UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LINO HERNANDEZ RAYA,

Petitioner,

v.

CASE NO. 4:26-cv-00817-CDL-ALS

WARDEN, STEWART DETENTION CENTER, et al.,

Respondents.

PETITIONER'S RESPONSE TO ORDER TO SHOW CAUSE

Petitioner, through undersigned counsel, respectfully responds to the Court's Order to Show Cause and submits that this action should not be dismissed. The bond hearing conducted on June 1, 2026 did not moot this case, did not resolve the statutory and constitutional claims presented in the Petition, and did not provide the relief this Court has the authority to grant. Petitioner remains unlawfully detained, and dismissal would extinguish meaningful judicial review of that detention.

I. PETITIONER REMAINS DETAINED AND THIS CASE IS NOT MOOT.

A case is moot only when "it is impossible for a court to grant any effectual relief whatever to the prevailing party." *Church of Scientology of Cal. v. United States,* 506 U.S. 9,

12 (1992) (citation omitted). That standard is not met here. Petitioner remains physically confined at Stewart Detention Center. He is detained today for the same reasons, by the same authority, under the same allegedly unlawful classification challenged in the Petition. "[A]s long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Knox v. Serv. Emps. Int'l Union, Local 1000,* 567 U.S. 298, 307-08 (2012) (citation omitted). Where a habeas petitioner "remains in custody," his case is live. *Spencer v. Kemna,* 523 U.S. 1, 7 (1998). Petitioner's ongoing confinement is the injury; the injury persists; this Court can remedy it. The case is not moot. *See also Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami,* 175 F.4th 1258, 1265 (11th Cir. 2026).

II. BINDING CIRCUIT PRECEDENT CONFIRMS PETITIONER IS ENTITLED TO A CONSTITUTIONALLY ADEQUATE § 1226(a) HEARING—WHICH HE HAS NOT RECEIVED.

The Eleventh Circuit's recent decision in *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami,* 175 F.4th 1258, 1265 (11th Cir. 2026), forecloses any argument that Petitioner is detained under 8 U.S.C. § 1225(b). *Hernandez Alvarez* held that noncitizens arrested in the interior of the United States after prior release are detained under 8 U.S.C. § 1226(a), not § 1225(b), and are entitled to an individualized bond hearing before an immigration judge. That holding is binding in this Circuit and directly controls here. Petitioner entered the United States in 2022, was paroled by DHS, complied with all reporting requirements, and was re-arrested years later in the interior. Under *Hernandez Alvarez,* he is a § 1226(a) detainee as a matter of law.

Section 1226(a) does not merely entitle a detainee to the occurrence of a hearing. It entitles him to a hearing conducted under the framework that statute prescribes: one at

which the Government bears the burden of justifying continued detention, the IJ weighs individualized factors, and the detainee has a meaningful opportunity to demonstrate that he does not present a danger or flight risk. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Matter of Guerra,* 24 I&N Dec. 37, 40 (BIA 2006). The June 1 bond order does not reflect that process. It reflects a one-line checkbox denial—"significant flight risk"—with no articulation of burden, no individualized analysis, and no engagement with Petitioner's history of full compliance, the dismissal of the sole charge underlying his re-detention, or his four years of lawful presence in the United States. *Hernandez Alvarez* established what Petitioner is owed. The June 1 hearing did not deliver it. The case therefore remains live.

III. THE JUNE 1 BOND HEARING WAS CONSTITUTIONALLY DEFICIENT AND DOES NOT SATISFY THE RELIEF SOUGHT.

Even if this Court were to treat the bond hearing as partial compliance with Petitioner's alternative prayer for relief, the June 1 hearing did not provide a constitutionally adequate custody determination. The Petition alleged not only that Petitioner was entitled to a bond hearing, but that any such hearing must comply with the Due Process Clause of the Fifth Amendment. *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976)("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner' ")(internal quotes omitted). The June 1 bond order reveals that it did not.

The order is a single checkbox: "Denied, because significant flight risk." It does not identify what burden of proof governed the hearing. It does not indicate whether the Government was required to bear the burden of justifying continued detention, or whether Petitioner was required to prove his right to release. It does not reflect any consideration of

Petitioner's individual circumstances—his years of voluntary compliance with ICE reporting requirements, the dismissal of the sole allegation underlying his re-detention, the absence of any criminal conviction, or his prior parole status. It does not reflect any consideration of conditions of release or alternatives to detention. And it does not reflect awareness that Petitioner was paroled into the United States under 8 U.S.C. § 1182(d)(5)—a status that, as courts in this district have recognized, bears materially on the § 1225 versus § 1226 classification question. Respondents previously determined that Petitioner could safely reside in the community and did so for approximately four years. During that period he complied with immigration requirements and accumulated no criminal convictions. The sole allegation underlying his re-detention was dismissed. Yet the June 1 order provides no explanation for why a person deemed suitable for release for years suddenly became a "significant flight risk." The absence of any articulated reasoning is precisely what prevents meaningful judicial review.

