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

DANIEL VELASQUEZ-CASTREJON ,	:	
	:	
Petitioner,	:	
	:	**Case No. 7:26-cv-171-WLS-ALS**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,	:	
	:	
Respondent.	:	

RESPONDENT'S RESPONSE

On June 3, 2026, Petitioner filed a petition for a writ of habeas corpus ("Petition"). ECF No. 1. On June 11, 2026, the Court ordered Respondents to file a comprehensive response to said application within twenty-one (21) days. ECF 5. For the reasons stated below, Petitioner should receive a bond hearing under 8 U.S.C. § 1226(a) and the applicable regulations.

BACKGROUND

For purposes of background, Respondent relies on the Declaration of Deportation Officer Robin C. Esperon ("Esperon Decl."), submitted with this filing. The declaration accurately summarizes the circumstances underlying Petitioner's custodial status and immigration history, and Respondent refers the Court to it for the factual record.

LEGAL FRAMEWORK

ICE/ERO has the discretion to detain certain non-citizens "pending a decision on whether the [non-citizen] is to be removed from the United States." 8 U.S.C. § 1226(a); *see* 8 U.S.C. § 1226(c). Provided the non-citizen does not fall under § 1226(c)'s mandatory detention provisions, ICE/ERO may either continue to detain the non-citizen or release the non-citizen on

bond or conditional parole. 8 U.S.C. § 1226(a)(1)–(2). When a non-citizen is taken into ICE/ERO custody pursuant to 8 U.S.C. § 1226(a), ICE/ERO makes an initial custody determination, including consideration of bond. *See* 8 C.F.R. §§ 236.1(c)(8), 236.1(d). ICE/ERO may "in [its] discretion, release an alien… provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8).

A non-citizen may seek review of ICE/ERO's initial custody determination before an Immigration Judge ("IJ"). 8 C.F.R. § 236.1(d)(1); 8 C.F.R. § 1003.19. At such a hearing, the IJ may continue detention or set bond. 8 C.F.R. § 236.1(d)(1). The burden is on the non-citizen to show that he or she is not a danger, a flight risk, or otherwise a poor bail risk. *In re Guerra*, 24 I. & N. Dec. 37, 40 (B.I.A. 2006). IJs may consider any relevant information in exercising this discretionary authority. *Id.*; *see* 8 C.F.R. § 1003.19(d). Following an initial bond hearing, a non-citizen may seek a subsequent bond hearing upon a showing of materially changed circumstances. *See* 8 C.F.R. § 1003.19(e). IJ bond decisions may be appealed to the Board of Immigration Appeals ("BIA"). 8 C.F.R. § 236.1(d)(3); 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38.

The INA provides that the Secretary's discretionary judgment regarding the "detention or release of any [non-citizen] or the grant, revocation, or denial of bond or parole[]" is not subject to judicial review. 8 U.S.C. § 1226(e). *Jennings v. Rodriguez*, 583 U.S. 281, 304–07 (2018), confirms that the statute does not require repeated custody reviews based solely on length of detention.

ARGUMENT

Petitioner's grounds largely asserts that his detention under 8 U.S.C. § 1225(b)(2) is unlawful and that he should instead be detained under 8 U.S.C. § 1226(a). Respondent maintains that Petitioner is detained under § 1225(b)(2)(A). Esperon Decl. ¶ 14.

Nevertheless, this case presents the same issues addressed in *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL (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). In those cases, the Court held that for noncitizens who were found inside the United States and arrested without being inspected by an examining immigration officer, detention must proceed under 8 U.S.C. § 1226(a), not § 1225(b)(2). *J.A.M.*, 2025 WL 3050094, at *3; P.R.S.*, 2025 WL 3269947, at *1–2. The Court made clear that mandatory detention under § 1225(b)(2) "is not authorized" in such circumstances. *P.R.S.*, 2025 WL 3269947, at *2.The Eleventh Circuit has since confirmed this interpretation. *See Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026).

Under § 1226(a), the statutory remedy is a bond hearing before an IJ. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. §§ 236.1(d)(1), 1003.19. Petitioner has already had one such hearings. Esperson Decl. ¶ 13; Exhibit D. At the hearing, the IJ denied Petitioner's request finding the court lacked jurisdiction to redetermine custody. Esperon Decl. ¶ 13. *Hernandez Alvarez* has clarified that noncitizens detained under § 1226(a) remain eligible to seek release on bond. *See* 2026 WL 1243395, at *18. Petitioner therefore may request a new bond redetermination based on this intervening change in law. *See* 8 C.F.R. § 1003.19(e).

This Court ordered § 1226(a) bond hearings in *J.A.M.* and *P.R.S.* under materially identical circumstances. In line with those decisions, and consistent with the Eleventh Circuit's clarification

in *Hernandez Alvarez*, Petitioner should receive a § 1226(a) bond hearing before an Immigration Judge at which *Matter of Hurtado* will not preclude jurisdiction to consider the bond request.

Petitioner's procedural posture does not alter this conclusion. Petitioner has appealed the IJ's decision regarding Petitioner's application for relief from removal. Esperon Decl. ¶¶ 9–10 & Ex. C. On June 12, 2026, the Board of Immigration Appeals (BIA) issued a briefing schedule, granting Petitioner until July 6, 2026, to submit a brief. Esperon Decl. ¶ 12.

Accordingly, the logic of *J.A.M.*, *P.R.S.*, and *Hernandez Alvarez* squarely applies here. Petitioner is detained under the § 1226(a) framework, is eligible to seek release on bond, and should receive a bond hearing consistent with the statutory scheme and applicable regulations.

CONCLUSION

For the reasons stated above, and consistent with *J.A.M.*, *P.R.S.*, and *Hernandez Alvarez*, Petitioner should receive a bond hearing under 8 U.S.C. § 1226(a) and the applicable regulations. No further relief is warranted.

Respectfully submitted, this 2nd day of July, 2026.

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