

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 0:26-cv-00119- ECT-SGE

OSCAR FLORES,

Petitioner,

v.

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

PAMELA BONDI, *et al.*,

Respondents.

Petitioner Oscar Flores filed this petition for a writ of habeas corpus because he wants an immigration court to conduct a bond hearing in connection with his detention by the U.S. Immigration and Customs Enforcement (“ICE”). Respondents Pamela Bondi, Kristi Noem, the Department of Homeland Security (“DHS”), Todd M. Lyons, ICE, Daren K. Margolin, the Executive Office for Immigration Review (“EOIR”), and David Easterwood (collectively “the Federal Respondents”) submit this response to the petition. The Court should deny Petitioner’s request for habeas relief because his detention is mandatory under 8 U.S.C. § 1225—he is not eligible for a bond hearing.

**BACKGROUND**

The Federal Respondents draw the following background from the petition and the Declaration of Deportation Officer Angela Minner, (“Minner Decl.”).

Petitioner claims to be a citizen of Mexico. Pet. Parties. ¶ 7. Petitioner first entered the United States on or about July 20, 2005, at an unknown place. U.S. Border Patrol

(USBP) encountered Petitioner near Concepcion, Texas and processed him by voluntary return to Mexico. Minner Decl 4.

On an unknown date at an unknown place, Petitioner re-entered the U.S. without inspection. ICE/ERO in Dallas, TX encountered Petitioner at the Dallas County Jail (DCJ) on April 10, 2010 pursuant to Petitioner's arrest for DWI. ICE/ERO lodged a detainer with the DCJ and arrested Petitioner on May 4, 2010 upon his release from the DCJ and processed him by voluntary return to Mexico. Minner Decl 5.

On or about April 15, 2014, Petitioner re-entered the U.S. without inspection. USBP encountered Petitioner near Laredo, TX and processed him by Expedited Removal. Minner Decl 6

On April 16, 2014, the U.S. District Court in the Southern District of Texas, Laredo. Division, convicted Petitioner of 8 USC 1325, Illegal Entry and sentenced him to 30 days. Minner Decl 7 and Exhibit A. On May 14, 2014, Petitioner was formally removed to Mexico under Expedited Removal. Minner Decl 8. On an unknown date at an unknown place, Petitioner re-entered the U.S. without inspection. Minner Decl 9.

On January 10, 2026, ICE/ERO, while conducting at-large enforcement activities, encountered Petitioner and determined that he did not have legal authorization to remain in the U. S. ICE/ERO arrested Petitioner for removal proceedings. Minner Decl 10.

On January 11, 2026, due to a detention bed space shortage, ICE/ERO transferred Petitioner to El Paso Camp East Montana facility in El Paso, TX. Petitioner was moved before ICE learned of the petition. Petitioner is being processed for removal proceedings under Section 1229a. Minner Decl 11.

Petitioner filed this habeas petition on January 8, 2026. Dkt. 1. The Court entered a briefing schedule, and the Federal Respondents now submit their response.

### ARGUMENT

The parties' disagreement in this case comes down to whether Petitioner is detained under § 1225 or § 1226 of Title 8 of the U.S. Code. ICE says it's § 1225, which governs the detention of noncitizens who are "applicants for admission." 8 U.S.C. § 1225(a)(3). Congress says so as well, expressly directing that noncitizens like Petitioner who get into the United States without being inspected "shall be deemed for purposes of this chapter an applicant for admission" and then detained pursuant to § 1225(b)(1) or § 1225(b)(2). *Id.* § 1225(a)(1). Based on a straightforward reading of these statutes, Petitioner is subject to mandatory detention under § 1225(b)(2).<sup>1</sup>

#### I. Mandatory Detention under § 1225

Petitioner thinks he is subject to detention under § 1226 rather than under § 1225. 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., Roberto M.F. v. Olson*, No. 25-cv-4456 (LMP/ECW), 2025 WL 3524455 (D. Minn. Dec. 9, 2025). *Beltran v. Bondi*, 2025 WL 3719856 (D. Minn. Dec. 23, 2025). Although the Eighth Circuit is poised

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<sup>1</sup> 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). The Petition makes no reference to *Bautista*, and Petitioner does not assert any entitlement to relief based on possible class membership. Thus, the Federal Respondents will not address *Bautista* further except to request an opportunity to file a sur-reply if Petitioner uses his reply to argue that he is entitled to relief on this basis.

to weigh-in soon, *see Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025), the Federal Respondents acknowledge that this case presents similar legal and factual issues to prior habeas petitions.

Rather than belabor these proceedings further by re-arguing points that the Court has already considered and rejected, the Federal Respondents will: (1) offer additional authority that the Court may not have previously considered; and (2) summarize the legal basis for the government's interpretation. The Federal Respondents request that the Court note the arguments made below and in *Roberto M.F.* and hold that they are preserved for appeal.

**A. Additional Authority**

Courts across the country have agreed with the government's interpretation of § 1225 in factually similar cases. *See, e.g., Calderon Lopez v. Lyons*, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Urbina Zapata v. Chestnut*, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *E.R.J.B. v. Wofford*, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Liang v. Almodovar*, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *Pablo Coronado v. Secretary, DHS*, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *P.B. v. Bergami*, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Yanyun Mo v. Chestnut*, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025); *Ugarte-Arenas v. Olson*, (E.D. Wis. Dec. 8, 2025); *Chen v. Almodovar*, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, 2025 WL 7484932, (W.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Hernandez Cruz v. Noem*, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Maceda Jimenez v. Thompson*, 2025 WL

3265493 (S.D. Tex. Nov. 24, 2025); *Alves De Andrade v. Patterson*, 2025 WL 3252707 (W.D. La. Nov. 21, 2025); *Valencia v. Chestnut*, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Ramos v. Lyons*, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025); *Oliveira v. Patterson*, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025); *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pipa-Aquise v. Bondi*, 2025 WL 2490657 (E.D. Va. Aug. 5, 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*). And it is worth emphasizing that courts within the Eighth Circuit agree with the government’s arguments. *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 analyzes the text of § 1225 and § 1226 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. The Federal

Respondents contend that this authority justifies revisiting the Court's earlier decisions on the § 1225/1226 issue presented in this petition.

**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 inspection. Thus, he is "deemed" to be 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 request to recast his detention as arising under § 1226, for reasons that are evident from the text, context, and structure of the statutes at issue.

*First*, Petitioner's argument is contrary to § 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). 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. 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 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 approach 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 are 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).

## 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.

Under Petitioner’s theory, he is not subject to expedited removal proceedings and not subject to detention under any provision of § 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 (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 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 an order of immediate release from this Court, unmediated by the immigration court procedures ordinarily applicable to custody redetermination proceedings under § 1226(a).

### **III. Evidentiary Hearing**

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.

Dated: January 14, 2026

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