

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MARVIN ALEXANDER RIVAS RAMOS)	
)	
<i>Petitioner,</i>)	
)	Case No. 1:25-cv-01377 (MSN/WBP)
v.)	
)	
KRISTI NOEM, et al.)	
)	
<i>Respondents.</i>)	

PETITIONER’S REPLY TO RESPONDENTS’ RESPONSE

Petitioner has received Respondents’ September 8, 2025, “MEMORANDUM OF LAW IN OPPOSITION TO PETITION FOR HABEAS CORPUS” (Dkt. No. 5) and respectfully offers the Court the following reply.

SUMMARY OF THE REPLY

This petition for a writ of habeas corpus (the petition) is properly in the hands of the Court. Mr. Rivas does not merely question the validity of the initial arrest. He challenges the legality of his current detention and asks to be released from it — the very essence of a writ of habeas corpus. Mr. Rivas does not ask anything of the Court that is outside its habeas jurisdiction. He does not ask the Court to determine whether he was improperly denied a bond hearing nor does he challenge the conditions of his confinement. And although it was a clear violation of his civil rights, Mr. Rivas has not challenged, through the petition, the manner in which he was arrested. Finally, Mr. Rivas does not ask the Court to

determine removability or to decide any issue that falls within the authority and jurisdiction of an immigration judge conducting removal proceedings.

The issue Mr. Rivas presents to the Court with the petition is whether Respondents had the authority to arrest and imprison Mr. Rivas based on probable cause to believe that he was in violation of any law or regulation.

In fact and law, Mr. Rivas did not violate any law or regulation. While finding that Mr. Rivas is actually innocent is not necessary or sufficient to grant the petition, the Court may at least consider it as a factor in the interest of justice.

To grant the petition and order Mr. Rivas released, the Court need only find that Respondents seized Mr. Rivas without probable cause to reasonably believe that he was in violation of any law or regulation.¹

THE REPLY

I. The Court has jurisdiction over Mr. Rivas's Petition for a Writ of Habeas Corpus.

The Respondents' arguments that the Court lacks jurisdiction to consider this petition are meritless. Mr. Rivas's petition falls squarely within the traditional scope of habeas corpus. "It is clear, not only from the language of §§ 2241(c)(3), 2254 (a), but also from the common-law history of the writ, that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). It is apparent from the petition that Mr. Rivas questions the legality of the fact of his detention and seeks to secure release from it.

¹ To be clear, Respondents violate the laws of the United States and the Constitution by imprisoning Mr. Rivas. He is not guilty of any law or regulation and Respondents lack probable cause to believe so. If the Court grants the petition and orders him released and Respondents were then to "issue a new administrative arrest warrant based on the continued pendency of petitioner's removal proceedings, immediately re-serve the arrest warrant on petitioner the moment he left the detention center facility pursuant to this Court's order, and take him back into civil immigration custody," (Dkt. No. 5, pg. 10, note 7) then Mr. Rivas would file a contempt motion.

A. Nothing legally or factually significant occurred between the time of the initial warrantless arrest and the issuance of the “warrant”.

Respondents try to draw a line between the initial warrantless arrest of Mr. Rivas and the subsequent “warrant” they issued. They do so to argue that Mr. Rivas improperly rests the petition on the initial warrantless arrest and not his current detention which is based on a “warrant.”²

There is no line. Nothing legally or factually significant occurred between the time of the initial warrantless arrest and the issuance of the “warrant.”³ The agents still lacked probable cause to believe that Mr. Rivas was violating a law or regulation.

Respondents’ state that agents were authorized under 8 U.S.C. §1347(a) to arrest Mr. Rivas without a warrant on the basis that he had no lawful status in the United States and was likely to flee before federal immigration authorities could obtain a warrant for his arrest. (Dkt. No. 5, pg. 10, ¶1). Respondents then argue that because the agents issued a Notice to Appear, removal proceedings were initiated and based on this fact, obtained and served a “warrant” for his arrest. (*Id.*)

The mere fact that Respondents issued a Notice to Appear against Mr. Rivas did not commence removal proceedings. Proceedings commence when a charging document is filed with the Immigration Court. *See* 8 C.F.R. §1003.14(a) (“Jurisdiction vests, and proceedings before an immigration judge commence, when a charging document is filed with the Immigration Court by the Service.”); *United States v. Cortez*, 930 F.3d 350 (4th Cir. 2019). Nor does the mere fact that Respondents issued a Notice

