

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

JOSE GABRIEL ALONSO GASPAR,	:	
	:	
Petitioner,	:	
	:	Case No. 7:26-CV-098-WLS-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, IRWIN COUNTY DETENTION CENTER,¹	:	
	:	
Respondent.	:	

RESPONSE TO PETITION

On March 31, 2026, Petitioner filed his Petition for Writ of Habeas Corpus (“Petition”). ECF No. 1. On April 10, 2026 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 (M.D. Ga. Nov. 24, 2025), the Court ordered Respondents to provide Petitioner a bond hearing within seven days. ECF No. 6. The Court’s order further states that if “Respondents in good faith contend that the Court’s prior rulings in *J.A.M.* and *P.R.S.* do not apply here, Respondents should file an appropriate motion seeking relief from this order and demonstrating why the Court’s prior rulings in *J.A.M.* and *P.R.S.* do not control the result in this case. If such a good faith motion is filed, then this order shall be stayed pending the resolution of that motion.” ECF No. 6. Respondent now files this good faith motion to dismiss the Petition, showing that

¹ In addition to the Warden of Irwin County Detention Center, Petitioner names officials with the Department of Justice, Department of Homeland Security (“DHS”), and Immigration and Customs Enforcement (“ICE”), as well as DHS and ICE as Respondents. “[T]he default rule [28 U.S.C. § 2241 petitions] 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.

J.A.M. and *P.R.S.* do not control the result in this case and that the Petition should therefore be dismissed.

BACKGROUND

Petitioner is a native and citizen of Guatemala. Declaration of Deportation Officer Miguel Lazo (“Lazo Decl.”) ¶ 4 & Ex. A. On September 6, 2016, Petitioner applied for admission into the United States at the Bridge of America Port of Entry in El Paso, Texas, with his father. *Id.* ¶ 5 & Ex. A. United States Customs and Border Patrol (CBP) found Petitioner to be inadmissible pursuant to section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA). *Id.* ¶ 6. Petitioner was processed for Expedited Removal. *Id.* ¶ 6 & Ex. A. Petitioner claimed relief from removal and was referred to the United States Citizenship and Immigration Services (USCIS). *Id.* ¶ 7. Prior to being interviewed with USCIS, Petitioner was paroled and released from ICE/ERO custody. *Id.* ¶ 7.

On March 3, 2026, Petitioner was encountered and arrested by ICE/ERO after he was arrested on February 28, 2026, by the Cornelia Police Department for Driving Under the Influence of Alcohol and Driving Without a License. Lazo Decl. ¶ 8. That day, ICE/ERO issued Petitioner a Notice to Appear (NTA) alleging inadmissibility pursuant to section 212(a)(7)(A)(i)(I) of the INA. *Id.* ¶ 9 & Ex. B. On April 9, 2026, Petitioner filed an application for relief from removal with the Immigration Court. *Id.* ¶ 10. Petitioner is scheduled for a master calendar hearing on April 23, 2026. *Id.* ¶ 11.

Petitioner is currently detained by ICE/ERO at the Folkston ICE Processing Center under the authority of section 235(b)(2) of the INA, and 8 C.F.R. 235.3(c)(1). *Id.* ¶ 12.

LEGAL FRAMEWORK

Petitioner is detained pre-final order of removal as an arriving alien. “An 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 U.S.C. § 1225(a)(1). Regulations 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.

8 C.F.R. §§ 1.2 and 1001.1(q). 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). If the officer determines the alien does not have a credible fear of persecution, they shall order the alien removed, but the alien has, by regulation, the option to request review of that determination by an Immigration Judge and in that event, the alien “shall be detained pending a final determination of credible fear of persecution[.]” 8 U.S.C. § 1225(b)(1)(B)(iii)(I), (III), and (IV). In some circumstances, an arriving alien will be placed into full removal proceedings without going through the “expedited removal” process provided for in § 1225(b)(1). However, even in this circumstance, an arriving alien, like Petitioner, is an alien “seeking admission” whom an examining immigration officer has determined to be “not clearly and beyond a doubt entitled to be

admitted,” and such alien, “shall be detained” pending full removal proceedings 8 U.S.C. § 1225(b)(2). Thus, detention of all arriving aliens is mandatory. 8 U.S.C. § 1225(b)(1)(B)(ii) (“the alien *shall be detained* for further consideration of the application for asylum.” (emphasis added)); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); 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 to mandatory detention 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).

