UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-cv-00905-DMT-DTS

ROSA LOPEZ DE RODRIGUEZ,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Rosa Lopez de Rodriguez filed this petition for a writ of habeas corpus seeking either release or a bond hearing, arguing that 8 U.S.C. § 1226(a) governs Petitioner's detention by U.S. Immigration and Customs Enforcement ("ICE"). That is not correct. Petitioner is properly classified as detained under 8 U.S.C. § 1225(b)(2). The Court should therefore deny Petitioner's request for habeas relief.

BACKGROUND

Petitioner is a citizen of El Salvador, who claims to have entered the United States in 2012 without inspection. Pet. ¶¶ 28-29. ICE officers arrested Petitioner in January 2026, Pet. ¶ 31, and initiated removal proceedings against Petitioner as explained in the petition, Pet. ¶¶ 36-37. Because ICE has determined that Petitioner is a noncitizen "seeking admission [and] not clearly and beyond a doubt entitled to be admitted," the agency is detaining Petitioner for removal proceedings pursuant to the mandatory detention provisions of § 1225(b)(2). Pet. ¶ 49.

ARGUMENT

The Court should deny this petition on the merits. The parties' disagreement in this case comes down to whether Petitioner is detained under § 1225(b)(2) or § 1226(a). ICE says it's § 1225(b)(2). Congress says so as well, expressly directing that noncitizens like Petitioner who are present in the United States without being legally admitted[1] "shall be deemed for purposes of this chapter an applicant for admission," § 1225(a)(1), and then detained pursuant to § 1225(b)(1) or § 1225(b)(2). *Id.* §§ 1225(b)(1), (b)(2). The Court is familiar with these arguments by now and has resolved them in the government's favor. *See Alatoma v. Bondi*, No. 26-cv-00621-DMT-DJF (D. Minn. order filed Feb. 3, 2026). The Federal Respondents will assert the same arguments here. Based on a straightforward reading of the statutes at issue, Petitioner is subject to mandatory detention under § 1225(b)(2).

I. Mandatory Detention under § 1225

The gist of this petition is that Petitioner is subject to detention under § 1226 rather than § 1225. This Court has already rejected that argument in *Alatoma* and decisions like it. So has another judge in this District. *See, e.g.*, *Arturo S., v. Bondi et al.*, No. 26-cv-00102 (PAM-SGE) (D. Minn. Jan. 22, 2026); *Apilonar L. v. Bondi et al.*, No. 26-cv-00159 (PAM-JFD) (D. Minn. Jan. 21, 2026); *Jose C. v. Bondi et al.*, No. 26-135 (PAM-DTS) (D. Minn. Jan. 20, 2026). Rather than re-argue at length points that this Court has decided, the Federal Respondents will: (1) cite the recent authority supporting their position; (2) briefly

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[1] Congress defined the terms "admission" and "admitted" to "mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

summarize the legal basis for the government's view; and (3) discuss why even if Petitioner were to prevail regarding the basis for detention, release is inappropriate.

