

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
No. 0:25-cv-4551-MJD-JFD

Mahamed Cabdilaahi Awaale,
Petitioner,

v.

Kristi Noem, Secretary, U.S. Department of
Homeland Security, *et al.*,

Respondents.

**FEDERAL RESPONDENTS'
OBJECTION TO REPORT
AND RECOMMENDATION**

Federal Respondents¹ hereby submit these Objections to the Report and Recommendation (ECF 11, “R&R”), pursuant to the Court’s briefing order, ECF 12. The R&R errs by deferring to majority of decisions and discounting the growing minority of decisions that confirm the applicability of section 1225(b)(2)(A)’s mandatory detention provision to the Petitioner. The United States respectfully submits, as set out in its opening memorandum and presented to the Court here and in prior cases, that the statutory text is clear and allows for only one reading. Petitioner is properly subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The United States respectfully requests that this Court decline to adopt the R&R and deny the petition.

¹ The Federal Respondents are Pamela Bondi, Attorney General; Kristi Noem, Secretary of the U.S. Department of Homeland Security; the Department of Homeland Security (“DHS”); Miguel Vergara, Field Office Director of ERO, Harlingen Field Office, Immigration and Customs Enforcement; David Easterwood, Acting Field Office Director, ICE St. Paul Field Office, who should be substituted as a matter of law for the named defendant, Peter Berg under Fed. R. Civ. P. 25(d); and Assistant Field Office Director, Port Isabel Service Processing Center, ICE.

The R&R's reliance on *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025) is misplaced. The R&R finds persuasive the *Lopez Benitez* court's analogy to someone sneaking into a movie theater without purchasing a ticket to the argument that Petitioner cannot be interpreted to be "seeking admission." R&R at 5. The United States disputes the relevance of this analogy as well as its logic. The *Lopez Benitez* court argues that upon detection, the person who failed to pay for their ticket would not "ordinarily then be described as 'seeking admission' to the theater [,but rather] one would say that they had entered unlawfully but now seek a lawful means of remaining there." *Lopez Benitez*, 795 F. Supp. 3d at 489.

The United States submits that this semantic parsing is unsupported by common sense, and that it improperly creates a distinction between two identical concepts. There is no category in real life or in immigration law that would allow someone to enter a movie theater or the United States without permission. Everyone must seek admission lawfully, or apply for it (e.g., in the movie example, buy a ticket in advance or reimburse the theater for the stolen seat and face other potential legal consequences). *See* ECF 8 at 5-6. Distinguishing "seeking admission" from "applicant for admission" reads out the explicit language in 1225(a)(1) that *deems* individuals (like Petitioner) who are "present," but not "admitted" applicants for admission. It also ignores that "admission" is a term of art, and Petitioner has not been admitted, but should have been before establishing presence within the United States.

This same point applies to the R&R's treatment of the decision in *Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025). *See* R&R at

6-7. The *Chen* decision wrestles with the history of the INA and its amendments. The court rejected the creation of a new category and requirement under § 1225(b)(2) that an individual be “seeking admission,” finding “nothing in the text of Section 1225 or the logic of the immigration system supports that ‘seeking admission’ is an additional requirement for mandatory detention,” while noting that interpreting the statute that way “establish[es] a perverse system in which an [noncitizen] becomes subject to harsher treatment only upon actively seeking ‘lawful’ status. 8 U.S.C. § 1225(b)(2)(A); *id.* § 1101(a)(13)(A)”). *Chen*, 2015 U.S. Dist. LEXIS 251605 at *13-14. The United States’ citation to Petitioner’s asylum application (ECF 8 at 7) is much like the movie ticket example in *Lopez Benitez*; however phrased, it is clear Petitioner is actively seeking to stay lawfully in the United States, despite the fact that he was never admitted. The United States submits that the *Chen* court’s analysis of this is true to the statutory language and should be adopted.

The United States also objects to the breadth of the R&R’s holding. *Lopez Benitez* made a factual finding that the United States had detained the petitioner under 1226(a), rather than 1225 based on unique facts in the record. *Id.* at 486 (“[I]t is indisputable that Respondents have consistently treated Mr. Lopez Benitez as subject to § 1226.”). The United States concedes that, like Mr. Lopez Benitez, petitioner here was released in 2022 on an order of recognizance that referenced 8 U.S.C. § 1226. ECF 1 at 21.² The United States does not believe that the language in the Order for Release

² There is no evidence in the record that the other facts on which the *Lopez Benitez* court relied, e.g., a warrant for arrest referring to section 1226, are present here.

can bind the United States or this Court in light of the clear statutory text under 8 U.S.C. § 1225. *E.g.*, ECF 8 at p. 4, § A.

The United States respectfully submits that should this Court find the language referring to section 1226 in the order for release on recognizance to be relevant, that the Court should limit its holding to those particular facts. That is precisely what Judge Tostrud did in a similar case in this district. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025) (“[I]t is not necessary to address the parties’ arguments regarding whether Respondents may lawfully proceed with arresting and detaining a non-citizen under § 1225 versus § 1226 in the first instance, whether pursuant to the statutory framework or the Interim Guidance.”). The R&R erred in finding that the United States had treated Petitioner as subject to 1226 (R&R at 5), and then following *Lopez Benitez’s* broader statutory analysis, rather than tailoring the decision only to the necessary holding based on the factual findings.

Petitioner is properly subject to mandatory detention according to the plain text, context, and structure of § 1225. The United States respectfully requests that the Court reconsider its prior holding on this issue and decline to adopt the R&R. *E.g.*, *Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025).

Respectfully submitted,

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