UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IBSA YUSSUF,

Petitioner,

v.

PAMELA BONDI, in their official capacity as Attorney General of the United States;

KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;

DAVID EASTERWOOD in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;

JOSEPH B. EDLOW, in his official capacity as Director, U.S. Immigration and Customs Enforcement

Respondents

Case No. 0:26-cv-00786-MJD-ECW

PETITIONER'S OPPOSITION TO RESPONDENTS' MOTION FOR RELEASE OF PETITIONER AND FOR DISMISSAL OF HABEAS PETITION WITHOUT PREJUDICE, AND REQUEST FOR STAY

Petitioner Ibsa Yussuf ("Petitioner"), by and through counsel, respectfully submits this Opposition to Respondents' Motion for Release of Prisoner and for Dismissal of Habeas Petition Without Prejudice (ECF No. 6, "Motion"). To be clear, Petitioner does not oppose his release; he opposes the unlawful conditions Respondents have tried to attach to it, in at least two ways. First, in their Motion, Respondents have asked this Court to impose

conditions on Petitioner's release that are illegal, oppressive, and directly contrary to the unconditional release mandated by a binding temporary restraining order issued last week in a parallel and related class action matter. Worse yet, since filing their Motion, rather than wait for a ruling from this Court, Respondents have unilaterally proceeded on their own: just this afternoon, Respondents released Petitioner but demanded that he appear ***tomorrow morning*** to enroll in an "intensive supervision" program administered by ICE. Respondents have thus taken it upon themselves to do exactly what they asked this Court for permission to do, without waiting for an answer. This conduct reflects a troubling disregard not only for the temporary restraining order, but also for *this* Court's authority.

In addition, Respondents' request to dismiss this action is premature and inappropriate. Although Respondents have technically released Petitioner, they are actively trying to enroll him in a detention "alternative." Even if they back down from this, and release Petitioner unconditionally, as they must, the temporary restraining order directing Petitioner's release is expressly that: temporary. Because Respondents have demonstrated a relentless intent to restrain Petitioner's liberty, his habeas petition should not be dismissed.

For these reasons, Respondents' request to dismiss the Petition should be denied. Instead, upon Petitioner's unconditional release, the Petition should be stayed pending further developments in the class action case, described herein (the "UHA Case").

BACKGROUND

A. Respondents Detain Petitioner, a Lawful and Unadjusted Refugee, Transfer Him to Texas, and Ignore Petitioner's Counsel's Request to Return Him to Minnesota, Pursuant to the Court's Order.

Petitioner is an unadjusted refugee from Ethiopia who has been living in Minnesota, and who has satisfied all required pre-arrival vetting and post-arrival procedural obligations. (*See generally* ECF No. 1, the "Petition.") On January 28, 2026, at around 1 p.m., Petitioner was detained by Respondents as part of "Operation PARRIS." (*Id.* at ¶¶ 2, 4.) To Petitioner's knowledge, Petitioner has neither violated any immigration nor criminal law. (*Id.*) Later that afternoon, Petitioner filed the Petition, seeking his unconditional release from detention. (*See generally id.*)

On the morning of January 29, 2026, the Court entered an Order to Show Cause (ECF No. 3, the "Order"), ordering Respondents to file an answer to the Petition by January 31, 2026, "certifying the true cause and proper duration of Petitioner's confinement and showing cause why the writ should not be granted in this case." (*Id.* at ¶ 1.) The Court further enjoined Respondents "from removing Petitioner from the District of Minnesota until a final decision is made on the [Petition]." (*Id.* at ¶ 5.) The Court continued that, "[i]f Petitioner has already been removed from Minnesota, Respondents are ordered to immediately return Petitioner to Minnesota." (*Id.* at ¶ 6.) Soon after the Court entered the Order, counsel for Petitioner learned that Respondents had already transferred Petitioner outside of the District of Minnesota, specifically, to the ERO El Paso Camp East Montana in Texas. (*See* Declaration of Ariana B. Kiener ("Kiener Decl."), ¶ 3.) Counsel for Petitioner immediately emailed counsel for Respondents, requesting that Petitioner be

returned to Minnesota. (*Id.* ¶ 4.) Counsel for Respondents did not respond to this request, nor to subsequent outreach. (*Id.*)

B. In a Parallel Class Action Case, Judge Tunheim Orders the Immediate Release of Petitioner and Other Unlawfully Detained Unadjusted Refugees.

