UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Melvi Mata Guevara

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-CV-789 (DMT/LIB)

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE FROM FEBRUARY 02, 2026

I. Introduction

On January 29, 2026, the Court ordered Respondents to file a response to the pending petition for habeas corpus by February 02, 2026, and for Petitioner to file a Reply by February 04, 2026. ECF No. 06. On February 03, 2026, the Court denied the motion for a temporary restraining order and provided arguments for why it would likely find Petitioner to be subject to mandatory detention under 8 U.S.C. 1225(b)(2). Petitioner now submits his reply. Respondent argues that he is detained subject to section 1226, that Respondents' reading of the statutory text violates the canon against surplusage, that Petitioner is not seeking admission, and that immediate release is merited due to the absence of a warrant in the record.

II. Arguments

a. Section 1226 is the Default Rule for Aliens Already in the United States

1. Respondents' reading is contrary to Jennings.

Respondents' overbroad reading of section 1225(b)(2) would practically erase 8 U.S.C. § 1226(a) from the law and is at odds with most natural reading of how the Supreme Court has interpreted 1225 and 1226. The Supreme Court repeatedly stated in a seminal case that discretionary detention under 1226(a) is the "default rule" for noncitizens within the United States. *Jennings v. Rodriguez*, 583 U.S. 281 (2018) ("The Government

is also authorized to detain certain aliens **already in** the country. **Section 1226(a)'s default rule** permits the Attorney General to issue warrants for the arrest and detention of these aliens pending the outcome of their removal proceedings."); *Id.* at 288 (identifying section 1226 as "the default rule" in a discussion about noncitizens "inside the United States" who "were inadmissible at the time of entry[.]"); *Id.* at 303 ("As noted, § 1226 applies to **aliens already present** in the United States. **Section 1226(a) creates a default rule for those aliens** by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, "[e]xcept as provided in subsection (c) of this section."). "**Based on the Supreme Court's reading of these same statutory provisions, then, § 1226 also appears to apply to Petitioner since he was detained** not while 'arriving to the country,' but instead **while 'already in the United States.**'" *Martinez Elvir v. Olson*, --- F.Supp.3d ----, 2025 WL 3006772, *8 (W.D. Ky. Oct. 27, 2025) (emphases added). Therefore, the Court should find that section 1226(a) applies and order either a bond hearing or immediate release.

2. The title of Section 1225 signifies the constraints of its meaning

Additionally, the title of section 1225, "[i]nspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing", suggests that it primarily applies to "arriving aliens" who are entering the United States. *Matinez-Elvir*, 2025 WL 3006772 at *7. The Supreme Court has "long considered that the title of a statute and heading of a section are tools available for the resolution of a doubt about the meaning of a statute" and that "[a] title is especially valuable [where] it reinforces what the text's nouns and verbs independently suggest." *Dubin v. United States*, 599 U.S. 110, 120-121 (2023) (internal quotation marks and citation omitted). "Other context from the statutory text corroborates this reading. Section 1225(b)(2)(B), which provides "[e]xceptions" to § 1225(b)(2)(A), states that "[s]ubparagraph (A) shall not apply" to "crewm[e]n" or "stowaway[s]." These descriptions of migrants suggests their arrival at a border or other port of entry, not their continued presence in the United States for over a decade." *Martinez Elvir*, 2025 WL 3006772 at *7; *see also Barrera v. Tindall*, 2025 WL 2690565, *4 (W.D. Ky. Sept. 19, 2025) ("The added word of "arriving" indicates that the statute governs "arriving" noncitizens, not those present already.").

By comparison, section 1226 has a broader title than 1225. The fact that "Congress separated removal of arriving aliens from its more general

section for "Apprehension and detention of aliens," § 1226, implies that Congress enacted § 1225 for a specific, limited purpose." *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D.Mich., 2025). Respondents' interpretation would vitiate the limited purpose of 1225 and render the default rule of 1226 virtually meaningless. Therefore, the Court must find that Petitioner is subject to 1226 in order to abide by the clearest reading of the statutory text and its titles.

b. Respondents' Reading of 1225 and 1226 would Render the Laken Riley Act as Surplusage

The Respondents' overly broad interpretation of 1225(b) would render the recent expansion of categories for mandatory detention under the Laken Riley Act superfluous. Statutory interpretation requires that statutes be read "so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]" *Hibbs v. Winn*, 542 U.S. 88, 101 (2004); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) **("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme**.") (emphasis added); *see also See* A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 174 (2012) (explaining the Surplusage Canon: "None should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.").

