UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 26-cv-24686-KMW

KARL CIUS,

Petitioner,

v.

KROME NORTH SERVICE PROCESSING CENTER,

Respondent.
_____/

RESPONDENT'S RESPONSE TO ORDER TO SHOW CAUSE

Respondent, through the undersigned Special Assistant United States Attorney, hereby files this response to the Court's Order [DE 3]. For the reasons set forth fully herein, Respondent requests that the Court dismiss, transfer, or deny Petitioner Karl Cius's Petition for Writ of Habeas Corpus [DE 1] (Petition).

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Karl Cius (Petitioner) is a native and citizen of the Bahamas. *See* Exhibit A, Form I-213, at 1. On May 23, 2025, Petitioner entered the United States in K-1 status to remain in the United States for a temporary period not to exceed August 20, 2025. *See id*, at 2. Petitioner remained in the United States beyond August 20, 2025. *See id.*

On July 20, 2025, Petitioner was arrested for the offenses of Possession of Marijuana less than 20 grams and Possess/Use Drug Paraphernalia. *See id.* Petitioner's charges of Possession of Marijuana less than 20 grams and Possess/Use Drug Paraphernalia were dismissed. *See id.*

On October 5, 2025, Petitioner was arrested for the offense of Resist/Obstruct Officer Without Violence, Case Number 112025MM001429AXXX01. *See id.* On November 3, 2025,

upon a plea of *nolo contedere* by Petitioner, a judge withheld adjudication of Petitioner's charge of Violating Non-Resident Exemption when License Required in Collier County, Florida, Case Number 112025CT001856AXXX01. *See* Exhibit C, Criminal Records for Case Number 112025CT001856AXXX01.

On November 6, 2025, Petitioner was adjudicated guilty, upon a plea of *nolo contendere*, in Collier County, Florida, of Resist/Obstruct Officer Without Violence and sentenced to pay a fine of $250.00 and committed to the custody of the Sheriff of Collier County, Florida for a term of time served, Case Number 112025MM001429AXXX01 *See* Exhibit D, Criminal Records for Case Number 112025MM001429AXXX01. On November 11, 2025, Petitioner was transferred to immigration custody. *See* Exhibit E, Detention History.

On November 7, 2025, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) issued a Form I-862, Notice to Appear (NTA), charging Petitioner as removable from the United States under Section 237(a)(1)(B) of the Immigration and Nationality Act (INA) as an alien who, after admission as a nonimmigrant, has remained in the United States for a time longer than permitted, and placed Petitioner in removal proceedings. *See* Exhibit F, NTA.

On November 24, 2025, an immigration judge granted Petitioner's custody redetermination and ordered him released from custody under bond of $2,500.00. *See* Exhibit G, Order of the Immigration Judge. On November 26, 2025, Petitioner was released from immigration custody under bond. *See* Exhibit E.

On March 12, 2026, ICE ERO encountered Petitioner at the Collier County Jail after he was arrested by the Florida Highway Patrol for No Valid Drivers License. *See* Exhibit A, at 2. Also on March 12, 2026, ICE ERO lodged an immigration detainer for Petitioner. *See id.* On March 14, 2026, Petitioner was transferred to immigration custody. *See* Exhibit E.

On March 27, 2026, Petitioner appeared before the immigration court for another bond hearing. *See* Exhibit H, Order of the Immigration Judge. This time, an immigration judge denied Petitioner's custody redetermination and issued no bond, finding that he poses a danger to the community given his criminal history and repetitive type of offenses. *See* DE 1, at 3; Exhibit H.

On May 11, 2026, Petitioner filed a Petition for Writ of Habeas Corpus. *See Cius v. Warden, Krome Service Processing Center*, No. 26-23344-CV-DIMITROULEAS (S.D. Fla. Jun. 1, 2026). On June 1, 2026, District Judge Dimitrouleas dismissed Petitioner's Petition based on lack of jurisdiction. *See* Exhibit B, Order, at 3. District Judge Dimitrouleas also noted that Petitioner's Petition would still have been dismissed because "the Court declines to comment on Petitioner's challenge to the outcome of the bond hearing, which is not properly before the Court, and which lies in the sound discretion of the Immigration Judge." *See id.*

On June 22, 2026, Petitioner was transferred to Stewart Detention Center in Lumpkin, Georgia. *See* Exhibit E. On July 8, 2026, Petitioner filed his second Petition for Writ of Habeas Corpus [DE 1].

