

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

Erneifrank Johander Miquilena Garcia,

Petitioner,

v.

Pamela Bondi, Attorney General,

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

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

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

Respondents.

Civ. No. 25-CV-1371 (SHL/ECW)

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

Petitioner, Erneifrank Johander Miquilena Garcia, (“Mr. Miquilena Garcia”), by and through the undersigned attorney, respectfully submits this Reply in support of the Petition for a Writ of Habeas Corpus. Respondents filed a response to this Petition alleging that Mr. Miquilena Garcia is subject to mandatory detention under 8 U.S.C. § 1225, and attaching a warrant so as to allege 8 U.S.C. § 1226(a) as an alternate basis for detention. Both of these arguments will be addressed, briefly.

INAPPLICABILITY OF 8 U.S.C. § 1225(b)

Federal Respondents contend that 8 U.S.C. § 1225(b) applies to Mr. Miquilena Garcia as an applicant “seeking admission,” or an “arriving alien” subject to mandatory detention, apparently because of Mr. Miquilena Garcia’s desire not to be deported. ECF 4, 8-10. This argument is based on Respondent U.S. Department of Homeland Security (“DHS”) reinterpreting 8 U.S.C. § 1225(b) in a new policy. This Court has unequivocally ruled that interpretation is “contrary to law” for “evad[ing] the judicial review that both Congress and the Constitution require.” *Elisio v. Olson*, No. 25-3381 (JWB/DJF), 2025 WL 2886729, at *7 (d. Minn. Oct. 8, 2025).

The distinction between whether someone presented at a port of entry or not when they initially entered the United States is irrelevant to the application of § 1225(b), which does not apply to noncitizens detained internally: “Respondents’ broad reading of § 1225(b)(2) has been often rejected in this District, regardless of whether the petitioner entered without inspection, or was initially detained at the border and released.” *Ivan R. v. Bondi*, Case No. 26-CV-485 (JWB/EMB) Doc. No. 8, 1-2 (D. Minn. Jan. 24, 2026) (gathering cases) This Court has repeatedly rejected this interpretation of § 1225(b)(2): “Section 1225(b)(2) applies to persons who presently are applicants for admission and who presently are seeking admission at the time of their detention. To be seeking admission means to be seeking entry, which ‘by its own force implies a coming from outside.’” *Richard A. v. Bondi*, No. 26-CV-902 (SRB/JFD), p. 2 (D. Minn. Feb. 4, 2026) (quoting *Kelvin N. v. Bondi*, No. 26-CV-32 (JMB/JFD), p. 5 (D. Minn. Jan. 8, 2026) (citation omitted)). In a similar Operation Metro Surge proceeding with a petitioner who was detained notwithstanding his pending asylum application, this Court noted its

repeated rulings that petitioner was misclassified under § 1225(b)(2) rather than § 1226, and that “the former statute applies to applicants ‘seeking admission,’ and the latter to ‘aliens already in the country.’” *Misael T. v. Bondi*, No. 26-CV-263 (ECT/EMB), 2026 WL 146510, at *1 (D. Minn. Jan. 20, 2026) (gathering cases).

This holding applies regardless of whether petitioners with pending forms of relief like asylum enter without inspection and only later apply for status, or are initially detained at or near the border and then released into the U.S. with a Notice to Appear or into the custody of a guardian. *See, e.g., Belsai v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025) (granting a habeas petition for a DACA recipient who initially entered without inspection and subsequently applied for relief); *Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB), 2025 WL 3641819, at *1 (D. Minn. Oct. 20, 2025) (granting a habeas petition for an asylum applicant who was detained by U.S. Customs and Border Protection while entering the U.S. outside a port of entry near Nogales, Arizona, and released the next day on an 8 U.S.C. § 1226 Order of Recognizance and with a Notice to Appear) and *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026) (similar).

The latter situation, where someone is initially detained at or near the border upon entering the U.S., only serves to compound the due process violations for unlawfully detaining someone who has already been subject to a custodial determination by Respondents only for Respondents to take them back into custody without any showing of a change in circumstances. *See, e.g., Jorge B.C. v. Bondi*, 26-CV-260 (KMM/DLM) p. 3 (D. Minn. Jan. 18, 2026) (referencing other similarly situated petitioners to find that

release is an appropriate remedy where a petitioner was rearrested without a warrant or allegations that prior release conditions were violated).

There is no reason for the Court to reconsider its prior, well-reasoned decisions. The Court should reject Respondents' argument in the instant case.

INSUFFICIENCIES OF THE WARRANT

The vast majority of habeas corpus petitions filed in response to Operation Metro Surge have been without factual dispute, hinging only on a legal disagreement of whether 8 U.S.C. § 1225(b)(2) allows for mandatory detention of noncitizens apprehended while residing internally, as opposed to those seeking admission at the border. Since clear case law in Minnesota holds that an administrative warrant is a prerequisite to discretionary detention pursuant to 8 U.S.C. 1226(a), courts have been granting outright release as the remedy, rather than a bond hearing, in the vast majority of cases. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 961 (D. Minn. 2025); *Ahmed M. v. Bondi et al.*, 2026 WL 25627, *3 (D. Minn. Jan. 5, 2026).