²In the end, this Court lacks habeas jurisdiction to review the propriety of petitioner’s initial warrantless arrest by HSI agents pursuant to §1357(a) because his *current* detention is premised on a different statutory basis borne of subsequent circumstances; namely, the issuance of a warrant as a result of the commencement of removal proceedings against him.” (Dkt. No. 5, pg. 17, ¶3)

³Respondents erroneously cite to 8 U.S.C. §1226(a) as the statute governing the arrest and detention of Mr. Rivas’s current detention because Respondents issued an arrest warrant after the initial warrantless arrest. (Dkt. 5, pg. 9, ¶1) However, that section authorizes the arrests of non-citizens on a warrant issued by the Attorney General not the Department of Homeland Security. (“On a warrant issued by the Attorney General....”) Respondents issued the arrest warrant against Mr. Rivas themselves. (Dkt. No. 5, Exh. C). While under the law, DHS agents may make warrantless arrests with probable cause to believe the non-citizen is violating certain laws and regulations, the INA does not authorize the Department of Homeland Security to make arrests based on warrants they issue themselves.

to Appear give them probable cause to believe that Mr. Rivas was violating a law or regulation. The Fourth Amendment requires that *any arrest*, even ones based on an arrest warrant, be based on probable cause and that a neutral and detached judicial officer evaluate whether probable cause exists. *See Taylor v. Waters*, 81 F.3d 429, 436 (4th Cir. 1996). (“This amendment requires that arrests be made based upon probable cause and that a neutral and detached judicial officer evaluate probable cause as a condition of significant pretrial restraint of liberty.”)

B. Mr. Rivas does not ask the Court to decide anything arising from pending removal proceedings.

Respondents are correct in that this Court does not have jurisdiction to review any questions of law and fact arising from pending removal proceedings. 8 U.S.C. §1252 (b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 485 (1999). However, Mr. Rivas does not ask the Court to decide any such questions.

Immigration Judges conduct removal proceedings to decide whether an individual is removable for being either inadmissible or deportable. 8 U.S.C. §1229a (a)(1) (“An immigration shall conduct proceedings for deciding the inadmissibility or deportability of an a****”) “Removable” means, in the case of a person not admitted to the United States, that the person is inadmissible. In the case of someone who has been admitted to the United States, that the person is deportable. 8 U.S.C. §1229a(e)(2)(A)-(B). To apply the appropriate section of the code then, an immigration judge must first determine whether a person has been admitted in the United States. Immigration judges have jurisdiction to decide other issues arising from removability proceedings, but their primary role is to decide removability.

Immigration judges do not conduct removability proceedings to determine whether a non-citizen is guilty of violating a law or regulation made in pursuance of regulating the admission,

exclusion, expulsion, or removal of non-citizens such as 8 U.S.C. §§1325, 1326 and 18 U.S. §1546. Federal prosecutors who work under the Attorney General and the Department of Justice handle these cases and they are adjudicated in U.S. District Courts by U.S. District Judges. *See* 8 U.S.C. §1329. It follows then that this Court would have habeas jurisdiction to decide if Respondents have arrested and detained Mr. Rivas contrary to the laws of the United States and the Constitution because they lacked probable cause to believe that Mr. Rivas was violating a law or regulation.

II. Mr. Rivas is factually and legally innocent of violating any law or regulation.

Federal habeas courts sit to ensure that individuals are not imprisoned in violation of the Constitution, not to correct errors of fact. *See Herrera v. Collins*, 506 US 390, 400 (1993). However, claims of actual innocence may still be considered in order to overcome procedural bars to a writ of habeas corpus. This “fundamental miscarriage of justice exception” does not allow a claim of actual innocence to substitute the required constitutional basis of a habeas petition. Instead, it serves as a gateway to ensure that federal constitutional errors do not result in the incarceration of innocent persons.” *Id.* at 404.

