

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00261-PJS-EMB

Jesus Alberto Perez,

Petitioner,

v.

Pamela Bondi, et al.,

Respondents.

**RESPONDENTS' RESPONSE
TO ORDER TO SHOW
CAUSE AND PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner Jesus Alberto Perez (Petitioner) filed a petition for writ of habeas corpus on January 14, 2026, seeking immediate release or an order requiring Respondents to afford Petitioner a bond redetermination hearing. Federal Respondents¹ 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.

I. BACKGROUND

ICE has provided limited information to the undersigned because its file is not readily available to ICE in St. Paul. The following facts are taken from the petition and the Declaration of Christopher Campbell. Petitioner is a citizen and national of Venezuela who entered the United States in July 2022. ECF No. 1, ¶ 12. On or about July 7, 2022, U.S. Border Patrol (USBP) encountered PEREZ near Eagle Pass, Texas. USBP released PEREZ under the Alternatives to Detention program (ATD) due to a lack of detention bed space and paroled him into the country, instructing him to report to ICE/ERO St. Paul once he

¹ This response is not submitted on behalf of any state authority.

arrived in Minnesota. Campbell Decl., ¶ 5.

On April 13, 2023, ERO St. Paul served PEREZ a Notice to Appear, form I-862, charging removability under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act as an alien present in the country without admission or parole and as an alien present in the country without a valid immigrant visa. Campbell Decl., ¶ 6.

Petitioner filed an asylum application in March 2024 which remains pending. ECF No. 1, ¶ 14.

On May 20, 2024, an immigration judge terminated proceedings in PEREZ's case. Campbell Decl., ¶ 7.

On January 13, 2026, ICE arrested PEREZ in St. Paul, MN. Campbell Decl., ¶ 8.²

PEREZ has filed no applications regarding custody or bond status. Campbell Decl., ¶ 10.

On January 14, 2026, ICE transferred PEREZ to El Paso Camp East Montana detention facility in El Paso, Texas due to a local detention bed space shortage. He will be processed in El Paso for removal proceedings under section 1229a of the Immigration and Nationality Act. Campbell Decl., ¶ 9.

Petitioner filed this habeas petition on January 14, 2026. ICE transferred Petitioner to El Paso, but per the Court's Order, ECF No. 8, Respondents are transferring Petitioner back to Minnesota. Federal Respondents now submit their response.

² Federal Respondents do not admit any of the alleged details surrounding, or Petitioner's characterization of, the arrest.

II. 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 non-citizens like Petitioner "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). Recently, Judge Magnuson agreed. *See Abdirahmaan G. v. Noem*, No. 26-cv-34 (PAM/SGE), ECF No. 7 (D. Minn. Jan. 14, 2026). Based on a straightforward reading of these statutes, Petitioner is subject to mandatory detention under § 1225(b)(2).

A. 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., Santos M.C. v. Olson*, No. 25-cv-4264 (PJS/DJF), 2025 WL 3281787 (D. Minn. Nov. 25, 2025). Although the Eighth Circuit is poised to weigh in soon, *see Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025), Federal Respondents acknowledge this case presents similar legal and factual issues to prior habeas petitions, including *Santos M.C.*

Rather than belabor these proceedings further by re-arguing points the Court has already considered and rejected, Federal Respondents will summarize the legal basis for the government's interpretation. Federal Respondents request that the Court note the

arguments made below and in *Santos M.C.* and hold that they are preserved for appeal.

