IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MAHMOUD MOHAMMED MOHAMME ELGENDY, Petitioner, vs. PAMELA BONDI, Attorney General; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; DAVID EASTERWOOD, Acting Director of St. Paul Field Office, U.S. Immigration and Customs Enforcement, in their official capacities, Respondents.	Case No. 0:26-cv-00646-SHL-SGE **ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION.

Petitioner Mahmoud Mohammed Mohamme Elgendy is a graduate student at the University of St. Thomas who is legally authorized to work in the United States and won his asylum case before an Immigration Judge in 2023 (appeal pending). He has lived in the United States since October 2015 without incident. Nonetheless, officials with U.S. Immigration and Customs Enforcement ("ICE") arrested him without a warrant on January 25, 2026, and are holding him in custody. Because there is no lawful basis for Petitioner to have been taken into custody—much less to remain there—the Court GRANTS his Petition for Writ of Habeas Corpus and ORDERS that he be immediately released (if he is already in Minnesota) or returned to Minnesota and then immediately released.

II. FINDINGS OF FACT.

Petitioner is a citizen of Egypt. (ECF 1, ¶ 11; ECF 11, ¶ 4.) According to the Declaration of James L. Van Der Vaart, ICE Deportation Officer, Petitioner arrived in the United States on October 15, 2015, with a valid B1/B2 Visa, which granted him permission to remain in the United States until April 14, 2016. (ECF 11, ¶ 5.) On November 23, 2015, Petitioner applied for asylum

and withholding of removal. (Id., ¶ 6.) On July 15, 2020, United States Citizenship and Immigration Services ("USCIS") decided Petitioner was ineligible for asylum and issued him a Notice to Appear for a removal proceeding. (Id., ¶¶ 15–16.)

Petitioner filed an application for asylum on August 3, 2020. (ECF 1, ¶ 3.) An immigration judge granted him asylum via oral decision on May 11, 2023, which the United States appealed. (ECF 1, ¶ 3; ECF 5, p. 2; ECF 5-2, p. 3; ECF 6, p. 2; ECF 11, ¶¶ 20–21.) The appeal remains pending. (Id.) In the meantime, Petitioner has been in the community and gainfully employed pursuant to an employment authorization issued by USCIS that is valid until October 3, 2028. (ECF 11, ¶ 22.) He is also in a Masters Degree program at the University of St. Thomas. (ECF 1, ¶ 2.) On January 25, 2026, ICE arrested Petitioner in Minneapolis, Minnesota. (ECF 11, ¶ 23.) There is no evidence that Petitioner was arrested pursuant to an arrest warrant, nor is there any evidence that his arrest was prompted by his commission of a criminal offense or any other misconduct. Following his arrest, ICE transferred Petitioner to a detention facility in Texas "due to a local detention bed space shortage." (Id., ¶ 24.)

On January 26, 2026, Petitioner filed this petition for writ of habeas corpus asking the Court to order his immediate release, among other forms of relief. (ECF 1, p. 15.) Respondents assert that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225 despite having lived in the United States without incident for ten years, having won the first round of his asylum proceeding, and having valid work authorization. (ECF 9.) The Court entered an Order to Show Cause directing Respondents to attach an arrest warrant for Petitioner if there was one; no such warrant has been provided. (ECF 3.)

The record is not clear when Petitioner was moved to Texas, i.e., whether this occurred before or after the Court's Order enjoining Respondents from moving him outside of Minnesota. (Id., ¶ 5.) Respondents did, however, file a letter and declaration in the evening of January 27 asserting that Petitioner will be returned to Minnesota from Texas on January 28. (ECF 14; ECF 15.) Prior to this filing, Petitioner's counsel asserts that counsel for Respondents and an ICE official in Texas offered to have Petitioner released from custody in Texas. (ECF 13, ¶¶ 2, 3.) Given that Petitioner had no identification, money, or means to secure his return to Minnesota, Petitioner's counsel insisted that Respondents return him to Minnesota, then release him. (Id.)

III. HABEAS CORPUS STANDARDS.

Petitioner is entitled to writ of habeas corpus if, as relevant here, "[h]e is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "The right [of habeas corpus] extends to those persons challenging the lawfulness of immigration-related detention." *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 517 (2003) and *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)). The Court presumes that Petitioner bears the burden of proving by a preponderance of the evidence that his detention is unlawful. *See Walker v. Johnston*, 312 U.S. 275, 286 (1941); *see also Bradin v. United States Prob. & Pretrial Servs*., No. 22-3032-JWL, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (collecting cases).

