

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

LAURANT SOMMERVILLE,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26 cv 771 CDL-CHW
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On May 5, 2026, Petitioner filed a petition for a writ of habeas corpus (“Petition”). ECF No. 1. On May 5, 2026, the Court issued an Order directing Respondent to provide Petitioner with a bond hearing within seven days or show cause why the Court’s rulings in *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (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) do not control the result in this case. ECF No. 3.

BACKGROUND

Petitioner is a native and citizen of Haiti. Declaration of Deportation Officer Jason Godwin (“Godwin Decl.”) ¶ 4. On or about August 5, 2023, Petitioner applied for admission at the Miami International Airport port of entry in Miami, Florida. *Id.* ¶ 4. United States Customs and Border Protection (“CBP”) paroled Petitioner into the United States for a period of two years. *Id.* ¶ 4; Ex. A; Ex. B.

On August 21, 2024, Petitioner filed an application for Temporary Protected Status (“TPS”) with the United States Citizenship and Immigration Services (“USCIS”). Godwin Decl.

¶ 5 This application remains pending with USCIS. *Id.* ¶ 5; Ex. C. On November 28, 2025, the Secretary of Homeland Security terminated the TPS designation for Haitian citizens effective February 3, 2026. Godwin Decl. ¶ 6. On February 2, 2026, a District Court order stayed the termination of TPS for Haitian citizens until conclusion of the litigation. *Id.* ¶ 6.

On February 25, 2026, Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE/ERO”) encountered Petitioner at the Dekalb County Jail in Decatur, Georgia, following his arrest for domestic violence. *Id.* ¶ 7. ICE/ERO took Petitioner into custody and issued him a Notice to Appear (“NTA”) charging him as deportable pursuant to 8 U.S.C. § 1227(a)(1)(B). *Id.* ¶ 7; Ex. B; Ex. D. ICE/ERO subsequently transferred Petitioner to the Stewart Detention Center in Lumpkin, Georgia. Godwin Decl. ¶ 7.

On March 23, 2026, DHS filed a Form I-261 amending the NTA to correctly charge Petitioner as inadmissible pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I). *Id.* ¶ 8; Ex. E. On March 25, 2026, Petitioner appeared without counsel before an Immigration Judge (“IJ”) at the Stewart Immigration Court. Godwin Decl. ¶ 9. Petitioner admitted the allegations and conceded removability as stated in the Form I-261. *Id.* ¶ 9. Petitioner did not claim any relief from removal, and the IJ ordered his removal to Haiti. *Id.* ¶ 9; Ex. F. Petitioner reserved appeal. Godwin Decl. ¶ 9.

On March 27, 2026, Petitioner’s spouse filed a Form I-130, Petition for Alien Relative, with USCIS, which remains pending. *Id.* ¶ 10; Ex. G. On March 27, 2026, Petitioner appeared with counsel before an IJ for a custody redetermination hearing, where Petitioner withdrew his request. Godwin Decl. ¶ 11; Ex. H. The IJ granted the request, and no action was taken. Godwin Decl. ¶ 11.

On April 8, 2026, Petitioner filed an appeal of his removal order with the Board of

Immigration Appeals, which remains pending. *Id.* ¶ 12; Ex. I. On April 17, 2026, Petitioner appeared with counsel before an IJ for a custody redetermination hearing, where Petitioner again withdrew his request, the IJ granted the withdrawal, and no action was taken. Godwin Decl. ¶ 13; Ex. J. On April 20, 2026, Petitioner filed a motion to reopen with the IJ, which remains pending. *Id.* ¶ 14; Ex. K. On April 27, 2026, Petitioner appeared with counsel before an IJ for a custody redetermination hearing, where Petitioner withdrew his request a third time, the IJ granted the withdrawal, and no action was taken. Godwin Decl. ¶ 15; Ex. L.

Petitioner is currently an arriving alien detained by ICE/ERO at the Stewart Detention Center pursuant to 8 U.S.C. § 1225(b)(2); to wit 8 C.F.R. § 235.3(c)(1). Godwin Decl. ¶ 16.

