

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

X.C.,

Petitioner,

vs.

JASON STREEVAL, in his official capacity as

Warden of Stewart Detention center; and

LADON 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.:

4:26-cv-295-CDL-AGH

REPLY TO RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATIVE AND INJUNCTIVE RELIEF

I. PETITIONER IS NOT AN ARRIVING ALIEN SEEKING ADMISSION SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner was apprehended in the interior, having lived in the U.S. States for several years, and therefore, Petitioner's detention under 8 U.S.C. § 1225(b) is unjustified. Since the government did not invoke any other reason for her detention, she should be released. The plain text of §§ 1225(b)(2)(A) and 1226(a) do not support Respondents' contention that Petitioner is "seeking admission." Under Respondents theory, every alien who is within the United States and who has not been lawfully admitted falls under § 1225(b)(2)(A) and qualifies for mandatory detention. But as this Court held, Respondents' interpretation of the applicable statutes gives little consideration to the overall statutory scheme, and it ignores 8 U.S.C. § 1226. *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2, *4 (M.D. Ga. Nov. 1, 2025). This Court held that § 1225(b)(2)(A) does not apply to "any alien present in the United States who has not been admitted," but only to an "alien seeking admission," i.e., someone actively attempting to obtain lawful admission. The Court rejected the government's attempt to treat "applicant for admission" and "alien seeking admission" as synonymous and the "seeking admission" phrase narrows the class of covered noncitizens rather than restating it. *Id.*¹ Not only has this Court already rejected the government's attempt to subject individuals like Petitioner apprehended in the interior to the mandatory detention provisions of 8 U.S.C. § 1225(b)(2), but a tidal wave of recent decisions from

¹ Petitioner recognizes that this Court, 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), and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), rejected facial due-process challenges seeking bond hearings for concededly "arriving" aliens detained under 8 U.S.C. § 1225(b). Those decisions assumed, without deciding, that § 1225(b) properly governed the petitioners' custody and addressed only whether the Due Process Clause independently requires a bond hearing where the statute does not provide one. They did not resolve the distinct statutory question squarely presented here and answered in *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025): whether DHS may treat long-term interior residents arrested far from the border as "aliens seeking admission" so as to displace 8 U.S.C. § 1226(a) in favor of § 1225(b)(2)(A). Petitioner's primary argument is statutory—that under *J.A.M.* and the overwhelming weight of recent authority, § 1226(a) governs her detention—and only in the alternative does she raise a narrower due-process claim tied to DHS's revocation of her parole and re-detention after months of lawful residence in the community.

hundreds of district courts that have repudiated the government's novel reinterpretation of the INA. *See* ECF No. 1-2. These courts consistently find that applying the "arriving alien" framework of § 1225 to interior apprehensions defies the statute's plain language. *See Barco Mercado v. Francis*, No. 25-CV-6582, --- F. Supp. 3d ---, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (listing 350 decisions that found for the habeas petitioner); *Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061 (7th Cir. 2025) (individuals whom ICE arrested in Chicago without a warrant, are not subject to mandatory detention under § 1225(b)(2)(A).")².

II. PETITIONER'S GRANT OF PAROLE PREVENTS HER DETENTION. RESPONDENTS DID NOT PROPERLY TERMINATE HER PAROLE.

On a case-by-case basis, the DHS Secretary may parole and allow a noncitizen to come into the United States for "urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Petitioner's most recent entry to the U.S. in July 2025, was pursuant to an approved Advance Parole Form I-512L, granted under § 1182(d)(5)(A),³ which authorized her return to the U.S. after her travel abroad. ECF No. 1-4. Therefore, upon Petitioner's entry into the United States, Respondents determined that Petitioner was suitable for parole.

DHS may terminate parole "upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the

² *See also Banegas-Boquedano v. Bondi*, No. 25-26084-CV-WILLIAMS, 2026 U.S. Dist. LEXIS 22181, at *7-*8 (S.D. Fla. Feb. 3, 2026) (same and collecting cases); *see also Vashishth Tyagi v. Luis Soto et al.*, No. 26-CV-00962-ESK, 2026 WL 478184, at *1 (D.N.J. Feb. 20, 2026) ("[F]ederal courts have in near unanimity similarly rejected respondents' position in approximately 300 cases to date, a number which climbs with every passing day.") citing *e.g.*, *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-cv-05488, 2025 WL 3218243, at *4 (E.D. Pa. Nov. 18, 2025) (noting "the law is clear" and that "of the 288 district court decisions to address the issue, 282 have determined that § 1226(a) applies or likely applies in situations similar to those presented here. Those decisions are plainly correct."); *Edgar Eduardo Cadillo Salazar v. Noem, et al.*, No. 8:26-CV-44, 2026 WL 594606, at *1 (D. Neb. Mar. 3, 2026) (explain that the government's "new understanding" of a decades-old statute has resulted in the government detaining hundreds of thousands of nonviolent individuals, often without due process or other constitutional protections.)

