

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Roosevelt Bartu, Jr.,

Case No.: _____

Petitioner


v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

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; Joel Brott, Sherburne County Sheriff.

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

1. Respondents are detaining Petitioner, Roosevelt Bartu, Jr. (A ) , in violation of law.
2. Bartu is a citizen of Liberia. He was previously a permanent resident until an immigration judge ordered him removed. Bartu is appealing the agency's removal order and he has a petition for review currently pending in the U.S. Court of Appeals for the Eighth Circuit. Shortly after Bartu filed his petition for review, the Eighth Circuit granted him a stay of removal pending the outcome of the petition for

review.

3. Bartu was serving a criminal sentence in the custody of the Minnesota Department of Corrections from January 2022 (while serving the first two months or so of his sentence in Hennepin County, with the sentence starting on November 5, 2021) until he was transferred to the custody of U.S. Immigration & Customs Enforcement (“ICE”) on or around December 4, 2023.
4. Bartu was charged with criminal grounds of deportability under 8 U.S.C. § 1227, which subjected him to mandatory detention under 8 U.S.C. § 1226(c) after the immigration judge sustained the charges.
5. Bartu has been in ICE’s custody without interruption since December 4, 2023, a period of 616 days, or 20 months, without so much as an opportunity to request an immigration bond.
6. Bartu was initially ordered removed by the immigration judge on April 17, 2024. Thus, as of the time of this petition’s filing, Bartu has been detained for 482 days, or nearly 16 months, after being ordered removed.
7. Bartu appealed the immigration judge’s order to the BIA and challenged, among other things, the immigration judge’s order of removal. The Board affirmed the order of removal on October 11, 2024, making that portion of the decision administratively final and thereby triggering the “removal period” defined by 8 U.S.C. § 1231(a)(1)(B)(i).

8. Statute states the “removal period” lasts 90 days. 8 U.S.C. § 1231(a)(1). The removal period in Bartu’s case therefore elapsed on January 9, 2025.
9. Bartu has been detained, as of August 11, 2025, for 305 days past the statutory removal period (338.88% longer than the 90-day removal period).
10. There is no significant likelihood that Bartu will be removed to Liberia in the reasonably foreseeable future.
11. Bartu is presently a non-violent person.
12. Bartu is likely to remain nonviolent if released.
13. Bartu is not likely to pose a threat to the community following release.
14. Bartu is not likely to violate the conditions of release.
15. Bartu does not pose a significant flight risk if released.
16. The purpose and effect of Bartu’s continued incarceration has become punitive. Bartu characterizes his present incarceration in Sherburne County Jail as a much more severe punishment than his period of incarceration for a felony offense that was served in the Minnesota Department of Corrections facilities located in St. Cloud, Minnesota and Stillwater, Minnesota.
17. Bartu has recently been denied medical care and funds for medical care and supplies (including shower shoes, toothbrushes, haircuts, razors, nail clippers) while incarcerated in Respondents’ custody. ICE is no longer covering Bartu’s medical expenses, which is inhibiting Bartu’s ability to receive medical care for injuries or conditions.

18. Bartu is being denied the right to self-defense while in Respondents' custody, and is being punished and placed into extended periods of solitary confinement for protecting himself from other inmates who were physically assaulting him. This has happened on multiple occasions. Bartu has never been the aggressor in any of the altercations he has had while at the jail; Bartu has been the victim every time.
19. Bartu believes he is being discriminated against by correctional officers at the jail on the basis of his race and/or nationality, as a black man and/or a Liberian/African. This belief stems from a variety of personal experiences at the jail, but one example arose around February 4, 2025 when Bartu was pushed by another (white) inmate in the lunch line in view of Deputy Evans. Deputy Evans witnessed this incident and did not intervene. Bartu went to his cell to cool off. Later, Bartu spoke with the other inmate, trying to address the issue, and the other inmate started a physical altercation with Bartu. Bartu was taken to the hole for 10 days.
20. Bartu is being physically harmed and assaulted by correctional officers at Sherburne County Jail. One instance occurred on March 9, 2025. On this date, Bartu was manhandled by three sergeants and five deputies after a deputy, without due justification, called a "Code Orange" on Mr. Bartu. The deputy approached Bartu, forcefully grabbed his arm and told Bartu to turn around, forcing Bartu to the ground by the back of his shirt. Bartu was expressing his frustration with this treatment, which led other deputies to jump in. Bartu found himself having his ankles twisted by correctional officers while 4-5 different knees were pressed forcefully against his back. Bartu was also threatened with a taser during this interaction. After being