IV. LEGAL ANALYSIS.

A. Petitioner Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2).

Respondents offer only one argument to justify Petitioner's detention: that he is subject to mandatory detention as an "applicant for admission" under 8 U.S.C. § 1225(a)(1) and (b)(2). The weakness of this argument is self-evident given that Petitioner appears to have been in the United States, with the full awareness of ICE and other immigration officials, since arriving in the country in October 2015. Indeed, he even has lawful work authorization. It is difficult to understand how he could spend ten-plus years in the community and have received permission to work if he was subject to mandatory detention. *See Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) ("For DHS was not only well aware that he had resided with his U.S. citizen father in New York for over two-and-one-half years before they arrested him; they also provided him with work authorization on June 7, 2025, just one month before he was detained. If his detention is and has always been 'mandatory' under § 1225(2)(A), as Respondents now claim, it is hard to see how the United States government would, or even could, have granted him permission to seek employment outside the confines of an ICE detention facility as recently as June 2025.").

Nonetheless, the Court will evaluate Respondents' position the same way it would evaluate any other argument: by reviewing relevant statutes and case law. Section 1225(a)(1) defines "applicant for admission" to mean "[a]n alien present in the United States who has not been admitted or who arrives in the United States." § 1225(a)(1). Detention of such an alien is mandatory pursuant to § 1225(b)(2)(A), subject only to "temporar[y] release[] on parole 'for

urgent humanitarian reasons or significant public benefit.'" *Jennings v. Rodriguez*, 583 U.S. 281, 287–88 (2018) (quoting 8 U.S.C. § 1182).

From a statutory interpretation perspective, the threshold problem with the Respondents' position is that it treats every person who enters the country without legal status as an "applicant for admission." *See Helbrum v. Williams Olson*, 4:25-cv-00349-SHL-SBJ, 2025 WL 2840273, at *4 (S.D. Iowa Sept. 30, 2025); *Barrajas v. Noem*, No. 4:25-cv-00322-SHL-HCA, 2025 WL 2717650, at *4–5 (S.D. Iowa Sept. 23, 2025); *Hasan v. Crawford*, 800 F. Supp. 3d 641, 651–57 (E.D. Va. 2025); *Romero v. Hyde*, 795 F. Supp. 3d 271, 281–88 (D. Mass. 2025). Such an interpretation of § 1225 would render substantial portions of § 1226 superfluous by making "detention [] mandatory for nearly every noncitizen who has entered the United States illegally." *Hasan*, 800 F. Supp. 3d at 656. If this is what Congress intended, it does not make sense that it would have passed a separate provision as part of the same statutory scheme that specifically contemplates bond hearings except in enumerated situations. *See id.*; 8 U.S.C. § 1226(a).

It is especially difficult to square Respondents' interpretation of § 1225(b)(2)(A) with Congress's recent decision to pass the Laken Riley Act to expand the scope of mandatory detention under § 1226(a). *See Barrajas*, 2025 WL 2717650, at *4; *Romero*, 795 F. Supp. 3d at 286–87. Under the Respondents' interpretation of the interplay between §§ 1225 and 1226, substantial portions of the Laken Riley Act are meaningless because the persons subject to mandatory detention under the Laken Riley Act would have been subject to mandatory detention even without the Act simply by virtue of having entered the country without lawful authority. This is not how statutes are to be interpreted. "One of the 'most basic interpretive canons' is that 'a statute should be construed so that effect is given to all its provisions,' and 'no part will be inoperative or superfluous, void, or insignificant.'" *Hasan*, 800 F. Supp. 3d at 656 (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009)).

The problems with Respondents' position are especially acute with respect to Petitioner. He originally was admitted into the United States pursuant to a lawful B1/B2 visa. Thus, to the extent he was ever an "applicant for admission" as that phrase is used in § 1225(a)(1), such status ended when his application was granted and he became lawfully present in the United States. *See* 8 U.S.C. § 1101(a)(13)(A); *see also Emokah v. Mukasey*, 523 F.3d 110, 118 (2d Cir. 2008) (concluding that "petitioner who traveled to the United States on a B–2 tourist visa … and was permitted entry after inspection and authorization by an immigration officer in the United States…