³ 8 U.S.C. § 1182(d)(5)(A) provides for parole "for urgent humanitarian reasons or significant public benefit".

United States.” DHS must comply with the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the “[t]ermination of parole,” “parole shall be terminated upon **written notice** to the alien and he or she shall be restored to the status that he or she had at the time of parole.” 8 C.F.R. § 212.5(e)(2)(i). That is, “[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole.” *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025); *Jennings*, 583 U.S. at 288⁴. Here, Petitioner does not challenge the decision to grant or terminate parole itself, instead, she challenges her unlawful detention stemming from DHS’s failure to follow the applicable statutory and regulatory provisions to terminate Petitioner’s parole. *Cf. Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), 2025 WL 2192986, at *2 (D.D.C. Aug. 1, 2025) (holding DHS failed to follow the applicable statutory and regulatory provisions and that paroled noncitizens cannot be subject to expedited removal proceedings); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at *5–7 (E.D. Mich. Oct. 29, 2025) (same); *E.V. v. Raycraft*, No. 4:25-cv-2069, 2025 WL 2938594, at *10 (N.D. Ohio Oct. 16, 2025) (same).

First, Respondents lacked any authority to detain Petitioner prior to providing her with written notice that her parole was terminated (even in the form of an NTA). In other words, even if Respondents were correct (which as laid out above, they are not) that Petitioner’s status were to revert to an “arriving alien” upon termination of her parole, she was not in such status when they detained her on January 14, 2026, and clearly was not subject to mandatory detention under 8 U.S.C. § 1225. *See* 8 C.F.R. § 212.5(e)(2) (“parole shall be terminated **upon written notice** to the

⁴ (quoting 8 U.S.C. § 1182(d)(5)(A)) (“[W]hen the purpose of the parole has been served,” § 1182(d)(5)(A) provides that “the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A))

alien and he or she shall be restored to the status that he or she had at the time of parole.”) (emphasis added). Notably, Respondents have not provided the Court with any facts that would even suggest that Petitioner’s parole was terminated before her recent arrest. Respondents admit that they arrested Petitioner on January 14, 2026. *See* ECF No. 5-2, Response Exhibit 2 (I-213 Report). But Respondents erroneously claim that she was lawfully detained because her parole had terminated with the issuance of the Notice to Appear (NTA). *See* ECF No. 5 at 2, n.3, 6. However, the evidence shows that Respondents did not issue the NTA until January 15, 2026, and did not serve it on Petitioner until January 16, 2026. *Id.* at 2.⁵ Moreover, nowhere in that NTA did Respondents claim that Petitioner’s parole had been terminated. *See id.* In fact, it was not until January 22, 2026, when Respondents appear to have amended the NTA that parole was even mentioned. ECF No. 5-7. Therefore, her arrest was unlawful from the beginning. *See Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 145 (W.D.N.Y. 2025) (arrest was unlawful when executed before parole was revoked and noting that the government’s claim that it intended to place him in expedited removal proceedings was not sufficient and clearly did not provide authority to detain him).

Respondents failed to follow the applicable statutory and regulatory requirements to revoke or terminate Petitioner’s parole. Because Respondents did not follow those requirements, they did not have the authority to arrest and detain her. *Id.*; *cf. Norfolk S. Ry. Co. v. U.S. Dep’t of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that “an agency’s action that fails to observe the procedures required by its own regulations should be set aside” (citation omitted)); *Wilson v. Comm’r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) (“It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and]

⁵ Petitioner notes that the Notice to Appear (NTA) that Respondents issued on January 15, 2026, specifically states that she has been admitted to the United States. ECF No. 5-6. Further, both NTAs places her in removal proceedings under INA § 240; not expedited proceedings under § 235 (8 U.S.C. § 1225).

