

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Marco Vinicio Moreta Duran,

Petitioner,

v.

Pamela Bondi, Attorney General,

0:25-cv-04816-MJD-JFD

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Department of Homeland Security,

**PETITIONER'S
OBJECTIONS TO REPORT
AND RECOMMENDATION**

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Daren K. Margolin, Director for Executive
Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement,

And,

Ryan Shea, Sheriff of Freeborn County.

Respondents.

INTRODUCTION

Petitioner responds to the docketing of a Report and Recommendation to grant Petitioner's Petition. *See* ECF Doc. 8. The Report's substantive conclusions relative to the statutes of detention are correct. Petitioner does not object to the Court's conclusion that Petitioner is subject to 8 U.S.C. § 1226(a) and not 8 U.S.C. § 1225(b)(2). Petitioner, however, requests that the Court resolve the issue of Petitioner's arrest without an order or warrant of arrest. Immediate release is the appropriate remedy.

REMEDY: IMMEDIATE RELEASE

Anything other than release may result in hollow order because EOIR is now asserting that its immigration judges cannot conduct a 8 U.S.C. § 1226 bond hearing, despite a federal court order, because the condition of warrant of arrest is not proven. Respondents have refused in immigration court to confirm the existence of this document, thwarting any attempt to let the 8 U.S.C. § 1226 proceeding proceed. This development compels the Court order immediate release rather than a bond hearing. An order for a bond hearing would more likely than not just trigger a return to this Court as Respondents will not confirm the existence of a warrant of arrest. Respondents are purposefully undermining the regulatory and statutory authority of the immigration courts to coerce perpetual, infinite detention. The immigration courts are errantly relying on *Matter of A-*

W- (25 I&N Dec. 45 (BIA 2009)) which does not discuss the conditions of 8 U.S.C. § 1226 for a bond hearing. This is a new twist in Respondents' effort to impede the possible liberation of Petitioner and others like him.

CONCLUSION

The Report's substantive conclusions relative to the statutes of detention are correct. Petitioner does not object to the Court's conclusion that Petitioner is subject to 8 U.S.C. § 1226(a) and not 8 U.S.C. § 1225(b)(2). However, Petitioner requests that the remedy be immediate release due to changes in Respondents' practices discussed *supra*.

DATED: January 24, 2026

Respectfully submitted,

/s/ David Wilson

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