UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Roosevelt B.,

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; Joel Brott, Sherburne County Sheriff.

Respondents.

Case No.: 25-CV-03198-PJS-DTS

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO THE ORDER TO SHOW CAUSE

EXPEDITED HANDLING REQUESTED

INTRODUCTION

Petitioner, Roosevelt Bartu, Jr., filed a petition for a writ of habeas corpus and concurrently filed a motion for a temporary restraining order ("TRO") and preliminary injunction ("PI") on August 11, 2025 alleging that he is being detained in violation of law. ECF Nos. 1-4. On August 14, 2025, the Court issued an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention by August 22, 2025. ECF No. 6. On August 22, 2025, the federal government Respondents submitted documents explaining, in their view, why Petitioner is lawfully detained. *See* ECF Nos. 8-10. The

local Respondent, Sheriff Joel Brott, did not file any response addressing whether Petitioner is being punished by local authorities in connection with his civil detention. Notwithstanding the federal Respondents' contentions, a preponderance of the evidence demonstrates that Petitioner is being held in violation of the laws or constitution of the United States. Consequently, the Court must order Petitioner's immediate release. Alternatively, and at minimum, the Court must order Petitioner be moved to a different detention facility and placed in conditions that are not punitive.

PROCEDURAL & FACTUAL HISTORY

Bartu is a citizen and national of Liberia. ECF No. 9, ¶ 4. Bartu entered the United States as a lawful permanent resident on December 22, 2015. *Id.* He was ordered removed from the United States by an immigration judge on April 17, 2024. *Id.*, ¶ 10. The Board of Immigration Appeals ("BIA" or "Board") affirmed the removal order, rendering it administratively final, on October 11, 2024. *See id.*, ¶ 14; ECF No. 10-7.

Although Bartu's removal order became administratively final on October 11, 2024, he has remained in detention as his case has bounced between the BIA, immigration court, and Eighth Circuit Court of Appeals repeatedly. *Accord* ECF No. 9, ¶¶ 10-24. Bartu's post-removal claims for relief (withholding of removal and/or deferral of removal under the Convention Against Torture ("DCAT")) are presently stuck at the BIA after the Eighth Circuit granted Bartu's petition for review (filed under 8 U.S.C. § 1252) on August 14, 2025. *E.g.*, ECF No. 9, ¶ 26.

In the time since Bartu's removal order became administratively final, he has been civilly detained under 8 U.S.C. § 1231 for 317 days (as of August 24, 2025). The statutory

"removal period" lasts 90 days and elapsed on January 9, 2025. *See* ECF No. 1, ¶ 8.

Bartu is presently a non-violent person. *Id.*, ¶ 11. Bartu is likely to remain non-violent if released. *Id.*, ¶ 12. Bartu is not likely to pose a threat to the community following release. *Id.*, ¶ 13. Bartu is not likely to violate conditions of release if released on an order of supervision. *Id.*, ¶ 14. Bartu does not pose a significant flight risk. *Id.*, ¶ 15. There is no significant likelihood that Bartu will be removed to Liberia in the reasonably foreseeable future, especially while withholding of removal and DCAT claims remain pending before the BIA and/or immigration court since, by law, removal cannot be accomplished until those proceedings are complete. *Id.*, ¶ 10; ECF No. 9, ¶ 26.

Bartu has been having an extremely difficult time in civil detention. *See id.*, ¶¶ 16-27. Bartu previously swore under penalty of perjury that the following facts regarding the punitive nature of his detention are true:

> 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.
>
> 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.
>
> 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.

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.

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.

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.

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).

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.

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."

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.

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.

> 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.
>
> 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.

ECF No. 1, ¶¶ 16-28; *see also* Ratkowski Decl., Exhibit A at 1-5 (recently received corroboration evidence).

Since filing his petition and motion documents, Bartu has continued to suffer and has filed additional grievances with both Sherburne County Jail and ICE, further demonstrating the punitive nature of his present confinement. *See* Ratkowski Decl., Exhibit A at 1, ICE Detainee Request Form (Aug. 18, 2025) ("I have been ask/requested an immediate transfer to Kandiyoh[i], Freeborn, or Carver County since 7-24-25 due to me being mistreated, discriminated, beaten while in handcuff and shackles by Sherburne County Sergeants and staffs… I AM BEGGING YOU GUYS TO PLEASE TRANSFER ASAP, I DO NOT FEEL SAFE IN SHERBURNE AT ALL. I don't care where I go pls transfer me asap pls"); *see also* ECF No. 1-1.

