

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

Gustavo Morelos Valdovinos,

Petitioner,

v.

Kristi NOEM, Secretary, Department of
Homeland Security;

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement; and

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

Mary DE ANDA-YBARRA, Director, El
Paso Field Office, Immigration and Customs
Enforcement; and

George DEDOS, Warden, Cibola County
Correctional Center,

Respondents.

Civil No.: 26-cv-

**PETITION FOR WRIT OF
HABEAS CORPUS**

8 U.S.C. § 1226

28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner, Gustavo Morelos Valdovinos, was detained January 10 2026, by federal agents on Interstate 94 in Minneapolis, Minnesota.
2. Mr. Morelos Valdovinos has been present in the United States since at least 2001. He is not an arriving alien.
3. On information and belief, Mr. Morelos Valdovinos does not have a removal order.

4. On information and belief, Mr. Morelos Valdovinos is currently in ICE custody at the Cibola County Correctional Center in New Mexico.
5. Petitioner hereby seeks immediate relief in the form of a writ of habeas corpus requiring that he be released from immigration custody. Alternatively, Petitioner respectfully requests that this Court order Respondents to show cause why this Petition should not be granted within three days.
6. Further, Petitioner respectfully requests that this Court issue an order for Respondents to immediately return Petitioner to Minnesota as Petitioner has lived in Minnesota for many years and his three U.S. citizen children and other family members and supports are in Minnesota.

II. JURISDICTION AND VENUE

7. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 2241 (habeas corpus) and § 1331 (federal question), and Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”). Because Petitioner seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).
8. This Court may grant relief under 28 U.S.C. § 2241 et seq. (habeas corpus), § 1361 (mandamus), § 1651 (All Writs Act), and § 2201 (Declaratory Judgment Act); 5

U.S.C. § 702 (Administrative Procedure Act); and 29 U.S.C. § 794 (Rehabilitation Act § 504).

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner was arrested and detained by Respondents within this District, and his transfer out of the District was intended to divest this Court of jurisdiction and otherwise prevent Petitioner from seeking judicial review of his detention. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because some of the Respondents are headquartered within this District.
10. Ordinarily, a petitioner who “seeks to challenge his present physical custody within the United States . . . should name his warden as respondent and file the petition in the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 428 (2004). A writ of habeas corpus “does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.” *Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 494–95 (1973). The district court must “have jurisdiction over” that custodian. *Padilla*, 542 U.S. at 434. These rules are intended to “prevent[] forum shopping by habeas petitioners” as a prisoner could otherwise name a “high-level supervisory official as respondent and then sue that person wherever he is amenable to long-arm jurisdiction.” *Id.* at 447.
11. “These rules, however, are not jurisdictional in the sense of a limitation on subject-matter jurisdiction,” and are “best understood as a question of personal jurisdiction or venue.” *Id.* at 451 (Kennedy, J., concurring).
12. Several exceptions to these rules have been recognized and applied by this Court:

(1) “nonphysical custody,” (2) “dual custody,” (3) “removal of the prisoner from the territory of a district after a petition has been filed,” (4) where there is “an indication that the Government’s purpose in removing a prisoner were to make it difficult for his lawyer to know where the habeas petition should be filed,” or (5) “where the Government was not forthcoming with respect to the identity of the custodian and the place of detention.” *Id.* at 454 (Kennedy, J., concurring).

13. Additionally, “[t]he application of the ‘immediate custodian’ rule is not automatic, and the venue for habeas petitions allow for equitable concerns such as convenience and appropriateness of the district.” *Jose A. v. Noem*, No. 26-cv-480-JMB-ECW, 2026 WL 172524, at *2 (D. Minn. Jan. 22, 2026) (citing *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493 (1973)). “So long as the custodian can be reached by service of process, the court can issue a writ “within its jurisdiction” requiring that the prisoner be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the petitioner himself is confined outside the court’s jurisdiction.” *Braden*, 410 U.S. at 493. In *Jose A.*, the court found that

