

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

Rafael Santos Reyes Lopez,

Petitioner,

v.

Pamela Bondi, Attorney General, United
States Department of Justice,

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

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

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

Respondents.

Case No.0:26-cv-01014

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Rafael Santos Reyes Lopez, by and through counsel, hereby files this petition for a Writ of Habeas Corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release Mr. Reyes Lopez from ICE detention or, in the alternative, transfer Mr. Reyes Lopez back to Minnesota and to provide Petitioner with a bond hearing.

2. After initially detaining Petitioner within the U.S. after his arrival on January 1, 2025, DHS placed him in removal proceedings and issued an order of release

on recognizance. Shortly after his arrival, Petitioner applied for asylum in the United States. His application is currently pending. Since his arrival, Petitioner has been living peacefully in Minnesota and complying with all lawful orders with respect to his immigration proceedings.

3. Despite Petitioner's prior release from immigration custody, Respondents arrested Petitioner in New Hope, Minnesota on Monday, January 27, 2026, when he was stopped on his way in to work by at least three masked ICE agents in military tactical gear who boxed the Uber ride, climbed out of an unmarked SUV and detained him.

4. According to ICE records, Petitioner is being detained by ICE in ERO El Paso Camp East Montana in El Paso, Texas.

5. Petitioner's detention is unlawful for at least six reasons.

6. **First**, due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before re-detaining Petitioner. When the government released Petitioner from its custody in 2025, it determined that he was neither a flight risk nor a danger to the community. Since then, nothing has changed to undermine that determination. On the contrary, support for that determination has only strengthened: Petitioner has built deep ties to the United States and desires to remain in Minnesota as an asylee, as demonstrated by his pending application. And Petitioner has a spotless criminal history. As courts in this District have held in similar cases, Petitioner's detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025) (granting habeas petition and ordering release

of a detained immigrant on supervised release where Government failed to give adequate pre-detention notice and “utterly fail[ed] to demonstrate to the Court why changed circumstances render [immigrant’s] removal significantly likely in the reasonably foreseeable future”); *Sarail A. v. Bondi*, No. 25-cv-2144, 2025 WL 2533673, at *4–5 (D. Minn. Sept. 3, 2025) (granting *habeas* petition and ordering release of detained immigrant who was previously released into supervision where government failed to give adequate notice of re-detention, and merely cited “‘changed circumstances’ without any explanation”); *Yee S. v. Bondi*, No. 25-cv-02782, 2025 WL 2879479, at *4 (D. Minn. Oct. 9, 2025) (granting *habeas* petition of immigrant released into supervision where government failed to demonstrate a change in circumstances). Courts have also found that the 2025 Expansion of Expedited Removal Designation and the corresponding Huffman Memorandum fails to afford affected individuals a sufficiently meaningful opportunity to be heard. *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908, at *10 (D.D.C. Aug. 29, 2025) (finding that designees of the expanded expedited removal had a weighty private liberty interest in remaining in the United States and noting that “[m]any people subject to expedited removal risk separation from their family members or have pending asylum applications and may be persecuted if deported.”).

7. **Second**, the government has no legitimate interest in detaining Petitioner when he is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, his detention also violates his substantive due process rights, warranting his immediate release.

8. **Third**, Petitioner was arrested without changed circumstances, without a

warrant, and without probable cause that he was a flight risk, under unlawful enforcement procedures that multiple courts across the country have declared illegal. Since then, there has been no determination that any probable cause exists to justify his detention. This violates his Fourth Amendment rights, as well as statutes and regulations, similarly mandating his release.

