

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PEDRO RODRIGO RODAS RODAS,

Civil No. 25-3432 (JRT/LIB)

Petitioner,

v.

MEMORANDUM OPINION AND ORDER

PAMELA BONDI, *Attorney General*; KRISTI NOEM, *Secretary, U.S. Department of Homeland Security*; DEPARTMENT OF HOMELAND SECURITY; TODD M. LYONS, *Acting Director of Immigration and Customs Enforcement*; SIRCE OWEN, *Acting Director for Executive Office for Immigration Review*; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; SAMUEL OLSON, *Director, St. Paul Field Office Immigration and Customs Enforcement*; RYAN SHEA, *Sheriff of Freeborn County*; and IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents.

Cameron Lane Youngs Giebink, Clara Ester Fleitas-Langford, David L. Wilson, Gabriela Sophia Anderson, and Sierra Paulsen, **WILSON LAW GROUP**, 3019 Minnehaha Avenue, Minneapolis, MN 55406, for Petitioner.

Ana H. Voss and Erin M. Secord, **UNITED STATES ATTORNEY'S OFFICE**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for Respondents Pamela Bondi, Kristi Noem, U.S. Department of Homeland Security, Todd M. Lyons, Sirce Owen, Executive Office for Immigration Review, Samuel Olson, and Immigration and Customs Enforcement.

David John Walker, **FREEBORN COUNTY ATTORNEY'S OFFICE**, Freeborn County Government Center, 411 South Broadway Avenue, Albert Lea, MN 56007, for Respondent Ryan Shea.

Petitioner Pedro Rodrigo Rodas Rodas is a citizen of Guatemala who entered the United States without inspection and has lived in the United States for years. One day, Federal officials entered Petitioner's residence while he was sleeping, arrested him, and took him into custody. After a hearing, an immigration judge determined that 8 U.S.C. § 1226(a) governed Petitioner's detention and ordered Petitioner to be released on bond. Respondents refused to allow Petitioner to pay the bond and appealed the immigration judge's decision to the Board of Immigration Appeals. In doing so, Respondents invoked the automatic stay provision of 8 C.F.R. § 1003.19(i)(2), which permits the government to detain a noncitizen while an appeal of a custody determination is pending.

Petitioner filed a Verified Petition for Writ of Habeas Corpus and a Motion for Temporary Restraining Order challenging the lawfulness of his detention. Respondents assert that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), but Petitioner argues that he is subject to the discretionary detention provisions set forth 8 U.S.C. § 1226(a). The Board of Immigration Appeals subsequently vacated the immigration judge's grant of bond, which renders Petitioner's Motion for Temporary Restraining Order moot. The Court will therefore consider the merits of the habeas petition.

Because Petitioner is being unlawfully detained, the Court will grant his habeas petition to the extent that he seeks an order requiring Respondents to provide him another bond hearing before the immigration judge under 8 U.S.C. § 1226(a). The Court

will also order that Petitioner not be moved outside the District of Minnesota before the Court ordered bond hearing.

BACKGROUND

I. STATUTORY AND REGULATORY FRAMEWORK

In general, two federal immigration statutes govern the detention of noncitizens pending removal proceedings—8 U.S.C. §§ 1225 and 1226. Petitioner argues that he is subject to the discretionary detention framework set forth in 8 U.S.C. § 1226(a), which requires that Petitioner be provided a bond hearing, and Respondents argue that Petitioner is subject to mandatory detention under § 1225(b)(2). The Court will address each statutory provision in turn.

Section 1225 applies to “applicants for admission”—defined as “alien[s] present in the United States who ha[ve] not been admitted or who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission fall under either § 1225(b)(1) or § 1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). “Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation” as well as “certain other aliens designated by the Attorney General in his discretion.” *Id.* (citations omitted).¹ Section 1225(b)(2) serves as a “catchall

¹ Noncitizens subject to § 1225(b)(1) “are normally ordered removed ‘without further hearing or review’ pursuant to an expedited removal process” unless they “indicate[] either an intention to apply for asylum . . . or a credible fear of persecution,” in which case the individual is referred for an asylum interview. *Jennings*, 583 U.S. at 287 (quoting § 1225(b)(1)(A)). No party contends that § 1225(b)(1) applies to Petitioner.

provision that applies to” almost all other applicants for admission not covered by § 1225(b)(1). *Id.* at 289.