‘[a]n agency’s failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual’s constitutional right to due process.’” (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998))). Second, Respondents have failed to follow the regulation to revoke parole where they have not provided a reasoned explanation or any changed circumstances that would justify revoking Petitioner’s parole. DHS may terminate parole “upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States.” Thus, written notice is a *necessary* but not a *sufficient* condition for compliance with this regulation.

Here, Respondents offer no evidence that any authorized official found Petitioner to be a flight risk or a danger to the public. She was not charged with any crime nor has status violations. Nor is there evidence that such an official found that humanitarian reasons do not warrant Petitioner’s presence in the United States. Further, there is no indication in the record before the Court that any such case-by-case determination regarding the revocation of Petitioner’s parole was made. But just as a “grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute[.]” *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner’s motion for preliminary injunction and ordering that the petitioner be released).

Moreover, the purpose of Petitioner’s parole has not been accomplished. As Respondents concede, Petitioner has an approved EB-5 immigrant investor visa. USCIS approved Petitioner’s Form I-526E after she made investments totaling \$1.6 million in U.S.-based projects that have created significant employment and over 20 jobs for American workers. *See* ECF No.1-3. And

Petitioner has a pending Form I-485 Adjustment of Status application before USCIS. ECF No. 1-5. Respondents have not provided any evidence to suggest that the humanitarian reason or public benefit that justified Petitioner's parole no longer applied.

Indeed, Respondents make no argument about whether the requirements for termination of parole in § 1182(d)(5)(A) and its regulations have been satisfied. Where Respondents fail to provide evidence that the humanitarian reason or public benefit that justified Petitioner's parole no longer applies, other courts have found that Respondents failed to follow the applicable statutory and regulatory requirements to revoke or terminate Petitioner's § 1182(d)(5)(A) parole and ordered their release from custody, subject to any conditions that existed under Petitioner's § 1182(d)(5)(A) parole). *See e.g., Hernandez v. Raycraft*, No. 1:25-CV-1719, 2025 WL 3730936, at *5 (W.D. Mich. Dec. 26, 2025); *Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody).⁶ Therefore, this Court should grant Petitioner's habeas and order her release from custody.⁷

⁶ *Loaiza Arias*, 2025 WL 3295385, at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ---, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025).

⁷ Additional courts have recently reached the same conclusion in other habeas corpus actions filed by immigration detainees who had received § 1182(d)(5)(A) parole. *See, e.g., Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975 (W.D. Mich. Dec. 29, 2025); *Tezara Munoz v. Lynch*, No. 1:25-cv-1632, 2025 WL 3687338 (W.D. Mich. Dec. 19, 2025); *Gil Pirona v. Noem*, No. 1:25-cv-1571, 2025 WL 3687339 (W.D. Mich. Dec. 19, 2025); *Infante Rodriguez v. Raycraft*, No. 1:25-cv-1560, 2025 WL 3673583 (W.D. Mich. Dec. 18, 2025); *Quintero-Martinez v. Raycraft*, No. 1:25-cv-1507, 2025 WL 3649515 (W.D. Mich. Dec. 17, 2025); *Puerta Marin v. Lynch*, No. 1:25-cv-1444, 2025 WL 3533028 (W.D. Mich. Dec. 10, 2025); *Parra Ocanto v. Lynch*, No. 1:25-cv-1447, 2025 WL 3522113 (W.D. Mich. Dec. 9, 2025); *Arevalo v. Lynch*, No. 1:25-cv-1365, 2025 WL 3522106 (W.D. Mich. Dec. 9, 2025); *Rodriguez Martinez v. Raycraft*, No. 1:25-cv-1504, 2025 WL 3511093 (W.D. Mich. Dec. 8, 2025); *Godoy Yelaya v. Lynch*, No. 1:25-cv-1355, 2025 WL 3496472 (W.D. Mich. Dec. 5, 2025).

III. PETITIONER'S DETENTION WITHOUT A HEARING VIOLATES DUE PROCESS.

Petitioner's July 2025 entry pursuant to her approved advance parole was a grant of parole into the United States. When DHS exercised that authority and allowed Petitioner to live and work in the community for a substantial period while her adjustment application remained pending, DHS has affirmatively conferred conditional liberty and permitted her to structure her life around it. As a result, Petitioner retains a protected liberty interest in remaining free from physical custody in immigration detention that is cognizable under the Fifth Amendment's Due Process Clause. Petitioner does not claim a right to be granted parole but invoking the Fifth Amendment liberty interest that arises once the government has conferred conditional liberty. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (“[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”) (quoting *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)).

