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

YADER FRANCISCO LOPEZ MONCADA,	:	
Petitioner,	:	
v.	:	**Case No. 4:26-cv-1078-CDL-CHW** **28 U.S.C. § 2241**
WARDEN, STEWART DETENTION CENTER, [1]	:	
Respondent.	:	

RESPONDENT'S MOTION TO DISMISS

On August 5, 2026, Petitioner filed a petition for a Writ of Habeas Corpus ("Petition"). ECF No. 1. Petitioner claims, among other things, that he is entitled to immediate release or a bond hearing. ECF No. 1. On August 7, 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. 3. 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

[1] In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in her Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] 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.

good faith motion is filed, then this order shall be stayed pending the resolution of that motion." ECF No. 3. Respondent now files this good faith motion to dismiss the Petition, showing that *J.A.M.* and *P.R.S.* do not control the result in this case and that the order for a bond hearing should be stayed and the Petition should be dismissed.

BACKGROUND

Petitioner is a native and citizen of Nicaragua who has been mandatorily detained at Stewart Detention Center pre-final order of removal pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii). Declaration of Deportation Officer John Simonton ("Simonton Decl.") ¶¶ 4, 17. On November 11, 2017, Petitioner was encountered by the U.S. Border Patrol within 14 days of his illegal entry into the United States and within 100 miles of the U.S. border. *Id.* ¶ 5. Petitioner was detained and processed for expedited removal pursuant to 8 U.S.C. § 1225(b)(1). *Id.* ¶ 5. Petitioner claimed relief from removal. *Id.* ¶ 6.

On December 23, 2017, U.S. Citizenship and Immigration Services ("USCIS") issued Petitioner a Notice to Appear ("NTA"), charging him as inadmissible pursuant to 8 U.S.C. §§ 1182(a)(6)(A)(i), 1182(a)(7)(A)(i)(I). Simonton Decl. ¶ 7 & Ex. A. On or about January 3, 2018, ICE/ERO released Petitioner on an ICE bond of $1,500. *Id.* ¶ 8. On October 13, 2018, Petitioner first appeared with counsel before an Immigration Judge in Miami Immigration Court, where he admitted the allegations, conceded inadmissibility, and filed an application for relief from removal. *Id.* ¶ 10.[2] On February 11, 2026, The Immigration Judge ("IJ") denied Petitioner's application and ordered Petitioner removed to Nicaragua. *Id.* ¶ 14. On March 6, 2026, Petitioner timely filed an appeal of the IJ's decision with the Board of Immigration Appeals. *Id.* ¶ 15. That appeal remains pending with the Board. *Id.* ¶ 15.

[2] Petitioner's complete history in removal proceedings is detailed in the Declaration of John Simonton. *See* Simonton Decl. ¶¶ 9-15.

On July 4, 2026, ICE/ERO took Petitioner into custody. Simonton Decl. ¶ 16. Petitioner is detained at Stewart Detention Center pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii). *Id.* ¶ 17.

LEGAL FRAMEWORK

The Court ordered that Petitioner be provided with a bond hearing based on its previous rulings in *J.A.M.* and *P.R.S.* which held that immigration detainees apprehended in the interior of the United States could not be detained pursuant to 8 U.S.C. § 1225(b)(2)(A), but instead were detained pursuant to § 1226(a) and entitled to a bond hearing. ECF No. 3. Petitioner, however, is not detained under § 1225(b)(2)(A) like the petitioners in *J.A.M.* and *P.R.S.* Rather, Petitioner was processed for expedited removal proceedings under § 1225(b)(1) and is detained pre-final order of removal under 8 U.S.C. § 1225(b)(1)(B)(ii). Simonton Decl. at ¶ 17. Even though he was later issued a Notice to Appear and released on an ICE bond, Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii), as discussed more fully below.

Expedited removal orders permit ICE/ERO to remove specific classes of inadmissible non-citizens without conducting removal proceedings under INA section 240, 8 U.S.C. § 1229a: (1) arriving aliens, and (2) certain inadmissible non-citizens who have not otherwise been admitted or paroled. 8 C.F.R. § 235.3(b)(1), (b)(2)(ii). First, 8 U.S.C. § 1225(a)(1) provides that "[a]n 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." These non-citizens—known as "arriving aliens"—are subject to expedited removal orders in two ways. 8 C.F.R. § 235.3(b)(1)(i). "If an immigration officer determines that an alien . . . who is arriving in the United States . . . is inadmissible under [8 U.S.C. §§] 1182(a)(6)(C) or 1182(a)(7)[,] the officer shall order the alien removed from the United States without further hearing or review unless the alien" intends to apply for asylum or claims a fear of persecution. 8 U.S.C. § 1225(b)(1)(A)(i). For arriving aliens who

claim a fear of persecution, "if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review." 8 U.S.C. § 1225(b)(1)(B)(iii)(I).

