UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Gustavo MORELOS VALDOVINOS, Petitioner, v. **Kristi NOEM**, Secretary, Department of Homeland Security; Et al. Respondents.	Civil No.: 26-cv-883 (DMT/JFD) **PETITIONER'S REPLY BRIEF**

Petitioner submits this Reply Brief in response to Respondents' Response to Petition for Writ of Habeas Corpus [Docket No. 6]. The Government's Response, over seven pages, fails to meaningfully address the arguments raised in Petitioner's brief and fails to provide relevant information or documentation to support Respondent's detention of Petitioner. The arguments that the Government raises are without merit, but are addressed here in turn.

JURISDICTION TO HEAR THIS PETITION

Respondents confirm that Petitioner was detained at the Cibola County Detention Center in New Mexico, at the time the petition was filed, and remains there. Respondents request transfer of the case to the District of New Mexico.

Respondents point to the "general" or "ordinary" rule in *Padilla* that habeas petitions name the immediate custodian and be filed with the District Court within which the petitioner is confined. *Rumsfeld v. Padilla*, 542 U.S. 426, 448 (2004). "This rule, derived from the terms of the habeas statute, serves the important purpose of preventing

forum shopping by habeas petitioners." *Id.* In *Padilla*, the petitioner was detained in South Carolina, but filed the petition in the Southern District of New York, invoking long-arm jurisdiction to name a high-level supervisory official; in other words, the petitioner was not in New York and no respondents were in New York. *Id.* Importantly, a majority of the Court recognized several exceptions to the rule and consider the proper forum for habeas petitions to be "guided by 'traditional venue considerations' and 'traditional principles of venue.'" *Id.* at 451–52 (Kennedy, J, concurring) (quoting *Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 493 (1973)).

The Response fails to grapple with Justice Kennedy's concurrence in *Padilla*, the arguments made in the Petition, and the scores of orders coming out of this District finding that "exceptions exist to the default district-of-confinement rule" and the Court *does* have jurisdiction. *Jose M.A.P. v. Noem*, No. 26-cv-689 (JRT/DJF), 2026 WL 262649, at *1 (D. Minn. Feb. 1, 2026); *see also Norma V.A. v. Bondi*, No. 26-cv-618 (JRT/DJF), 2026 WL 252506, at *1 n.1 (D. Minn. Jan. 30, 2026). In one such case, District Judge Davis found that, where the petition challenged the legality of the petitioner's seizure and detention, the court's "habeas jurisdiction attached at the time of Petitioner's apprehension in this District," "jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state," "[h]abeas jurisdiction turns on custody and control, not on the Government's unilateral post-seizure movement of the detainee," and finding that "jurisdiction lies exclusively in the district to which Respondents transfer a petitioner would permit the Government to determine the forum for judicial review through its own logistics." *Sue H. v. Trump*, No. 26-cv-416

(MJD/ECW), ECF No. 3, at *2 (D. Minn. Jan. 20, 2026). As courts in this District have determined, holding that a petitioner "may only file his Petition in the state that [ICE] determines to send him would be to allow [ICE] to forum shop, intentionally or not." *Farah v. INS*, No. 02-cv-4725 (DSD/RLE), 2002 WL 31828309, at *3 (D. Minn. 2002); *see also Tah L. v. Trump*, No. 26-cv-171 (MJD/SGE), 2026 WL 184524, at *3 n.13 (D. Minn. Jan. 19, 2026) (finding *Farah* and other pre-*Padilla* cases to remain persuasive and supply exceptions to the general rule).

Here, the arrest of Petitioner resulted from an unlawful seizure—without reasonable suspicion, which Respondents appear to concede, and certainly do not dispute—in Minnesota. Similarly, the decision *where* to detain Petitioner—just like the decision *to* detain him—was made in this District, and continues to be made in this District, pursuant to Operation Metro Surge. Further, the Respondent who would actually be responsible for complying with an order granting the Petition is Respondent Easterwood, who is located in this District. *See Avila v. Bondi*, No. 25-cv-3741 (JRT/SGE), 2025 WL 2976539, at *3 n.5 (D. Minn. Oct. 21, 2025).

Respondents have already moved Petitioner through several judicial districts before deciding to detain him in New Mexico. They could decide tomorrow to move him somewhere else. In an ordinary case, the immediate custodian rule would govern; but, as courts in this District have repeatedly made clear, the rule has its exceptions, and detentions in the context of Operation Metro Surge do not present ordinary cases.