cuffed, Bartu was pushed down the stairs and through a hallway, being verbally demeaned by the correctional officers the entire time. Bartu was placed in a restraint chair and tied up. Bartu kept telling correctional officers that his ankle was in a great deal of pain, and Bartu's complaints were ignored. Bartu received 20 days of solitary confinement for this incident and was also charged with a trumped-up disciplinary offense. Bartu was released early from solitary confinement after he notified counsel of what happened, leading counsel to notify the jail that counsel was aware of the mistreatment.

21. On May 17, 2025, jail staff allowed Bartu to be jumped and physically assaulted by three U.S. Marshal inmates housed at Sherburne County Jail. Two other immigrant detainees saw what was happening and came to Bartu's defense to try and protect him after officers failed to intervene or protect Bartu. During this scuffle, Bartu swung at one of his assailants in self-defense. Bartu was given 20 days of solitary confinement for this because, according to jail staff, Bartu was "the common denominator" in all of the fights he was involved in without regard to the fact that Bartu was never the aggressor and only ever acted in self-defense. Jail staff declined to include in their reports that Bartu was the victim to help justify the punishment imposed on Bartu.
22. Bartu's solitary punishment, relating to the May 17 event, appears to have been altered by jail staff. Bartu ended up serving 7 days in solitary confinement, followed by 20 days in max (with significantly reduced privileges), followed by 20 days in

the Gamma Housing Unit (with significantly reduced privileges relative to general population, but more privileges than max or solitary confinement).

23. Bartu has filed a number of grievances with Sherburne County Jail, but to no avail. One of his more pertinent and recent grievances was filed on July 24, 2025. In that document, he states:

"I AM SCARED FOR MY SAFETY IN THIS JAIL." I been discriminate my whole time in Sherburne County. I've been beaten while in handcuff and shackles. I was denied all from "ICE" and my attorney since Tuesday 7-22-25 till now, I was slammed with my upper body by multiples dupities and a sergeant they slammed my head on the ground. I am requesting a immediate transfer to "Kandiyoha County" please because I do not feel [safe] in Sherburne County at all. I have been in the cell with no toilet or sink and a mattress with no sheet but one blanket and I'm also sleeping on the ground, I haven't taken a shower or brush my teeth since Tuesday 7-22-25. My privacy was envaded by the deputies and the sergeant by letting master control watch me being strip search. "I am requesting a move ASAP I'm not safe here."

Exhibit A, ICE Detainee Request Form.

24. ICE Staff, identified as FSP0659A, responded to this grievance on July 29, 2025, stating, "ICE is not conducting transfers at this time. If you are having issues with the jail, file a grievance with the facility."
25. Bartu's present situation in Sherburne County Jail is so unbearable that he has instructed his counsel to seek transfer to a different facility even if that means leaving the State of Minnesota (while also expressing a preference to remain in Minnesota if possible). Bartu's attorney has communicated this request to Assistant Field Office Director Richard Pyrd. It is unknown whether the request for a transfer will be honored, and if so, when that request will be honored.