Respondents contend that Petitioner is being detained under § 1225(b)(2). Section 1225(b)(2)(A) provides that “in the case of an alien who is an applicant for admission, if 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 section 1229a,” which addresses removal proceedings.

Section 1226—which Petitioner contends governs his detention—applies to the apprehension and detention of noncitizens who are **already present** in the United States and eligible for removal. *See Jennings*, 583 U.S. at 288; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). Section 1226(a) establishes a discretionary process: on an arrest warrant issued by the Attorney General, a noncitizen **may** be arrested and detained while a removal decision is pending. Section 1226(a) states that the Attorney General (1) may detain the arrested noncitizen, (2) “may release the alien on bond of at least \$1,500,” with conditions, or (3) may release the noncitizen on conditional parole. 8 U.S.C. § 1226(a).²

² Section 1226(c) imposes mandatory detention on a defined group of noncitizens, including those who fall within “enumerated categories involving criminal offenses and terrorist activities.” *Jennings*, 583 U.S. at 289. Individuals who are subject to mandatory detention include specific categories of “inadmissible” noncitizens. *See* 8 U.S.C. § 1226(c)(1)(A), (D), (E). In January 2025, Congress passed the Laken Riley Act, which expanded § 1226(c)’s mandatory detention

In short, 8 U.S.C. § 1225 allows “the Government to detain certain aliens **seeking admission** into the country,” and § 1226 “authorizes the Government to detain certain aliens **already in** the country pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphasis added).

II. FACTUAL BACKGROUND

Pedro Rodrigo Rodas Rodas is a citizen of Guatemala who entered the United States without inspection on or around December 14, 2018, when he was 16 years old. (Verified Pet. For Writ of Habeas Corpus (“Pet.”) ¶¶ 51–52, Aug. 29, 2025, Docket No. 1.) That same day, Petitioner was served with a Notice to Appear. (Pet. ¶ 52.) The Notice to Appear represented that Petitioner was being detained under the Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i) (codified as 8 U.S.C. § 1182(a)(6)(A)(i)), because he was “an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than designated by the Attorney General.” (Decl. of Gabriela Anderson (“Anderson Decl.”) ¶ 5, Ex. B, Sept. 1, 2025, Docket

requirement to a new class of noncitizens, as long as two requirements are satisfied. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E).

The Laken Riley Act amendments mandate detention for noncitizens who are inadmissible under Sections 1182(a)(6)(A) (the inadmissibility ground for a noncitizen “present in the United States without being admitted or paroled”), 1182(a)(6)(C) (the inadmissibility ground for misrepresentation), or 1182(a)(7) (the inadmissibility ground for lacking valid documentation) and have been arrested for, charged with, or convicted of certain crimes.

Maldonado v. Olson, No. 25-3142, 2025 WL 2374411, at *10 (D. Minn. Aug. 15, 2025) (citations omitted).

No. 6.) On the Notice to Appear, the box indicating, “You are an alien present in the United States who has not been admitted or paroled” was checked, but the box marked “You are an arriving alien” was not checked. (*Id.*)

Petitioner was placed in custody of the U.S. Department of Health and Human Services, Office of Refugee Resettlement, Division of Unaccompanied Children Operations before being released on March 1, 2019, to a relative who resided in Nebraska. (Pet. ¶ 53.) On March 30, 2020, Petitioner filed an asylum application with U.S. Citizenship and Immigration Services as an unaccompanied minor child under the Trafficking Victims Protection Reauthorization Act.³ (Pet. ¶ 54.)