DUE PROCESS AND RIGHT TO COUNSEL CLAIMS

Respondents completely failed to address Petitioner's due process and right to

counsel claims. Therefore, Respondents waived any challenge to those arguments. *Juan M. v. Bondi*, 2026 WL 129059 , at *2 (citing *Doe v. Mayorkas*, No. 22-cv-752 (ECT/DTS), 2022 WL 4450272, at *2 (D. Minn. Sep. 23, 2022) (citing *Espey v. Nationstar Mortg., LLC*, No. 13-cv-2979 (ADM/JSM), 2014 WL 2818657, at *11 (D. Minn. June 19, 2014) (collecting cases)). Courts in this district have found that due process violations support granting habeas relief. *Jama A.O. v. Bondi,* No. 26-cv-420 (DWF/ECW), 2026 WL 128198 (D. Minn. Jan. 18, 2026); *Darvin M. v. Bondi,* No. 26-cv-0437 (SRN/EMB), 2026 WL 184843 (D. Minn. Jan. 24, 2026). Though these cases are factually distinct in that they involve Petitioner's with refugee status, the rights and protections afforded to the Constitution apply to all within the United States, including those without immigration status.

Respondents included two mere sentences in their Response, unsupported by evidence, related to the facts of Petitioner's entry to the United States and his detention. Notably, there are no facts included relating to Petitioner's arrest and whether the officials who ended up detaining him had any reasonable suspicion to stop and question him, much less detain him. The only facts immigration officials appear to have had at the time they stopped Petitioner were the color of his skin and his apparent ethnicity. Even if officials were able to determine Petitioner's name through reviewing driver registration records, that would not furnish any information related to his immigration status, particularly as Petitioner had not had contact with immigration officials prior to his detention. These facts are not enough to even satisfy the low threshold for reasonable suspicion outlined by the majority of the Supreme Court in *Noem v. Vasquez Perdomo,*

146 S. Ct. 1 (2025). Those facts relate merely to ethnicity, which 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). The remaining facts related to Petitioner's arrest, as detailed in the Petition and not disputed in the Response, do not support a reasonable suspicion that Petitioner was present in violation of the immigration laws. Respondents do not dispute that immigration officials did not appear to have even an administrative warrant for Petitioner's arrest. Given that Petitioner's arrest was unlawful, his resulting detention is also unlawful and he must be released from custody.

Further, even assuming arguendo that immigration officials did have reasonable suspicion, there are no facts to indicate that Petitioner was likely to escape before a warrant could be obtained for his arrest, as contemplated by the statute governing immigration officials authority to arrest noncitizens. 8 U.S.C.A §1357(a)(2). Again, this renders Petitioners arrest and resulting detention unlawful.

Finally, Respondents do not dispute that they have frustrated Petitioner's access to counsel. Apart from moving him out of state, while Petitioner is detained it is challenging to be able to effectively communicate with him to present and prepare any defense in removal proceedings. This violation of Petitioner's constitutional rights also necessitates granting the petition.

STATUTORY AUTHORITY FOR DETENTION

Respondents claim—without any evidence—that Petitioner "entered the United States without admission or inspection by an Immigration Officer, and currently lacks

permanent legal status." (Doc. No. 6 at 1–2.) Petitioner does not dispute that characterization. But Respondents do not say anything more, and do not explain how the legal argument copy and pasted into this Response applies to Petitioner. Insofar as Petitioner "lacks permanent legal status," that fact alone does not render Petitioner as "seeking admission"—as far as Respondents identify to the Court, he could have some status other than lawful permanent residency. Respondents also do not address the unlawfulness of the seizure and arrest, or explain how this is overcome. It is the Respondents' burden to demonstrate that their detention of Petitioner is lawful, and what Respondents put forth do not do that. Instead, it seems, they ask the Court to do the work for them.

Respondents' purported legal arguments are also wrong. Respondents concede that nearly all judges in this District have previously ruled against them in cases with similar facts, and those decisions are consistent with the vast majority of courts around the country. *See Avila*, 2025 WL 2976539, at *5–7. Petitioner sees no reason to dispute that the reasoned decision in Avila., as well as many others decided in this district, should control here. Petitioner notes that the Response states "that minority has been growing since the BIA reached its conclusion in *Matter of Yajure-Hurtado*, 29 I & N Dec. 216 (BIA Sept. 5, 2025)" and cites to a decision from the Western district of Louisiana from October of 2025. However, in the several months since that decision, many more courts have agreed with the majority position. In fact, in a case cited by the Respondents, *Roberto M.F. v. Olson*, 2025 WL 3719856 (D. Minn. Dec. 9, 2025), that court cited a decision from Pennsylvania noting that 288 courts have agreed with the majority

