

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

MIA CRISTAL GUZMAN TAPIA
o/b/o J.T.

Petitioner,

v.

**WARDEN, STEWART DETENTION
CENTER,¹**

Respondent.

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**Case No. 4:26-CV-213-CDL-AGH
28 U.S.C. § 2241**

RESPONDENT'S RESPONSE TO PETITION

On February 5, 2026, Ms. Mia Cristal Guzman Tapia filed a putative next friend *pro se* application for habeas corpus relief (“Petition”) on behalf of Petitioner. ECF No. 1. On March 23, 2026, the Court ordered Respondent to respond to the Petition within twenty-one (21) days. ECF No. 10. Petitioner challenges her detention at the Stewart Detention Center, alleging that (1) the duration of her custody is unconstitutional under *Zadvydas v. Davis*, (2) her arrest by ICE violated the Fourth Amendment, and (3) the conditions of her confinement violate due process. Pet. 1–3.

The Petition should be dismissed in its entirety for three reasons: (1) Petitioner’s reliance on *Zadvydas* is misplaced because she is in pre-final order detention, rendering the claim legally inapplicable; (2) her challenges to the conditions of her confinement and medical care are not

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice (“DOJ”), Department of Homeland Security (“DHS”), and Immigration and Customs Enforcement (“ICE”) 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.

cognizable in a habeas proceeding; and (3) this Court lacks subject-matter jurisdiction over the Fourth Amendment claim under 8 U.S.C. § 1252(g).

BACKGROUND

Petitioner is a native and citizen of the Dominican Republic who has been detained at the Stewart Detention Center pre-final order of removal pursuant to 8 U.S.C. § 1225(b)(2)(A). Declaration of Acting Supervisory Detention and Deportation Officer David Graumenz (“Graumenz Decl.”) ¶¶ 4, 18 & Ex. A. On March 3, 2023, Petitioner was encountered by United States Customs and Border Protection (“CBP”) at or near Yuma, Arizona. *Id.* ¶ 5. Petitioner was not admitted or paroled into the United States. *Id.* The same day, CBP issued Petitioner a Notice to Appear (“NTA”), charging her as inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* ¶ 6 & Ex. B.

On July 29, 2025, Petitioner appeared, with counsel, for an initial master calendar hearing. Graumenz Decl. ¶ 7. Petitioner’s counsel requested time to prepare for the case. The Immigration Judge (“IJ”) granted the request and adjourned the hearing to March 11, 2026. *Id.* & Ex. C. On December 4, 2025, ICE/ERO encountered Petitioner at the Wake County Detention Center following her arrest for Breaking or Entering a Building with Intent to Terrorize or Injure in violation of North Carolina General Statute § 14-54(a1). Graumenz Decl. ¶ 8 & Ex. D. ICE/ERO placed a detainer on Petitioner and issued a warrant of arrest. *Id.* On December 7, 2025, Petitioner entered ICE/ERO custody. *Id.* ¶ 8.

On February 5, 2026, Petitioner appeared with a non-primary attorney of record for a master calendar hearing. *Id.* ¶ 10. The attorney made an oral motion to withdraw as counsel from Petitioner’s case. The IJ granted the motion and adjourned the hearing to February 25, 2026, for the primary attorney to appear. *Id.* & Ex. E. On February 25, 2026, Petitioner appeared for a master

calendar hearing, but her attorney did not appear. *Id.* ¶ 11. The IJ adjourned the hearing to March 3, 2026, for Petitioner's attorney to appear. *Id.* & Ex. F. On March 2, 2026, the primary attorney on Petitioner's case filed a motion to withdraw as counsel. *Id.* ¶ 12. On March 3, 2026, Petitioner and her attorney appeared for a master calendar hearing, and the IJ granted the attorney's motion to withdraw. *Id.* ¶ 13.

Also on March 3, 2026, Petitioner requested voluntary departure. Graumenz Decl. ¶ 14. DHS opposed the request based on Petitioner's pending criminal charge. *Id.* The IJ denied Petitioner's request for voluntary departure and ordered her removed to the Dominican Republic. *Id.* & Ex. G. Petitioner reserved her right to appeal. *Id.* On March 30, 2026, Petitioner filed an appeal of the IJ's decision to the Board of Immigration Appeals ("BIA"). *Id.* ¶ 15 & Ex. H.

