

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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RUDY P.A.,

Case No. 26-CV-563 (NEB/EMB)

Petitioner,

v.

ORDER ON  
PETITION FOR  
WRIT OF HABEAS CORPUS

PAMELA BONDI, Attorney General,  
KRISTI NOEM, Secretary, U.S.  
Department of Homeland Security;  
DEPARTMENT OF HOMELAND  
SECURITY; TODD M. LYONS, Acting  
Director of Immigration and Customs  
Enforcement; IMMIGRATION AND  
CUSTOMS ENFORCEMENT; DAREN K.  
MARGOLIN, Director for Executive  
Office for Immigration Review;  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; and DAVID  
EASTERWOOD, Acting Director, St. Paul  
Field Office Immigration and Customs  
Enforcement,

Respondents.

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This matter is before the Court on Petitioner Rudy P.A.'s Petition for a Writ of Habeas Corpus. (ECF No. 1 ("Pet.")). Rudy P.A. is a citizen of Guatemala who has lived in the United States since he entered the country in September of 2016 without inspection. (Pet. ¶¶ 37–38.) In June of 2021, Rudy P.A. was sentenced to a term of 179 days for

criminal sexual conduct in the fifth degree (nonconsensual contact).<sup>1</sup> (ECF No. 8 ¶ 20.) Immigration and Customs Enforcement (“ICE”) released him from custody on an order of recognizance. (*Id.* ¶ 21.)

On January 22, 2026, ICE took Rudy P.A. back into custody without a warrant. (Pet. ¶¶ 52, 106.) Afterwards, Rudy P.A. filed this habeas action challenging his detention under 28 U.S.C. § 2241. (*Id.* ¶ 8.)

Rudy P.A. is one of hundreds of petitioners in the District who have challenged their custody without an individualized bond determination. Like those petitioners, Rudy P.A. argues he has been misclassified as a detainee under 8 U.S.C. Section 1225(b)(2) of the Immigration and Nationality Act (“INA”) rather than Section 1226(a). (Pet. ¶¶ 108–09.) Detention is mandatory under Section 1225(b)(2), but discretionary under Section 1226(a); and Section 1226(a), unlike Section 1225, provides for a bond hearing. 8 U.S.C.

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<sup>1</sup> Although Respondents initially argued that this criminal history would warrant detention under 8 U.S.C. Section 1226(c), they have since withdrawn that argument. (*Compare* ECF No. 7 at 1, 9–10 *with* ECF No. 9 (amended response).) Respondents were right to do so. Because Rudy P.A.’s offense was a gross misdemeanor (Minn. Stat. 609.3451) and his sentence did not exceed six months (ECF No. 8 ¶ 20), it does not qualify for mandatory detention pursuant to 8 U.S.C. Sections 1226(c) and 1182(a)(2). *See* 8 U.S.C. § 1182(a)(2)(ii)(II) (detailing an exception when “the maximum penalty possible for the crime of which the alien was convicted . . . did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months”).

§§ 1225, 1226; *see also Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 961–62 (D. Minn. 2025) (describing the legal framework of Sections 1225 and 1226).

Because he has been living in the United States since he entered the country nearly ten years ago, Rudy P.A. asserts that Section 1226, rather than Section 1225, applies. (Pet. ¶¶ 108–09.) He therefore argues that he is entitled to a bond hearing and that his detention under Section 1225(b)(2) violates the Fourth and Fifth Amendments, the INA and its implementing regulations, and the Administrative Procedure Act. (*Id.* ¶¶ 111–52.)

The Court has already concluded that petitioners similarly situated to Rudy P.A. are governed by Section 1226 rather than Section 1225. *Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025). Section 1225(b)(2) applies to applicants “seeking admission,” but the government did not detain Rudy P.A. while he was entering the United States. Instead, he was detained while “already in the country.” *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (construing 8 U.S.C. Sections 1226(a) and (c)). So, Section 1226 applies.

