

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:25-cv-04615-JMB-LIB

ALI ATEYE CUMAR,

Petitioner,

v.

**FEDERAL RESPONDENTS’
ANSWER TO THE PETITION
FOR THE WRIT OF HABEAS
CORPUS**

KRISTI NOEM, *et al.*,

Respondents.

Federal Respondents¹ submit this brief in answer to the verified amended petition for writ of habeas corpus, ECF No. 1, pursuant to the Court’s briefing order, ECF No. 6. The United States respectfully requests that this Court deny the petition.

BACKGROUND

Petitioner Ali Cumar is a citizen and native of Somalia present in the United States without inspection or admission. ECF 1 ¶ 77; Declaration of William Robinson (“Robinson Decl.”) ¶ 5, Ex. A. Petitioner alleges that he entered the United States in August 2022 near San Ysidro, California, without inspection by United States officers. Robinson Decl. ¶ 4, Ex. A. Petitioner was served a Notice to Appear charging removability under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act. Robinson

¹ The Federal Respondents are Kristi Noem, Secretary of the U.S. Department of Homeland Security; the Department of Homeland Security (“DHS”); Todd Lyons, Acting Director of ICE; David Easterwood, Acting Field Office Director, ICE St. Paul Field Office, who should be substituted as a matter of law for the named defendant, Sam Olson under Fed. R. Civ. P. 25(d).

Decl. ¶ 4, Ex. A. The Notice to appear was never filed and in 2024, an immigration judge dismissed the case. Robinson Decl. ¶ 4.

On December 1, 2025, Petitioner was encountered by Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) in Minneapolis, Minnesota. Robinson Decl. ¶ 5, Ex. B. ICE/ERO determined that Petitioner was in the United States unlawfully, arrested and transported him to the Fort Snelling ICE office for processing. Robinson Decl. ¶5, Ex. B. ICE personally served Petitioner with a Notice to Appear, charging him removability under 8 U.S.C. § 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). Robinson Decl. ¶ 6, Ex. C. Petitioner is currently being housed at the Sherburne County jail in Elk River, Minnesota, where he is awaiting his next court date. Robinson Decl. ¶ 8.

ARGUMENT

Federal Respondents contend Petitioner is an applicant for admission subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2). Petitioner is an “applicant for admission” under § 1225 and is therefore subject to mandatory detention under § 1225(b).

Petitioner is properly subject to mandatory detention according to the plain text, context, and structure of § 1225.² The United States acknowledges that this Court has

² Petitioner may belong to a recently certified class of noncitizens present in the United States without admission. *See* Order Granting Pl. Pet’rs’ Mot. for Class Cert., *Maldonado Bautista v. Santaacruz*, 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025) (ECF No. 82). The court in that case had earlier granted partial summary judgment for the named petitioners in that matter but declined to enter final judgment. Order Granting Pet’rs’ Mot. For Partial S.J. &

heard and ruled on the government's arguments on this issue before. *Francisco T. v. Bondi*, No. 25-cv-3219 (JMB/DTS), 20225 WL 3236513 (D. Minn. Nov. 19, 2025); *Victor V. v. Bondi*, No 25-cv-4480 (JMB/ECW), 2025 WL 3483911 (D. Minn. Dec. 4, 2025). And the Court has undoubtedly read and considered the decisions of other courts in this district and elsewhere that favor Petitioner's interpretation. The United States, however, respectfully requests that the Court reconsider its prior holding. *E.g.*, *Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025).

The United States submits this abbreviated memorandum and requests that the Court hold the arguments below, and those raised in full in *Francisco T. v. Bondi* and *Victor V. Bondi*, as preserved for appeal. The United States has appealed the decision *Avila v. Bondi*, No. 25-cv-3741 (JRT/SGE), 2025 WL 2976539, at *1 (D. Minn. Oct. 21, 2025), to the Eighth Circuit. The United States filed its opening brief in that case on December 12, 2025. *Avila v. Bondi*, No. 25-3248 (8th Cir.). The Eighth Circuit has granted the United States' request for expedited consideration of the case, with briefing set to be complete on January 20, 2026.

The government writes to summarize the legal basis for the government's statutory interpretation. Courts across the country have accepted the government's interpretation of 8 U.S.C. § 1225, in factually similar cases, including some cases that were not cited to the Court in the United States' prior briefing. *See, e.g.*, *Melgar v. Bondi, et al.*, No. 8:25CV555,

Denying Request to Enter Final J., *Maldonado Bautista v. Santacruz*, 5:25-cv-01873 (C.D. Cal. Nov. 20, 2025) (ECF No. 81). The government will alert the Court if any developments in the class proceedings bear on this case.