26. Mr. Bartu is again dealing with restricted privileges (in the hole until October 25, 2025) at the time of this filing due to misrepresentations by jail staff regarding Mr. Bartu's actions. Video cameras, audio recordings, and other inmate narratives from inmates who were present for the most recent incident will rebut any false claims made in reports authored by jail correctional staff.
27. Bartu remains detained at this time. He is housed in Sherburne County Jail, a facility designed to house and punish convicted criminals. Bartu's conditions of confinement are totally indistinguishable from those of convicted criminals. Moreover, as explained above, Bartu finds his current conditions of confinement vastly more punitive than his prior conditions of criminal confinement in two Minnesota prisons.
28. Bartu was previously confined by ICE at Kandiyohi County Jail for a few months, and at Freeborn County Jail for about six months. Bartu had a few issues with a specific correctional officer at Freeborn County Jail, but had no substantive or material problems at Kandiyohi County Jail. When Bartu was incarcerated at Kandiyohi, he did not feel that his detention was punitive. Outside of issues with the one specific correctional officer at Freeborn County Jail, he did not feel that his detention was punitive. However, in contrast to Freeborn County and Kandiyohi County, Bartu believes his detention at Sherburne has been punitive in purpose, effect, or both.
29. Binding precedent holds that immigration detention, which is civil in nature, must not be punitive in purpose or effect.

30. Federal statutes and regulations require ICE to release individuals with administratively final orders of removal when there is no significant likelihood of removal in the reasonably foreseeable future and the removal period has elapsed, as is the case for Bartu. *See* 8 U.S.C. § 1231(a); 8 C.F.R. § 241.4(e); 8 C.F.R. § 241.13. ICE failed to comply with these laws.
31. To remedy this unlawful detention, Bartu seeks declaratory and injunctive relief in the form of immediate release from detention.
32. Pending the adjudication of his Petition, Bartu seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota.
33. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Bartu outside the State of Minnesota.
34. Bartu requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hours-notice prior to any removal or movement of him away from the State of Minnesota.
35. Bartu requests an order compelling Respondents to release him pending the outcome of this petition. Alternatively, Petitioner requests an emergency preliminary order


compelling Respondents to immediately relocate Bartu to Kandiyohi County Jail, or to release Petitioner on an Order of Supervision if Kandiyohi cannot accommodate him.

JURISDICTION AND VENUE

36. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1231(a)(1)-(3) and 8 C.F.R. §§ 241.4, 241.13.
37. Because Bartu seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.
38. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).
39. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Bartu is detained within this District. He is currently detained at the Sherburne County Jail in Elk River, Minnesota. Venue is also proper in this Court

pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

40. Petitioner Bartu is a citizen of Liberia. His Alien Registration Number (“A number”) is . Petitioner Bartu is a resident of Minnesota. He is an alien with an administratively final removal order. Bartu is currently in custody at the Immigration and Customs Enforcement (“ICE”) detention center in Elk River, Minnesota.
41. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Bartu.
42. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Bartu’s detention and removal. As such, Respondent Noem is a legal custodian of Bartu.
43. Respondent Department of Homeland Security (“DHS”) is the federal agency

responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

44. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.
45. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.
46. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations ("ERO")
47. Respondent Peter Berg is being sued in his official capacity as the Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Berg has supervisory authority over the ICE agents responsible for detaining Bartu. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.
48. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Jail. Because Petitioner is detained in the Sherburne County Jail, Respondent Brott has immediate day-to-day control over Petitioner.

EXHAUSTION

49. ICE asserts authority to jail Bartu pursuant to the mandatory detention provisions of

8 U.S.C. § 1226(c). No statutory requirement of exhaustion applies to Bartu's challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'"); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).

50. To the extent that prudential consideration may require exhaustion in some circumstances, Bartu has exhausted all effective administrative remedies available to him. Any further efforts would be futile.
51. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
52. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his

claim.” *McCarthy*, 503 U.S. at 147. Every day that Bartu is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) (“Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion.”); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that “a loss of liberty” is “perhaps the best example of irreparable harm”); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that “detention has inflicted grave” and “irreparable harm” and describing the impact of prolonged detention on individuals and their families).

53. Prudential exhaustion is additionally not required in cases where the agency “lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute.” *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Bartu raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).
54. Because requiring Bartu to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential

matter.

