

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

FELIZ PEDRO ARAGON MURILLO,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:26-CV-00178-CDL-ALS
	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,¹	:	
	:	
	:	
Respondent.	:	

MOTION TO DISMISS PETITION

On January 30, 2026, Petitioner filed his Petition for Writ of Habeas Corpus (Petition). ECF No. 1. Petitioner claims, among other things, that he is entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). ECF No. 1. On February 2, 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 good faith motion is filed, then this order shall be stayed pending the resolution of

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.

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 pre-final order of removal pursuant to 8 U.S.C. § 1225(b)(1). Declaration of Deportation Officer Lia Chamblis (“Chamblis Decl.”) at ¶ 4 & Ex. A.

On January 25, 2016, U.S. Customs and Border Protection (CBP) encountered Petitioner in Hidalgo, Texas, less than 100 miles from the U.S./Mexico border, after he unlawfully entering the U.S. Petitioner *Id.* ¶ 5 & Ex. A. The next day, Petitioner was taken into Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE/ERO”) custody and placed into expedited removal proceedings pursuant to section 235(b)(1) of the Immigration and Nationality Act (“INA”) (8 U.S.C. § 1225(b)(1)) through service of Form I-860, Notice and Order of Expedited Removal. *Id.* ¶ 6 & Ex. B. Petitioner claimed relief from removal. *Id.* ¶ 7. The United States Citizenship and Immigration Services (“USCIS”) made a positive initial determination as to his claim. *Id.* ¶ 7. On May 10, 2016, USCIS served Petitioner a Form I-862 Notice to Appear (“NTA”), referring Petitioner to the Immigration Court for further review of his application for relief and alleging inadmissibility pursuant to section 212(a)(7)(A)(i)(I) of the INA (8 U.S.C. § 1182(a)(7)(A)(i)(I)). *Id.* ¶ 7 & Ex. C.

On May 12, 2016, Petitioner appeared before an Immigration Judge at the Pearsall, Texas Immigration Court and requested bond. Chamblis Decl. ¶ 8. The Immigration Judge granted Petitioner a bond in the amount of \$5,000. *Id.* ¶ 8 & Ex. D. On May 25, 2016, Petitioner bonded

out of custody. *Id.* Petitioner later filed an application for relief from removal with the Immigration Court. *Id.* ¶ 9.

On May 11, 2022, Petitioner was convicted of driving under the influence of alcohol and driving without a license and was sentenced to confinement for 1 day, probation for 12 months, ordered to complete 40 hours of community service and a risk reduction program, and ordered to pay a fine of \$1624.25 for the DUI and \$973 for driving without a license. *Id.* ¶ 10 & Ex. E.

On November 17, 2025, ICE/ERO encountered Petitioner in Brookhaven, Georgia, and took Petitioner into custody. Chamblis Decl. ¶ 11 & Ex. F. On November 21, 2025, ICE/ERO served the Atlanta Immigration Court with Form I-830, Notice to EOIR Alien Address, to notify the court of his detention and for subsequent change of venue to the Stewart Immigration Court. *Id.* ¶ 12 & Ex. G. On February 2, 2026, ICE/ERO finalized the cancellation of Petitioner's bond. *Id.* ¶ 13.

Petitioner is currently detained at Stewart Detention Center under INA § 235(b)(1)(B)(ii) (8 U.S.C. § 1225(b)(1)(B)(ii)). *Id.* ¶ 14. If Petitioner becomes subject to a final order of removal to Nicaragua, there is a significant likelihood of removal in the reasonably foreseeable future. *Id.* ¶ 15. Nicaragua is open for international travel, and ICE/ERO routinely removes non-citizens to Nicaragua. Chamblis Decl. ¶ 15.

LEGAL FRAMEWORK

The Petition is premised entirely on the mistaken contention that Petitioner is being improperly detained under 8 U.S.C. § 1225(b)(2)(A) and the Board of Immigration Appeals' (BIA) recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Pet. ¶ 1. Petitioner is not detained under § 1225(b)(2)(A). Rather, Petitioner was processed for expedited removal proceedings under INA § 235(b)(1) and is detained pre-final order of removal under

§ 235(b)(1)(B)(ii) (8 U.S.C. § 1225(b)(1)(B)(ii)). Chamblis Decl. ¶¶ 6, 14, & Ex. B. Notwithstanding that he was previously granted a bond in 2016 and issued a Notice to Appear following an initial determination by USCIS on his claim for relief from removal, Petitioner remains 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. § 253.3(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. § 253.3(b)(1)(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. § 253.3(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. § 253.3(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. § 253.3(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) (emphasis added).

Detention of all aliens subject to expedited removal is mandatory, and 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). The only exception 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).