A. Supportive Authority

The decisions agreeing with the Federal Respondents' position cited above stand in good company. Dozens of courts across the country have agreed with the government's interpretation of § 1225 in factually similar cases. *See, e.g.*, *Naikpay v. Sukkar*, 2026 WL 44820 (M.D. Fla. Jan. 7, 2026); *Zakinyan v. Warden*, 2026 WL 36081 (S.D. Cal. Jan. 6, 2026); *Alfonso Parra v. Secretary, Department of Homeland Security*, 2026 WL 21243 (M.D. Fla. Jan. 5, 2026); *Calderon Lopez v. Lyons*, 2026 WL 44683 (N.D. Tex. 2026); *Lopez v. Ladwig*, 2026 WL 19095 (W.D. La. Jan. 2, 2026); *Zuniga v. Lyons*, 2025 WL 3755126 (N.D. Tex. 2025); *Rodriguez v. Jeffreys*, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Montoya v. Holt*, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Lucero v. Field Office Director of Enforcement and Removal Operations*, 2025 WL 3718730 (S.D. Ohio Dec. 23, 2025); *A.M. v. Joyce*, 2025 WL 3706922 (D. Me. Dec. 22, 2025); *De La Torre v. Lyons*, 2025 WL 3704448 (E.D. Cal. Dec. 22, 2025); *Calderon Lopez v. Lyons*, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Urbina Zapata v. Chestnut*, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *E.R.J.B. v. Wofford*, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Liang v. Almodovar*, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *Pablo Coronado v. Secretary, DHS*, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *P.B. v. Bergami*, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Yanyun Mo v. Chestnut*, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025); *Ugarte-Arenas v. Olson*, (E.D. Wis. Dec. 8, 2025); *Chen v. Almodovar*, 2025 WL

3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, 2025 WL 7484932, (W.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Hernandez Cruz v. Noem*, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Maceda Jimenez v. Thompson*, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025); *Alves De Andrade v. Patterson*, 2025 WL 3252707 (W.D. La. Nov. 21, 2025); *Valencia v. Chestnut*, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Ramos v. Lyons*, 2025 LX 568700 (C.D. Cal. Nov. 12, 2025); *Oliveira v. Patterson*, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025); *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pipa-Aquise v. Bondi*, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025).

Admittedly, these decisions reflect the minority position. But that minority has been growing since the BIA reached its conclusion in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). *See Sandoval*, 2025 WL 3048926, at *6 (noting "many of the[] cases" taking the majority position did so "before—or soon after—the BIA issued its opinion in" *Hurtado*). Recently, another court in this District observed that there are "reasons to question" the majority view, that the "statutory-interpretation issue is difficult and close," and that courts reaching the opposite conclusion to the majority have done so "reasonably." *Ahmed M. v. Bondi*, 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026).

Other courts within the Eighth Circuit have also agreed with the government's position. *See, e.g., Melgar v. Bondi, et al.*, 2025 WL 3496721 (D. Neb. Dec. 5, 2025);

Suarez v. Noem, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); *Mejia Olalde v. Noem*, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Vargas Lopez v. Trump*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In particular, the District of Nebraska's decision in *Melgar* comprehensively and persuasively analyzed the same issue in this case before concluding that a habeas petition like the one filed here failed on the merits because the petitioner was properly detained under § 1225.

The Federal Respondents contend that the plain text of § 1225, interpreted in accordance with the recent authority cited above, should resolve the present petition.

B. 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 who entered without inspection and makes no claim to having been admitted to 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 detention as arising under § 1226, for reasons evident from the text, context, and structure of the statutes at issue.

First, Petitioner's reading ignores § 1225's plain text, which "deem[s]" noncitizens like Petitioner who are already "present in the United States" without admission to be applicants for admission. *See* 8 U.S.C. § 1225(a)(1). Some courts have suggested that "[t]he phrase "applicant for admission" refers to a person "attempting or intending to gain

lawful entry into the United States." *Mayamu K. v. Bondi*, 2025 WL 3641819 at *3 (D. Minn. Oct. 20, 2025) (citation omitted). But the statute itself is not so limited; it *specifies* who is deemed an "applicant for admission," inclusive of any "alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a).

Mayamu K. and decisions like it endorse the proposition that "an 'arriving' noncitizen is interchangeable with a noncitizen who is "seeking admission." 2025 WL 3641819, at *3 (citation omitted). Respectfully, that is inaccurate. Section 1225(a) provides that "[a]ll aliens . . . who are applicants for admission *or otherwise* seeking admission or readmission . . . shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner[.]'" *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024) (same); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) ("[O]r otherwise" means "the first action is a subset of the second action"); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019). Being an "applicant for admission" is thus one "way or manner" of seeking admission, such that any noncitizen who is an "applicant for admission" *is* "seeking admission" for purposes of § 1252(b)(2)(A).

