

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CRISTIAN C.C.,

Case No. 26-CV-793 (NEB/DLM)

Petitioner,

v.

ORDER ON
PETITION FOR
WRIT OF HABEAS CORPUS

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement, Immigration and Customs Enforcement; DAVID EASTERWOOD, Acting Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and WARDEN, ERO El Paso Camp East Detention Facility, El Paso, Texas,

Respondents.

This matter is before the Court on Petitioner Cristian C.C.'s Petition for a Writ of Habeas Corpus. (ECF No. 1 ("Pet.")). Cristian C.C. is a 19-year-old citizen of Mexico who has lived in Minnesota since May 2022 after he entered the United States without inspection. (*Id.* ¶¶ 10, 14, 21, 24.) Cristian C.C. has lawful employment in Minnesota and no criminal record. (*Id.* ¶¶ 11, 14.)

On January 12, 2026, while waiting at the bus stop after work, Immigration and Customs Enforcement (“ICE”) took Cristian C.C. into custody—without a warrant. (*Id.* ¶¶ 1, 10.) His family did not know where he was because he was not allowed to inform them that he had been detained. (*Id.* ¶ 10.) He was later transferred to El Paso, Texas where he is currently detained.¹ (*Id.*) Afterwards, Cristian C.C. filed this habeas action challenging his detention under 28 U.S.C. § 2241.²

Cristian C.C. is one of hundreds of petitioners in the District who have challenged their custody without an individualized bond determination. Like those petitioners, Cristian C.C. 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). 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).

¹ The Petition contains an isolated reference stating that Cristian C.C. “is in the physical custody of Respondents at the Otero Detention Facility.” (Pet. ¶ 2.) Considering the remainder of the Petition and the record as a whole, the Court construes this reference as a typographical error.

² Though Cristian C.C. is apparently detained in Texas, Respondents do not contest the forum of Cristian C.C.’s habeas petition. (ECF No. 6.)

Because he has been living in the United States since he entered the country nearly four years ago, Cristian C.C. asserts that Section 1226, rather than Section 1225, applies. He therefore argues that his detention under Section 1225(b)(2) violates the Fifth Amendment, INA, and the Administrative Procedure Act.

The Court has already concluded that petitioners similarly situated to Cristian C.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 Cristian C.C. 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 Cristian C.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.³

The Court therefore grants the Petition for Writ of Habeas Corpus, but the issue of remedy remains. Cristian C.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 3–4⁴; *see also* 8 U.S.C. § 1226(a)

³ The Court notes that Respondents’ arguments to the contrary are preserved for appeal. The Court also notes that it is particularly unpersuaded by Respondents’ response here. Respondents use the wrong name for Petitioner, twice; first calling him Denis V.A. and later calling him Mr. M. (ECF No. 6.) Petitioner is Cristian C.C.

⁴ All page citations to the record or other dockets reference ECF pagination.

("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.").

Cristian C.C. asserts that his arrest was warrantless. The Court ordered Respondents to produce evidence to establish the lawfulness and correct duration of Cristian C.C.'s detention in light of issues raised by the habeas petition. Respondents did not submit a warrant to support Cristian C.C.'s arrest. Because a warrant is a prerequisite to detention under Section 1226(a), and there was no warrant here, Cristian C.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 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 Cristian C.C.⁵

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:

⁵ Because the Court orders Cristian C.C.'s immediate release under Section 1226(a), it need not address his claim that he is a member of the *Maldonado Bautista* class. (Pet. ¶¶ 31–36.)

- 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 Respondents immediately transfer Petitioner to Minnesota and release him in Minnesota with all his personal effects, including all personal property seized during his arrest such as, but not limited to, immigration paperwork; and
- d. ORDERS that, within **two days** of release, the Respondents shall file notice on the docket confirming that release within Minnesota has occurred.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 31, 2026
Time: 12:30 p.m.

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