On July 8, 2025, DHS announced a new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission.” (Pet. ¶¶ 55–56; Anderson Decl. ¶ 4, Ex. A.) A notice to all ICE employees stated that, in coordination with the Department of Justice, DHS had “revisited its legal position” and “determined that section 235 [8 U.S.C. § 1225] of the Immigration and Nationality Act (INA), rather than section 236 [8 U.S.C. § 1226]” applies to any “alien present in the United States who has not been

³ On February 20, 2022, Petitioner was charged with (1) attempted bribery, in violation of Neb. Rev. Stat. § 28-201(1)(b), a class I misdemeanor (*see id.* § 28-917), (2) operating a motor vehicle without a license, in violation of Neb. Rev. Stat. § 60-484(1), a class III misdemeanor, and (3) speeding, in violation of Neb. Rev. Stat. § 60-6, 186(1)(f). (Decl. of Xiong Lee (“Lee Decl.”) ¶ 8, Ex. B, Sept. 10, 2025, Docket No. 13.) Petitioner pleaded guilty to all counts and received a one-day jail sentence with credit for one day served. (*Id.*) Petitioner was **not** detained pursuant to 8 U.S.C. § 1226(c), which imposes mandatory detention on a defined group of noncitizens who commit certain enumerated crimes.

admitted or who arrives in the United States, whether or not at a designated port of arrival.” (Anderson Decl. ¶ 4, Ex. A.) DHS therefore asserts that such noncitizens are subject to mandatory detention under 8 U.S.C. § 1225(b). (*Id.*)

Two days after DHS changed its policy, on July 10, 2025, DHS issued an arrest warrant for Petitioner. (Decl. of Xiong Lee (“Lee Decl.”) ¶ 11, Ex. E, Sept. 10, 2025, Docket No. 13.) That same day, ICE entered Petitioner’s residence while he was sleeping, arrested him, and took him into custody. (Pet. ¶ 57; *see also* Anderson Decl. ¶ 8, Ex. E; Lee Decl. ¶ 9, Ex. C.) Respondents then served Petitioner with a Form I-286 Notice of Custody Determination. (Pet. ¶ 58; Anderson Decl. ¶ 9, Ex. F.) Petitioner’s Form I-286 stated that he was being detained under 8 U.S.C. § 1226. (Anderson Decl. ¶ 9, Ex. F.)

On July 30, 2025, the Executive Office for Immigration Review held a custody redetermination hearing. (Pet. ¶ 62.) At the hearing, the immigration judge concluded that Petitioner was **not** subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because Petitioner had been classified as an unaccompanied child when he entered the United States.⁴ (*Id.* ¶ 63.) The immigration judge also determined that Petitioner was neither a flight risk nor a danger to the community and ordered Petitioner to be released

⁴ Under federal law, an “unaccompanied alien child” is a child who: “(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

under a bond of \$1,500.00. (*Id.* ¶¶ 1, 65.) Petitioner was not allowed to pay the bond. (*Id.* ¶ 65.)

After the immigration judge determined that Petitioner was not subject to mandatory detention, ICE noticed its intent to appeal the custody redetermination, thereby invoking an automatic stay of the immigration judge’s order granting bond under 8 C.F.R. § 1003.19(i)(2). (Pet. ¶ 66; *see also* Lee Decl. ¶¶ 15–16, Exs. H–I.) As a result, Petitioner was precluded from paying his bond and remains in detention at the Freeborn County Jail in Albert Lea, Minnesota. (Pet. ¶¶ 66–67.)