the equitable factors weigh in favor of this District as the appropriate venue to adjudicate the Petition. The decision to arrest and detain Jose A. was directed to personnel within this District, and therefore witnesses and information about the manner of his arrest would also be found in this District. Jose A. was, for at least some time, actually detained within this District. Jose A. has lived in Minnesota for many years, and Respondents have given no response as to the basis of his detention or what the length of his detention would be. Transferring venue would prolong both Jose A.’s detention and the adjudication of his claims. Further, venue should not be transferred simply because a petitioner was unable to file their petition prior to transfer, particularly

when that transfer was not at a petitioner's request, is wholly outside of their control, and occurs in a very short time after arrest. Transferring venue solely on the basis that a petitioner was transferred, and thereby currently detained elsewhere, could also have the effect of incentivizing forum shopping, as Respondents could quickly transfer detained individuals to a district of their choosing. Therefore, this Court concludes that this District is the appropriate forum for deciding Jose A.'s Petition.

Jose A., 2026 WL 172524, at *2.

14. This Court has repeatedly—and increasingly so, during Operation Metro Surge—found that this District is a proper forum where Respondents arrest an individual within this District, as part of an operation specifically targeting individuals residing within this District, and where the individual's family and counsel are located within this District, and Respondents intentionally move the individual out of this District within a very short period of time. *See, e.g., Adriana M. Y.M. v. Easterwood*, No. 26-cv-213-JWB-JFD, 2026 WL 184721, at *2–3 (D. Minn. Jan. 24, 2026); *Luis E. M.C. v. Bondi*, No. 26-cv-333-JRT-DTS, 2026 WL 184538, at *3 (D. Minn. Jan. 23, 2026); *Jose A.*, 2026 WL 172524, at *2; *Aleksander B. v. Trump*, No. 26-cv-170-KMM-DJF, 2026 WL 172435, at *3 (D. Minn. Jan. 22, 2026); *Abdiselan A.A. v. Bondi*, No. 26-cv-358-JRT-ECW, 2026 WL 161526, at *2 (D. Minn. Jan. 21, 2026); *E.E. v. Bondi*, No. 26-cv-314-JWB-DTS (D. Minn. Jan. 17, 2025); *Luis N. v. Bondi*, No. 26-cv-226-JMB-DLM, 2026 WL 115070, at *1 (D. Minn. Jan. 15, 2026).
15. Finally, to the extent that this case falls outside of the exceptions articulated in *Padilla* or the equitable factors weighed in *Jose A.*, this Court may nevertheless hear this Petition under the “extraordinary circumstances” exception. *See Vasquez v.*

Reno, 233 F.3d 688, 696 (1st Cir. 2000). In *Vasquez*, the court held that such extraordinary circumstances would exist if “INS¹ spirited [a noncitizen] from one site to another in an attempt to manipulate jurisdiction.” *Id.* Courts in this District have, twice, applied the *Vasquez* framework to hear a petition. In *Farah v. INS*, Judge Frank declined “to find that the INS intentionally tried to manipulate jurisdiction,” but he determined that “the practical effect of its sudden decision to transport [Petitioner] overnight was to prevent him from filing his Petition while he was present in this state. To now hold that Farah may only file his Petition in the state that the INS determines to send him would be to allow the INS to forum shop, intentionally or not.” *Farah v. INS*, No. 02-cv-4725 DSDRLE, 2002 WL 31828309, at *3 (D. Minn. Dec. 11, 2002). Judge Frank also found venue was proper, under the equitable test in *Branden*. *Id.* *Vasquez* was applied again a year later, again by Judge Frank, who similarly found venue was proper and jurisdiction existed in the District. *De Jesus Paiva v. Aljets*, No. 03-civ-6075-DWF-AJB, 2003 WL 22888865, at *3–4 (D. Minn. Dec. 1, 2003). Other courts have recently followed *Farah* and *De Jesus Paiva*. See, e.g., *Ozturk v. Trump*, 777 F. Supp. 3d 26, 39 (D. Mass. 2025).