ICE/ERO is permitted to parole a non-citizen into the United States, but this decision is committed to ICE/ERO’s discretion: “[t]he Attorney General may . . . *in his discretion* parole into the United States . . . any alien applying for admission[.]” (emphasis added). 8 U.S.C. § 1182(d)(5)(A). Once the parole period expires, or parole is revoked at the discretion of ICE/ERO, an arriving alien is again subject to mandatory detention, and her “case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A); *see also Jennings*, 583 U.S. at 288. “Since an alien’s legal status is not altered by detention or parole[,], it seems clear that [paroled aliens] can claim no greater rights or privileges under our laws than any other group of aliens who have been stopped at the border. *Jean v. Nelson*, 727 F.2d 957, 969 (11th Cir. 1984).

ARGUMENT

Petitioner brings this Petition challenging his continued detention without a bond hearing as a violation of 8 U.S.C. § 1226(a) (*Count 4*), and under the Due Process Clause of the Fifth Amendment (*Count 2*). ECF No. 1. In addition to this core habeas request, Petitioner also challenges his detention as violative of the Eighth Amendment (*Count 3*) and based on alleged

membership in the “Bond Eligible Class” of *Maldonado Bautista v. v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) (*Count 1*). *Id.* Petitioner’s claims should be denied. Despite Petitioner’s protestations to the contrary, Petitioner is an arriving alien, and is detained pursuant to the plain language of 8 U.S.C. § 1225(b)(2). As an arriving alien, he has no due process right to a bond hearing. Furthermore, his claims based on the Eighth Amendment and alleged membership in the *Maldonado-Bautista* class should likewise be denied.

I. As an arriving alien, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and his previous parole does not affect that status.

Petitioner is detained pre-final order of removal as an arriving alien under 8 U.S.C. § 1225(b)(2). Lazo Decl. ¶ 12. And under § 1225(b)(2), Petitioner’s detention is mandatory and he is not entitled to a bond hearing. To the extent Petitioner argues that his release on parole altered his immigration status from an arriving alien, this argument is legally unfounded.

8 U.S.C. § 1182(d)(5)(A) provides that “[t]he Attorney General may . . . 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[.]” However, § 1182(d)(5)(A) also makes clear that “such parole of such alien shall not be regarded as an admission of the alien[.]” *See also Jennings*, 583 U.S. at 288. Based on this language, the Eleventh Circuit has recognized that “[p]arole is not admission.” *Sookhoo v. U.S. Attorney Gen.*, 596 F. App’x 771, 772-73 (11th Cir. 2015) (per curiam) (citing 8 U.S.C. § 1101(a)(13)(B); 8 U.S.C. § 1182(d)(5)(A); *Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958) (“The parole of aliens seeking admission is simply a device through which needless confinement is avoided while administrative proceedings are conducted. It was never intended to affect an alien’s status . . .”)).

Rather, once the parole period expires, an arriving alien is again subject to mandatory detention, and his “case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A); *see also Jennings*, 583 U.S. at 288. “Since an alien’s legal status is not altered by detention or parole[,] it seems clear that [paroled aliens] can claim no greater rights or privileges under our laws than any other group of aliens who have been stopped at the border. *Jean v. Nelson*, 727 F.2d 957, 969 (11th Cir. 1984). Therefore, the fact that Petitioner was previously paroled into the United States does not affect his status as an arriving alien or his concomitant due process rights. *See also, P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) (“[Respondents] did not waive the right to detain [the petitioner] by failing to follow the mandatory detention requirements of the statute [upon petitioner’s arrival].”

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 3512591, 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 302.²

² To be clear, Petitioner's circumstance is distinguishable from that of the petitioners in *J.A.M.* and *P.R.S.* because unlike the Court's finding as to those petitioners, he applied for admission at a designated point of entry and was therefore undoubtedly "seeking admission," he was inspected upon arrival, and the inspecting officer found him not to be "clearly and beyond a doubt entitled to be admitted." Instead, he was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5). Following the revocation of that parole, Petitioner reverts to the status he had as if the parole was never granted, and his circumstances fit squarely within the ambit of § 1225(b)(2)(A) and his detention is mandatory.

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 claim should be denied.

II. Petitioner’s claim that his detention violates the Eighth Amendment is not cognizable in habeas and otherwise meritless.

In Count 3, Petitioner seeks to challenge the conditions of his confinement in immigration custody and seeks release from custody as a remedy. Petitioner’s claim should be denied for two reasons. First, conditions of confinement claims are not cognizable in a habeas corpus proceeding. Second, allegations concerning conditions of confinement, even if proven, do not entitle Petitioner to release.