A constitutionally adequate bond hearing requires, at minimum, that the Government bear the burden of establishing by clear and convincing evidence that continued detention is justified. *See Addington v. Texas*, 441 U.S. 418 (1979); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (enumerating the individualized factors an IJ must weigh). The June 1 order is silent as to burden, silent as to process, and silent as to the individualized factors the law requires. A constitutionally sufficient proceeding cannot be inferred from an order that contains no procedural record whatsoever.

Federal courts have jurisdiction to review bond denials for legal error even where § 1226(e) bars review of discretionary outcomes. Courts have identified several categories of cognizable legal error: failure to identify who bears the burden of proof, *see Singh v. Valdez,* No. 1:26-cv-01109-WJM, 2026 WL 890240, at *5 (D. Colo. Apr. 1, 2026); failure to engage with the individualized factors required by *Matter of Guerra,* 24 I&N Dec. 37, 40 (BIA 2006), see *Zheng v. Rokosky,* 2026 WL 800203, at *6 (D.N.J. Mar. 23, 2026); and failure to provide a reasoned written determination, *see R.R.C. v. Streeval,* 2026 WL 734999(CDL) (M.D. Ga.) at *3 (noting that "Constitutional guardrails exist to prevent any branch of government from steamrolling individuals based simply upon unbridled power" and "systemically denying a meaningful opportunity for release on a bond, when Congress has determined that detention is not mandatory, makes detention *de facto* mandatory"). Each of these deficiencies is present on the face of the June 1 order. The order does not identify who bore the burden of proof. It does not reflect any *Guerra* factor analysis. It does not address alternatives to detention. It contains no written reasoning whatsoever. And it was issued within a broader institutional context that this Court itself has already identified as warranting scrutiny: in *R.R.C.*, this Court consolidated twelve Stewart cases alleging that post-habeas bond hearings had become a systemic sham, observed a "dramatic reduction in the number of bond approvals recently without an obvious change in circumstances," and authorized targeted discovery into bond denial rates, IJ reassignments, and changed EOIR guidance to determine whether the Executive Branch had "design[ed] a system that reshapes the immigration review process in a manner that tilts the delicate due process balance against aliens." *R.R.C.,* at 3-4. Critically, the *R.R.C.* court distinguished between

individualized bond decisions it lacks jurisdiction to review and systemic deficiencies it has full authority to remedy. *Id.* at 3–4. The June 1 bond order here bears every hallmark of the deficient process that Court is currently examining. This Court's jurisdiction to review legal error in that process is not just available—it is precisely what *R.R.C.* preserves.

IV. A GROWING BODY OF DISTRICT COURT DECISIONS CONFIRMS THAT COURTS NATIONWIDE ARE ORDERING IMMEDIATE RELEASE—NOT REMAND—WHERE POST-HABEAS BOND HEARINGS ARE CONSTITUTIONALLY DEFICIENT.

The deficiency evident in the June 1 bond order is not an isolated occurrence. Federal courts across the country have in recent months confronted the same pattern—post-habeas bond hearings that are bare, cursory, and stripped of the individualized analysis due process requires—and have responded by ordering petitioners' immediate release rather than subjecting them to a second round of deficient process. That body of authority strongly supports immediate release here.

In *Singh v. Valdez,* No. 1:26-cv-01109-WJM, 2026 WL 890240 (D. Colo. Apr. 1, 2026), Senior Judge William J. Martínez ordered immediate release after finding that any bond hearing would be unlikely to be a fair one. The court noted that immigration judges "often cite little or no reasoning in determining that noncitizens are a flight-risk," cited a bond denial in a companion case that encompassed three sentences and did not refer to evidence or specific details, and concluded: "The mounting evidence that bond determination hearings conducted in Immigration Court have preordained outcomes has become impossible to ignore." *Singh,* 2026 WL 890240, at *5. The court ordered release directly rather than remanding for yet another hearing. That same week, Judge Christine P. O'Hearn of the District of New Jersey, whose reasoning was cited by *Singh*, catalogued instances

nationwide of immigration judges providing little to no reasoning when denying bond and wrote that the evidence raised "a serious question as to whether the constitutional guarantee of an impartial decisionmaker is being honored in any case brought before an IJ." *See Zheng v. Rokosky,* 2026 WL 800203, at *7 (D.N.J. Mar. 23, 2026) (ordering immediate release after IJ "failed to provide any explanation whatsoever for her supposed alternative holding that Petitioner is a flight risk" in direct defiance of the court's habeas order).

In one recent case, a court found a due process violation where, as here, "the IJ's decision ... contains zero reference to any record or arguments put forth by either party." *Rodriguez v. Greene,* No. 26-0333, 2026 WL 574961, at *12 (N.D. Ohio Mar. 2, 2026). In another recent case, the court explained that, although it lacked jurisdiction to review discretionary decisions or reweigh evidence, review was appropriate where the IJ failed to explain the decision at all. *Miri v. Bondi,* No. 26-00698, 2026 WL 622302 (C.D. Cal. Mar. 5, 2026). The *Miri* court held that the IJ abused their discretion because "the [IJ] did not explain the reasons for denying [petitioner's] bond. The [IJ] did not describe which ... factors were considered, if any, or what evidence was relied on." *Id*. at *9. In the District of Rhode Island, a court found that an uncorroborated police report was "simply not clear and convincing evidence sufficient for a finding of dangerousness" and ordered a constitutionally adequate hearing. *Picado v. Hyde,* No. 26-CV-065-JJM-PAS, 2026 WL 352691, at *7 (D.R.I. Feb. 9, 2026). And in the Eastern District of California, a court found that an IJ abused its discretion when her bond denial failed to identify which *Guerra* factors she considered or what evidence she relied upon, and ordered release. *Y.S.G. v. Andrews,* No. 2:25-cv-1884-SCR, 2025 WL 2979309, at *9, 11 (E.D. Cal. Oct. 22, 2025).