position. *Demirel v. Fed. Detention Ctr. Phila.*, Civ. No. 25-5488, 2025 WL 3218243, at *4 (E.D. Pa. Nov. 18, 2025). Of Those 288 decisions, only 37 were issued prior to or within one week of Matter of Yajure-Hurtado. *Id.* At Appendix. Given the flood of habeas cases filed in this District alone[1], it is likely that there is an even greater majority of decisions agreeing with the Petitioner's position. See [Docket No. 1 fn 2]. Respondents also "emphasiz[e] that courts within the Eighth Circuit agree with the government's arguments," insinuating unanimity in those courts. (Doc. No. 6 at 4-5 (citing four decisions out of the District of Nebraska and the Eastern District of Missouri, most recently December 5, 2025).) But there is not unanimity, as they suggest, and more recent cases have gone the other way. *See, e.g., Martinez Gamez v. Easterwood*, 2026 WL 295400 (D. Neb. Feb. 4, 2026*); Chavez Avila v. Bondi*, 2026 WL 63328 (D. Neb. Jan. 8, 2026); *Francisco v. Arnott*, 2025 WL 3754231 (W.D. Mo. Dec. 29, 2025); *Barrajas v. Noem*, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025)To the extent this Court needs to reach this question, it should not diverge from the nearly unanimous interpretation of the judges in this District. *See Roberto M.F. v. Olson*, No. 25-cv-4456 (LMP/ECW), 2025 WL 3524455 (D. Minn. Dec. 9, 2025); *Andres R.E. v. Bondi*, No. 25-cv-3946 (NEB/DLM), 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Avila v. Bondi*, No. 25-cv-3741 (JRT/SGE), 2025 WL 2976539 (D. Minn. Oct. 21, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025);

[1] See [Docket No. 1, fn 2] citing news articles about the number of habeas claims filed in Minnesota.

Santos M.C. v. Olson, 25-cv-4264 (PJS/DJF), 2025 WL 3281787 (D. Minn. Nov. 25, 2025); *Ahmed M. v. Bondi,* 25-cv-4711, (ECT/SGE), 2026 WL 25627 (D. Minn. Jan. 5, 2026); *Adriana M.Y.M. v. Easterwood,* No. 26-cv-213 (JWB/JFD), 2026 WL 184721 (D. Minn. Jan. 24, 2026); *Edwin C.R. v. Bondi,* 26-cv-00355 (MJD/JFD), 2026 WL 185068 (D. Minn. Jan. 25, 2026); *Milton A.C.Q. v. Bondi,* 26-cv-684 (DWF/DTS), 2026 WL 254065 (D. Minn. Feb. 1, 2026); *Francisco T. v. Bondi*, No. 25-cv-3219 (JMB/DTS), 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *but see Guillermo N. v. Bondi*, No. 26-cv-258 (PAM/DLM).

In addition, Respondents included two mere sentences in their Response, unsupported by evidence, related to the facts of Petitioner's entry to the United States and his detention. Even though Petitioner has been placed in removal proceedings [Docket No. 1 at 11 ¶ 29] and therefore must have been issued a Notice to Appear[2], Respondents fail to provide a copy of the same. Respondents likely are choosing not to provide a copy as Courts in this district have found that a Notice to Appear that has checked the box "You are an alien present in the United States who has not been admitted or paroled" but has not checked the box "You are an arriving alien", lent further support to the conclusion that Petitioner was subject to detention under §1226 rather than §1225. *Avila* at 6.

Respondent's argue that the legislative history of IIRAIRA as detailed in *Torres v Barr*, 976 F. 3d 918, 928 (9th Cir. 2020), supports their position that §1225 applies to all

[2] *See* Ali v. Barr, 924 F. 3d 983, 986 (8th Cir. 2019)

noncitizens who are present without admission. However, *Torres* involved an analysis of a completely separate section of the statute, 8 U.S.C.A. §1182 and did not involve the issue of detention or bond hearings. *Ahmed M.* at 2. As the authorities cited by Petitioner and by the majority of courts are analyzing the statutes at issue in the context of detention in removal proceedings, those arguments should be more persuasive. *Id.*

Because Petitioner was unlawfully arrested and detained within the District of Minnesota, he continues to be detained without due process and without legal authority, and Respondents fail to offer any evidence or reasoned explanation of the facts and law that authorize detention, Petitioner's detention should be found to be unlawful and he should be immediately released in Minnesota, along with all his belongings, and subject to any conditions of release in place prior to his arrest.

For these reasons, and the reasons given in the Petition for Writ of Habeas Corpus [Docket No. 1], the Petition should be granted and Petitioner should be immediately released.

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Respectfully submitted,

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