A. Due Process requires a Pre-deprivation Hearing before Revoking Parole and Detaining

As Petitioner explained in her Petition, a noncitizen released on parole, who has lived and worked in the community for years, possesses a protected liberty interest in remaining free from immigration detention and is entitled to procedural due process before DHS may revoke that parole and re-detain her. *See Aviles-Mena v. Kaiser*, 2025 WL 2578215 (N.D. Cal. Sept. 5, 2025) (enjoined DHS from re-detaining the petitioner “without notice and a pre-deprivation hearing before a neutral decisionmaker.”). Petitioner's detention without an opportunity for a meaningful individualized custody determination cannot be ignored. “[O]nce an alien enters the country, the legal circumstances change, for the Due Process Clause applies to all ‘persons’ within the United States.”⁸

⁸ *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Amin Ibrahim Hassan v. Kristi Noem et al.*, No. EP-26-CV-00048-DB, 2026 WL 446506, at *2 (W.D. Tex. Feb. 9, 2026) (“The Court reiterates its original holding that noncitizens who have ‘established connections’ in the United States by virtue of living in the country for a substantial period acquire a liberty interest in being free from government detention without due process of law.”)

Respondents invoke *Thuraissigiam, Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), *Jean v. Nelson*, 727 F.2d 957 (11th Cir. 1984) (en banc), and this Court’s decision in *D.A.V.V.* to argue that “whatever procedure Congress authorizes is due process” for arriving aliens and that § 1225(b) detainees categorically have no due-process right to bond. But Petitioner is not asking this Court to second-guess expedited-removal procedures, credible-fear standards, or an initial decision to exclude her at the border, nor is she asserting a facial claim that all § 1225(b) detainees are entitled to bond. Her due-process claim is narrower and as-applied: DHS exercised its discretion under 8 U.S.C. § 1182(d)(5)(A) to parole her into the U.S., allowed her to live and work in the community for years while pursuing adjustment, and then summarily revoked that conditional liberty and re-detained her in the interior with no advance notice, no individualized finding of flight risk or danger, and no pre-deprivation hearing before a neutral decisionmaker. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), and the conditional-liberty line of cases on which Petitioner relies, that sequence of government action triggers a distinct liberty interest and procedural-due-process inquiry that the government’s cited cases did not address.

Under *Mathews*, it is clear that Petitioner’s right to due process demands her immediate release or a pre-deprivation hearing. First, Petitioner’s private interest in remaining out of custody is weighty. She has been lawfully paroled into the United States under § 1182(d)(5)(A), has resided with her family, operated businesses employing U.S. workers, and complied with all immigration requirements. As *Aviles-Mena* recognized, where DHS has already found a parolee suitable for release and allowed him to live and work in the United States for years, the liberty interest in continued freedom from detention is substantial. *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 (N.D. Cal., Sep. 5, 2025). Second, the risk of an erroneous deprivation of that liberty is high. By definition, DHS’s prior decision to grant Petitioner parole and permit her

continued residence in the community reflected a determination, under § 1182(d)(5)(A) and 8 C.F.R. § 212.5, that she was not a danger or flight risk. Respondents have identified no materially changed circumstances—no new criminal conduct, no violation of parole conditions, no failure to appear—that would justify re-detention. A brief pre-deprivation custody hearing before a neutral adjudicator, at which the government bears the burden to show that termination of parole and re-detention are necessary to prevent flight or danger, would substantially reduce the risk that Petitioner is re-incarcerated for reasons unrelated to any valid statutory purpose. Third, the government’s interest in re-detaining Petitioner without any pre-deprivation hearing is minimal. Providing advance written notice and a prompt individualized custody hearing would not diminish DHS’s ability to effect removal or protect the public; it would simply require the agency to articulate and substantiate the basis for revoking parole and returning Petitioner to custody, and to do so before rather than after the deprivation occurs.

