

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

Bernardo Gabriel Borbor Mera,

Petitioner,

v.

Pamela Bondi, Attorney General,

0:25-cv-04298-KMM-EMB

Kristi Noem, Secretary, U.S. Department of  
Homeland Security,

**PETITIONER'S REPLY IN  
SUPPORT OF PETITION  
FOR WRIT OF HABEAS  
CORPUS**

Department of Homeland Security,

Todd M. Lyons, Acting Director of  
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Sirce Owen, Acting Director for Executive  
Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul  
Field Office Immigration and Customs  
Enforcement,

and,

Ryan Shea, Sheriff of Freeborn County.

## REPLY ARGUMENT

Respondents are properly named as parties, and Respondents have violated Petitioner's due process rights.

Respondents Attorney General Bondi, Secretary Noem, Mr. Lyons, DHS, ICE, and EOIR are proper parties to this petition because they are legal custodians of Petitioner, and power over Petitioner is vested in them. The sole basis for Petitioner's detention was his parole revocation. *See* ECF Doc. 18, at 12 n.5. All Respondents are proper parties because the Court cannot discern who is responsible for the improper revocation, *see* ECF Doc. 18, at 3, 13, and cannot release those responsible for his unlawful detention.

*Rumsfeld v. Padilla* set forth an immediate custodian rule for traditional habeas prisoner petitions but expressly declined to rule on whether the immediate custodian rule applies in the context of immigration habeas petitions. 542 U.S. 426, 435 n.8 (2004). The legal custodian rule is more apt for immigration habeas petitions. The agencies are proper respondents because the parole termination email was not attributed to any government official and simply mentioned Respondent DHS, *see* ECF Doc. 18, at 2-3, and "[d]etainees cannot be released without the express authorization of ICE; ICE, and only ICE, may authorize release of any detainee." *Calderon v. Sessions*, 330 F. Supp. 3d 944, 952 (S.D.N.Y. 2018). Moreover, courts have recognized national-level policy makers as proper

respondents in habeas actions. *See, e.g., Santos v. Smith*, 260 F. Supp. 3d 598, 607-08 (W.D. Va. 2017); *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 723-25 (D. Md. 2016); *Somir v. United States*, 354 F. Supp. 2d 215, 217-18 (E.D.N.Y. 2005); *S.N.C. v. Sessions*, 325 F. Supp. 3d 401, 407 (S.D.N.Y. 2018). All Respondents are properly named parties in this Petition.<sup>1</sup>

*Lopez-Arevalo v. Ripa* supports Petitioner's due process claims. No. EP-25-CV-337-KC, --- F.Supp.3d ----, 2025 WL 2691828, at \*7-\*12 (W.D. Tex. Sept. 22, 2025). As the court in *Lopez-Arevalo* explained, *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), "does not prohibit [Petitioner] from pursuing his due process claim, for two reasons. First, because he challenges his detention, not his deportability. And second, because he was detained after years of presence in the United States, rather than on the threshold of initial entry." *Lopez-Arevalo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at \*10 (W.D. Tex. Sept. 22, 2025). Respondents violated Petitioner's due process rights, and the Court should grant the Petition on due process grounds as well.

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<sup>1</sup> Petitioner agreed during the TRO hearing that Respondent Sirce Owen was improperly named because Ms. Owen no longer serves as Acting Director of EOIR. The current Director of EOIR is Daren K. Margolin. *See Staff Profile: Director Daren K. Margolin*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/eoir/staff-profile/director> (last visited Dec. 4, 2025).

**CONCLUSION**

Respondents are properly named as parties, and Respondents have violated Petitioner's due process rights. Petitioner rests on the arguments of law set forth in his TRO reply memorandum and reiterates the Court's sound reasoning in the order granting the TRO. The Court must grant the Petition.

DATED: December 4, 2025

Respectfully submitted,

/s/ David L. Wilson

David L. Wilson, Esq.

MN Attorney #0280239

Wilson Law Group

3019 Minnehaha Avenue

Minneapolis, Minnesota 55406

Phone: (612) 436-7100

Email: [dwilson@wilsonlg.com](mailto:dwilson@wilsonlg.com)

/s/ Gabriela Anderson

Gabriela Anderson, Esq.

MN Attorney #0504395

Wilson Law Group

3019 Minnehaha Avenue

Minneapolis, MN 55406

Phone: (612) 436-7100

Email: [ganderson@wilsonlg.com](mailto:ganderson@wilsonlg.com)

***Attorneys for Petitioner***