

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF MINNESOTA

600 U.S. Courthouse Suite 202
300 South Fourth Street
Minneapolis, MN, 55415

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MAY 19 2025

CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

SARAIL ARCHILLA



Petitioner,

V.

James Mchenry and Lisa Monaco,
US ATTORNEY GENERAL;

Kristi Noem,
SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;

Peter Berg,
FIELD OFFICE DIRECTOR FOR THE
MINNEAPOLIS FIELD OFFICE

Warden of Freeborn County Detention Center,

Respondents,

**PETITION FOR PRELIMINARY INJUNCTION, TEMPORARY RESTRAIN ORDER
AND WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

Petitioner, SARAIL ARCHILLA, brings this preliminary injunction, temporary restrain order and writ of habeas corpus petition seeking immediate relief from unlawful detention. Petitioner requests that this Court issue a Writ of Habeas Corpus and direct Respondent to immediately release Petitioner from custody and enter preliminary and permanent injunctive relief enjoining



[Respondent] from further unlawful detention of petitioner. Petitioner challenges the lawfulness of his detention by Immigration and Customs Enforcement (“ICE”) under 8 C.F.R. 241.13. In 2020, having released Petitioner, the Government may not re-detain Petitioner without satisfying 8 C.F.R. § 241.13(i).

Petitioner challenges his unlawful detention as a violation of due process, The Immigration and Nationality Act, and the Administrative Procedure Act. Specifically, he argues that the immigration officials unlawfully detained him after he reported to his intense supervision check in. Petitioner seeks immediate release from custody and injunction to prevent future unlawful re-detention. In support of this petition and complaint for injunctive relief, petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is detained at the **Freeborn County Adult Detention Center** in **Albert Lea, Minnesota**. ICE has contracted with **Freeborn County Jail** to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents. Petitioner was detained at ISAP intense supervision office on **May 6, 2025**.

Petitioner was transferred to **Freeborn County Adult Detention Center** in **Albert Lea, Minnesota** on **May 6, 2025**.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. 701 et seq.

3. This court has jurisdiction under 28 U.S.C. 2241: art. I 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, law, or treaties of the United State. This court may grant relief pursuant to 28 U.S.C. 2241, 5 U.S.C. 702, and the All Writs Act, 28 U.S.C. 1651.

4. Petitioner has exhausted any and all administrative remedies to extend require by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Ct., 410 U.S. 484, 495-96, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973); Roman v. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus, because the petition indicates that Petitioner is currently incarcerated at Freeborn County Adult Detention Center in Minnesota, the proper venue for this action is the United States District Court for the District of Minnesota, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of CANADA. Petitioner was taken into ICE custody on May 6, 2025, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on 2017 before ICE transferred him to an ICE detention center on July 26, 2017.

7. Respondent James Mchenry and Lisa Monaco is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, James Mchenry and Lisa Monaco has ultimate custodial authority over Petitioner.

8. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, **Kristi Noem** is the legal custodian of Petitioner.

9. Respondent **Peter Berg** is one of the ICE Field Director of the Minnesota Field Office of ICE and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. **See Vasquez v. Reno** 233 F.3d 688, 690 (1st Cir. 2000), **cert. denied**, 122 S. Ct. 43 (2001).

10. Respondent Warden of **Freeborn County Detention Center**, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, **SARAIL ARCHILLA**, is a native and citizen of **CANADA**. Petitioner has been in ICE custody since **May 6, 2025**. An Immigration Judge ordered the Petitioner removed on or before **July 26, 2017**.

12. Petitioner entered the United States on or about 1981 from Canada when he was a child, and he has not left since arriving.

13. Petitioner was arrested in Massachusetts and charged with Conspiracy to trafficking cocaine on **September 15, 2006**. Petitioner pleaded guilty to the charge and was sentence to 144 months.

14. Petitioner was released on **July 26, 2017** to ICE custody and was transported to a county jail under ICE supervision in Georgia.

15. Petitioner was transferred to county jail in Alabama where respondent remained for 40 months.

16. ICE tried obtaining respondent's travel documents from Canada and Jamaica from 2017 to 2020 for approximate 20 times and ICE unsuccessfully failed to obtain them.