Actual innocence most commonly means factual innocence but it can also mean legal innocence. One type of legal innocence is when no valid criminal statute forbids the petitioner’s conduct or provides the basis for the imprisonment. *See , e.g., Montgomery v. Louisiana*, 136 S.Ct. 718 (2016) (holding that a petitioner can argue in federal habeas that he could not constitutionally be subject to a non-capital sentence); *Welch v. United States*, 136 S.Ct. 1257, 1261, 1265 (2016) (explaining why considerations of innocence matter when a defendant is sentenced under a statute that does not apply to him); *Bousley v. United States*, 523 U.S. 614, 616, 620-21 (1998) (equating petitioner who may have been convicted of conduct the law did not make criminal with an “innocent” defendant).

Mr. Rivas is factually innocent because he is not guilty of the charges for which Respondents... have imprisoned him. Mr. Rivas is also legally innocent because there is no law making criminal the conduct for which Respondents have imprisoned him.

A. Mr. Rivas is factually innocent.

Mr. Rivas has not been found guilty in a court of law. However, Respondents have imprisoned him on the basis that they found him guilty of entering the United States unlawfully without inspection; for not having legal status; and for being unlawfully present in the United States:

1. "ENTERING UNLAWFULLY WITHOUT INSPECTION": "After reviewing DHS records, these additional personnel confirmed petitioner's identity and informed the on-scene agents that petitioner has both *entered the United States without inspection* and had not obtained lawful status in the United States (or become a naturalized United States citizen) since that *unlawful entry.*" (Dkt.No.5, pg.5, ¶1,); "Leaving aside the fact that this statutory phrase describes petitioner's circumstances (*i.e.*, he was apprehended by Border Patrol agents during his *effectual [and unlawful] entry* into the United States)" (Dkt.No.5, pg.16, ¶2, *emphasis added*); ("...he called another HSI employee, who checked agency records and relayed to the agent that petitioner *had entered the United States unlawfully and without inspection*, and had not adjusted his status to that of a lawful permanent resident or become a naturalized United States citizen. (Dkt.No. 5, pg.19, ¶3, *emphasis added*). "The HSI- DC Embedded Attorney reviewed ICE records and confirmed that Petitioner *had entered the United States without inspection...*" (Dkt.No. 5, Exh.B, pg.2, ¶9, *emphasis added*).
2. "NO LAWFUL STATUS": "... the HSI agents who unexpectedly encountered petitioner in Prince William County arrested him without a warrant based on the conclusion that, consistent with 8 U.S.C. §1347(a), he had no *lawful status* in the United States and was likely to flee

before federal immigration authorities could obtain a warrant for his arrest.” (Dkt.No.5, pg.10, ¶1, emphasis added.); “Initially, for the reasons stated above, see supra n.2, petitioner’s position that he has *lawful status* in the United States is meritless.” (Dkt.No.5, pg.14, ¶ 1, emphasis added.); “As the HSI agent learned during his temporally-limited interaction, petitioner has no *lawful status* in the United States, no adult family members in the United States, and no pending visa applications filed on his behalf by any such family members.” (Dkt.No.5, pg.20, ¶3, emphasis added). “Additionally, at the time of petitioner’s encounter with HSI agents in Prince William County — in conjunction with another individual who was a subject of an HSI investigation — his long pending removal proceedings had somewhat recently been dismissed without affording petitioner *any lawful status* in the United States.” (Dkt.No.5, pg.20, ¶3, emphasis added).

3. “UNLAWFULLY PRESENT”: “There can be little doubt that the agents — given the information that they learned from other HSI officials at the time of the encounter — had probable cause to believe that petitioner was *not lawfully in the United States*.” (Dkt.No.5, pg.2, ¶2, emphasis added); “HSI Agents Had Probable Cause to Believe that Petitioner *Was Unlawfully Present* in the United States and Was a Flight Risk.” (Dkt.No.5, pg.19, ¶2, emphasis added); “Even if this Court could reach the question given the aforementioned statutory jurisdiction-stripping provisions, that information more than establishes probable cause to believe that petitioner *was within the United States unlawfully*.” (Dkt.No.5, pg.20, ¶2, emphasis added).

i. Mr. Rivas did not enter the United States unlawfully without inspection.

Respondents have found Mr. Rivas guilty of an unlawful entry ostensibly on the basis of his initial arrival in the United States. Respondents conveniently ignore the statutorily mandated process

that Respondents were required to follow when individuals arrive in the United States borderland seeking admission.⁴ All people seeking admission into United States, regardless of how and where they arrive, do so without being inspected and admitted. Inspection and admission are processes not immutable characteristics.