III. PROCEDURAL BACKGROUND

In his Verified Petition for a Writ of Habeas Corpus, Petitioner alleges, among other things, that Respondents’ actions are violating the Immigration and Nationality Act and the Fifth Amendment of the United States Constitution.⁵ (Pet. ¶¶ 203–260.) Petitioner then filed a Motion for Temporary Restraining Order alleging that his continued detention despite being granted bond is unlawful. (Pet’r’s Mot. for TRO, Sept. 1, 2025, Docket No. 3.) In the motion, Petitioner sought a temporary restraining order (1) enjoining Respondents from moving him outside the District of Minnesota; (2) enjoining

⁵ The Complaint alleges eight counts: (1) declaratory relief, (2) violation of the INA under 8 U.S.C. § 1226(a), (3) violation of the Due Process Clause of the Fifth Amendment, (4) 8 C.F.R. § 1003.19(i)(2) is ultra vires, (5) violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19 arising from the unlawful denial of release on bond, (6) violation of Administrative Procedure Act (“APA”) arising from agency actions that are contrary to law and arbitrary and capricious, (7) violation of APA arising from the failure to observe required procedures, and (8) release pending adjudication. (Pet. ¶¶ 203–260.)

enforcement of the automatic stay provision while the Court considers his Petition for a Writ of Habeas Corpus; and (3) ordering Respondents to permit him to post the ordered bond and release him from custody. (*Id.* at 3.)

While the Court was considering Petitioner's Motion for Temporary Restraining Order, the Board of Immigration Appeals (BIA) sustained DHS's appeal and vacated the immigration judge's grant of bond, concluding that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). (Decl. of Gabriela Anderson ¶ 4, Ex. Q, Oct. 14, 2025, Docket No. 19.)

DISCUSSION

It is well-established that "absent suspension" by Congress, the Constitution guarantees that the "writ of habeas corpus remains available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. 1. § 9, cl. 2); *see also Boumediene v. Bush*, 553 U.S. 723, 737 (2008) (Habeas Corpus refers to a "writ employed to bring a person before a court, most frequently to ensure that the party's imprisonment or detention is not illegal." (citation omitted)). The writ of habeas corpus has served as a vital check on executive power throughout our nation's history. *Hamdi*, 542 U.S. at 525. Today is no different.

A person detained by the government may challenge the legality of their confinement through a petition for a writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The primary habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction on federal courts to hear challenges to the lawfulness of immigration-related detentions.

Zadvydas v. Davis, 533 U.S. 678, 687 (2001). The petitioner must prove unlawful detention by a preponderance of the evidence. *E.g.*, *Aditya W.H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

Respondents make two main arguments as to why the Court should deny the habeas petition. First, Respondents argue that the Court lacks subject matter jurisdiction under 8 U.S.C. § 1252(a)(5), 8 U.S.C. § 1252(b)(9), and 8 U.S.C. § 1252(g). Second, Respondents argue that Petitioner’s claims fail on the merits because § 1225(b)(2) mandates Petitioner’s detention.

I. JURISDICTION

As a threshold matter, Respondents argue that the Court lacks jurisdiction to review Petitioner’s claims because 8 U.S.C. § 1252(a)(5), 8 U.S.C. § 1252(b)(9), and 8 U.S.C. § 1252(g) preclude the Court’s review. (Resp’ts’ Consolidated Resp. to Pet. for Writ of Habeas Corpus and Mot. TRO (“Resp’ts’ Opp. Mem.”) at 12–17, Sept. 10, 2025, Docket No. 11.)

A. 8 U.S.C. §§ 1252(a)(5) and (b)(9)

Respondents contend that 8 U.S.C. §§ 1252(a)(5) and (b)(9) bar jurisdiction, arguing that the statutes vest jurisdiction in the circuit courts—not this Court. (Resp’ts’ Opp. Mem. at 14–17.) Section 1252(b)(9) states:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section,

no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9). As is clear from the statutory text, § 1252(b)(9) consolidates all questions of law and fact, including constitutional and statutory challenges, arising from removal proceedings into one petition for review—the review of a final removal order. *See Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020). Only circuit courts have jurisdiction to review an order of removal. 8 U.S.C. § 1252(a)(5). As such, § 1252 is designed to channel all issues “arising from” removal proceedings into the circuit courts and to eliminate review of such issues in the district courts. *Nasrallah*, 590 U.S. at 579–80. But this provision does not strip federal jurisdiction where plaintiffs “‘are not asking for review of an order of removal,’ ‘the decision . . . to seek removal,’ or ‘the process by which . . . removability will be determined.’” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020) (alteration in original) (citations omitted).

