

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

M.O.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-cv-169-CDL-ALS
	:	28 U.S.C. § 2241
Warden, STEWART DETENTION,	:	
CENTER,	:	
	:	
Respondent.	:	

RECOMMENDATION

Petitioner is a native and citizen of Nigeria who was admitted into the United States as a conditional permanent resident on October 20, 2016. (Doc. 6-1, at ¶ 4). On September 3, 2019, he adjusted status to lawful permanent resident. *Id.* Petitioner is married to a United States citizen and has resided in North Carolina since 2016, where he operates a small business. (Doc. 4, at 1).

On November 18, 2021, Petitioner was convicted of Felony Hit and Run/Serious Injury/Death in Mecklenburg County, North Carolina Superior Court. (Doc. 6-1, at ¶ 5); (Doc. 6-3). Petitioner was sentenced to 13 to 25 months in custody with a suspended sentence of supervised probation for 30 months. *Id.* Petitioner served 30 days in county jail. (Doc. 1, at 1).

On January 23, 2024, Petitioner entered Immigration and Customs Enforcement (“ICE”) custody pursuant to 8 U.S.C. § 1226(c) and was transported to the Alamance County Detention Facility in Graham, North Carolina. (Doc. 6-1, at ¶ 6). On the same date, Petitioner was issued a Notice to Appear charging him with removability under 8 U.S.C. § 1227(a)(2)(A)(i) for conviction of a crime involving moral turpitude. *Id.*

On April 2, 2025, the Immigration Judge terminated Petitioner's removal proceedings,

finding that DHS did not meet its burden of proving by clear and convincing evidence that Petitioner was removable as charged under 8 C.F.R. § 1240.8(a). (Doc. 1-1, at 1); (Doc. 6-1, at ¶ 21). The Immigration Judge determined that the North Carolina statute for hit and run, N.C. Gen. Stat. Ann. § 20-166, does not constitute a crime involving moral turpitude. *Id.* DHS timely appealed the termination order to the Board of Immigration Appeals. (Doc. 6-1, at ¶ 22); (Doc. 6-12).

On May 15, 2025, following a bond hearing, the Immigration Judge granted Petitioner's motion for bond redetermination and set bond at \$5,000. (Doc. 6-1, at ¶ 23); (Doc. 6-14); (Doc. 1-1, at 1). The Immigration Judge found that Petitioner was neither a danger to the community nor a flight risk. (Doc. 6-15, at 4). On May 30, 2025, in accordance with 8 C.F.R. § 1003.19(i)(2), DHS filed a Notice of ICE Intent to Appeal Custody Redetermination (Form EOIR-43), invoking an automatic stay of the bond order. (Doc. 6-1, at ¶ 24); (Doc. 6-16); (Doc. 1, at 1). DHS timely filed its notice of appeal with the BIA and completed briefing by July 8, 2025. (Doc. 6, at 4); (Doc. 6-1, at ¶ 25).

Petitioner filed his application for habeas relief on June 4, 2025. (Doc. 1). As of that date, Petitioner had been detained for nearly eighteen months. (Doc. 4, at 1); (Doc. 6, at 1) (“On or about January 23, 2024, Petitioner entered [ICE] custody”). Petitioner filed a supplemental petition on June 20, 2025. (Doc. 4). Both appeals—the termination order and the bond decision—remain pending with the BIA. (Doc. 10, at 1).

Petitioner contends his detention violates due process and requests immediate release from custody. (Doc. 1, at 2). Petitioner appears to raise two separate claims: (1) his detention pursuant to section 1226(c) has become unconstitutionally prolonged, and (2) his detention pursuant to DHS's invocation of an automatic stay of the Immigration Judge's bond decision violates due

process. *Id.*

Respondents moved to dismiss the petition on July 11, 2025. (Doc. 6). The Court received Petitioner's response to the motion on July 22, 2025. (Doc. 8). Respondent filed a Reply on August 5, 2025. (Doc. 10). This case is now ripe for review.

DISCUSSION

Respondent's Motion to Dismiss

Respondent moves to dismiss the petition, contending (1) that Petitioner's mandatory pre-final order detention under section 1226(c) complies with due process; (2) the constitutional claims are moot because Petitioner has received bond hearings; and (3) Petitioner's detention pursuant to the automatic stay complies with due process. (Doc. 6, at 8).

I. The Court Has Jurisdiction Over This Habeas Petition

As a threshold matter, Respondent raises a non-enumerated issue of subject matter jurisdiction, stating, "Here, the Court lacks subject matter jurisdiction to review DH's decision to invoke the automatic stay..." (Doc. 6, at 14). The Court has jurisdiction to consider Petitioner's constitutional challenges to his prolonged detention under 28 U.S.C. § 2241. The Middle District of Georgia has consistently exercised jurisdiction over similar constitutional challenges to prolonged detention under § 1226(c). *See, O.D. v. Warden, Stewart Det. Ctr.*, No. 4:20-cv-222-CDL-MSH, 2021 WL 5413968, at *5 (M.D. Ga.) (report and recommendation), adopted by 2021 WL 5413966 (M.D. Ga. Apr. 14, 2021) (exercising jurisdiction over § 1226(c) constitutional challenge); *D.J.A. v. Warden, Stewart Det. Ctr.*, No. 4:21-cv-141-CDL-MSH, slip op. at 5-6 (M.D. Ga. Dec. 7, 2021) (report and recommendation) adopted by slip op. (M.D. Ga. Jan. 20, 2022); *S.C. v. Warden, Stewart Det. Ctr.*, No. 4:23-cv-64-CDL-MSH, slip op. (M.D. Ga. Jan. 5, 2024) (report and recommendation) adopted by 2024 WL 790377 (M.D. Ga. Feb. 26, 2024) (same).