Respondents have conceded that they inspected [REDACTED] — as required under the law— shortly after he arrived in the United States.⁵ And although Respondents use the word “entered” casually to describe when [REDACTED] arrived in the United States borderland. Respondents ought to know that “entry” and “entered” are terms of art and whether someone has effected an “entry” has significant legal consequences.

People who are apprehended in the US borderland for trying to enter the United States illegally, have not effected an entry and the Constitution does not apply to them. *See United States v. Guzman*, 998 F.3d 562, 569 (4th Cir. 2021) (“Thus, while an a**** who has already effected an entry into the United States is entitled to due process, as required by the Constitution, ‘an a**** who tries to enter the country illegally is treated as an applicant for admission’ and therefore does not have the same status for due process purposes as an an ‘a****’ who has effected an entry.); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953). (A person who was detained at Ellis Island had not yet “entered” the United States and was therefore properly denied admission on a ground of inadmissibility and not a ground of deportability.)

When [REDACTED] arrived in the United States borderland, Respondents apprehended him and inspected him. He had not effected an entry at that point. He only “entered” the United States when he

⁴ *See* 8 U.S.C. §1225

⁵ “Shortly after his unlawful entry into the United States, Petitioner was apprehended by a United States Border Patrol Agent, who concluded that Petitioner was an “unaccompanied a**** child” (“UAC”) pursuant to 6 U.S.C. §279(g)(2).” (Dkt.No.5, Exh. A, pg.2, ¶7).

was resettled by the Director of the Office of the Refugee Resettlement.⁶ This was a lawful entry because he entered with the sanction and approval of U.S. immigration officials after inspection.⁷

ii. Mr. Rivas has lawful status.

Respondents repeatedly assert that Mr. Rivas does not have lawful status in the United States. Respondents can say it a million more times and it would still not make it true. At a minimum, Mr. Rivas has legal status on the basis of his pending asylum application. (*See* 6 C.F.R. §37.3, Definitions. *Lawful status*: A person in lawful status is a citizen or national of the United States; or an a****; lawfully admitted for permanent or temporary residence in the United States; with conditional permanent resident status in the United States; who has an approved application for asylum in the United States or has entered into the United States in refugee status; who has a valid nonimmigrant status in the United States; *who has a pending application for asylum in the United States*; who has a pending or approved application for temporary protected status (TPS) in the United States; who has approved deferred action status; or who has a pending application for lawful permanent residence (LPR) or conditional permanent resident status.)

Despite what Agent Hall said, lawful status does not depend on whether a person is a citizen, lawful permanent resident, or has a pending visa petition filed on his behalf by a family member.⁸ Under the law, there are other categories of lawful status. An agent working for the Department of Homeland Security, Homeland Security Investigations since May of 2009⁹ would certainly know this.

⁶ The Homeland Security Act of 2002 (specifically 6 U.S.C. §279) transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services immigration responsibilities for unaccompanied migrant children from the Immigration and Naturalization Service (now the Department of Homeland Security) .

⁷ 8 U.S.C. §1101(a)(13)(A) defines “admission” and “admitted” to mean the lawful entry of an individual into the United States after inspection or authorization by an immigration officer.

⁸ Dkt. No.5, Exh.B, pg.2, ¶9.

⁹ Dkt. No.5 Exh.B, pg. 1, ¶1

iii. Mr. Rivas is lawfully present.

Respondents declare that it is “hardly controversial and easily established” that Mr. Rivas is unlawfully present in the United States. (Dkt. No.5, pg.19, ¶1.) So Respondents would have the Court believe that someone whom the Respondents have authorized to work lawfully in the United States is unlawfully present in the United States. To say that he can work here but not *be here* is hardly uncontroversial. Not only is it controversial, it is incorrect.

Mr. Rivas derives his lawful presence from his lawful status. He is authorized to work in the United States on the basis of his pending asylum application. His lawful status is listed as a code on his I-766, Employment Authorization Document (work permit)¹⁰ which is C08 (Asylum applicant (w/ pending asylum application) who filed for asylum on or after January 4, 1995).¹¹ The 08 “Class” is also indicated on his I-765, Application for Employment Authorization approval notice. (*See* Exh. 7).

