

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MARCOS LOPEZ GARCIA

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.

Respondents.

Case No. 26-CV0676 (MJD/SGE)

**PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE
FROM JANUARY 28, 2026**

I. Arguments

On January 27, 2026, the Court ordered Respondents to file a response by January 29 which would include “[a] reasoned memorandum of law and fact explaining respondents’ legal position on Petitioner’s claims” as well an articulation of “[w]hether Petitioner’s current detention differs materially from cases such as *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670 (D. Minn. Aug. 27, 2025), in which petitioners have been found entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a).” ECF No. 8.

Respondents conceded that “this petition legal and factual issues similar to those in prior habeas petitions this Court has decided.” ECF No. 10. Rather than detailing arguments in the response, Respondent’s incorporated all argument raised by the government in *Avila v. Bondi*, No. 25-3248 (8th Cir. Docketed Nov. 10, 2025) by reference. *Id.*

This Court should reject Respondent’s arguments from *Avila* for the same reasons that this Court’s peer, Judge John Tunheim, did in *Avila*. *Avila v. Bondi*, 2025 WL 2976539 (D. Minn. Oct. 21, 2025). Furthermore, Respondents’ citation to their arguments from *Avila* is of limited relevance because *Avila* did not concern arguments for release on account of deferred action, which was detailed in Mr. Lopez Garcia’s petition for habeas corpus. ECF at 01; see also *Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059, *1 (D. Minn. Jan. 17, 2026) (“**But Avila is inapposite.** That case

considered a petitioner's entitlement to a bond hearing under the legal framework of U.S.C. §§ 1225 and 1226, and the petitioner there did not assert that he was under deferred action when he was taken into custody." (emphasis added and internal citation omitted). Because the "Respondents did not respond to [Petitioner's] arguments about deferred action[,] [this means that] Respondents waived any challenges to these arguments." *Id.* at *2 (internal citations omitted).

Courts within this District, as well as several other courts, have found cause to order immediate or swift release of petitioners with deferred action. *Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059, *2 (D. Minn. Jan. 17, 2026); *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733, *3 (D. Minn. Jan. 17, 2026) (ordering Respondents to release the petitioner as soon as practicable, but no later than within 48 hours of the Court's order on account of petitioner's deferred action status); *Nevarez Jurado v. Freden*, --- F.Supp.3d ---, 2025 WL 3687264, *12 (W.D.N.Y. Dec. 19, 2025) ("**Moreover, because he may not be removed so long as his grant of deferred action remains unrevoked, [petitioner's] ongoing detention serves no purpose for the government[,] [...]** Accordingly, the Court joins the growing number of district courts around the country that, faced with these circumstances, have **ordered the immediate release of similarly situated petitioners**") (emphases added); *Santiago v. Noem*, 2025 WL 2792588, *14

(W.D. Tex. Oct. 02, 2025) (Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of Santiago's due process rights through her continued detention"); *Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30, 2025); *F.R.P. v. Wamsley*, No. 25-01917, 2025 WL 3037858, *3 (D. Ore. Oct. 30, 2025) (“**Boiled down, the merits question here turns on whether respondents have free reign to detain a deferred action recipient without a pre-detention hearing or individualized determination. Legal precedent strongly suggests that they do not**”) (emphasis added); *O.A.M.R. v. Wofford*, No. 1:25-CV-01955-TLN-JDP, 2025 WL 3702171, at *1 (E.D. Cal. Dec. 21, 2025); *Palencia v. Hermosillo*, No. 2:25-CV-02669-BAT, 2026 WL 125141 (W.D. Wash. Jan. 16, 2026); *Aguilar Gama v. Bondi*, 25-01925, 2025 WL 3559942 (W.D. Wash. Dec. 12, 2025).

This Court should adopt the reasoning of the cases cited above and order immediate release of the Petitioner.

II. CONCLUSION

The Petitioner respectfully requests that the Court grant his petition for habeas corpus for reasons raised in this filing as well as in previous filings by the Petitioner.

DATED: January 30, 2026

Respectfully submitted,

/s/ Gloria Contreras Edin

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