

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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VICTOR C.S.,

Case No. 26-CV-1366 (NEB/DLM)

Petitioner,

v.

ORDER ON  
PETITION FOR  
WRIT OF HABEAS CORPUS

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

Respondents.

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This matter is before the Court on Petitioner Victor C.S.'s Petition for a Writ of Habeas Corpus. (ECF No. 1 ("Pet.")). Victor C.S. is a citizen of Ecuador who has lived in the United States since at least early 2024.<sup>1</sup> (*Id.* ¶ 31.) He was apprehended at the border but then released on his own recognizance. (*Id.*) Victor C.S. has a pending asylum application, a valid work permit, and no criminal history. (*Id.* ¶¶ 3, 32–33.) He has complied with all lawful orders relating to his immigration proceedings. (*Id.* ¶ 2.)

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<sup>1</sup> Respondents do not argue that the timing of Victor C.S.'s entry impacts the Court's analysis.

On January 9, 2026, Victor C.S. went to his cousin's house intending to pick up and bring his family to church when Immigration and Customs Enforcement ("ICE") took Victor C.S. into custody. (*Id.* ¶ 34.) Masked and armed, the ICE agents pulled up next to Victor C.S.'s car and demanded that Victor C.S. get out. (*Id.*) Victor C.S. complied with the agents' orders, got in their car, and was taken to the ICE St. Paul Field Office ("Whipple"). (*Id.* ¶¶ 5, 34.)

Victor C.S. "was unable to contact his family for over a week after his arrest." (*Id.* ¶ 34.) And, after Victor C.S.'s initial detention at Whipple, he was transferred to ERO El Paso Camp East Montana Facility in El Paso Texas, then later to Cibola County Correctional Center in Milan, New Mexico—where he remained at the time he filed his Petition. (*Id.* ¶ 5.) Although the exact dates of these transfers are not in the record before the Court, Victor C.S.'s Petition alleges that because he "has been transferred so many times" it "has been repeatedly difficult or impossible to locate" him which has deprived him of his right to access counsel. (*Id.* ¶ 14.) Over a month after his arrest, Victor C.S. secured counsel through his cousin; and on February 11, 2026, Victor C.S. filed this habeas action challenging his detention under 28 U.S.C. § 2241. (*Id.*)

## **I. Forum**

Generally, habeas petitions seeking to challenge present physical custody should (1) name the petitioner's immediate custodian as a respondent; and (2) be filed in the

district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 443–44 (2004). But the Court has acknowledged that when “a prisoner is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules.” *Id.* at 450 n. 18.

For that reason, the concurrence in *Padilla* recognized an exception to these rules “if there is an indication that the Government’s purpose in removing a prisoner were to make it difficult for his lawyer to know where the habeas petition should be filed, or where the Government was not forthcoming with respect to the identity of the custodian and the place of detention.” *Id.* at 454 (Kennedy J., concurring, joined by O’Connor, J.). In those situations, and others similar, habeas jurisdiction lies in the district from which “the petitioner had been removed.” *Id.*

While the Supreme Court majority has not formally recognized such an exception, courts nationwide have recognized and applied it. *See Ozturk v. Trump*, 777 F. Supp. 3d 26, 37–38 (D. Mass. 2025) (collecting cases); *Suri v. Trump*, 785 F. Supp. 3d 128, 144–45 (E.D. Va. 2025) (recognizing and applying the exception), *aff’d*, No. 25-1560, 2025 WL 1806692, at \*4 (4th Cir. July 1, 2025) (same) (noting the Fourth Circuit’s previous application of the exception in *United States v. Moussaoui*, 382 F.3d 453 (4th Cir. 2004)); *Tacuri ex rel. Guanoluisa v. Francis*, No. 25-CV-07012 (JAV), 2025 WL 3459377, at \*3–4 (S.D.N.Y. Dec. 2, 2025) (recognizing and applying the exception); *Munoz-Saucedo v.*

*Pittman*, 789 F. Supp. 3d 387, 392–94 (D.N.J. 2025) (same). This includes many courts in this District. See *Aleksander B. v. Trump*, No. 26-CV-170 (KMM/DJF), 2026 WL 172435, at \*2 (D. Minn. Jan. 22, 2026) (collecting cases from this District).

The exception to the general habeas forum rules applies here. ICE did not “allow [Victor C.S.] to contact his family or an attorney after bringing him into their custody.” (Pet. ¶ 34.) He “was unable to contact his family for over a week after his arrest.” (*Id.*) His family could not contact him during that time either. (*Id.* ¶ 14.) And, because Victor C.S. was transferred to two different states in the span of a month, it was “repeatedly difficult or impossible to locate” him and “impeded [his] ability to even get in contact with counsel in a timely manner.” (*Id.*) It was through his cousin that Victor C.S. was finally able to obtain counsel and file this habeas petition. (*Id.*)

Although the record lacks specifics as to the timing of Victor C.S.’s transfers to Texas and New Mexico, Victor C.S. argues that he was transferred before his counsel could reach him. (ECF No. 7 at 4.) This case represents a troubling pattern the Court has observed: a “race against the airplane” when petitioners are shuttled to various locations without coordination with, or information to, petitioners’ family or counsel.

The race begins the moment a petitioner is arrested and proceeds as follows. If Respondents withhold a petitioner’s location, limit petitioner’s ability to obtain or communicate with counsel, and rapidly move petitioner—not to a detention facility

within the State but to an entirely different jurisdiction— all before petitioner can file a habeas petition, Respondents win. The habeas case is transferred. If a petitioner can manage to obtain counsel, and counsel files a habeas petition fast enough—before Respondents have moved the petitioner—the petitioner wins. The habeas case remains here.