Here, Petitioner is challenging only detention, not removal. In other words, Petitioner’s unlawful detention claims are independent of his claims underlying the removal proceedings and thus, Petitioner’s detention claims can be resolved without affecting the pending removal proceedings. As a result, the Court finds that 8 U.S.C. §§ 1252(a)(5) and (b)(9) do not apply. *See Ozturk v. Hyde*, 136 F.4th 382, 397 (2d Cir. 2025) (rejecting government’s argument that because petitioner’s constitutional arguments

under the First and Fifth Amendments related to her detention and “detention itself is ‘necessary . . . for removal proceedings,’ § 1252(b)(9) strips district courts of jurisdiction”).

Distinguishing between challenges to detention and removal makes sense. Although removal orders can be reviewed after the immigration judge has entered, and the BIA has affirmed, such an order, detention challenges cannot be reviewed in the same way because the immigration judge and the BIA lack jurisdiction to decide constitutional issues. *Id.* at 400. While the court of appeals reviewing the petition can decide the constitutional issues, that court must “decide the petition **only** on the administrative record on which the order of removal is based.” *Id.* (quoting 8 U.S.C. § 1252(b)(4)(A)). Because of this requirement, neither the immigration judge nor the BIA would have developed an adequate factual record concerning the alleged unlawful detention, especially since bond hearings are conducted independently from removal proceedings, follow separate appeal processes, and rely on distinct records. *Id.* at 400. As a result, the circuit court would often lack a sufficient record to evaluate the government’s actions. *Id.* at 401. For these reasons, it is logical to interpret § 1252(b)(9) as permitting the Court to exercise jurisdiction in this case.

Finally, the Supreme Court’s decision in *Jennings* also supports the conclusion that 8 U.S.C. § 1252(b)(9) does not strip the Court of jurisdiction. In *Jennings*, the Court emphasized that interpreting a detainee’s constitutional challenge to detention as a challenge to removal would lead to an “absurd” outcome, because it would make

detention-related claims (e.g., conditions of confinement claims) “effectively unreviewable” by folding them into the review of final removal orders. *Jennings*, 583 U.S. at 293. Put differently, the Supreme Court decided that construing § 1252(b)(9) too broadly is problematic because the final order for removal might never be entered (or may be entered long after the harm occurred), in which case the detainee would be deprived “of any meaningful chance for judicial review.” *Id.*

Because Petitioner is not seeking review of a final order for removal, the Court concludes that 8 U.S.C. § 1252(a)(5) and (b)(9) do not bar review of Petitioner’s habeas petition to extent that he challenges the legality of his continued detention. See *Maldonado v. Olson*, No. 25-3142, 2025 WL 2374411, at *8 (D. Minn. Aug. 15, 2025).

B. 8 U.S.C. § 1252(g)

Respondents also contend that 8 U.S.C. § 1252(g) precludes the Court from considering Petitioner’s claims. (Resp’ts’ Opp. Mem. at 12–14.) Section 1252(g) provides that:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, . . . no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g); see also *Silva v. United States*, 866 F.3d 938, 940 n.2 (8th Cir. 2017).

The Supreme Court has described that § 1252(g) “applies only to three discrete actions that the Attorney General may take”: (1) commencing proceedings, (2) adjudicating cases,

or (3) executing removal orders. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The Supreme Court concluded that “[i]t is implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings.” *Id.* In 2018, the Supreme Court reaffirmed its narrow interpretation of § 1252(g). *Jennings*, 583 U.S. at 294.

Respondents contend that § 1252(g) “bars district courts from hearing challenges to the **method** by which the Secretary of Homeland Security chooses to commence removal proceedings, including the decision to detain an alien pending removal.” (Resp’ts’ Opp. Mem. at 13 (citing *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016))). The Court disagrees.