On August 22, 2025, the federal Respondents submitted a declaration from ICE Deportation Officer John. D. Ligon. ECF No. 9. Ligon sets forth his professional

background clearly and does not claim to be an attorney or to have any legal training. *See id.* ¶¶ 2-3. Ligon does not make any attempt to rebut Bartu's factual claims about the punitive purpose or effect of Bartu's present confinement. *See* ECF No. 9. Despite having the opportunity to contest those allegations, Ligon remains silent. *Id.* This silence, in combination with Sheriff Brott's silence, allows the Court to grant the present petition (or at least motion) without an evidentiary hearing based on Bartu's unrebutted and sworn factual allegations. *Cf.* Fed. R. Civ. P. 56(e)(2)-(3); *Toney v. Gammon*, 79 F.3d 693, 697 (8th Cir. 1996) (In a habeas corpus proceeding, an evidentiary hearing is appropriate only where material facts are in dispute.); ECF No. 8 at 27 n.12.

Ligon does not claim that it is significantly likely that Bartu will be removed to Liberia in the reasonably foreseeable future. ECF No. 9. Ligon likewise fails to state whether (and when, if at all) Respondents have conducted any meaningful review to determine whether Bartu should be released on an Order of Supervision ("OOS") under 8 C.F.R. § 241.4.

ARGUMENT

I. Bartu Is Detained Under 8 U.S.C. § 1231. Bartu's Removal Order Became Administratively Final on October 11, 2024.

On June 26, 2025, the Supreme Court issued *Riley v. Bondi*, 145 S. Ct. 2190 (2025). *Riley* explicitly held, "[a]n order denying relief under the CAT is not a final order of removal and does not affect the validity of a previously issued order of removal or render that order non-final." 145 S. Ct. at 2199. This holding followed an analysis of other precedents that explicitly approved of the bifurcated system Respondents now claim is

unworkable, noting that the first final order of removal controls timing-related questions throughout the rest of the case regardless of whether future decisions seek to address relief from that first final order. *See id.* at 2198-2200.

Although Bartu's removal order became administratively final on October 11, 2024, Respondents suggest no administratively final order exists because removal orders are not bifurcated from orders relating to post-order relief from removal, such as withholding of removal or DCAT. Respondents' contention that bifurcating a single IJ order into multiple sub-orders contradicts statutory and regulatory language is contradicted by binding precedent and by the plain language of the statutes Respondents rely upon.

The Supreme Court's holdings in *Riley* preclude the Court from adopting Respondents' proposed reading of statutory and regulatory text while squarely demonstrating that Bartu's order of removal became administratively final once the 30-day period to appeal the removal order elapsed. *See, e.g., id.*; 8 C.F.R. § 1241.1(c); ECF No. 10-11 (BIA Notice of Appeal demonstrating the most recent administrative appeal was only from the denial of withholding of removal and DCAT, not the underlying order of removal).

Riley's reasoning applies directly to § 1229a removal proceedings despite addressing § 1228(b) Final Administrative Removal Orders because the Supreme Court's analysis focused on the substantive question of administrative finality, not the procedural mechanism for removal. The Court emphasized that "removal orders and withholding-only proceedings address two distinct questions" and "end in two separate orders," with

"**the finality of the order of removal [not depending] in any way on the outcome of the withholding-only proceedings.**" *Johnson v. Guzman Chavez*, 594 U.S. 523, 539 (2021) (emphasis added) (cited approvingly in *Riley* at 2198-99).

This principle applies with equal force regardless of whether removal proceedings commence under § 1228(b) or § 1229a. In both contexts, the decisionmaker makes two analytically distinct determinations: (1) whether the individual is removable from the United States, and (2) whether the individual qualifies for protection from removal to a particular country. *Riley* established that these determinations retain their separate character even when issued in a single proceeding, and that the administrative finality of the removal determination is unaffected by ongoing proceedings regarding protection claims.

The Supreme Court's statutory interpretation in *Riley* reflects the broader principle that administrative finality turns on whether the core legal determination has been conclusively resolved at the administrative level, not on the particular statutory framework under which proceedings were initiated. *See Nasrallah v. Barr*, 590 U.S. 573, 582 (2020) (finding that CAT determination "does not merge into the final order of removal" for jurisdictional purposes). To hold otherwise would create the arbitrary distinction between procedural contexts that *Riley* explicitly rejected, undermining the uniform application of § 1231's detention limits that Congress intended.

