UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00929-KMM-LIB

Bryan Antonio Aquino-Ortiz,

Petitioner,

v.

Pamela Bondi, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Bryan Antonio Aquino-Ortiz filed this petition for a writ of habeas corpus with the goal of securing release from custody, preventing his transfer out of state, or, in the alternative, securing a bond allowing release from detention by the U.S. Immigration and Customs Enforcement ("ICE"). Respondents Pamela Bondi, Kristi Noem, Daren Margolin, Todd M. Lyons, and David Easterwood (collectively "the Federal Respondents") submit this response to the petition. The Court should deny Petitioner's request for habeas relief because his detention is mandatory under 8 U.S.C. § 1225, and he is not eligible for bond or a bond hearing. An asylum seeker, who has not yet been afforded permanent status, is definitionally "seeking admission" under the statute.

BACKGROUND

The Federal Respondents draw the following background from the Petition. Petitioner, Bryan Antonio Aquino-Ortiz, is a citizen of El Salvador. Petitioner arrived in the United States as an unaccompanied minor at age 16.

Officers from ICE arrested Petitioner January 9th, 2026. And because no immigration officer has determined that Petitioner is "clearly and beyond a doubt entitled to be admitted," he is subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(2). Petitioner filed this habeas petition on February 1, 2026.

ARGUMENT

The Court should deny this petition on the merits. Petitioner is subject to mandatory detention because Congress directs that noncitizens who get into the United States without being inspected "shall be deemed for purposes of this chapter an applicant for admission" and then detained pursuant to § 1225(b)(1) or § 1225(b)(2). To the extent Petitioner thinks his detention should instead be governed by § 1226, he is wrong.

I. Mandatory Detention under § 1225

The gist of Petitioner's pursuit of habeas relief is that he is subject to detention under § 1226 rather than § 1225. In particular, he wants immediate release, and failing that a bond hearing under 8 U.S.C. 1226(a).

The Court is familiar with this issue by now and has already ruled on the government's arguments for holding that detention under these circumstances is appropriately characterized as mandatory detention pursuant to § 1225. *See, e.g.*, *Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB) (D. Minn. filed July 28, 2025); *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF) (D. Minn. filed Aug. 27, 2025). Although the Eighth Circuit

is poised to weigh-in soon, *see Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025), the Federal Respondents acknowledge that—***with one exception discussed below***—this case presents similar legal and factual issues to prior habeas petitions.

Rather than belabor these proceedings further by re-arguing points that the Court has considered and rejected, the Federal Respondents will: (1) offer additional authority that the Court may not have previously considered; (2) summarize the legal basis for the government's interpretation; and (3) explain how Petitioner's pursuit of asylum is a relevant consideration. The Federal Respondents request that the Court note the arguments made below and in *Mayamu K.* and *Eliseo A.A.* and hold that they are preserved for appeal.

A. Additional Authority

In *Mayamu K.*, this Court indicated that it was "unaware of any legal authority that supports Respondent's interpretation" of § 1225(b). 2025 WL 3641819, at *4 (D. Minn. Oct. 20, 2025). But there is—and was—plenty of authority supporting the Federal Respondents' position. Courts across the country have agreed with the government's interpretation of § 1225 in factually similar cases. *See, e.g.*, *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*). And it is worth emphasizing that courts within the Eighth Circuit agree with the government's arguments. *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 text of § 1225 and § 1226 before concluding that a habeas petition like the one filed in this case failed on the merits because the petitioner was properly detained under § 1225.

At a minimum, the Federal Respondents contend that this authority justifies revisiting the Court's earlier decisions on the 1225/1226 issue presented in this petition and substantively engaging with the arguments that the government has presented.

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, per his own petition. Thus, he 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 his detention as arising under § 1226, for reasons that are evident from the text, context, and structure of the statutes at issue.