First, Petitioner’s claim should be denied because it is not cognizable in habeas. “[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “[W]here an inmate seeks injunctive relief challenging the fact of his conviction or the duration of his sentence . . . [s]uch claims fall within the ‘core’ of habeas corpus[.]” *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). “By contrast, constitutional claims that merely challenge the conditions of a prisoner’s confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core[.]” *Id.* For these reasons, in the immigration context, the Eleventh Circuit has held that a “§ 2241 petition is not the appropriate vehicle for raising . . . a claim challeng[ing] the conditions of confinement, not the fact or duration of that confinement.” *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015) (per curiam) (affirming dismissal of immigration detainee’s habeas petition alleging the denial of inadequate medical care because the claim was not cognizable in habeas).

In reliance on these principles, courts throughout the Eleventh Circuit have held that immigration detainees' claims concerning their conditions of confinement are not cognizable in habeas. *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 3839938, at *4 (S.D. Ga. July 8, 2020), *Louis v. Martin*, No. 2:20 cv 349 FtM 60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020); *A.S.M. v. Warden, Stewart Cnty. Det. Ctr.*, 467 F. Supp. 3d 1341, 1348-49 (M.D. Ga. 2020); *Archilla v. Witte*, No. 4:20-cv-00596-RDP-JHE, 2020 WL 2513648, at *12 (N.D. Ala. May 15, 2020); *Matos v. Lopez Vega*, 614 F. Supp. 3d 1158, 1167-68 (S.D. Fla. 2020). Petitioner similarly attempts to challenge his conditions of confinement in immigration custody through a habeas petition under § 2241. The Court should deny this claim because it is not cognizable in this habeas proceeding.

Second, Petitioner's claim should be denied because he is not entitled to release from custody to remedy any purportedly unlawful condition of confinement. "[E]ven if a prisoner proves an allegation of mistreatment in prison that amounts to cruel and unusual punishment, he is not entitled to release." *Gomez v. United States*, 899 F.2d 1124, 1126 (11th Cir. 1990) (citing *Cook v. Hanberry*, 596 F.2d 658, 660 (5th Cir. 1979), *cert. denied*, 442 U.S. 932 (1979)). Rather, "[t]he appropriate Eleventh Circuit relief from prison conditions that violate the Eighth Amendment during legal incarceration is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment." *Id.*

The Eleventh Circuit has held that "even if [an immigration detainee] established a constitutional violation [in a habeas proceeding], he would not be entitled to the relief he seeks because release from imprisonment is not an available remedy for a conditions-of-confinement claim." *Vaz*, 634 F. App'x at 781 (citing *Gomez*, 899 F.2d at 1126); *see also A.S.M.*, 467 F. Supp. 3d at 1348 ("Release from detention is not available as a remedy for unconstitutional conditions

of confinement claims.” (citations omitted)). Accordingly, even assuming Petitioner could establish an unlawful condition of confinement, his habeas claim should be denied because he is not entitled to release from custody as a remedy.

III. Petitioner’s claim regarding *Maldonado-Bautista* also fails.

In Count 1, Petitioner claims that he is entitled to a bond hearing based upon the order of the Northern District of California in *Maldonado Bautista*. Pet. ¶¶ 34-36. This claim fails primarily because Petitioner does not meet the class definition in that case. The *Maldonado Bautista* class is defined as:

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 5:25-cv-01873-SSS-BFM ECF No. 82 at 15 (C.D. Cal. Nov. 25, 2025). As Petitioner did not enter without inspection, but applied for admission at a port of entry, he does not meet the class definition. Lazo Decl. ¶ 5. If class membership provided any relief to Petitioner, which Respondent suggests it would not, Petitioner would not qualify for such relief, anyway. This claim should be dismissed.

CONCLUSION

Respondent respectfully submits that Petitioner is not in the same position as the petitioners in *J.A.M.* or *P.R.S.*, and the order for bond hearing should be stayed by the filing of this good faith motion to dismiss. Furthermore, for the reasons stated herein, Petitioner’s Petition should be dismissed.

Respectfully submitted this 15th day of April, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney
Georgia Bar No. 545410
United States Attorney's Office
Middle District of Georgia
P. O. Box 2568
Columbus, Georgia 31902
Phone: (706) 649-7728
michael.morrill@usdoj.gov