On March 31, 2026, the IJ held a bond redetermination hearing in response to the filing of the District Court's Order and Petitioner's habeas petition. *Id.* ¶ 16. The IJ took no action, noting that the petition had not been granted by the District Court. *Id.* & Ex. I. On April 6, 2026, the IJ held a bond redetermination hearing at Petitioner's request. *Id.* ¶ 17. The IJ denied bond, finding that he lacked jurisdiction to hold a bond hearing because Petitioner is detained under section 235(b) of the INA as an applicant for admission. *Id.* & Ex. J. Alternatively, the IJ found that Petitioner failed to meet her burden to show that she is not a danger to the community. *Id.*

If Petitioner becomes subject to a final order of removal, there is a significant likelihood of removal in the reasonably foreseeable future. The Dominican Republic is open for international travel, and ICE/ERO is currently removing non-citizens to the Dominican Republic. Graumenz Decl. ¶ 19.

LEGAL FRAMEWORK

A claim may proceed in this Court only if federal subject-matter jurisdiction exists. *Lifestar Ambulance Serv., Inc. v. United States*, 365 F.3d 1293, 1295 (11th Cir. 2004). This is because “[f]ederal courts are not courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto.” *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). “The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded.” *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978). Additionally, “[a] petitioner may not create the jurisdiction that Congress chose to remove simply by cloaking an . . . argument in constitutional garb.” *Arias v. U.S. Att’y Gen.*, 482 F.3d 1281, 1284 (11th Cir. 2007).

Section 1252(g) operates as “a ‘discretion-protecting provision’ designed to prevent the ‘deconstruction, fragmentation, and hence prolongation of removal proceedings,’” barring any court from exercising jurisdiction over claims arising from the Attorney General’s decision to “commence proceedings, adjudicate cases, or execute removal orders.” *Camarena v. Dir., Imm. & Customs Enf’t*, 988 F.3d 1268, 1272 (11th Cir. 2021) (quoting *AADC*, 525 U.S. at 487). 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. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original).

Whether a non-citizen is subject to a final order of removal or is being secured pending a removal determination, ICE/ERO’s decision to detain falls within the purview of the section 1252(g) jurisdictional bar. In the context of pre-final order detention, the Eleventh Circuit has held that “securing a[] [non-citizen] while awaiting a removal determination constitutes an action taken to commence proceedings” within the meaning of section 1252(g). *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This Court has reached the same conclusion. *Cho v. United States*, No. 5:13-cv-153-MTT, 2016 WL 1611476, at *7 (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)).

ARGUMENT

Petitioner raises four primary claims: (1) her prolonged immigration detention is unconstitutional under *Zadvydas v. Davis*, (2) her arrest by ICE via a detainer without a judicial warrant violated the Fourth Amendment, (3) the alleged psychological abuse and coercive tactics used by agents violate Substantive Due Process, and (4) the conditions of her confinement and alleged medical neglect at Stewart Detention Center are unconstitutional. Pet. 1–3.

As to Petitioner’s first claim, she relies on *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), for the argument that she has been detained longer than a reasonable period. However, *Zadvydas* only applies to individuals post-final order of removal, which Petitioner is not.² Petitioner’s remaining claims should be dismissed for two reasons: (1) her challenges to

² Nowhere in the Petition does Petitioner contest the statutory permissibility of her detention or claim that relief pursuant to this Court’s decisions in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH (M.D. Ga. Nov. 1, 2025), and

medical care and conditions of confinement are not cognizable in a habeas proceeding; and (2) this Court lacks jurisdiction over her Fourth Amendment and Substantive Due Process claims, which are non-cognizable in habeas and barred by Eleventh Circuit precedent. *See Vaz v. Skinner*, 634 F. App'x 778, 780 (11th Cir. 2015) (noting that a habeas petition is the proper vehicle to clarify the *fact or duration* of physical imprisonment, not the *conditions or procedures* of that imprisonment).

I. Petitioner's conditions of confinement claims are not cognizable in habeas corpus.

Petitioner's claims—centered on allegations of psychological distress and medical neglect—are fundamentally misplaced in a habeas petition. Although Petitioner frames these grievances as a basis for her immediate release, settled law dictates that such claims must be dismissed because (1) they fall outside the “core” of habeas corpus and (2) release is an unavailable remedy for conditions-of-confinement challenges.