Approximately two months into Operation Metro Surge, Respondents are for the first time now alleging the existence of administrative warrants issued by DHS. *Habib D v. Bondi et al*, Case No. 26-cv-01236 (KMM/JFD) at Doc. No. 7, 4 (“[T]he Court observes that the use of warrants at the time of arrest of people like Petitioner seems to be a new practice in this district.”) This is curious to say the least. Respondents continue to allege the authority to detain noncitizens without a warrant, and without a bond hearing. Yet Respondents offer these warrants simply to argue in the alternative that unlawfully detained noncitizens should at a minimum be held pending a bond hearing, as opposed to

be released outright. See, e.g., ECF 4 at 13 and *Leiner Leonel G. G. v. Bondi*, Case No. 26-CV-1062 (SHL/DTS) Doc. No. 4, 2 (D. Minn. Feb. 9, 2026) (“Attached to this response is a copy of the warrant for Petitioner’s arrest provided by ICE. The fact that Petitioner is detained pursuant to a warrant means that if the Court determines 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.”).

However, Courts are now inspecting these warrants and finding a litany of insufficiencies. Said Judge Tunheim in a recent opinion evaluating a proffered warrant:

[M]uch about the warrant remains unclear. Respondents do not provide an accompanying declaration explaining the legal basis for the warrant, attesting to its validity, identifying the officers who issued and obtained it, or confirming that those officers had received the necessary training to issue and serve warrants. Cf. 8 C.F.R. § 287.5. It appears likely that the I-200 warrant was issued either in the field or after Petitioner was arrested and detained.

Fedrik D.W. v. Bondi, Civ. Case No. 26-1294 (JRT/JFD) Doc. No. 10, 3 (D. Minn. Feb. 14, 2026)

The emergence of seemingly retro-active and/or insufficiently filed or served administrative warrants appears to be a new tactic by the Respondents. It appears to be *post-hoc* rationalization at best, and potential fabrication at worst. There are several grounds to believe that the administrative warrant presented as an exhibit to Respondents’ brief in this case, like many others, is invalid and thus cannot support detention under § 1226(a).

Retroactively served warrants can not cure an otherwise warrantless, and thus unlawful, detention under 8 U.S.C. § 1226(a). *Alberto C.M. v. Noem*, No. CV 26-380

(DWF/SGE), 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the warrant “was not issued until after his arrest and initial detention”). So many of these warrants have openly been served after the date of arrest that it is unclear whether or not Respondents understand and acknowledge that the law requires them to obtain warrants before the fact of arrest and detention. *Id.*; *Victor O. v. Bondi*, Civ. Case No. 26-1122 (ECT/LIB), Doc. No’s 1, 5 (where a warrant shows a signature dated February 7, 2026, when the petitioner’s detention was on February 5, 2026); and *Oscar R. v. Bondi*, Civ. Case No. 26-1204 (JRT/SGE), Doc. No. 5 (describing how Respondents’ warrant was served an hour after the habeas petition was filed).

Similarly, I-200 warrants cannot be drawn or served until after a Notice to Appear has been issued, 8 C.F.R. § 236.1(b), and yet Respondents appear also unaware or unconcerned with that requirement. *See, e.g., Henry V. P. v. Bondi*, Case No. 26-CV-1121 (MJD/JFD) Doc. No. 6-1 (Respondents provided a warrant that was **blank** where it ought to have indicated the person who was the subject of the warrant, and was purportedly served three days prior to the issuance of a Notice to Appear); *Liener G v. Bondi*, Civ. Case No. 26-cv-1062 (SHL/DTS) Doc. No. 9 (declining to apply § 1226 to a petitioner where a Notice to Appear had not been filed prior to the issuance of the I-200 warrant, as 8 C.F.R. § 236.1 requires).

In this case, Respondents allege the existence of a warrant in this case by way of an affidavit from Attorney Friedrich A.P. Siekert, who neither issued nor served the warrant at issue, nor alleges to even have seen or discussed this warrant prior to reviewing it for the purpose of referencing it in an exhibit. Respondents know who

signed the warrant, and could presumably easily have produced an affidavit from the signatory of the warrant offering an explanation for its factual basis, but chose not to do so. Respondents could have included a declaration by the arresting or issuing officer confirming whether the warrant was created prior to and served at the time of the arrest, and after a Notice to Appear. They did not do so, instead saying only that “Respondents had a warrant and apparently served petitioner at the time of apprehension.” ECF No. 4 at 13. The use of the word “apparently served” is misleading, if not telling—there is in fact no evidence of the timing this warrant was served in relation to Petitioner’s apprehension. The warrant is signed and dated on February 11, 2026, which was the same day as Petitioner’s detention. ECF No. 5, Ex. A and ECF 1. The warrant lists its location of service as “8PM”, which appears to have indicated the time served. There is no evidence to suggest that Petitioner was detained at or later than 8PM.

Nor would it even matter if Petitioner *was* detained at 8 PM when the warrant was served, because the Notice to Appear did not issue until *after* the warrant was served—February 13, 2026. ECF 5-2.

This February 13, 2026 Notice to appear **lists Petitioner’s location as El Paso, Texas**, where Petitioner appears to have been transferred in violation of this Court’s February 12, 2026 court order prohibiting his transfer outside of the district of Minnesota. ECF 5-2 and 3. The Notice to Appear certainly was not issued prior to the warrant’s issuance or service, or to Petitioner’s unlawful detention.

CONCLUSION

Accordingly, Mr. Miquilena Garcia reiterates that the appropriate form of release in this case is Petitioner's immediate release, and further requests that Respondents be enjoined from re-detaining Mr. Miquilena Garcia upon or after his release under the same or statutory theory.

In the alternative, if the Court determines that there are no facial insufficiencies to this warrant, Petitioner respectfully requests leave to file a motion for limited discovery to determine the factual basis for the administrative warrant used to justify Mr. Miquilena Garcia's arrest, the timing it was served in relation to Petitioner's detention, and the qualifications of the person purporting to serve it.

Respectfully submitted,

Date: Feb. 19, 2026

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