

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

ALEXIS CRUZ MELCHOR,

Petitioner,

vs.

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.

Case No. 0:26-cv-01234-SHL-LIB

**ORDER GRANTING VERIFIED
PETITION FOR WRIT OF HABEAS
CORPUS**

I. INTRODUCTION.

Petitioner is a citizen of Mexico who has been present in the United States since 2023. He was arrested by federal agents on February 8, 2026. Respondents argue that he is subject to detention by virtue of having signed a Voluntary Departure form in which he agreed to remain in custody until being deported. Petitioner has, however, exercised his right to withdraw from that agreement. For this reason, and because Respondents have not established any other lawful basis for keeping him in custody, the Court GRANTS his Verified Petition for Writ of Habeas Corpus and ORDERS that he be immediately released unless he is outside Minnesota, in which case he must be returned to Minnesota and then immediately released.

II. FINDINGS OF FACT.

Respondents largely do not dispute the facts in the Verified Petition, and thus the Court accepts them as true except where Respondents have presented contrary or additional evidence. Petitioner is a citizen of Mexico who has lived in the United States since 2023. (ECF 1, ¶ 13.) He has no known criminal record in Minnesota. (Id., ¶ 15.) He is not subject to a final order of removal. (Id., ¶ 14.) On February 8, 2026, he was arrested by officers with U.S. Immigration and Customs Enforcement (“ICE”). (Id., ¶ 17.) The officers did not have an arrest warrant. (Id.) Petitioner filed this Verified Petition for Writ of Habeas Corpus the same day. (ECF 1.)

At approximately 9:05 a.m. on February 9, 2026, the Court entered an Order to Show Cause requiring Respondents, among other things, to “certify[] the true cause and proper duration of Petitioner’s confinement” and explain “[w]hether Petitioner was arrested pursuant to a warrant and, if so, [provide] a copy of such warrant.” (ECF 4, ¶ 2.d.) The Order to Show Cause further stated: “Respondents are ENJOINED from moving Petitioner outside of Minnesota until further order of the Court so that Petitioner may consult with counsel while the Court is considering the petition and to avoid any risk that removal of Petitioner from Minnesota while deprive this Court of jurisdiction.” (Id., ¶ 4.)

Respondents responded to the Verified Petition for Writ of Habeas Corpus on February 12, 2026. (ECF 6.) They did not produce a warrant. (Id.) They did, however, provide a document entitled “Voluntary Departure and Verification of Departure” (also known as a “Form I-210”) containing Petitioner’s signature. (ECF 6-1.) The document is dated February 11, 2026, and is signed by a Deportation Officer in El Paso, Texas. (Id., p. 1.) It states that Petitioner was “granted voluntary departure” from the United States by the Department of Homeland Security. (Id.) It states that Petitioner is required to depart from the United States on or before March 9, 2026, “under safeguard.” (Id.) It states that the “Immigration Judge’s Alternate Order of Removal will take effect if the alien does not depart within the time specified.” (Id.) The Court is unable, however, to locate a pending removal proceeding for Petitioner’s A-Number on the Executive Office of Immigration Review (“EOIR”) website. *See* <https://acis.eoir.justice.gov/en/> (last visited February 21, 2026).

The Form I-210 includes an Addendum in which Petitioner purports to “knowingly, voluntarily, and intelligently waive my opportunity to file any and all applications for relief or protection from removal, deportation, or exclusion under the immigration laws.” (Id., p. 3.) It also states: “I acknowledge that I will remain detained in DHS’s custody pending departure. . . . Should I fail to voluntarily comply with voluntary departure, I will agree and stipulate to prompt issuance of a final order of removal...” (Id.) Like the rest of the Form I-210, the Addendum is dated February 11, 2026, and signed by Petitioner and a Deportation Officer in El Paso, Texas. (Id.) Based on the Form I-210 and Addendum, Respondents argue that the Verified Petition for Writ of Habeas Corpus is moot. (ECF 6.)

The record is silent as to when Respondents moved Petitioner to Texas, but it may have occurred after the Court entered the Order to Show Cause at 9:05 a.m. on February 9, 2026,

enjoining Respondents from moving him away from Minnesota. If so, it would mean that Respondents violated the Court’s Order. Moreover, Petitioner’s counsel filed a Reply on his behalf stating that immigration officials pressured him to sign the Form I-210 while he was detained in Texas. (ECF 8, ¶ 9.) Officers told him he “had no chance of being released, and that there was no point in talking with an attorney because his case was hopeless. Desperate to leave detention in Texas and believing he had no other choice, [Petitioner] stated that he signed the Departure Form on February 11, 2026.” (Id.) Petitioner did not have access to counsel prior to signing the form. (Id., ¶ 10.) To his counsel’s understanding, “it does not appear that [Petitioner] was provided a full interpretation of the Voluntary Departure form, nor does he appear to have understood its full effect on his rights.” (Id.) Petitioner communicated to his counsel that he “would not have signed the Departure Form had he fully understood its implications and had he been aware of the status of the habeas proceeding here in Minnesota.” (Id. ¶ 11.)