Respondents blatantly ignore facts and give no credit to the bureaucratic maze and political machinations that Mr. Rivas has been forced to navigate over these last nine years. Despite the incompetence, inconsistencies and injustice that plague our nation’s immigration system, Mr. Rivas cheerfully endured it all and persisted.¹² He filed many applications, attended several court hearings, paid fees and attended biometrics appointments. His dedication to his future and his adherence to the law made him who he was on the day Respondents arrested him — a man with a valid work permit in his wallet, his own small business and a growing family. It is unconscionable, under the circumstances, that Respondents have imprisoned him.

¹⁰ *See* Exh. 15 (copy of Mr. Rivas’s I-766, Employment Authorization Document).

¹¹ *See* Exh. 16 for a visualization of an Employment Authorization Document. It shows where the legal status category code is located on the card and defines the codes.

¹² The day before Respondents arrested Mr. Rivas, he texted counsel to ask for a copy of his asylum application receipt so he could change his driver’s license for one with “the star” on it. (REAL ID) (*See* Exh. 17, screen shots of the July 21, 2025 text message exchange between Mr. Rivas and counsel).

B. Mr. Rivas is legally innocent.

Mr. Rivas is also legally innocent because Respondents have cited to no federal statute that he was violating. In fact, there is no law or regulation making criminal Mr. Rivas's conduct.

Neither 8 U.S.C. §1357(a)(2) nor 8 U.S.C. §1226(a) provide stand alone authority for Respondents to arrest non-citizens. There must be an actual law or regulation that they believe a non-citizen is violating. 8 U.S.C. §1225(b)(2)(A) does not authorize arrests at all.

Respondents attempt to make criminal the manner in which Mr. Rivas initially arrived in the United States. Mr. Rivas, as a child, fled horrific conditions in El Salvador and sought refuge in the United States. To seek asylum in the United States is a human right codified in the law by the people. (8 U.S.C. §1158). The need to seek asylum is a tragic human circumstance. It is not a crime punishable in perpetuity.

Respondents also try to hang their hat on the notions of "legal status" and "lawfully presence" but cite to no law or regulation that makes criminal not having "legal status" or not having "lawful presence."

Finally, Respondents argue that they had probable cause to issue an arrest "warrant" against Mr. Rivas on the basis that agents initiated removal proceedings against him.¹³ But being in removal proceedings to determine removability, is not a violation of a law or regulation and does not authorize an arrest. ¹⁴

¹³ See Dkt. No.5, Exh. C, "Warrant for Arrest of A****" "I have determined that there is probable cause to believe that Rivas-Ramos, Marvin is removable from the United States. This determination is based upon: the execution of a charging document to initiate removal proceedings against the subject; biometric confirmation of the subject's identity and records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law."

¹⁴ See *Arizona v. United States*, 567 U.S. 387, 407 (2012)("As a general rule, it is not a crime for a removable a**** to remain present in the United States. If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent. When an a**** is suspected of being removable, a federal official issues an administrative document called a "Notice to Appear" See 8 U.S.C. §1229(a); 8 C.F.R. §239.1(a). This form does not authorize an arrest. Instead it gives the a**** information about the proceedings, including the time and date of the removal hearing.")

III. Respondents’s imprisonment of Mr. [REDACTED] is contrary to the laws of the United States and the Constitution.

Even if the Court found that the Respondents had the authority to arrest Mr. [REDACTED] without a warrant on the basis that they had probable cause to believe that he entered the United States unlawfully, lacked status, and was present in the United States unlawfully, Respondents still lacked the necessary probable cause to believe he was violating any of those charges. Respondents also lacked probable cause to believe that Mr. [REDACTED] would likely escape before a warrant could be obtained. Finally, the subsequent “warrant” was issued contrary to the laws of the United States and the Constitution.

A. Respondents lacked probable cause to arrest Mr. [REDACTED] without a warrant.

i. Respondents lacked probable cause to believe that Mr. [REDACTED] had entered the United States unlawfully.