Petitioner is presently detained at Stewart Detention Center pending resolution of his removal proceedings. *See* Exhibit E.

II. ARGUMENT

A. Jurisdiction

1. The Petition Should be Dismissed for Lack of Jurisdiction, or in the Alternative, Transferred to the Middle District of Georgia where Petitioner was Detained when he Filed Petition and where He is still Detained.

Petitioner filed this Petition while detained at the Stewart Detention Center, and he is currently still detained at the Stewart Detention Center in Lumpkin, Georgia. *See* Exhibit E. Lumpkin is in Stewart County, which is in the Middle District of Georgia. *See* Federal Judicial

Districts of Georgia, https://uscode.house.gov/view.xhtml?path=/prelim@title28/part1/chapter5&edition=prelim.

Section 2441 allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2441(a). The Supreme Court has interpreted the "within their respective jurisdiction language to mean that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (finding that that even for habeas petitions filed by immigration detainees, "jurisdiction lies in only one district: the district of confinement."). Even if "a district court has proper jurisdiction when a habeas petition has been filed…a subsequent transfer of the prisoner will not defeat habeas jurisdiction, but only 'so long as an appropriate respondent with custody remain[s]' in the district.'" *Copley v. Keohane*, 150 F.3d 827, 830 (8th Cir. 1998) (citing *Jones v. Cunningham*, 371 U.S. 236, 243-44 (1963)). The appropriate respondent is the immediate custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004) ("In challenges to present physical confinement…the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.")

In this case, jurisdiction lies with the Middle District of Georgia, which is the district of confinement and the district where Petitioner was confined at the time he filed his Petition. *See* 28 U.S.C. § 90. Accordingly, the Petition should be dismissed, or in the alternative, transferred to the Middle District of Georgia.

2. 8 U.S.C. § 1226(e) bars review of Petitioner's claims.

Petitioner argues that he "continues to seek lawful review of his detention and custody status" and claims that he "does not present a danger to the community" and is "not a flight risk."

See DE 1, at 2, 5. In Ground One for Relief, Petitioner "respectfully submits that these humanitarian circumstances warrant meaningful consideration in any custody determination." *See* DE 1, at 3. In Ground Four for Relief, Petitioner states that he "is willing to comply with reporting requirements, electronic monitoring, ISAP supervision, or any other reasonable conditions imposed by the Court or the Department of Homeland Security." *See id.*, at 4-5.

Petitioner concedes that a formal bond hearing occurred and that the immigration judge denied bond finding Petitioner "poses a danger to the community given his criminal history and repetitive type of offenses." *See* Exhibit H; DE, at 2. Petitioner has not filed an appeal of the immigration judge's decision to the Board of Immigration Appeals, the appellate administrative body with jurisdiction to review the custody redetermination decision. However, Petitioner is now attempting to convert this Court into a supervisory body over immigration court proceedings, providing arguments that he is not a danger to the community nor a flight risk and "continued detention is not adequately supported by the clarified criminal record." *See* DE 1, at 4. These arguments fail for a fundamental reason: they challenge actions taken within the immigration court system.

Immigration Judge's (IJ) discretionary bond rulings and any related discretionary decisions as to what evidence to consider, how much weight to afford that evidence, or how the bond proceeding should be conducted generally, are not reviewable here under the applicable jurisdiction-stripping provision of the Immigration and Nationality Act (INA), which provides:

> The Attorney General's discretionary judgment regarding the application of [§1226] shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.
> 8 U.S.C. § 1226(e).

