

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Samuel Miguel Escalante v. David Venturella, Acting Director of Immigration & Customs Enforcement, George Valdez, Acting Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, U.S. Department of Homeland Security, Todd Blanche, Acting U.S. Attorney General, Executive Office for Immigration Review, and Juan Baltazar, Warden of the Aurora Detention Facility

Escalante · No. Civil Action No. 26-cv-01657-PAB · Decided June 17, 2026

SUMMARY

The United States District Court for the District of Colorado granted Samuel Miguel Escalante’s motion to enforce an earlier habeas order and ordered his release from immigration detention within 48 hours. The court held that respondents lacked statutory authority under 8 U.S.C. § 1357 to make the warrantless arrest and detention under 8 U.S.C. § 1226(a), while noting that a new bond hearing would be required if respondents later obtained a warrant and re-detained him.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Philip A. Brimmer
JURISDICTION	United States District Court for the District of Colorado
DECIDED	June 17, 2026
DOCKET	Civil Action No. 26-cv-01657-PAB
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought enforcement of a prior order granting habeas relief and, alternatively, adjudication of the remaining claims in his habeas petition. The court adjudicated Count II, alleging that respondents' warrantless arrest violated 8 U.S.C. § 1357(a)(2) and related regulations, and ordered petitioner's release.

STANDARD OF REVIEW	The court assessed whether respondents had statutory authority for the warrantless arrest and whether the undisputed record established the prerequisites for detention under 8 U.S.C. §§ 1226(a) and 1357.
PRECEDENTIAL VALUE	unpublished
PARTIES	Samuel Miguel Escalante v. David Venturella, Acting Director of Immigration & Customs Enforcement, George Valdez, Acting Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, U.S. Department of Homeland Security, Todd Blanche, Acting U.S. Attorney General, Executive Office for Immigration Review, Juan Baltazar, Warden of the Aurora Detention Facility

TOPICS

immigration detention

removal proceedings

remedies

statutory interpretation

administrative law

PRACTICE AREAS

immigration law

habeas corpus

immigration detention

administrative law

QUESTIONS PRESENTED

1. Whether respondents had statutory authority under 8 U.S.C. § 1357 to make a warrantless immigration arrest of Escalante.
2. Whether continued detention under 8 U.S.C. § 1226(a) was lawful where respondents had neither obtained a warrant nor shown that the requirements for a warrantless arrest were satisfied.
3. Whether release was the appropriate remedy for detention resulting from an arrest that lacked statutory authority.

HOLDINGS

1. Respondents lacked statutory authority to arrest Escalante without a warrant because they failed to show that they had reason to believe he was present in violation of immigration law and likely to escape before a warrant could be obtained, and they did not establish the separate conditions for a warrantless arrest under § 1357(a)(5).
2. Continued detention was unlawful because respondents had not obtained a warrant and lacked statutory authority for the warrantless arrest underlying the detention.
3. Release was the only permissible remedy, and respondents were ordered to release Escalante from custody within 48 hours.
4. If respondents obtain a warrant and re-detain Escalante under § 1226(a), he would be entitled to a new bond hearing complying with the court's May 1 order.

KEY QUOTATIONS

“Section 1226(a) creates a default rule for those aliens by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings.”

“when DHS cannot meet the statute’s requirements for a warrantless arrest, continued detention is unlawful and release is the only permissible remedy.”

FACTUAL BACKGROUND

Escalante, a Guatemalan citizen who entered the United States as a child in 2019, was served with a Notice to Appear charging him as present without admission. After initially being released as an Unaccompanied Noncitizen Child, he was re-detained in December 2025 following an arrest for alleged traffic offenses; those charges were later dropped. Respondents did not dispute that immigration officials arrested him without a warrant and provided no argument or evidence showing that the statutory conditions for a warrantless arrest were satisfied.

PROCEDURAL HISTORY

Escalante filed a habeas petition challenging his immigration detention under 8 U.S.C. § 1226(a), the Administrative Procedure Act, the Fifth Amendment, and a certified class action. On May 1, 2026, the court ordered respondents to provide a bond hearing at which the government would bear the burden of justifying continued detention. After an immigration judge denied bond, Escalante moved to enforce the order or obtain relief on his remaining claims. The court granted relief on Count II and ordered release within 48 hours, declining to address whether the immigration judge complied with the May 1 order.

