

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Luis Rey Serrano Irra

Petitioner,

v.

David Easterwood, Field Office
Director of Enforcement and Removal
Operations, St. Paul Field Office,
Immigration and Customs
Enforcement; Kristi Noem, in her
official capacity as Secretary of the
U.S. Department of Homeland
Security; Todd Lyons, in his official
capacity as acting director of U.S.
Immigration and Customs
Enforcement; Pam Bondi, in her
official capacity as Attorney General
of the United States; Ryan Shea, in
his official capacity as Freeborn
County Jail Sheriff.

Respondents.

Case No. 26-CV-0533

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

I. Introduction

Petitioner agrees with Federal Respondents that no evidentiary hearing is necessary as this case presents purely legal issues. Federal Respondents misunderstand or mischaracterize the Court's order as well as the Petitioner's petition. The central issues are whether and under what statutory authority the Petitioner can be detained while he has been validly granted deferred action. The Respondents present no evidence that the Petitioner's deferred action has been validly revoked. The Respondents present no evidence that Petitioner is subject to any mandatory detention category. This Court has previously granted immediate release to Petitioners granted deferred action, and Respondents fail to present legally significant facts distinguishing Petitioner from those similarly situated noncitizens.

Indeed, it seems Respondents, being unable to cope with the tidal wave of lawless detention they have been enlisted to defend, have completely ignored the specifics of this Petitioner's case, and have instead invited the Court to consider recycled legal theories embraced by an increasingly marginal fringe. Consequently, this Court should grant this Petitioner his requested relief, consistent with its prior holdings.

II. This Court Ordered Respondents to Address the Petitioner's Petition

This Court ordered Federal Respondents "to file an answer to the petition for a writ of habeas corpus of petitioner Luis S. by no later than January 24, 2026, certifying the true cause and proper duration of Petitioner's confinement and showing cause why the writ should not be granted in this case." ECF 3. This answer was to include "A reasoned memorandum of law and fact explaining respondents' legal position on Petitioner's claims." *Id.* The Court did not exclude any of the Petitioner's claims from this order.

Respondents then claimed that "The Court **did not** order Respondents to address these other issues in its OTSC," referring to the Petitioner's APA and *Accardi* claims. ECF 5, 2; see also ECF 1, ¶54-81. While Respondents are free to argue such claims are not appropriate in a habeas petition, it is clear from the plain language of this Court's order they were required to address them. Petitioner will address below why Courts have been correct in finding APA claims are proper in a habeas petition where they are responsible for the fact of detention, which Respondents do contest. Since, however, Respondents fail to address the merits of the claim, they should be considered to have waived their challenge. *Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059, at *2 (D. Minn. Jan. 17, 2026); see also *Doe v. Mayorkas*, No. 22-

CV-00752 (ECT/DTS), 2022 WL 4450272, at *2 (D. Minn. Sept. 23, 2022). If the Court finds such APA claims are properly included in a habeas action, the Court should grant the Petitioner's request for relief on those claims.

III. APA Claims Are Proper In a Habeas Action

APA claims may be properly included in a habeas petition where they concern only the fact of confinement, not the conditions of confinement. "Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus[.]" *Muhammad v. Close*, 540 U.S. 749, 750 (2004); *see also Otey v. Hopkins*, 5 F.3d 1125, 1130 (8th Cir. 1993) ("The central focus of the writ of habeas corpus is to provide a remedy for prisoners who are challenging the fact or duration of their physical confinement ..."). District courts have affirmed that ultra vires APA claims are part and parcel of a noncitizen's challenge to his detention. *See, e.g., Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *5 (D. Neb. Sept. 3, 2025); *Campos Leon v. Forestal*, No. 1:25-CV-01774-SEB-MJD, 2025 WL 2694763, at *3–5 (S.D. Ind. Sept. 22, 2025).

Here, Petitioner's APA and *Accardi* challenge concern a policy that directly resulted in his incarceration. Had the Respondents respected Petitioner's grant of deferred action, he would not have been detained at all. Minnesota District Courts have granted immediate release to petitions

situated similarly to Petitioner on the grounds that the fact of their detention could not have been lawful given their current deferred action status. *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733 (D. Minn. Jan. 17, 2026); *see also Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059 (D. Minn. Jan. 17, 2026). Respondents cite to no authority in support of the proposition that APA claims challenging the fact or duration of confinement cannot be included in a habeas petition. Consequently, this Court should find that Petitioner's APA claims are proper in the instant habeas petition.

IV. The Court Should Adhere to Its Prior Holdings And Decline to Follow Outlier Opinions

Respondents cite to dozens of decisions in the minority that are outweighed by thousands in the majority.¹ The Court has granted the requested relief to similarly situated noncitizens and Respondents present no persuasive arguments as to why the Petitioner should not be granted similar relief.

