

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00075-JWB-LIB

BETTY YADIRA CONTENTO ANDRADE,

Petitioner,

v.

TODD LYONS, *et al.*,

Respondents.

**FEDERAL RESPONDENTS’
RESPONSE TO PETITION
FOR WRIT OF HABEAS
CORPUS**

Petitioner Betty Yadira Contento Andrade (“Petitioner”) filed this petition for a writ of habeas corpus Dkt. No. 1 (“Petition” or “Pet.”) because she contends that 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b)(2) governs her detention by U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is incorrect. Respondents Peter Berg, Todd Lyons, Kristi Noem, and Pamela Bondi (collectively “the Federal Respondents”)¹ respectfully submit this response to the petition. The Court should deny her request for habeas relief because Petitioner’s detention is mandatory under 8 U.S.C. § 1225—she is not eligible for bond or a bond hearing—much less the release she seeks.

¹ Federal Respondents note that the Petition lists ICE and the U.S. Department of Homeland Security as respondents in the “PARTIES” section, Pet. at 4-5, but did not list them in the caption, *see id.* at 1. They are not included as respondents on PACER, but that distinction would not alter the substance of this response.

BACKGROUND

The Federal Respondents draw the following background from the Petition and the Declaration of Deportation Officer Xiong Lee (“Lee Decl.”).

Petitioner is a citizen and national of in Ecuador. Lee Decl. ¶ 4. She entered the United States at or near Presidio, Texas on or about January 15, 2022, without inspection or parole. *See* Pet. ¶ 36; Lee Decl. ¶ 4. Petitioner was promptly arrested by the U.S. Border Patrol and arrested for illegal entry. Lee Decl. ¶ 4; *id.* Ex. A (I-213).

On January 22, 2022, Border Patrol released Petitioner and ordered her to check in with ICE Enforcement and Removal Operations in Saint Paul, Minnesota. *See id.* ¶ 5; *see id.* Ex. B (“Order of Release”).

On July 25, 2022, ICE issued Petitioner a Notice to Appear charging her as removable from the United States under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), as amended, for being 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 as designated by the Attorney General. *Id.* ¶ 6; *see id.* Exhibit C (“NTA”).

On September 22, 2023, Petitioner filed an Application for Asylum and Withholding of Removal in immigration court, which remains pending. Lee Decl. ¶ 7.

On January 7, 2026, officers from ICE’s Enforcement and Removal Operations encountered Petitioner, and she was arrested for being illegally present in the United States and was transported to the ICE field office in Saint Paul, Minnesota for processing. *Id.* ¶ 8. She remains detained by ICE while her immigration proceedings are pending. *Id.*

As Petitioner is “An alien present in the United States who has not been admitted,” she “shall be deemed . . . an applicant for admission.” 8 U.S.C. § 1225(a)(1). Because no immigration officer has determined that she is “clearly and beyond a doubt entitled to be admitted,” she is subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(2).

Petitioner filed this habeas petition on January 7, 2026. Dkt. 1. The Court entered an order to respond that same day. *See* Dkt. No. 3. Petitioner also filed a Motion for Preliminary Injunction or Temporary Restraining Order on January 7, 2025, *see* Dkt. No. 5, which the Court granted in part on January 8, 2025, without a response from Federal Respondents, enjoining the removal,² transfer, or other facilitation of the removal of Petitioner from the jurisdiction of the United States District Court for the District of Minnesota pending further order of this Court for 14 days. Federal Respondents now respectfully submit their response to the Petition in compliance with the Court’s January 7, 2025 Order. *See* Dkt. No. 3.

ARGUMENT

The Court should deny this Petition on the merits. Petitioner is subject to mandatory detention, as Congress has directed that noncitizens who enter the United States without being inspected “shall be deemed for purposes of this chapter an applicant for admission”

² Federal Respondents do not interpret the order, *see* Dkt. No. 8, to enjoin execution of a removal order because 1) the Court would not have jurisdiction for that given 8 U.S.C. § 1252(g), and 2) Petitioner is not currently subject to a final order of removal, rather she is in ongoing removal proceedings. Rather, Federal Respondents understand the order to enjoin transferring Petitioner outside this district.

and then detained pursuant to § 1225(b)(1) or § 1225(b)(2). Petitioner thinks her detention is instead governed by § 1226, *see* Pet. ¶¶ 36, 58, but that is incorrect.³