The Supreme Court has confirmed that § 1226(e)'s jurisdictional bar “does not block lawsuits over the extent of the Government's detention authority under the statutory framework as a whole.” *Nielsen v. Preap*, 139 S. Ct. 954, 962 (2019) (internal quotations omitted); *see also Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (§ 1226(e) permits “challenges to the statutory framework”). Thus, the Court may properly consider Petitioner's constitutional claims regarding his prolonged detention and the automatic stay regulation.

II. Petitioner's Prolonged Detention Claim Is Moot

Petitioner asserts that his detention of over eighteen months under § 1226(c) violates due process. (Doc. 4, at 1-2). He seeks “immediate release from detention” as a remedy. (Doc. 1, at 4). However, this claim is now moot because Petitioner has already received the only relief available for allegedly unconstitutional prolonged detention—an individualized bond hearing.

The Eleventh Circuit and other courts have consistently held that when § 1226(c) detention becomes unconstitutionally prolonged, the remedy is not automatic release but rather an individualized bond hearing. *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1221 (11th Cir. 2016) (ordering “an individualized bond inquiry within ten days”), *vacated on other grounds*, 890 F.3d 952 (11th Cir. 2018); *see also Reid v. Donelan*, 819 F.3d 486, 501 (1st Cir. 2016) (affirming order for bond hearing); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 233 (3d Cir. 2011) (requiring “an individualized inquiry into whether detention is still necessary”).

Here, the record establishes that on May 15, 2025, an Immigration Judge granted Petitioner bond in the amount of \$5,000. (Doc. 6-1, at ¶ 23); (Doc. 6-14). This bond hearing occurred after Petitioner had been detained for approximately sixteen months. (Doc. 1, at 1; Doc. 4, at 1). Because Petitioner has received the precise relief that this Court could order—a bond hearing with an individualized determination—his prolonged detention claim is moot. The Constitution requires a

meaningful opportunity to be heard, not a guaranteed favorable outcome. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). That DHS invoked an automatic stay preventing Petitioner from posting bond does not resurrect his moot detention claim. The automatic stay raises a distinct legal question separate from whether he received due process through a bond hearing.

“Article III of the Constitution limits federal courts to the adjudication of actual, ongoing controversies.” *Deakins v. Monaghan*, 484 U.S. 193, 199 (1988). Where a habeas petitioner has “obtained all the relief that [he] sought,” the case is moot. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). As the government correctly notes, even if this Court were to find that eighteen months of § 1226(c) detention violates due process, it could only order what has already occurred—a bond hearing. (Doc. 6 at 11). Accordingly, Petitioner’s prolonged detention claim under § 1226(c) is moot.

III. The Court Declines to Reach Petitioner's Challenge to the Automatic Stay

Petitioner separately challenges the automatic stay provision of 8 C.F.R. § 1003.19(i)(2), arguing it “violates Petitioner’s procedural due process rights” by rendering the Immigration Judge’s bond decision “merely a formality with no legal significance.” (Doc. 1, at 2, 4). While this presents a facial challenge to the regulatory framework that falls within the Court’s jurisdiction under § 1226(e), the Court declines to reach this constitutional question.

“Article III of the Constitution limits the jurisdiction of federal courts to the consideration of ‘Cases’ and ‘Controversies’.... In turn, the ‘case or controversy’ constraint imposes on federal courts a ‘dual limitation’ known as ‘justiciability,’” a doctrine that ““prevents courts from encroaching on the powers of the elected branches of government and guarantees that courts consider only matters presented in an actual adversarial context.”” *Soliman v. United States ex rel. INS*, 296F.3d 1237, 1242 (11th Cir. 2002) (citations omitted); *see also Al Najjar v. Ashcroft*, 273

F. 3d 1330, (11 Cir. 2001) (same). “The doctrine of mootness derives directly from the case or controversy limitation because ‘an action that is moot cannot be characterized as an active case or controversy’ ... ‘a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.’” *Soliman*, 296 F.3d at 1242 (citations omitted).

Because Petitioner has already received the relief he requests, namely, a bond hearing, the issue is moot. This Court can no longer grant meaningful relief. *See, Id.*

CONCLUSION

For the foregoing reasons, the Court finds that Petitioner's challenge to his prolonged detention under § 1226(c) is **MOOT** because he has received an individualized bond hearing—the only relief available for such claims. The Court further **DECLINES** to reach Petitioner's constitutional challenge to the automatic stay regulation. Accordingly, Respondent's Motion to Dismiss (Doc. 6) should be **GRANTED**, and the Petition for Writ of Habeas Corpus (Doc. 1) should be **DISMISSED WITHOUT PREJUDICE**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within FOURTEEN (14) DAYS after being served with a copy hereof. Any objection should be no longer than TWENTY (20) PAGES in length. *See* M.D. Ga. L.R. 7.4. The district judge shall make a *de novo* determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for

failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO RECOMMENDED, this 14th day of August, 2025.

s/ ALFREDA L. SHEPPARD
UNITED STATES MAGISTRATE JUDGE