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

WILDINE TELISKA,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:26 cv 977 CDL CHW**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On June 26, 2026, Petitioner filed her Petition for Writ of Habeas Corpus ("Petition"). Dkt. No. 1. On July 22, 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. Dkt. 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 that motion." Dkt. 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 Court should therefore dismiss the Petition.

BACKGROUND

Petitioner is a native and citizen of Haiti. Declaration of Deportation Officer Michael Bush ("Bush Decl.") ¶ 4. On January 26, 2023, U.S. Customs and Border Protection ("CBP") encountered Petitioner at the San Ysidro California Port of Entry after she applied for admission into the United States. *Id.* CBP determined Petitioner was inadmissible pursuant to the Immigration and Nationality Act ("INA") Section 212(a)(7)(A)(i)(I). *Id.* She was paroled into the United States for one year. *Id.*

On September 23, 2024, Petitioner applied for Temporary Protected Status ("TPS") with the United States Citizenship and Immigration Services ("USCIS"), which remains pending with USCIS. *Id.* ¶ 5.

On November 30, 2025, Petitioner was encountered by ICE/ERO at the Clayton County Jail following her November 15, 2025, arrest for theft by taking. *Id.* ¶¶ 6–7. Petitioner was taken into ICE/ERO custody and was subsequently transported to the Stewart Detention Center in Lumpkin, Georgia. *Id.* ¶ 7. On November 30, 2025, ERO issued Petitioner a Notice to Appear ("NTA") charging her with inadmissibility pursuant to INCA Section 212(a)(7)(A)(I). *Id.* ¶ 8, Ex. B.

On December 5, 2025, Petitioner filed a custody redetermination with the Immigration Court, and on December 10, 2025, appeared for that custody redetermination hearing. *Id.* ¶¶ 9–10. The Immigration Judge ("IJ") denied Petitioner's motion, finding the Immigration Court lacked jurisdiction to redetermine custody. *Id.* ¶ 10, Ex. C.

On December 15, 2025, Petitioner appeared for a master hearing during which she admitted the allegations on the NTA and conceded removability as charged. *Id.* ¶ 11. On January 5, 2026, she filed an application for relief from removal with the Immigration Court. *Id.* ¶ 12. That same day, Petitioner appeared for a master hearing, and her individual merits hearing was scheduled for January 16, 2026. *Id.* ¶ 13.

On January 16, 2026, and February 3, 2026, Petitioner appeared for her individual merits hearing. *Id.* ¶ 14. The IJ denied Petitioner's application for relief from removal, and she requested and was granted a post-conclusion voluntary departure under safeguards. *Id.* ¶ 14, Ex. D.

On February 26, 2026, Petitioner filed an appeal with the Board of Immigration Appeals ("BIA"). *Id.* ¶ 15. On June 8, 2026, the BIA issued a briefing schedule granting Petitioner until June 29, 2026, to submit a brief. *Id.* ¶ 16. On June 29, 2026, Petitioner filed a briefing schedule extension request which the BIA granted; as a result she had until July 20, 2026, to file her brief. *Id.* ¶¶ 17–18. On July 20, 2026, Petitioner filed her brief with the BIA; the BIA has not yet issued a decision on the appeal. *Id.* ¶ 19.

Petitioner is an arriving alien detained pursuant to INA Section 235(b)(2), 8 C.F.R. § 235.3(c)(1), and alternatively pursuant to INA 236(c)(1)(E) based on her November 15, 2025, arrest for theft by taking. *Id.* ¶ 20.

LEGAL FRAMEWORK

Petitioner is detained pre-final order of removal as an arriving alien. 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." 8 C.F.R. §§ 1.2 and 1001.1(q) define an "arriving alien"—a particular type of applicant for admission—as an applicant for admission coming or attempting to come into the United States at a port-of-entry. This definition strictly encompasses individuals whose temporary period of immigration parole has expired.

Detention of all arriving aliens is mandatory. 8 U.S.C. § 1225(b)(1)(B)(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)(2)(A) ("[I]f the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a

proceeding under [8 U.S.C. §] 1229a . . . ."). Pursuant to 8 C.F.R. § 235.3(c)(1), an immigration judge has no authority to redetermine custody for an arriving alien. The only exception is that ICE/ERO may—in its discretion—release arriving aliens on parole. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5(b), 235.3(c).

Concurrently, Petitioner's underlying criminal charge provides an alternative basis for mandatory detention pre-final order of removal pursuant to 8 U.S.C. § 1226(c). In 8 U.S.C. § 1226(c)(1)(E)(ii), Congress mandated the detention of non-citizens who have been charged with theft offenses. The statute states unambiguously that the "Attorney General shall take into custody any alien" who is inadmissible or removable for having committed an offense in one of four listed categories. 8 U.S.C. § 1226(c)(1). The statute does not provide for bond or parole for non-citizens detained under § 1226(c). The Supreme Court has recognized that § 1226(c) mandates detention apart from this narrow exception. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) ("§ 1226(c) makes clear that detention of aliens within its scope must continue pending a decision on whether the alien is to be removed from the United States." (internal quotations, emphasis, and citation omitted).

