

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

Riky Alexis Morales Lopez,

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,

Respondents.

Case No. 0:26-cv-01429-JRT-JFD

**REPLY IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

Expedited Handling Requested

Respondents' copy-and-paste brief is not a response to *this* Petition for Writ of Habeas Corpus. Respondents acknowledge the Petition should be granted under this Court's decision in *Avila v. Bondi*, No. 25-CV-3741, 2025 WL 2976539 (D. Minn. Oct. 21, 2025), and its progeny, but argue that a bond hearing is the proper remedy. But Respondents fail in at three ways before even getting into the U.S.C. §§ 1225(b)(2) v. 1226(a) issue discussed in *Avila*.

Respondents *first* fail to address Petitioner's U-1 crime victim "deferred action" status, meaning Respondents have zero basis to detain Petitioner. Petition for Writ of Habeas Corpus, ECF No. 1, at ¶¶ 2, 8, 10, 30-32; *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733, at *3 (D. Minn. Jan. 17, 2026). An identical waiver situation arose in *Juan M.*, where Judge Tostrud explained that the *Avila* case "considered

a petitioner's entitlement to a bond hearing under the legal framework of U.S.C. §§ 1225 and 1226, and the petitioner there did not assert that he was under deferred action when he was taken into custody. . . Respondents did not respond to [petitioner's] arguments about deferred action . . . meaning Respondents waived any challenge to these arguments.” *Juan M. v. Bondi*, No. 26-CV-266 (ECT/JFD), 2026 WL 129059, at *1–2 (D. Minn. Jan. 17, 2026). Here too the same Respondents failed to address the deferred action arguments and have waived any challenge to his detention.

Second, and likewise dispositive of the Petition, Respondents do not contest that Petitioner was arrested without a warrant and ignore the Court's order to explain why the Petition should not be granted on that basis alone. Order, ECF No. 3, at 3. *Third*, Respondents also fail to address what basis they have to detain Petitioner when the Immigration Judge dismissed Petitioner's removal proceedings for failure to prosecute. Petition, ECF No. 1, at ¶ 2(b).

The remedy for the unlawful detention here is immediate release. First, the majority of courts who have addressed “deferred action” detainees have ordered release, not a bond hearing. *Victor G.*, 2026 WL 127733, at *3; *Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2209708, at *5 (W.D. Wash. Aug. 4, 2025) (concluding government had no legal authority to detain immigrant with deferred action status and ordering release); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 2, 2025) (concluding release was appropriate in deferred action case where government lacked an “articulable, legitimate interest in detaining the petitioner.”); *Juan M.*, 2026 WL 129059, at *2 (ordering release).

Second, this Court and others in the District require release for those detain from an illegal, warrantless arrest. *Ahmed M. v. Bondi*, No. 25-4711, 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (collecting cases holding release was appropriate remedy for warrantless arrest); *Mervis E.A.M. v. Noem*, No. CV 26-862026 WL 323636, at *2 (D. Minn. Feb. 6, 2026) (J. Tunheim).

Third, the fact that Respondents have no immigration case pending for failure to prosecute renders a bond hearing moot. The issue for bond hearings is dangerousness and flight risk, i.e. the risk the detainee will not attend his next immigration hearing. Petitioner is not in removal proceedings, nor could he given his deferred action status. Thus he cannot be a flight risk from hearing that does not exist and will not happen. Further, the fact Respondents granted Petitioner deferred action status is an admission he is not dangerous to the community. *Victor G.*, 2026 WL 127733, at *3 (“USCIS has already determined that [petitioner] is not a ‘risk to national security or public safety’ by virtue of its bona fide determination and grant of employment authorization and deferred action.”)

For all these reasons and those stated in the Petition (ECF No. 1), the petition for Writ of Habeas Corpus should be granted and Petitioner should be immediately released.

Dated: February 16, 2026

Respectfully submitted,

/s/ Joshua J. Rissman

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