

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00456-DSD-DJF

Jenny Sanchez Caballero,

Petitioner,

v.

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

David Easterwood, *et al.*,

Respondents.

Petitioner, Jenny Sanchez Caballero filed this petition for a writ of habeas corpus because she wants release from detention by the U.S. Immigration and Customs Enforcement (“ICE”). Respondents David Easterwood, Pamela Bondi, Kristi Noem, (collectively “the Federal Respondents”) submit this response to the petition. The Court should deny Petitioner’s request for habeas relief because her detention is mandatory under 8 U.S.C. § 1225—Petitioner is not eligible for bond or a bond hearing.

BACKGROUND

The Federal Respondents draw the following background from the petition. Petitioner is a citizen of Honduras. *Petition* ¶ 14. Petitioner came to the United States without inspection in 2003. *Id.* Petitioner applied for a U-Visa on October 22, 2018. This U-Visa petition remains pending. See *Pet.* ¶ 15.

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). *See Pet.* ¶ 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). **Just last week, a judge in this District agreed. *See Abdirahmaan G. v. Noem*, No. 26-34 (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).

As such, the Court should deny this petition on the merits. As Petitioner acknowledges, noncitizens can be held without bond under § 1225. *Pet.* ¶ 27. That is what is happening here. Petitioner is subject to mandatory detention because Congress directs that noncitizens 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). To the extent Petitioner thinks her detention should instead be governed by § 1226, she is wrong.¹

¹ 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 he was arrested right after entering the country. The Petition makes no reference to *Bautista*, and Petitioner does not assert any entitlement to relief based on possible class membership. The Federal Respondents will therefore not address *Bautista* further except to request an opportunity to file a sur-reply if Petitioner uses his reply to argue (for the first time) that he is entitled to relief on this basis.

I. Mandatory Detention under § 1225

The gist of Petitioner's pursuit of habeas relief is that she is subject to detention under § 1226 rather than § 1225. In particular, she wants a bond hearing. *Pet.* ¶ 3. 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) (D. Minn. filed July 28, 2025); *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF) (D. Minn. filed Aug. 27, 2025). Although the Eighth Circuit is poised to weigh-in soon, *see Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025), the Federal Respondents acknowledge 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 considered and rejected, the Federal Respondents will summarize the legal basis for the government's interpretation; and explain how Petitioner's pursuing a U Visa is a relevant consideration. The Federal Respondents request the Court note the arguments made below and hold they are preserved for appeal.

A. 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, she 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 are evident from the text, context, and structure of the statutes at issue.

First, Petitioner's argument is contrary to § 1225's plain text. Very recently, a court in this District has repeatedly agreed with the government's argument. *See Abdirahmaan G. v. Noem*, No. 26-34 (PAM/SGE), ECF No. 7 (D. Minn. Jan. 14, 2026); *Jose C. v. Bondi*, No. 26-135 (PAM/DTS), ECF No. 14 (D. Minn. Jan 20, 2026); *See also Apilonar L. v. Bondi*, No. 26-159 (PAM/JFD), ECF No. 7 (D. Minn. Jan 21, 2026). 8 U.S.C. § 1225 plain text "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.

Essentially, 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). For example, the Court in *Apilonar L.* held, "the plain reading of the text is that detention is mandatory." No. 26-159 (PAM/JFD), ECF No. 7, p. 3, ¶ 3. The court was categorical, "distinctions based on the length of an alien's presence in the

United States, an alien's efforts to secure lawful status here, or where an alien was apprehended . . . [s]uch limitations are not found in the statute." *Id.* Accordingly, this Court should find the plain meaning of the statute should prevail. Petitioner is an applicant for admission because she is present in this country, and she has not been admitted.

Second, 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. "*Jennigs* explains that § 1226(b)(2) is a 'catchall provision,' applying to all 'applicants for admission,' including those who unlawfully entered the country and are therefore 'deemed' applicants for admission under § 1225(a)(1)'s definition." *See Apilonar L.* at p. 6, ¶ 1.

Lastly, as stated by a court in this district, "past practice does not eclipse statutory language." *See id.* at 5, ¶ 2. Petitioner takes issue with DHS memorandum requiring that all applicants for admission be detained under § 1225(b)(2) during removal procedures. *See Pet.* ¶ 20. Petitioner's position simply does not challenge the fact "the Executive Branch has broad discretion to make enforcement decision in the immigration context." *See id.* at 5 – 6.

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

B. Petitioner's Pursuit of a U Visa

The touchstone of this Court's analysis should be whether a noncitizen is "seeking admission" at the time of his arrest and detention. And that is what makes this case different from prior habeas petitions this District has decided. Petitioner herself concedes she will be "seeking admission" through U visa. *Pet.* ¶ 15. By pursuing a visa after she was first apprehended at the border, Petitioner is unambiguously "seeking admission." If granted, a visa application leads to obtaining a legal status including a stay of removal, work authorization, and a travel document. 8 U.S.C. § 1158(c)(1). This form of lawful status 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 or will be attempting to gain lawful admission and status in the United States.

In a similar case, 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 detention would be appropriate even under the narrower interpretation. Because Petitioner admits she will be seeking admission 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.

Under Petitioner’s theory, Petitioner is not subject to expedited removal proceedings and not subject to detention under any provision of § 1225. If she 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

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.

[Signature Page Follows]

Dated: January 22, 2026

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