

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

E.J.R.N.	)	
	)	
Petitioner,	)	
	)	
vs.	)	CASE NO.:
	)	4:26-cv-667
	)	
JASON STREEVAL, in his official capacity as	)	
<i>Warden of Stewart Detention center; and</i>	)	
LADEON FRANCIS, <i>Field Office Director for ICE</i>	)	
<i>Atlanta Field Office, and</i>	)	
TODD LYONS, in his official capacity as <i>Acting</i>	)	
<i>Director of Immigration and Customs Enforcement;</i>	)	
MARKWAYNE MULLIN, <i>Secretary of</i>	)	
<i>U.S. Department of Homeland Security; and</i>	)	
TODD BLANCHE, <i>Acting U.S. Attorney General.</i>	)	
	)	
Respondents.	)	
	)	

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This is a new habeas petition challenging Petitioner's continued detention after a delayed and constitutionally defective bond hearing. Petitioner previously filed a habeas action in this Court, *E.J.R.N. v. Streeval*, Case No. 4:26-cv-149-CDL-ALS, and this Court ordered Respondents to provide him with a bond hearing within seven days or seek relief from that order.
2. Respondents did not provide the ordered hearing within the time set by the Court. On March 18, 2026, the Court noted that Respondents had not held the

hearing within the required timeframe and that Respondents represented Petitioner had been scheduled to appear for a bond hearing on March 5, 2026.

3. On March 31, 2026, the Immigration Judge denied bond because Petitioner failed to show that he is not a significant flight risk, noted that his Form I-589 had been denied in 2025 and was on appeal, and stated that despite many positive factors Petitioner had not met his burden.
4. Later that same day, this Court dismissed the prior habeas case as moot because Petitioner had received a bond hearing, and judgment was entered the same day.
5. This new petition does not re-litigate whether Petitioner was entitled to a hearing in the first instance. That issue was addressed in the prior case. This petition challenges the constitutional adequacy of the hearing that was ultimately provided and the resulting continued detention.
6. Petitioner incorporates by reference all legal arguments and caselaw, the statutory, regulatory, APA, and related arguments set out in his prior habeas petition in Case No. 4:26-cv-149-CDL-ALS to the extent necessary. This petition focuses primarily on the distinct due process violation that followed: a defective bond hearing that placed the burden on Petitioner, rather than on the Government, after many months of detention.
7. Petitioner has been detained since June 5, 2025, and by March 31, 2026 he had already been detained for over eight months without a constitutionally adequate custody determination. In his Rule 59 motion filed on March 31, 2026,

Petitioner asserted that the hearing process was delayed, that an earlier hearing setting occurred without access to counsel or notice to counsel, and that the March 31, 2026 hearing was constitutionally defective because the burden was placed on Petitioner and the Immigration Judge failed to consider ability to pay or alternatives to detention.

8. In *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the Supreme Court recognized that freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause. That concern is especially acute here because the March 31, 2026 bond order states that Petitioner's denial of relief was on appeal when bond was denied, confirming that Petitioner remains detained while administrative review is still pending rather than after a final, unreviewable removal order.
9. According to the TRAC EOIR Quick Facts report, 3,318,099¹ active cases were pending before the Immigration Court at the end of February 2026, and 2,322,671 immigrants were awaiting asylum hearings. Exhibit 3. These figures underscore that there is no realistic basis to assume Petitioner's detention will end promptly merely because administrative review remains pending. In fact, the number of judges at the Board of Immigration Appeals was reduced to 15 from 28, only exacerbating the appeal backlog, which is estimated in years.
10. This Court has repeatedly recognized that similarly situated detainees are

¹ Available at <https://tracreports.org/immigration/quickfacts/eoir.html> and <https://tracreports.org/phptools/immigration/backlog/>

detained under 8 U.S.C. § 1226(a), not mandatory detention. In *YEPEZ PEREZ v. STREEVAL*, No. 4:25-cv-00477 (M.D. Ga. Dec. 23, 2025), *BRITO v. STREEVAL*, No. 4:25-cv-00365 (M.D. Ga. Dec. 3, 2025), *GARCIA CHILEL v. STREEVAL*, No. 4:25-cv-00398 (M.D. Ga. Dec. 3, 2025), and *VELASQUEZ-TEYUCO v. STREEVAL*, No. 4:25-cv-00369 (M.D. Ga. Dec. 3, 2025), the Court held that similarly situated petitioners were detained under 8 U.S.C. § 1226(a), not subject to mandatory detention, and those orders expressly relied on *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL (M.D. Ga. Nov. 1, 2025).