The text of 8 U.S.C. § 1231(a)(1)(B)(ii) does not change the analysis because that statutory language explicitly pertains to situations where "**the order of removal** is judicially reviewed **and** if a court orders a stay of the removal of the alien, the date of the

court's final order." 8 U.S.C. § 1231(a)(1)(B)(ii) (emphasis added). Here, no court has ever reviewed the order of removal. Instead, the Eighth Circuit reviewed the Board's denial of DCAT/withholding relief after refusing to meaningfully consider a motion to accept an untimely brief that was supported by good cause. *See* ECF No. 10-1. Because no order of removal was ever judicially reviewed, the fact that a stay of removal was entered is irrelevant due to the statute's use of the conjunctive "and" as opposed to the disjunctive "or." *E.g.*, *United States v. Pulsifer*, 39 F.4th 1018, 1021 (8th Cir. 2022) ("The most natural reading of 'and' is conjunctive—'along with or together with.' … [W]e typically would not construe a statute to carry [a] nonliteral meaning unless there were clear indications in the statute that dictate the result.") (citations omitted).

Respondents' citation to *Bah v. Cangemi*, 489 F. Supp. 2d 905 (D. Minn. 2007) does not change anything because *Bah* issued more than 18 years before the Supreme Court's recent *Riley* decision that Bartu relies upon. What was true in 2007 is no longer true due to the intervening *Riley* decision. Bartu is detained under § 1231 and has been since October 11, 2024.

Because Petitioner's removal order became administratively final on October 11, 2024, Petitioner has accrued hundreds of days of post-final-order custody, many hundreds of which have occurred after the 90-day removal period elapsed. All of this was and remains § 1231 detention subject to the holdings of *Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001), which held that a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. *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).

Respondents have provided no evidence that demonstrates at all, much less by a preponderance of the evidence, that Bartu's removal is likely to occur in the reasonably foreseeable future. As such, his detention is unconstitutional and this Court must order his immediate release.

II. Bartu Raises No Claim Under § 1226(c). Nonetheless, His Detention Is Punitive.

Bartu acknowledges that *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024) prevents him from making an indefinite detention claim if he is detained under 8 U.S.C. § 1226; he makes no such claim. However, *Zadvydas* held that **immigration detention must remain "nonpunitive in purpose and effect."** 533 U.S. at 690 (emphasis added). Thus, if Bartu's detention is punitive in either purpose or effect, it is unconstitutional as applied to Bartu regardless of whether the underlying basis for detention is § 1226 or § 1231. Bartu reiterates that his detention is punitive in purpose, effect, or both, rendering the detention unconstitutional independent of any facially legitimate basis for detention.

Bartu has been treated worse than the convicted criminals he is housed with at Sherburne County Jail. *See* ECF No. 1, ¶¶ 16-28. He has been "denied the right to self-defense… and is being punished and placed into **extended periods of solitary**

confinement" as a consequence of trying to "protect[] himself from other inmates who were physically assaulting him. This has happened on multiple occasions" even though Bartu "has never been the aggressor" and has always "been the victim." *Id.*, ¶ 18 (emphasis added); *see also id.*, ¶ 21. Bartu has been "**physically harmed and assaulted by correctional officers at Sherburne County Jail.**" *Id.*, ¶ 20 (emphasis added). After one of these correctional officer assaults, Bartu "**was placed in a restraint chair and tied up.**" *Id.* (emphasis added). "Bartu kept telling correctional officers that **his ankle was in a great deal of pain, and Bartu's complaints were ignored.**" *Id.* (emphasis added). Bartu was even charged "with a trumped-up disciplinary offense" and sentenced to 20 days of solitary confinement before counsel intervened to shorten the punishment period. *See id.*

Bartu has been subjected to well over 60 days of solitary confinement while housed at Sherburne County Jail. *See id.*, ¶¶ 19-23. Considering he is currently in solitary confinement, and has been for weeks, and considering he is to remain "in the hole until October 25, 2025," the situation is getting worse and requires immediate remediation. *See id.*, ¶¶ 26-27. Bartu has also explained his belief that he is being denied medical care and supplies, as well as being actively discriminated against and mistreated by Sherburne County Jail correctional officers on the basis of his race and nationality. *Id.*, ¶¶ 17, 19.

Bartu has credibly explained that the conditions he is suffering at Sherburne County Jail are worse than those he suffered when serving a state prison sentence in the Minnesota Department of Corrections. *See id.*, ¶ 27 ("Bartu finds his current conditions of confinement **vastly** more punitive than his prior conditions of criminal confinement in two

Minnesota prisons.") (emphasis added). Bartu has also credibly explained that he did not feel he was subjected to punitive detention while housed at Kandiyohi County Jail or Freeborn County Jail prior to being transferred to Sherburne County Jail. *Id.*, ¶ 28.

