

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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ERIKA VANESA L.-V.,

Case No. 26-CV-1219 (NEB/DTS)

Petitioner,

v.

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,

ORDER ON  
PETITION FOR  
WRIT OF HABEAS CORPUS

Respondents.

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This matter is before the Court on Petitioner Erika L.-V.'s Petition for a Writ of Habeas Corpus. (ECF No. 1 ("Pet.")). Erika L.-V. is a citizen of Ecuador who has lived in the United States since 2023. (*Id.* ¶ 14.) She has a pending asylum application and is in the process of obtaining a work permit. (*Id.* ¶ 15.)

On February 8, 2026, while Erika L.-V. was on her way to work, Immigration and Customs Enforcement ("ICE") took Erika L.-V. into custody without a warrant. (*Id.* ¶ 17; ECF No. 5 ¶ 1.) Afterwards, Erika L.-V. filed this habeas action challenging her detention under 28 U.S.C. § 2241.

Erika L.-V. is one of hundreds of petitioners in the District who have challenged their custody without an individualized bond determination. Like those petitioners, Erika L.-V. argues she 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 she has been living in the United States since she entered the country years ago, Erika L.-V. asserts that Section 1226, rather than Section 1225, applies. She therefore argues that her 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 Erika L.-V. 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 Erika L.-V. while she was entering the United States. Instead, she 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 Erika L.-V.'s Petition but ask the Court to reconsider its position in light of decisions from the minority viewpoint.<sup>1</sup> The Court recognizes, but is not persuaded by, the minority viewpoint, including the additional cases cited by Respondents; it has already considered and

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<sup>1</sup> The Court agrees with other judges in the District that the response here is a “model example” of a response, as it “preserves the Government's arguments for appeal while avoiding the effort of filing the same recycled template brief that this Court has already rejected.” *Mauro Johnny P.P. v. Lyons*, Case No. 26-cv-204 (LMP/DJF), Order, ECF No. 5 at 2 n.1.

rejected the minority viewpoint. Respondents' arguments to the contrary are preserved for appeal.

The Court therefore grants the Petition for Writ of Habeas Corpus, but the issue of remedy remains. Erika L.-V. 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 3–4; *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.”).

Erika L.-V. asserts that her arrest was warrantless. The Court ordered Respondents to produce evidence to establish the lawfulness and correct duration of Erika L.-V.'s detention in light of issues raised by the habeas petition. Respondents did not submit a warrant to support Erika L.-V.'s arrest. Because a warrant is a prerequisite to detention under Section 1226(a), and there was no warrant here, Erika L.-V.'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 Chafra v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025), *appeal filed* (Nov. 6, 2025). The Court therefore orders the immediate release of Erika L.-V.

One last issue is before the Court—Erika L.-V.’s Emergency Motion for an Order to Show Cause. (ECF No. 5.) The relevant facts are as follows. The day Erika L.-V. was detained, she filed the Petition. (*Id.* ¶ 1.) That day, the Court enjoined Respondents from transferring Erika L.-V. out of state and ordered her immediate return if she has already been transferred. (ECF No. 3.) The next day, ICE’s online detainee locator indicated that Petitioner was in El Paso, Texas. (ECF No. 5 ¶ 4.) Additionally, ICE informed Petitioner that she has a “hearing in three to four days,” which counsel believes is to be held in Texas. (*Id.* ¶ 6.)

Respondents’ counsel informed the Court that Petitioner is scheduled to be returned to Minnesota today. (ECF No. 6 at 1.) The Court thus defers ruling on the motion until the Court receives further update.

### 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 immediately transfer Petitioner to Minnesota and release Petitioner in Minnesota, at a safe time and place, and with coordination or at least two hours' advance notice to counsel. Release should occur as soon as practicable but not later than **24 hours** after entry of this Order (because it is the Court's understanding that Respondents plan to return Petitioner to Minnesota today);
- c. ORDERS that Respondents release Petitioner in Minnesota with all Petitioner's personal effects, including all personal property seized during Petitioner's arrest such as, but not limited to, immigration paperwork;
- d. ENJOINS Respondents from imposing conditions of release on Petitioner; and
- e. ORDERS that, within **three 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 10, 2026

Time: 12:30 p.m.

BY THE COURT:

s/Nancy E. Brasel

Nancy E. Brasel

United States District Judge