The June 1 bond order here is indistinguishable from the orders that courts in *Singh, Zheng, Rodriguez, Miri, Picado,* and *Y.S.G.* refused to accept as constitutionally sufficient. It is a single checkbox. It provides no reasoning. It engages with none of the individualized facts of Petitioner's case. The appropriate remedy under the weight of this authority is not a third bite at the apple—it is immediate release. Petitioner does not ask this Court to reweigh the evidence considered by the Immigration Judge or substitute its judgment regarding flight risk. Rather, Petitioner challenges the legal sufficiency of the process that produced continued detention.

V. DISMISSAL WOULD ELIMINATE MEANINGFUL FEDERAL REVIEW OF AN ONGOING CONSTITUTIONAL VIOLATION.

A respondent who produces a procedurally bare denial order could thereby extinguish habeas jurisdiction over the underlying constitutional claim. That outcome cannot be squared with the Great Writ's purpose. Habeas corpus "is perhaps the most important writ known to constitutional law, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia,* 372 U.S. 391, 400 (1963). Courts have long retained jurisdiction where the government takes steps that stop short of providing the full relief to which a petitioner is entitled. *See Preiser v. Rodriguez,* 411 U.S. 475, 483-84 (1973). Indeed, this Court's March 16, 2026 order in *R.R.C. v. Streeval,* 2026 WL 734999 (CDL) (M.D. Ga.), reflects precisely that principle: this Court did not dismiss the consolidated cases simply because bond hearings had occurred. It retained jurisdiction, authorized discovery, and expressly warned that "the Executive Branch may not design a

system that reshapes the immigration review process in a manner that tilts the delicate due process balance against aliens." *R.R.C.*, at *3. Dismissing Petitioner's case now would produce the opposite result—rewarding a bare, procedurally deficient bond denial with termination of the very federal oversight that *R.R.C.* confirms this Court has authority to exercise.

Moreover, Petitioner's primary prayer for relief—immediate release from custody—remains entirely available to this Court and has not been granted by anyone. A federal district court sitting in habeas has the power to release an unlawfully detained individual. 28 U.S.C. § 2241(c); *Boumediene v. Bush,* 553 U.S. 723, 779 (2008). That power has not been exercised. The IJ denied bond. Petitioner remains detained. This Court is the only forum in which Petitioner's right to immediate release can be adjudicated. Dismissal would extinguish that claim entirely.

VI. IN THE ALTERNATIVE, THE COURT SHOULD HOLD THIS MATTER IN ABEYANCE.

Should the Court conclude that additional briefing or development of the record is warranted before resolving this action, Petitioner requests in the alternative that the Court hold this matter in abeyance pending resolution of the consolidated Stewart detention litigation in *R.R.C. v. Streeval,* 2026 WL 734999 (CDL) (M.D. Ga.). That proceeding is actively examining the constitutional adequacy of post-habeas bond hearings at Stewart, including bond denial rates, the neutrality of immigration judges, and any changed EOIR guidance following the change in administration. The discovery ordered in *R.R.C.* on March 16, 2026 is pending. The questions it will answer—whether the IJ process at Stewart has been corrupted

systemically and what due process requires of court-ordered bond hearings—are the same questions presented here. Abeyance would align this case with that proceeding, preserve Petitioner's claims during the pendency of directly relevant litigation before this Court, and prevent the anomalous result of dismissing a case whose core constitutional issues are simultaneously under active judicial examination in a consolidated proceeding in the same courthouse. Dismissal, by contrast, would permanently foreclose relief for a petitioner who remains detained while those identical questions await resolution.

CONCLUSION

Petitioner remains in custody. His detention remains unlawful. The relief he seeks—immediate release, declaratory relief, and injunctive relief—has not been granted. The June 1 bond hearing was not constitutionally adequate, did not provide the individualized process *Hernandez Alvarez* and § 1226(a) require, and cannot moot a live habeas petition brought by a person still imprisoned. A growing body of district court authority across the country confirms that courts facing this precise pattern—bare, unreasoned post-habeas bond denials—are ordering immediate release, not remand. For these reasons, Petitioner respectfully requests that the Court discharge the Order to Show Cause, order Petitioner's immediate release, and permit this action to proceed to the merits, or alternatively hold it in abeyance pending resolution of the consolidated Stewart detention litigation in *R.R.C. v. Streeval*.

(Signature Page to Follow)

Respectfully submitted this June 18, 2026.

Jessica Calmes

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