These circumstances present the type of scenario envisioned by the *Padilla* concurrence. Victor C.S. pled that ICE did not allow him to contact his family or an attorney for *over a week* after his arrest, and ICE transferred him to two different states within a short span of time, far from where he was originally detained. Under these facts, the Court concludes that “the Government was not forthcoming with respect to the identity of the custodian and the place of detention.” *Id.* at 454 (Kennedy J., concurring, joined by O’Connor, J.). The Court therefore applies the exception.

To conclude otherwise would result in a rigid conception of habeas forum rules that undermines the essence of the writ. “The very nature of the writ demands that it be administered with the initiative and flexibility essential to [e]nsure that miscarriages of justice within its reach are surfaced and corrected.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969). So, the Court turns to the merits of the Petition.

## II. Merits

Victor C.S. is one of hundreds of petitioners in the District who have challenged their custody. Like those petitioners, Victor C.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 at least two years ago, Victor C.S. asserts that Section 1226, rather than Section 1225, applies. He therefore argues that his detention under Section 1225(b)(2) violates the Fifth Amendment, Fourth Amendment, and the INA and its implementing regulations.

The Court has already concluded that petitioners similarly situated to Victor C.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 Victor C.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)). So, Section 1226 applies.

The Court is not alone in its decision; rather, the majority of courts to rule on the matter 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), --- F. Supp. 3d ---, 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 Victor C.S.'s Petition but ask the Court to reconsider its position in light of decisions from the minority viewpoint, including the Fifth Circuit decision in *Buenrostro-Mendez v. Bondi*, --- F.4th ---, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Respondents then refer the Court to their arguments in *Avila v. Bondi*, No. 25-3248 (8th Cir. Docketed Nov. 10, 2025). The Court

recognizes, but is not persuaded by, the minority viewpoint; it has already considered and rejected that viewpoint.<sup>2</sup>

The Court therefore grants the Petition for Writ of Habeas Corpus,<sup>3</sup> but the issue of remedy remains. Victor C.S. asserts that immediate release is warranted because he has already been released on his own recognizance under Section 1226, and Respondents have provided no justification for revoking that determination years later, especially without any material changes in Victor C.S.'s circumstances. (Pet. ¶ 7; ECF No. 7 at 6–7.)<sup>4</sup>

Respondents do not respond to this argument but instead attach an administrative warrant—a Form I-200. (ECF No. 6 at 1; ECF No. 6-2.) Victor C.S. points out that Respondents have not included any information as to whether the warrant was issued and supplied before Victor C.S.'s arrest. But the Court need not resolve questions about the validity and timing of the administrative warrant because Victor C.S. is entitled to immediate release due to his prior release on recognizance.

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

<sup>3</sup> Because the Court grants Victor C.S. relief based on his statutory claim, it need not address his claim that he is a member of the *Maldonado Bautista* class. (Pet. ¶ 10.) And because the Court grants his Petition, Victor C.S. may move separately for attorneys' fees and costs under the Equal Access to Justice Act within 30 days of final judgment in this action. 28 U.S.C. § 2412(d)(1)(B).

<sup>4</sup> All page citations to the record or other dockets reference ECF pagination.

Respondents' detention of Victor C.S. without any notice or opportunity to be heard regarding the revocation of parole violated Victor C.S.'s Fifth Amendment rights. *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1034–35 (N.D. Cal. 2025). Because Victor C.S.'s liberty interest stems from his release on his own recognizance, immediate release is warranted. *E.g., Gergawi v. Larose*, No. 3:25-CV-3352-JES-MMP, 2025 WL 3719321, at \*4 (S.D. Cal. Dec. 23, 2025); *Mayamu K. v. Bondi*, No. 25-3035 (JWB/LIB), 2025 WL 3641819, at \*8 (D. Minn. Oct. 20, 2025).

This is true regardless of whether ICE arrested him with a valid administrative warrant. *Duarte Salazar v. Noem*, No. 26-CV-1040 (JMB/EMB) (D. Minn. Feb. 11, 2026), ECF No. 7 at 3 (granting immediate release, despite an administrative warrant, because "there is no evidence here that an immigration officer exercised discretion to revoke the petitioner's release, or conducted a custody redetermination until after arresting him"); *Y- C- v. Genalo*, No. 25-CV-06558 (NCM), 2025 WL 3653496, at \*7 (E.D.N.Y. Dec. 17, 2025) (granting immediate release because petitioner's detention pursuant to a warrant nonetheless violated his due process rights because the government provided no process, no notice, and no showing of changed circumstances warranting re-detention after his release on recognizance); *Ye v. Maldonado*, No. 25-CV-6417 (AMD), 2025 WL 3521298, at \*7–8 (E.D.N.Y. Dec. 8, 2025) (same).

## 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 Respondents to immediately return and release Petitioner in Minnesota;
  - c. ORDERS that Respondents release Petitioner from custody in Minnesota subject only to the conditions of Petitioner's prior Order of Release on Recognizance. Respondents shall not impose any new conditions on Petitioner's release. Respondents must 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; and

- d. ORDERS that, within **four days** of release, the Respondents shall file notice on the docket confirming that release within Minnesota has occurred.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 16, 2026  
Time: 12:40 p.m.

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