As noted in the principal motion briefing, numerous courts have acknowledged that solitary confinement is inherently punitive. *See* ECF No. 3 at 9-12. Ergo, if civil detention is not supposed to be punitive, solitary confinement is constitutionally unacceptable.

Respondents suggest the Eighth Circuit's decision in *Spencer v. Haynes* deprives this Court of jurisdiction over Bartu's claims of punitive detention. *See* ECF No. 8 at 23-24 (citing *Spencer*, 774 F.3d at 470).

It is certainly true that *Spencer* states:

> As we stated in *Kruger v. Erickson,* "[i]f the prisoner is not challenging the validity of his conviction or the length of his detention, such as loss of good time, then a writ of habeas corpus is not the proper remedy." Spencer does not challenge his conviction, nor does he seek a remedy that would result in an earlier release from prison. Rather, Spencer argues on appeal that being put in four-point restraints for such an extended period of time violated his Eighth Amendment right against cruel and unusual punishment. As such, Spencer's constitutional claim relates to the conditions of his confinement. Consequently, a habeas petition is not the proper claim to remedy his alleged injury.

Spencer, 774 F.3d at 469-70 (footnote and citations omitted).

The problem with Respondents' reliance on *Spencer* is that *Spencer* contemplates a conviction being the basis for detention. *Spencer* only applies to ***criminal*** detainees. It does not and cannot apply to ***civil*** detainees who are incapable of raising an Eighth Amendment claim from civil detention due to the lack of an underlying conviction. Moreover, the Eighth Circuit lacks the authority to overrule the Supreme Court's

Zadvydas decision, which expressly stated immigration detention cannot be punitive, further demonstrating that *Spencer* has no application to the facts before the Court.

The *Kruger* decision further demonstrates *Kruger*'s and *Spencer*'s total lack of applicability here, stating, "[i]f the prisoner is not challenging the validity of his conviction or the length of his detention, such as loss of good time, then a writ of habeas corpus is not the proper remedy." *Kruger v. Erickson*, 77 F.3d 1071, 1073 (8th Cir. 1996). If *Kruger* applied to civil immigration detention, then every single immigration-related habeas petition that has been granted in this district—or in the many other districts within the Eighth Circuit's jurisdiction—since March 1, 1996, was *ultra vires*. This would be absurd and is plainly untrue.

Respondents also quote *Banyee*, 115 F.4th at 934, stating, "[n]or is it a problem that the jail the government used also housed criminals. It takes more to turn otherwise legal detention into unconstitutional punishment." ECF No. 8 at 24 (internal quotations omitted). Perhaps the "more" the *Banyee* Court was referring to was a combination of extended solitary confinement, use of restraint chairs, denial of medical care and supplies, assaults by correctional officers, assaults by inmates, mistreatment on the basis of race and nationality, and the denial of one's natural and inalienable right to self-defense. What is plain is that Bartu is necessarily, by design, suffering more severe punishment than criminal detainees housed at the same jail who are housed in general population with standard inmate privileges. If everyone at the jail was subjected to solitary confinement, it might arguably cease to constitute a punishment. But when solitary confinement is used retributively against a single individual, as it has been here, it is plainly punishment.

The rest of Respondents' citations on this issue are totally inapposite. Bartu is not attempting to combine a civil rights claim for damages with a habeas claim. He is only challenging unlawful detention, part of which includes his claim that the purpose or effect of detention is unconstitutionally punitive. No part of his complaint seeks or alludes to monetary damages.

III. Petitioner Is Entitled to Preliminary Emergency Injunctive Relief.

Respondents submit that Bartu is not entitled to preliminary injunctive relief. Bartu concedes that ordering his immediate release is only proper if the Court agrees that Bartu has demonstrated a sufficient likelihood of succeeding on the merits of his claim relating to punitive detention (regardless of whether the detention is occurring under §§ 1226 or 1231).

