

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-CV-563 (NEB/EMB)

RUDY ALEXANDER PINEDA
AGUILA

Petitioner,

v.

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

PAMELA BONDI, *et al.*,

Respondents.

Petitioner Rudy Alexander Pineda Aguila filed this petition for a writ of habeas corpus because he wants an immigration court to conduct a bond hearing in connection with his detention by the U.S. Immigration and Customs Enforcement (“ICE”). Respondents Pamela Bondi, Kristi Noem, and David Easterwood, (collectively “the Federal Respondents”) 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 and 8 U.S.C. § 1226(c)—he is not eligible for a bond hearing.

BACKGROUND

The Federal Respondents draw the following background from the petition and the Declaration of Deportation Officer James L. Van Der Vaart (“Van Der Vaart Decl.”).

Petitioner is a citizen and national of Guatemala. Van Der Vaart Decl ¶ 4. On September 27, 2016, U.S. Border Patrol (USBP) encountered Petitioner near Lukeville, AZ. Petitioner had unlawfully entered the United States of America from Mexico, at a time and place other than as designated by immigration officers of the United States of America.

After determining that Petitioner had illegally entered the United States, USBP issued a Notice to Appear per section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA). Van Der Vaart Decl ¶ 5. On November 01, 2016, Petitioner was released from ICE custody on an order of recognizance (OREC). Van Der Vaart Decl ¶ 6. On November 24, 2017, U.S. Citizenship and Immigration Services (USCIS) received application form I-360 petition for Amerasian, Widow(er), or special immigrant, receipt number [REDACTED]. Van Der Vaart Decl ¶ 7. On May 18, 2018, an IJ at Fort Snelling, MN denied a motion from Petitioner to administratively close proceedings for pending application form I-360. Van Der Vaart Decl ¶ 8. On December 03, 2018, Petitioner filed application form I-589 application for asylum and for withholding of removal at the Executive Office for Immigration review (EOIR). Van Der Vaart Decl ¶ 9. On May 21, 2019, USCIS sent an approval notice for application form I-360 to Petitioner. Van Der Vaart Decl ¶ 10. On May 30, 2019, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED]. Van Der Vaart Decl ¶ 11. On June 24, 2019, USCIS sent a Denial Letter to Petitioner for application form I-765, receipt number [REDACTED]. Van Der Vaart Decl ¶ 12. On July 10, 2019, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED]. Van Der Vaart Decl ¶ 13. On October 09, 2019, USCIS sent a Denial Letter to PINEDA for application form I-765, receipt number [REDACTED]. Van Der Vaart Decl ¶ 14. On March 12, 2020, the Richfield Police Department arrested Petitioner on charges of Criminal Sexual Conduct – 4th degree (609.345.1(b) (MN) Hennepin County District Court case number 27-CR-20-6813. Van Der Vaart Decl ¶ 15.

On March 16, 2020, ICE/ERO arrested Petitioner due to the Criminal Sexual Conduct arrest. Petitioner was placed in removal proceedings at Fort Snelling, MN. Van Der Vaart Decl ¶ 16. On July 2, 2020, an IJ at Fort Snelling, granted Petitioner's I-589 application for asylum. Van Der Vaart Decl ¶ 17. On July 10, 2020, DHS filed a notice of appeal of the asylum grant. Van Der Vaart Decl ¶ 18. On October 19, 2020, the Hennepin County District Court convicted Petitioner of Criminal Sexual Conduct 5th degree – Nonconsensual Sexual Contact (609.3451.1) and sentenced Petitioner to 364 days stayed for 2 years. Petitioner was placed on supervised probation for 2 years. Van Der Vaart Decl ¶ 19. On June 07, 2021, The Hennepin County District Court amended the sentencing order in criminal case# 27-CR-20-6813, Criminal Sexual Conduct – 5th degree- Non-consensual Contact, amending the sentence from 364 days to 179 days. Van Der Vaart Decl ¶ 20. On June 07, 2021, ICE/ERO released Petitioner from custody on OREC. Van Der Vaart Decl ¶ 21. On June 15, 2021, The Board of Immigration Appeals (BIA) issued a written decision sustaining the DHS appeal and vacating the asylum grant. The case was remanded to the immigration judge for further proceedings. Van Der Vaart Decl ¶ 22. September 16, 2021, USCIS received application form I-485 Application to register permanent residence or adjust status, receipt number [REDACTED]. Van Der Vaart Decl ¶ 23. On July 10, 2024, USCIS received application form I-765 Application for Employment Authorization, receipt number [REDACTED]. Van Der Vaart Decl ¶ 24. On October 09, 2024, USCIS sent an approval notice for application form I-765 receipt number [REDACTED] granting work authorization until October 03, 2029. Van Der Vaart Decl ¶ 25. On January 18, 2024, an IJ at Fort Snelling, MN issued a written decision denying adjustment of status,

denying asylum, ordering Petitioner removed from the U.S but granting Withholding of Removal to Guatemala. Van Der Vaart Decl ¶ 26. On February 16, 2024, the BIA received a case appeal from DHS appealing the decision granting Withholding of Removal. The appeal is currently pending. Van Der Vaart Decl ¶ 27. On January 22, 2026, ICE arrested Petitioner at Minneapolis, Minnesota. Van Der Vaart Decl ¶ 28.

