UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Mahamed Abdi Roble,

Petitioner

v.

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Peter Berg, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Ryan Shea, Freeborn County Sheriff.

Respondents.

Case No.: _____

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER UNDER FRCP 65(b) AND PRELIMINARY INJUNCTION UNDER FRCP 65(a)

EXPEDITED HANDLING REQUESTED

Petitioner Mahamed Abdi Roble has filed a petition seeking a Writ of Habeas Corpus under 28 U.S.C. § 2241. *See* ECF No. 1. Roble concurrently filed a Motion for Temporary Restraining Order ("TRO"), which this Memorandum supports.

BACKGROUND ON HABEAS CORPUS

The origin of the writ of habeas corpus lies in clause 39 of the Magna Carta, which stated that no free man could be imprisoned except by lawful judgment of his peers or by the law of the land. *See Boumediene v. Bush*, 553 U.S. 723, 740 (2008) (citations omitted). The Magna Carta, and especially clause 39, was designed to limit the king's power by

protecting the most fundamental rights of free men. *See Boumediene*, 553 U.S. at 739-42 (collecting sources).

When the United States seceded from Great Britain, the Framers of the Constitution and the States that were to make up the Union, in order to ensure sufficient signatories, reserved debate on most of the civil rights for a few years in what would later become the Bill of Rights. However, one right was so fundamental and so undisputed that it was placed into the actual Constitution. *See generally* U.S. Const., Art. I, § 9, cl. 2. The Framers and the States thus recognized and agreed that habeas corpus is the most fundamental and important civil right in any free society. *Cf. Boumediene*, 553 U.S. at 743 ("Surviving accounts of the ratification debates provide additional evidence that the Framers deemed the writ to be an essential mechanism in the separation-of-powers scheme."). As Alexander Hamilton explained in The Federalist No. 84:

> "[T]he practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone ... are well worthy of recital: 'To bereave a man of life ... or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a *more dangerous engine* of arbitrary government.' And as a remedy for this fatal evil he is everywhere peculiarly emphatical in his encomiums on the *habeas corpus* act, which in one place he calls 'the bulwark of the British Constitution.' " C. Rossiter ed., p. 512 (1961) (quoting 1 Blackstone *136, 4 *id.*, at *438).

Throughout the history of the United States, habeas corpus has had three principal eras of importance. First, there was the post-reconstruction era following the civil war. *See, e.g.*, *Ex parte Milligan*, 71 U.S. 2 (1866) (ruling that civilians cannot be tried by military

tribunals when civilian courts are open and functioning); Habeas Corpus Act of 1867, 14 Stat, 385, 28 U.S.C. § 451 et sq. The second era occurred during World War 2 when the United States placed persons of Japanese origin in internment camps. *See, e.g.*, *Korematsu v. United States*, 323 U.S. 214 (1944), *abrogated by Trump v. Hawaii*, 585 U.S. 667 (2018). Most recently, there was the war on terror and associated detentions at Guantanamo Bay, Cuba. *See Rasul v. Bush*, 542 U.S. 466 (2004) (foreign nationals housed at Guantanamo Bay had the right to challenge their detention via habeas corpus); *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004) (U.S. citizens designated as "enemy combatants" and detained in the United States have a constitutional right to due process, including a meaningful opportunity to challenge their detention before a neutral decisionmaker); *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (military commissions used to try Guantanamo Bay detainees lacked congressional authorization and violated both the Uniform Code of Military Justice and the Geneva Convention); *Boumediene v. Bush*, 553 U.S. 723, 740 (2008) (foreign detainees at Guantanamo Bay have a constitutional right to habeas corpus and the Military Commissions Act of 2006's procedures were an inadequate substitute for habeas corpus).