9. **Fourth**, Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, (C.D. Cal.). On November 20, 2025, the District Court of the Central District of California granted partial summary judgment on behalf of individual plaintiffs and, on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). After being presented with evidence that the Government was counseling noncompliance with the court's orders, the District Judge in *Maldonado-Bautista* issued a clarifying order on December 18, 2025, to make clear that all class members are entitled to benefit from the declaratory judgment and therefore entitled to a bond hearing. No. 5:25-cv-01873-SSS-BFM 2025 WL 3713982 at * 7 (C.D. Cal. Dec. 18, 2025). The declaratory judgment held that the Bond Denial Class members are detained

under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

10. Petitioner is a member of the Bond Eligible Class, as he:
 - a. does not have lawful status in the United States and is currently detained by ICE;
 - b. was apprehended upon arrival to the United States without inspection over a year ago, was apprehended close in time to his entry, and released on recognizance, *cf. id.*; and
 - c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

11. However, Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*. Petitioner is a member of the Bond Eligible Class and is therefore entitled to release.

12. **Fifth**, Petitioner's detention is not governed by 8 U.S.C. § 1225(b)(2)(A), as he entered the United States without inspection, was previously detained and released from detention, and has since lived in the United States for over one years. Courts throughout the United States have overwhelmingly rejected Respondents' expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases declining to entertain "the administration's new position that all noncitizens who came in the United States illegally, but since have been living in the United States, must be detained

until their removal proceedings are completed” and finding that “the law still means what it always has meant.”); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent interpretation of § 1225(b)(2)(A)); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025). This renders Petitioner’s current detention unlawful from its inception, in violation of the Immigration and Nationality Act (“INA”) and his due process rights.

13. **Sixth**, due process ensures the right and access to counsel. Here, that right has been depravedly violated. After Petitioner was apprehended by ICE on January 27, 2026, Petitioner was unable to secure legal representation. It was only on February 3, 2026, that he was finally able to secure counsel at all. This deprived Petitioner of his right to counsel. In such circumstances, a court may allow a habeas petition to be filed “in some court other than the one in whose territory the custodian may be found.” Indeed, the Supreme Court has recognized such a deviation is warranted in such circumstances:

[I]f 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 where the Government was not forthcoming with respect to the identity of the custodian and the place of detention. In cases of that sort, habeas jurisdiction would be in the district court from whose territory the petition had been removed.

Rumsfeld v. Padilla, 542 U.S. 426, 454 (2004) (Kennedy, J., concurring); see also *Sue H. v. Donald Trump*, No. 26-cv-416 at 2 (D. Minn. Jan. 20, 2026); see also *Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026) (emphasis added)

("[H]abeas jurisdiction attached at the time of Petitioner's apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, **not** on the Government's unilateral post-seizure movement of the detainee. The position 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. Federal courts may not be divested of jurisdiction in that manner.").

14. Petitioner was apprehended in New Hope, Minnesota on the morning of January 27, 2026, and he was moved to Texas mere hours later—effectively depriving him of any meaningful opportunity to secure counsel in this District before his transfer. Venue is proper in this district pursuant to *Sue H. v. Donald Trump*, No. 26-cv-00416 (D. Minn. Jan. 20, 2026), and *Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026); *see also Jose A. v. Kristi Noem*, No. 26-cv-480 (JMB/ECW) (finding that jurisdiction was proper in Minnesota despite petitioner being transferred to El Paso, Texas because the decision to detain and arrest petitioner was made in Minnesota, witnesses of petitioner's arrest are in Minnesota, and petitioner was for some time actually detained in Minnesota); *Rumsfeld*, 542 U.S. at 454.

15. For these reasons, Petitioner respectfully asks this Court to hold his arrest and detention unlawful; order restoration of the status quo prior to his detention, *i.e.* release without restraints on his liberty and enjoin Respondents from re-detaining him without meaningful pre-detention process. Petitioner alternatively requests that this Court order Respondents to transfer Petitioner back to detention in Minnesota so that this petition may

be considered while he is physically located in this jurisdiction or, alternative, a bond hearing may be had in this jurisdiction, and that this Court enjoin Respondents from any further transfers outside of this District for the duration of such proceeding.