Judge of Williams of the Northern District of Iowa summarized that "Congress passed the Laken Riley Act to amend Section 1226(c) and include more classes of aliens who are ineligible for bond under Section 1226(a). Laken Riley Act, Pub. L. No. 119-1, sec. 236, § 2, 139 Stat. 3, 3 (2025). One of those new classes of non-bondable aliens are aliens not admitted into the United States who were charged with specific crimes. 8 U.S.C. § 1226(c)(1)(E)[.]" *Jimenez v. Olson*, 2025 WL 3633609, *6 (N.D. Iowa, Dec. 15, 2025).

Respondents essentially argue that all noncitizens present in the United States who entered without inspection are subject to mandatory detention. ECF. No. 12 at 5. The government is thus proposing a one-element test for subjecting someone to mandatory detention. By comparison, the Laken Riley Act created a two-element test for mandatory detention: the first element can be satisfied by the noncitizen being present in the United States without being inspected, admitted, or paroled and the second element is dependent on the noncitizen's criminal history. 8 U.S.C. § 1226(c)(1)(E). **Because being inspected without being admitted or paroled—the first element in the Laken Riley detention test—is also the sole element proposed by Respondents for subjecting noncitizens to mandatory detention under 1225(b)(2), the Court must reject**

Respondents' position in order to avoid rendering the recent amendments to 1226(c) as surplusage. Adopting the Respondents' reading of 1225 would violate a "cardinal rule of statutory interpretation that ***no*** provision should be construed to be entirely redundant." *Kungys v. United States*, 485 U.S. 759 (1988) (emphasis added).

Numerous Courts have found that Respondents' expansive reading of 1225(b) would relegate the recently expanded categories for mandatory detention under 8 U.S.C. § 1226(c)(E) as surplusage. *Maldonado v. Olson*, 795 F.Supp.3d 1134, 1151 (D. Minn. 2025); *Giron Reyes v. Lyons*, 801 F.Supp.3d 797, 8705 (N.D. Iowa 2025) ("Under the Government's expansive interpretation of § 1225, the amendment would have no purpose. Section 1225(b)(2) would already provide for mandatory detention of every unadmitted alien, regardless of whether the alien falls within one of the new classes of non-bondable aliens[.]"); *Covarrubia v. Vergara*, 2025 WL 2950097, *4 (S.D. Tex. Oct. 08, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, *5 (E.D. Mich. Sept. 09, 2025); *Quijada Cordoba v. Knight*, --- F.Supp.3d ----, 2025 WL 3228945, *7 (D. Idaho, Nov. 19, 2025) ("If § 1225(b)(2)(A) already mandates the detention of *all* noncitizens who have not been admitted, as Respondents contend, then Laken Riley serves no purpose") (emphasis original); *Guzman v. Bondi*, --- F.Supp.3d ----, 2025 WL 3724465, *4 (W.D.