This provision "precludes an alien from challenging a 'discretionary judgment' by the Attorney General or a 'decision' that the Attorney General has made regarding his detention or release.'" *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (quoting *Demore v. Kim*, 538 U.S. 510, 516 (2003)); *see also United States v. Velasquez*, 524 F.3d 1248, 1252 (11th Cir. 2008) (district court lacked the authority to review the IJ's decision to release individual on bond pending his immigration proceedings); *Hyacinthe v. United States AG*, 215 F. App'x 856, 862 n.1 (11th Cir. 2007) (citing Section 1226(e) for the proposition that the court lacked jurisdiction over the claim that an IJ denied due process by failing to consider eligibility for bond).

Here, the IJ's discretionary decision to deny bond after affording great—or even dispositive—evidentiary weight to the government's evidence, was within the discretion of the Immigration Judge and, as a result of Section 1226(e), is unreviewable in this Court. *See Arevalo-Guasco v. Dubois*, 788 F. App'x 25, 27 (2d Cir. 2019) (concluding that Section 1226(e) "precludes judicial review of the IJ's weighing of evidence and factual findings regarding whether [petitioner] is a danger to the community").

B. Petition Should Be Dismissed as Moot Because Petitioner Already Had a Bond Hearing.

Petitioner requests meaningful individualized custody review in his Petition. *See* DE, at 4. However, Petitioner admits to having a bond hearing and that the immigration judge denied bond because he was found to be a danger to the community. *See* DE, at 2; Exhibit H. Petitioner's bond hearing on March 27, 2026, renders moot Petitioner's writ for habeas corpus and leaves the Court without subject matter jurisdiction to hear the case. When there is nothing for the Court to remedy, a case is moot. *See Spencer v. Kemna*, 523 U.S. 1, 17 (1998).

C. Lack of Exhaustion

Even if the Court determines it has jurisdiction, challenges to the substance, scope, or conduct of the bond hearing itself are still not properly raised before this Court. Such questions fall within the jurisdiction of the immigration court and the administrative appeals process (*i e* the BIA). As this Court has recently ruled, "To the extent Petitioner challenges the substance, scope, or conduct of the bond hearing itself, including whether the immigration judge applied the proper framework or considered all relevant facts, those issues fall within the jurisdiction of the immigration court and the administrative appeals process." *Hernandez-Hernandez v. Sukkar*, Case No. 25 CV 25773 Williams [DE 18] (citing *C.A.R.V. v. Wofford*, No. 25 cv 01395, 2026 WL 241823, at *9 (E.D. Cal. Jan. 29, 2026) (denying motion to enforce and noting that "[i]n issuing the [order], the Court ordered a process, not an outcome. Complaints about the conclusion the IJ reached must be presented through the normal immigration appeal process.").)

Here, the Petitioner challenges the substance, scope, and conduct of the bond hearing. Petitioner even seems to provide additional evidence to prove that he is not a danger to the community, the reason why his bond was denied on March 27, 2026. Under these circumstances, the appropriate venue for review is the BIA. *See* 8 C.F.R. 1236.1(d)(3). Notably, as evidenced by the bond order itself (*See* Exhibit II), on March 27, 2026, Petitioner reserved the right to appeal, but, to date, has still not done so and the deadline expired on April 27, 2026. Accordingly, Petitioner has not exhausted his administrative remedies by lodging an appeal in the proper forum, and the Court may deny Petition on that basis alone. The proper remedy is an administrative appeal to the BIA—not review by this Court."); *Zaitsev v. Warden*, No. 26-cv-00454, 2026 WL 391429, at *10 (C.D. Cal. Feb. 9, 2026) ("[W]here a petitioner denied bond under § 1226(a) does not exhaust his administrative remedies by appealing to the BIA, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has

exhausted remedies, unless exhaustion is excused.") (internal quotation marks omitted). Therefore, Petitioner's motion should be dismissed for failure to exhaust administrative remedies.

CONCLUSION

For the reasons set forth above, Petition should be transferred, dismissed, or denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Respondents' Response to Order to Show Cause was mailed to the *Pro Se* Petitioner at the address listed below on July 10, 2026.

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By: *s/ Brittany Brock*
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