On, January 24, 2026, a group of plaintiffs (the "UHA Plaintiffs"[1]) filed a class action complaint, challenging Respondents' policy of arresting and detaining unadjusted refugees, like Petitioner, through the implementation of Operation PARRIS. *See U.H.A. v. Bondi*, No. 26-cv-417, ECF No. 12 (D. Minn. Jan. 24, 2026). At the same time, the UHA Plaintiffs also filed a motion for a temporary restraining order seeking, *inter alia*, that a subgroup of the putative class—i.e., those who are presently detained under Operation PARRIS (the "Detained Subclass")—be immediately released from custody. *See U.H.A. v. Bondi*, No. 26-cv-417, ECF No. 41 at 7-8 (D. Minn. Jan. 28, 2026) (the "UHA Order").

On the evening of January 28, 2026, just hours after Petitioner was detained, Judge Tunheim granted the UHA Plaintiffs' motion for a temporary restraining order. (*See generally id.*) Specifically, Judge Tunheim ordered Respondents "to immediately release all members of the Detained Subclass." (*Id.* at 31.) He continued: "If a member of the Detained Subclass has been transferred out of the District of Minnesota, Defendants shall immediately TRANSPORT such member to Minnesota and then RELEASE such member from custody within 5 days of the date of this Order." (*Id.*) The UHA Order is unconditional

[1] Counsel for Petitioner also represents the UHA Plaintiffs.

on its face and contains no authorization for supervision, reporting requirements, or other restraints upon the release of members of the Detained Subclass.

On the evening of January 30, 2026, Respondents confirmed in a submission to the Court that Petitioner is a member of the Detained Subclass and that, as of 6:11 p.m. on that date, he was detained in El Paso. *U.H.A. v. Bondi*, No. 26-cv-417, ECF No. 53 (D. Minn. Jan. 30, 2026).

C. Respondents Fail to Release Petitioner Pursuant to the UHA Order, and Instead Ask this Court to Release Petitioner Only Under Oppressive Conditions Inapplicable to Lawful Refugees.

Between January 28 and January 31, 2026, counsel for Petitioner repeatedly attempted to contact counsel for Respondents, to request Petitioner's immediate release (pursuant to the UHA Order) or, at an absolute minimum, his immediate return to Minnesota (pursuant to this Court's Order). (Kiener Decl. ¶ 4.) Respondents failed to respond to Petitioner's counsel's numerous requests. (*Id.*)

Then, on January 31, 2026, Respondents filed their Motion.[2] Rather than agree to release Petitioner immediately, as required under the UHA Order, Respondents instead asked this Court to "dismiss[] the case without prejudice" and "remand[] the matter to ICE

[2] Petitioner notes that Respondents initially filed their Motion as "unopposed" (ECF No. 5.) After Petitioner demanded they withdraw that motion, because they had not conferred with Petitioner's counsel, or even advised Petitioner's counsel of the motion prior to its filing, Respondents indicated that styling the motion as "unopposed" was a "mistake" and agreed to refile their Motion without the "unopposed" notation. At the time of filing this Opposition, Respondents have yet to withdraw their purportedly "unopposed" motion.

for the immediate release of Petitioner on an order of supervision with conditions pursuant to ICE's regulations, 8 C.F.R. § 241.5." (Motion at 1-2.)

By its terms, Section 241.5 governs the terms of release for non-citizens who have been ordered removed from the country, are criminals, or who meet certain other specific criteria, but who have nevertheless been released from detention for specific reasons. *See generally* 8 C.F.R. § 241.5. Under 8 C.F.R. § 241.5, release under an order of supervision allows Respondents to impose a wide range of coercive conditions on the individual, including: mandatory periodic reporting to ICE officers and the requirement to provide information under oath; compulsory physical or mental examinations at ICE's direction; restrictions on travel without advance approval; and enforced address-reporting requirements. 8 C.F.R. § 241.5(a). In addition, ICE may require the posting of a bond in an amount it deems sufficient to ensure compliance and may condition or withhold employment authorization entirely. 8 C.F.R. § 241.5 (b-c). Moreover, an individual released under an order of supervision may be returned to ICE custody upon violation of any condition of release. 8 C.F.R. § 241.4(l).

D. Respondents Return Petitioner to Minnesota, Continue to Detain Him, and then Condition His Release on Participation in "Intensive Supervision" Program.

On the evening of February 1, 2026, Petitioner's counsel learned that Petitioner had been returned to the District of Minnesota, and was receiving medical treatment at a local hospital. (Kiener Decl. ¶ 5.) On the morning of February 2, 2026, counsel for Petitioner

learned that Petitioner had been discharged from the hospital the prior evening, however, he remained in ICE detention. (*Id.* ¶ 6.)

At approximately 4 p.m. on February 2, 2026, counsel for Petitioner learned that Petitioner had finally been released from detention. (*Id.* ¶ 7.) However, he was released without either his identification or work permit. (*Id.*) In addition, he was provided with a "Call-In Letter" from the Department of Homeland Security, requiring his attendance at 9 a.m. the next day, February 3, 2026, for "Enrollment in ISAP Program." (*Id.*, Exhibit A.) The Department of Homeland Security describes ISAP—which stands for Intensive Supervision Appearance Program—as "release with enhanced supervision." (*Id.*, Exhibit B at ii.) ISAP can include: "global positioning system (GPS) tracking devices (ankle monitors), telephonic reporting (TR), or SmartLINK (a smartphone application)—and case management, which includes varying frequency of office or home visits." (*Id.* at 3.) ISAP is for "[a]dults 18 years of age or older who are released from DHS custody, and who are generally in removal proceedings or subject to a final order of removal."[3] As ICE explains on its website, "[t]o be eligible for [] ISAP, aliens must be 18 years of age or older, ***effectively removable from the U.S.***, released from DHS custody, and in some stage of the immigration process."[4]

ARGUMENT

[3] *See* https://www.ice.gov/features/atd#content2.
[4] *See* https://www.ice.gov/atd-faq (emphasis added).

Petitioner agrees with Respondents that it was appropriate for him to be released. Petitioner, however, strongly opposes the conditions of release Respondents have imposed on him.

First, Petitioner is entitled to *unconditional* release as a member of the Detained Subclass provisionally certified by Judge Tunheim. (*See* UHA Order at 31.) Directly contrary to Judge Tunheim's directive, Respondents have instead released Petitioner subject to conditions. By way of this Motion, they are asking this Court to rubber-stamp their violation of the UHA Order, after the fact. But, despite acknowledging the need for judicial approval by filing the Motions, Respondents clearly intend to thumb their nose again at the Court. Rather than complying with the UHA Order, or seeking to modify that Order, or waiting for this Court to decide the Motion, Respondents instead went ahead and ordered Petitioner to appear ***tomorrow morning*** to be enrolled in ISAP.

Second, even absent the UHA Order, Respondents' proffered regulatory basis for their authority to impose conditions on Petitioner's release is wrong because the cited regulation does not apply to Petitioner.

Third, Respondents' demand for complete dismissal of the Petition should also be rejected. The UHA Order is temporary, and Respondents' expressed intent (through both their Motion and the requirements they imposed on Petitioner's release) is to continue to restrain Petitioner's liberty. In light of those realities, Petitioner's habeas petition is not moot, and should not be dismissed. Even release is not always sufficient to moot a habeas petition. *See Kargbo v. Brott*, 2016 WL 3676162, at *3 (D. Minn. July 6, 2016).

Fourth, in light of the foregoing, once Respondents confirm Petitioner's unconditional release to the Court, this matter should be stayed pending further developments in the UHA Case.

Finally, to the extent the Court is inclined to reach the underlying merits of Petitioner's Petition now, the Petition should be granted in full. Respondents did not file a response to the Petition containing the factual and legal justifications for Petitioner's detention that were demanded by this Court. Instead, they just filed the Motion, in which they offered no apposite authority for a conditional release. Numerous courts in this District have now held there is no basis on which to detain unadjusted refugees. This Court should follow those opinions and either grant Petitioner's petition in full, ordering an immediate and unconditional release, or allow Petitioner to make additional arguments about why his Petition should be granted.

A. Petitioner is Entitled to Unconditional Release Under the UHA Order.

Respondents propose that this Court "remand[] the matter to ICE for the immediate release of Petitioner on an order of supervision with conditions pursuant to 8 C.F.R. § 241.5." (Motion at 2.) And, rather than wait for the Court to rule on their request, they have gone ahead and demanded that Petitioner enroll in an "intensive supervision" program tomorrow morning.

Respondents' insistence that Petitioner—a lawful unadjusted refugee—must be supervised in the same manner as a convicted criminal subject to removal from the country is flatly inconsistent with the relief required by Judge Tunheim in the UHA Order. Judge Tunheim imposed no conditions of release; in fact, he even considered whether the

Detained Subclass should be required to post a bond, and decided *against* it. (*See* UHA Order at 23, n. 24, 32 at ¶ 8.) Conditional release is also inconsistent with the substance of the UHA Order, which turns on the plain illegality of detaining Petitioner in the first instance, and the Class's likelihood of success on their position that there is simply *no* lawful basis for the detention of unadjusted refugees. (*Id.* at 9-20.)

This Court should recognize Respondents' Motion (and their unilateral decision to proceed without waiting for a ruling) for what it is: a transparent attempt to circumvent Judge Tunheim's UHA Order and this Court's authority. This is procedurally improper and an impermissible end-run around a binding judicial determination. *See, e.g., United States v. United Mine Workers of Am.*, 330 U.S. 258, 293 (1947) ("[W]e find impressive authority for the proposition that an order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings."); *Rabbe v. Farmers State Bank of Trimont*, No. A20-0066, 2021 WL 772311, at *9 (Minn. Ct. App. Mar. 1, 2021) (affirming contempt where party sought to evade an injunction by filing new notices rather than pursuing appeal or modification before the issuing court).

B. Respondents' Proffered Basis for Additional Conditions Is Legally Infirm.

Even in the absence of any order from Judge Tunheim, Respondents' request to impose conditions on Petitioner would be illegal. The only legal basis Respondents set forth for the imposition of conditions on Petitioner's release is 8 C.F.R. § 241.5. But it simply *does not apply* to Petitioner. By its terms, Section 241.5 governs the terms of release for non-citizens who have been ordered removed from the country, are criminals, or who

meet certain other specific criteria, but who have nevertheless been released from detention for specific reasons. (*See generally* 8 C.F.R. § 241.5.) Respondents make no showing that Petitioner falls into any of these categories. Respondents offer no facts that would render Petitioner "[a]n alien released pursuant to § 241.4." Yet, that showing is a prerequisite to the applicability of Section 241.5, which only applies to "an alien released pursuant to § 241.4." Respondents' attempt to obtain an order from this Court retroactively authorizing supervision of Petitioner—a refugee with unadjusted status and no criminal history—under Section 241.5, when their own regulations do not permit it, and in the face of the UHA Order that plainly mandates Petitioner's unconditional release, is extraordinary.

Respondents' request for an order of supervision under § 241.5 would subject Petitioner to ongoing restraints and discretionary control by ICE (the same body that illegally detained him in the first place)—including mandatory check-ins, reporting, restrictions on travel and employment, surrender of documents, and the possibility of re-detention for alleged non-compliance—all without judicial oversight. These restraints are conditional, revocable, and coercive, not the unconditional release that Petitioner seeks through his Petition and to which he is entitled under the law and the UHA Order.[5]

In sum, Respondents' after-the-fact request to remand this case to ICE and place Petitioner under ICE supervision should be denied. Nothing in the UHA Order or even Respondents' governing regulations authorizes Petitioner's conditional release. Because the relief Respondents seek directly conflicts with the UHA Order, the request for remand

[5] For similar reasons, ISAP—which is for immigrants in removal proceedings—is inapplicable to Petitioner, a lawful refugee with unadjusted status and no criminal record.

and conditional release must be rejected. Instead, Respondents should be ordered to release Petitioner without any conditions.

C. Because Respondents Seek to Restrain His Liberty, the Petition is Not Moot and Should Not Be Dismissed.

Respondents' request that the Petition be dismissed is also improper. Respondents' attempt to obtain supervisory authority over Petitioner upon his release underscores the risks of dismissing this matter at this stage. Their effort to secure dismissal while effectively substituting custodial supervision for genuine release, illustrates precisely why continued judicial oversight is indispensable and why dismissal would be both premature and highly prejudicial to Petitioner.[6]

Rather than dismissing the Petition, the Court should deny the Motion and, upon Respondents' confirmation of Petitioner's unconditional release, direct the parties to file a status report within 14 days advising the Court of their respective positions on dismissal at that time.

D. The Petition Should Be Stayed Pending Further Updates in the UHA Case.

The UHA Order is, by its own terms, temporary. And, its durability is already in question: Respondents have moved to dissolve it, just hours after they filed their Motion in this matter. *See U.H.A. v. Bondi*, No. 26-cv-417, ECF No. 56 (D. Minn. Jan. 31, 2026.) In light of the temporary nature of the UHA Order, Respondents' ongoing efforts to dissolve

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[6] Respondents also ask that Petitioner's Petition be dismissed without prejudice, with each side to bear its own fees and costs. (Motion at 2.) Petitioner opposes this request, as under the Equal Access to Justice Act, 28 U.S.C. § 2412, he is entitled to attorneys' fees for a successful petition.

the relief provided therein, and their current attempt to impose conditions on Petitioner's release, Petitioner respectfully requests that this Court stay this matter pending further developments in the UHA Case.

E. If the Court Instead Proceeds to the Merits of the Petition, the Petition Should be Granted, Without Conditions.

Finally, in the event that this Court decides not to defer to the UHA Order, and to instead proceed directly to the merits of the Petition, which challenges the legality of his initial detention, the Petition should be granted, without any conditions. In the Order to Show Cause, this Court directed Respondents to file an answer, by January 31, 2026, that included:

a. Such affidavits and exhibits as are needed to establish the lawfulness and correct duration of Petitioner's detention in light of the issues raised in the habeas petition;
b. A reasoned memorandum of law and fact explaining respondents' legal position on Petitioner's claims; and
c. Respondents' recommendation on whether an evidentiary hearing should be conducted.

(Order at 1-2.)

In their Motion, however, Respondents do not provide *any* legal or factual basis for Petitioner's initial detention (and certainly not for his enrollment in ISAP). Rather than meet that burden, they urge this Court to remand to ICE and bless ongoing "supervision" that would allow renewed detention at ICE's discretion. (*See generally* Motion.) Because Respondents identify no grounds supporting either Petitioner's detention or supervision, their request should be denied and the Petition granted.

If the Court intends to proceed to the merits, or to explore any bases for the continued detention of Petitioner other than the sole basis proffered by Respondents in their Motion, Petitioner respectfully requests an opportunity to lodge a full-fledged reply to whatever other purported basis there is to restrain his liberty. Petitioner's arguments on the merits will largely mirror those considered in the UHA Order, as well as the findings made by Judge Frank in *Jama A.O. v. Bondi, et. al.* No. 26-cv-420 (DWF/ECW), ECF No. 10 at 7 (D. Minn. Jan. 23, 2026), Judge Schiltz in *Ali H. v. Bondi, et al.*, No. 26-CV-0767 (PJS/DLM), ECF No. 6 at 2-5 (D. Minn. Feb. 1, 2026), and Judge Tunheim in *S.M. v. Bondi, et al.*, No. 26-639 (JRT/DTS), ECF No. 18 at 3-4 (D. Minn. Feb. 1, 2026).

Petitioner specifically asks that this Court constrain any ruling it makes to the record in this matter. Respondents did not make arguments here that they have made in other, similar cases, and Petitioner respectfully submits that, if he were responding to a more fulsome brief by Respondents, he would submit legal and factual arguments that were not before the Court in other matters involving refugees. Petitioner would ask this Court to reconsider its prior holdings that some period of detention is allowed for the purpose of performing an "inspection and examination" for purposes of §1159. In particular, as held by Judge Frank, and as found meritorious by Judge Tunheim, Section 1159's reference to "custody" authorizes neither warrantless arrest nor physical detention. Any other interpretation is inconsistent with the statute's history, applicable agency regulations, and the Fourth and Fifth Amendments of the Constitution. Respondents have not argued otherwise in this matter, and based on the record before the Court, the only proper remedy

now is unconditional release. However, to the extent the Court wishes to reach those issues regardless of the record here, Petitioner wishes to submit full briefing.

CONCLUSION

For all these reasons, Petitioner respectfully requests that the Court: (1) deny Respondents' Motion in its entirety; (2) order that Respondents release Petitioner in accordance with the UHA Order, i.e., without any conditions on his release; and (3) once Respondents confirm to this Court that they have released Petitioner without any conditions, stay this matter and order the parties to submit a status report within 14 days pending further developments in the UHA Case, Petitioner's custodial status, and the parties' respective views on whether dismissal of the habeas petition is appropriate.

Dated: February 2, 2026

Respectfully submitted,

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