Petitioner filed this habeas petition on January 16, 2026. Dkt. 1. The Court entered a briefing schedule, and the Federal Respondents now submit their response.

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 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). Based on a straightforward reading of these statutes, Petitioner is subject to mandatory detention under § 1225(b)(2).¹

¹ Petitioner may be 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). But the Petition makes no reference to *Bautista*, and Petitioner does not assert any entitlement to relief based on possible class membership. Thus, the Federal Respondents will not address *Bautista* further except to request an opportunity to file a sur-reply if Petitioner uses his reply to argue that he is entitled to relief on this basis.

I. 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., Roberto M.F. v. Olson*, No. 25-cv-4456 (LMP/ECW), 2025 WL 3524455 (D. Minn. Dec. 9, 2025). *Beltran v. Bondi*, 2025 WL 3719856 (D. Minn. Dec. 23, 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 that 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 already considered and rejected, the Federal Respondents will: (1) offer additional authority that the Court may not have previously considered; and (2) summarize the legal basis for the government's interpretation. The Federal Respondents request that the Court note the arguments made below and in *Roberto M.F.* and hold that they are preserved for appeal.

A. Additional Authority

Courts across the country have agreed with the government's interpretation of § 1225 in factually similar cases. *See, e.g., Calderon Lopez v. Lyons*, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Urbina Zapata v. Chestnut*, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *E.R.J.B. v. Wofford*, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Liang v. Almodovar*,

2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *Pablo Coronado v. Secretary, DHS*, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *P.B. v. Bergami*, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Yanyun Mo v. Chestnut*, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025); *Ugarte-Arenas v. Olson*, (E.D. Wis. Dec. 8, 2025); *Chen v. Almodovar*, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, 2025 WL 7484932, (W.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Hernandez Cruz v. Noem*, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Maceda Jimenez v. Thompson*, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025); *Alves De Andrade v. Patterson*, 2025 WL 3252707 (W.D. La. Nov. 21, 2025); *Valencia v. Chestnut*, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Ramos v. Lyons*, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025); *Oliveira v. Patterson*, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025); *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pipa-Aquise v. Bondi*, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025).

Admittedly, these decisions reflect the minority position. But that minority has been growing since the BIA reached its conclusion in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). 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 it is worth emphasizing 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. The Federal Respondents contend that this authority justifies revisiting the Court’s earlier decisions on the § 1225/1226 issue presented in this petition.

B. 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, he 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 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).

II. Mandatory detention under § 1226

Section 1226: IIRIRA also created a separate authority addressing the arrest, detention, and release of noncitizens generally (not “applicants for admission” specifically). *See* 8 U.S.C. § 1226. This provision governs the detention of aliens who were admitted to the country but later become removable—for example, admitted aliens who overstay or otherwise violate the terms of their visas, engage in conduct that renders them removable, or are later determined to have been improperly admitted.

The statute provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Detention under this provision is generally discretionary. The Attorney General “may” either “continue to detain the arrested alien” or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).² In practice, DHS makes the initial custody determination. 8 C.F.R. § 236.1(d)(1). The alien may seek custody redetermination (a bond hearing) before an immigration judge and can appeal an immigration judge’s custody determination to the Board of Immigration Appeals. 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.

² Conditional parole under Section 1226(a) is distinct from parole under Section 1182(d)(5)(A). *See Ortega-Cervantes v. Gonzalez*, 501 F.3d 1111, 1116 (9th Cir. 2007).

That “default rule” of discretionary detention does not apply to certain criminal aliens. *Jennings*, 583 U.S. at 288; *see* 8 U.S.C. § 1226(c). Section 1226(c) provides that “[t]he Attorney General shall take into custody” certain classes of criminal aliens—those who are inadmissible or deportable because the alien (1) “committed” certain offenses delineated in 8 U.S.C. §§ 1182 and 1227; or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1); *see Nielsen v. Preap*, 586 U.S. 392, 398-99 (2019). The Executive must detain these aliens after “the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.” 8 U.S.C. § 1226(c)(1). Such aliens may be released only if DHS determines “that release of the alien from custody is necessary” to protect a witness to a “major criminal activity” or a similar person, and then only if the alien “will not pose a danger” to public safety and is not a flight risk. *Id.* § 1226(c)(4).

Congress recently amended Section 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025), which additionally requires detention of (and prohibits parole for) criminal aliens who (1) are inadmissible because they are physically present in the United States without admission or parole (8 U.S.C. § 1182(a)(6)(A)), have committed a material misrepresentation or fraud, (*id.* § 1182(a)(6)(C)), or lack required documentation, (*id.* § 1182(a)(7)); and (2) are “charged with, [] arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of” certain listed offenses. *Id.* § 1226(c)(1)(E).

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.’” *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, 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) (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).

Based on § 1226, the Court should hold Petitioner is properly subject to mandatory detention.

IV. Evidentiary Hearing

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.

Dated: January 25, 2026

DANIEL N. ROSEN
United States Attorney

s/ Julie Le

BY: JULIE T. LE
Assistant United States Attorney
Attorney ID Number 0402305
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600
Julie.le@usdoj.gov
Julie.t.le@ice.dhs.gov