11. The question now is not whether Petitioner gets a hearing in the abstract. The question is whether the hearing he received satisfies due process after prolonged detention. It did not.

12. In *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1342 (M.D. Ga. 2020), the court held that due process requires the Government to prove by clear and convincing evidence that detention is justified.

13. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026) and *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court explained that 8 U.S.C. § 1226(a) is silent as to who bears the burden of proof at a bond hearing, and that the contrary practice stems from Board precedent applying 8 C.F.R. § 1236.1(c)(8).

14. Those decisions further explained that, after *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024), a district court must exercise its own independent judgment rather than defer to the agency on that question, and,

applying *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976), held that due process requires an individualized hearing at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary because the noncitizen is a danger or flight risk. *D.Y.E.H.* further required consideration of non-bond alternatives and financial circumstances if bond is set.

15. Petitioner therefore seeks immediate release. In the alternative, if the Court declines to order release outright, Petitioner seeks a prompt new bond hearing before an Immigration Judge at which the Government bears the burden of proving by clear and convincing evidence that Petitioner is a flight risk or a danger to the community, and at which the Immigration Judge must consider ability to pay and less restrictive alternatives.

II. JURISDICTION AND VENUE

16. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in alleged violation of the Constitution and laws of the United States.
17. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Fifth Amendment and federal immigration law.
18. Venue is proper in this District because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, within the Middle District of Georgia, and because the prior habeas proceedings concerning the same detention were litigated in this Court. Petitioner is currently detained in Stewart. See Exhibit 1

ICE locator.

19. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), the court held that 8 U.S.C. § 1226(e) did not bar review of a due process challenge to the conduct of a § 1226(a) bond hearing and that the court retained authority to enforce compliance with its prior order.
20. In *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court reached the same conclusion.
21. For brevity, Petitioner incorporates herein all the jurisdictional and venue arguments set out in his prior habeas petition in Case No. 4:26-cv-149-CDL-ALS.

III. PARTIES

22. Petitioner, E.J.R.N., is a 37-year-old noncitizen who has resided continuously in the United States since 2022. He was arrested on June 5, 2025, after being stopped while driving to work for a minor traffic-related infraction. Following his arrest, Petitioner was initially taken into ICE custody and, after being held for more than 48 hours at ICE offices in Atlanta, Georgia, transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains detained. He continues to be held in immigration detention pursuant to a Notice to Appear filed with immigration court, without any individualized determination that his continued confinement is necessary.
23. Respondent Jason Streeval is the Jailer/Warden of Stewart Detention Center,

Lumpkin Georgia. As such, Respondent Jason Streeval is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Jason Streeval has immediate physical custody of the Petitioner and is sued in his official capacity.

24. Respondent Ladeon Francis is the Field Office Director for the ICE Atlanta Field Office. As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is the immediate legal custodian of Petitioner.
25. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.
26. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

27. Respondent Todd Blanche is the Acting Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).
28. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

IV. FACTS AND PROCEDURAL HISTORY

29. Petitioner has been detained since June 5, 2025.
30. Petitioner previously filed a habeas action in this Court, Case No. 4:26-cv-149-CDL-ALS, challenging his detention and seeking a bond hearing.
31. On January 27, 2026, this Court ordered Respondents to provide Petitioner with a bond hearing within seven days or file a motion seeking relief from that order.
32. By March 18, 2026, no timely hearing had been provided. The Court then entered an order to show cause noting that Respondents had not held the hearing within the timeframe required by the Court and that Respondents represented Petitioner had been scheduled for March 5, 2026.
33. On March 31, 2026, the Immigration Judge entered a custody order denying bond because Petitioner failed to show that he is not a significant flight risk.
Exhibit 2.
34. The March 31, 2026 custody order further stated that the court had been inclined to consider a high bond until DHS disclosed that Petitioner's asylum application had been denied in 2025, noted that the denial was on appeal, and concluded that despite many positive factors Petitioner had not met his burden.
35. The same custody order also stated that the matter had been scheduled pursuant to the habeas order issued by the United States District Court for the Middle District of Georgia on January 27, 2026 and that no action was taken at

the request of counsel at an earlier setting.