We are now in the fourth major era of habeas, which began when the present administration started arbitrarily revoking student visas and detaining students on the basis of those revocations, deporting permanent residents to Salvadoran prison without due process, jailing immigrants for exercising their rights to free speech, and announcing an intent to use civil detention punitively against criminal aliens. *Accord, cf.*, ECF No. 1-1,

Exhibit A, *100 Days of Fighting Fake News*, HOMELAND SECURITY (Apr. 30, 2025).[1]

The student visa issue showed that the administration's animus against immigrants is not restricted to immigrants who are present without authorization or in violation of law. *Accord Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added). The administration's animus against criminal aliens and other noncitizens with unexecuted final orders of removal is especially pronounced. *See* ECF No. 1-1, Exhibit A ("**The reality is that prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. **If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.**") (emphasis added).

Over the past few months, courts around the country have found that the present immigration administration is using immigration detention punitively, as well as to coerce noncitizens into self-deporting from the United States. *E.g.*, *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025); *Khalil v. Trump*, No. 25-CV-01963 (MEF/MAH), --- F. Supp. 3d ---, 2025 WL 1649197 (D.N.J. June 11, 2025), *opinion clarified*, No. 25-CV-01963 (MEF/MAH), 2025

[1] Available at: https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news.

WL 1981392 (D.N.J. July 16, 2025), and *opinion clarified*, No. 25-CV-01963 (MEF/MAH), 2025 WL 1983755 (D.N.J. July 17, 2025); *Noem v. Abrego Garcia*, 145 S. Ct. 1017 (2025); *Mahdawi v. Trump*, No. 2:25-CV-389 (GWC), --- F. Supp. 3d ---, 2025 WL 1243135, at *11-12 (D. Vt. Apr. 30, 2025); *Ozturk v. Trump*, No. 2:25-CV-374 (WKS), --- F. Supp. 3d ---, 2025 WL 1420540, at *7 (D. Vt. May 16, 2025) ("Ms. Ozturk argued that her detention is punishment for her op-ed, and that her punishment is intended to serve as a warning to other non-citizens who are contemplating public speech on issues of the day. The Court found that Ms. Ozturk has presented credible evidence to support her argument.").

The Petitioner in this case, Mahamed Abdi Roble, is a victim of the present government's animus against immigrants. His detention lacks legitimacy because it is intended to be punitive. His detention lacks legitimacy because it occurred in violation of law. Mr. Roble requires a writ of habeas corpus.

RELEVANT FACTUAL AND PROCEDURAL HISTORY

Roble is a citizen and national of Somalia. ECF No. 1, ¶ 2. He was ordered removed from the United States by an immigration judge on May 18, 2018. *Id.* The removal order became administratively final on May 28, 2021 when Roble withdrew his administrative appeal that had been pending at the Board of Immigration Appeals. *Id.* After his removal order issued, Roble was stuck in immigration detention from May 18, 2018 until October 21, 2019 (a total of 520 days). *Id.*, ¶ 3. Roble filed a habeas corpus petition on June 7, 2019 to challenge his post-removal-order detention. *Roble v. Barr*, No. 19-CV-1505 (JNE/KMM) (D. Minn.), ECF No. 1. Respondents (or their agency predecessors) initially

contested the petition before releasing Roble from custody and placed him on an Order of Supervision ("OOS") on October 19, 2019 under 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.4.

In releasing Roble from custody and placing him on an OOS, Respondents necessarily concluded, among other things, that: (1) "[t]ravel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest;" (2) "[t]he detainee is presently a non-violent person;" (3) "[t]he detainee is likely to remain nonviolent if released;" (4) "[t]he detainee is not likely to pose a threat to the community following release;" (5) "[t]he detainee is not likely to violate the conditions of release;" and (6) "[t]he detainee does not pose a significant flight risk if released." *See* 8 C.F.R. § 241.4(e)(1)-(6).

ARGUMENT

Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241. Section 1231 mandates detention "[d]uring the removal period." *Accord* 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, the same section also requires the government to actually remove the alien during this removal period. 8 U.S.C. § 1231(a)(1)(A). Petitioner's removal period began on June 19, 2018, "[t]he date the order of removal [became] administratively final." 8 U.S.C. § 1231(a)(1)(B)(i); ECF No. 1, ¶¶ 2-7, 9.