Respondents did not have specific and sufficient facts to reasonably believe that Mr. [REDACTED] had entered the United States unlawfully without inspection. Respondents state that on the day of the arrest, Agent Hall “called an HSI employee who checked agency records¹⁵ and relayed to the agent that petitioner has entered the United States unlawfully and without inspection...” (Dkt. No.5, pg. 19. ¶1). However, the third allegation on the July 22, 2025 Notice to Appear that the agents produced after they arrested Mr. [REDACTED] reads “you entered the United States at or near unknown place, on or about unknown date.” (Dkt. No.1, Exh. 1).

The circumstances under which Mr. [REDACTED] arrived in the country as an unaccompanied child, including the date and location, is known and well documented. So is the date that he was resettled by the Director of the Office of Refugee Resettlement. These are not secrets. Yet, Respondents would have the Court believe that the agents checked “agency records” and without learning the actual facts of his

¹⁵ The HSI employee is not named and the source of the conclusion is described only vaguely as “agency records.”

arrival and entry into the country reasonably concluded that he had entered unlawfully without inspection.

ii. Respondents lacked probable cause to believe that Mr. Rivas lacked legal status and was unlawfully present.

Respondents not only lacked probable cause to believe that Mr. Rivas did not have legal status and was unlawfully present in the United States, they had reason to believe the opposite— that he had legal status and was lawfully present in the United States.

Mr. Rivas did not merely state that he had an employment authorization document. He produced it for Agent Hall.¹⁶ His legal status is indicated on his employment authorization document and his legal status makes his presence lawful. Again, an agent that has worked for the Department of Homeland Security since May 2009 ought to know this.

iii. Respondents lacked probable cause to believe that Mr. Rivas would likely escape before a warrant could be obtained.¹⁷

Mr. Rivas was not at large. If through an investigation, agents had probable cause to believe that Mr. Rivas was violating a law or regulation, they could have obtained a warrant for his arrest and arrested him at his home or his work place. Respondents have available to them all necessary information to follow proper procedure for an arrest.

Mr. Rivas has lived in the city of Manassas, Virginia since he entered nine years ago. He was released into the custody of his adult Uncle. He owns and operates his own business and has a partner and a young daughter. Finally, he has a valid work permit based on a pending asylum application. These factors were available to the agents at the time of the arrest and yet, they chose to limit their decision on a determination that he did not have lawful status (erroneous), that he had no adult family

¹⁶ Dkt. No.5, Exh. 2, pg., ¶7

¹⁷ It is technically unnecessary to address this issue because Respondents did not meet the threshold requirement to have probable cause to believe that Mr. Rivas was in violation of any law or regulation.

members in the United States (also erroneous) and that he did not have any pending visa applications filed on his behalf by any such family members (true, but so what? He has a different type of application pending). Additionally, Mr. Rivas's removal proceedings were only dismissed after he reluctantly filed an affirmative asylum application with Respondents. True, dismissing the proceedings did not provide him lawful status in the United States. But filing the asylum application did.

B. The subsequent "warrant" was issued contrary to the laws of the United States and the Constitution.

The Immigration and Naturalization Act (INA) does not authorize Respondents to arrest non-citizen individuals based on warrants they issue themselves. Furthermore, Constitutional protections apply to all individuals who have effected an entry and established connections in the United States. *See Department of Homeland Security v. Thuraissigiam*, 140 S.Ct. 1959, 1963-64 (2020). The Fourth Amendment then protects all non-citizens who effected an entry and established connections in the United States from being arrested on a warrant that is not based on probable cause and was not evaluated by a neutral and detached judicial officer. (*Taylor*, supra at pg. 4)

Respondents were not authorized by the INA to arrest Mr. Rivas based on a warrant they issued themselves. Even if they were authorized to issue an arrest warrant, it was not evaluated by a neutral and detached judicial officer. Even if Respondents were not required to have a neutral and judicial officer evaluate it for probable cause, the warrant still had to be based on probable cause that Mr. Rivas was violating a law or regulation. It was not.

CONCLUSION

For the foregoing reasons, this Court should approve the petition for a writ of habeas corpus and order Mr. Rivas released from detention immediately. Alternatively, the Court should continue proceedings for discovery and an evidentiary hearing.

Dated: September 15, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, September 15, 2025, I electronically filed this Petitioner's Reply to Respondents' Response and attached Exhs. 15-17, with the Clerk of Court using the CM/ECF system, which will send a notification of such filing ("NEF") to the Attorneys for Federal Respondents:

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