

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

Rudy Alexander Pineda Aguilar,

Petitioner,

0:26-cv-00563-NEB-EMB

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.

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

INTRODUCTION

This Court should rule consistently with its previous determinations in this District and its sister districts. The Court has already decided multiple cases that are nearly identical to Petitioner's. Petitioner was detained in the interior of the United States more than two years after entering without inspection and after previously being released under an Order of Release on Recognizance in 2021, *see* ECF Doc. 8, ¶ 21, with which Petitioner was complying. District courts in every corner of the country have validated the Court's previous conclusion. The Court should grant the requested relief and order Petitioner's immediate release pursuant to his 2021 Order of Release on Recognizance.

Petitioner will not reiterate the well-worn arguments on this issue but, like Respondents, asks to preserve arguments made in materially similar briefs filed by Petitioner's counsel in case of appeal.

Respondents rest on 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). Furthermore, 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, release is the appropriate remedy.

ARGUMENT

As articulated above, countless cases within this circuit have exercised jurisdiction and subsequently found that the detention of individuals in materially identical positions with Petitioner was improper under 8 U.S.C. § 1225(a)(2)(B). Those individuals, like Petitioner, were entitled to immediate release or bond hearings under 8 U.S.C. § 1226(a). The weight of the authority, consistent with the record, plain text, context, congressional intent, and long held practice all illustrate why this writ must issue.

I. Petitioner Is Not Subject to 8 U.S.C. § 1225.

Petitioner acknowledges the increase in the minority position following the decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025); however, *Yajure Hurtado* is owed no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 369 (2024). *Hurtado* mimics the arguments that a multitude of courts have rejected, including this Court. The flaw in these decisions is almost universal – the ruling merges the deeming a person an applicant for admission part and parcel with the act of seeking admission. An artificial label does not become actionable because there is a classification. More important, none of these decisions acknowledge 8 U.S.C. § 1101 and the definition of admission: lawful entry into the United States. Furthermore, there is no reconciliation with 8 U.S.C. § 1351. Warrantless arrests are limited in the scope of § 1225 – observing *entering* the United States unlawfully.

A warrant is otherwise required because the person is in the United States. This dichotomy mirrors the § 1225 and § 1226 explications Petitioner has asserted here.

Chen v. Almodovar, 2025 WL 3484855 (S.D.N.Y Dec. 4, 2025), exemplifies the flaw in the few adverse decisions that exist. *Chen* and others do not engage with what constitutes “seeking,” nor do they acknowledge the administrative record that shows that Respondents apprehended, and sometimes initially released, a person under § 1226. *Chen*, for example, tries to suggest that most courts have contrived a third requirement in which a person has to be seeking admission consistent with the definition of admission set forth in 8 U.S.C. § 1101(a)(13)(A). *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tx. Nov. 13, 2025), merges the actor and the action as if they are one and the same.

Furthermore, *Chen*, *Cabanas*, and similar cases maintain that § 1225(b)(2) becomes meaningless given the majority interpretation. However, this is not true. There is a bevy of case law demonstrating that § 1225(b)(2) applies to numerous individuals who are not arriving aliens. Most notably, it applies to lawful permanent residents who do not qualify or satisfy the returning resident exemption, individuals seeing readmission under automatic revalidation rules after traveling to Canada or Mexico for less than 30 days, and individuals in transit through the United States. Section 1225(b)(2) requires the detention of such individuals until an immigration court determines whether the person is a returning resident or not. This is a very

large population of individuals. It includes people who have been abroad for too long, criminality, national security concerns, and other grounds. *Chen* ultimately makes the fatal mistake of making an application for relief, such as asylum, into some form of seeking admission. This is contrary to law and Board of Immigration Appeals precedent. Relief is not admission. *Chen* and others simply fail to recognize that precedent and statute contradict their supposition.

As the Supreme Court has explained, relief from removal does not afford a person “admission”—defined as “the lawful entry . . . after inspection and authorization by an immigration officer,” 8 U.S.C. § 1101(a)(13)(A)—but instead affords them “lawful status,” a “distinct concept[] in immigration law.” *Sanchez v. Mayorkas*, 593 U.S. 409, 409, 415 (2021). Thus, the Court in *Sanchez* concluded that an individual who had entered the country unlawfully and subsequently received Temporary Protected Status (“TPS”)—a form of temporary relief from deportation, *see* 8 U.S.C. § 1254a—was not constructively “admitted,” but instead granted a “lawful status.” *Id.* at 415–16 (explaining that (“a grant of TPS does not come with a ticket of admission”).

