

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00396-LMP-JFD

Josue David Patin Arevalo,

Petitioner,

v.

**FEDERAL RESPONDENTS’
RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

Pamela Bondi, *et al.*,

Respondents.

Petitioner, Josue David Patin Arevalo filed this petition for a writ of habeas corpus because he wants release from detention by the U.S. Immigration and Customs Enforcement (“ICE”). Respondents Pamela Bondi, Kristi Noem, Todd M. Lyons, David Easterwood, and Joel Brott (collectively “the Federal Respondents”) submit this response to the petition. The Court should deny Petitioner’s request for habeas relief because Petitioner’s detention is mandatory under 8 U.S.C. § 1225—Petitioner is not eligible for bond or a bond hearing.

BACKGROUND

The Federal Respondents draw the following background from the petition. Petitioner is a citizen of Mexico. *Petition* ¶ 8. Petitioner has lived in the United States since January 6, 2023. *Id.* ICE detained Petitioner on January 16, 2025. *See id* ¶ 13.

The undersigned counsel was randomly assigned to this case at 0854 on January 20. On that same date at 0858, this counsel communicated to ICE it was a priority Petitioner would not be moved outside Minnesota. At 0947, ICE replied Petitioner was in El Paso,

Texas, but would make arrangements to bring Petitioner back to Minnesota. At 1116 today, this counsel requested ICE to provide an update as to the location of this Petitioner. ICE did not respond. So this counsel followed up with an email at 1441. At the time of this filing, this counsel regrets to inform the Court ICE is still yet to reply to my email. This counsel very respectfully requests the Court allows 48 hours from the time of filing to update the Court on Petitioner's location.

ARGUMENT

The parties' disagreement in this case comes down to whether Petitioner is detained under § 1225 or § 1226 of Title 8 of the U.S. Code. ICE says it's § 1225, which governs the detention of noncitizens who are "applicants for admission." 8 U.S.C. § 1225(a)(3). Congress says so as well, expressly directing that noncitizens like Petitioner 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). *Id.* § 1225(a)(1). **Just last week, a judge in this District agreed. See *Abdirahmaan G. v. Noem*, No. 26-34 (PAM/SGE), ECF No. 7 (D. Minn. Jan. 14, 2026).** Based on a straightforward reading of these statutes, Petitioner is subject to mandatory detention under § 1225(b)(2).

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. *Pet.* ¶ 5. 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.

The Federal Respondents acknowledge this case presents similar legal and factual issues to prior habeas petitions. The Federal Respondents would like to take this opportunity to summarize the legal basis for the government’s interpretation in light of very recent rulings from this District siding with Government’s interpretation of 8 U.S.C § 1225. Lastly, the Federal Respondents request the Court note the arguments made below and hold they are preserved for appeal.

A. Mandatory Detention under § 1225

The Court should uphold Petitioner’s mandatory detention under § 1225(b)(2) because Petitioner’s argument is contrary to § 1225’s plain text. Very recently, a court in this District has repeatedly agreed with this argument. *See Abdirahmaan G. v. Noem*, No. 26-34 (PAM/SGE), ECF No. 7 (D. Minn. Jan. 14, 2026); *Jose C. v. Bondi*, No. 26-135 (PAM/DTS), EFC No. 14 (D. Minn. Jan 20. 2026); *See also Aylonar L. v. Bondi*, No. 26-159 (PAM/JFD), ECF No. 7 (D. Minn. Jan 21, 2026). 8 U.S.C § 1225 plain text “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.

Essentially, 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). For example, the Court in *Apilonar L.* held, “the plain reading of the text is that detention is mandatory.” No. 26-159 (PAM/JFD), ECF No. 7, p. 3, ¶ 3. The court was categorical, “distinctions based on the length of an alien’s presence in the United States, an alien’s efforts to secure lawful status here, or where an alien was apprehended . . . [s]uch limitations are not found in the statute.” *Id.* Accordingly, this Court should find the plain meaning of the statute should prevail. Petitioner is an applicant for admission because he is present in this country, and he has not been admitted.

Importantly, as stated by a court in this district, “past practice does not eclipse statutory language.” *See id.* at 5, ¶ 2. Petitioner takes issue with DHS memorandum requiring that all applicants for admission be detained under § 1225(b)(2) during removal procedures. *See Pet.* ¶ 24. Petitioner’s position simply does not challenge the fact “the Executive Branch has broad discretion to make enforcement decision in the immigration context.” *See id.* at 5 – 6.

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

II. Remedy

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. 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.

Dated: January 22, 2026

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