17. ICE required petitioner to write 5 countries to provide a travel document for him and instead, Petitioner wrote ten different countries including Canada and Jamaica and he was denied by all these counties.

18. Petitioner was released on November 23, 2020 under ISAP intense supervision and was given detailed report orders of supervision, which included once a year ICE Physical report, every six weeks ISAP physical report and every Thursday between 8pm to 11 pm facial recognition reports.

19. Petitioner never violated any of the above conditions, nor have any encounter with the law enforcement. Petitioner was law abiding citizen that has proven rehabilitation. Petitioner successfully completed a Federal probation running concurrently with immigration supervision. Petitioner was originally given a seven years supervision by the state of Massachusetts which was reduced to three years after proven rehabilitation.

20. Petitioner was unlawfully and unconstitutionally detained by ICE official on May 6, 2025 at his 10am appointment when he reported to the six week ISAP program. Petitioner was not given any reason for his detention violating his due process rights under the Fifth Amendment.

LEGAL FRAME OF WORK FOR RELIEF SOUGHT

21. Having released petitioner pursuant to 8 C.F.R. § 241.13, the government may not re-detain petitioner without satisfying 8 C.F.R. § 241.13 (i). This regulation provides when a previously-released detainee may be re-detained: (i) Revocation of release-

(1) Violation of conditions of release. Any alien who has been released under an order of supervision under this section who violates any of the conditions of release may be returned to

custody and is subject to the penalties described in section 243(b) of the Act. In suitable cases, the HQPDU shall refer the case to the appropriate U.S. Attorney for criminal prosecution. The alien may be continued in detention for an additional six months in order to effect the alien's removal, if possible, and to effect the conditions under which the alien had been released.

(2) Revocation for removal. The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. Thereafter, if the alien is not released from custody following the informal interview provided for in paragraph (h)(3) of this section, the provisions of § 241.4 shall govern the alien's continued detention pending removal.

(3) Revocation procedures. Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.⁸ C.F.R. § 241.13(i). Therefore, absent a violation of his conditions of release, or "changed circumstances" demonstrating a "significantly likelihood that [he] may be removed in the reasonably foreseeable future", Petitioner may not be re-detained.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

22. Petitioner re-alleges and incorporates by reference paragraphs 1 through 21 above.

23. Petitioner is a civil detainee. As a result, his detention must remain "nonpunitive in purpose and effect." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). Civil immigration detainees are specifically entitled to the protections of the Fifth Amendment to the United States Constitution. Its Due Process Clause, in relevant part, forbids the government to "depriv[e]" any "person . . . of . . . liberty . . . without due process of law." Civil detention thus implicates the Due Process Clause: "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." See *id.* at 693.

24. The Supreme Court has long held that civil detention must be justified:

"[G]overnment detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and 'narrow' nonpunitive 'circumstances,' where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal citations and quotations omitted). Civil detention becomes unconstitutional when "punitive" in nature, meaning "not [or no longer] reasonably related to a legitimate, nonpunitive governmental objective." *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997).

CLAIMS FOR RELIEF

COUNT TWO

25. The APA provides, in relevant part, that courts "shall . . . hold unlawful and set aside agency action . . . found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; . . . in excess of statutory jurisdiction, authority, or limitations . . . ; [or] without observance of procedure required by law." 5 U.S.C. § 706(2). "[I]n reviewing agency action, a court is ordinarily limited to evaluating the agency's contemporaneous explanation in light of the existing administrative record." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2573, 204 L. Ed. 2d 978 (2019).

26. Petitioner was not notified of the reasons for revocation on his release. The service should have conducted an initial interview promptly after his return to service custody to afford petitioner an opportunity to respond to the reasons for revocation stated in the notification.

CLAIMS FOR RELIEF

COUNT THREE

27. Petitioner seek emergency relief in the form of preliminary injunctions. Petitioner further contends this court should enjoin respondent from re-detaining him without court approval. This injunction are governed by Rule 65 of the Federal Rules of Civil Procedure. Preliminary injunctive relief is "an extraordinary remedy" and "should be granted only in limited circumstances." *Kos Pharms., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004) (citing *AT&T v. Winback and Conserve Program, Inc.*, 42 F.3d 1421, 1426-27 (3d Cir. 1994)).

