

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

Victor Ivan Sanchez Abad,

Petitioner,

0:26-cv-00443-PJS-ECW

v.

Pamela Bondi, Attorney General,

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

Executive Office for Immigration Review,

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, and

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

and

Ryan Shea, Freeborn County Sheriff,

Respondents.

**PETITIONER'S
TRAVERSE IN SUPPORT
OF WRIT OF HABEAS
CORPUS**

INTRODUCTION

The Court asked Respondents to differentiate this matter from *Santos M.C. v. Olson*, No. 25-CV-4264 (PJS/DJF), 2025 WL 3281787 (D. Minn. Nov. 25, 2025). See ECF No. 3. They have made no such effort. See ECF No. 6. 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). They also point to several of Judge Blackwell’s decisions to suggest that this Court has ruled on the issue and suggest that the Petition “does not directly grapple with § 1225, ECF No. 6, at 2-3, when the Petition devotes two full pages to the provision. See ECF No. 1, at 16-17.¹

The remaining arguments are unavailing for largely the same reasons articulated in *Santos M.C.*, and the citation to 40 cases, in light of more than 1,600 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), cannot move the needle. Finally, when given the opportunity to provide a warrant justifying detention under the only

¹ Indeed, the memorandum repeatedly suggests that this court decided both *Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB) (D. Minn. filed July 28, 2025) and *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF) (D. Minn. filed Aug. 27, 2025). Those decisions were rendered by judge Blackwell. It references an asylum application. See ECF No. 6, at 7. Petitioner is seeking to adjust status based on Special Immigrant Juvenile status. See ECF No. 1-3.

remaining authority enabling Respondents to hold Petitioner, that is 8 U.S.C. § 1226(a), Respondents failed to do so. As such, release is the appropriate remedy.

ARGUMENT

I. Respondents have Provided no Reason to Depart from *Santos M.C.*

The Court asked Respondents “whether—and if so, why—this matter is materially distinguishable, either factually or legally, from *Santos M.C. v. Olson*, No. 25-CV-4264 (PJS/DJF), 2025 WL 3281787 (D. Minn. Nov. 25, 2025).” ECF No. 3. Respondents make no attempt to do so. *See* ECF No. 6. Petitioner entered the United States as an unaccompanied alien child, was released pursuant to 8 U.S.C. § 1232(c)(2)(A), and has been present in the United States since that time. As this Court has held, he “is not an ‘alien[] seeking admission into the country.’ Rather, he is an ‘alien[] already in the country.’ The government has discretion to detain him under § 1226(a), but it is not required to detain him under § 1225(b)(2)(A).” *Santos M.C.*, 2025 WL 3281787, at *3. Indeed, as an unaccompanied minor, he was never subject to mandatory detention. *See* 8 U.S.C. § 1232(c)(2)(A). He is not subject to mandatory detention now.

II. The Vast Majority of Precedent Favors Petitioner

Respondents cite twenty three cases in which district courts embraced their theory of the immigration detention schemes. *See* ECF No. 6, at 4-5. However, as judge Hoveland in the district of North Dakota recently found, “[a]pproximately

1,600 federal district court cases across the country have held against the government on this issue to date.” *Cruz Bautista*, 1:25-cv-00280-DLH-CRH. This includes every court in the district of Minnesota, save for one, to reach the merits of the matter. *Ahmed M. v. Bondi et al.*, 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026) (“Every judge in this District to have addressed this question (including me) has decided that § 1226(a)’s discretionary regime applies in cases like this.”).

That 23 case string cite looks quite a bit weaker when it represents less than 2.5 percent of the courts to rule on the matter nationally. *See e.g., Castanon-Nava v. DHS*, -- F.4th --, 2025 WL 3552514 (7th Cir. Dec. 11, 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957 (D. Minn. 2025); *Fernando F.P.D. v. Brott*, No. 25-CV-4455 (ECT/ECW), 2025 WL 3675151 (D. Minn. Dec. 17, 2025); *Belsai v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Avila v. Bondi*, No. CV 25-3741 (JRT/SGE), 2025 WL 2976539 (D. Minn. Oct. 21, 2025); *Eliseo A.A. v. Olson*, No. CV 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *E.M. v. Noem*, No. 25-CV-3975 (SRN/DTS), 2025 WL 3157839 (D. Minn. Nov. 12, 2025); *Francisco T. v. Bondi*, No. 25-CV-03219 (JMB/DTS), 2025 WL 3236513 (D. Minn. Nov. 19, 2025); *Santos M.C. v. Olson*, No. 25-CV-4264