16. Here, as the Court is undoubtedly aware, there have been an extraordinary number of arrests by ICE, triggering an extraordinary number of habeas petitions filed in

¹ The precursor to ICE.

response, still by just a fraction of the individuals arrested by ICE.² The disparity between arrests and petitions is driven primarily by the immediate transfers of individuals out of Minnesota within hours of arrest, in tandem with the inability of the local immigration bar, even with the support of pro bono volunteer attorneys, to keep up with the need, further limited by the cost of representation by private attorneys and the resources of nonprofit organizations³; and, while some attorneys are seeking admission in other federal district courts, noncitizen detainees are unpredictably moved to different districts, and then may be moved again⁴; it is also expensive and burdensome to seek out local counsel in all of these cases, to either handle the case or support pro hac vice admission by Minnesota counsel, in all corners of the country, and the supply of such attorneys is nearly exhausted. In other words, transfers out of state are not intended merely to divest jurisdiction from this

² See Cheney, *Judges, Inundated with Immigration Cases, Don't Mince Words on ICE Tactics*, POLITICO (Jan. 26, 2026), available at <https://www.politico.com/news/2026/01/26/minnesota-immigration-cases-ice-00746275>. The Minnesota Star Tribune reported on January 22, 2026, that 344 habeas petitions were filed since Operation Metro Surge began on December 1, 2025, compared to 375 petitions filed from 2016 to 2024. Nelson & Meitrodt, *Wave of Immigrants File Lawsuits to Fight ICE Detention*, MINN. STAR TRIBUNE (Jan. 22, 2026), available at <https://www.startribune.com/wrongful-detainment-complaints-spike-during-ice-surge/601567955>. A docket search shows that, as of January 29, 2026, one week after the article was published, at least 577 petitions have now been filed since December 1—over 230 (40% of the total since December 1) in just one week.

³ As it is, the number of petitions that *have* been filed is attributable to the herculean efforts of attorneys to respond to this crisis.

⁴ To the best of undersigned counsel's knowledge and ability to access habeas filings remotely, only approximately 30 petitions have been filed in the Western District of Texas.

Court or forum-shop,⁵ but to make it increasingly difficult for detainees to seek judicial review and for the constellation of private attorneys, nonprofit legal providers, and pro bono attorneys to be overwhelmed and unable to serve the vast majority of individuals in need—essentially, to wage a war of attrition against the local bar, and let each granted petition be a pyrrhic victory.

17. In this case, Petitioner has not been able to secure counsel in the District of New Mexico, where he is at this moment detained. He does, however, have pro bono counsel here in Minnesota.⁶ Almost all of the other factors considered in *Jose A.* are present. Petitioner's removal case is currently venued in New Mexico. It is worth noting that the case was only docketed on January 29, 2026, nineteen days after his detention, and two days after Petitioner had been moved to New Mexico from El Paso, Texas. Further, Petitioner's detention continues to be pursuant to Operation Metro Surge, which is directed at the State of Minnesota, and from within the District of Minnesota.
18. The Respondents in this action are represented by the U.S. Attorney's Office, and there is at least one named Respondent in this action who is located within this

⁵ Forum shopping is also not limited to these petitions; detainees with pending immigration proceedings are also having the venue of those proceedings changed, and differences in immigration caselaw between circuits may have a material difference on the outcome of those cases.

⁶ Additionally, some detainees such as Petitioner qualify for free legal services based on their county of residency within Minnesota; Petitioner is a resident of Hennepin County and therefore qualifies for representation by undersigned counsel; he is not eligible for any free legal services in New Mexico.

District and can enact any order to release or return Petitioner. Moreover, the U.S. Attorney's Office has repeatedly demonstrated its ability to represent Federal Government Respondents in habeas petitions in this District, where detainees have been moved out of the District—including a shocking number of times that detainees were moved out the District in violation of court orders.⁷

19. This Court should find that venue is proper and jurisdiction lies in this District.

III. PARTIES

20. Petitioner Gustavo Morelos Valdovinos lives in the State of Minnesota. He was arrested on January 10, 2026, by federal agents on Interstate I-94 in Minneapolis. He was transferred to the El Paso-East Montana facility on or around January 11, 2026 and then later transferred on or around January 26, 2026, to the Cibola County Correctional Facility in Milan, New Mexico.
21. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration and implementation of federal immigration policies, including those that resulted in the arrest and detention of Petitioner.
22. Respondent Todd Lyons is being sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Acting Director Lyons is responsible for

⁷ See, e.g., Order, *Juan T.R. v. Noem*, No. 26-cv-107 (PJS/DLM), ECF No. 10, at *2 (D. Minn. Jan. 28, 2026) (noting 96 court orders violated by ICE in Minnesota since January 1, 2026); Appendix, *id.*, ECF No. 10-1 (listing cases).

decisions related to the detention and removal of certain noncitizens, including Petitioner.

23. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Acting Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The St. Paul Field Office is located in Fort Snelling, Minnesota.
24. Respondent Mary De Anda-Ybarra is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Director De Anda-Ybarra has supervisory authority over the ICE agents and detention centers within the El Paso Field Office's jurisdiction, including the Cibola County Correctional Center in Milan, New Mexico. The El Paso Field Office is located in El Paso, Texas.
25. Respondent George Dedos is being sued in her official capacity as the Warden of the Cibola County Correctional Center. In that capacity, Warden Collins is responsible for the Cibola County Correctional Center—a private immigration detention facility under contract with ICE and the physical location where the Petitioner is currently in custody. The Cibola County Correctional Center is located in Milan, New Mexico.

IV. EXHAUSTION

26. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

V. FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

27. Petitioner Gustavo Morelos Valdovinos is a 49-year-old resident of Minnesota who has lived in the United States continuously since at least 2001.
28. On information and belief, Mr. Morelos Valdovinos is not an arriving alien or an applicant for admission, pursuant to 8 U.S.C. § 1225.
29. On information and belief, Mr. Morelos Valdovinos has not been in removal proceedings previously and does not have a removal order. It appears he has now been placed in removal proceedings as of January 29, 2026 and he has a hearing scheduled for February 10, 2026 at 8:30 a.m. at the immigration court in Otero, New Mexico.
30. On information and belief, Mr. Morelos Valdovinos does not have any relevant criminal history.

31. Mr. Morelos Valdovinos was arrested by federal agents on January 10, 2026, on Interstate I-94 in Minneapolis near the Lyndale exit. On information and belief, he pulled over to the side of the highway as he thought that local police were attempting to stop him. Then three ICE agents approached the vehicle on either side. The agents asked Mr. Morelos Valdovinos if he was a citizen. Mr. Morelos Valdovinos stated he did not need to answer that. The agents then asked Mr. Morelos Valdovinos to get out of the car. Mr. Morelos Valdovinos felt worried about what would happen if he did not comply with their requests and he did get out of his car. Agents continued to question Mr. Morelos Valdovinos outside of his vehicle and then they arrested him. The agents then brought Mr. Morelos Valdovinos to the Whipple Federal Building in Fort Snelling, Minnesota. He was held there until around midday on January 11, 2026 when he was sent to El Paso-East Camp Montana. On or around January 26, 2026, Mr. Morelos Valdovinos was transferred to Cibola County Correctional Center in Milan, New Mexico. On information and belief, the agents did not have a valid warrant for his arrest. Mr. Morelos Valdovinos believes that the agents may have identified him by running his license plate through databases they can access. It is unknown whether agents already had the intention to arrest Mr. Morelos Valdovinos when they may have run his license plate or stopped his vehicle, or if he was encountered by chance and was questioned because of his race and ethnicity.
32. This arrest was carried out as a part of Operation Metro Surge.
33. Even assuming that Mr. Morelos Valdovinos is removable, there is no basis for his

detention. He is not a flight risk or a danger to the community. Mr. Morelos Valdovinos has lived in Minnesota for many years and has three U.S. citizen sons who also live in Minnesota. He has a possible U visa claim based on being the victim of an armed robbery at a former place of employment. He will also attend any immigration court hearings. He is amenable to release on recognizance.

34. On information and belief, Respondents have not identified to Petitioner what detention authority he is currently detained under.
35. On information and belief, Respondents purport to detain Petitioner pursuant to 8 U.S.C. § 1225 based on a recent and novel interpretation of that statute, despite an injunction against that interpretation and frequent decisions by nearly every Judge in this District rejecting it.
36. On information and belief, Respondents have not conducted the individualized custody determination that is required under agency regulations.
37. On information and belief, Respondents transferred Petitioner out of the District of Minnesota to deprive this Court of jurisdiction and interfere with Petitioner's ability to seek judicial review of his detention.
38. On information and belief, Respondents also transferred Petitioner out of the State of Minnesota to venue-shop his immigration court case.