55. In any event, Bartu has indeed exhausted all remedies available to him.
56. ICE has denied Bartu release because: (A) it incorrectly believes Bartu's removal period has not already elapsed, and (B) ICE and/or Sherburne County Jail (or either of their respective agents or assigns) seek to punish Bartu.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

57. Bartu incorporates by reference paragraphs 1-28, *supra*.
58. Bartu's period of detention is more than four times the presumptively reasonable period established in *Zadvydas* and the period of detention contemplated in *Demore*.¹
59. Respondents maintain Bartu is ineligible for release from custody.
60. On April 30, 2025, the Department of Homeland Security issued a press release entitled *100 Days of Fighting Fake News*.¹ In that document, DHS referenced civil immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the document states:

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.**

Exhibit B (emphasis added).

61. Myriad courts around the country have granted habeas corpus petitions and/or

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

enjoined the current administration's attempts to use civil detention punitively against noncitizens. *See, 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) (“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); *Mahdawi v. Trump*, --- F. Supp. 3d ---, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter others from speaking); *Ozturk*, --- F. Supp. 3d ---, 2025 WL 1145250, at *60 (“So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system.”); *see also Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (“The order of deportation is not a punishment”).

LEGAL FRAMEWORK

62. Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.
63. Section 1231 mandates detention “[d]uring the removal period.” *Accord* 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, the same sections also require the government to actually remove the alien during this removal period. 8 U.S.C. § 1231(a)(1)(A).
64. The “removal period” is “90 days.” 8 U.S.C. § 1231(a)(1)(A). Petitioner's “removal period” ended on January 9, 2025.
65. Detention past the removal period can be lawful in circumstances not presented

here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).

66. After a noncitizen has been detained past the removal period, they may seek and obtain their release by demonstrating “there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future.” 8 C.F.R. § 241.13(a).
67. 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).
68. Redetention is permitted where it is alleged a noncitizen violated the conditions of release. *See* 8 C.F.R. § 241.13(h)(2), (i).
69. 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). 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.* 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).

70. 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.”

71. *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).

72. *Zadvydas* further 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).

REMEDY

73. Respondents’ detention of Bartu violates the Due Process Clause of the United States Constitution. Bartu’s ongoing detention violates the Fifth Amendment’s

guarantee that “[n]o person shall be . . . deprived of life, liberty, or property without due process of law.” U.S. Const., amend. V.

74. Due Process requires that detention “bear [] a reasonable relation to the purpose for which the individual [was] committed.” *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
75. Bartu seeks immediate release to the extent that Respondents justify his detention on the idea that Petitioner has failed to demonstrate that there is no significant likelihood of his removal in the reasonably foreseeable future.
76. Bartu seeks immediate release to the extent that Respondents’ detention of Bartu has become punitive in purpose and/or effect. Bartu’s challenge to his conditions of detention is an “as applied” challenge, rather than a categorical challenge to the mandatory detention scheme.
77. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court determine that 8 U.S.C. § 1226(c)’s mandatory detention provisions are not facially punitive. “Demore stands for the proposition that detention pursuant to § 1226(c) is generally not punitive because it serves a valid governmental purpose’ but does not address whether, as applied in a particular case, section 1226(c) is punitive and thus unconstitutional.” *Jimenez v. Current or Acting Field Office Director, San Francisco Field Office, U.S. Immigration & Customs Enforcement*, No. 23-CV-03566 (SVK), 2024 WL 714659, at *10 (N.D. Cal. Feb. 21, 2024) (quoting *I.E.S. v. Becerra*, No. 23-CV-03783 (BLF), 2023 WL 6317617, at *9 (N.D. Cal. Sept. 27, 2023)).

78. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) (“A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus”), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.”).
79. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) (“The typical remedy for [unlawful executive detention] is, of course, release.”); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 “is to obtain release from the duration or fact of present custody.”).
80. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, “habeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court’s broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (“Habeas corpus is an equitable

remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

81. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

82. Bartu re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
83. Bartu requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Bartu is detained pursuant to 8 U.S.C. § 1231(a)(1).
84. Bartu requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Bartu has demonstrated that there is no significant likelihood of his removal in the reasonably foreseeable future ("NSLRRFF").
85. Bartu requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that he otherwise satisfies the conditions for release on an Order of Supervision found at 8 C.F.R. § 241.4(e).
86. Bartu requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that his detention at Sherburne County Jail has become punitive in purpose and/or effect.