The same distinction applies for other forms of relief from removal, such as Special Immigrant Juvenile designees like Petitioner, *see Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018); Deferred Action for Childhood Arrivals, *see Resendiz v. Exxon Mobil Corp.*, 72 F.4th 623, 625, 627 (4th Cir. 2023); petitions

under the Violence Against Women Act, *see Enriquez v. Barr*, 969 F.3d 1057, 1060 (9th Cir. 2020), *withdrawn on other grounds sub nom.*, *Enriquez v. Wilkinson*, 988 F.3d 1210 (9th Cir. 2021); benefits under the Nicaraguan Adjustment and Central American Relief Act, *see Fuentes v. Lynch*, 837 F.3d 966, 967 (9th Cir. 2016) (*per curiam*); Family Unity Program benefits, *see Medina-Nunez v. Lynch*, 788 F.3d 1103, 1105 (9th Cir. 2015); asylum, *see Matter of V-X-*, 26 I. & N. Dec. 147, 150 (BIA 2013); and T-nonimmigrant visas for victims of trafficking, *see Villatoro v. Noem*, No. 25-CV-05306 (OEM), 2025 WL 2880140, at *1, n.1 (E.D.N.Y. Oct. 9, 2025).¹

Applying for relief from removal, namely adjustment of status as a Special Immigrant Juvenile, cannot be construed as seeking admission. Adjustment of status is not “admission” as a matter of administrative precedent. *See Matter of J-H-J-*, 26 I. & N. Dec. 563, 565 (BIA 2015). In no iteration of Petitioner’s paths of relief can he be construed to be seeking admission. Petitioner is seeking relief, not admission.

¹ The only exception arises in the post-entry adjustment of status context where individuals who entered without inspection and later adjusted status are deemed *retroactively* to have been admitted when they adjusted status for the limited purpose of removability for certain criminal offenses. *See, e.g., Diaz Esparza v. Garland*, 23 F.4th 563, 575 (5th Cir. 2022); *Mauricio-Vasquez v. Whitaker*, 910 F.3d 134, 137 (4th Cir. 2018); *Negrete-Ramirez v. Holder*, 741 F.3d 1047, 1052 (9th Cir. 2014). This judge-created exception is meant to avoid the “absurd result” of certain noncitizens falling into a gap in the statute by lacking a starting date to determine *deportability*. *Negrete-Ramirez*, 741 F.3d at 1052. This exception does not apply here to Petitioner or other noncitizens facing removal for being *inadmissible*, having entered without inspection.

There is a constant theme in the few negative cases of not engaging with the positive caselaw and maintaining tunnel vision. An applicant for admission must be fulfilling the condition of seeking admission for 8 U.S.C. § 1225(b) to apply. None of these negative cases engage in the definition of admission, which is defined in the Act. None of the cases that have adopted the minority position move the needle. The Court must continue to see that there is a difference between fitting the mold as an applicant for admission and doing something to seek admission. There is no action here that invokes § 1225(b)(2).

II. Respondents Failed to Distinguish *Andres R.E.*

Respondents also did not distinguish *Andres R.E. v. Bondi*, No. 25-cv-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025). *See* ECF No. 5. Respondents make no attempt to do so. *See* ECF No. 9. Petitioner entered the United States without inspection as an unaccompanied minor on or about September 27, 2016, and has been present in the United States ever since. 8 U.S.C. § 1226(a) applies here.² This case presents no reason to depart from the Court's previous decisions.

² Respondents' amended response, ECF No. 9, correctly withdrew the argument that Petitioner is subject to 8 U.S.C. § 1226(c). Section 1226(c)(1)(A) mandates detention of noncitizens who are inadmissible by reason of having committed any offense covered in 8 U.S.C. § 1182(a)(2). Section 1182(a)(2)(A)(i)(I) covers crimes involving moral turpitude. However, § 1182(a)(2)(A)(ii)(II) carves out an exception where the maximum penalty possible for the crime of conviction did not exceed imprisonment of one year and the noncitizen was not sentenced to a term of imprisonment in excess of six months. *See* 8 U.S.C. § 1182(a)(2)(A)(ii)(II). Petitioner was convicted in 2020 under Minn. Stat. § 609.3451, subd. 1 (2019), a

III. Immediate Release Is the Appropriate Remedy.

The Court gave Respondents 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). *See* ECF Doc. 5, at 1-2 (“Respondents’ answer should include...[s]uch affidavits and exhibits as are needed to establish the lawfulness and correct duration of Petitioner’s detention in light of the issues raised in the habeas petition;...[and] [w]hether the absence of a warrant preceding Petitioner’s arrest necessitates Petitioner’s immediate release....”). However, Respondents failed to do so. *See* ECF Doc. 8; ECF Doc. 9. Respondents’ affiant simply states, “On January 22, 2026, ICE arrested PINEDA at Minneapolis, Minnesota.” ECF Doc. 8, ¶ 28. No exhibits are provided. As such, immediate release is the appropriate remedy.

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 here, so detention

gross misdemeanor for which the sentence cannot exceed one year. *See* ECF Doc. 8, ¶ 19; Minn. Stat. § 609.3451, subd. 1 (2019). Petitioner was sentenced to 179 days, so not in excess of six months. *See* ECF Doc. 8, ¶ 20. Petitioner therefore falls under the exception at 8 U.S.C. § 1182(a)(2)(A)(ii)(II), as was recognized in the administrative record below, and is not subject to 8 U.S.C. § 1226(c). Notably, Respondents released Petitioner under an Order of Release on Recognizance in 2021, *after* Petitioner’s conviction. *See* ECF Doc. 8, ¶ 21.

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. Minn. 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. *See Sebrían Reyes v. Bondi et al.*, 26-cv-5 PJS/LIB (D. Minn. Jan. 23, 2026).

CONCLUSION

For the reasons set forth, Respondent cannot be detained under 8 U.S.C. § 1225, and the writ of habeas corpus, requiring immediate release pursuant to the 2021 Order of Release on Recognizance, or, alternatively, a prompt bond hearing, must issue.

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Respectfully submitted,

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