

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

Francisco Arturo Salinas,

Petitioner,

v.

Pamela Bondi, Attorney General, United
States Department of Justice,

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

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

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

Respondents.

Case No. 26-CV-00914-DWF-DLM

**PETITIONER'S REPLY TO
FEDERAL RESPONDENTS'
RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

In their response to this petition for a writ of habeas corpus, Respondents fail to adhere to this Court's Order directing them to "certify[] the true cause and proper duration of Petitioner's confinement and show[] cause why the writ should not be granted in this case" and to include a specified list of information in their response. ECF No. 3 at ¶¶ 1-2. Instead, Respondents offered a one-paragraph response that ignored material facts about Petitioner's detention. Further, in their response, Respondents suggest that the only relief Petitioner seeks in his petition for writ of habeas corpus is to secure a bond hearing. ECF

No. 4. This is incorrect. Petitioner seeks immediate release from his confinement, or *in the alternative*, a bond hearing. ECF No. 1 at ¶ 1.

Respondents' response fails on the merits and also fails to satisfy the requirements ordered by this Court. As such, Petitioner respectfully requests that the Court order Respondents to release him from ICE detention or in the alternative, order a bond hearing.

ARGUMENT

As an initial matter, this Court's Order, issued on January 31, 2026, enumerated three categories of information that Respondents' answer must include. ECF No. 3. These categories include 1) a reasoned memorandum of law and fact addressing each count of the Petition; 2) any supporting documentation that may be needed to establish the lawfulness of Petitioner's arrest and/or continued confinement; and 3) a good-faith argument as to whether—and if so, why—this matter, at least with respect to Petitioner's argument that he is entitled to a bond hearing under 8 U.S.C. § 1226(a), is materially distinguishable, either factually or legally, from *Omar E.F.G. v. Bondi*, No. 26-cv-451, 2026 WL 184571 (D. Minn. Jan. 23, 2026), and *Victor S.M. v. Noem*, No. 26-cv-400, 2026 WL 161445 (D. Minn. Jan. 21, 2026) *Id.* Respondents failed to address all of those enumerated criteria. *See* ECF No. 4.

Respondents' failure to address this Court's enumerated criteria is alone reason to grant the Petition in full and issue his release. *See Doll v. Trellis Walnut Towers LLC*, No. 24-cv-136 (ECT/TNL), 2024 WL 4355084, *3 (D. Minn. Sept. 30, 2024) (finding a litigant's complete failure to respond to an opposing party's argument is often construed as

a waiver). Moreover, those enumerated criteria from the Court demonstrate a case favoring Petitioner's immediate release.

To the extent that Respondents erroneously maintain that Petitioner's detention is justified pursuant to 8 U.S.C. §1225(b)(2), their arguments are unavailing. His detention is not governed by 8 U.S.C. § 1225(b)(2)(A), as he entered the United States without inspection in 2000 and has since lived in the United States for over twenty-five years. Courts throughout the United States have overwhelmingly rejected Respondents' expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases ruling in favor of those challenging "the administration's new position that all noncitizens who came in the United States illegally, but since have been living in the United States, must be detained until their removal proceedings are completed[.]"); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent interpretation of § 1225(b)(2)(A)); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025). This renders Petitioner's current detention unlawful from its inception, in violation of the Immigration and Nationality Act ("INA") and his due process rights.

Courts in this District have held that the appropriate remedy is not a bond hearing but instead immediate release in situations where a detainee is being held pursuant to Section 1226(a) and was not served an arrest warrant prior to detention. *See, e.g., Ahmed*

M. v. Bondi, No. 26-CV-4711 (ECT/SGE), 2026 WL 25627 at *3 (D. Minn. Jan. 5, 2026); *Joaquin Q.L., v. Bondi et al.*, Case No. 26-CV-233 (LMP/DTS), 2026 WL 161333 at *3 (D. Minn. Jan. 21, 2026); *Omar E.F.G. v. Bondi, et al.*, No. 26-CV-451 (DWF/DLM), 2026 WL 184571 (D. Minn. Jan. 23, 2026); *Jose L.M.S. v. Bondi*, No. 26-CV-474 (DWF/LIB), 2026 WL 185066 at *2 (D. Minn. Jan. 25, 2026); *Gabriela G. v. Noem et al.* No. 26-CV-590 (ECT/EMB), 2026 WL 242007 at *3 (D. Minn. Jan. 29, 2023); *see also Munaf v. Geren*, 553 U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.”). Here, Respondents cannot point to a valid warrant that led to Petitioner’s detainment. Accordingly, immediate release from ICE custody is the appropriate remedy.

If this Court determines that outright release is not the appropriate remedy, then in the alternative, this Court should order a bond hearing because Petitioner is a member of the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). The *Maldonado Bautista* court entered a declaratory judgment finding that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. The District Judge’s December 18, 2025, order made clear that all class members are entitled to benefit from the declaratory judgment and therefore entitled to a bond hearing. No. 5:25-cv-01873-SSS-BFM 2025 WL 3713982 at * 7 (C.D. Cal. Dec. 18, 2025).

For the foregoing reasons, Petitioner respectfully requests that the Court order Respondents **release** him from ICE detention immediately, or in the alternative, order a bond hearing.

Dated: February 4, 2026

Respectfully submitted,

/s/ Gabrielle Kolb

GUSTAFSON GLUEK PLLC

Gabrielle Kolb (#0504368)

Canadian Pacific Plaza

120 South Sixth Street, Suite 2600

Minneapolis, MN 55402

Tel: (612) 333-8844

Fax: (612) 339-6622

gkolb@gustafsongluek.com

Counsel for Petitioner