Petitioner’s habeas claim is not jurisdictionally barred under § 1252(g) because Petitioner is not seeking review of a decision to commence proceedings, adjudicate cases, or execute a removal order. Instead, Petitioner challenges, among other things, the lawfulness of his continued detention under § 1225(b)(2), and thus, the claim is “independent of, or wholly collateral to, the removal process.” *Ozturk*, 136 F.4th at 397. The Court concludes, as other courts in this District and elsewhere have, that § 1252(g) does not preclude Petitioner from challenging his unlawful detention in this Court. *See, e.g., Belsai D.S. v. Bondi*, No. 25-3682, 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025);

Jose J.O.E. v. Bondi, No. 25-3051, 2025 WL 2466670, at *7 (D. Minn. Aug. 27, 2025); see also *Ozturk*, 136 F.4th at 397–98; *Kong v. United States*, 62 F.4th 608, 609 (1st Cir. 2023).⁶

Accordingly, the Court finds that 8 U.S.C. § 1252(g) does not divest the Court of jurisdiction over Petitioner’s claims.

II. **LAWFULNESS OF PETITIONER’S DETENTION**

The Court now turns to the central question raised by this habeas petition: which statutory provision governs the detention of Petitioner, a citizen of Guatemala who has lived in the United States for years but was never lawfully admitted to the country and is now facing removal proceedings. Respondents argue that Petitioner’s detention is governed by § 1225(b)(2) and that § 1225(b)(2) requires detention of **any** noncitizen present in the country who has not been lawfully admitted. Petitioner argues that Respondents misread § 1225(b)(2), and that Petitioner’s detention is instead governed by § 1226 and therefore is **not** mandatory. The Court concludes that § 1226 applies and that Petitioner’s ongoing detention is unlawful for at least three reasons.

⁶ Even if Petitioner’s claims arose out of one of the three actions identified in § 1252(g), the Eighth Circuit has recognized “an exception to § 1252(g) for a habeas claim raising a pure question of law.” *Silva*, 866 F.3d at 941. The question presented here is a narrow legal one—specifically, whether § 1225(b)(2) or § 1226 governs Petitioner’s detention. See *Jose J.O.E.*, 2025 WL 2466670, at *7 (concluding that the question of whether a non-citizen detained under § 1226 is entitled to a bond hearing is a pure legal question that falls within “the exception to § 1252(g)’s jurisdiction-stripping provision, as it can be decided in the abstract on an undisputed factual record”).

First, Respondents' interpretation of § 1225(b)(2) conflicts with the statute's plain meaning. Section 1225(b)(2) provides that "in the case of an alien who is an applicant for admission, if 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 section 1229a." 8 U.S.C. § 1225(b)(2)(A). The statute defines "[a]pplicants for admission" as noncitizens who are "present in the United States who ha[ve] not been admitted" or "who arrive[] in the United States." *Id.* § 1225(a)(1). Respondents argue that because "applicant for admission" is defined as any noncitizen who is present in the country and has not been admitted, any person who is present in the country who has not be lawfully admitted is subject to § 1225(b)(2) and thus subject to mandatory detention.

The problem with Respondents' argument is that it ignores the phrase "seeking admission" found in § 1225(b)(2), which implies a current action. *See Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025) (reasoning that seeking admission "implies action—something that is currently occurring, and in this instance, would most logically occur at the border upon inspection"). If § 1225(b)(2)(A) applied to every "applicant for admission," there would be no reason to include the

phrase “seeking admission” in § 1225(b)(2)(A). The Court declines to read the “seeking admission” requirement out of § 1225(b)(2)(A).

