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

ALEXANDER JOSE TORRES CARDENAS,	:	
Petitioner,	:	
	:	**Case No. 4:26-cv-1042-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
WARDEN, STEWART DETENTION CENTER,	:	
Respondent.	:	

MOTION TO DISMISS

On July 21, 2026, Petitioner filed a petition for a writ of habeas corpus ("Petition"). ECF No. 1. On July 28, 2026, the Court issued an Order directing Respondent to provide Petitioner with a bond hearing within seven days or show cause why the Court's rulings in *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (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) do not control the result in this case. ECF No. 4.

BACKGROUND

For purposes of background, Respondent relies on the Acting Assistant Field Officer Director Justin Williams ("Williams 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.

ARGUMENT

Respondent respectfully shows the Court that Petitioner is not in the same factual or legal situation as the petitioners in *J.A.M.* and *P.R.S.* The issue in those cases centered on a question of

statutory interpretation regarding 8 *U.S.C.* §§ 1225(b)(2) and 1226(a) and whether noncitizens present in the United States without admission—but who were not arrested at the border—can be subject to mandatory detention without a bond hearing. *J.A.M.*, 2025 WL 3050094, at *2-5. Petitioner's case does not pose this issue because she is an "arriving alien," a particular type of applicant for admission defined as one "coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1.2; 8 C.F.R. § 1001.1(q). Under 8 U.S.C. § 1225(a)(1), anyone who "arrives in the United States" is deemed an applicant for admission, and Petitioner triggered this status by physically applying for admission at the Calexico West, California Port of Entry via a CBP One appointment on December 2, 2024. Williams Decl. ¶ 4.

The rationale of *J.A.M.* and *P.R.S.* does not control the outcome here because those decisions dealt solely with noncitizens whose status as "applicants for admission" was based on their unlawful presence in the interior after being arrested without inspection. In contrast, Petitioner was immediately inspected by an examining immigration officer at a port of entry. *Id.* ¶ 4. Because he was not "clearly and beyond a doubt entitled to be admitted," he was referred for removal proceedings and became subject to the mandatory detention framework of 8 U.S.C. § 1225(b)(2)(A). For this specific class of noncitizen, the Supreme Court has held that the statute "mandates detention" throughout the completion of proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Furthermore, in the language of the *J.A.M.* decision, Petitioner is an "applicant for admission" who is "seeking admission" based upon his arrival at the border and application for admission to the United States at that time, and is therefore properly subject to the mandatory detention framework of 8 U.S.C. § 1225(b)(2)(A).

While Petitioner was temporarily released on parole, this did not alter his immigration status. Title 8 *U.S.C.* § 1182(d)(5)(A) provides that parole "shall not be regarded as an admission

of the alien." The Eleventh Circuit has long recognized that arriving aliens remain "at the threshold" and are "legally considered detained at the border," even if physically present in the country. *Garcia-Mir v. Smith*, 766 F.2d 1478, 1484 (11th Cir. 1985). Once Petitioner was taken into ICE custody following his June 3, 2026, arrest for assault on a female and domestic violence, Williams Decl. ¶¶ 6–7, his status remained that of any other applicant for admission stopped at the border while "seeking admission," and his case must "continue to be dealt with in the same manner as that of any other applicant for admission." 8 U.S.C. § 1182(d)(5)(A), *see also Jean v. Nelson*, 727 F.2d 957, 970 (11th Cir. 1984).

Because Petitioner is an arriving alien and not a member of the class of interior-arrested noncitizens described in *J.A.M.*, her due process rights are limited to the procedures authorized by Congress. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). As the Supreme Court and Eleventh Circuit have consistently held, "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). Under current regulations, an Immigration Judge is expressly prohibited from redetermining custody conditions for "arriving aliens in removal proceedings." 8 C.F.R. § 1003.19(h)(2)(i)(B). Because the INA mandates detention for arriving aliens and does not permit their release on bond, Petitioner cannot establish that the lack of a bond hearing violates due process.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition. Pursuant to the Court's Order (ECF No. 4), the determination that Petitioner is entitled to a bond hearing should be stayed until resolution of this Motion.

Respectfully submitted this 30th day of July, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the 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:

Alexander Jose Torres Cardenas
A# [redacted]
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This 30th day of July, 2026.

BY: *s/ Travis D. Lynes*
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