Petitioner also argues that § 1225(b)(2) authorizes detention only for noncitizens who are at the border seeking physical entry at the time of detention. That is incorrect. Although paragraph (b)(1) applies to those "arriving" in the United States and other more recent arrivals, paragraph (b)(2) applies to any "other" noncitizen "who is an applicant for

admission." *Compare* § 1225(b)(1)(A)(i), *with id.* § 1225(b)(2)(A); *accord Jennings*, 583 U.S. at 287. Thus, the phrase "seeking admission" does not implicitly narrow § 1225(b)(2) to only those applicants for admission "arriving" at the border. Such an interpretation would render paragraph (b)(2) essentially redundant of (b)(1). Rather, just as it says, (b)(2) includes "other" applicants for admission not already covered by (b)(1).

Second, the context of § 1225's passage in a 1996 reform package shows Congress intended to place noncitizens who are present without admission on equal footing with those who are apprehended upon arrival. Before the current version of § 1225 was enacted, under the entry doctrine, inadmissible noncitizens who successfully evaded apprehension and gained entry enjoyed greater rights than those who were found inadmissible after appearing for inspection. *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (explaining history of § 1225), *declined to extend by United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024). But Congress did away with the distinction by, among other changes, deeming both categories to be treated as applicants for admission in § 1225(a) and treating them similarly in § 1225(b). Interpreting § 1225(b) to turn on physical entry rather than lawful admission after inspection would reinvigorate the entry doctrine, contrary to Congress's legislative efforts.

Third, Petitioner's reading conflicts with the structure of the Immigration and Nationality Act, both within § 1225 itself and between § 1225 and § 1226.[2] When

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[2] *Jennings* does not support Petitioner's reading. Though *Jennings* noted immigration law authorizes the government "to detain certain aliens already in the country pending . . . under §§ 1226(a) and (c)" while describing 1225(b)(1) and (b)(2) as authorizing detention of "certain aliens seeking admission into the country," 583 U.S. 281 at 289, the Court's repeated use of the word "certain" conveys that those descriptions should

describing the scope of Section 1226, the Supreme Court's decision in *Jennings* referred to aliens "present in the country" who are removable under 8 U.S.C. § 1227(a)—a provision applicable only to ***admitted*** aliens. *See* 583 U.S. at 288 (noting 1226 "generally governs the process of arresting and detaining that group of aliens . . . ."). But as discussed above, § 1225(b) treats all "applicants for admission"—whether arriving or present—as mandatory detainees under either (b)(1) or (b)(2). They are not treated the same as admitted noncitizens subject to discretionary detention and allowed bond under § 1226(a). Put differently, § 1225 is applicable to "applicants for admission" like Petitioner who have not been legally admitted. "Section 1225(b)(2) is broader [than 1225(b)(1)]. The statute serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)," *Jennings*, 583 U.S. at 287, and Petitioner is properly classified as detained under § 1225(b)(2) in this case.

II. Remedy

Even if the Court determines that Petitioner is detained under § 1226(a) and not under § 1225(b)(2), the appropriate remedy is to order a custody redetermination hearing instead of immediate release. That 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)

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not be read to limit the statute's application to only those circumstances. "The language of an opinion is not always to be parsed [like the] language of a statute," and instead "must be read with a careful eye to context." *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74 (2023) (quotation omitted).

(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"). As a result of that rule, "[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.

Section 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 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, unmediated by the immigration court procedures ordinarily applicable to custody redetermination proceedings under § 1226(a).

III. Evidentiary Hearing

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.

Dated: February 4, 2026

DANIEL N. ROSEN
United States Attorney

s/ Trevor Brown

BY: TREVOR C. BROWN
Assistant United States Attorney
Attorney ID Number 396820
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600
trevor.brown@usdoj.gov