

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

**SERGIO STERLING LLUVERES
URENA,**

Petitioner,

v.

**WARDEN, STEWART DETENTION
CENTER,**

Respondent.

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**Case No. 4:26-cv-646-CDL-AGH
28 U.S.C. § 2241**

MOTION TO DISMISS

On April 21, 2026, Petitioner filed a petition for a writ of habeas corpus (“Petition”) claiming that he is detained pre-final order of removal as an “applicant for admission” under 8 U.S.C. § 1225(b)(2), but that he should be classified as detained under § 1226(a). ECF No. 1. Petitioner is mistaken. The Department of Homeland Security (“DHS”) agrees that he is detained under § 1226(a) because he was initially admitted to the United States on a nonimmigrant B-2 visitor and later adjusted status to that of a permanent resident on a conditional basis. Thus, Petitioner does not fall within the category of petitioners covered by *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025). For these reasons, the Petition should be dismissed.

BACKGROUND

Petitioner is a native and citizen of the Dominican Republic. Declaration of Deportation Officer John R. Simonton, II (“Simonton Decl.”) ¶ 4. Petitioner entered the United States at New York on or about September 17, 2013, as a nonimmigrant B-2 visitor. *Id.* ¶ 5. On March 10, 2016, Petitioner adjusted status to that of a permanent resident on a conditional basis. *Id.* On December

10, 2021, Petitioner's status was terminated because he failed to provide sufficient evidence that the marriage through which he obtained conditional permanent resident status was entered into in good faith and not solely to evade the immigration laws of the United States. *Id.* ¶ 5 & Ex. A. On October 19, 2022, the United States Citizenship and Immigration Services (USCIS) issued and served the Petitioner a Notice to Appear (NTA), charging him with removability under Section 237(a)(1)(D)(i) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1227(a)(1)(D)(i)). *Id.* ¶ 6 & Ex. B. On November 25, 2025, ICE/ERO encountered Petitioner at the Essex County Jail in Newark, New Jersey, after he was arrested and charged with terroristic threats. Simonton Decl. ¶ 7. & Ex. C. ICE/ERO then took Petitioner into custody pursuant to his pending removal proceedings. *Id.*

On December 22, 2025, Petitioner filed a request for custody redetermination along with supporting evidence with the Immigration Court in Lumpkin, Georgia. *Id.* ¶ 8 & Ex. D. The Immigration Court, however, took no action on the request because Petitioner's counsel failed to appear. *Id.* ¶ 8 & Ex. E. On December 29, 2025, Petitioner filed a second request for custody redetermination along with supporting evidence with the Immigration Court in Lumpkin, Georgia. *Id.* ¶ 9 & Ex. F. On January 7, 2026, the Immigration Court granted Petitioner's request to withdraw the bond request. *Id.* ¶ 9 & Ex. G. On April 8, 2026, Petitioner filed a third request for custody redetermination, along with supporting evidence with the Immigration Court in Lumpkin, Georgia. Simonton Decl. ¶ 10 & Ex. H. On April 13, 2026, an Immigration Judge denied Petitioner's request for custody redetermination, finding that Petitioner failed to meet his burden to demonstrate that he is not a danger to the community and further finding that he is a significant flight risk. *Id.* ¶ 10 & Ex. I. On April 10, 2026, an Immigration Judge ordered Petitioner removed from the United States to the Dominican Republic. Petitioner reserved his right to appeal the

decision to the Board of Immigration Appeals (BIA). *Id.* ¶ 11 & Ex. J.

Petitioner is currently detained at Stewart Detention Center in Lumpkin, Georgia, pursuant to Section 236 of the INA, pending his removal order becoming administratively final. *Id.* ¶ 12.

ARGUMENT

Petitioner raises one claim: that he is improperly detained under 8 U.S.C. § 1225(b)(2) as an applicant for admission and has not been provided a bond hearing as required by § 1226(a), which he contends is the proper detention authority. Pet. 1, ECF No. 1.

The Petition should be dismissed. First, Petitioner is factually wrong that he is detained under § 1225(b)(2). As is clear by the custody redetermination order issued by the IJ on April 13, 2026, attached as Ex. I, Petitioner is not detained pursuant to § 1225(b)(2), as his bond request was not denied pursuant to *Matter of Yahure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), but instead because Petitioner did not carry his burden to show that he is not a danger to the community or a significant flight risk. *See* Ex. I.

Second, Petitioner is wrong because he has been provided with a bond hearing at which he was given the opportunity to seek bond and was not denied bond based on any jurisdictional defense. *See* Exs. H and I. Accordingly, he is not entitled to the habeas remedy that he seeks because he has already received it.

As of the filing of this Motion, Petitioner is scheduled for a new bond hearing on April 28, 2026, pursuant to the Court's Order. DHS does not object to holding another bond hearing pursuant to the normal procedures for any detainee seeking custody redetermination, but notes that because Petitioner has already had one bond hearing, he will be required to show a change of circumstances as well as carry the burden to show that he is not a danger to the community or a significant flight risk pursuant to the regulations. *See* 8 CFR § 1003.19(e).

CONCLUSION

For the reasons set forth above, the Government respectfully requests that the Court dismiss the Petition.

Respectfully submitted this 27th day of April, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Sergio Lluveres Urena
A 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 27th day of April, 2026.

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney