IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00228-RMR

TEOFILO ARMENDARIZ GONZALEZ,

Petitioner,

v.

JUAN BALTASAR, Warden, Aurora ICE Processing Center,
ROBERT G. HAGAN, Field Office Director, U.S. Immigration & Customs Enforcement, U.S. Department of Homeland Security,
TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement, U.S. Department of Homeland Security,
KRISTI NOEM, U.S. Department of Homeland Security, and
PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

CONSOLIDATED RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 9) AND TO PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER (ECF No. 6)

In this habeas action, Petitioner Teofilo Armendariz Gonzalez ("Mr. Armendariz") attacks the propriety of his arrest, arguing that the U.S. Immigrations & Customs Enforcement (ICE) officer who arrested him lacked probable cause to do so. He then reasons that because his arrest was (purportedly) unlawful, his detention is, too.

This claim fails. First, the Court lacks jurisdiction to hear it because it fits within the category of removal-related claims that Congress has channeled for review to the Courts of Appeals, and that process is exclusive. Second, and relatedly, Mr. Armendariz has not exhausted administrative review of his arrest in his removal proceedings. Third, he is factually incorrect that the arresting officer did not have probable cause to arrest

him. Finally, even if the arresting officer did not have probable cause at the time of the arrest, Tenth Circuit precedent holds that where (as here) immigration authorities evaluate probable cause *after* an arrest without unnecessary delay, subsequent detention is not rendered unlawful due to an initially unlawful arrest. Accordingly, Mr. Armendariz's petition must be denied.

BACKGROUND

I. Petitioner's immigration history and present arrest and detention

Mr. Armendariz is a native and citizen of Mexico. (Respondents' Appx., p.4 ¶ 4, Guzman Decl.). He was last admitted to the United States on July 5, 2014, on a border crossing card. *Id.*, p.4 ¶ 5. He then overstayed his authorized temporary period of stay. *Id.*

On December 5, 2025, ICE officers in Rifle, Colorado, were attempting to locate a different alien in the area. *Id.* During the investigation, one officer, Officer Guzman, was checking license plates of vehicles in the immediate area against information in immigration databases. *Id.* A check of Mr. Armendariz's license plate and additional database review revealed that Mr. Armendariz was in the United States in violation of the immigration laws because he had overstayed his authorized period of stay. *Id.*

Officer Guzman obtained a warrant for Mr. Armendariz's arrest the same day. *Id.*, p.4 ¶ 7, p.5 ¶ 12. Due to an administrative error, however, no box was checked on the face of the warrant to indicate the nature of the probable cause on which Officer Guzman relied to arrest Mr. Armendariz. *Id.*, p.5 ¶ 12; *see also* ECF No. 1-1 at 4 (I-200 arrest warrant). Further, Officer Guzman did not physically encounter Mr. Armendariz on

December 5. (Respondents' Appx., p.5 ¶ 8, Guzman Decl.). Instead, on December 8, 2025, ICE officers (including Officer Guzman) conducted a targeted operation to find Mr. Armendariz. *See id.*, p.5 ¶ 10. After the officers encountered him and confirmed his identity, he was arrested pursuant to the warrant. *Id.*, p.5 ¶¶ 10–11.

Mr. Armendariz was issued a Notice to Appear charging him with being deportable from the United States pursuant to 8 U.S.C. § 1227(a)(1)(B). (Respondents' Appx., p.5 ¶ 14, Guzman Decl.). In his removal proceedings, he filed a motion to suppress evidence and a motion to terminate the proceedings based on the allegedly unlawful arrest. *Id.*, p.6 ¶ 16. On February 6, 2026, the Immigration Judge issued a decision denying his two motions. *Id.*, p.6 ¶ 18; *see also* (Respondents' Appx., pp. 8–19, Immigration Judge decision).

II. This action

Mr. Armendariz initiated this action on January 20, 2026, by filing a petition seeking a writ of habeas corpus. ECF No. 1. He asserts that his detention "violates statutory law and the Fourth Amendment" and requests an order directing his immediate release. *Id.* ¶ 5. In particular, he claims that the Court should order his immediate release because "[t]he putative I-200 administrative warrant . . . fails on its face to assert a basis in probable cause for its issuance," *id.* ¶ 99, and because, in his view, the records relating to his arrest are suspect and inadequate, *see id.* ¶ 100 (insinuating that "[t]he I-200 may have been backdated" and "was probably issued by an unauthorized officer after, not before, Mr. Armendariz's detention"); *id.* ¶ 102 (arguing that "[t]he I-213 and accompanying documents fail to establish probable cause for a warrantless

arrest"); *id.* ¶ 110 (suggesting that the I-213 does not provide sufficient detail to justify issuing an administrative warrant before his arrest). He also claims he should be released because the I-200 administrative warrant was "legally invalid and not a warrant within the meaning of the Fourth Amendment." *Id.* ¶ 114 (quotation marks omitted).

Finally, unrelated to his release, he asks the Court to "declare that [he] was detained pursuant to a warrantless arrest and qualifies for inclusion in" a provisional class certified in a different matter pending in this district, *Ramirez Ovando v. Noem*, No. 25-cv-03183-RBJ (D. Colo.). *Id.* ¶ 104.

ARGUMENT

I. This Court lacks jurisdiction to review the alleged deficiencies in Mr. Armendariz's arrest because the Immigration & Nationality Act (INA) channels review to the Court of Appeals.

Congress has consolidated "[j]udicial review of all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States," 8 U.S.C. § 1252(b)(9), into "a single proceeding: the petition for review." *Nken v. Holder*, 556 U.S. 418, 424 (2009) (citing, among other provisions, 8 U.S.C. § 1252(b)(9)). Petitions for review must be filed in the courts of appeals, not the district courts, and may only be filed after a removal order has been entered and become final. 8 U.S.C. § 1252(a)(5), (b)(1); *see also Riley v. Bondi*, 606 U.S. 259, 266–67 (2025) (discussing the finality requirement). In general, no other court has jurisdiction "to review such an order or such questions of law or fact." 8 U.S.C. § 1252(b)(9).

The Tenth Circuit has held that "the legality of [an alien's] arrest and search challenges are customarily tested . . . when a deportation order is received." *Min-Shey*

Hung v. United States, 617 F.2d 201, 202 (10th Cir. 1980). In *Min-Shey Hung*, an alien who was arrested without a warrant filed a habeas petition shortly after his arrest, seeking his release based on the allegedly unlawful arrest. *Id.* at 201. The Tenth Circuit held that the alien could not bring an immediate challenge to the arrest in habeas. *Id.* at 202–03. Rather, the alien could seek review of the arrest later as part of review of his deportation order (if one was issued).[1] *Id.*

Accordingly, the propriety of Mr. Armendariz's arrest is a "question[] of law [or] fact . . . arising from [an] action taken . . . to remove [him] from the United States." *See* 8 U.S.C. § 1252(b)(9). Jurisdiction thus lies only in the court of appeals upon a petition for review. *See id.* The Court must therefore dismiss Mr. Armendariz's habeas petition for lack of jurisdiction.

II. Mr. Armendariz has not exhausted his administrative remedies by within his removal proceedings.

Generally, "[t]he exhaustion of available administrative remedies is a prerequisite for § 2241 habeas relief, although . . . the statute itself does not expressly contain such a requirement." *Garza v. Davis*, 596 F.3d 1198, 1203 (10th Cir. 2010). In a different immigration context, the Tenth Circuit has held that "the failure to exhaust issues before the BIA bars judicial review through habeas just as it does through a petition for review." *Soberanes v. Comfort*, 388 F.3d 1305, 1309 (10th Cir. 2004).

---

[1] When the Tenth Circuit refers in *Min-Shey Hung* to review of the deportation order taking place in the district court, *see* 617 F.2d at 202–03, it likely does so because the case was decided before Congress created the modern petition for review process. As described, however, petitions for review must now be filed in the courts of appeals.

Here, as indicated above, Mr. Armendariz can challenge the legality of his arrest within his removal proceedings, and can seek to terminate those proceedings based on the purported illegality of the arrest. *See Aguayo v. Garland*, 78 F.4th 1210, 1217 (10th Cir. 2023) (citing *In re Garcia-Flores*, 17 I & N Dec. 325 (BIA 1980) (in the context of an allegedly unlawful arrest, "assum[ing], without deciding, that termination of removal proceedings is an appropriate remedy for egregious statutory or regulatory violations"). Indeed, he has in fact done so before the Immigration Judge. *See* (Respondents' Appx., p.6 ¶¶ 16–18, Guzman Decl.) (describing Mr. Armendariz's motion to terminate his proceedings).

In *Aguayo*, ICE issued a detainer to the county jail where the alien was held, and then took him into custody when the county jail released him. *Id.* at 1213. In the removal proceedings that followed, the alien asked the Immigration Judge to terminate the proceedings based on his contention that the arrest was unlawful. *Id.* Specifically, he claimed that the arrest "violated the Fourth Amendment, the INA, and agency regulations" because (among other things) ICE "t[ook] him into . . . custody without a warrant or reason to believe he would likely escape before a warrant could be obtained[,] . . . issu[ed] an arrest warrant before providing him with a valid NTA[,] and . . . fail[ed] to issue a properly authorized NTA, Notice of Custody Determination, or arrest warrant." *Id.* The Immigration Judge, the BIA, and the Tenth Circuit all found that terminating the removal proceedings was not warranted. *Id.* at 1213–16, 1221.

Mr. Armendariz's claims about his arrest are similar to the non-citizen's claims in *Aguayo*. It follows that he can use the same pathway to challenge his arrest and seek to

terminate the ensuing removal proceedings. In particular, he can appeal the Immigration Judge's denial of his motion to terminate his removal proceedings to the BIA at the appropriate time. For this reason, he has not exhausted his administrative options, and the Court should therefore deny his habeas petition. *Soberanes*, 388 F.3d at 1309; *see also Reyes v. Lynch*, No. 15-cv-00442-MEH, 2015 WL 5081597, at *3 (D. Colo. Aug. 28, 2015) ("[F]ederal courts must await exhaustion of all administrative appeals before reviewing immigration decisions, whether by a habeas corpus action or a petition for review.").

III. Even if the Court reaches the merits, Mr. Armendariz is not entitled to release.

Even if the Court addresses the substance of Mr. Armendariz's petition, it should find that he is not entitled to release. First, contrary to his suggestions, Mr. Armendariz's arrest was supported by probable cause in advance, notwithstanding the technical defect in the I-200 administrative warrant. Second, even if the warrant were deficient, Tenth Circuit precedent forbids his release because ICE promptly made a probable cause determination after his arrest and well before he filed this case.

A. Mr. Armendariz's arrest was supported by probable cause in advance.

Deportation officers are empowered to make arrests when they "ha[ve] reason to believe that the person to be arrested . . . is an alien illegally in the United States." 8 C.F.R. § 287.8(c)(i) (describing when an arrest may be made); *id.* § 287.5(c)(1)(iv) (granting trained deportation officers the "[p]ower and authority to arrest"). The regulations state that "[a] warrant of arrest shall be obtained except when

the . . . immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained." *Id.* § 287.8(c)(ii).

Here, as described in his declaration, Officer Guzman developed reason to believe that Mr. Armendariz was illegally in the United States and obtained a warrant for his arrest before the arrest happened. *See* (Respondents' Appx., p.2 ¶¶ 5–6, Guzman Decl.). Specifically, Officer Guzman's investigation into records databases on December 5, 2025, showed that Mr. Armendariz was a native and citizen of Mexico who had overstayed an authorized temporary period of stay, in violation of 8 U.S.C. § 1227(a)(1)(B). (Respondents' Appx., p.2 ¶ 5, Guzman Decl.) A contemporaneously created record of the arrest, the Form I-213 (which Mr. Armendariz attached to his petition, *see* ECF No. 1-1 at 24–27) corroborates the statements in Officer Guzman's declaration about developing probable cause ahead of the arrest. *Id.* at 25–26.

The administrative error in the arrest warrant, while regrettable, does not equate to a lack of probable cause for the arrest. Rather, the record as a whole shows that Officer Guzman developed probable cause days before the arrest, and that on December 8, 2025, immigration officers conducted a targeted operation to find and arrest Mr. Armendariz based on pre-existing probable cause.

B. In any event, a habeas remedy is not available because ICE made a probable cause determination promptly after Mr. Armendariz's arrest.

In *Min-Shey Hung*, the Tenth Circuit held that when immigration authorities promptly make a probable cause determination after an allegedly unlawful arrest, the alien cannot challenge the arrest in habeas and obtain release based upon the arrest itself. 617 F.2d at 202–03. In that case, the alien was arrested without a warrant, and

was then issued an order to show cause why he should not be deported the next day. *Id.* at 201–02. Five days later, he filed a habeas petition seeking his release based on his allegedly unlawful arrest. *See id.* at 202.

Observing that the alien "was . . . well along the deportation proceedings when the petition for habeas corpus was filed challenging his arrest," the Tenth Circuit found that despite the warrantless arrest, probable cause had been determined when the order to show cause was issued. *Id.* And it held that the district court could not "consider[] the arrest challenge while the [removal] proceedings were in progress and had passed the probable cause stage." *Id.* at 203. Rather, it concluded that "[t]he custody of the [alien] during the course of the [removal] proceedings, the releases, bonding and appearances[,] should be under control of the [government]." *Id.*

Other courts, including the Supreme Court, have long applied the same rule. *See Nishimura Ekiu v. United States*, 142 U.S. 651, 662 (1892) (stating that the "object" of a habeas proceeding "is to ascertain whether the prisoner can lawfully be detained," and holding that "if sufficient ground for . . . detention . . . is shown, [the prisoner] is not to be discharged for defects in the original arrest or commitment" (citations omitted)); *Arias v. Rogers*, 676 F.2d 1139, 1143 (7th Cir. 1982) (Posner, J.) (applying the rule to an immigration arrest and observing that "detention [may] be legal although the arrest was not"); *Ong Seen v. Burnett*, 232 F. 850, 852 (9th Cir. 1916) ("It is well settled that a defect in the warrant is no ground for the discharge of the petitioner on a writ of habeas corpus." (citing *Nishimura Ekiu*, 142 U.S. at 663)); *Chavez de Vasquez v. Baker*, Civil Case No. SAG-25-03657, 2025 WL 3713773, at *2 (D. Md. Dec. 23, 2025) (finding "no

authority" to support granting "individual habeas relief as a result of a warrantless immigration arrest after the individual's immigration proceedings had begun").

This approach is not inconsistent with the protections afforded by the Fourth Amendment. Indeed, in *Min-Shey Hung*, the Tenth Circuit found support for its reasoning in *Gerstein v. Pugh*, 420 U.S. 103 (1975), a seminal Fourth Amendment case in which the Supreme Court observed that it "ha[d] never invalidated an arrest supported by probable cause solely because the officers failed to secure a warrant." *Id.* at 113 (citations omitted); *see also Min-Shey Hung*, 617 F.2d at 202 (discussing *Gerstein*).

Further, the Supreme Court has held that in the immigration context, the Fourth Amendment does not demand voiding removal proceedings that follow from an improper arrest as a suppressive remedy. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1047 (1984) (declining to adopt a broad exclusionary rule for civil immigration proceedings, and finding that suppression leading to "release would clearly frustrate the express public policy against an alien's unregistered presence in this country"); *see also United States v. Garcia-Beltran*, 443 F.3d 1126, 1132 (9th Cir. 2006) ("In essence, the Court [*in Lopez-Mendoza*] declined to hold that the consequence[] of an illegal arrest, search, or interrogation is to let the defendant go free because of the unlawfulness of the arrest, search, or interrogation.").

Here, Mr. Armendariz's Form I-213 arrest record indicates that after his arrest on December 8, 2025, he was transported to the ICE sub-office in Glenwood Springs, CO, where he was questioned and issued a Notice to Appear charging him with overstaying

his authorized period of stay. *See* ECF No. 1-1 at 26–27 (Form I-213, describing post-arrest processing); *id.* at 10–12 (Notice to Appear dated December 8, 2025). An amended Notice to Appear correcting the date of his admission was issued to him on December 16, 2025, about five weeks before he filed his habeas petition. *See* (Respondents' Appx., p.5 ¶ 14, Guzman Decl.); ECF No. 1-1 at 14–16 (Notice to Appear). Although Mr. Armendariz suggests that the December 8, 2025, Notice to Appear "lack[s] essential details," he does not argue that the December 16, 2025, Notice to Appear is deficient in any way. Thus, even if only the December 16, 2025, Notice to Appear is considered, Mr. Armendariz was "well along" in removal proceedings following a probable cause determination when he filed his habeas petition. *See Min-Shey Hung*, 617 F.2d at 203.

Accordingly, even if the arrest warrant was deficient, neither the INA nor the Fourth Amendment demand Mr. Armendariz's release from detention.

IV. The Court should decline to grant declaratory relief related to whether Mr. Armendariz is a member of a class provisionally certified in another case.

In Counts 2 and 3 of his habeas petition, Mr. Armendariz asks the Court "[i]n addition, as well as in the alternative" to "declare that [he] was detained pursuant to a warrantless arrest and qualifies for inclusion in" a class provisionally certified in another matter pending in this district, *Ramirez Ovando v. Noem*, No. 25-cv-03183-RBJ (D. Colo.). *See* ECF No. 1 ¶¶ 117, 127. But the Court has no cause to do so. First, for all the reasons discussed above, Mr. Armendariz is not entitled to habeas relief, and so similarly is not entitled to corresponding declaratory relief. Second, the Court should not grant declaratory relief as an "alternative" to habeas relief, because "a party who can

petition for a writ of habeas corpus may not instead seek a declaratory judgment." *Rooney v. Secretary of Army*, 405 F.3d 1029, 1031 (D.C. Cir. 2005). Third, a declaration about the nature of Mr. Armendariz's arrest would be an improper advisory opinion because it would have no effect on the outcome of his habeas petition, which the Court (as discussed) should deny even if the arrest warrant was not valid. Finally, as a matter of efficiency and comity, issues about who is a member of the *Ramirez Ovando* class should be decided by the court in *Ramirez Ovando*, not by this Court.

V. The Court should deny Mr. Armendariz's motion for a temporary restraining order and vacate the existing injunction.

In his motion for a temporary restraining order, Mr. Armendariz requests two forms of relief: an order prohibiting Respondents "from transporting him outside this Court's jurisdiction," and an order "forbidding Respondents from continuing to detain him." ECF No. 6 at 7. On February 9, 2026, the Court entered an order that did not expressly grant or deny this motion, but that directed Respondents not to remove Mr. Armendariz from the District of Colorado or the United States "unless or until this Court or the Court of Appeals for the Tenth Circuit vacates this Order." ECF No. 9.

The Court should not grant Mr. Armendariz any injunctive relief based on his motion. A court may grant a TRO or preliminary injunction only if the moving party makes a four-part showing: (1) a substantial likelihood of succeeding on the merits; (2) irreparable injury if the court denies the injunction; (3) that the threatened injury absent the injunction outweighs the opposing party's injury under the injunction; and (4) "that the injunction isn't adverse to the public interest." *Free the Nipple-Fort Collins v. City of Fort Collins*, 916 F.3d 792, 797 (10th Cir. 2019). The last two factors "merge when the

Government is the opposing party." *Nken*, 556 U.S. at 435. Also, a preliminary injunction is disfavored when "(1) it mandates action (rather than prohibiting it), (2) it changes the status quo, or (3) it grants all the relief that the moving party could expect from a trial win." *Fort Collins*, 916 F.3d at 797. "To get a disfavored injunction, the moving party faces a heavier burden on the likelihood-of-success-on-the-merits and the balance-of-harms factors" and must make a "strong showing" that those factors weigh in their favor. *Id.* (quoting *Fish v. Kobach*, 840 F.3d 710, 724 (10th Cir. 2016)).

Mr. Armendariz's request for an order forbidding his continued detention is duplicative of the relief requested in his habeas petition. Thus, that portion of his request is disfavored. But the Court need not rule on this portion of his request for injunctive relief because it can directly decide the issue by resolving his habeas petition on the merits.

As to his request for an order prohibiting his transport outside this jurisdiction: although the Court has not granted that portion of Mr. Armendariz's motion, it has extended him equivalent relief. *See* ECF No. 9. Respondents respectfully suggest that the Court's decision to do so cannot be easily squared with 8 U.S.C. § 1231(g), which grants the Attorney General discretionary authority to "arrange for appropriate places of detention for aliens detained pending removal or a decision on removal." *Id.*; *see also Van Dinh v. Reno*, 197 F.3d 427, 433–34 (10th Cir. 1999) (discussing the Attorney General's discretionary authority to transfer detained aliens).

But, in any event, there is no reason now to grant this aspect of Mr. Armendariz's motion. If the Court denies his habeas petition (as it should), Mr. Armendariz will not be

entitled to any injunctive relief because he will not have succeeded on the merits. And if the Court grants the habeas petition, his request for an order prohibiting his transfer will become moot upon his release.

At bottom, the Court's ruling on Mr. Armendariz's habeas petition will also effectively resolve (or dictate the result of) his motion for a temporary restraining order. Thus, because the Court should dismiss the petition, the Court should also deny the motion.

Further, if the Court denies Mr. Armendariz's habeas petition, Respondents respectfully request that the Court expressly vacate the prohibition on transfer or removal that it issued on February 9, 2026, ECF No. 9.

CONCLUSION

For the foregoing reasons, Mr. Armendariz's habeas petition, ECF No. 1, and his motion for a temporary restraining order, ECF No. 6, should be denied.

Dated: February 16, 2026

PETER MCNEILLY
United States Attorney

s/ Brad Leneis
Brad Leneis
Assistant United States Attorney
1801 California Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 454-0181
Fax: (303) 454-0411
Email: brad.leneis2@usdoj.gov

Attorney for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Brad Leneis
Brad Leneis
U.S. Attorney's Office