JURISDICTION AND VENUE

16. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

17. Federal question jurisdiction exists because Petitioner seeks to challenge Petitioner's custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*

18. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security ("DHS"). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

19. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

20. Petitioner was apprehended within the State of Minnesota, conferring jurisdiction upon this Court. Slip Op. 2, *Sue H.*, No. 26-cv-416 (D. Minn. Jan. 20, 2026). Any potential subsequent decision by respondents to remove Petitioner from Minnesota to frustrate his efforts to exercise his due process rights and obtain habeas relief does not divest this Court of jurisdiction. *Id.*

21. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events giving rise to these claims occurred in this District.

22. Venue is also proper under 28 U.S.C. § 2241(d) because Petitioner is or was detained at a facility within this District. As held in *Sue H.*, “habeas jurisdiction attaches at the time of the Petitioner’s apprehension,” further stating that “jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state.” Slip Op. 2, No. 26-cv-0416. That decision included an order requiring that a habeas petitioner transferred out of state be returned to Minnesota. *See also Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026) (“[H]abeas jurisdiction attached at the time of Petitioner’s apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, not on the Government’s unilateral post-seizure movement of the detainee. The position 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. Federal courts may not be divested of jurisdiction in that manner.”); *see also Jose A. v. Kristi Noem* (holding that to find jurisdiction proper in El Paso, Texas would encourage respondents to forum shop).

REQUIREMENTS OF 28 U.S.C. § 2243

23. The Court should grant the petition for Writ of Habeas Corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d, 2025 WL 3288403, at *9 (C.D.

Cal. Nov. 25, 2025) (the detention of noncitizens who are within the Bond Eligible Class is not governed by 8 U.S.C. § 1225(b)(2)(A) but instead is governed by 8 U.S.C. § 1226(a)).

24. 8 U.S.C. § 1226(a) provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” “Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” *Chogllo Chafra v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437, 2025 WL 2688541, at *11 (D. Me. Sep. 21, 2025), appeal filed (Nov. 7, 2025). “[I]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Id.*; *Fla. v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023) (8 U.S.C. ? 1226 “is not even triggered unless an arrest warrant is issued.”) *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025).

25. Courts in this district have overwhelmingly agreed and found that individuals like Petitioner who have been arrested and detained under 1226(a) without a warrant must be released. *Ahmed M. v. Bondi et al.*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627 (D. Minn. Jan. 5, 2026) (Tostrud, J.); *Alberto C.M. v. Noem*, No. CV 26-380 (DWF/SGE), 2026 WL 184530 (D. Minn. Jan. 23, 2026) (Frank, J.) *Brian P. N. v. Bondi*, No. 26-cv-39 (KMM/DLM), ECF No. 14 at 2 (D. Minn. Jan. 21, 2026) (Menendez, J.); *Diego L. v. Bondi*, No. 26-cv-382 (JMB/DJF), 2026 WL 145206, at *3 (D. Minn. Jan. 20, 2026) (Bryan, J.); *Alex G. C. v. Bondi*, No. 26-cv-271 (NEB/EMB), ECF No. 7 at 5 (D. Minn. Jan. 17, 2026) (Brasel, J.); *Juan R. v. Bondi*, No. 26-cv-252 (SRN/DTS), 2026 WL 125255, at *2–3 (D. Minn. Jan. 16, 2026) (Nelson, J.); *Lauro M. v. Bondi*, No. 26-CV-134

(SRN/DJF), 2026 WL 115022 (D. Minn. Jan. 15, 2026) (Nelson, J.) *Juan S. R. v. Bondi*, No. 25-cv-5 (PJS/LIB), ECF No. 8 at 3–4 (D. Minn. Jan. 12, 2026) (Schiltz, C. J.); *Joaquin Q. L., v. Bondi, et al.*, No. 26-CV-233 (LMP/DTS), 2026 WL 161333, at *2 (D. Minn. Jan. 21, 2026) (Provinzino, J.); *Maria F. v. Bondi et al.*, No. 26-CV-486 (ECT/DTS), 2026 WL 172537 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Fulgencio B. v. Lyons et al.*, No. 26-CV-395 (ECT/DTS), 2026 WL 172677 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Daniel S. v. Bondi, et al.*, No. 26-CV-338 (ECT/ECW), 2026 WL 146509 (D. Minn. Jan. 20, 2026) (Tostrud, J.); *William M. v. Bondi, et al.*, No. 26-CV-346 (ECT/DJF), 2026 WL 131690 (D. Minn. Jan. 19, 2026) (Tostrud, J.); *Cristian Z. v. Bondi, et al.*, No. 26-CV-157 (ECT/ECW), 2026 WL 123116 (D. Minn. Jan. 16, 2026) (Tostrud, J.); *Omar E.F.G. v. Bondi, et al.*, No. 26-451 (DWF/DLM), 2026 WL 184571 (D. Minn. Jan. 23, 2026).