28. In determining whether to grant a motion seeking preliminary injunctive relief, the Court considers the following four factors: (1) the likelihood that the movant will prevail on the merits; (2) the extent to which the movant is being irreparably harmed by the challenged

conduct; (3) the extent to which the non-moving party will suffer irreparable harm if the preliminary injunction is issued; and (4) whether granting preliminary injunctive relief will be in the public interest. *S & R Corp. v. Jiffy Lube Int'l, Inc.*, 968 F.2d 371, 374 (3d Cir. 1992) (citing *Hoxworth v. Blinder, Robinson & Co.*, 903 F.2d 186, 197-98 (3d Cir. 1990)).

29. The Third Circuit clarified this standard. See *Reilly v. City of Harrisburg*, 858 F.3d 173 (3d Cir. 2017). As a threshold matter, the movant must establish the two "most critical" factors: likelihood of success on the merits and irreparable harm. *Id.* at 179. Under the first factor, the movant must show that "it can win on the merits," which requires a showing that is "significantly better than negligible but not necessarily more likely than not." *Id.* Under the second factor, the movant must establish that it is "more likely than not" to suffer irreparable harm absent the requested relief. *Id.* Only if these "gateway factors" are satisfied may the court consider the third and fourth factors and "determine[] in its sound discretion if all four factors, taken together, balance in favor of granting the requested preliminary relief." *Id.* at 176, 179

30. Here, Petitioner satisfied both requirements. Petitioner may only be re-detained if he violates a condition of his release, or "change circumstances" demonstrate a "significant likelihood that [he] may be removed in the reasonably foreseeable future". 8 C.F.R. § 241.13. Since petitioner was released on November 23, 2020 under 8 C.F.R. § 241.13 this current detention is unlawful. ("[I]f Petitioner were to be brought back into custody, it would be under a new set of circumstances and facts, and [it] would be impossible for the government to repeat the same unlawful conduct that [Petitioner] challenged. See *DR. Ashqar v. Larose*, 2019 U.S. Dist. LEXIS 48082 (N.D. Ohio, Mar. 26, 2019)

31. In *Kargbo v. Brott*, 2016 U.S. Dist. LEXIS 87690, 2016 WL 3676162, at *2 (D. Minn.) the court stated the following: ("[T]his is not a case in which the government voluntarily

ceased allegedly unlawful conduct but is free to restart such conduct at whim. To the contrary, by releasing Kargbo under 8 C.F.R. § 241.13, the government has placed itself under new legal limitations-limitations that did not exist at the time that Kargbo filed his habeas petitions and that make it impossible for the government to resume the objectionable conduct."). Put plainly, Petitioner challenged his post-order-of-removal detention. Should he be re-detained, it will be under 8 C.F.R. § 241.13. Thus, there is no reasonable expectation Petitioner will again suffer the same harm initially alleged. See *Friends of the Earth*, 528 U.S. at 190; *Mosley*, 920 F.2d at 415.

CLAIMS FOR RELIEF

COUNT FOUR

32. Petitioner seeks an immediate release from custody and seeks a temporary restraining order ("TRO"). Rule 65 of the Federal Rules of Civil Procedure provides for a TRO, in pertinent part, as follows: (b)(1) Issuing Without Notice. The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss or damage will result to the movant before the adverse party can be heard in opposition, and (B) the movant's attorney certifies in writing any efforts made to give the notice and the reasons why it should not be required. Fed. R. Civ. P. 65. Petitioner satisfied requirement for injunctive relief. As discussed in preceding sections of these findings, due process, entitles petitioner to immediate release. He is thus entitled to a TRO to obtain such relief.

CONCLUSION

Petitioner unlawful detention by ICE is in violation of the Fifth Amendment of the United States Constitution and due process clause. Therefore, Petitioner is entitled to be granted habeas corpus, preliminary and permanent injunction and temporary restraining order enjoining respondent from future unlawful detention of petitioner.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Grant Petitioner a writ of habeas corpus directing Respondents to immediately release.
3. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
4. Award Petitioner attorney's fees and cost under Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. 504 and 28 U.S.C. 2412 and on any other basis justified under law;
and
5. Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted,



SARAIL ARCHILLA


Freeborn County Detention Center
Po Drawer 170
Albert Lea, MN 56007

Date: May 14, 2025