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

VADIM ODINTSOV,	:	
	:	
PETITIONER,	:	
	:	**CASE NO. 4:26-CV-1168-CDL-AGH**
V.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
	:	
Respondent.	:	

RESPONDENT'S MOTION FOR RELIEF FROM ORDER AND TO DISMISS PETITIONER'S HABEAS PETITION

On September 5, 2026, Petitioner filed his Petition for Writ of Habeas Corpus ("Petition"). ECF No. 1. On September 8, 2026, the Court issued an Order directing Respondent to provide Petitioner with a bond hearing within seven days or file a motion showing 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 outcome of this case. ECF No. 4.

BACKGROUND

For purposes of background, Respondent relies on the Declaration of Deportation Officer Kirk Scott ("Scott Decl."), submitted with this filing. The declaration accurately summarizes the

[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 his 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.

circumstances underlying Petitioner's custodial status and immigration history, and Respondent refers the Court to it for the factual record.

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)); *see also* 8 C.F.R. § 235.3(c)(1). 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 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).

ARGUMENT

Respondent respectfully shows the Court that Petitioner is an arriving alien who affirmatively sought lawful admission at a port of entry, and this Court's prior ruling in *C.R.H. v. Warden*, No. 4:26-cv-101 (CDL), Slip Op. at 5–6 (M.D. Ga. Sept. 9, 2026), directly controls the outcome to mandate detention under 8 U.S.C. § 1225(b)(2).

I. Petitioner Is an Arriving Alien Seeking Admission Within the Meaning of § 1225(b)(2), and This Court's Precedent in *C.R.H.* Controls.

Petitioner presented himself for inspection at the San Ysidro Port of Entry, affirmatively applied for admission, and a CBP officer determined that Petitioner was not clearly and beyond a doubt entitled to be admitted, prompting the initiation of removal proceedings under 8 U.S.C. § 1229a. Scott Decl. ¶ 4; Ex. A. Like the petitioner in *C.R.H.*, Petitioner was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), which expressly states that parole "shall not be regarded as an admission of the alien." Scott Decl. ¶ 4; Ex. B. Petitioner's removal proceedings remain pending, and he has continued to actively litigate his claims, including through multiple venue changes and filings. Scott Decl. ¶¶ 5, 8–15.

As this Court held under materially identical circumstances in *C.R.H.*, when a noncitizen has affirmatively applied for admission and continues to pursue admission through ongoing removal proceedings, that individual remains an "alien seeking admission" subject to mandatory detention under § 1225(b)(2). *C.R.H.*, Slip Op. at 5–6. Petitioner's posture is indistinguishable from *C.R.H.*, and the same statutory outcome follows here.

II. Parole Does Not Terminate Arriving Alien Status, and Petitioner Returned to Mandatory Detention When Parole Ended.

Discretionary parole does not constitute admission, alter arriving-alien status, or waive DHS's detention authority under § 1225(b). This Court has expressly recognized that releasing an

applicant for admission on parole while their claims are pending does not invalidate or waive § 1225(b)'s mandatory detention authority. *See P.R.S. v. Streeval*, No. 4:25-CV-330, 2025 WL 3269947, at *2 (M.D. Ga. Nov. 24, 2025) (discussing G.A.G.C. and holding that discretionary parole does not eliminate statutory mandatory-detention obligations under § 1225(b)).

The record shows Petitioner's parole expired on January 12, 2024. Scott Decl. ¶ 4; Ex. B. Petitioner was thereafter released at liberty under reporting obligations until August 26, 2026, when he reported to the ERO Charlotte office and was arrested, at which point he lawfully returned to mandatory detention status under § 1225(b)(2). Scott Decl. ¶ 15.

The Supreme Court has long held that arriving-alien status is not terminated by physical presence, length of residence in the interior, or years of parole. *See Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020); *Leng May Ma v. Barber*, 357 U.S. 185, 188 (1958). Petitioner's three-plus years of presence in the United States therefore do not alter his statutory status.

III. Binding Circuit Distinctions and This Court's Consistent Precedent Foreclose § 1226(a) Application.

Petitioner relies heavily on *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026), but as this Court explained in *C.R.H.*, that decision addressed individuals who "entered the United States without inspection" and who "were only present in the country" without pursuing any cognizable process of lawful entry. *C.R.H.*, Slip Op. at 5 (quoting *Hernandez Alvarez*, 175 F.4th at 1269). The Eleventh Circuit underscored that mandatory detention under § 1225(b)(2) applies to arriving aliens seeking lawful entry, but not to noncitizens who never sought admission and simply crossed the border without inspection. *See Hernandez Alvarez*, 175 F.4th at 1262, 1268–69.

This Court made clear in *C.R.H.* that the statutory distinction is dispositive. Individuals inspected at a port of entry, charged as arriving aliens, and actively seeking admission through

ongoing removal proceedings fall squarely within § 1225(b)(2). By contrast, the petitioners in *Hernandez Alvarez* had never approached a port of entry, never presented themselves for inspection, and never applied for admission. Petitioner here did precisely what those petitioners did not: he sought lawful entry at San Ysidro, underwent inspection by CBP, and was charged as an arriving alien on that basis. Scott Decl. ¶ 4; Ex. A. His subsequent filings, venue changes, and continued litigation in removal proceedings confirm he remains within the statutory process governing applicants for admission. Scott Decl. ¶¶ 5, 8–15.

This Court's earlier decisions in *J.A.M. v. Streeval*, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), and *P.R.S. v. Streeval*, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), likewise addressed noncitizens who entered the United States without inspection and therefore did not qualify as "aliens seeking admission" under § 1225(b)(2). Those petitioners were present in the interior without ever having sought lawful entry. Petitioner's posture is the opposite: he affirmatively applied for admission, received an arriving-alien charge at the border, and remains in a pending removal proceeding arising directly from that inspection. Scott Decl. ¶¶ 4–15.

Under *C.R.H.*, Eleventh Circuit precedent, and the statutory framework governing arriving aliens, § 1226(a) does not apply to Petitioner, and he is not eligible for a bond hearing.

IV. Procedural Due Process Claims Are Governed by Established Authority.

Petitioner's due-process arguments overlook that arriving aliens possess only the procedural protections Congress has elected to provide. *Thuraissigiam*, 591 U.S. at 131–40. Section 1225(b)(2) mandates detention without requiring an individualized bond hearing, and arriving aliens may not seek custody review before an immigration judge. 8 C.F.R. § 1003.19(h)(2)(i)(B); *see Jennings v. Rodriguez*, 583 U.S. 281, 303–06 (2018).

Respondent provided all statutorily required process at the moment Petitioner was served with the Notice to Appear and related documentation on August 26, 2026. Scott Decl. ¶ 15. The Constitution demands nothing further.

CONCLUSION

For the reasons set forth above, Respondent respectfully requests that the Court dismiss the Petition or stay the bond-hearing requirement in its September 8, 2026 order. Petitioner is an arriving alien properly detained under 8 U.S.C. § 1225(b)(2) and is not entitled to a bond hearing.

Respectfully submitted this 11th day of September, 2026.

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