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). “Th[e] 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)). 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, 286–87 (1941); *see also Bradin v. U.S. Prob. & Pretrial Servs.*, No. 22-3032, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (collecting cases).

IV. LEGAL ANALYSIS.

A. The Case Is Not Moot.

Respondents argue that the case is moot because Petitioner signed the Form I-210 and agreed to voluntary depart from the United States. This argument fails because an alien like Petitioner has the right to withdraw from a voluntary departure agreement. *See Dada v. Mukasey*, 554 U.S. 1, 21 (2008) (holding that “the alien must be permitted to withdraw, unilaterally, a voluntary departure request before expiration of the departure period”); *Camick v. Sessions*, 891 F.3d 1101, 1108 (8th Cir. 2018) (applying principles in *Dada* to request made for voluntary departure prior to the completion of removal proceedings). Petitioner has communicated his desire

to do so here, and thus his Form I-210 is “no longer in effect.” *Bonilla v. Bondi*, No. 2:26-cv-757 (NJC), 2026 WL 395423, at *3 (E.D.N.Y. Feb. 12, 2026). Indeed, the fact that he is continuing to pursue habeas relief likely automatically terminates “any grant of voluntary departure.” 8 C.F.R. § 1240.26(i).

The Court notes, in any event, that Respondents convinced Petitioner to sign the Form I-210 under apparent duress, after moving him to Texas in possible violation of this Court’s Order to Show Cause, and without giving him access to counsel. In these circumstances, it is highly likely that the Form I-210 would be unenforceable anyway. This is immaterial, however, because Petitioner has the right to withdraw from the voluntary departure agreement regardless of voluntariness. *See Dada*, 554 U.S. at 21. The case is therefore not moot.

B. Petitioner Is Entitled to Immediate Release.

Because Respondents did not address the merits of Petitioner’s Verified Petition for Writ of Habeas Corpus, the Court is left to presume that they would argue—as they have in hundreds of other cases—that he is subject to mandatory detention under 8 U.S.C. § 1225(a)(1) and (b)(2). 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.” In turn, § 1225(b)(2) states that “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” In an abundance of caution, the Court will explain why any attempt on Respondents’ part to rely on these provisions would fail.

As a threshold matter, most courts to have considered the issue have concluded that a person who has been in the country for as long as Petitioner is not an “applicant for admission” subject to mandatory detention under §§ 1225(a) and (b)(2), but rather is governed by 8 U.S.C. § 1226(a), which permits discretionary release. *See, e.g., 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); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (stating that § 1226(a) applies to “certain aliens already in the country”). Respondents have not, however, produced an arrest warrant, which is a prerequisite for detention under § 1226(a). “[A]bsent a warrant a noncitizen may not be arrested and detained under section 1226(a).” *Ahmed M. v. Bondi*,

No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026); *see also Chogllo Chafila v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025), *appeal docketed*, No. 25-2060 (1st Cir. Nov. 7, 2025)). Thus, if Petitioner’s situation is governed by § 1226(a), he must be immediately released. *See Ahmed M.*, 2026 WL 25627, at *3 (“[R]elease is an available and appropriate remedy’ for ‘detention that lacks a lawful predicate.’”).

The same is true even if Petitioner is governed by § 1225(a) and (b)(2). Section 1225(b)(2)(A) states that an applicant for admission “shall be detained for a proceeding under section 1229a of this title.” Here, however, the Court is unable to locate any record of a pending removal proceeding against Petitioner under 8 U.S.C. § 1229a or any other federal statute or regulation. Accordingly, even if Petitioner is an “applicant for admission” pursuant to § 1225(a) and (b)(2), there is no basis for Respondents to continue to detain him.

Granted, in other circumstances, the Court might consider giving Respondents time to open a removal proceeding given that they would not have needed to open such a proceeding so long as Petitioner agreed to voluntary departure. *See* 8 U.S.C. § 1229c(a)(1) (recognizing that the Attorney General may permit voluntary departure “in lieu of being subject to proceedings under section 1229a of this title”). Here, however, five days have passed since Petitioner has communicated his desire to withdraw from the agreement, and Respondents appear to have done nothing to open a removal proceeding. Moreover, Respondents procured Petitioner’s signature on the Form I-210 in possible violation of this Court’s Order to Show Cause, without giving him access to counsel, and under circumstances that likely amount to duress. The Court will not give Respondents a “do-over” in these circumstances. Instead, the appropriate remedy is immediate release.

V. CONCLUSION.

Based on the foregoing, IT IS ORDERED THAT:

1. Petitioner’s Verified Petition for Writ of Habeas Corpus (ECF 1) is GRANTED.
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 but not limited to purse/wallet, money, 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: February 21, 2026

A handwritten signature in blue ink, appearing to read "Stephen H. Locher", written over a horizontal line.

STEPHEN H. LOCHER
U.S. DISTRICT JUDGE