The Supreme Court’s decision in *Jennings* confirms that § 1226(a), not § 1225(b)(2), applies to situations like Petitioner’s. In *Jennings*, the Supreme Court made it clear that § 1225(b) applies to “aliens **seeking admission** into the country” while § 1226(a) applies to “certain aliens **already in** the country.” *Jennings*, 583 U.S. at 289 (emphasis added).⁷ Other courts have similarly rejected Respondents’ broad reading of § 1225(b)(2) and have instead construed § 1226(a)’s plain language to apply to detainees in situations like Petitioner’s.⁸ See, e.g., *Maldonado v. Olson*, 2025 WL 2374411, at *11; *Rodriguez v.*

⁷ In support of their broad interpretation of § 1225(b)(2), Respondents rely on *Florida v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023), which considered whether the Department of Homeland Security (DHS) has the discretion to release or detain noncitizens apprehended at the border under § 1225(b)(2) or § 1226. However, the holding in that case undercuts Respondents’ position. In *Florida*, the court explained that § 1225 and § 1226 “can be reconciled only if they apply to different classes of aliens.” *Id.* at 1275 (quoting *Matter of M-S*, 27 I. & N. Dec. 509, 516 (Att’y Gen. 2019)). That is, “an alien who was apprehended within the interior of the United States necessarily must have been paroled under § 1226(a) . . . because he was not apprehended at the border as a § 1225 arriving alien . . .” *Id.* (citing *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007)). The court in *Florida* also acknowledged that under *Jennings*, § 1226 applies to noncitizens “**already in the country.**” *Id.* In short, *Florida* does not support Respondents’ position.

⁸ The Court acknowledges that the Board of Immigration Appeals (BIA) recently adopted Respondents’ broad interpretation of § 1225(b)(2) in the *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Hurtado*, the BIA concluded that § 1225(b)(2) applied to noncitizens classified as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being “[a]n alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General”—the same provision under which Petitioner is charged. *Id.* at 217, 225. The Court joins other courts in disagreeing with the BIA’s interpretation. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412–13 (2024) (holding that courts are required to exercise their independent judgment and “may not defer to an agency interpretation of the law simply because a statute is ambiguous”); see, e.g., *Maldonado*, 2025

Bostock, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025); *Lopez-Campos*, 2025 WL 2496379, at *5. The Court rejects Respondents’ position that § 1225(b)(2) mandates detention of **any** noncitizen present in the country and who has not been admitted because it ignores the plain language of § 1225(b)(2).

Second, if the Court adopted Respondents’ interpretation of the statutory provisions at issue, Congress’s 2025 amendments to § 1226(c) in the Laken Riley Act would be rendered superfluous.

Statutes “should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]” *Corley v. United States*, 556 U.S. 303, 314 (2009) (citation omitted). Although § 1226(a) provides that “[o]n a warrant issued by the Attorney General,” the Attorney General may (1) “detain the arrested” noncitizen, (2) release the noncitizen on bond, or (3) release the noncitizen on conditional parole, § 1226(c)(1)(E) mandates detention for certain categories of “inadmissible” noncitizens that have been charged with particular crimes.⁹

WL 2374411, at *11–13; *Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *6–7 (E.D. Mich. Sept. 9, 2024) (collecting cases at odds with the BIA’s interpretation of § 1225(b)(2) in *Hurtado*).

⁹ The Laken Riley Act amendment provides for mandatory detention of noncitizens who have been arrested for, charged with, or convicted of certain enumerated crimes **and** are inadmissible under § 1182(a)(6)(A), § 1182(a)(6)(C), or § 1182(a)(7). *Id.* § 1226(c)(1)(E). Although Petitioner was arrested and detained under § 1182(a)(6)(A) (which applies to noncitizens “present in the United States without being admitted or paroled”), Petitioner has not committed an enumerated crime. Thus, mandatory detention of Petitioner under § 1226(c) would be inappropriate.

If Respondents' interpretation is correct and § 1225(b)(2) mandates detention of **any** noncitizen present in the country who has not been admitted, § 1226(c)(1)(E) would be meaningless because all aliens who are present in the country and have not been admitted would already be subject to mandatory detention under § 1225(b)(2). See 8 U.S.C. §§ 1225(a)(1), 1182(a)(6)(A)(i). The Court declines to interpret § 1225(b)(2) in a manner that renders § 1226(c)(1)(E) superfluous.

