

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

William Baldomiro Morocho Morocho,

Petitioner,

v.

Pamela Bondi, Attorney General,

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

Department of Homeland Security,

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,

and,

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

Respondents.

0:26-cv-00346-ECT-DJF

**PETITIONER'S REPLY IN
SUPPORT OF PETITION
FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

The Court asked Respondents to differentiate this matter from *Fernando F.P.D. v. Brott*, No. 25-cv-4455 (ECT/ECW), 2025 WL 3675151 (D. Minn. Dec. 17, 2025). *See* ECF No. 4. They have made no such effort. *See* ECF No. 5. Instead, they trot out arguments that have been rejected by “[e]very judge in this District to have addressed this question.” *Ahmed M. v. Bondi et al.*, 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026), and more than 1,600 cases going the other way. *See, e.g., Cruz Bautista v. Bondi et al.*, 1:25-cv-00280-DLH-CRH (D.N.D. Jan. 7, 2026) (collecting cases). When given the opportunity to provide a warrant justifying detention under the only remaining authority enabling Respondents to hold Petitioner, that is 8 U.S.C. § 1226(a), Respondents failed to do so. As such, immediate release is the appropriate remedy.

ARGUMENT

I. Respondents have Provided no Reason to Depart from *Fernando F.P.D.*

The Court asked Respondents “whether—and if so, why—this matter is materially distinguishable, either factually or legally, from *Fernando F.P.D. v. Brott*, No. 25-cv-4455 (ECT/ECW), 2025 WL 3675151 (D. Minn. Dec. 17, 2025).” ECF No. 4. Respondents make no attempt to do so. *See* ECF No. 5. Petitioner has been here since 2013 and holds deferred action through a pending U visa petition. *See* Pet. ¶¶ 28, 31. As this Court has held, section “1226 covers ‘aliens already in the country’

who are subject to “removal proceedings.” *Maldonado*, 795 F. Supp. 3d at 1152 (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018)). He is not subject to mandatory detention.

II. Remedy

As argued, *supra*, section 1225’s mandatory detention provisions cannot apply to Petitioner. If Respondents had issued an administrative warrant, they could certainly detain him under 8 U.S.C. § 1226(a). *See* 8 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General ...”). In that case, a bond hearing under 8 U.S.C. § 1226(a) would be appropriate. However, no such warrant was produced, so detention under 8 U.S.C. § 1226(a) is also plainly unlawful, and immediate release is required.

“Section 1226 provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” *Ahmed M.*, 2026 WL 25627, at *1 (citing 8 U.S.C. § 1226(a)) (emphasis in original). Thus, “[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a) [and i]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Id.* (citing *Chogllo Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)) (emphasis in original). As was the case in *Ahmed*, Petitioner “requested in his Petition that Respondents produce any

warrant that might have authorized [his] arrest pursuant to § 1226[, but] Respondents have not produced any warrant.” *Id.*

Given that “the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.” *Id.* (citing *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025)). Thus, immediate release is required. Holding otherwise “would treat the absence of statutory power as a mere procedural irregularity rather than a substantive defect. Habeas relief requires more because it addresses the lawfulness of custody itself, not the adequacy of procedures that might attend some other, uninvoked challenge to detention.” *Vedat C.*, 0:25-cv-04642-JWB-DTS, at 6 (citing *Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995)). The function of habeas corpus is to obtain release from unlawful custody. *Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995). Where detention lacks a lawful predicate, release is an available and appropriate remedy. *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Release is the appropriate remedy here. See *Sebrian Reyes v. Bondi et al.*, 26-cv-5 PJS/LIB (D. Minn. Jan. 12, 2026).

CONCLUSION

Petitioner has demonstrated that his detention is illegal. A writ must issue, and Respondent must be immediately released subject to the conditions of his Order of Release on Recognizance.

DATED: January 18, 2026

Respectfully submitted,

/s/ David Wilson

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