UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jafet L.C.,

Plaintiff-Petitioner,

v.

Pamela Bondi, *et. al*,

Defendant-Respondents.

PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

Case No. 26-cv-00903 (DWF/EMB)

INTRODUCTION

This case is about a government agency dissolving foundational principles of due process, engaging in blatant racial profiling, and now asking this Court to accept its after-the-fact rationalization. ICE stopped Petitioner Jafet Lezama Carrasco without a warrant and with no basis for doing so besides his appearance. [Dkt. 1 at 3.] They arrested him—still without a warrant—and planned to send him to Texas. [*Id.*; Barrera Carrasco Decl. ¶ 5.] Only now, after Mr. Lezama Carrasco filed this action and the Court ordered it to respond, did ICE finally concoct a basis for his arrest and detention. [*See* Dkt. 5.] The Court should refuse to engage in ICE's post hoc magical thinking and order it to return Mr. Lezama Carrasco to the home he has known for more than 20 years, where his children wait for him.

FACTS

Mr. Lezama Carrasco was brought to the United States as a young child. [Dkt. 1 ¶ 2.] Minnesota is his and his children's home. [*Id.*] He is the primary caregiver for his children. [*Id.*] He filed the paperwork for immigration status, an application that remained in pending status for

many years. [*Id.*] He works and cares for his three United States citizen children. [*Id.*] That has been his life, here in Minnesota, for decades. [*Id.*]

That was until Operation Metro Surge. [*Id.* ¶ 4.] ICE agents pulled Mr. Lezama Carrasco over for no other reason than his appearance. [*Id.* ¶ 3.] They arrested him and put him in detention. [Barrera Carrasco Decl. ¶ 5.] Within hours, he was set to be on a plane to Texas. [*Id.*] Only this Court's timely order ensured he remained in Minnesota. [Dkt. 3.] Now in its response, ICE fails to answer the Court's questions and instead claims that its plan all along was merely to ensure an immigration judge sets a bond amount before Mr. Lezama Carrasco can return to his children. [Dkt. 5.] Mr. Lezama Carrasco has his first hearing in removal proceedings in March 2026. This Court should find ICE's arguments not credible and order that Mr. Lezama Carrasco be immediately released.

ARGUMENT

This reply brief shows ICE's failure to support their alleged basis for detaining Mr. Lezama Carrasco, highlights the due process violations inherent in its arrest-first-justify-later strategy, and finally shows how many judges in this district have concluded that release, rather than a bond hearing, is the appropriate remedy.

1. Respondents failed to produce any evidence to support their claim.

By ignoring the flaw in their case, Respondents hope the Court will miss it too. The Court directed Respondents to answer the allegations in the Petition. [Dkt. 3 ¶ 2(a).] And it specifically instructed them to produce "supporting documentation that may be needed to establish the lawfulness of Petitioner's arrest . . . ." [*Id.* ¶ 2(b).] Mr. Lezama Carrasco alleged that he was stopped and detained without a warrant. [Dkt. 1 ¶ 3.] Respondents do not even attempt to pretend otherwise. [*See* Dkt 5.] Instead, they just hope the Court will assume they had a warrant. "When

an alien is detained under 8 U.S.C. § 1226(a), as is the case here . . . ." Respondents state in their response. [Dkt. 5 at 2 (emphasis added).] But that sentence has no supporting citation. Respondents' filing has no supportive exhibits or declarations. They have not produced a single iota of evidence or testimony to show that it is "the case here" that Respondents detained Mr. Lezama Carrasco with a warrant issued pursuant to section 1226.

The verified facts in the record do not support that notion. Mr. Lezama Carrasco was not presented with any kind of warrant. [Dkt. 1, ¶ 3.] He was instead one of the hundreds of Minnesotans targeted purely based on skin color and appearance. [Dkt. 1, ¶ 3, 4.] Respondents now claim that they only wanted to detain him for a bond hearing. [Dkt. 5 at 2.] But they do not even pretend to claim that such a hearing has been scheduled. [*See generally* Dkt. 5.] Their credibility is also undercut by the fact that rather than prepare for Mr. Lezama Carrasco to attend a bond hearing—as part of an immigration court case in Minnesota—they planned to send him to Texas just hours after detaining him. [Barrera Carrasco Decl. ¶ 5.]