DISPOSITION

other

CASES CITED

- *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018)
- *Maldonado Bautista v. Santacruz*, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025)
- *Morelos Valdovinos v. Noem*, 2026 WL 948285, at *5-*7 (D.N.M. Apr. 8, 2026)
- *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1231 (D. Colo. 2025)
- *Matovu v. Mullin*, 2026 WL 1387476, at *3 (W.D. Okla. May 18, 2026)
- *Kunner v. Grant*, 2026 WL 1623016, at *4 (W.D. Okla. Apr. 22, 2026), report and recommendation adopted sub nom., 2026 WL 1452463 (W.D. Okla. May 22, 2026)
- *de Jesus Aguilar v. Eng.*, 2025 WL 3280219, at *9 (N.D. Ind. Nov. 25, 2025)
- *Francisco T. v. Bondi*, 2025 WL 3236513, at *3 (D. Minn. Nov. 19, 2025)
- *Orellana v. Noem*, 807 F. Supp. 3d 745, 754 (W.D. Ky. 2025)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO Judge Philip A. Brimmer Civil Action No. 26-cv-01657-PAB SAMUEL MIGUEL ESCALANTE, Petitioner, v. DAVID VENTURELLA, Acting Director of Immigration & Customs Enforcement,¹ GEORGE VALDEZ, Acting Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, U.S. DEPARTMENT OF HOMELAND SECURITY, TODD BLANCHE, Acting U.S. Attorney General, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, and JUAN BALTAZAR, Warden of the Aurora Detention Facility, Respondents.

ORDER This matter comes before the Court on Samuel Miguel Escalante's Motion to Enforce Order [Docket No. 12]. Respondents filed a response. Docket No. 16. Petitioner filed a reply. Docket No. 17. I. BACKGROUND² Petitioner is a 23-year-old Guatemalan citizen who entered the United States as a child on approximately July 24, 2019. Docket No. 1 at 4, ¶ 1.

On July 25, 2019, petitioner was served a Notice to Appear, charging him as a noncitizen present without admission under the Immigration and Nationality Act, § 212(a)(6)(A)(i). *Id.*, ¶ 2. 1 David Venturella is substituted as a party for Todd Lyons pursuant to Fed. R. Civ. P. 25(d). 2 The following facts are undisputed unless otherwise noted. Petitioner was designated as an Unaccompanied Noncitizen Child and released from custody.

Id., ¶ 3. Petitioner was re-detained by respondents in December 2025 after being arrested for alleged traffic offenses, for which the charges have been dropped. *Id.*, ¶ 5. On April 17, 2026, petitioner filed a petition for writ of habeas corpus. See generally *id.* Petitioner brings a claim for violation of 8 U.S.C. § 1226(a) (Count I); violation of the Administrative Procedures Act (Count II); violation of the due process clause of the Fifth Amendment of the United States Constitution (Count III), and for relief as a member of the class certified in *Maldonado Bautista v. Santacruz*, 2025 WL 3289861 (C.D.

Cal. Nov. 20, 2025) (Count IV). See *id.* at 27-30. On May 1, 2026, the Court granted the petition, ordering respondents to provide petitioner a bond hearing "where the government shall bear the burden of proving that petitioner's continued detention is justified." See Docket No. 7 at 4.

On May 13, 2026, the parties filed a status report informing the Court that an immigration judge denied bond. Docket No. 10. On May 13, 2026, the petitioner filed a motion to enforce the Court's May 1 Order, or, in the alternative, that the Court consider the remaining claims in the habeas petition. Docket No. 12 at 15. Petitioner seeks release as his remedy.

See *id.* II. ANALYSIS Given that petitioner was denied release on bond, petitioner asks that the Court address the remaining claims in his habeas petition. See *id.* The Court will therefore turn to Count II, wherein petitioner claims that respondents' "warrantless arrest of petitioner without a

particularized determination of flight risk is arbitrary and capricious, in violation of 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(2).” See Docket No. 1 at 28, ¶ 7.

The Court has determined that petitioner is detained pursuant to § 1226(a), see Docket No. 7 at 2-3, which provides that, “[o]n 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.” 8 U.S.C. § 1226(a) (emphasis added).

In their responses to the habeas petition and the motion to enforce, see generally Docket Nos. 6, 16, respondents do not contest petitioner’s assertion that he was arrested by immigration officials without a warrant. See Docket No. 1 at 28, ¶ 7. Section § 1226(a) does not require that the Attorney General issue a warrant. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (“Section 1226(a) creates a default rule for those aliens by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings.”).

Pursuant to § 1357(a)(2), immigration officials may arrest a noncitizen without a warrant: to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States.

8 U.S.C. § 1357(a)(2). Under § 1357(a)(5), an immigration officer may also make a warrantless arrest: (A) for any offense against the United States, if the offense is committed in the officer’s or employee’s presence, or (B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony, if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

8 U.S.C. § 1357(a)(5). “Courts have recognized that these warrantless-arrest authorities are strictly limited, particularly in the interior-arrest context.” *Morelos Valdovinos v. Noem*, 2026 WL 948285, at *5 (D.N.M. Apr. 8, 2026) (collecting cases). Respondents have failed to provide any argument or set forth any evidence indicating that petitioner’s warrantless arrest was proper under § 1357.