The automatic termination of parole does not grant the government “carte blanche” to re-detain a noncitizen where no valid statutory purpose is served. Civil immigration detention must be nonpunitive and bear a reasonable relation to statutory purposes, such as preventing flight or danger to the community. *Zadvydas*, 690. Given her demonstrated lack of flight risk or danger and the absence of any changed circumstances justifying re-detention, the government’s actions appear arbitrary and lack a legitimate non-punitive purpose. Therefore, she is entitled to immediate release or a constitutionally compliant bond hearing. *See Dominguez Perez*, 2026 WL 594609, at *7; *Villafranca Lara v. Ladwig*, No. 26-CV-02079-SHL-tmp, 2026 WL 401204, at *10 (W.D. Tenn. Feb. 12, 2026) (“Because ICE purported to detain under § 1225(b)(2)(A), which includes no provision for a bond hearing, the Court will not now order a bond hearing under § 1226(a).”).

B. Due Process Requires Petitioner’s Release Where her Arrest Without a Warrant Violated 8 U.S.C. § 1226

As laid out *supra*, Petitioner is not subject to detention under 8 U.S.C. § 1225. The only possibly applicable discretionary detention authority is 8 U.S.C. § 1226. But to detain a noncitizen under § 1226, unequivocally requires that an arrest be made “[o]n a warrant.” Respondents had no such warrant. The statute’s narrow exception for a warrantless arrest, 8 U.S.C. § 1357(a)(2), is equally inapplicable, as it permits such an arrest only where an officer has reason to believe the individual is “likely to escape before a warrant can be obtained.” It was factually impossible for Petitioner to pose such a risk, as she was already secured in local law enforcement custody when ICE assumed control. Therefore, Petitioner’s detention is unlawful from the start because the arrest itself was executed in open defiance of the Immigration and Nationality Act’s clear commands.⁹

Petitioner is not seeking *Bivens* damages, but only to determine whether there is lawful statutory authority for the *current custody* — which is squarely within § 2241 territory.

⁹ Contrary to Respondents’ claim, 8 U.S.C. § 1252(g) does not bar this Court from reviewing Petitioner’s unlawful arrest claim. “The provision [§ 1252(g)] applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’” *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original); *see also Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (Language doesn’t sweep broadly; refers only to those three specific actions themselves.”). “When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. United States Citizenship and Immigr. Servs.*, 964 F.3d 1250, 1258 (11th Cir. 2020); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *1 (M.D. Fla. Oct. 31, 2025). Offering a bond hearing now cannot cure this fundamental defect. A bond hearing under 8 U.S.C. § 1226(a) is a procedural safeguard that follows a *lawful* arrest under that same statute. It is not a remedy for an unlawful arrest that violated the statute’s own warrant requirement from the outset. To hold otherwise would be to retroactively sanitize an illegal seizure, rendering the warrant requirement in § 1226(a) meaningless. The government cannot violate the law to seize a person and then offer the procedures that would have followed a lawful seizure as a cure. Because the arrest itself was illegal, the entire detention is the fruit of a poisonous tree, mandating release. Respondents’ reliance on *Gupta v. McGahey*, 709 F.3d 1062, 1064 (11th Cir. 2013) unavailing. *Gupta* claimed generally under *Bivens* claims related to the initiation of removal proceedings violated his constitutional rights. Thus, *Gupta* does not demonstrate that § 1252(g) strips this Court of jurisdiction to adjudicate Petitioner’s habeas claims. *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406, at *5 (S.D. Ga. Nov. 14, 2025). Petitioner was only challenging the underlying legal bases of detention; not directly challenging his removal proceedings. Second, in *Gupta*, ICE already had a valid and approved arrest warrant as well as a Notice to Appear (NTA) for removal proceedings and specifically came to serve the NTA, execute the arrest warrant, and detain *Gupta*. Conversely here, ICE’s wrongful conduct stems from the unlawful, warrantless arrest that occurred *before* Petitioner was served with a NTA and thus, *before* any decision to commence removal proceedings was made. *See Bogomazov v. United States Dep’t of Homeland Sec.*, No. 1:20-CV-24482, 2022 WL 769801, at *10 (S.D. Fla. Feb. 27, 2022), report and recommendation adopted, No. 20-24482-CIV, 2022 WL 767104 (S.D. Fla. Mar. 14, 2022) (finding *Gupta* inapplicable and concluding the court had jurisdiction over a habeas petition where “the alleged wrongful conduct here stemming from the first arrest occurred *before* Plaintiff was served the Notice to Appear and, therefore, *before* removal proceedings were initiated).

Respectfully Submitted,

This 5th day of March, 2026.

/s/ Karen Weinstock

Karen Weinstock

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CERTIFICATE OF SERVICE

I certify that on March 6, 2026, I electronically filed the foregoing Document with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock

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