36. Later on March 31, 2026, this Court dismissed the prior habeas case as moot because Petitioner had received a bond hearing and had failed to show cause why his application for habeas relief was not moot.
37. Judgment dismissing the prior case was entered the same day.
38. In his Rule 59 motion filed that same day, Petitioner asserted that Respondents had failed to provide the hearing within the time ordered, that one hearing setting occurred without access to counsel or notice to counsel, and that the March 31, 2026 hearing was constitutionally defective because the burden was placed on Petitioner and the Immigration Judge failed to consider ability to pay or alternatives to detention.
39. Petitioner remains detained as a result of that March 31, 2026 bond denial.
40. The prior dismissal did not adjudicate whether the March 31, 2026 hearing satisfied due process. It dismissed the earlier petition as moot because a hearing had occurred.
41. The scale of the present immigration-court backlog further confirms that Petitioner's detention cannot be treated as brief or self-limiting. The TRAC EOIR Quick Facts report states that, as of the end of February 2026, 3,318,099 active cases were pending before the Immigration Court, and 333,957 cases had been completed so far in FY 2026. On this record, there is no realistic basis to presume a prompt administrative endpoint to Petitioner's detention while his appeal remains pending.

V. EXHAUSTION

42. Petitioner does not seek ordinary review of a discretionary bond determination. He challenges the constitutionality of the procedures used at the March 31, 2026 hearing and the legality of continued detention following that defective hearing as well as by now prolonged detention prior to a final order of removal.
43. After an initial bond redetermination, a subsequent bond redetermination must be requested in writing and will be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination. 8 C.F.R. § 1003.19(e).
44. The defect challenged here is not merely a new factual development. It is the legal and constitutional inadequacy of the hearing already provided.
45. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), the court excused exhaustion where the petitioner challenged the constitutionality of the bond-hearing procedures following a conditional writ, held that 8 U.S.C. § 1226(e) did not bar review of that due process challenge, and explained that the Board lacks jurisdiction to resolve the constitutional issue presented.
46. In *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court likewise excused exhaustion because the challenge concerned the constitutional adequacy of the procedures employed after the writ had already issued, and because the BIA could not grant effective relief on the constitutional question presented.

47. Exhaustion should therefore be excused here for the same reasons.

VI. LEGAL FRAMEWORK

48. Before a final order becomes final for custody purposes, an Immigration Judge is authorized to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released. 8 C.F.R. § 1236.1(d)(1).

49. Petitioner incorporates by reference the statutory and related arguments presented in his prior habeas action, including the argument that he is detained under 8 U.S.C. § 1226(a), as this Court has repeatedly recognized in materially similar cases.

50. In *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL (M.D. Ga. Nov. 1, 2025), and later orders relying on it, this Court recognized that similarly situated interior detainees are detained under § 1226(a), not mandatory detention.

51. This petition does not repeat those statutory arguments at length because they were already raised in the prior action and incorporated herein and because the central issue now is the constitutional sufficiency of the hearing that followed and Petitioner's now prolonged, over 180 days' detention without being subject to a final order of removal.

VII. CAUSES OF ACTION

COUNT ONE

Violation of the Fifth Amendment Procedural Due Process

52. The March 31, 2026 hearing was constitutionally defective because the Immigration Judge denied bond on the ground that Petitioner failed to prove that he is not a significant flight risk.
53. That burden allocation is incompatible with due process after prolonged detention.
54. In *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1342 (M.D. Ga. 2020), the court held that due process requires the Government to prove by clear and convincing evidence that detention is justified.
55. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), the court held that a post-habeas bond hearing was constitutionally inadequate where it was not individualized and the burden was placed on the detainee.
56. In *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court held the same.
57. The March 31, 2026 hearing suffered from the same defect. The Immigration Judge denied bond because Petitioner did not carry the burden.
58. Because Petitioner's present detention rests on that defective hearing, his continued detention violates the Due Process Clause.

COUNT TWO

Prolonged Detention Without a Constitutionally Adequate Hearing

59. By March 31, 2026, Petitioner asserted that he had already been detained for over eight months.
60. In *S.C. v. Warden, Stewart Det. Ctr.*, No. 4:23-CV-64-CDL-MSH (M.D. Ga. Jan. 5, 2024), the court explained that *Demore v. Kim*, 538 U.S. 510, 529 (2003), relied on statistics showing detention lasted an average of 47 days in most cases and about four months in cases in which the noncitizen appealed to the Board, while *Zadvydas* treated six months as the presumptively reasonable period for post-final-order detention.
61. In *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the Supreme Court recognized that freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause. The constitutional concern is especially serious here because Petitioner remains detained while review of his immigration case is still pending, yet his continued custody rests on a hearing that placed the burden on him rather than on the Government.
62. Here, the March 31, 2026 bond order states that the denial of relief in Petitioner's immigration case was on appeal, yet bond was denied because Petitioner failed to carry the burden of disproving flight risk. According to the TRAC EOIR Quick Facts report, 3,318,099 active cases were pending before the Immigration Court at the end of February 2026, and 2,322,671 immigrants were awaiting asylum hearings.