ARGUMENT

Petitioner raises six claims for relief. The first four claims challenge the application of 8 U.S.C. § 1225(b)(2)(A) and the BIA’s recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) to all non-citizens present within the United States, who have not been admitted or paroled. Pet. ¶¶ 25-35. These claims should be denied because Petitioner is not detained under § 1225(b)(2)(A). The fifth claim, which asserts that Petitioner is entitled to a bond hearing under the Due Process Clause of the Fifth Amendment, should be denied because he has no due process right to a bond hearing. Lastly, his sixth claim should be denied because Petitioner is not a member of the “Bond Eligible Class” certified in *Maldonado Bautista v. Santacruz*, No.

5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) as he was apprehended upon arrival and is not detained pursuant to § 1225(b)(2)(A). Thus, the Petition should be denied in its entirety and the case should be dismissed.

I. Claims I-IV should be denied because Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(1)(B)(ii).

Petitioner claims that Respondent has violated the INA and the APA by detaining him pursuant to 8 U.S.C. § 1225(b)(2)(A)—as opposed to 8 U.S.C. § 1226(a)—without an individualized bond determination to determine whether she is a flight risk or a danger to the community. Pet. ¶¶ 25-35. As set forth above, however, 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). Chamblis Decl. ¶ 14. And under § 1225(b)(1)(B)(ii), Petitioner’s detention is mandatory and he is not entitled to a bond hearing.

On January 25, 2016, Petitioner was detained after he entered the United States without inspection. *Id.* ¶ 5 & Ex. A. He was processed for expedited removal pursuant to § 1225(b)(1), however, Petitioner requested referral to USCIS. *Id.* ¶¶ 6-7 & Ex. B. Petitioner’s removal proceedings were never terminated, only transferred to the immigration court for further consideration of her application for relief. 8 U.S.C. § 1225(b)(1)(B)(ii); Chamblis Decl. at ¶ 7 & Ex. C. Under that same subsection, the alien at issue “shall be detained” during those proceedings.

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. The only distinction is 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). 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 while that claim was considered does not eliminate Respondent’s authority to detain him without a bond hearing. Respondent did not waive the right to detain Petitioner by failing to follow the mandatory detention authority of the statute. *P.R.S.*, 2025 WL 3269947 at *2.² Petitioner is not detained under § 1225(b)(2)(A), and he should be treated exactly like petitioner G.A.G.C. These claims should be denied.

II. Claim 5 should be denied because Petitioner’s mandatory detention complies with due process.

As to Petitioner’s claim of due process violation by his mandatory detention, the Supreme Court has long held that the due process rights of aliens who have not “effected an entry” into the United States 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

² At the time Petitioner received a bond hearing, March 2016, a precedential decision from the Board of Immigration Appeals called *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005) controlled the jurisdiction of Immigration Judges and held that non-citizens processed for expedited removal but then issued a NTA following a claim for relief from removal were deemed eligible for a custody redetermination before the IJ. That decision has since been overruled by a subsequent Attorney General decision called *Matter of M-S-*, 27 I. & N. Dec. 509 (U.S. Atty. Gen. 2019), which held that such non-citizens are not eligible for bond.

that 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.

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 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 was detained shortly after an illegal entry] 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 applicant for admission 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 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). The Supreme Court in *Thurassigiam* made clear that this applies equally to an applicant for admission who, like Petitioner, was detained

shortly after unlawful entry and never “effected an entry” into the United States. 591 U.S. at 138 (citing *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

Courts throughout the country have reached the same conclusion as this Court: such 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 aliens in her position. 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 v. Rodriguez*, 583 U.S. 281, 300 (2018) (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 such 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.

As this Court has held—along with other courts around the country—because due process rights of aliens such as Petitioner are limited to the procedures provided by statute, such aliens have 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 due process claim should be denied.

III. Claim 6 should be denied because Petitioner is not a member of the *Maldonado Bautista* Bond Eligible Class and therefore not entitled to any relief based thereon.

In his sixth claim, Petitioner argues that the Court should grant relief on the basis of his membership in a class certified by the Central District of California in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). This claim should be dismissed because, *inter alia*, Petitioner does not meet the requirements of class membership.

The *Maldonado* court defined the certified class as follows:

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado, 2025 WL 3288403 at *9.

Petitioner fails to meet elements two and three of the class definition. First, Petitioner was apprehended upon arrival. Chamblis Decl. ¶ 5 & Ex. A. Second, Petitioner was processed for expedited removal and therefore is subject to detention under 8 U.S.C. § 1225(b)(1). *Id.* ¶ 6 & Ex. B. Respondent’s position is that no relief that was granted in *Maldonado Bautista* that is binding on this Court, but the issue is moot because since Petitioner is not a member of the class, he is not eligible for any relief ordered for that class, anyway. This claim should be dismissed as well.

CONCLUSION

For the reasons set forth above, Respondent respectfully requests that the Court dismiss the Petition.

Respectfully submitted this 6th day of February, 2026.

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