Tex. Dec. 23, 2025) ("If all noncitizens charged as inadmissible due to entry without inspection were already subject to mandatory detention under § 1225(b)(2), it would make no sense for Congress to have amended the statute to require mandatory detention for specific subcategories of those individuals"); *Herrera v. Knight*, 798 F.Supp.3d 1184, 1196, n.5 (D. Nev. 2025); *Barco Mercado v. Francis*, --- F.Supp.3d ----, 2025 WL 3295903, *7 (S.D.N.Y. Nov. 26, 2025); *Pacheco Acosta v. Olson*, 2025 WL 3542128, *5 (E.D. Ky. Dec. 10, 2025); *Barrera v. Tindall*, 2025 WL 2690565, *4 (W.D. Ky. Sept. 19, 2025); *Martinez v. Hyde*, 792 F.Supp.3d 211, 221 (D. Mass. 2025) ("[If] a non-citizen's inadmissibility were alone already sufficient to mandate detention under section 1225(b)(2)(A), then the 2025 amendment would have no effect"); *Rodriguez v. Bostock*, 802 F.Supp. 1297, 1326 (W.D. Wash. 2025). Because Respondents' overbroad reading of the statutory text would render key language of its most recent amended text as mere surplusage, the Court should reject this flawed reading of 1225(b) and rule that Petitioner is detained under section 1226(a). Petitioner's reading prevents surplusage and abides by the "cardinal rule of statutory interpretation" against redundancy. *Kungys*, 285 U.S. 759 (1988).

c. "Applicant for Admission" is not Synonymous with "Seeking Admission"

1. The statutory text supports Petitioner's reading

Respondents mistakenly conflate "applicant for admission" with "seeking admission." "Admission" refers to entry after inspection at the United States border or ports of entry. *Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008), *as amended* (June 5, 2008) ("Under th[e] statutory definition, 'admission' is the lawful ***entry*** of an alien after inspection, **something quite different, obviously, from post-entry adjustment of status**." (Emphases added). Giving effect to every word and phrase requires the courts to presume that [i]n a given statute, ... different terms usually have different meanings." *Pulsifer v. United States*, 601 U.S. 124, 149 (2024). Treating "applicant for admission" as synonymous with "seeking admission" would fail to recognize that different terms were applied because there is a distinction between those categories.

Treating "applicant for admission" and "seeking admission" as coterminous is contrary the statutory text. An "applicant for admission" must be a noncitizen present in the United States without having been admitted or who is arriving in the United States. 8 U.S.C. § 1225(a)(1). However, a noncitizen need not be present to "seek admission" to the United States, "for example, [a noncitizen could seek admission] by applying for a visa at a consulate abroad." *Jimenez v. FCI Berlin, Warden*, 799 F.Supp.3d 59, 70

(D.N.H. 2025) (quoting *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 741 (B.I.A. 2012)).

Several Courts have found that the "applicants for admission" and "seeking admission" are not coterminous. *Hyppolite v. Noem*, --- F.Supp.3d ---, 2025 WL 2829511, at *9 (E.D.N.Y. Oct. 06, 2025) ("[I]f the mandatory detention provision in § 1225(b)(2) applied to *all* noncitizens who are "applicants for admission," **then there would be no need for Congress to have separately referenced a sub-category of persons "seeking admission"** in the specific section that relates to mandatory detention. **Adopting Respondents' position would thus require the Court to elide or avoid section 1225(b)(2)(A)'s 'seeking admission' language ..., treating it as mere surplusage of the 'applicant' requirement**[.]") (emphases added, internal citations omitted); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 486 (S.D.N.Y. 2025); *Rosado v. Figueroa,* 2025 WL 2337099, *12 (D. Ariz. Aug. 11, 2025) ("But Respondents' selective reading of the statute—which ignores its "seeking admission" language—violates the rule against surplusage and negates the plain meaning of the text."); *Nava Hernandez v. Baltazar*, 2025 WL 2996643, *5 (D. Colo. Oct. 24, 2025); *Romero v. Hyde*, 795 F.Supp.3d 271, 283-285 (D. Mass. 2025) (providing a chart that demonstrates that "applicant for admission" and "seeking admission" are not

coterminous); *Guerrero Orellana v. Moniz*, 802 F.Supp.3d 297, 309 (D. Mass. 2025) ("Equating the terms "applicant for admission" and "seeking admission" ignores the plain meaning of the latter phrase, which again implies some present action") (emphasis added).

