UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PABLO JOSE VALLES CHIRINOS, Petitioner, v. ANTONE MONIZ, Superintendent, Plymouth County Correctional Facility, PATRICIA HYDE, Field Office Director, MICHAEL KROL, HSI New England Special Agent in Charge, and TODD LYONS, Acting Director U.S. Immigrations and Customs Enforcement, and KRISTI NOEM, U.S. Secretary of Homeland Security, Respondents.	Case No. 25-CV-11641-AK

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Now comes the petitioner, Mr. Chirinos, and hereby replies to the respondents' response (document # 11). The respondents' objections to the petition must fail for the reasons stated in the petition and because the respondents lack clean hands. E.O.H.C. v. Barr, 434 F.Supp.3d 321, 341 (E.D. Pa. 2020)(the clean hands doctrine invoke in habeas corpus action) The respondents' opposition relies on the fact that they managed to get Mr. Chirinos out of Massachusetts within hours before the petition was filed. Mr. Chirinos submits he was transferred due the zeal of the federal government to deport people like. See Attached "Deportation flights accelerate, reaching a high under Trump," New York Times,

June 3, 2025. The respondents "made a decision" to transfer people like Mr. Chirinos for illegitimate political purposes. Compare E.O.H.C. v. Barr, 434 F.Supp.3d at 341 (illegitimate decision create unclean hands)

The respondents claim the transfer was due to "the operational need to decompress bedspace." (Document 11-1 ¶ 11) That uncorroborated affidavit is insufficient. The Plymouth County Sheriff keeps a daily record of its capacity and the number of people it is holding in custody pursuant to G.L. c. 127 § 2. See attached Affidavit of Counsel In order to prove the Plymouth County Correction Center was truly overcrowded as the respondents claim this Court should require them to produce that facilities count records kept pursuant to statute. Without reliable evidence of overcrowding, the respondents' supposed justification should not be accepted.

- Violation of enabling statutes and common law privilege against civil arrest

This case presents a challenge to the federal government's appropriation of the Massachusetts state courts to carry out federal civil immigration policy. Officers from U.S. Immigration and Customs Enforcement ("ICE") have patrolled Massachusetts state courthouses—including courtrooms, hallways, clerk's offices, parking lots and front steps— following, arresting, and detaining those they believe violated federal civil, not criminal, law. In the face of widespread opposition to this practice, ICE has not only refused to stop it, but has issued a formal Directive

authorizing such civil courthouse arrests. ICE's Directive, and its widespread practice of conducting civil arrests in state courthouses, are unprecedented in American history. Indeed, the U.S. Supreme Court and the Massachusetts Supreme Judicial Court have long recognized a privilege against civil arrests for those attending court on official business—a privilege that traces its roots back to English common law, and rests on the common-sense principle that the judicial system cannot function if parties and witnesses fear that their appearance in court will be used as a trap.

Congress never authorized ICE to conduct civil courthouse arrests because it never abrogated the longstanding and well-settled common-law privilege against such arrests. The Supreme Court has recognized that the common-law privilege against civil courthouse arrests is "well settled." Stewart v. Ramsay, 242 U.S. 128, 129 (1916). When Congress acts in an area governed by "long-established and familiar" common-law principles, Congress is presumed to retain those principles. United States v. Texas, 507 U.S. 529, 534 (1993). Here, where Congress granted the federal government a general civil-arrest power to enforce civil immigration laws, Congress retained traditional common-law limitations on that arrest power—including that such arrests cannot be made against parties and witnesses attending court on official business. Indeed, finding that Congress abrogated the common-law privilege would be particularly inappropriate given the significant

constitutional concerns relating to separation of powers and court access raised by federal appropriation of state courts for civil arrests. Because the INA does not grant the federal government the authority to conduct civil courthouse arrests in violation of the common-law privilege, ICE's Directive authorizing such arrests, and its corresponding policy of conducting such arrests, exceed ICE's statutory authority, and must be set aside under the Administrative Procedure Act. See 5 U.S.C. § 706(2).

Even if ICE's Directive were authorized by statute, the Directive and the corresponding practice of civilly arresting parties, witnesses, and others attending Massachusetts state courts on official business exceed the powers granted to the federal government, and hence violate the Tenth Amendment of the U.S. Constitution. "[T]he Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs." Printz v. United States, 521 U.S. 898, 925 (1997). Yet that is precisely what ICE's civil courthouse arrest program does. ICE has coopted the state's justice system, using it as a tool for trapping those required to attend state court. ICE's civil-courthouse-arrest policy triggers all of the concerns that the Supreme Court recently identified as signaling a Tenth Amendment violation, including the shifting the political responsibility for and costs of immigration enforcement to the states. See Murphy v. Nat'l Collegiate Athletic Ass'n, 138 S. Ct. 1461, 1477 (2018).

ICE's policy also violates the Constitutional right of access to the courts, which prohibits "systemic official action [that] frustrates a plaintiff or plaintiff class in preparing and filing suits." Christopher v. Harbury, 536 U.S. 403, 413, 415 & n.12 (2002). Conditioning litigants' ability to access the courts on making themselves available for civil arrest creates precisely such impermissible frustration. Indeed, common-law courts created the privilege against civil courthouse arrest in recognition of the intolerable chilling effect of such arrests, explaining that the fear of arrest would "prevent [parties and witnesses'] approach," obstructing "the administration of justice." Halsey v. Stewart, 4 N.J.L. 366, 368 (N.J. 1817). Because of ICE's policy, Massachusetts residents who are not willing to appear in Massachusetts court for fear of civil ICE arrest.

Wherefore, this Court should either allow the writ or order the respondents to produce the aforementioned records from the Plymouth County Sheriff.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Michael Nam-Krane, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants.

/Michael A. Nam-Krane