

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BRANDON S.P.S.,

Case No. 26-CV-626 (NEB/DLM)

Petitioner,

v.

ORDER ON
PETITION FOR
WRIT OF HABEAS CORPUS

PAMELA BONDI, Attorney General,
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security;
TODD M. LYONS, Acting Director of
Immigration and Customs Enforcement;
and DAVID EASTERWOOD, Acting
Director, St. Paul Field Office Immigration
and Customs Enforcement,

Respondents.

This matter is before the Court on Petitioner Brandon P.S.'s Petition for a Writ of Habeas Corpus.¹ (ECF No. 1.) Brandon P.S. is a citizen of Ecuador who has lived in the United States since November 2023. He lives with his partner, their four-year-old daughter, and his parents. Brandon P.S. has a permit to work in the United States and works at a local restaurant. He has no criminal history.

On January 23, 2026, Brandon P.S. was driving with his partner and mother on his way to work. Immigration and Customs Enforcement ("ICE") stopped the vehicle,

¹ The following factual recitation comes from the Petition and is not disputed by Respondents.

forcibly removed Brandon P.S. and his partner from the vehicle, and took both of them into custody, leaving their four-year-old daughter without her parents. Respondents did not have a warrant for Brandon P.S.'s arrest. Brandon P.S. filed this habeas action challenging his detention under 28 U.S.C. § 2241.

Brandon P.S. is one of hundreds of petitioners in the District who have challenged their detention by ICE. Like those petitioners, Brandon P.S. 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).

Because he has been living in the United States since he entered the country over two years ago, Brandon P.S. asserts that Section 1226, rather than Section 1225, applies. He therefore argues that he is entitled to immediate release and that his detention under Section 1225(b)(2) violates the Fifth Amendment, the INA, and the Administrative Procedure Act.

The Court has already concluded that petitioners similarly situated to Brandon P.S. 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 Brandon P.S. 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)).

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 Brandon P.S.’s Petition. Respondents merely file a one-paragraph brief preserving its argument for appeal. The Court therefore grants the Petition for Writ of Habeas Corpus.

The issue of remedy remains. Brandon P.S. 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*, 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *7 (D. Minn. Jan. 5, 2026); *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.”). Brandon P.S. asserts that his arrest was warrantless. The Court ordered Respondents to produce evidence to establish the lawfulness and correct duration of Brandon P.S.’s detention in light of issues raised by the habeas petition. Respondents did not submit a warrant to support Brandon P.S.’s arrest. Because a warrant is a prerequisite to detention under Section 1226(a), and there was no warrant here, Brandon P.S.’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 Chafila 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 Brandon P.S.

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;
 - 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 two days 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 is not in Minnesota, Respondents are ORDERED to immediately return Petitioner to Minnesota.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 27, 2026
Time: 8:36 a.m.

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