VI. LEGAL FRAMEWORK

39. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
40. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, detention in the context of immigration must “bear[] a reasonable relation to the purpose for which the individual [was] committed.” *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). If “detention’s goal is no longer practically attainable,” detention becomes unreasonable and therefore violates the Fifth Amendment right to due process. *Id.*
41. The arrest and detention of all persons by immigration authorities is authorized only as described in the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.
42. Under 8 U.S.C. § 1357(a)(2), an agent may make an immigration arrest without a warrant only if they have “reason to believe” that (1) the individual “is in the United States in violation of any [immigration] law or regulation,” and (2) the individual “is likely to escape before a warrant can be obtained for his arrest.” *See also* 8 C.F.R. § 287.8(c)(2)(i), (ii) (same). “Reason to believe” is “considered the equivalent of probable cause,” *Lau v. U.S. Immigr. & Naturalization Serv.*, 445 F.2d 217, 222 (D.C. Cir. 1971), which “must be particularized with respect to the person to be searched or seized,” *Barham v. Ramsey*, 434 F.3d 565, 573 (D.C. Cir. 2006)

(quoting *Maryland v. Pringle*, 540 U.S. 366 (2003)).

43. “[A]pparent ethnicity alone cannot furnish reasonable suspicion.” *Noem v. Vasquez Perdomo*, 606 U.S. —, — S. Ct. —, 2025 WL 2585637, Slip Op. at *5 (U.S. Sept. 8, 2025) (Kavanaugh, J., concurring).
44. Noncitizens may ordinarily be detained under one of four authorities: 8 U.S.C. § 1225, which governs the detention of arriving aliens and noncitizens attempting to enter the United States; § 1226(a), which governs the detention of noncitizens who have entered the United States and are apprehended in the interior; § 1226(c), which allows for the detention of noncitizens with certain criminal convictions; and § 1231, which governs the detention of noncitizens with final orders of removal who are awaiting deportation. Only § 1226(a) allows for a bond hearing before an immigration judge.
45. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals (“BIA”) articulated in a subsequent ruling. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claim that individuals who have been residing within the United States for more than two years are somehow metaphorically “seeking admission,” simply because they may have pending claims for asylum or other forms of status.
46. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the

United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

47. Here, Petitioner has been in the United States for well over two years and was apprehended within the United States, not at a border while seeking entry. Respondents cannot assert 8 U.S.C. § 1225(b)(2) as a basis for detaining Mr. Morelos Valdovinos without a hearing. If Respondents assert § 1226(a) as the detention authority, transferring Mr. Morelos Valdovinos 1,300 miles away from his family, his attorney, and any relevant evidence served no legitimate purpose, and indeed the detention itself serves no legitimate purpose.

VII. CAUSES OF ACTION

COUNT ONE: STATUTORY VIOLATION OF IMMIGRATION AND NATIONALITY ACT

48. Petitioner repeats, realleges and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of

inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

50. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.
51. Mr. Morelos Valdovinos has been residing in the United States since at least 2001. He was detained by ICE decades after his initial entry, within the interior of the United States. Mr. Morelos Valdovinos does not have any criminal history beyond minor traffic tickets. Therefore, he should be subject to detention under §1226(a) and should have been given an opportunity to seek a bond hearing.

**COUNT TWO: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT
UNLAWFUL DENIAL OF BOND**

52. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

54. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).
55. As explained supra, due to the length of time that Mr. Morelos Valdovinos has been in the United States and his lack of serious criminal history, he should have been provided the opportunity for a bond redetermination hearing.