was admitted" for purposes of 8 U.S.C. § 1101(a)(13)(A)); *Mateo Francisco v. Dedos*, No. 1:25-CV-1229, 2026 WL 145456, at *3 (D.N.M. Jan. 20, 2026) (applying definition of "admitted" in 8 U.S.C. § 1101(a)(13)(A) in the context of § 1225(b)(2)). At this point, he is an originally-properly-admitted applicant who simply wants *stay* in the United States. There is no persuasive reason in these circumstances to treat him as an alien "who has not been admitted" or "who arrives" in the United States pursuant to § 1225(a)(1). Instead, the only plausible conclusion is that he is governed by the related statute, § 1226(a), that "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303. "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Id.* "Section 1226(a) also permits the Attorney General to release those aliens on bond" subject to enumerated exceptions when detention is mandatory. *Id.* Petitioner is governed by § 1226(a), not § 1225.

Most district courts agree that aliens in Petitioner's position are governed by § 1226(a), not § 1225. *See Helbrum*, 2025 WL 2840273, at *4; *Barrajas*, 2025 WL 2717650, at *4–5; *Hasan*, 800 F. Supp. 3d at 651–57; *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–47 (D. Minn. 2025); *Romero*, 795 F. Supp. 3d at 281–88. Respondents cite a recent case in the District of Minnesota which came out differently. *See* Memorandum and Order at 4, *Jose C. v. Bondi*, No. 26-135 (PAM/DTS) (D. Minn. Jan. 20, 2026), Dkt. No. 14 (citing "growing minority of district courts to reject Petitioner's argument"). The weight of authority, however, remains strongly on Petitioner's side. *See Barrajas*, 2025 WL 2717650, at *4 ("The overwhelming majority of these courts have concluded that aliens in Petitioner's situation are governed by § 1226(a) and therefore entitled to bond hearings."); *Miguel T.G. v. Bondi*, No. 26-CV-243 (NEB/ECW), 2026 WL 172722, at *2 (D. Minn. Jan. 22, 2026) ("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 [that § 1226 applies]."). After reviewing the relevant statutory language, this Court will continue to follow the weight of authority by concluding that Petitioner is not subject to mandatory decision under § 1225(b)(2).

B. The Court GRANTS the Petition for Writ of Habeas Corpus.

With mandatory detention under § 1225(a) off the table, there is no remaining lawful basis for Respondents to have taken Petitioner into custody on January 25, 2026. To the extent they wanted to seek his detention pursuant to 8 U.S.C. § 1226(a)—and setting aside whether due process

principles would have allowed them to do so—an arrest warrant would have been required pursuant to the plain language of the statute, which states that an alien may be arrested and detained "[o]n a warrant issued by the Attorney General." *See Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026); *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025), *appeal filed* (Nov. 6, 2025). There is no arrest warrant here. "[A]bsent a warrant a noncitizen may *not* be arrested and detained under section 1226(a)." *Ahmed M.*, 2026 WL 25627, at *3 (quoting *Chogllo Chafla*, 2025 WL 2688541, at *11)). Petitioner therefore must be immediately released unless he has not yet been returned to Minnesota, in which case he is entitled to release upon being so returned. *See Ahmed M.*, 2026 WL 25627, at *3 ("'[R]elease is an available and appropriate remedy' for 'detention that lacks a lawful predicate.'" (citing Order on Petition for Writ of Habeas Corpus, *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025), ECF No. 9 at 6 and *Munaf v. Geren*, 553 U.S. 674, 693 (2008)).

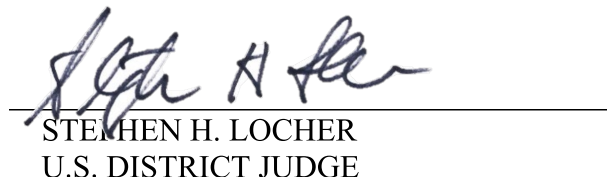
V. CONCLUSION.

Based on the foregoing, IT IS ORDERED THAT:

1. Petitioner's Petition for Writ of Habeas Corpus (ECF 1) is GRANTED insofar as he seeks his release from custody.
2. If Petitioner is in Minnesota, Respondents must immediately release him from custody. If Petitioner is not in Minnesota, Respondents must return him to Minnesota within twenty-four hours and then immediately release him from custody. Respondents shall release Petitioner with all of his personal effects, including driver's license, immigration papers, passport, cell phones, and keys.
3. Within three days of the date of this Order, the Parties shall confirm that Petitioner has been released as required by this Order.

IT IS SO ORDERED.

Dated: January 29, 2026



STEPHEN H. LOCHER
U.S. DISTRICT JUDGE