Respondents' attempt to rely on outlier cases to misread §§ 1225 and 1226, but the errors in those decisions expose the faults in their analysis. *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). "Like the vast majority of courts that have addressed the issue," a Minnesota District Court considered and rejected *Vargas Lopez. Santos M.C. v. Olson*, No. 25-CV-4264 (PJS/DJF), 2025 WL 3281787, at *2 (D. Minn. Nov. 25, 2025); *see also Gimenez Gonzalez v. Raycraft,* No. 25-CV-13094, 2025 WL 3006185, at *4 (E.D. Mich. Oct. 27, 2025) (rejecting *Vargas Lopez); Covarrubias v. Vergara,* No. 5:25-CV-112, 2025 WL 2950097, at *4 n.2 (S.D. Tex. Oct. 8, 2025). *Vargas Lopez* 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 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. The Petitioner fits 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 the Petitioner is properly subject to § 1226 discretionary detention as a non-citizen who has resided in the United States for decades. *Id.*, at *6-7.

2. *Petitioner seeks adjustment of status, not admission.*

Petitioner is seeking cancellation of removal for certain nonpermanent residents under 8 U.S.C. § 1229b(b), a form of post-entry relief that requires, among other statutory prerequisites, continuous physical presence in the United States for at least ten years, good moral character, and a showing of

exceptional and extremely unusual hardship to qualifying relatives. § 1229b(b)(1). By its plain terms, cancellation of removal applies only to noncitizens who are already present in the United States, often for many years, and does not depend on inspection, admission, or parole at a port of entry.

Although § 1229b(b)(1) authorizes the Attorney General, upon granting cancellation, to "adjust the status of the alien to that of an alien lawfully admitted for permanent residence," that statutory language does not render cancellation of removal synonymous with "admission," nor does it transform an application for cancellation into an act of "seeking admission." Congress placed cancellation of removal in a statutory framework entirely separate from adjustment of status under 8 U.S.C. § 1255, which governs changes in status for noncitizens who were inspected and admitted or paroled. The use of the word "adjust" in § 1229b(b) reflects the consequence of relief granted, not the creation of an admission event.

Courts have repeatedly recognized this distinction. The Fifth Circuit has explained that "post-entry adjustment of status" is "quite different" from admission, which refers to lawful entry after inspection at a port of entry. *Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008). Likewise, the Supreme Court has made clear that lawful status and admission are distinct

concepts in immigration law, and that although admission may accompany certain grants of status, "it does not follow that a grant of lawful status is itself an admission." *Sanchez v. Mayorkas*, 593 U.S. 409, 417 (2021).

That distinction is important here because cancellation of removal confers lawful permanent resident status by operation of statute, following the termination of removal proceedings and it does not involve inspection at a border, lawful entry, or any act traditionally associated with admission. *See* 8 U.S.C. § 1229b(b)(1)

Accordingly, a noncitizen may seek cancellation of removal, and even ultimately obtain lawful permanent resident status, without ever being "admitted" within the meaning of the INA. The Board of Immigration Appeals has long recognized that post-entry grants of status do not constitute admissions absent express statutory direction to the contrary. *See Matter of Rosas*, 22 I&N Dec. 616, 619 (BIA 1999); *Matter of V-X-, 26 I&N* Dec. 147, 150–52 (BIA 2013).

Nor does the act of applying for cancellation of removal transform a noncitizen into someone "seeking admission." The statutory text of § 1225 distinguishes between noncitizens who are "applicants for admission" and those who are "seeking admission," and nothing in § 1229b(b) suggests that

pursuing post-entry relief in removal proceedings constitutes an effort to enter the United States. On the contrary, the relief presupposes long-term presence within the country and is available precisely because the applicant is already here.

Courts within the District of Minnesota have rejected the idea that applying for relief in court must be categorized as seeking admission:

> First off, the Government is wrong when it asserts that no court in this District has considered a situation in which a noncitizen intends to remain in the United States. Indeed, that is exactly what *Roberto M. F.* wanted. *See Roberto M. F.*, 2025 WL 3524455, at *1; *see also Belsai D. S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947, at *2 (D. Minn. Oct. 1, 2025) (granting similar habeas relief to petitioner who was seeking legal status to remain in the United States); *Andres R. E. v. Bondi*, No. 25-cv-3946 (NEB/DLM), 2025 WL 3146312, at *1 (D. Minn. Nov. 4, 2025) (same). Even so, the Court disagrees with Melgar's atextual conclusion that a noncitizen's efforts to obtain legal status or otherwise stay in the United States somehow constitutes "seeking admission" as that phrase is used in Section 1225(b)(2).