I. Mandatory Detention under § 1225

Although the Petition does not directly grapple with § 1225, the gist of Petitioner’s theory of habeas relief is that she is subject to detention under § 1226 rather than § 1225. *See* Pet. ¶ 36 (suggesting Petitioner was “released . . . pursuant to 8 U.S.C. § 1226(a)”); *id.* ¶¶ 56, 58 (discussing revocation of Petitioner’s prior custody determination). Though Petitioner contends her current detention is governed by 8 U.S.C. § 1226(a), she seeks “release . . . from custody,” *id.* at p.14, notwithstanding that it does not grant “any *right* to release on bond.” *Matter of D-J-*, 23 I. & N. Dec. 572, 575 (original emphasis) (citation omitted); *see infra* § II (discussing why release is inappropriate). As the order to respond recognized, Dkt. No. 3 at 2, the Court is familiar with this issue by now and has already ruled on the government’s arguments for holding that detention under these circumstances is appropriately characterized as mandatory detention pursuant to § 1225. *See, e.g., Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Eliseo A.A. v. Olson*, No. CV 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025). Although the Eighth Circuit is poised to weigh-in soon, *see Avila v. Bondi*,

³ Petitioner is not a member of the class recently certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. filed July 23, 2025), because she was arrested right after entering the country. *See* Lee Decl. ¶ 4. The Petition makes no reference to *Bautista*, and Petitioner does not assert any entitlement to relief based it. Federal Respondents will therefore not address *Bautista* at this juncture.

No. 25-3248 (8th Cir. docketed Nov. 10, 2025), Federal Respondents acknowledge that this case presents similar legal and factual issues to the prior cases the Court refers to.

Rather than belabor these proceedings further by re-arguing points that the Court has considered and rejected, the Federal Respondents will: (1) offer additional authority that the Court may not have previously considered; (2) summarize the legal basis for the government's interpretation; and (3) explain how Petitioner's pursuit of asylum is a relevant consideration. The Federal Respondents request that the Court note the arguments made below and in *Mayamu K.* and *Eliseo A.A.* and hold that they are preserved for appeal.

A. Additional Authority

In *Mayamu K.*, this Court indicated that it was “unaware of any legal authority that supports Respondent's interpretation” of § 1225(b). 2025 WL 3641819, at *4. But there is plenty of authority supporting the Federal Respondents' position. Dozens of courts across the country have agreed with the government's interpretation of § 1225 in factually similar cases. *See, e.g., Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Urbina Zapata v. Chestnut*, No. 1:25-cv-01922-WBS-CKD, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *E.R.J.B. v. Wofford*, No. 1:25-cv-01843-WBS-SCR, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, No. 1:25-cv-01904-WS-CKD, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Liang v. Almodovar*, No. 1:25-cv-09322-MKV, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *Pablo Coronado v. Secretary, DHS*, No. 1:25-cv-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *P.B. v. Bergami*, No. 3:25-cv-02978-O, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Yanyun Mo v. Chestnut*, No. 1:25-cv-01789 WBS CSK, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025);

Ugarte-Arenas v. Olson, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025); *Melgar v. Bondi, et al.*, No. 8:25CV555, 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 WL 7484932 (W.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, No. 1:25-CV-01612 (SEC P), 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Hernandez Cruz v. Noem*, No. 8:2-cv-02566-SB-MAA, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Suarez v. Noem*, No. 1:25-cv-202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); *Maceda Jimenez v. Thompson*, No. 4:25-cv-05025, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025); *Alves De Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025); *Valencia v. Chestnut*, No. 1:25-CV-01550 WBS JDP, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284 (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 WL 3199872 (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); *Pipa-Aquise v. Bondi*, No. 1:25-cv-01094-MSN-WBP, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025); *see also Pena v. Hyde*, No. 25-11983-NMO,

2025 WL 2108913 (D. Mass. July 28, 2025) (applying Section 1225 without discussion); *Delgado v. Noem*, No. 9:25-cv-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025) (concluding either Section 1225 and 1226, or both, may apply); *Gallegos Rodriguez v. Noem*, No. 9:25-cv-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025) (same).