The "removal period" is "90 days." 8 U.S.C. § 1231(a)(1)(A). Petitioner's removal period therefore elapsed on September 16, 2019. Nonetheless, Petitioner was not released on an OOS until October 21, 2019, a period of 400 days (444.44% longer than the 90-day

removal period). If Petitioner's periods of confinement in ICE detention since his removal order became administratively final are aggregated on June 19, 2018, Petitioner has been detained in ICE custody for 490 days as of August 11, 2025. *See* ECF No. 1, ¶ 61 (520 days post-removal-order means 30 days for the removal order to become administratively final plus the 90-day removal period plus 400 days of confinement after the removal period elapsed, or 490 days after his order became administratively final).

Once a noncitizen is released on an OOS, they are subject to certain conditions of release. *See* 8 C.F.R. § 241.13(h)(1). Redetention is permitted where it is alleged a noncitizen violated the conditions of release. *See* 8 C.F.R. § 241.13(h)(2), (i). No allegation is made that Petitioner violated the conditions of release. *See* ECF No. 1, ¶ 73.

Regulations also permit the government to withdraw or otherwise revoke release under specific circumstances. *See* 8 C.F.R. § 241.13(h)(4). One permissible reason to revoke release occurs when, "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.**" 8 C.F.R. § 241.13(i)(2) (emphasis added). Once such a determination is made, the noncitizen must "be notified of the reasons for revocation of [their] release" and must be provided with "an initial informal interview… to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3). "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." *Id.* (emphasis added). If a noncitizen is not released following the informal interview, "the provisions of [8 C.F.R. §

241.4] shall govern the alien's continued detention pending removal." 8 C.F.R. § 241.13(i)(2). Once the provisions of § 241.4 take effect, it appears that the consequence is a total reset of the 90-day removal period under 8 U.S.C. § 1231(a). *See* 8 C.F.R. § 241.4(b)(4).

Under the Supreme Court's decision in *Zadvydas v. Davis*, a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. 533 U.S. 678, 699-700 (2001). "*Zadvydas* established a temporal marker: post-final order of removal detention of six months or less is presumptively constitutional." ECF No. 6 at 12-13 (citing *Zadvydas* at 701). *Zadvydas* also stated:

> After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, **the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.**

533 U.S. at 701 (emphasis added).

I. The Government Is Abridging Petitioner's Constitutional Right to Due Process.

Because Roble was released under 8 C.F.R. § 241.4 on an order of supervision "after the expiration of the removal period," and after he "has provided good reason to believe there is no significant likelihood of removal to the country to which he… was ordered removed, or to a third country, in the reasonably foreseeable future," any future determinations as to whether there is a significant likelihood of removing Roble in the

reasonably foreseeable future are governed by 8 C.F.R. § 241.13. *See* 8 C.F.R. § 241.13(a)-(b).

Thus, if *Zadvydas* is read in conjunction with 8 C.F.R. § 241.13(i)(2)-(3), the Service was required to rebut, **with evidence**, Roble's previous showing that there is no significant likelihood of removal in the reasonably foreseeable future **before** the Service redetained Roble. *See Zadvydas*, 533 U.S. at 701. The Service is required to provide credible evidence of the changed circumstances used to justify redetaining Roble. *See id.*

The Service cannot meet this burden, as the Notice of Revocation of Release ("Notice") that was served on Roble on July 18, 2025 **after** his redetention does not identify the changed circumstances that justify redetention. *See* ECF No. 1, ¶¶ 67-77. This is dispositive because the government, not Petitioner, bears the burden of making an evidentiary showing that satisfies *Zadvydas* by rebutting the showing Petitioner previously made that there was no significant likelihood of removal in the reasonably foreseeable future prior to his release on October 21, 2019. If the Court were to allow the government to arbitrarily reset the removal period nearly six years later and then force Petitioner to make another new showing that removal is not significantly likely to occur in the reasonably foreseeable future under 8 C.F.R. § 241.4, the Court would necessarily render 8 C.F.R. § 241.13(i)(2)-(3) and 8 U.S.C. § 1231(a)(1), (3) superfluous while simultaneously negating the Supreme Court's principal holding in *Zadvydas*. The Court must disallow the government's implicit attempts to improperly shift the evidentiary burden to Petitioner.