Third, the record evidence—namely, the Notice to Appear, the arrest warrant, and the I-286 Notice of Custody Determination—supports the conclusion that § 1226 applies. As in *Maldonado*, where the court determined that § 1226 governed when the notice to appear stated that the petitioner was a noncitizen who was present in the United States without being admitted or paroled, 2025 WL 2374411, at *11, here Petitioner's Notice to Appear checked the box marked "You are an alien present in the United States who has not been admitted or paroled" but not the box marked "You are an arriving alien." (Anderson Decl. ¶ 5, Ex. B.)

As for Petitioner's arrest warrant, it was directed to: "Any immigration officer authorized pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." (Lee Decl. ¶ 11, Ex. E.) Similarly, Petitioner's Form I-286 stated Petitioner was being detained "[p]ursuant to the authority contained in section 236 [8 U.S.C. § 1226] of the" INA. (Anderson Decl. ¶ 9, Ex. F.) These

documents uniformly suggest that Petitioner was being detained under § 1226. *See Jose J.O.E.*, 2025 WL 2466670, at *8 (concluding 8 U.S.C. § 1226 governed when petitioner's arrest warrant, notice to appear, and Form I-286 custody determination stated that petitioner was being arrested and detained under § 1226.) Similar to the respondents in *Jose J.O.E.*, Respondents here do not argue that they have exercised some procedural right to change the legal basis of Petitioner's arrest and detention. *See id.* Therefore, like in *Joe J.O.E.* and *Maldonado*, Respondents' stated basis for Petitioner's arrest and detention (i.e., § 1226) supports the conclusion that § 1226's discretionary detention scheme applies to Petitioner.

For these reasons, the Court finds that Petitioner is not subject to mandatory detention under § 1225(b)(2)(A). Rather, § 1226 applies, and Petitioner is being unlawfully detained.

CONCLUSION

Because the Court has jurisdiction and the Petitioner's detention is governed by § 1226(a), the Court will order that the Petitioner be provided another bond hearing.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Petitioner Pedro Rodrigo Rodas Rodas's Verified Petition for Writ of Habeas Corpus [Docket No. 1] is **GRANTED**, as follows:

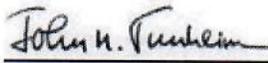
- a. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226(a);
 - b. Respondents shall provide Petitioner with a bond hearing in accordance with 8 U.S.C. § 1226(a) within 7 days of the date of this Order in which the parties will be allowed to present evidence and argument about whether Petitioner is a danger to the community and presents a flight risk if not detained;
 - c. If Respondents do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) as required herein, Petitioner must be immediately released from detention; and
 - d. Within ten days of the date of this Order, the parties shall provide the Court with a status update concerning the results of any bond hearing conducted pursuant to this Order, or if no bond hearing was held, advise the Court regarding Petitioner's release. Further, the parties shall advise the Court whether any additional proceedings in this matter are required and submit any proposals for the scope of further litigation.
2. Respondents are **ENJOINED** from removing, transferring, or otherwise facilitating the removal of Petitioner from the District of Minnesota before the ordered bond hearing. If the immigration judge determines that the Petitioner

is subject to detention under 8 U.S.C. § 1226(a), Respondents may request permission from the Court to move Petitioner if unforeseen or emergency circumstances arise which require Petitioner to be removed from the District. Any such request must include an explanation for the request as well as a proposed destination. The Court will then determine whether to grant the request and permit transfer of Petitioner.

3. Petitioner's Motion for Temporary Restraining Order [Docket No. 3] is **DENIED as moot.**
4. Within 3 days of the date of this Order, the parties shall file any requests for redaction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: October 29, 2025
at Minneapolis, Minnesota.


JOHN R. TUNHEIM
United States District Judge