Hugo v. Olson, No. 25-CV-4593 (LMP/DTS), 2025 WL 3688074, at *2 (D. Minn. Dec. 19, 2025).

In short, Petitioner's application for cancellation of removal under § 1229b(b) is a request for post-entry relief from removal, not a request to enter the United States. Because cancellation of removal does not constitute admission and does not involve seeking admission, Petitioner

cannot be deemed to be "seeking admission" for purposes of § 1225(b)(2). His detention therefore falls within the ambit of 8 U.S.C. § 1226, not § 1225.

3. *Filing for relief in immigration court and appealing court decisions are not sufficient to find that Petitioner is seeking admission.*

In its denial of the TRO, the Court made multiple conclusory findings insufficiently supported by law when it reasoned that Petitioner must be subject to section 1225(b)(2) as an applicant for admission who is seeking admission. The Court stated that "No authorization was given for [Petitioner] to stay in the country during the pendency of his appeal." ECF No. 13 at 3. However, the Court overlooked that appealing a removal order on a merits decision to the Board of Immigration Appeals prevents the removal order from being "executed while an appeal is pending or while a case is before the Board by way of certification." 8 § CFR 1003.6(a). In other words, appellants are allowed to remain in the United States while an appeal with the BIA is pending and Respondents lack authorization to remove him. The Court and the Respondents mistakenly asserted that filing for any type of relief in immigration court necessarily constitutes seeking admission. The Court proclaimed that "it is undisputed that he is seeking admission by appealing to the Board of Immigration Appeals. Therefore, he is an application for admission for purposes of § 1225(b)(2)." ECF No. 13 at 3. The Court cited no authority to support a claim that it mistakenly labeled as undisputed. *Id.*

Respondents argued that merely applying for cancellation of removal proves that Petitioner is seeking admission. ECF No. 12 at 7. Respondents cited a case that mistakenly found that seeking asylum proves that a noncitizen is "seeking admission." *Id.* at 8.

The BIA has long held that a grant of asylum is ***not*** an admission, so filing for asylum is not seeking admission. *Matter of V-X-*, 26 I&N Dec. 147 (BIA 2013). The BIA held that a grant of asylum does not constitute an "admission" into the United States because "nothing in the language" of the INA indicates that "Congress understood a grant of asylum to be a form of 'admission' into the United States." *Id.* at Dec. 150–52; *see also Matter of H-G-G-*, 27 I&N Dec. 617, 635 (AAO 2019) ("a grant of asylum places the individual in valid immigration status but is not an 'admission'")[1]; *Sanchez v. Sec'y United States Dep't of Homeland Sec.*, 967 F.3d 242, 246 (3d Cir. 2020), *aff'd sub nom. Sanchez v. Mayorkas*, 593 U.S. 409 (2021) ("[Although] admission often accompanies a grant of lawful status, it does not follow that a grant of lawful status *is* an admission.") (emphasis original); *Bare v. Barr*, 975 F.3d 952, 974 (9th Cir. 2020) ("[A]s 8 C.F.R. § 1208.24(g) indicates, an

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[1] The Eighth Circuit declined to follow *H-G-G-* when evaluating whether a grant of Temporary Protected Status qualified as an admission. *Velasquez v. Barr*, 979 F.3d 572, 579 (8th Cir. 2020), *judgment vacated by Garland v. Velasquez*, 142 S.Ct. 420 (Mem) (2021). This was decision was vacated after certiorari was granted by the Supreme Court. *Garland v. Velasquez*, 142 S.Ct. 420 (Mem) (2021).

alien's status as "an applicant for admission" continues after the alien has been granted asylum[.]").