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*). And as recently as this week, a court in this district observed that there are “reasons to question” the majority view, that the “statutory-interpretation issue is difficult and close,” and that courts reaching the opposite conclusion to the majority have done so “reasonably.” *Ahmed M. v. Bondi*, No. 25-cv-4711 (ECT/SGE), Doc. No. 8 at 2, 2026 WL 25627, *1 (Jan. 5, 2026); *see also Hector G. v. Lyons*, No. 25-cv-4710 (PJS/EMB), Doc. No. 9 (Dec. 30, 2025, Order) (“Respondents’ argument has some force.”). It is also worth emphasizing that courts within the Eighth Circuit have agreed with the government’s position. *See, e.g., Melgar v. Bondi, et al.*, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Suarez v. Noem*, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); *Mejia Olalde v. Noem*, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Vargas Lopez v. Trump*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In particular, the District of Nebraska’s decision in *Melgar* comprehensively and persuasively analyzed the text of § 1225 and § 1226, addressing many of the arguments this Court relied on in *Mayamu K.*

and *Elisio A.A.* before concluding that a habeas petition like the one filed in this case failed on the merits because the petitioner was properly detained under § 1225.

Federal Respondents contend that the more recent authority cited above justifies revisiting the Court's earlier decisions on the 1225/1226 issue presented in this Petition and substantively engaging with the arguments that the government has presented.

B. Mandatory Detention under § 1225

The Court should uphold Petitioner's mandatory detention under § 1225(b)(2). Petitioner is a noncitizen present in the United States who entered without admission or parole. *See* Lee Decl. ¶ 4. Thus, she is "deemed" an "applicant for admission" under § 1225(a)(1). Pursuant to the statute's "catchall provision"—paragraph (b)(2)—a noncitizen like 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). The Court should reject Petitioner's attempt to recast her present detention as arising under § 1226, for reasons that are evident from the text, context, and structure of the statutes at issue.

First, the Petition ignores § 1225's plain text, which "deem[s]" people who are already "present in the United States" without admission to be applicants for admission. *See* 8 U.S.C. § 1225(a)(1). In *Mayamu K.*, the Court suggested that "[t]he phrase "applicant for admission" refers to a person "attempting or intending to gain lawful entry into the United States." 2025 WL 3641819 at *3 (citing *Francisco T. v. Bondi*, Civ. No. 25-3219 (JMB/DTS), Doc. No. 20 at 12–13 (D. Minn. Sept. 5, 2025)). But the statute is not so limited; it *specifies exactly* who is to be treated as an "applicant for admission," which

specifically includes any “alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a). *Mayamu* may also be read to endorse the proposition that “an ‘arriving’ noncitizen is interchangeable with a noncitizen who is ‘seeking admission.’” 2025 WL 3641819, at *3 (citation omitted). Respectfully, that is not accurate. Section 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise’ means ‘in a different way or manner[.]’” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)); *see also Att’y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024) (same); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (“or otherwise” means “the first action is a subset of the second action”); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that any noncitizen who is an “applicant for admission” is “seeking admission” for purposes of Section 1252(b)(2)(A).

Although 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. Thus “seeking admission” does not implicitly narrow § 1225(b)(2) 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 deemed by statute 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, the Court's current reading conflicts with 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). By contrast § 1226 applies to numerous aliens not subject to Section 1225(b)(2)(A), including all *admitted* aliens who are now removable—such as the more than a million aliens in the United States who were lawfully admitted but overstayed

visas. For those aliens, Section 1226 applies, and 1225 does not. However, Petitioner has *not* been admitted, thus § 1225 is what applies to her.

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

C. Petitioner's Pursuit of Asylum

This Court rejected the government's construction of § 1225 and § 1226 in *Mayamu K.* But the Court relied on a difference between “noncitizens seeking entry from outside the United States” and “those already present within the country.” 2025 WL 3641819, at *8. Respectfully, it cannot be the law that § 1226 applies to every noncitizen detained when she is “already present within the country.”⁴ That would read part of Section 1225(b)(1), which explicitly extends expedited removal procedures not just to “arriving” aliens but also to aliens who have been “physically present in the United States” for up to two years, 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II), off the books. It would also mean a noncitizen who barely makes it across the border and is immediately arrested can be subject to detention *only* under § 1226. Such a construction would read § 1225 completely out of

⁴ Nor can *Jennings* be read to support that interpretation. Though *Jennings* noted immigration law authorizes the government “to detain certain aliens already in the country pending . . . under §§ 1226(a) and (c)” while describing 1225(b)(1) and (b)(2) as authorizing detention of “certain aliens seeking admission into the country,” 583 U.S. 281 at 289, the Court's repeated use of the word “certain” conveys that those descriptions cannot be read to limit the statute's application to *only* those circumstances. “The language of an opinion is not always to be parsed [like the] language of a statute,” and instead “must be read with a careful eye to context.” *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74 (2023) (quotation omitted). And when describing the scope of Section 1226 in particular, *Jennings* refers to aliens “present in the country” who are removable under 8 U.S.C. § 1227(a)—a provision that applies *only* to admitted aliens. See 583 U.S. at 288.

existence. If “seeking admission” is interpreted as a separate requirement from “applicant for admission” (and it should not be), the touchstone of the Court’s analysis should be whether a noncitizen is “seeking admission” at the time of her arrest and detention.