Although Bartu continues to assert that immediate release is the proper remedy, even in the context of a motion for emergency preliminary injunctive relief, the Court could choose to instead order Bartu transferred to Kandiyohi County Jail, Freeborn County Jail, or even Carver County Jail, all of which are ICE detainee facilities in Minnesota that impose substantially less punitive conditions on ICE detainees. Similarly, the Court could preliminarily enjoin Respondents (both federal and local) from subjecting Petitioner to punitive conditions of confinement such as solitary confinement, and could order Respondents to immediately place Bartu back into general population with a full restoration of privileges afforded to every other inmate house in general population at the jail. The Court could preliminarily enjoin Respondents from continuing to deny medical supplies and care to Bartu. In other words, the Court can impose meaningful intermediate

preliminary injunctive relief that aims to restore Bartu's civil confinement to non-punitive conditions pending the outcome of his habeas petition.

Bartu has clearly met his burden for obtaining the preliminary emergency injunctive relief identified above, especially with respect to the punitive detention issues, which Respondents have not made the slightest attempt to factually rebut.

Bartu has established he is likely to succeed on the merits of his habeas petition, which is by far the most important *Dataphase* factor. *See Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 113 (8th Cir. 1981) (*en banc*). The remaining three factors all strongly favor Bartu, or, at minimum, are neutral. The threat of irreparable harm is plain—Bartu cannot sustain an action for damages, and he is not going to get his time in detention back, making the harm he is experiencing from unlawful detention plainly irreparable. The remaining two factors are either neutral or favor Bartu. Though Respondents claim "[t]here is a strong public interest in the **efficient** administration of the nation's immigration laws," Respondents' actions are neither efficient nor made according to law. *See generally* ECF No. 8 at 26 (emphasis added). Instead, Respondents have detained an individual for an exceedingly long time without any reason to believe his deportation is imminent, and done so under punitive and unconstitutional conditions at great expense to the American taxpaying public.

Emergency preliminary injunctive relief is warranted.

IV. An Evidentiary Hearing Is Likely Unnecessary Because Respondents Did Not Contest Any Facts Relating to The Punitive Nature of Bartu's Detention.

The Court may issue the requested preliminary injunctive relief without first

holding an evidentiary hearing since Bartu's sworn[1] factual contentions are unrebutted and not in dispute.

Respondents' failure to contest Petitioner's sworn allegations regarding punitive conditions is legally significant and permits the Court to grant relief without an evidentiary hearing. Under established habeas principles, when a petitioner provides specific, sworn factual allegations and the respondent fails to controvert them, those facts may be accepted as true for purposes of adjudication. *See Toney v. Gammon*, 79 F.3d 693, 697 (8th Cir. 1996) (evidentiary hearing required only where material facts are in dispute); *cf.* Fed. R. Civ. P. 56(e)(2)-(3) (failure to properly support or address facts allows court to consider them undisputed); ECF No. 8 at 27 n.12.

More fundamentally, respondents bear the burden of justifying continued detention once the presumptively reasonable six-month period has elapsed. *See Zadvydas*, 533 U.S. at 701. When confronted with detailed sworn allegations that detention has become punitive—including extended solitary confinement, denial of medical care, physical abuse by correctional officers, and conditions worse than those experienced during criminal incarceration—Respondents cannot simply ignore these claims and hope they disappear. Their silence is particularly telling given that they possess superior access to jail records, medical files, incident reports, and other documentation that could either refute or explain these allegations.

The government's failure to address these conditions claims is especially

[1] ECF No. 1 at 25 (invoking 28 U.S.C. § 1746).

problematic because they go directly to the constitutional validity of continued detention. Unlike mere complaints about the comfort level of confinement, Petitioner's allegations describe systematic punishment that transforms civil immigration detention into criminal punishment in violation of due process. *Zadvydas*, 533 U.S. at 690. When the government fails to rebut such claims, it has effectively conceded that the detention violates constitutional standards.

An evidentiary hearing no longer appears necessary, but if an evidentiary hearing is required for Bartu to meet his burden for habeas relief, he has met this burden and an evidentiary hearing must be scheduled.

CONCLUSION

The Court must grant Petitioner's request for emergency preliminary injunctive relief and order Petitioner's immediate release from detention.

Alternatively, the Court must immediately restore Bartu's conditions of confinement to non-punitive conditions by eliminating all use of solitary confinement and otherwise restoring Bartu's privileges to those of every other general population inmate at whatever jail he is housed at. If this intermediate measure is utilized, the Court must also order Respondents to transfer Bartu to an alternative ICE-detainee jail located in Minnesota to ensure that he is safe from retaliation and continued mistreatment by Sherburne County Jail staff.

DATED: August 25, 2025

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

Nico Ratkowski (Atty. No.: 0400413)
332 Minnesota Street, Suite W1610
Saint Paul, MN 55101
P: (651) 755-5150
E: nico@ratkowskilaw.com

Attorney for Petitioner