

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-01156-DMT-JFD

MARIO SALAZAR CHIRIBOGA,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

**BRIEF IN SUPPORT OF
FEDERAL RESPONDENTS'
MOTION TO DISMISS
OR TRANSFER**

Eighth Circuit law is clear that a habeas petition must challenge the fact or duration of confinement, not the conditions or location of that confinement. *See Spencer v. Haynes*, 774 F.3d 467 (8th Cir. 2014); *Kruger v. Erickson*, 77 F.3d 1071 (8th Cir. 1996). This is the threshold defect with Mr. Salazar’s petition: he filed it in the wrong place. Mr. Salazar is detained in Texas. He has been there since late January 21—*weeks* before this petition was filed on February 6. The action should not have been brought in Minnesota, and Respondents Pamela Bondi, Kristi Noem, Todd Lyons, and Pamela Bondi (collectively, “the Federal Respondents”), move to dismiss Salazar’s petition or transfer it to the Southern District of Texas pursuant to 28 U.S.C. § 1406(a).

BACKGROUND

The Federal Respondents draw the following background from the Declaration of William Robinson, Deportation Officer, U.S. Immigration and Customs Enforcement (“ERO”) (Robinson’s Dec.). Petitioner is a citizen and national of Ecuador. According to ICE records, he entered the United States without permission or inspection, at or near Eagle Pass, Texas in 2021. Petitioner was given a notice to report to the nearest ICE office after

arriving to his destination and released on his own recognizance. Williams' Declaration at ¶ 4. On November 23, 2021, ICE served a Notice to Appear, Form I-862, via mail, charging removability under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). On October 4, 2022, Petitioner was encountered by United States Border Patrol (USBP) at or near Santa Teresa, New Mexico. On October 8, 2022, Petitioner was turned over to the custody of ICE. On November 29, 2022, an Immigration Judge (IJ) denied bond for Petitioner due to being a flight risk. Robinson's Dec. at ¶¶ 5 – 8. On June 18, 2025, an IJ issued an order to show cause to Petitioner as to why the Court should not deem all relief abandoned and issue an order of removal. *See id.* at ¶ 12. On July 15, 2025, SALAZAR filed an Application for Asylum and for Withholding of Removal, Form I-589. *Id.* at ¶ 13. On July 21, 2025, an IJ ordered Petitioner removed from the U.S. Petitioner reserved appeal. *Id.* at ¶ 14. On August 1, 2025, the Immigration Court rejected Petitioner's I-589. On August 11, 2025, the Board of Immigration Appeals (BIA) rejected Petitioner's appeal. On August 19, 2025, the BIA received Petitioner's appeal and it is currently pending. On January 20, 2026, Immigration officials encountered Petitioner during Operation Metro Surge. *See Robinson's Dec.* at ¶¶ 15 – 18. On the same day, Petitioner was transferred to an ICE facility in El Paso, Texas, due to bed space constraints in Minnesota. He has been detained at the El Paso facility since January 21, and he remains there today. *See id.* at ¶ 19.

ARGUMENT

Under 28 U.S.C. § 1406(a), the Court should dismiss this case or transfer it to the Southern District of Texas (the district in which the Port Isabel Service Processing Center is located). It is a basic rule of habeas litigation “that for core habeas petitions challenging

present physical confinement, jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). That rule does not go away just because this is an immigration-related case—regardless of the type of detention at issue, petitions brought under § 2241 must be brought in the district of confinement. *See, e.g., Fisenko K. v. Ray*, No. 25-cv-4654-PJS-DLM, ECF No. 17 (D. Minn. order filed Dec. 17, 2025) (transferring immigration detention petition filed in wrong district); *Garcia v. London*, 2025 U.S. Dist. LEXIS 261751, at *3 (D. Neb. Dec. 10, 2025) (transferring immigration detention petition filed in wrong district). Because this is a jurisdictional defect, *see Padilla*, 542 U.S. at 442, the Court cannot proceed to the merits of Mr. Salazar’s petition or rule on his motion for a temporary restraining order until the issue is resolved.

A. Mandatory Detention under § 1225

Notwithstanding the jurisdictional defect, 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. *See* Pet. at ¶ 4. 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).

CONCLUSION

This case does not belong in Minnesota. As a habeas petitioner, Salazar is limited to challenging the length or validity of his confinement. He must pursue that challenge in the *district* of his confinement, which is Texas in this case. Salazar’s petition should meet the same result as other immigration-related habeas actions this District concluded were filed in the wrong place. *See, e.g., Alonso v. Office of Chief Counsel/Immigration & Customs Enf’t*, 2013 U.S. Dist. LEXIS 161055 (D. Minn. Sep. 25, 2013), *adopted by* 2013 U.S. Dist. LEXIS 160842 (D. Minn. Nov. 8, 2013); *Cherichel v. Baniecke*, 2011 U.S. Dist. LEXIS 51718 (D. Minn. Apr. 20, 2011), *adopted by* 2011 U.S. Dist. LEXIS 51725 (D. Minn. May 13, 2011). The Federal Respondents respectfully request that the Court dismiss Salazar’s petition or transfer it to the Southern District of Texas.

Dated: February 9, 2026

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