Second, 8 U.S.C. § 1225(b)(1)(A)(iii)(I) provides that DHS/ERO may apply expedited removal proceedings to an additional class of non-citizens. *See also* 8 C.F.R. § 235.3(b)(1)(ii). Specifically, this includes non-citizens who (1) have "not been admitted or paroled into the United States," and (2) have "not affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2 year period immediately prior to the date of the determination of inadmissibility[.]" 8 U.S.C. § 1225(b)(1)(A)(iii)(II). This subsection covers Petitioner.

If an immigration officer determines that a non-citizen is inadmissible and subject to expedited removal in one of these two manners, the "immigration officer shall advise the alien of the charges against him or her on Form I-860, Notice and Order of Expedited Removal, and the alien shall be given an opportunity to respond to those charges[.]" 8 C.F.R. § 235.3(b)(2)(i). If the charges are sustained, the "immigration official shall serve the alien with Form I-860[.]" *Id.* Thereafter, the non-citizen will be processed for removal. 8 C.F.R. § 235.3(b)(8).

If a non-citizen subject to an expedited removal order "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).

Detention of all aliens subject to expedited removal is mandatory. Specifically, an alien who has made the type of claim described in 8 U.S.C. § 1225(b)(1)(A)(ii), and who is determined to have a credible fear of persecution, "*shall be detained* for further consideration of the application for asylum." 8 U.S.C § 1225(b)(1)(B)(ii) (emphasis added). Under the INA, the only exception to mandatory detention of aliens subject to expedited removal is that ICE/ERO may—in its discretion—release such aliens on parole. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5(b), 235.3(c).

At the time of Petitioner's release on bond, however, a since-reversed BIA precedent governed the detention of aliens in removal proceedings under INA § 240. *See Matter of X-K-*, 23 I. & N. Dec. 731 (BIA 2005), *overruled by Matter of M S* , 271 I. & N. Dec. 509 (BIA 2019). Thus, under then-binding BIA precedent, Petitioner was understood to be entitled to a bond hearing under § 1226(a). This Court, however, found in *P.R.S.* that Respondent does not waive the right to detain a petitioner by failing to follow the mandatory detention authority of the statute at all times throughout the petitioner's removal proceedings. *P.R.S.*, 2025 WL. 3269947 at *2.

ARGUMENT

Petitioner contends that his continued detention is in violation of his due process rights. Pet. 6. He further argues that his arrest was unlawful and involved an unreasonable use of force in violation of the Fourth Amendment. *Id.* He argues that as he is not subject to a final order of removal, he cannot be detained under 8 U.S.C. § 1231. *Id.* Finally, Petitioner states that his "prolonged detention" is unjustified and argues that he is neither a danger to the community nor a flight risk. *Id.* at 7.

Petitioner's claims should be denied because he is not detained under § 1225(b)(2)(A), so his circumstance is distinguishable from that of the petitioners in *J.A.M.* and *P.R.S.* who were found

to be entitled to a bond hearing, and his detention is mandatory under the INA during his removal proceedings. Additionally, Petitioner's claims regarding his arrest and his arguments regarding dangerousness and flight risk are not properly before the Court in this habeas petition and should be dismissed. Lastly, Respondent does not contend Petitioner is detained pursuant to 8 U.S.C. § 1231, but instead § 1225(b)(1)(B)(ii), and therefore there is no dispute to adjudicate on that issue.

I. Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) and therefore not entitled to the bond hearing ordered in *J.A.M.* and *P.R.S.*

As set forth above, Petitioner is not detained under § 1225(b)(2)(A). Rather, he is detained pre-final order of removal under 8 U.S.C. § 1225(b)(1)(B)(ii). Simonton Decl. ¶ 17. And under § 1225(b)(1)(B)(ii), Petitioner's detention is mandatory, and he is not entitled to release or a bond hearing. After Petitioner was apprehended and detained, he was processed for expedited removal pursuant to § 1225(b)(1), but then referred to USCIS for consideration of his application for relief. *Id.* ¶ 6. Petitioner's removal proceedings were never terminated, only transferred to the immigration court for further consideration of his application for relief via a Notice to Appear. 8 U.S.C. § 1225(b)(1)(B)(ii); Simonton Decl. ¶ 7 & Ex. A. Under § 1225(b)(1)(B)(ii), the non-citizen "shall be detained" during those proceedings. *Id.*

This procedure is exactly how the statute was intended to operate, and at no point did Petitioner's detention authority shift from § 1225(b)(1)(B)(ii). Petitioner is in a similar circumstance to a petitioner ("G.A.G.C."), discussed in the Court's decision in *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL-CHW, 2025 WL 3269947 at *2 (M.D. Ga., Nov. 24, 2025). There, the Court denied the petition of G.A.G.C., who had been (1) initially detained shortly after an illegal entry, (2) "sought to lawfully remain based on allegations that he was entitled to asylum," (3) was "released from detention pending a decision on his asylum application," and (4) "his removal proceedings were never dismissed." *Id.* So too Petitioner here. There are only two distinctions

between Petitioner and G.A.G.C.: (1) that the initial determination of Petitioner's and G.A.G.C.'s claims were different, but this only means that G.A.G.C. was mandatorily detained pursuant to § 1225(b)(1)(B)(iii)(IV) and Petitioner is mandatorily detained pursuant to § 1225(b)(1)(B)(ii); and (2) G.A.G.C. was released from custody on an Order of Recognizance whereas Petitioner was released on an ICE bond pursuant to the then-binding BIA precedent of *Matter of X-K-*. Neither distinction affects the impact of the statute nor materially distinguishes Petitioner's case from G.A.G.C.'s case. The outcome of their habeas petitions should be the same.

As the Court held with regard to G.A.G.C., Petitioner was inspected by an examining immigration officer upon his initial entry and was subject to mandatory detention while his claim for relief was considered. The fact that he was released from custody while that claim was considered does not eliminate Respondent's authority to detain him without a bond hearing. As the Court stated with regard to G.A.G.C.: "[Respondent] did not waive the right to detain him by failing to follow the mandatory detention requirements of the statute." *P.R.S.*, 2025 WL. 3269947 at *2. Petitioner is not detained under § 1225(b)(2)(A), and he should be treated exactly like petitioner G.A.G.C. This claim should be denied.

II. Petitioner's Fourth Amendment claim is not cognizable in habeas.

Petitioner raises a claim that his arrest was unlawful and involved the unreasonable use of force. Pet. 6. Petitioner's Fourth Amendment claim should be denied because the claim is not cognizable in habeas, the Court lacks jurisdiction over the claim, and the Eleventh Circuit has declined to recognize a Fourth Amendment cause of action in this context under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

First, Petitioner's Fourth Amendment claim is not cognizable in habeas because it attempts to raise a civil claim concerning the nature of his arrest—not a challenge to his ongoing detention.

At most, this claim would amount to a *Bivens* claim against the officials who arrested. *See Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1205-1213 (11th Cir. 2016). Petitioner, however, may not raise habeas claims and a *Bivens* claim in the same action. *See Corbin v. Dep't of Veteran Affairs*, No. 2:15-cv-1174, 2015 WL 10384134, at *2 (N.D. Ala. Dec. 11, 2015). "Although the scope of the writ of habeas corpus has been extended beyond that which the most literal reading of the statute might require, the Court has never considered it a generally available federal remedy for every violation of federal rights." *Lehman v. Lycoming Cty. Children's Servs. Agency*, 458 U.S. 502, 510, (1982). "[W]hatever the expanded scope of our jurisdiction may be, the remedy that habeas corpus provides remains tied to some form of relief from the petitioner's custody." *Arnaiz v. Federal Satellite Low*, 594 F.3d 1326, 1329 (11th Cir. 2010) (per curiam). Given that Petitioner's Fourth Amendment claim challenges only the nature of his arrest and not his ongoing detention, the claim is not cognizable in habeas and should be denied.

Second, even if Petitioner's claim is generally cognizable in habeas, the Court lacks subject-matter jurisdiction over the claim. 8 U.S.C. § 1252(g) is a jurisdiction-stripping provision in the INA, which provides that

> [e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), . . . no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. U.S. Citizenship & Imm. Servs.*, 964 F.3d 1250, 1257-58 (11th Cir. 2020). Section 1252(g) applies "to three discrete actions that the Attorney General may take: [the] '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).