Roble cannot be removed to Somalia because of his DCAT grant. *See* ECF No. 1,

¶ 6. Roble cannot be removed to an allegedly safe third country until the government obtains a travel document for Petitioner that allows him to enter that allegedly safe third country. The government has been unable to obtain a travel document that would permit Roble's removal to any country since at least October 21, 2019, a period of nearly six years. Roble was taken into custody prior to the government applying for a travel document for Roble. *Id.*, ¶ 74. The government still does not have a travel document for Roble even though, as of the time of this filing, 24 days have elapsed since Petitioner was redetained. *Id.*, ¶ 77. Moreover, ICE has not even identified as of yet the third country it hopes to remove Petitioner to, nor has it begun the process of having Petitioner apply for a travel document to the yet unidentified country. *Id.*, ¶¶ 76-77.

Zadvydas stated that "for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." 533 U.S. at 701. In the case before the Court, Petitioner's aggregate period of prior post-removal confinement has grown to 544 days as of the date of this memorandum's submission (520 days between May 18, 2018 and October 21, 2019 plus 24 days so far in 2025). This means that "the reasonably foreseeable future," as applied to the facts of Petitioner's case, is significantly shorter than would be the case for an individual with a significantly shorter period of prior post-removal confinement. *Zadvydas*, 533 U.S. at 701.

Zadvydas, in the context of Petitioner's case, requires the government to have sufficient evidence to rebut the previously established showing that Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future. Because Petitioner

was already confined post-removal-order for a period far exceeding six months, the government was required to already have a valid travel document for Petitioner prior to detaining Petitioner under 8 C.F.R. § 241.13(i)(2)-(3). At absolute minimum, the government would have needed to have already applied for said travel document *and* been given some sort of positive affirmation from the relevant third-country government that a travel document for Petitioner would be received by a specific date certain in the very near future that would permit the government to promptly deport Petitioner after redetaining him.

II. The Government's Evidence of Removability Does Not Satisfy *Zadvydas* or 8 C.F.R. § 241.13(i)(2)-(3).

The only evidence the government relied upon to assert that Petitioner's removal was significantly likely to occur in the reasonably foreseeable future consists of: (1) the Notice of Revocation of Release (which states in a completely conclusory fashion that "ICE has determined there is a significant likelihood of removal in the reasonably foreseeable future in your case" based on unidentified "changed circumstances"). *See* ECF No. 1, ¶ 67. Any possible factual claim or insinuation possibly contained in the Notice alleging that ICE is in the process of obtaining a travel document is impeached by the Verified Petition for Habeas Corpus, in which Roble alleges under penalty of perjury that as of August 11, 2025, "ICE has not yet begun the steps of having Roble apply for a travel document from detention for some other allegedly safe third country." ECF No. 1, ¶ 77; *see also* ECF No. 1, ¶ 74 ("The Notice does not allege that Respondents have obtained a travel document allowing for Roble's immediate removal from the United States."); ECF

No. 1, ¶ 76 ("On or around August 5, 2025, Roble spoke with an ICE officer at Freeborn County Jail. During this conversation, Roble was told that ICE was still trying to identify a third country that might accept him. Thus, at the time of Roble's arrest, up through the present, ICE has no information that could reasonably lead it to believe changed circumstances exist that justify redetention under 8 C.F.R. § 241.13(i)(2)-(3).").