2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 LX 554394 (W.D.N.Y. Dec. 4, 2025); *Suarez v. Noem*, No. 1:25-cv-202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); *Valencia v. Chestnut*, No. 1:25-CV-01550 WBS JDP, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Oliveira v. Patterson*, No. 6:25-CV-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 1:25-CV-177, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025); *Vargas Lopez v. Trump*, --- F.Supp.3d ---, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 3:25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Admittedly, these decisions reflect the minority position, but that minority has been growing since the BIA reached its conclusion in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). *See Sandoval*, 2025 WL 3048926, at *6 (noting “many of the[] cases” taking the majority position did so “before—or soon after—the BIA issued its opinion in” *Hurtado*). The minority position is likely to continue persuading as these complex interpretive issues percolate throughout the country, including now in pending appeals. The Court should consider these authorities before once again addressing the interpretive question.

A. Petitioner is subject to mandatory detention under § 1225(b)(2)'s plain text, context, and structure.

The Court should uphold Petitioner's mandatory detention under § 1225(b)(2). Under § 1225's "catchall provision"— paragraph (b)(2)—a noncitizen such as Petitioner, who is deemed an applicant for admission and who is not subject to paragraph (b)(1), must be detained during removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

This Court's prior order in *Francisco T.*, 2025 WL 3236513 at *2, relying on the majority interpretation, emphasizes the phrase "seeking admission" in the text of § 1225(b)(2)(A). That provision, in its entirety, states:

Subject to subparagraphs (B) and (C), in the case of [a noncitizen] who is an applicant for admission, if the examining immigration officer determines that [a noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A) (emphasis added). This phrase, limits § 1225(b)(2)'s scope and does not apply to noncitizens, like Petitioner, who are clearly present within the United States but are located nowhere near the border and may have been present in the United States for many years.

The Court should reject this interpretation for multiple reasons evident from the statute's text, context, and structure.

First, the argument is contrary to § 1225's plain text, which "deem[s]" people, like Petitioner, who are already "present in the United States" without admission to be applicants for admission. *See* 8 U.S.C. § 1225(a)(1). While paragraph (b)(1) applies to those "arriving" in the United States and other more recent arrivals, paragraph (b)(2) is not

so limited and applies instead to any “other” noncitizen “who is an applicant for admission.” *Compare id.* § 1225(b)(1)(A)(i) *with id.* § 1225(b)(2)(A); *accord Jennings*, 583 U.S. at 287. The term “seeking admission” does not implicitly narrow this provision to just those applicants for admission who are “arriving” at the border. Such an interpretation would render paragraph (b)(2) essentially redundant of (b)(1). Rather, (b)(2) includes all people who Congress deemed to be applicants for admission who are not already covered by paragraph (b)(1).

Second, the context of § 1225’s passage in a 1996 reform package shows Congress intended to place noncitizens who are present without admission on equal footing with those who are apprehended upon arrival. Before the current version of § 1225 was enacted, under the entry doctrine, inadmissible noncitizens who successfully evaded apprehension and gained entry enjoyed greater rights than those who were found inadmissible after appearing for inspection. *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (explaining history of § 1225), *declined to extend by, United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024). But Congress did away with the distinction by, among other changes, deeming both categories to be treated as applicants for admission in § 1225(a) and treating them similarly in § 1225(b). Interpreting § 1225(b) to turn on physical entry rather than lawful admission after inspection would reinvigorate the entry doctrine, contrary to Congress’s legislative efforts.

Third, Petitioner’s argument contradicts the structure of the statute, both within § 1225 itself and between §§ 1225 and 1226. Section 1225(b) divides applicants for admission between two subparagraphs: (b)(1) for those applicants for admission who are

arriving, and (b)(2) for “other” applicants for admission. Section 1225(b) treats all “applicants for admission”—whether arriving or already present—as mandatory detainees under either (b)(1) or (b)(2), unlike admitted noncitizens who subject to discretionary detention and allowed bond under § 1226.

Based on § 1225’s plain text, context, and structure, the Court should hold Petitioner is properly subject to mandatory detention under § 1225(b)(2).

B. The appropriate remedy is not immediate release but ordering a custody redetermination hearing.

If the Court rules for Petitioner and concludes he is detained under § 1226(a) and not § 1225(b)(2), the appropriate remedy would be to order a custody redetermination hearing, not immediate release.