63. This record demonstrates that Petitioner's detention already exceeded the six-month period discussed in *Zadvydas* and far exceeded the brief periods discussed in *Demore*, even though Petitioner remains in pre-final-order detention.
64. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), and *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court ordered new hearings with the burden on the Government and required release if a constitutionally adequate hearing was not provided within seven days.
65. Petitioner's detention has become unreasonably prolonged, and the only hearing provided to him was defective.
66. Under these circumstances, continued detention is unconstitutional and immediate release is warranted.

COUNT THREE

Alternative Request for New Hearing With Required Safeguards

67. Petitioner realleges and incorporates by reference all preceding paragraphs.
68. If the Court declines to order immediate release, the minimum constitutionally adequate remedy is a prompt new bond hearing before an Immigration Judge.
69. In *J.G.*, 501 F. Supp. 3d at 1342, the court required the Government to prove by clear and convincing evidence that detention was justified.
70. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), the

court ordered a new, individualized bond hearing within seven days and required the Government to bear the burden of proving by clear and convincing evidence that detention was justified.

71. In *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court likewise ordered a new, individualized hearing, required the Government to bear the burden by clear and convincing evidence, and required the Immigration Judge to consider non-bond alternatives and the detainee's financial circumstances and ability to pay.

72. That same relief is warranted here at minimum.

VIII. REMEDY

73. Immediate release is the proper remedy because Petitioner has already litigated one habeas case, the Court already ordered a hearing, Respondents did not timely provide a constitutionally compliant hearing, and the hearing ultimately provided was constitutionally defective.

74. The constitutional violation is ongoing because Petitioner remains detained by virtue of that defective March 31, 2026 hearing.

75. The TRAC EOIR Quick Facts report reflects that 3,318,099 active cases were pending before the Immigration Court at the end of February 2026. That backlog makes continued detention while administrative review proceeds especially difficult to justify.

76. If the Court declines to order immediate release, the Court should order a new

bond hearing within seven days.

77. At any new hearing, the Government shall bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or a danger to the community. In *Lopez Perez v. Paulk*, No. 7:26-cv-00029-WLS-ALS (M.D. Ga. Apr. 6, 2026), and *D.Y.E.H. v. Warden, Irwin Detention Ctr.*, No. 7:25-cv-201-WLS-AGH (M.D. Ga. Apr. 6, 2026), the court required that burden allocation after explaining that 8 U.S.C. § 1226(a) is silent on burden allocation, that the contrary practice derives from Board precedent applying 8 C.F.R. § 1236.1(c)(8), and that after *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024), a district court must exercise independent judgment rather than defer to the agency on that question.
78. Any new hearing shall be genuinely individualized and reflective of consideration of all evidence presented, rather than categorical assumptions arising from the mere existence of removal proceedings or the pendency of relief.
79. If any bond is set, the Immigration Judge should be required to consider Petitioner's financial circumstances, ability to pay, and less restrictive alternatives to detention.
80. If Respondents fail to provide a constitutionally adequate hearing within the time set by the Court, Petitioner should be released immediately.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Respondents to immediately release Petitioner from custody;
3. Retain jurisdiction to enforce compliance with the Court's order.
4. In the alternative, order Respondents to provide Petitioner with a new, prompt, individualized bond hearing before an Immigration Judge within seven (7) days, and order that at any such hearing the Government bears the burden of proving by clear and convincing evidence that Petitioner is either a flight risk or a danger to the community;
5. Order that at any such hearing the Immigration Judge must consider less restrictive alternatives to detention and Petitioner's financial circumstances and ability to pay;
6. Order that if Respondents fail to provide the constitutionally adequate hearing within the time set by the Court, Petitioner shall be released immediately;
7. Grant declaratory and injunctive relief as necessary to effectuate the Court's ruling; and
8. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

This 22nd day of April, 2026.

/s/ Karen Weinstock

Karen Weinstock

Attorney for Petitioner

Weinstock Immigration Lawyers, P.C.

1827 Independence Square

Atlanta, GA 30338

Phone: (770) 913-0800

Fax: (770) 913-0888

kweinstock@visa-pros.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 U.S.C. § 2242.

This 22nd of April, 2026.

/s/ Karen Weinstock

Karen Weinstock

Attorney for Petitioner

Weinstock Immigration Lawyers, P.C.

1827 Independence Square

Atlanta, GA 30338

Phone: (770) 913-0800

Fax: (770) 913-0888

kweinstock@visa-pros.com