26. Habeas corpus is “perhaps the most important writ known to the constitutional law affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

27. Petitioner, Rafael Santos Reyes Lopez, has been in ICE custody since January 27, 2026, when he was arrested in New Hope, Minnesota.

28. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

29. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

30. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

31. Respondent David Easterwood is the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office at Fort Snelling is 1 Federal Drive, Fort Snelling, Minnesota 55111.

RELEVANT FACTS & PROCEDURAL HISTORY

32. Petitioner is a resident of Brooklyn Center, Minnesota, and a citizen of Columbia. Petitioner has lived in the United States since January 20, 2025. Petitioner applied for asylum on February 11, 2025, and his application is currently pending before the Fort Snelling Immigration Court. Petitioner has appeared at all hearings and complied with all scheduled ICE appointments.

33. Petitioner lives in Brooklyn Center, Minnesota.

34. Petitioner has many friends and is an active participant in his community. For example, Petitioner attends a local church and plays soccer in his neighborhood.

35. On the morning of January 27, 2026, Petitioner Mr. Reyes Lopez was taking an Uber ride into work. An unmarked SUV pulled up behind his ride and boxed his

car into a parking lot. Three masked men in military gear exited the SUV and surrounded his ride. He was detained without resistance. These agents did not ask for his identification documents, and Petitioner was not permitted to present them.

36. This arrest is part of an operation in Hennepin County and Ramsey County called "Operation Metro Surge." This operation has involved thousands of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody, regardless of the constitutionality of their actions.

37. The undersigned used ICE's online detainee locator system to locate Petitioner. At the time of this filing, Petitioner is believed to be detained at ERO El Paso Camp East Montana in El Paso, Texas.

38. Petitioner poses no risk to society and has strong connections to his community in Hennepin County.

39. Petitioner respectfully seeks the opportunity to return to his home in Brooklyn Center, Minnesota, and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

CAUSES OF ACTION

FIRST CLAIM

**Violation of the Due Process Clause of
the Fifth Amendment to the US.
Constitution Procedural Due Process**

40. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

41. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.

42. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee’s due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government’s interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

43. Here, all three factors favor Petitioner.

44. **First**, Mr. Reyes Lopez has a significant private interest at stake. A person’s interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“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 protects.”). Petitioner currently experiences the burdens of deprivations that come with physical detention.

45. **Second**, Mr. Reyes Lopez will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if Petitioner is not subsequently released, Petitioner still has a legal and constitutional interest in the hearing itself, in being heard.

46. **Third**, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or holding a hearing to release Petitioner on bond, would in fact *save* the government the resources and expense of continuing to imprison Petitioner.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Substantive Due Process

47. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

48. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[f]reedom from imprisonment—from government

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

49. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

50. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

51. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690-91.

52. To satisfy substantive due process under the Fifth Amendment, a noncitizen’s detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

53. Neither purpose is served by Petitioner’s detention. Respondents have not made any claim that Petitioner presents a flight risk or a danger to the community, nor could they. When Petitioner was previously released from custody in 2024, the government concluded he was neither a flight risk nor a danger to the community. And Petitioner has no criminal history.

54. Since then, Petitioner's ties to this country have only grown stronger. He has built a life here with his wife and daughter, as well as cousins that live nearby. *See Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 173-75 (3d Cir. 2018).