See generally Docket Nos. 6, 16. Respondents have failed to show that they had reason to believe that, at the time of petitioner’s arrest, petitioner was present in the United States in violation of the law and that he was likely to escape before a warrant could be obtained. See 8 U.S.C. § 1357(a)

(2). There is no indication that petitioner committed an offense in the presence of immigration officials and that there was a likelihood of petitioner's escape before a warrant could be obtained.

See § 1357(a)(5). Accordingly, the Court finds that respondents lacked statutory authority to arrest petitioner. See *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1231 (D. Colo. 2025) (finding that plaintiffs had demonstrated a likelihood of success on the merits of their claim that defendants had violated § 1357(a)(2) where the immigration officers took "plaintiffs into custody upon confirming their identities and their lack of lawful status" and the "officers asked no questions – until after their arrests – bearing on flight risk, including about plaintiffs' families, employment, or other community ties"); *Morelos Valdovinos*, 2026 WL 948285, at *6 (finding that respondents lacked authority for petitioner's arrest where "[n]othing in the record suggests that either statutory condition – reasonable belief of a violation or likelihood of escape – was met" and "the record contains no facts that would satisfy § 1357(a)(2) or (a)(5)'s narrow prerequisites for a warrantless arrest"); *Matovu v. Mullin*, 2026 WL 1387476, at *3 (W.D.

Okla. May 18, 2026) (finding that respondents' warrantless arrest was unlawful where "Respondents introduced no evidence and, as such, failed to establish that they had reason to believe Petitioner was likely to escape before a warrant could be obtained for his arrest") (alteration, internal quotation, and citation omitted). Where respondents have failed to obtain a warrant for a noncitizen detained under § 1226(a) and lacked statutory authority for a warrantless arrest, courts have found the appropriate remedy is to order the non-citizen's release.

See, e.g., *Morelos Valdovinos*, 2026 WL 948285, at *7 (ordering petitioner's released based on "a growing body of decisions holding that when DHS detains a noncitizen under § 1226(a) without a warrant and without satisfying § 1357(a)(2), the detention is unlawful from the outset and immediate release is required") (collecting cases); *Matovu*, 2026 WL 1387476, at *3; *Kunner v. Grant*, 2026 WL 1623016, at *4 (W.D.

Okla. Apr. 22, 2026), report and recommendation adopted sub nom., 2026 WL 1452463 (W.D. Okla. May 22, 2026). "[W]hen DHS cannot meet the statute's requirements for a warrantless arrest, continued detention is unlawful and release is the only permissible remedy." *Morelos Valdovinos* 2026 WL 948285, at *7.

Accordingly, the Court will grant the habeas petition on the basis of Count II and order petitioner's release.³ The Court further notes that, if respondents obtain a warrant and re-detain petitioner, petitioner's detention is subject to § 1226(a). *de Jesus Aguilar v. Eng.*, No. 2025 WL 3280219, at *9 (N.D. Ind. Nov. 25, 2025) ("Perhaps the government could go secure a warrant and rearrest him at or after his release, but to be clear the government ³ Because the Court will grant petitioner relief on the basis of Count II, it will not address petitioner's argument that the immigration judge failed to comply with the Court's May 1 Order.

See Docket No. 12 at 9-15. must then proceed under § 1226(a).”). Thus, petitioner would be entitled to a new bond hearing that compiles with the Court’s May 1 Order. See *id.*; *Francisco T. v. Bondi*, 2025 WL 3236513, at *3 (D. Minn. Nov. 19, 2025) (holding that a petitioner previously released after a bond hearing would be entitled to a new bond hearing if re-detained pursuant to § 1226(a)); *Orellana v. Noem*, 807 F. Supp. 3d 745, 754 (W.D.

Ky. 2025) (ordering a “renewed bond hearing” under § 1226 when petitioner had previously received a bond hearing during a prior detention under § 1226). III. CONCLUSION Therefore, it is ORDERED that Samuel Miguel Escalante’s Motion to Enforce Order [Docket No. 12] is GRANTED. It is further ORDERED that respondents shall release Samuel Miguel Escalante from custody within 48 hours.

It is further ORDERED that the parties shall file a report regarding the status of petitioner’s release within four days of this order. DATED June 17, 2026. BY THE COURT: s/ Philip A. Brimmer PHILIP A. BRIMMER United States District Judge