(PJS/DJF), 2025 WL 3281787 (D. Minn. Nov. 25, 2025); *Santuario v. Bondi*, No. 25-4296 (JRT/JFD), 2025 WL 3469577 (D. Minn. Dec. 2, 2025); *Ferrera Bejarano v. Bondi*, 25-cv-03236 (NEB/JFD), (D. Minn. Aug 18, 2025); *Aguilar Vazquez v. Bondi*, 25-cv-03162 (KMM/ECW), (D. Minn. Aug 19, 2025); *Arte v. Bondi*, No. 25-CV-4515 (MJD/ECW), 2025 WL 3496738 (D. Minn. Dec. 5, 2025); *Fuentes v. Olson*, No. 25-CV-4456 (LMP/ECW), 2025 WL 3524455 (D. Minn. Dec. 9, 2025); *Gabino Ortiz Beltran v. Bondi, et al.*, No. 25-04604 (MJD/DTS), 2025 WL 3719856 (D. Minn. Dec. 23, 2025); *Mayamu K. v. Bondi et al.*, No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Gabriel v. Bondi*, No. 25-CV-4298 (KMM/EMB), 2025 WL 3443584 (D. Minn. Dec. 1, 2025); *Vedat C. v. Bondi et al.*, 0:25-cv-04642-JWB-DTS, Doc. 9, at 6 (D. Minn. Dec. 19, 2025).

The overwhelming weight of authority favors Petitioner.

III. Respondents Arguments are Unavailing

Respondents first lean heavily on the notion that Petitioner “is ‘deemed’ to be an ‘applicant for admission’ under 8 U.S.C. § 1225(a)(1).” ECF No. 6, at 5-6. This, they suggest, means that he must be detained, because by their logic, all “applicants for admission” are subject to mandatory detention. *Id.* at 6. This fails to account for the inclusion of the phrase “seeking admission” in the applicable provision at 8 U.S.C. § 1225(b)(2)(A). That is fatal to their case.

The use of the term “deemed,” as opposed to “is” or “shall be” at 8 U.S.C. § 1225(a) is also instructive as to why not all “applicants for admission” are actually “seeking admission” as required to invoke mandatory custody under 8 U.S.C. § 1225(b)(2)(A). For starters the word “deem” means “[t]o treat (something) as if (1) it were really something else, or (2) it has qualities that it does not have.” *Deem*, Black’s Law Dict. (12th ed. 2024). Essentially, the use of “deem” creates a legal fiction around who is an “applicant for admission,” but it is also a tacit recognition, that those who are “present in the United States who ha[ve] not been admitted” are not *actually* applying for, or seeking, admission. They are just “deemed applicants for admission” for the purposes of the statute.

In contrast, the detention provision at 8 U.S.C. § 1225(b)(2)(A) requires that the applicable noncitizen satisfy the legal fiction of having been “deemed” an “applicant for admission” and the actual requirement that he or she be “seeking admission.” After all, the provision requires both that the noncitizen be first, “an alien who is an applicant for admission,” and second “an alien seeking admission.” 8 U.S.C. § 1225(b)(2)(A). Why would Congress have introduced both phases with the same subject, “an alien,” and within seven words of each other, if they did not carry independent meanings and requirements? While Petitioner may be an “applicant for admission,” he is not, and was not at the time of his detention, “seeking admission,” so 8 U.S.C. § 1225(b)(2)(A) cannot apply.