55. Because the government is not detaining Petitioner to serve legitimate interests in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

THIRD CLAIM
Violation of the Immigration and Nationality Act
and Procedural Due Process

56. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

57. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

58. Petitioner is not subject to 8 U.S.C. §§ 1225(b)(1), 1226(c), or § 1231.

59. Respondents' application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

60. On January 20, 2026, the United States District Court for the District of Minnesota issued an order stating that "habeas jurisdiction attaches at the time of the

Petitioner's apprehension," further stating that "jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state." *Sue H. v. Trump*, Case No. 26-CV-0416 (MJD/ECW) at 2; *see also Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026) (emphasis added) ("[H]abeas jurisdiction attached at the time of Petitioner's apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, **not** on the Government's unilateral post-seizure movement of the detainee. The position 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. Federal courts may not be divested of jurisdiction in that manner."). Therefore, Petitioner is filing this habeas petition here, where he was originally detained, and requests that this Court order that Petitioner be returned to Minnesota if he has been since transferred out of the state.

61. This Court is also entitled to exercise jurisdiction over this petition because, on information and belief, the Government's purpose in removing Petitioner within less than 48 hours and without providing information sufficient to allow his counsel to access him is intended to deprive Petitioner access to counsel and/or deprive this Court of jurisdiction. *Rumsfeld v. Padilla*, 542 U.S. 426, 454 (2004)) (Kennedy, J., concurring).

FOURTH CLAIM

**Violation of the Fourth Amendment to the U.S.
Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. §
287.3(d)
Unlawful Arrest**

62. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

63. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

64. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). “Probable cause requires a ‘substantial probability; based on facts related to the individual.’” *Ramirez Ovando v. Noem*, No. 25-cv-03183, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking); *U.S. v. Williams*, No. 19-cr-325, 2020 WL 4228095 (D. Minn. May 13, 2020), report and recommendation adopted, 2020 WL 4226865 (July 23, 2020). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See Gerstein*, 420 U.S. at 125. It must, however, occur within 48 hours of

detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

65. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person “is likely to escape before a warrant can be obtained,” *i.e.*, is a flight risk. *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

66. Mr. Reyes Lopez’s warrantless detention occurred without probable cause that he was a flight risk. “Courts have...made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties.” *Escobar Molina v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-3417, 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Petitioner (a) was living at a stable home address in Minnesota, of which the government was fully aware, (b) had been in the United States for over a year and built strong ties to his community, and (c) has a pending asylum application. Therefore, no officer could have probable cause that he was likely to escape before a warrant could be obtained.

67. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Petitioner. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57; *see Slip Op.*

8–9 *Garrison v. Bondi*, No. 26-cv-00172, (D. Minn. Jan. 15, 2026), ECF No. 6. He has thus far received no such judicial determination, and Respondents’ recent practice has been to extend such detentions well beyond 48 hours, rendering it presumptively unconstitutional.

68. Regulations also provide that noncitizens arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is “an emergency or other extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Petitioner has received no such custody determination, and is unlikely to receive one within 48 hours.

69. 8 U.S.C. § 1226(a) provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” “Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” *Choglo Chafra v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437, 2025 WL 2688541, at *11 (D. Me. Sep. 21, 2025), *appeal filed* (Nov. 7, 2025). “[I]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Id.*; *Fla. v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023) (8 U.S.C. § 1226 “is not even triggered unless an arrest warrant is issued.”) *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025); *Chiliquina Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN,

2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025).