Respondents' recent reinterpretation of the law also does not support the notion that they sought to detain Mr. Lezama Carrasco under section 1226. Respondents have been subjecting all noncitizens who entered the United States without inspection and who were not admitted or paroled to mandatory detention under section 1225, a view which the Executive Office for Immigration Review has affirmed. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) ("Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission."). Mr. Lezama Carrasco entered the United States at 10 years old without inspection, admission, or parole. He has remained in the United States since that time. Although Mr. Lezama Carrasco was granted a U Visa in September 2014 and maintained valid status for many years, once his U Visa expired, he returned to the position

he was in prior to the grant of the U Visa—that of a noncitizen present in the United States without admission. *See Sanchez v. Mayorkas*, 141 S.Ct. 1809, 1814-15 (2021) (holding that a grant of U nonimmigrant status does not mean that a noncitizen has been "admitted" into the United States). In short, Mr. Lezama Carrasco denies that the "case here" is what Respondents claim it to be. At a minimum, the issue creates a factual dispute. Respondents assure the Court that, nevertheless, there is no need for an evidentiary hearing in this matter. [Dkt. 5 at 3.]

The Court should deem these failures as Respondents' concession that they have no evidence warranting detention and that the absence of a warrant preceding petitioner's arrest warrants his immediate release. *See Rodrigues De Oliveira v. Joyce*, 2025 WL 1826118, at *4 (D.Me., 2025) (noting that "[t]he I-200 warrant is... issued to ICE agents by ICE agents without a neutral third-party to review its integrity" and because of that fact, refusing to accept anything but the warrant itself as evidence of arrest with a warrant). Courts are "not obliged to consider [a] perfunctorily raised, undeveloped argument," let alone a complete failure to provide any argument at all. *In re Vera T. Welte Testamentary Tr.*, 96 F.4th 1034, 1039 (8th Cir. 2024) (quoting *United States v. Kirk*, 528 F.3d 1102, 1104 n.2 (8th Cir. 2008)); *c.f.* Fed. R. Civ. P. 12(h) (certain defenses deemed waived through omission in responsive pleading). Another court in this District recently deemed a failure to respond to arguments as waiver in a case with similar facts. *Juan M. v. Bondi*, 2026 WL 129059, at *2 (D. Minn. 2026). It should make the same determination in this case.

2. Detention without a warrant violates due process.

Detaining anyone in this country is subject to the protections imposed by the Due Process Clause of the Constitution. As the Supreme Court has repeatedly made clear, "[t]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their

presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976). This includes noncitizens detained under 8 U.S.C. § 1225(b) and under section 1226. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (allowing lower courts to consider as-applied due process challenges to detention under § 1225(b)). For this reason, "preoccupation with technical concerns over 1225 processing versus 1226 processing for detention only exalts form over substance insofar as the Due Process Clause, writ large, is concerned," especially where, as here, the case involves "a prolonged period of [lawful presence in the United States]." *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291, 2025 WL 1826118, at *5 (D. Me. July 2, 2025).

Substantive due process requires that there be a reasonable relation between an individual's detention and the government's purported interests in that detention. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). With immigration detention, the Supreme Court has acknowledged that the government's interests are limited to (1) preventing flight risk, so a person can go through removal proceedings and ultimately be removed, or (2) otherwise ensuring the safety of the community. *Zadvydas*, 533 U.S. at 690-91. The second justification is only permissible "when limited to specially dangerous individuals and subject to strong procedural protections." *Id.* at 691.

Here, no rationale can justify Petitioner's detention. He has lived in the United States for more than 20 years. [Dkt. 1 at 3.] He lives in Minnesota as the primary caregiver for his three children. [*Id.*] Respondents have not shown that he is suddenly a flight risk after all that time. They have produced no evidence to support it. [*See* Dkt. 5.] The arbitrary, sudden and warrantless detention of Petitioner violates due process and this Court should refuse to allow it.

3. Release, not a bond hearing, is the appropriate relief.

Respondents do not deny that Petitioner was arrested without a warrant. [Dkt. 5.] Respondents have not contended that this warrantless arrest was justified by 8 U.S.C. § 1357(a)(2) because there was a reasonable belief that he was present in violation of the immigration laws and likely to escape before a warrant could be obtained. [Dkt. 5.] This fact alone warrants Petitioner's immediate release.