Here, Petitioner is “seeking admission” through her pending asylum application and was doing so at the time of her recent arrest. Pet. ¶ 14; *see also* Lee Decl. ¶ 7. By pursuing asylum after she was first apprehended at the border—and by continuing to pursue that status to this day—Petitioner is unambiguously “seeking admission.” If granted, an asylum application leads to the asylee obtaining an “asylum status” that includes a stay of removal, work authorization, and a travel document. 8 U.S.C. § 1158(c)(1). “Asylum status” is a form of lawful status that meets the INA’s definition of “admission,” which means “the lawful entry . . . into the United States after inspection and authorization by an immigration officer,” but which does not include parole. *Id.* § 1101(a)(13)(A), (B), 1158(d)(5). In other words, Petitioner is attempting to gain lawful admission and status in the United States.

The district court in *Chen* recently considered this issue and agreed that an asylum seeker was “seeking admission” under the narrow construction of § 1225(b)(2) adopted by many courts. 2025 WL 3484855, at *6. The *Chen* court agreed with the government’s interpretation of § 1225(b)(2) but went on to conclude that detention would be appropriate even under the narrower interpretation like the one this Court endorsed in *Mayamu K.*: “If actively ‘seeking admission’ is a distinct requirement for mandatory detention pursuant to 1225, seeking asylum *is* ‘seeking admission,’ within the meaning of the statute, since ‘admission’ is defined in terms of ‘lawful’ status, 8 U.S.C. § 1101(a)(13)(A), not physical presence on U.S. soil.” *Id.* at *6 (original emphasis).

Because Petitioner is currently “seeking admission”—and because she was “seeking admission” at the time of her arrest and detention in January of 2026—she is subject to mandatory detention under § 1225(b)(2).

II. Remedy

If the Court determines that Petitioner is detained under § 1226(a) and not under § 1225(b)(2), then the appropriate remedy is to order a custody redetermination hearing instead of immediate release. That approach would “comport[] with the general rule that ‘the scope of injunctive relief is dictated by the extent of the violation established’ and should be ‘no more burdensome to the defendant than necessary to provide complete relief to the plaintiff.’” *Fuentes v. Olson*, 2025 WL 3524455, at *5 (D. Minn. Dec. 9, 2025) (alterations omitted) (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”). The result of this rule is that “[m]ost courts confronting claims analogous to” those raised by Petitioner “order a bond hearing, not immediate release, as a remedy.” *Fuentes*, 2025 WL 3524455, at *5 (collecting authority). Petitioner should not obtain a different outcome here.

Moreover, under Petitioner’s own theory, she is subject to discretionary detention under § 1226(a), but her prior custody determination has been wrongfully revoked.⁵ Pet.

⁵ Federal Respondents position is that, to the extent the Court finds (as Petitioner argues) that her detention falls under § 1226 rather than § 1225, revocation of release occurred as a valid exercise of discretion. See 8 U.S.C. § 1226(b) (“The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the

¶¶ 36, 58. But § 1226(a) does not grant “any *right* to release on bond.” *Matter of D-J-*, 23 I. & N. Dec. 572, 575 (original emphasis) (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 she “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 an order of immediate release from this Court, unmediated by the immigration court procedures ordinarily applicable to custody redetermination proceedings under § 1226(a)—procedures that would necessarily apply to Petitioner’s change in status under her own theory.

III. Evidentiary Hearing

Finally, the Federal Respondents believe that the Court can rule on this petition without holding an evidentiary hearing. The facts are not likely to be disputed, and the only issues before the Court are ones of legal interpretation that are capable of resolution on the parties’ submissions.

CONCLUSION

For the reasons discussed above, the Federal Respondents respectfully request that the Court deny this habeas petition.

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original warrant, and detain the alien.”); 8 C.F.R. 1236.1(c)(9) (providing for discretionary revocations of release from custody).

Dated: January 9, 2026

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