The Eleventh Circuit's opinion in *Gupta v. McGahey*, 709 F.3d 1062 (11th Cir. 2013), makes clear that the Court lacks jurisdiction over Petitioner's claim concerning the circumstances of his arrest. There, a non-citizen raised Fourth Amendment claims under *Bivens*, alleging, *inter alia*, that ICE/ERO officers "wrongfully procur[ed] a warrant for his arrest" and "arrest[ed] him unlawfully." *Gupta*, 709 F.3d at 1064. The district court dismissed the non-citizen's complaint, finding that 8 U.S.C. § 1252(g) deprived it of subject matter jurisdiction. *Id.* On appeal, the Eleventh Circuit affirmed, finding that "securing a[] [non-citizen] while awaiting a removal determination constitutes an action taken to commence proceedings" within the purview of section 1252(g). *Id.* at 1065; *see also id.* (holding that the non-citizen's "claims that [the ICE/ERO agents] illegally procured an arrest warrant, that the agents illegally arrested him, and that the agents illegally detained him each arise from an action taken to commence removal proceedings.").

Here, like the non-citizen in *Gupta*, Petitioner challenges ICE/ERO's actions in arresting him, alleging that the arrest was unlawful. Petitioner's arrest "constitutes an action taken to commence proceedings" within the meaning of section 1252(g). *Gupta*, 709 F.3d at 1065. As this Court has previously held, district courts lack jurisdiction over such claims. *See Cho v. United States*, No. 5:13-cv-153-MTT, 2016 WL 1611476, at *1 (M.D. Ga. Apr. 21, 2016) ("Plaintiff's claims that she was falsely arrested when she was transferred into ICE custody . . . 'challenge[] the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts.'" (quoting *Gupta*, 709 F.3d at 1065 (alterations in original))). Petitioner's Fourth Amendment claim should be denied.

Third, even if Petitioner's Fourth Amendment claim is cognizable in habeas and the Court has jurisdiction, the claim lacks merit. Any Fourth Amendment claim against the ICE/ERO and CBP officials who arrested Petitioner may only be raised under *Bivens*. However, the Eleventh Circuit has declined to recognize a *Bivens* cause of action arising from a non-citizen's arrest and detention by immigration officials. *Alvarez*, 818 F.3d at 1205-1213. Accordingly, even ignoring that Petitioner's Fourth Amendment claim is not cognizable in habeas and that the Court lacks jurisdiction over the claim, Petitioner's claim otherwise lacks merit.

III. Petitioner's arguments respecting the appropriateness of a bond are not properly directed to this Court.

Lastly, Petitioner attempts to explain to the Court why he should be released on bond and how his detention is not justified by any legitimate governmental interest. Pet. 7. To the extent Petitioner asks this Court to conduct a bond hearing and make a determination of the appropriateness of his release on bond, this Court is without jurisdiction to do so. If Petitioner were entitled to a bond hearing—which he is not—he would need to address his arguments to the immigration court. Under *J.A.M.* and *P.R.S.* this Court made clear that the appropriate remedy for a habeas petitioner who is improperly detained without bond in violation of the INA is a bond hearing under 8 U.S.C. § 1226(a) and the regulations promulgated thereunder. Thus, even if Petitioner was entitled to a bond hearing, his arguments should be raised before an IJ, not before this Court.

To the extent Petitioner is arguing that his detention violates due process because there is no legitimate interest in his detention during the pendency of his removal proceedings, this claim fails. 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 3572597, 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.

Most recently, in denying habeas relief to G.A.G.C., this Court implicitly determined that his detention under 8 U.S.C. § 1225(b)(1)(B)(ii) during removal proceedings was appropriate and therefore did not violate due process. *P.R.S.*, 2025 WL 3269947 at *2.

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 claims should be denied.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition. Pursuant to the Court's Order, the ordered bond hearing is stayed by the filing of this good faith motion.

Respectfully submitted, this 13th day of August, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2026, I served the foregoing **Respondent's Motion to Dismiss** to Petitioner via USPS upon the following.

Yader Francisco Lopez Moncada
A[redacted]
Stewart Detention Center
146 CCA Road
Lumpkin, GA 31815

This 13th day of August, 2026.

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