COUNT THREE: FIFTH AMENDMENT SUBSTANTIVE DUE PROCESS

56. Petitioner re-alleges and incorporates by reference the paragraphs above.
57. The Fifth Amendment Due Process Clause protects against arbitrary and indefinite detention by the executive branch, regardless of a person's citizenship or immigration status. *Zadvydas*, 533 U.S. at 699.
58. Petitioner has a fundamental interest in liberty and being free from official restraint.
59. Due process requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.
60. Mr. Morelos Valdovinos's detention violates substantive due process under the Fifth Amendment because it is not reasonably related to its purpose. Mr. Morelos Valdovinos is not a flight risk. He has been in the United States for more than twenty years and has three U.S. citizen children living in Minnesota. He has a stable address and employment in construction. Counsel has not been able to fully assess Mr. Morelos Valdovinos's potential relief but believes he may at least be eligible to seek

a U visa for victims of crime and may have other relief available. Further, Mr. Morelos Valdovinos is not a danger to the community. Upon information and belief, he has had two traffic-related tickets but otherwise has no criminal history.

61. At the time that agents initially stopped Mr. Morelos Valdovinos, they had no reasonable suspicion that Mr. Morelos Valdovinos was present in violation of the immigration laws apart from the color of his skin and his perceived ethnicity. Even if the agents were able to identify him based on his license plate, given that Mr. Morelos Valdovinos was only placed in removal proceedings after his detention, there is nothing to suggest that agents had a reason to know he was present in violation of the immigration laws at that time. Further, there was nothing to indicate that Mr. Morelos Valdovinos was likely to escape before a warrant could be obtained.

COUNT FOUR: FIFTH AMENDMENT PROCEDURAL DUE PROCESS

62. Petitioner re-alleges and incorporates by reference the paragraphs above.
63. *Mathews v. Eldridge* instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. 424 U.S. 319, 333 (1976). All three factors favor Petitioner.
64. The first factor, the private interest at issue, favors Mr. Morelos Valdovinos. "Freedom from imprisonment—from government custody, detention, or other

forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.

65. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Mr. Morelos Valdovinos. There simply was no process in place that allowed for the possibility that Mr. Morelos Valdovinos’s detention could be found to be unwarranted or unnecessary prior to the actual detention. The Respondents did not have reasonable suspicion for their initial stop of Mr. Morelos Valdovinos.
66. The third factor, the government’s interest, also favors Mr. Morelos Valdovinos. The government has no legitimate interest detaining an individual where the individual is not a flight risk or danger to the community. Further, no legitimate interest is served by transferring an individual 1,300 miles from their home, their family, their counsel, and any evidence relevant to their detention.
67. For these reasons, arresting and detaining Mr. Morelos Valdovinos violated procedural due process under the Fifth Amendment to the U.S. Constitution.

**COUNT FIVE: FIFTH AMENDMENT RIGHT TO COUNSEL & A FAIR
REMOVAL HEARING**

68. Petitioner re-alleges and incorporates by reference the paragraphs above.
69. The Due Process Clause of the Fifth Amendment guarantees immigration detainees the right to a full and fair hearing in removal cases. *See Al Khouri v. Ashcroft*, 362 F.3d 461 (8th Cir. 2004).

70. The Due Process Clause also guarantees detained noncitizens the right to be represented by counsel of their choice at no expense to the government. This constitutional right encompasses the right to effective assistance of counsel. *See United States v. Torres-Sanchez*, 68 F.3d 227 (8th Cir. 1995).
71. Respondents deliberately violated and continue to violate Petitioner's right to a full and fair hearing in his removal case by transferring Petitioner out of state so that his removal case will be heard in a different court than where it would have been venued had proceedings been initiated timely after his arrest. Respondents have chosen a venue thousands of miles away from where Petitioner and his family have lived for decades.
72. Respondents deliberately violated and continued to violate Petitioner's right to representation of counsel of his choosing and right to effective assistance of counsel by moving him over 1,000 miles away from counsel, evidence, and potential witnesses.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's current detention is unlawful;
3. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody;
4. Order Respondents to return Petitioner to this District pending resolution of this petition and preventing any future transfer outside of the district pending resolution

without the Court's approval;

5. Award reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), upon such application; and
6. Grant any and all further relief this Court deems just and proper.

DATED: January 30, 2026

Respectfully submitted,

/s Margaret Hennessy

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