 (N.D. Ala. May 3, 2019).

Because binding Supreme Court precedent makes clear that the scope of Petitioner's due process rights is limited to the procedures provided by statute, the question is whether section 1225(b) permits bond hearings for arriving aliens. But the Supreme Court has answered this question as well. Specifically, the Court has held that section 1225(b)—which governs Petitioner's detention—"unequivocally mandate[s] that aliens falling within [its] scope shall be detained." *Jennings*, 583 U.S. at 300 (internal quotations omitted). As the Court recognized, "neither [section] 1225(b)(1) nor [section] 1225(b)(2) says anything whatsoever about bond hearings." *Id.* at 297. Rather, "the plain meaning" of the statute "is that detention must continue until . . . removal proceedings have concluded[.]" *Id.* at 299 (citing 8 U.S.C. § 1225(b)(2)(A)). Because "'[d]etained' does not mean 'released on bond,'" the Court concluded that the statute does not permit bond hearings for arriving aliens. *Id.* at 312. "In sum, [sections] 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings[.]" *Id.* at 302.

As this Court has held—along with other courts around the country—because arriving aliens' due process rights are limited to the procedures provided by statute, an arriving alien has no due process right to a bond hearing while mandatorily detained under section 1225(b). *D.A.V.V.*, 2020 WL 13240240, at *6. Petitioner's claims should be denied.

CONCLUSION

The record is complete in this matter, and the case is ripe for adjudication on the merits. For the reasons stated herein, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 27th day of January, 2026.

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