

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Daniel Alexander Alvarado Rodriguez,

Petitioner,

v.

Pamela Bondi, Attorney General,

26-cv-00907-LMP-ECW

Daren K. Margolin, Director for Executive
Office for Immigration Review,

Executive Office for Immigration Review,

**TRAVERSE IN SUPPORT OF
PETITION FOR WRIT OF
HABEAS CORPUS**

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement, and

David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement,

and

Eric Tollefson, Kandiyohi County Sheriff,

Respondents.

SECTION 1225 DOES NOT APPLY TO PETITIONER

The Court asked Respondents to present “[a] good-faith argument as to whether—and if so, why—this matter is materially distinguishable, either factually or legally, from *Roberto M.F. and Victor Hugo D. P.*” ECF No. 3, at 3. Respondents did no such thing. *See* ECF No. 5. As such, the Court’s analysis in *Roberto M.F. v. Olson*, remains apt: Petitioner “has been living in the United States for [many] years, ... [so] he is not subject to mandatory detention.” No. 25-CV-4456 (LMP/ECW), 2025 WL 3524455, at *4 (D. Minn. Dec. 9, 2025). “Section 1226(a)—not Section 1225(b)(1)—applies to [Petitioner]’s case.” *Id.*

REMEDY

Immediate release, **without conditions or check in appointments arising from custody under** 8 U.S.C. § 1226, is required, because Respondents concede there is not warrant in this case. *See* ECF No. 5 (emphasis added). When given the opportunity to provide a warrant justifying detention under 8 U.S.C. § 1226(a), *see* ECF No. 3, Respondents failed to do so. *See* ECF No. 5. As such, release is the appropriate remedy. As illustrated in *Roberto M.F.*, 2025 WL 3524455, at *4, section 1225’s mandatory detention provisions cannot apply to Petitioner. If Respondents had issued an administrative warrant, they could certainly detain him under 8 U.S.C. § 1226(a). *See* 8 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General ...”). In that case, a bond hearing under 8 U.S.C. § 1226(a) would be appropriate.

However, no such warrant was produced, so detention under 8 U.S.C. § 1226(a) is also plainly unlawful, and immediate release is required.

“Section 1226 provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” *Ahmed M.*, 2026 WL 25627, at *1 (citing 8 U.S.C. § 1226(a)) (emphasis in original). Thus, “[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a) [and i]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Id.* (citing *Chogllo Chafra v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)) (emphasis in original). As was the case in *Ahmed*, Petitioner “requested in his Petition that Respondents produce any warrant that might have authorized [his] arrest pursuant to § 1226[, but] Respondents have not produced any warrant.” *Id.*

Given that “the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.” *Id.* (citing *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025)). Thus, immediate release is required. Holding otherwise “would treat the absence of statutory power as a mere procedural irregularity rather than a substantive defect. Habeas relief requires more because it addresses the lawfulness of custody itself, not the adequacy of procedures that might attend some other, uninvoked challenge to detention.” *Vedat C.*, 0:25-cv-04642-JWB-DTS, at 6 (citing

Wajda v. United States, 64 F.3d 385, 389 (8th Cir. 1995)). Release is the appropriate remedy. See *Sebrian Reyes v. Bondi et al.*, 26-cv-5 PJS/LIB (D. Minn. Jan. 23, 2026).

Finally, given the absence of any detention authority, Respondents cannot, as has become the practice in this district, attach ongoing custodial conditions on Petitioner pursuant to citing 8 U.S.C. § 1226. Absent a warrant, there is no such authority. For that reason, Petitioner requests that the Court order him unconditionally released. He will, of course, appear for immigration court as scheduled, but further ICE check ins, absent the requisite authority, are improper. Furthermore, Petitioner requests that the Court specifically require **Respondents to return all of Petitioner's property to him upon his release, including his state ID, employment authorization document, and any other identification documents required for him to lawfully work and reside in Minnesota.** These things are his property and cannot be withheld absent some authority to do so.

CONCLUSION

Petitioner has demonstrated that her detention is illegal. A writ must issue, and he must be immediately released, preferably in Minnesota.

DATED: February 4, 2026

Respectfully submitted,

/s/ Cameron Giebink

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