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

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| **RUBEN EDREI GUERRA GARCIA,** | : | |
| | : | |
| **Petitioner,** | : | |
| | : | **Case No. 4:26-cv-1054-CDL-ALS** |
| **v.** | : | **28 U.S.C. § 2241** |
| | : | |
| **WARDEN, STEWART DETENTION CENTER,** | : | |
| | : | |
| | : | |
| **Respondent.** | : | |

**MOTION TO DISMISS**

On July 23, 2026, Petitioner filed a petition for a writ of habeas corpus ("Petition"). ECF No. 1. On July 31, 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. 5.

**BACKGROUND**

For purposes of background, Respondent relies on the Declaration of Deportation Officer Marilyn Guerra ("Guerra 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**

Petitioner moves this Court to grant him a bond hearing. Pet. at 2. The Petition should be dismissed for two reasons. First, Petitioner has already received a bond hearing. Second,

Petitioner has failed to exhaust his administrative remedies.

**1) Petitioner has already received a bond hearing**

In his Petition, Petitioner asks this Court to grant him a bond hearing. Pet. at 2. However, Petitioner has already received a bond hearing. On July 17, 2026, Petitioner filed a request for a bond hearing. Guerra Decl. ¶ 9. On July 21, 2026, Petitioner appeared, pro se, for the bond hearing. *Id.* At the conclusion of the hearing, the immigration judge denied bond citing that Petitioner failed to show he was not a danger to the community. *Id.* & Ex. C Petitioner reserved appeal. *Id.* The bond order states any appeal is due by August 20, 2026. *Id.* To date, there is no record that Petitioner has submitted an appeal of the bond order. *Id.* Petitioner has already received the very remedy he now requests from this Court and is not entitled to any further remedy. Thus, the Petition should be dismissed.

**2) Petitioner failed to exhaust his administrative remedies**

The Petition should be dismissed because Petitioner has failed to exhaust available administrative remedies before seeking habeas relief in the district court.

"[T]he general rule [is] that parties exhaust prescribed administrative remedies before seeking relief from the federal courts." *McCarthy v. Madigan*, 503 U.S. 140, 144-45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81, 88-89 (2006). Although it is not jurisdictional in nature, "[t]he exhaustion requirement is still a requirement" for petitioners seeking relief under 28 U.S.C. § 2241. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474-75 (11th Cir. 2015). "[C]ases . . . are ripe for dismissal unless administrative remedies [have] been exhausted before the cases [are] brought to the district court." *Perez-Perez v. Hanberry*, 781 F.2d 1477, 1481 (11th Cir. 1986) (citing *Garcia-Mir v. Smith*, 766 F.2d 1478, 1483 n.6, 1486 n.8, 1489, 1492 (11th Cir. 1985)).

Where non-citizens detained pre-final order of removal file habeas petitions seeking release from custody, district courts in the Eleventh Circuit have dismissed those petitions where the non-citizens failed to exhaust available administrative remedies for obtaining bond before seeking habeas relief. *See M.A.M.M. v. Warden, Irwin Cty. Det. Ctr.*, No. 7:21-cv-47-WLS-MSH, 2022 WL 452452, at *3 (M.D. Ga. Feb. 14, 2022), *recommendation adopted*, 2022 WL 794716 (M.D. Ga. Mar. 14, 2022); *Douglas v. Gonzalez*, No. 8:06 cv 890, 2006 WL 5159196, at *2 (M.D. Fla. June 12, 2006), *Sequeira-Blamaceda v. Reno*, 79 F. Supp. 2d 1378, 1381-82 (N.D. Ga. 2000).

As noted above, as a non-citizen detained pre-final order of removal under § 1226(a), the applicable regulations provide Petitioner multiple opportunities to seek bond at the administrative level. After an immigration officer initially denies a non-citizen bond, 8 C.F.R. § 236.1(c)(8), (d), Petitioner must request a bond hearing from an IJ. 8 C.F.R. § 236.1(d)(1). If the IJ denies bond, he must appeal this denial to the BIA. 8 C.F.R. § 236.1(d)(3). If the BIA affirms the IJ's initial denial of bond, Petitioner must then seek a custody redetermination—*i.e.*, a second bond decision—from the IJ by attempting to show that his "circumstances have changed since the prior bond redetermination." 8 C.F.R. § 1003.19(c).

Here, Petitioner failed to exhaust administrative remedies by failing to appeal his bond order. Because he has not pursued an available administrative remedy to possibly secure release on bond, he has deprived the agency of the opportunity to review his claim under the administrative bond scheme set forth by Congress and the applicable regulations. "Preventing petitioners from doing that is what the exhaustion requirement is all about." *Sundar v. I.N.S.*, 328 F.3d 1320, 1325 (11th Cir. 2003) (citations omitted). Therefore, the Court should dismiss Petitioner's habeas petition to the extent he requests release from custody. *See Perez-Perez*, 781 F.2d at 1481;

*M A M M*, ?0?? WL 45?45?, at *3, *Douglas*, ?006 WL 5159196, at *?; *Sequeira-Blamaceda*, 79 F. Supp. 2d at 1381 82.

## CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition. Pursuant to the Court's Order (ECF No. 5), the determination that Petitioner is entitled to a bond hearing should be stayed until resolution of this Motion.

Respectfully submitted this 5th day of August, 2026.

WILLIAM R. KEYES
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**CERTIFICATE OF SERVICE**

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

Ruben Edrei Guerra Garcia
A[redacted]
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 5th day of August, 2026.

BY: *s/ Travis D. Lynes*
TRAVIS D. LYNES
Assistant United States Attorney