First, this Court lacks subject-matter jurisdiction to hear conditions claims under § 2241. The “essence of habeas corpus is an attack by a person in custody upon the legality of that custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Claims that challenge the *quality* of care or the *circumstances* of detention, rather than the Government's statutory authority to hold the individual, “fall outside of that core.” *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). In the Eleventh Circuit, it is well-established that a “§ 2241 petition is not the appropriate vehicle” for such challenges. *Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015). If Petitioner wishes to

P.R.S. v. Streeval, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), may be available to her. Regardless, Petitioner has already received a bond redetermination hearing on April 6, 2026, where the IJ denied bond after finding that she failed to meet her burden to show she is not a danger to the community. Graumenz Decl. ¶ 17. Because Petitioner has not challenged the outcome of that hearing or raised a *J.A.M.* claim in her Petition, those issues are not before this Court.

litigate the adequacy of her medical care or her psychological treatment, she must do so through a civil rights action, not a writ of habeas corpus.

Second, even if Petitioner proves an allegation of mistreatment, she is not entitled to release. The appropriate relief is the correction of the condition, not the termination of lawful custody. Because Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2)(A), any alleged mistreatment would, at most, require a correction of the specific condition—not the termination of her detention. Consequently, because this Court cannot grant the requested remedy of release based on these allegations, the claims must be dismissed.

II. Petitioner’s Fourth Amendment and Substantive Due Process claims are not cognizable in habeas corpus.

Petitioner’s challenge to the validity of her arrest via an ICE detainer must be dismissed. This claim is a procedural attack on a past event—the initiation of her custody—rather than a challenge to the Government’s current statutory authority to hold her. The claim fails as a matter of law because (1) it is not a cognizable habeas claim, (2) this Court is stripped of jurisdiction by statute, and (3) there is no recognized cause of action for such a challenge in this circuit.

First, the Fourth Amendment claim is procedurally improper under § 2241. A challenge to the circumstances of an initial arrest does not implicate the legality of a Petitioner’s *current* detention. Because the writ of habeas corpus is reserved for relief from unlawful custody, and not for litigating the “how” or “why” of the underlying arrest, this claim falls outside the scope of habeas review. *See Arnaiz v. Warden, Fed. Satellite Low*, 594 F.3d 1326, 1329 (11th Cir. 2010).

Second, 8 U.S.C. § 1252(g) explicitly strips this Court of jurisdiction to hear this claim. Congress has mandated that “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.” 8 U.S.C. § 1252(g). The Eleventh Circuit has held that “securing an [alien] while awaiting a removal determination constitutes an action taken to commence proceedings” within the meaning of this statute. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). Because Petitioner’s claim arises directly from ICE’s decision to secure her via a detainer and warrant of arrest to commence removal proceedings, the Court is statutorily barred from reviewing the claim.

Third, even if this Court possessed jurisdiction, Petitioner’s claim lacks a legal basis. There is no recognized cause of action for damages or injunctive relief arising from an alien’s arrest and detention by immigration officials in this context. The Eleventh Circuit has specifically declined to extend a *Bivens* remedy to these circumstances, reinforcing that the Executive Branch’s authority to enforce immigration law is not subject to this type of judicial second-guessing. *See Alvarez v. U.S. Immigr. & Customs Enf’t*, 818 F.3d 1194, 1205–13 (11th Cir. 2016).

CONCLUSION

Petitioner’s claims are fundamentally incompatible with the writ of habeas corpus and must be dismissed. First, Petitioner’s reliance on *Zadvydas v. Davis* is misplaced; because she is in pre-final order detention under 8 U.S.C. §1225(b)(2)(A), the *Zadvydas* framework does not apply to her current custody. Second, her challenges to the conditions of her confinement and medical care are not cognizable in this proceeding and cannot, as a matter of law, entitle her to the remedy of release. Finally, 8 U.S.C. § 1252(g) statutorily bars this Court from reviewing her Fourth Amendment and Substantive Due Process claims, which improperly attempt to litigate the procedural circumstances of her arrest rather than the Government’s clear legal authority for her detention.

Because Petitioner has failed to establish any violation of her constitutional or federal statutory rights that would warrant the extraordinary relief of a writ of habeas corpus, Respondent respectfully requests that the Petition be dismissed.

Respectfully submitted, this 13th day of April, 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:

MIA CRISTAL GUZMAN TAPIA
as next friend of JOHANNY TAPIA



This 13th day of April, 2026.

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