Thus, the government's preliminary determination that removal to Somalia is significantly likely to occur in the reasonably foreseeable future requires presuming facts that have no basis for being presumed. Namely, it must be presumed that: (1) ICE has identified an allegedly safe third country for removal that will accept Roble despite his criminal history in the United States (even though the government has been unable to accomplish this task for nearly six years); and (2) the allegedly safe third-country will issue a travel document in the reasonably foreseeable future. Such presumptions are arbitrary, capricious, unlawful, unconstitutional, and are otherwise reliant upon abuses of discretion in the present context because such presumptions are grounded on conclusory opinions and beliefs rather than on fact and experience. Perhaps more importantly, because the government's determination—*i.e.*, that changed circumstances now support concluding that Petitioner's removal is significantly likely to occur in the reasonably foreseeable future—relies on a series of suppositions rather than actual evidence, the evidence is not competent under *Zadvydas*' burden-shifting scheme and is otherwise incapable of satisfying the strict and explicit requirements of 8 C.F.R. § 241.13(i)(2)-(3).

The government, in response to this petition, will likely argue that the Notice complied with § 241.13(i)(2) because it identified changed circumstances, namely the

facts that ICE: (1) was in the process of trying to identify a safe third country that will accept Roble, and (2) has determined that there is a significant likelihood of removal in the reasonably foreseeable future in Roble's case. However, in this scenario, the only alleged "changed circumstance" would be that ICE is thinking about requesting a travel document from a third country that has not previously agreed to accept Roble. It is unclear how this could factually constitute a changed circumstance considering that ICE has ostensibly been in the process of requesting a travel document for an allegedly safe third country that would accept Roble since May 18, 2018. It is unclear how this could legally constitute a changed circumstance considering that 8 C.F.R. § 241.13(h)(1) explicitly provides that one condition of release on an OOS is "that the alien continue to seek to obtain travel documents," and it is not alleged in the Notice that Petitioner has violated any of his OOS conditions. *See* 8 C.F.R § 241.13(i)(2)-(3).

Even assuming *arguendo* that *Zadvydas*' burden-shifting scheme is somehow inapplicable to Petitioner's case, the Notice remains legally deficient because the half-sentence explanation of the changed circumstances allegedly justifying redetention is "inadequate to enable [this Court] to perform any meaningful review." *Cf. Gutierrez-Almazan v. Gonzales*, 491 F.3d 341, 343-44 (7th Cir. 2007). In similar circumstances, when circuit courts of appeals are reviewing denials by the Board of Immigration Appeals ("BIA") of motions to accept an untimely brief, circuit courts have held the BIA holding "the reason stated by the respondent insufficient for us to accept the untimely brief in our exercise of discretion" is insufficient to allow for meaningful review of the agency's determination. *See, e.g.*, *Gutierrez-Almazan v. Gonzales*, 491 F.3d 341, 343-44 (7th Cir.

2007); *Garcia Gomez v. Gonzales*, 498 F.3d 1050, 1051 (9th Cir. 2007); *see also Davis v. Garland*, 91 F.4th 1259, 1261-62 (8th Cir. 2024) (citing *Garcia Gomez v. Gonzalez*, *inter alia*, before granting a petition for review based on the Board's failure to provide "an adequate explanation" for its decision, preventing this Court from "conduct[ing] a meaningful review of the BIA's… order").

III. Petitioner's Interest in Avoiding Unnecessary Extended Detention Far Exceeds the Government's Interests in Detaining Petitioner.

Under the Fifth Amendment, no citizen or noncitizen may be deprived of life, liberty, or property without due process of law. *See* U.S. Const. amend. V; *Mathews v. Diaz*, 426 U.S. 67 (1976); *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976) (due process is flexible, and the protections depend on the situation, considering the private interest at issue, the risk of erroneous deprivation of that interest through the procedures used, and the Government's interest). These protections extend to deportation proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

"The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Mathews*, 424 U.S. at 348–49; *cf. Bridges*, 326 U.S. 135, 152–53 (administrative rules are designed to afford due process and to serve as "safeguards against essentially unfair procedures").