COUNT TWO: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT
- 8 C.F.R. § 241.4(e)

87. Bartu re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
88. Section 1231(a)(1)-(3) of Title 8 of the U.S. Code and 8 C.F.R. § 241.4 governs the

detention and release of aliens with administratively final orders of removal.

89. Respondents have failed to comply with these provisions.
90. No independent alternative basis supports Respondents' decision to continue detaining Petitioner.
91. Petitioner is therefore detained in violation of the INA.

**COUNT THREE: VIOLATION OF THE IMMIGRATION & NATIONALITY
ACT – PUNITIVE DETENTION – AS APPLIED**

92. Bartu re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
93. *Zadvydas, v. Davis* provides that immigration detention may not be punitive in purpose or effect. 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
94. Bartu's detention has become punitive in effect.
95. Bartu's detention continues for the purpose of punishing Bartu.
96. No independent alternative basis supports Respondents' decision to continue detaining Petitioner.
97. Petitioner is therefore detained in violation of the INA.

COUNT FOUR: VIOLATION OF THE FIFTH AMENDMENT

98. Bartu re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
99. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by

adequate procedures to ensure that detention is serving its legitimate goals. It further requires that detention cease when a noncitizen has established to the government's satisfaction that there is no significant likelihood of removal in the reasonably foreseeable future after the noncitizen has been ordered removed and has served six months in post-removal-order custody.

100. Bartu is no longer subject to mandatory custody under the Immigration & Nationality Act. He has served more than six months in post-removal-order detention. He has established that there is no significant likelihood of removal in the reasonably foreseeable future. Thus, Respondents have violated Bartu's Fifth Amendment guarantee of due process.
101. Respondents have also independently violated Bartu's Fifth Amendment due process right by incarcerating him to punish him and/or by subjecting him to conditions of confinement that have the effect of punishing Bartu.

**COUNT FIVE: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT
– CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY
POLICY**

102. Bartu re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
103. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
104. Respondents have failed to articulate any reasoned explanation for not releasing

Petitioner on an Order of Supervision under 8 C.F.R. § 241.4(e).

105. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring or failing to comply with the plain language of 8 C.F.R. § 241.4.
106. Respondents have failed to articulate any reasoned explanation for not transferring Bartu out of Sherburne County Jail to a less punitive facility.
107. Respondents have failed to articulate any reasoned explanation for ceasing payment of Bartu's necessary medical expenses while he is detained in Respondents' custody.
108. Respondents' decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the problem, and have offered explanations for their decisions that run counter to the evidence before the agencies.
109. Respondents' decision to continue detaining Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Roosevelt Bartu, Jr., asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an emergency preliminary order restraining Respondents from attempting to move Bartu from the State of Minnesota during the pendency of this Petition.
3. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Bartu outside the State of Minnesota.

4. Order Bartu's immediate release. Alternatively, issue an emergency preliminary order requiring Respondents to transport and house Bartu to Kandiyohi County Jail pending the outcome of this petition, and to release Bartu within 3 days of the Court's order if Kandiyohi cannot or will not accept Bartu.
5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.
6. Schedule an evidentiary hearing and have the Parties testify, under oath, about the punitive nature of Bartu's detention at Sherburne County Jail.
7. Declare that Respondents' action is arbitrary and capricious.
8. Declare that Respondents failed to adhere to binding regulations and precedent.
9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
10. Permanently enjoin Respondents from deporting Bartu to an allegedly safe third country without first giving Bartu due process in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.
11. Grant Bartu reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
12. Grant all further relief this Court deems just and proper.

DATED: August 10, 2025

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

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Attorney for Petitioner

Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Roosevelt Bartu, Jr.
Roosevelt Bartu, Jr.

Dated: August 10, 2025