ARGUMENT

Petitioner asserts that his mandatory detention violates due process. Dkt. No. 1, generally and at 4–5. The Court should deny Petitioner's claim because her detention is lawfully authorized by statute, actively advances toward resolution, and fully satisfies constitutional requirements.

I. Petitioner's Mandatory Detention Complies With Procedural and Substantive Due Process.

The Supreme Court has long recognized that Congress and the Executive have wide deference in crafting immigration policy, and detention during removal proceedings is an integral part of that process. *Mathews v. Diaz*, 426 U.S. 67, 81 (1976). Mandatory statutory detention poses

no constitutional problem on its face so long as removal proceedings remain active and ongoing. *Demore v. Kim*, 538 U.S. 510, 523 (2003). Here, Petitioner is subject to a dual statutory framework that dictates her mandatory confinement pre-final order of removal. Because both governing statutory frameworks independently mandate her confinement, and because her active removal proceedings provide a definite termination point, Petitioner's pre-final order detention fully complies with procedural and substantive due process.

A. Petitioner is mandatorily detained as an arriving alien under 8 U.S.C. § 1225(b).

Petitioner's operational history places her squarely within the scope of mandatory detention under 8 U.S.C. § 1225(b). Petitioner was last paroled into the United States on or about January 26, 2023, for a specific period of one year, which expired on or about January 26, 2024. *See* Bush Decl. ¶ 14. Because her temporary parole expired and she was never formally admitted, she remains present in the United States without admission. *Id.* ¶¶ 4–20. Following her arrest on November 15, 2025, ICE/ERO charged Petitioner with inadmissibility pursuant to INA Section 212(a)(7)(A)(i)(I). *Id.* ¶¶ 6, 8, Ex. A, B. Because Petitioner is an applicant for admission who is not clearly and beyond a doubt entitled to be admitted, her pre-final order detention is statutorily mandatory under 8 U.S.C. § 1225(b) throughout the entire completion of her proceedings. *Id.* ¶ 28; *see generally Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018).

The Supreme Court has firmly established that the power to admit, exclude, or expel aliens is a fundamental sovereign attribute vested exclusively in the political departments of the federal government, making it largely immune from judicial control. *See Fiallo v. Bell*, 430 U.S. 787, 792 (1977). Pursuant to 8 C.F.R. § 235.3(c)(1), the immigration judge possesses no legal authority to conduct a custody redetermination for an arriving alien. The mandatory detention framework established by Congress in 8 U.S.C. § 1225(b) directly serves the core governmental purpose of

regulating national borders, preventing unauthorized entry, and managing applicants for admission while their claims are verified. Because Petitioner is legally classified as an arriving alien with an active, ongoing removal case, her primary detention under section 1225(b) is proper, lawfully authorized by Congress, and fully comports with the Fifth Amendment.

B. Petitioner is concurrently subject to mandatory detention under 8 U.S.C. § 1226(c).

Alternatively and concurrently, Petitioner's detention reflects the mandatory criminal detention principles validated in *Demore v. Kim*, 538 U.S. 510 (2003). Petitioner is subject to alternative pre-final order detention pursuant to 8 U.S.C. § 1226(c)(1)(E)(ii) based on her underlying arrest. Bush Decl. ¶ 6.

In *Demore*, the Supreme Court affirmed the constitutionality of § 1226(c)'s mandatory provisions, noting that Congress was justifiably concerned that criminal non-citizens would fail to appear for hearings or continue to engage in crime. The Court distinguished this pre-final order detention from the post-order detention in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, removal was no longer practically attainable, rendering detention indefinite. *Demore*, 538 U.S. at 527. Conversely, detention pending removal proceedings serves a clear purpose and has a definite termination point—the conclusion of removal proceedings. *Id.* at 527-29. Far from being indefinite, Petitioner's alternative detention grounds under section 1226(c) serve the exact immigration purpose of ensuring her appearance at her ongoing removal proceedings.

CONCLUSION

For the foregoing reasons, Respondents respectfully request the Court deny Petitioner's Petition for Habeas Corpus.

Respectfully submitted, this 23rd day of July, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

By: */s/ Richard M. Rettig, II*
Richard M. Rettig, II
ASSISTANT UNITED STATES ATTORNEY
Delaware Bar No. 7102
P. O. Box 2568
Columbus, GA 31902
Telephone: 706-649-7700
Facsimile: 706-649-7767
richard.rettig@usdoj.gov

CERTIFICATE OF SERVICE

I certify that I have this date, July 23, 2026, mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non CM/ECF participants:

Wildine Teliska
A[redacted]
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

WILLIAM R. KEYES
UNITED STATES ATTORNEY

By: */s/ Richard M. Rettig, II*
Richard M. Rettig, II
ASSISTANT UNITED STATES ATTORNEY
Delaware Bar No. 7102
P. O. Box 2568
Columbus, GA 31902
Telephone: 706-649-7700
Facsimile: 706-649-7767
richard.rettig@usdoj.gov