ARGUMENT

Respondent respectfully shows the Court that Petitioner is not in the same factual or legal situation as the petitioners in *J.A.M.* and *P.R.S.* The issue in those cases centered on a question of statutory interpretation regarding 8 U.S.C. §§ 1225(b)(2) and 1226(a) and whether noncitizens present in the United States without admission—but who were not arrested at the border—can be subject to mandatory detention without a bond hearing. *J.A.M.*, 2025 WL 3050094, at *2-5. Petitioner’s case does not pose this issue because he is an “arriving alien,” a particular type of applicant for admission defined as one “coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2; 8 C.F.R. § 1001.1(q). Under 8 U.S.C. § 1225(a)(1), anyone who “arrives in the United States” is deemed an applicant for admission, and Petitioner triggered this status by physically applying for admission at the Miami International Airport port of entry on or about August 5, 2023. Godwin Decl. ¶ 4.

The rationale of *J.A.M.* and *P.R.S.* does not control the outcome here because those decisions dealt solely with noncitizens whose status as “applicants for admission” was based on

their unlawful presence in the interior after being arrested without inspection. In contrast, Petitioner was immediately inspected by an examining immigration officer at a port of entry. *Id.* ¶ 4. Because he was not “clearly and beyond a doubt entitled to be admitted,” he was paroled pending removal proceedings and subsequently became subject to the mandatory detention framework of 8 U.S.C. § 1225(b)(2)(A). For this specific class of noncitizen, the Supreme Court has held that the statute “mandates detention” throughout the completion of proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Furthermore, in the language of the *J.A.M.* decision, Petitioner is an “applicant for admission” who is “seeking admission” based upon his arrival at the border and application for admission to the United States at that time and is therefore properly subject to the mandatory detention framework of 8 U.S.C. § 1225(b)(2)(A).

This statutory framework remains completely undisturbed by Eleventh Circuit precedent, which consistently holds that paroled arriving aliens are legally detained at the threshold of the border. Indeed, the Eleventh Circuit’s recent decision in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 25 14065 (11th Cir. May 6, 2026), explicitly solidified this distinction, clarifying that 8 U.S.C. § 1225 governs arriving aliens who seek entry at the border while 8 U.S.C. § 1226 governs noncitizens who are unlawfully present in the interior. Because Petitioner is an arriving alien who presented himself at a port of entry rather than an unadmitted resident apprehended in the interior, the mandatory detention mandate of 8 U.S.C. § 1225(b)(2)(A) applies to him with full force.

While Petitioner was temporarily released on parole, this did not alter his immigration status. 8 U.S.C. § 1182(d)(5)(A) provides that parole “shall not be regarded as an admission of the alien.” The Eleventh Circuit has long recognized that arriving aliens remain “at the threshold” and are “legally considered detained at the border,” even if physically present in the country.

Garcia-Mir v. Smith, 766 F.2d 1478, 1484 (11th Cir. 1985). Once Petitioner was taken into ICE custody following his February 25, 2026, arrest for domestic violence, his status remained that of any other applicant for admission stopped at the border while “seeking admission,” and his case must “continue to be dealt with in the same manner as that of any other applicant for admission.” 8 U.S.C. § 1182(d)(5)(A); see also *Jean v. Nelson*, 721 F.2d 957, 970 (11th Cir. 1984).

Because Petitioner is an arriving alien and not a member of the class of interior-arrested noncitizens described in *J.A.M.*, his due process rights are limited to the procedures authorized by Congress. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). As the Supreme Court and Eleventh Circuit have consistently held, “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). Under current regulations, an Immigration Judge is expressly prohibited from redetermining custody conditions for “arriving aliens in removal proceedings.” 8 C.F.R. § 1003.19(h)(2)(i)(B). Since the INA statutes mandate detention for arriving aliens and do not permit their release on bond, Petitioner cannot establish that the lack of a bond hearing violates due process.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition. Pursuant to the Court’s Order (ECF No. 3), the determination that Petitioner is entitled to a bond hearing should be stayed until resolution of this Motion.

Respectfully submitted this 13th day of May, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: s/ Andressa Bryant
ANDRESSA BRYANT
Special Assistant United States Attorney*

Virginia Bar No. 92384
United States Attorney's Office
Middle District of Georgia
P.O. Box 1702
Macon, Georgia 31202
Telephone: (706) 577-2763
E-mail: Andressa.Bryant@usdoj.gov
*Acting Under Authority Conferred by
28 U.S.C. § 543

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:

LAURANT SOMMERVILLE

A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 12th day of May, 2026.

BY: s/ Andressa Bryant
ANDRESSA BRYANT
Special Assistant United States Attorney*