

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

JORGE P.,

Case No. 26-CV-1065 (PJS/EMB)

Petitioner,

v.

ORDER

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.

---

Cody Blades, BLADES LAW PLLC, for petitioner.

David W. Fuller and Trevor Brown, UNITED STATES ATTORNEY'S OFFICE, for respondents.

This matter is before the Court on petitioner Jorge P.'s petition for a writ of habeas corpus.<sup>1</sup> Jorge, a citizen of Ecuador, entered the United States in October 2023, presented himself at the border, and was released with a notice to appear. V. Pet. ¶¶ 12–13. Jorge has a pending asylum application and no final removal order. *Id.* ¶ 13. Nevertheless, Immigration and Customs Enforcement (“ICE”) agents arrested Jorge

---

<sup>1</sup>Pursuant to this District's policy in immigration cases, the Court identifies petitioner only by first name and last initials.

outside his apartment on February 4, 2026. V. Pet. ¶ 16. Jorge alleges that he was arrested without a warrant, *id.* ¶¶ 17, 36, 59, 60, 61, and respondents offer no evidence to the contrary.

Respondents take the position that Jorge is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and therefore is not entitled to a bond hearing under 8 U.S.C. § 1226(a). This position reflects both new interim guidance from ICE and recent precedent from the Board of Immigration Appeals finding that § 1225, rather than § 1226, applies to aliens who entered without inspection and have been residing in the United States. *See Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 963 (D. Minn. 2025) (discussing the interim guidance); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (BIA 2025).

This is one of numerous recent cases challenging the application of § 1225(b)(2) to aliens who are living in the United States after entering without inspection. This Court recently held that, because such aliens are not “seeking admission,” *see* § 1225(b)(2), that provision does not apply to them. *See Santos M.C. v. Olson*, No. 25-CV-4264 (PJS/DJF), 2025 WL 3281787, at \*3 (D. Minn. Nov. 25, 2025).

Respondents concede that this case is not meaningfully distinguishable from cases such as *Santos M.C.* and instead argue that those cases are wrongly decided. Respondents’ argument has some force. *See Buenrostro-Mendez v. Bondi*, No. 25-20496,

2026 WL 323330, at \*1 (5th Cir. Feb. 6, 2026) (adopting the government’s reading of § 1225(b)(2)). But the Court continues to believe that the better reading is that § 1225(b)(2) does not apply to aliens, such as Jorge, who entered without inspection and are already present and living in the United States.<sup>2</sup>

As to remedy: Respondents contend that, because Jorge is in removal proceedings, a bond hearing under § 1226(a), rather than release, is the appropriate remedy. The Court agrees with Judge Tostrud’s analysis in *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at \*3 (D. Minn. Jan. 5, 2026), however, that an arrest warrant is a prerequisite to detention under § 1226(a). *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.*” (emphasis added)). “If the alien has not been arrested on a warrant, then the subsequent provisions giving the Attorney General discretion to detain or release ‘the arrested alien’ are likewise not triggered.” *Florida v. United States*, 660 F. Supp. 3d 1239, 1276 (N.D. Fla. 2023) (quoting § 1226(a)). The Court will therefore grant Jorge’s petition and order his release.

#### ORDER

---

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

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioner's petition for habeas corpus [ECF No. 1] is GRANTED.
2. The Court DECLARES that petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
3. If petitioner is in Minnesota, respondents must immediately release petitioner from custody. If petitioner is not in Minnesota, respondents must first return petitioner to Minnesota and then immediately release him from custody.
4. The remainder of petitioner's petition is DENIED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 9, 2026

/s/ Patrick J. Schiltz  
Patrick J. Schiltz, Chief Judge  
United States District Court