70. Courts in this district have overwhelmingly agreed and found that individuals like Petitioner who have been arrested and detained under 1226(a) without a warrant must be released. *Ahmed M. v. Bondi et al.*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627 (D. Minn. Jan. 5, 2026) (Tostrud, J.); *Alberto C.M. v. Noem*, No. CV 26-380 (DWF/SGE), 2026 WL 184530 (D. Minn. Jan. 23, 2026) (Frank, J.) *Brian P. N. v. Bondi*, No. 26-cv-39 (KMM/DLM), ECF No. 14 at 2 (D. Minn. Jan. 21, 2026) (Menendez, J.); *Diego L. v. Bondi*, No. 26-cv-382 (JMB/DJF), 2026 WL 145206, at *3 (D. Minn. Jan. 20, 2026) (Bryan, J.); *Alex G. C. v. Bondi*, No. 26-cv-271 (NEB/EMB), ECF No. 7 at 5 (D. Minn. Jan. 17, 2026) (Brasel, J.); *Juan R. v. Bondi*, No. 26-cv-252 (SRN/DTS), 2026 WL 125255, at *2–3 (D. Minn. Jan. 16, 2026) (Nelson, J.); *Lauro M. v. Bondi*, No. 26-CV-134 (SRN/DJF), 2026 WL 115022 (D. Minn. Jan. 15, 2026) (Nelson, J.) *Juan S. R. v. Bondi*, No. 25-cv-5 (PJS/LIB), ECF No. 8 at 3–4 (D. Minn. Jan. 12, 2026) (Schiltz, C. J.); *Joaquin Q. L., v. Bondi, et al.*, No. 26-CV-233 (LMP/DTS), 2026 WL 161333, at *2 (D. Minn. Jan. 21, 2026) (Provinzino, J.); *Maria F. v. Bondi et al.*, No. 26-CV-486 (ECT/DTS), 2026 WL 172537 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Fulgencio B. v. Lyons et al.*, No. 26-CV-395 (ECT/DTS), 2026 WL 172677 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Daniel S. v. Bondi, et al.*, No. 26-CV-338 (ECT/ECW), 2026 WL 146509 (D. Minn. Jan. 20, 2026) (Tostrud, J.); *William M. v. Bondi, et al.*, No. 26-CV-346 (ECT/DJF), 2026 WL 131690 (D. Minn. Jan. 19, 2026) (Tostrud, J.); *Cristian Z. v. Bondi, et al.*, No. 26-CV-157 (ECT/ECW), 2026 WL 123116 (D. Minn. Jan. 16, 2026) (Tostrud, J.); *Omar E.F.G. v. Bondi, et al.*, No. 26-451 (DWF/DLM), 2026 WL 184571 (D. Minn. Jan. 23, 2026).

71. Petitioner's re-detention after a prior release, without any new showing of probable cause, was also unconstitutional. When the government releases a person from detention, the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) ("It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable."). As a result, any probable cause justifying the prior arrest, if any, is extinguished.

72. Thus, under the Fourth Amendment, the government cannot re-arrest someone without changed circumstances that amount to new probable cause. *See Carlson v. Landon*, 342 U.S. 524, 546-47 (1952) (holding that re-arrest for immigration detention required a new warrant after previous release from immigration detention on bail).

73. Respondents' warrantless re-arrest of Mr. Reyes Lopez without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Issue an Order requiring Respondents to return Petitioner to this District within 48 hours and for the duration of these proceedings;
- b. Declare that Petitioner is a Bond Class Member under *Maldonado Bautista*;
- c. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and

implementing regulations;

- d. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention;
- e. Alternatively, issue a Writ of Habeas Corpus requiring Respondents to release Petitioner immediately unless they provide a bond hearing under 8 U.S.C. § 1226(a) within three days, at which hearing Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;
- f. Issue an Order prohibiting Respondents from seeking a stay of any order granting bond by the Immigration Judge, including by filing a form EOIR-43 (Notice of Service Intent to Appeal Custody Redetermination) or a motion for emergency stay;
- g. Issue an Order to Show Cause ordering Respondents to explain why this Petition should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 USC § 2243;
- h. Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- i. Grant bail pending the conclusion of the habeas review; *see, e.g., Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001);
- j. Order that Petitioner may move to recover attorneys' fees and costs under

the Equal Access to Justice Act;

k. Grant such further relief as this Court deems just and proper.

Dated: February 3, 2026

Respectfully submitted,

/s/ David A. Goodwin

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Attorney for Petitioner

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because his current detention makes him unable to submit one on his own behalf. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 3, 2026

/s/ David A. Goodwin
David Allen Goodwin (#386715)