

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

HILARIA P.C.,

Case No. 26-CV-687 (NEB/ECW)

Petitioner,

v.

ORDER ON
PETITION FOR
WRIT OF HABEAS CORPUS

KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; PAMELA BONDI, U.S.
Attorney General; and TODD M. LYONS,
U.S. Immigrations and Customs
Enforcement, in their official capacities,

Respondents.

This matter is before the Court on Petitioner Hilaria P.C.’s Petition for a Writ of Habeas Corpus. (ECF No. 1 (“Pet.”).) Hilaria P.C. is a citizen of Mexico who has lived in the United States since 2007 when she entered the country without inspection. (*Id.* ¶¶ 2, 27.) She lives in Minnesota with her husband, son, daughter-in-law, and her three grandchildren. (*Id.* ¶¶ 2, 29.) She actively participates in her church and attends mass three times a week. (*Id.* ¶ 30.) Hilaria P.C. has no criminal record. (*Id.* ¶¶ 2, 31.)

On January 25, 2026, while on the way to church with her husband and son, Immigration and Customs Enforcement (“ICE”) took Hilaria P.C. into custody—without a warrant. (*Id.* ¶¶ 3, 32, 59, 61.) During the stop she called her other son, a naturalized

citizen, who spoke on the phone with ICE. (*Id.* ¶ 32.) Her son explained that Hilaria P.C. is diabetic and requires fast acting and slow acting insulin, to which the officer said something along the lines of “there isn’t much we can do about that.” (*Id.*) Hilaria P.C. also has a broken leg which is in a cast, so she currently uses a wheelchair. (*Id.*)

The next day, Hilaria P.C. filed this habeas action challenging her detention under 28 U.S.C. § 2241. The Petition alleges, upon information and belief, that Hilaria P.C. is currently detained in Minnesota, but states that “Respondents have yet to update publicly available information that would enable [her] legal counsel to locate her.” (*Id.* ¶¶ 4, 34.)

Hilaria P.C. is one of hundreds of petitioners in the District who have challenged their custody. Like those petitioners, Hilaria P.C. argues she 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). 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. §§ 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 she has been living in the United States since she entered the country over eighteen years ago, Hilaria P.C. asserts that Section 1226, rather than Section 1225,

applies. She therefore argues that her detention under Section 1225(b)(2) violates the Fifth Amendment as well as INA and its implementing regulations.

The Court has already concluded that petitioners similarly situated to Hilaria P.C. 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 Hilaria P.C. while she was entering the United States. Instead, she 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 Hilaria P.C.’s Petition but ask the Court to reconsider its position in light of decisions from the minority viewpoint and refers the Court to Respondents’ arguments in *Avila v. Bondi*, No. 25-3248 (8th Cir. Docketed Nov. 10, 2025). (ECF No. 6.) The Court recognizes, but is not persuaded by, the minority viewpoint; it has already considered and rejected the minority viewpoint.¹

The Court therefore grants the Petition for Writ of Habeas Corpus, but the issue of remedy remains. Hilaria P.C. requests immediate release. 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*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *7 (D. Minn. Jan. 5, 2026); *Juan S.R. v. Bondi*, No. 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.”). Hilaria P.C. asserts that her arrest was warrantless. The Court ordered Respondents to

¹ The Court notes that Respondents’ arguments to the contrary are preserved for appeal.

produce evidence to establish the lawfulness and correct duration of Hilaria P.C.'s detention in light of issues raised by the habeas petition. Respondents did not submit a warrant to support Hilaria P.C.'s arrest. Because a warrant is a prerequisite to detention under Section 1226(a), and there was no warrant here, Hilaria P.C.'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 Chafra 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 Hilaria P.C.²

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:

² Because the Court orders Hilaria P.C.'s immediate release under her statutory claim, it need not address her claim that she is a member of the *Maldonado Bautista* class. (Pet. ¶¶ 7–9). The Court also does not address Hilaria P.C.'s request for attorneys' fees and costs under the Equal Access to Justice Act. Hilaria P.C. may move separately for such relief within 30 days of final judgment in this action. 28 U.S.C. § 2412(d)(1)(B).

- 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;
- b. ORDERS that Respondents 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;
- 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 30, 2026
Time: 1:25 p.m.

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