Respondents assert that objections to the lawfulness of arrest are not cognizable in habeas. ECF 5, 12-13. However, this Court has repeatedly affirmed that detention under § 1226(a) is only authorized upon a warrant

¹ Journalist Kyle D. Cheney references “2,300” decisions in favor of Petitioners.

from the Attorney General, and ordered immediate release where Respondents failed to produce a warrant. *Lauro M. v. Bondi*, No. 26-CV-134 (SRN/DJF), 2026 WL 115022, at *3 (D. Minn. Jan. 15, 2026); *William M. v. Bondi*, No. 26-CV-346 (ECT/DJF), 2026 WL 131690, at *2–3 (D. Minn. Jan. 19, 2026) (noting that “release is an available and appropriate remedy for detention that lacks a lawful predicate”) (cleaned up); *Luis E. M. C. v. Bondi*, No. 26-333 (JRT/DTS), 2026 WL 184538, at *3 (D. Minn. Jan. 23, 2026). Where detention is the result of unlawful arrest by Respondents, a habeas petition can properly seek to remedy that subsequent detention based on the lack of authority for the arrest.

Respondents’ encourage the Court to reconsider its analysis in favor of outlier cases that misread §§ 1225 and 1226, but the errors in those decisions demonstrate why those positions remain marginal. *Olalde v. Noem* alleges that an “applicant for admission” is necessarily “seeking admission” by the ordinary meaning of those terms and trying to read a distinction in §1225 is “hairsplitting.” *Olalde v. Noem*, 2025 U.S. Dist. LEXIS 221830, *8-9. However, “even statutory language that is unambiguous in isolation must be read in context.” *NOEL LOPEZ DE LA CRUZ, Petitioner, v. KRISTI NOEM, et al., Respondents. Additional Party Names: Brian Gardner, Dave Beuter*, No. C25-150-LTS, 2025 WL 3110876, at *4 (N.D. Iowa Oct. 20, 2025) (citing

to *Yates v. United States*, 574 U.S. 528, 537 (2015) (plurality) and *Pulsifer v. United States*, 601 U.S. 124, 133 (2024)). “Considering § 1225 alongside its § 1226 companion demonstrates that the most natural interpretation of § 1225 is that it applies to aliens encountered as they are attempting to enter the United States or shortly after they gained entry without inspection.” *Id.* To avoid misreading an “ordinary meaning” onto text read in isolation, Courts read statutes as a whole in order to determine if Congress intended a term of have a particular meaning in context. Reading §§1225 and 1226 as part of a single scheme – rather than separately – supports finding that Congress intended a distinction between mere arriving non-citizens such as “crewm[e]n” and those actively “seeking admission”. *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025). The text supports further distinctions, such as those applying for a visa at a consulate abroad who would be seeking admission but not be applicants for admission, since they are neither present in the country nor arriving in it. *Cordero Pelico v. Kaiser*, 2025 WL 2822876, *14 (N.D. Cal. Oct. 03, 2025). Similarly, *Vargas Lopez v. Trump* attempts to read §§1225 and 1226 as overlapping categories. *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025). This requires misreading *Jennings*, which states clearly that the separate sections concern separate classes of non-citizens. *Jennings*, 583 U.S. at 289. It also requires ignoring

the administrative practice and subsequent legislation that demonstrates Congress's understanding of its own statute.

Respondents new citations do not grapple with the growing majority of District opinions holding that persons similarly situated as the Petitioner are not properly subject to § 1225(b)(2). Respondents cannot elide the plain language of § 1225(b)(2) – concerning those “seeking admission” — to fit the Petitioner within its ambit. *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025). *Jennings* clearly indicated that § 1225 and § 1226 concern non-overlapping classes of non-citizens, with § 1225 focusing on those outside the United States “seeking” lawful entry and § 1226 focusing on those “already in” the country. *Jennings*, 583 U.S. at 289. Had the Respondents properly revoked the Petitioner's deferred action, Petitioner would fit within the plain text of § 1226(a). *Belsai D.S.*, 2025 WL 2802947, at *6. The Respondent's radical reinterpretation of § 1225 does not comport with the context and structure of the rest of the legislative scheme, as analyzed in *Jennings*. *Id.* Recent legislative history and longstanding agency practice confirm, subsequent to revocation of deferred action, the Petitioner would be properly subject to § 1226 discretionary detention as a non-citizen who has resided in the United States for decades. *Id.*, at *6-7. Longstanding Supreme Court jurisprudence

confirms the distinction between rights and procedures appropriate for non-citizens within the United States and those “on the threshold” of entry. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107, 140 S. Ct. 1959, 1963–64, 207 L. Ed. 2d 427 (2020); *see also* *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 629, 97 L. Ed. 956 (1953); *see also* *Leng May Ma v. Barber*, 357 U.S. 185, 187, 78 S. Ct. 1072, 1073, 2 L. Ed. 2d 1246 (1958) (“It is important to note at the outset that our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission, such as petitioner, and those who are within the United States after an entry, irrespective of its legality.”). Statutory text, court precedent, and the history of agency practice all demonstrate that the Petitioner would not be properly categorized as subject to § 1225(b)(2) proceedings.

Since Respondents neither served the Petitioner a warrant pursuant to § 1226(a) nor revoked his deferred action, he should be ordered released as his arrest and detention lacked a lawful predicate. *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733 (D. Minn. Jan. 17, 2026); *see also* *Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059 (D. Minn. Jan. 17, 2026). Respondents offer no legally significant facts to distinguish Petitioner from these prior cases, he should similarly be released.

DATED: January 26, 2026

Respectfully submitted,

/s/ Gloria Contreras Edin

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