The Court is not alone in its decision; rather, the majority of courts to rule on the matter—including the only federal court of appeals to weigh in on the issue—came to the same conclusion as *R.E.* *See, e.g., Castañon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1060–62 (7th Cir. 2025); *Francisco T. v. Bondi*, 797 F. Supp. 3d 970, 974–76 (D. Minn. 2025); *Belsai D.S. v. Bondi*, --- F. Supp. 3d ---, No. 25-CV-3682 (KMM/EMB), 2025 WL

2802947, at \*6–7 (D. Minn. Oct. 1, 2025); *Eliseo A.A. v. Olson*, --- F. Supp. 3d ---, No. 25-CV-3381 (JWB/DJF), 2025 WL 2886729, at \*2–4 (D. Minn. Oct. 8, 2025); *Avila v. Bondi*, No. 25-CV-3741 (JRT/SGE), 2025 WL 2976539, at \*5–7 (D. Minn. Oct. 21, 2025), *appeal filed*, No. 25-3248 (8th Cir. Nov. 10, 2025); *E.M. v. Noem*, 25-CV-3975 (SRN/DTS), 2025 WL 3157839, at \*4–8 (D. Minn. Nov. 12, 2025); *Santos M.C. v. Olson*, No. 25-CV-4264 (PJS/DJF), 2025 WL 3281787, at \*2–3 (D. Minn. Nov. 25, 2025).

Respondents concede that the Court’s decision in *R.E.* controls Rudy P.A.’s Petition but ask the Court to reconsider its position in light of decisions from the minority viewpoint. (ECF No. 9 at 5–6.) The Court recognizes, but is not persuaded by, the minority viewpoint, including the additional cases cited by Respondents; it has already considered and rejected the minority viewpoint.<sup>2</sup>

The Court therefore grants the Petition for Writ of Habeas Corpus, but the issue of remedy remains. Rudy P.A. requests immediate release, while Respondents assert that a bond hearing would be the proper remedy. (Pet. ¶ 3; ECF No. 9 at 9.) Several courts in this District have concluded that petitioners detained by ICE without an administrative warrant, which is required by Section 1226(a), should be immediately released. *E.g.*, *Ahmed M. v. Bondi*, 25-CV-4711 (ECT/SGE), 2026 WL 25627, at \*7 (D. Minn. Jan. 5, 2026);

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<sup>2</sup> The Court notes that Respondents’ arguments to the contrary are preserved for appeal.

*Juan S.R. v. Bondi*, 26-CV-5 (PJS/LIB) (Jan. 12, 2026), ECF No. 8 at 3–4; *see also* 8 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.”).

Rudy P.A. asserts that his arrest was warrantless. (Pet. ¶ 106.) The Court ordered Respondents to produce evidence to establish the lawfulness and correct duration of Rudy P.A.’s detention in light of issues raised by the habeas petition. (ECF No. 5.) Respondents did not submit a warrant to support Rudy P.A.’s arrest. Because a warrant is a prerequisite to detention under Section 1226(a), and there was no warrant here, Rudy P.A.’s detention lacks a lawful predicate. *Vedat C. v. Bondi*, No. 25-CV-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025), ECF No. 9 at 6; *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-CV-437, 2025 WL 2688541, at \*11 (D. Me. Sept. 21, 2025), *appeal filed* (Nov. 6, 2025). The Court therefore orders the immediate release of Rudy P.A.

### CONCLUSION

Based on the foregoing and on all the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. The Petition for Writ of Habeas Corpus (ECF No. 1) is GRANTED. The Court:

- a. DECLARES that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary authority of 8 U.S.C. § 1226(a);
- b. ORDERS that Respondents must **immediately release** Petitioner from custody in Minnesota subject to the conditions of Petitioner's June 7, 2021 Order of Release on Recognizance. Respondents must release Petitioner from custody in Minnesota as soon as practicable with coordination or at least two hours' advance notice to counsel, but not later than 24 hours after entry of this Order; and
- c. ORDERS that, within **two days** of release, the Respondents shall file notice on the docket confirming that release within Minnesota has occurred; and
- d. ENJOINS Respondents from moving Petitioner outside of Minnesota prior to Compliance with this Order. If Petitioner has already been removed from Minnesota, Respondents are ORDERED to immediately return Petitioner to Minnesota.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 27, 2026  
Time: 9:25pm

BY THE COURT:  
s/Nancy E. Brasel  
Nancy E. Brasel  
United States District Judge