B. Additional Authority

Courts across the country have agreed with the government's interpretation of § 1225 in dozens of factually similar cases. *See, e.g., Abdirahmaan G. v. Noem*, No. 26-cv-34 (PAM/SGE), ECF No. 7 (D. Minn. Jan. 14, 2026); *Cruz Rodriguez v. Olson*, --- F. Supp. 3d ----, 2026 WL 63613, *2, *5-8 (N.D. Ill. 2026); *Singh v. Noem*, 2026 WL 74558, *1-6 (E.D. Ky. Jan. 9, 2026); *Naikpay v. Sukkar*, No. 2:25-cv-1167-KCD-DNF, 2026 WL 44820, *1 (M.D. Fla. Jan. 7, 2026); *Zakinyan v. Warden*, No. 25-CV-3717 JLS (MMP), 2026 WL 36081, *3 (S.D. Cal. Jan. 6, 2026); *Gomez Hernandez v. Lyons*, 2026 WL 31775, *1-5 (N.D. Tex. Jan. 6, 2026); *Alfonso Parra v. Secretary, Department of Homeland Security*, No. 2:25-cv-1116-KCD-DNF, 2026 WL 21243, * (M.D. Fla. Jan. 5, 2026); *Calderon Lopez v. Lyons*, --- F. Supp. 3d ----, 2026 WL 44683, *1, *4-8 (N.D. Tex. 2026); *Lopez v. Ladwig*, No. 6:25-cv-01884, 2026 WL 19095, *4 (W.D. La. Jan. 2, 2026); *Zuniga v. Lyons*, --- F. Supp. 3d ----, No. 1:25-CV-221-H, 2025 WL 3755126, *1, *3-7 (N.D. Tex. 2025); *Rodriguez v. Jeffreys*, 8:25CV714, 2025 WL 3754411, *11-14 (D. Neb. Dec. 29, 2025); *Montoya v. Holt*, CIV-25-01231-JD, 2025 WL 3733302, *6-10 (W.D. Okla. Dec. 26, 2025); *Lucero v. Field Office Director of Enforcement and Removal Operations*, No. 1:25-cv-823, 2025 WL 3718730, 2025 WL 3718730, *1-6 (S.D. Ohio Dec. 23, 2025); *A.M. v. Joyce*, No. 2:25-cv-00615-LEW, 2025 WL 3706922, *1,*4-5 (D. Me. Dec. 22, 2025); *De La Torre v. Lyons*, No. 1:25-cv-01516-DJC-

CSK, 2025 WL 3704448, *2 (E.D. Cal. Dec. 22, 2025); *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, 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); *Pipa-Aquise v. Bondi*, No. 1:25-cv-01094-MSN-WBP, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025).

As noted, Judge Magnuson agreed. See *Bidy M. v. Kandiyohi County Jail, et al.*, Civ. No. 25-4791 PAM/EMB, ECF. No. 10 (D. Minn. January 16, 2016); *Abdirahman G v. Noem*, Civ. No. 26-cv-34 PAM/SGE, ECF No. 7 (D. Minn. January 14, 2026). In those cases, Judge Magnuson denied habeas petitions in similar cases largely based on the position advocated by the Government. And, Judge Tostrud recently observed there are “reasons to question” the majority view, that the “statutory-interpretation issue is difficult and close,” and that courts reaching the opposite conclusion 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.”). The Government understands that taking a fresh look at this statutory scheme is no small task. “The complex provisions of the INA have provoked comparisons to a morass, a Gordian knot, and King Minos’s labyrinth in ancient Crete. . . . Divining its meaning is ordinarily not for the faint of heart.” *Torres v. Barr*, 976 F.3d 918, 923 (9th Cir. 2020) (en banc) (cleaned up).

However, given the importance of the question and recent developments in the caselaw, the United States once again respectfully urges this Court to revisit the majority approach and give serious consideration to the Government’s view of the law as set forth in this response and, particularly, in other recent cases such as *Hector G.* where more complete briefing has been presented. *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, Respondents emphasize 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. Federal Respondents contend that this authority justifies revisiting the Court’s earlier decisions on the § 1225/1226 issue presented in this petition.

C. 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 is in removal/asylum proceedings. He is “deemed” to be an “applicant for admission” under § 1225(a)(1) by virtue of his asylum application. He falls under 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). This makes sense as he needs to complete his asylum proceedings under the auspices of the Immigration Court. As those proceedings unfold, he can apply again for bond redetermination. 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).³

III. 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.’” *Roberto M.F. 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.” *Roberto M.F.*, 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)

³ Petitioner’s other arguments, based on Due Process (Count I) and the Administrative Procedure Act (Count III) are not well-developed and seem to turn on the same statutory question in any event.

(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 his ability to 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). *See Santos M.C.*, 2025 WL 3281787, at *4 (granting bond hearing and denying immediate release).⁴

IV. Evidentiary Hearing

Respondents believe 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 capable of resolution on the parties’ submissions.

⁴ Apart from the fact of the steady growth in the number of decisions agreeing with the government’s view of the INA, Respondents are not aware of any material differences between this case and *Santos M.C.*, on either approach to the statutory scheme.

V. CONCLUSION

For the reasons discussed above, Respondents respectfully request that the Court deny this habeas petition. Should the Court be disposed not to deny the petition outright, the Court should enter an Order that Respondents shall afford Petitioner a bond hearing and if Petitioner makes bond, the release shall also include the other conditions Respondents ordinarily require under these circumstances.

Dated: January 20, 2026

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