Remedies that exceed the scope of the violation are disfavored. *Id.* (quoting *Nebraska v. Biden*, 52 F.4th 1044, 1048 (8th Cir. 2022); see also *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (staying preliminary injunctions “to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue”). As a result, “Most courts confronting claims analogous to” those raised by Petitioner “order a bond hearing, not immediate release, as a remedy.” *Mata Fuentes v. Olson*, No. 25-cv-4456 (LMP/ECW), 2025 WL 3524455, at *5 (D. Minn. Dec. 9, 2025) (citing cases). That rule applies here.

Under Petitioner’s theory, he is not subject to expedited removal proceedings and not subject to detention under any provision of section 1225. If he is correct, then he would have to be subject to discretionary detention under § 1226(a). But § 1226(a) does not grant

“any *right* to release on bond.” *Matter of D-J-*, 23 I. & N. Dec. 572, 575 (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). Instead, the statute provides that the government “*may* release the [noncitizen] on . . . bond of *at least* \$1,500” or on conditional parole. 8 U.S.C. § 1226(a)(2) (emphasis added). Under this plain text, posting bond of “at least \$1,500” is a condition precedent to release. *Id.* And whether a person is entitled to release on bond in the first place depends on if he can prove he “is not a danger to the community or a flight risk.” *Miranda v. Garland*, 34 F.4th 338, 347 (4th Cir. 2022). Petitioner is not entitled to immediate release, unmediated by the immigration-court procedures ordinarily applicable to custody redetermination proceedings under § 1226(a).

C. Petitioner is not entitled to any additional process because he is a SIJS recipient.

The Immigration and Nationality Act (“INA”) recognizes the following class of “special immigrants” present in the United States:

- i. the non-citizen “has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the [non-citizen’s] parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law”;
- ii. “it has been determined in administrative or judicial proceedings that it would not be in the [non-citizen’s] best interest to be returned to the [non-citizen’s] or parent’s previous country of nationality or country of last habitual residence”; and
- iii. “the Secretary of Homeland Security consents to the grant of special immigrant juvenile status.”

8 U.S.C. § 1101(a)(27)(J)(i)-(iii). To obtain “Special Immigrant Juvenile Status” (“SIJS”) under this provision, a non-citizen must: (1) be under 21 years of age at the time of filing a petition for SIJS status (*i.e.*, a Form I-360); (2) be unmarried at the time of filing and adjudication; (3) be physically present in the United States; (4) be subject to a qualifying juvenile court order; and (5) “[o]btain[] consent from the Secretary of Homeland Security to classification as a special immigrant juvenile.” 8 C.F.R. § 204.11(b); *see id.* § 204.11(c)-(d).

There are two primary benefits of SIJS: The non-citizen becomes eligible for adjustment of immigration status to that of legal permanent resident (“LPR”)—a benefit within the federal government’s discretion to confer—and certain statutory grounds of inadmissibility are waived or waivable in that context and with respect to deportability. *See* 8 U.S.C. §§ 1227(c), 1255(a), (h); *Reyes v. Cissna*, 737 F. App’x 140, 142 (4th Cir. 2018). Regarding adjustment of status, a non-citizen with SIJS is “deemed . . . to have been paroled into the United States.” *Id.* § 1255(h)(1).³

The fact that Petitioner arrived as a UAC and has an approved SIJS application, does not give *any* due process interest to Petitioner. Thus, the non-binding case on which Petitioner primarily relies for this argument (ECF 1 ¶ 41-47), *Osorio-Martinez v. Attorney General*, held only that the SIJS recipients there had a sufficient interest in that status

³ Like the discretionary parole discussed above in connection with section 1225(b) detention, being deemed paroled for purposes of adjustment of status as a result of SIJS does not constitute admission or confer any lawful immigration status, *see United States v. Granados-Alvarado*, 350 F. Supp. 3d 355, 361-65 (D. Md. 2018).

justifying invocation of the Suspension Clause to assert habeas claims challenging their *expedited removal proceedings*, which proceedings effectively revoked the benefits conferred by SIJS. *See* 893 F.3d 153, 170-74 (3d Cir. 2018). Here, Petitioner is not in expedited removal proceedings, and his present detention does not effectively revoke any SIJS benefit; on the contrary, Petitioner admits that he is currently pursuing exactly the adjustment-of-status process that SIJS affords him. *E.g.*, Pet. ¶ 23. SIJS is thus a red herring as concerns Petitioner's putative liberty interest here.

D. No hearing is necessary.

The Court can rule on the Petitioner's habeas petition without a hearing. The facts are not likely to be disputed, and the only issue before the Court is one of legal interpretation capable of resolution on the papers.

CONCLUSION

Federal Respondents request the Court hold Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and deny the habeas petition.

Dated: December 19, 2025

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