The *Mathews v. Eldridge* balancing test counsels heavily in favor of finding a due process violation. Petitioner's private interest here is avoiding unnecessary periods of confinement in excess of those which are truly necessary to effect his lawful removal from the United States. *See* 424 U.S. at 334-35. The risk of erroneous deprivation of that interest

is especially high where, as occurred in Petitioner's case, the government detains an individual who has previously been thought to be unremovable in the absence of any newly acquired proof that the individual's removal can now be effected. The procedures used in Petitioner's own case are especially concerning, considering Petitioner has already been incarcerated for 24 days in 2025, yet the government still has not gotten around to applying for a travel document or even identifying a country from which to seek a travel document. ECF No. 1, ¶¶ 74, 76-77. Petitioner's substantial liberty interests and the risk of erroneous deprivation of said interests far outweigh the government's interest in executing a six-year-old removal order relating to an individual who was previously determined to not constitute a flight risk or ongoing danger to the community. *See* 8 C.F.R. § 241.4(e)(2)-(6).

IV. The Government's Detention of Petitioner Is Punitive.

Zadvydas held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual's interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain "nonpunitive in purpose and effect"**) (emphasis added).

The government's redetention of Petitioner is punitive. First, the government detained Petitioner without first obtaining a travel document, which necessarily requires increasing the detention period beyond that which would be necessary to effect a removal after a travel document had already been obtained. Second, the present administration has expressed and vocalized an intent to use civil detention punitively against noncitizens for the dual purposes of: (1) encouraging self-deportation, and (2) coercing foreign

recalcitrant governments to issue travel documents for its citizens ordered deported from the United States by demonstrating through a systematic campaign of abuse and terror that the recalcitrant government's citizens detained in post-removal-order custody will suffer immensely in the absence of such travel documents being issued. *Accord* ECF No. 1-1, Exhibit A, *100 Days of Fighting Fake News*, HOMELAND SECURITY (Apr. 30, 2025) ("**The reality is that prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.") (emphasis added);[2] *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added).

The foregoing contentions are buttressed by the realization that Petitioner is detained in Freeborn County Jail, a facility designed to house and punish convicted criminals. Petitioner's conditions of confinement are totally indistinguishable from those of convicted criminals, further demonstrating that Petitioner's detention is punitive.

[2] To the extent necessary to accord the requested relief, Petitioner requests that the Court judicially notice this press release under Fed. R. Evid. 201(b). The fact of the press release's issuance, and the fact of its contents, both constitute adjudicative facts not subject to reasonable dispute because the press release "can be accurately and readily determined from [federal government] sources whose accuracy cannot reasonably be questioned."

V. A Temporary Restraining Order Is Warranted.

In determining whether to grant a TRO, this Court must consider four factors:

(1) the probability that the moving party will succeed on the merits;

(2) the threat of irreparable harm to the moving party;

(3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and

(4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See Dataphase*, 640 F.2d at 113. The basic question is whether the balance of equities so favors the moving party "that justice requires the court to intervene to preserve the status quo until the merits are determined." *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has "repeatedly emphasized the importance of a showing of irreparable harm." *Caballo Coal Co. v. Ind. Mich. Power Co.,* 305 F.3d 796, 800 (8th Cir. 2002).

Petitioner incorporates all prior arguments by reference and submits that he has demonstrated that all four factors weigh strongly in favor of granting the requested TRO.

CONCLUSION

The Government has wide—but not unlimited—discretion in the immigration realm. *See Zadvydas*, 533 U.S. at 700 (recognizing that Executive Branch's wide discretion regarding immigration remains subject to constitutional limitations); *Ali v.*

Sessions, No.: 18-CV-2617-DSD-LIB, 2019 WL 13216940, at *3 (D. Minn. July 30, 2019) (recognizing that attorney general's discretionary detention authority is "subject to the constitutional requirement of due process"). At its foundation, due process prohibits detaining an individual without justification. Petitioner has established, and the Government has not sufficiently rebutted, that his detention is rooted in improper purposes and lacks an individualized legal justification. *See, e.g.*, *Mohammed H.*, 2025 WL 1692739, at *5; *Ozturk v. Trump*, 2025 WL 1420540, at *7.

The Court must grant Petitioner's emergency motion for a temporary restraining order and order Petitioner's immediate release from custody.

DATED: August 10, 2025

Respectfully submitted,

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