First, Petitioner's argument is contrary to § 1225's plain text, which "deem[s]" people who are already "present in the United States" without admission to be applicants for admission. *See* 8 U.S.C. § 1225(a)(1). Although paragraph (b)(1) applies to those "arriving" in the United States and other more recent arrivals, paragraph (b)(2) is not so limited and applies instead to any "other" noncitizen "who is an applicant for admission." *Compare id.* § 1225(b)(1)(A)(i), *with id.* § 1225(b)(2)(A); *accord Jennings*, 583 U.S. at 287. The term "seeking admission" does not implicitly narrow this provision to just those applicants for admission who are "arriving" at the border. Such an interpretation would render paragraph (b)(2) essentially redundant of (b)(1). Rather, (b)(2) includes all people deemed to be applicants for admission who are not already covered by paragraph (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 approach contradicts the structure of the statute, both within § 1225 itself and between § 1225 and § 1226. Section 1225(b) divides applicants for admission between two subparagraphs: (b)(1) for those applicants for admission who are arriving, and (b)(2) for "other" applicants for admission. Section 1225(b) treats all "applicants for admission"—whether arriving or already present—as mandatory detainees under either (b)(1) or (b)(2), unlike admitted noncitizens who are subject to discretionary detention and allowed bond under § 1226.

Based on § 1225's plain text, context, and structure, the Court should hold Petitioner is properly subject to mandatory detention under § 1225(b)(2).

C. Petitioner's Pursuit of Asylum

This Court rejected the government's construction of § 1225 and § 1226 in *Mayamu K.* But the Court relied on a difference between "noncitizens seeking entry from outside the United States" and "those already present within the country." 2025 WL 3641819, at *8 (D. Minn. Oct. 20, 2025). Respectfully, it cannot be the law that § 1226 applies to every noncitizen detained when he is "already present within the country." That would mean a noncitizen who barely makes it across the border and is immediately arrested can be subject to detention only under § 1226. Such a construction would read § 1225 completely out of existence. The touchstone of this Court's analysis should instead be whether a noncitizen is "seeking admission" at the time of his arrest and detention. And that is what makes this case different from prior habeas petitions the Court has decided.

Petitioner is "seeking admission" through his asylum application. By pursuing asylum, and by continuing to pursue that status to this day—Petitioner is unambiguously "seeking admission." If granted, an asylum application leads to the asylee obtaining an "asylum status" that includes a stay of removal, work authorization, and a travel document. 8 U.S.C. § 1158(c)(1). "Asylum status" is a form of lawful status that meets the INA's definition of "admission," which means "the lawful entry . . . into the United States after inspection and authorization by an immigration officer," but which does not include parole. *Id.* § 1101(a)(13)(A), (B), 1158(d)(5). **In other words, Petitioner is attempting to gain lawful admission and status in the United States, and is "seeking admission".**

The district court in *Chen* recently considered this issue and agreed that an asylum seeker was "seeking admission" under the narrow construction of § 1225(b)(2) adopted by many courts. 2025 WL 3484855, at *6. The *Chen* court agreed with the government's interpretation of § 1225(b)(2) but went on to conclude that detention would be appropriate even under the narrower interpretation like the one this Court endorsed in *Mayamu K.*: "If actively 'seeking admission' is a distinct requirement for mandatory detention pursuant to 1225, seeking asylum *is* 'seeking admission,' within the meaning of the statute, since 'admission' is defined in terms of 'lawful' status, 8 U.S.C. § 1101(a)(13)(A), not physical presence on U.S. soil." *Id.* at *6 (original emphasis).

Because Petitioner is currently "seeking admission"—and because he was "seeking admission" at the time of his arrest and detention in December 2025—he is subject to mandatory detention under § 1225(b)(2).

II. Remedy

If the Court determines that Petitioner is detained under § 1226(a) and not under § 1225(b)(2), then the appropriate remedy is to order a custody redetermination hearing instead of immediate release. That approach 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) (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"). The result of this rule is that "[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.

Under Petitioner's theory, he is not subject to expedited removal proceedings and not subject to detention under any provision of § 1225. If he is correct, then he would have to be subject to discretionary detention under § 1226(a). But § 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 in the first place 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 from this Court, unmediated by the immigration court procedures ordinarily applicable to custody redetermination proceedings under § 1226(a).

III. Evidentiary Hearing

Finally, 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.

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