The claim that applying for relief with immigration court necessarily involves seeking admission is contradicted by a federal regulation that labels asylees—which refers to individual who won their asylum claims and are not simply waiting for the asylum cases to be adjudicated—as "applicant[s] for admission who had previous been granted asylum in the United States[.]" 8 CFR § 1208.24(g). If applying for relief in immigration court constituted seeking admission and being an "applicant for admission" and "seeking admission" are to be treated as synonymous as the government advocates, then asylees would not still be applicants for admission because their asylum grant would have been deemed an admission. However, federal regulations still label asylees as applicants for admission and not as "former applicants for admission." As noted earlier, the BIA does not even recognize a grant of asylum status as an admission. Thus, applying for an adjustment to a type of legal status does not qualify as "seeking admission." Therefore, Petitioner is not seeking admission and is therefore categorized in section 1226.

d. Immediate Release is Available for Aliens Subject to 1226(a) if the Government has Not Produced Evidenced of a Warrant of Arrest

If a warrant has not been issued, a noncitizen under section 1226(a) merits immediate release. Respondents argue that a bond hearing is the appropriate remedy under 1226(a). ECF No. 12 at 8. The plain language of section 1226 states "**On a warrant**[,] [...] an alien may be arrested and detained[.]" 8 U.S.C. 1226(a). If the initial detention lacked statutory authorization pursuant to such a warrant, noncitizens cannot continue being detained under 1226.

While detention under 1226 can result in a bond hearing, a growing number of judges within the District of Minnesota have endorsed immediate release when the government has failed to produce a warrant for the arrest. Judge John Tunheim recently ruled that "the Court is now persuaded that where, as here, (1) Respondents erroneously assert that a detainee is being held pursuant to § 1225(b)(2); and (2) Respondents have not produced a warrant, as is required to effectuate an arrest pursuant to § 1226(a), the appropriate remedy is release from custody." *Norma V.A. v. Bondi*, 2026 WL 252506, *2 (D. Minn. Jan. 30, 2026). This has been consistent with recent decisions by Judges Tostrud, Nelson, Blackwell, Montgomery, Schiltz, Menendez, Bryan, Davis, and Provinzino. *Ahmed M. v. Bondi*, 2026 WL 25627, *3 (D. Minn. Jan. 05, 2026); *Lauro M. v. Bondi*, 2026 WL 115022, *3 (D. Minn. Jan. 15, 2026) ("The Court does not disagree—§ 1226(a) does not

guarantee a right to release on bond. But § 1226(a) requires, in the first instance, that Petitioner's arrest and detention are authorized by the issuance of a warrant."); *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025) [ECF No. 9 at 6] ("[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory power as a mere procedural irregularity rather than a substantive defect."); *Brenda S.G. v. Easterwood*, No. 26-cv-652 (ADM/DTS) (D. Minn. Jan. 31, 2026) [ECF No. 16 at 4]; *Juan S.R. v. Bondi*, No. 25-cv-0005 (PJS/LIB) (D. Minn. Jan. 12, 2026) [ECF No. 8 at 3–4]; *Abner E.R.R. v. Easterwood*, No. 26-cv-482 (KMM/ECW) [ECF No. 10 at 3]; *Luis N. v. Bondi*, 2026 WL 115070, *3 (D. Minn. Jan. 15, 2026); *Luis V.G. v. Bondi*, No. 26-cv-460 (MJD/EMB) (D. Minn. Jan. 31, 2026) [ECF Nos. 6 and 8]; *Javier G.G. v. Bondi*, No. 26-cv-750 (LMP/EMB) (D. Minn. Feb. 02, 2026) [ECF No. 6 at 2] ("[B]ecause the Government has not presented a warrant that would justify Javier G. G.'s detention under 8 U.S.C. § 1226(a), the Court concludes that Javier G. G.'s is entitled to release from custody.").

Courts outside of the District of Minnesota have also granted immediate release when no warrant has been filed. *Chogllo Chafla v. Scott*, --- F.Supp.3d ----, 2025 WL 2688541, *11 (D. Me. Sept. 21, 2025) *appeal*

docketed before the 1st Circuit; *J.A.C.P. v. Wofford*, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025). Petitioner is categorized in section 1226(a). Unless his arrest was subject to a warrant, he merits immediate release.

III. 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: February 04, 2026

Respectfully submitted,

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