The argument that Petitioner's reading "render[s] paragraph (b)(2) essentially redundant of (b)(1)" is similarly misguided. ECF No. 6, at 6. While section 1225(b)(1) applies to those who are "arriving," and section 1225(b)(2)(A) excludes those "to whom paragraph (1) applies," there is a universe of "applicants for admission" who are "seeking admission" from outside the United States who fall outside section 1225(b)(1), and into the catchall at section 1225(b)(2). This includes, most obviously, any "alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry." 8 U.S.C. § 1225(b)(1)(F). Such individuals are expressly exempted from section 1225(b)(1) and fall into section 1225(b)(2) instead. This group also includes lawful permanent residents suspected of abandoning residence or criminality. *See* 8 U.S.C. § 1101(a)(13)(C); *Tineo v. Ashcroft*, 350 F.3d 382, 387 (3d Cir. 2003). There is no redundancy here.

Rather, it is Respondents' reading that reads "seeking admission" right out of the statute at 8 U.S.C. § 1225(b)(2)(A). As Judge Hovland recently held, "the terms 'applicant for admission' and 'seeking admission' [are] in the same statutory scheme, [and] they are within seven words of each other in the same sentence," so "[a]n alien seeking admission' thus must mean something different than 'applicant for admission.'" *Beltran v. Bondi*, ECF 1:25-cv-00258, at 18 (D.N.D. Dec. 5, 2025).

Respondents' Congressional arguments are similarly misguided. While a general desire to "place noncitizens who are present without admission on equal footing with those apprehended upon arrival" may have animated parts of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, *see* ECF No. 6, at 6, with regard to the detention scheme applicable in removal proceedings, Congress specifically noted how it intended to "amend section 236 of the INA to include provisions currently contained in sections 236 and 242" and then added that 8 U.S.C. § 1226 simply "restates the [then] current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229 (Mar. 4, 1996).

Prior to IIRIRA, noncitizens present without admission were eligible for bond and the reforms did not materially change the government's detention authority as it applied to noncitizens unlawfully in the country. The House indicated as much expressly. If that were not enough, the report also noted "an increase in INS detention facilities to 9,000 beds by FY 1997." H.R. REP. 104-469, at 229. That number was based on findings that "83,400 aliens were detained in 6,418 funded detention beds in FY 1995, with an average stay of 28.3 days, [so i]ncreasing the available beds to 8,500 [would] enable the detention of more than 100,000 aliens." *Id.* at 545. Those additional 500 beds for fiscal year 1997 added capacity to house

roughly 6,600 more noncitizens. As such, Congress contemplated detaining about 35,400 additional aliens annually under IIRIRA's provisions. This fell in line with IIRIRA's new mandatory detention provisions for criminal noncitizens, *see* IIRIRA, 110 Stat. 3009-546 § 303(a) (Apr. 1, 1997), but fell well short of the millions of bedspaces needed to house every undocumented person in the country.

Respondents' next starts from their conclusion that all "applicants for admission" are subject to mandatory custody, regardless of whether they are "seeking admission," and lands circularly at that same result without ever accounting for the "seeking admission" language included at 8 U.S.C. § 1225(b)(2)(A). *See* ECF No. 6, at 6-7. It cannot change the outcome from *Santos M.C.*, 2025 WL 3281787.

Finally, Respondents suggest that "[b]y pursuing a special visa—and by continuing to pursue that status to this day—Petitioner is unambiguously "seeking admission." ECF No. 6, at 7. This misconstrues the varied forms of relief in immigration proceedings, most of which do not constitute "admission." The record shows that Petitioner is seeking to adjust his status under 8 U.S.C. 1255, *see* ECF No. 1-3, and, as the Fifth Circuit has held, "'admission' is the lawful entry of an alien after inspection, something quite different, obviously, from post-entry adjustment of status." *Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008). "Adjustment of status" is governed under 8 U.S.C. § 1255. The "[a]dmission of immigrants" is governed under 8 U.S.C. § 1181. These are not the same things.

IV. 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.

This Court has ordered release on indistinguishable facts before. *See Sebrían Reyes v. Bondi et al.*, 26-cv-5 PJS/LIB (D. Minn. Jan. 23, 2026). "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 *Choglo 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)). Release is the appropriate remedy.

CONCLUSION

Petitioner has demonstrated that his detention is illegal. A writ must issue, and Respondent must be immediately released.

DATED: January 23, 2026

Respectfully submitted,

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