More broadly, individuals who are not subject to a final removal order have a due process expectation of not being arbitrarily detained. Release is the appropriate remedy for this due process violation. Petitioner's liberty interest is such that he should have been provided process *before* the government detained him in the first place. *See Cleveland Bd. of Educ. v. Loudermill,* 470 U.S. 532, 542 (1985) ("'[T]he root requirement' of the Due Process Clause" is "'that an individual be given an opportunity for a hearing *before* he is deprived of any significant protected interest.'") (quoting *Boddie v. Connecticut,* 401 U.S. 371, 379 (1971)); *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) ("Applying [the *Mathews*] test, the Court usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty ...."); *Morrissey v. Brewer*, 408 U.S. 471, 480–86 (1972) (holding this in the context of re-detention of individuals released from criminal custody on parole); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same for individuals subject to revocation of probation).

Because Petitioner was not lawfully detained, the proper remedy is to release him rather than to give a bond hearing. Courts in this District have, particularly in recent weeks, granted release rather than bond. While the number of decisions is vast and growing rapidly, a sample from even the past 24 hours supports the grant of straight release. *See Ronstadt A. v. Bondi*, 2026 WL 266751, at *3 (D. Minn. Feb. 2, 2026) (granting release); *Francisco R.C., v. Bondi*, 2026

WL 266601, at *2 (D. Minn. Feb. 2, 2026) (same); *Nelson G. v. Bondi*, 2026 WL 266092, at *3 (D. Minn. Feb. 2, 2026) (same); *Rosa T. v. Easterwood*, 2026 WL 266755, at *3 (D. Minn. Feb. 2, 2026); *Segundo G.U.O. v. Bondi*, 2026 WL 266562, at *2 (D. Minn. Feb. 2, 2026) (same); *Rahmo A.A. v. Easterwood*, 2026 WL 266750, at *2 (D. Minn., Feb. 2, 2026) (same). As Judge Tostrud—citing others—succinctly put it, "Release is an available and appropriate remedy for detention that lacks a lawful predicate." *Nelson G. v. Bondi*, 2026 WL 266092, at *3 (D.Minn., 2026) (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025), ECF No. 9) (quotations omitted).

Even cases referencing bond do not make it mandatory. *See, e.g., Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025). Those decisions do not specify that a bond hearing is the only available remedy. Likewise, the nationwide declaratory judgment in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), simply requires that individuals like Petitioner *at minimum* receive a bond hearing. But here, the Court should order that Petitioner be released without bond.

Ordering an immigration court to conduct a bond hearing in this case would only unnecessarily prolong Petitioner's already unreasonable detention. There are no ongoing proceedings before any immigration court. In many cases, noncitizens granted bond by immigration judges are faced with (a) a prohibitively high bond, or (b) an unconstitutional automatic stay of the decision under 8 C.F.R. § 1003.19(i)(2)—rendering this relief hollow. So, to return Petitioner to the status quo ante, the Court must order his release and ensure that he is not again deprived of his liberty without meaningful pre-deprivation process. *See, e.g., Victor G. v. Lyons*, 26-CV-119 (ECT/SGE), 2026 WL 127733, at *3 (D. Minn. Jan. 17, 2026) (considering both remedies and granting immediate release to U-Visa petitioner with a bona fide

determination and employment authorization because USCIS had already determined he was not a risk to national security or public safety).

If the Court does not agree that release is appropriate, Petitioner is entitled to a bond hearing at minimum. *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025); *Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025). The Court should order Respondents conduct a bond hearing within no more than 48 hours after the Court issues its order and further order that if no such bond hearing is conducted on that time frame, Respondents must immediately release Petitioner. *See, e.g., Nelson G. v. Bondi*, 2026 WL 266092, at *3 (ordering action within 48 hours). The Court should further order that in any such hearing, the government bears the burden of establishing a need for continued detention by clear and convincing evidence. *See* 8 C.F.R. § 1241.14; *see also Pedro O. v. Garland*, 543 F.Supp. 3d 733 (D.Minn., 2021) (holding that in a bond hearing not governed by section 1226(a), the Government must prove under clear and convincing evidence that the petitioner poses either a flight risk or a risk of danger to the community).

CONCLUSION

For these reasons, Petitioner respectfully asks the Court to order his immediate release or, in the alternative, to order that a bond hearing take place immediately.

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Minneapolis, Minnesota

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