UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CASE 0:26-cv-00707-MJD-ECW

Pedro Claver Lopez Lopez,

Petitioner,

v.

Kristi Noem, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Pedro Claver Lopez Lopez filed this petition for a writ of habeas corpus because Petitioner wants release from detention by the U.S. Immigration and Customs Enforcement ("ICE"). Respondents, Kristi Noem, Todd Lyons, Pamela Bondi and David Easterwood (collectively "the Federal Respondents") submit this response to the petition. The Court should deny Petitioner's request for habeas relief because Petitioner's 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 Guatemala. *Petition* ¶ "Parties", 1. ICE arrested Petitioner on January 11, 2026. *Pet* ¶ Id; 1.

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. ¶¶ 4; 31. Congress says so as well, expressly directing 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). **Earlier this month, 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. Noncitizens can be held without bond under § 1225. That is what is happening here. Petitioner is subject to mandatory detention because Congress directs 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 his detention should instead be governed by § 1226, Petitioner is wrong.[1]

I. Mandatory Detention under § 1225

The gist of Petitioner's pursuit of habeas relief is that he is subject to detention under § 1226 rather than § 1225. 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 the Court has

[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. *See Pet* ¶ 26.

considered, the Federal Respondents will summarize the legal basis for the government's interpretation. 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. Thus, Petitioner 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), EFC 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.* Accordantly, this Court should find the plain meaning of the statute should prevail. Petitioner is an applicant for admission because Petitioner is present in this country, and Petitioner 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.* ¶ 31. 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).

II. Petitioner is not Eligible for Relief under Bautista

Petitioner asserts entitlement to relief as *Bautista* class member, *see* Pet. ¶¶ 59-64. Importantly, Petitioner does not offer any support for this claim. However partial final judgment in *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025), is not binding here, in this circuit. That judgment is on appeal, *see Bautista, et al. v. United States Department of Homeland Security, et al.*, No. 25-7958 (9th Cir.), and as another district court found after examining the issue in detail, it does not have preclusive effect. *See Lopez v. Lyons*, No. 1:25-CV-226, 2025 U.S. Dist. LEXIS 265505 (N.D. Tex. Dec. 19, 2025). Moreover, the Ninth Circuit itself has held that a prior "class action has no preclusive affect in habeas proceedings," *Griffin v. Gomez*, 139 F.3d 905 (9th Cir. 1998), nor do res judicata and collateral estoppel do not apply to them.

See Clifton v. Attorney General, 997 F.2d 660, 662 n.3 (9th Cir. 1993) (because "conventional notions of finality of litigation have no place" in habeas the inapplicability of res judicata to habeas is "inherent in the very role and function of the writ") (quoting *Sanders v. United States*, 373 U.S. 1, 8 (1963)). Other circuit courts of appeal agree. *See, e.g., Hardwick v. Doolittle*, 558 F.2d 292, 295 (5th Cir. 1977) ("The doctrines of res judicata and collateral estoppel are not applicable in habeas proceedings."); *Hierens v. Mizell*, 729 F.2d 449, 456 (7th Cir. 1984) ("[A] decision in another case is not res judicata as to a habeas proceeding.").

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, Petitioner is not subject to expedited removal proceedings and not subject to detention under any provision of § 1225. If Petitioner is correct, then Petitioner 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).

IV. 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.

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