

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

Carlos David Rivera Vasquez,

Petitioner,

v.

Pamela Bondi, Attorney General,

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

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

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

Joel Brott, Sheriff of Sherburne County.

Respondents.

Case No. 26-CV-01761

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Carlos David Rivera Vasquez (“Mr. Rivera Vasquez”), by and through the undersigned attorney, 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. Rivera Vasquez from ICE detention, and in the meantime to enjoin Petitioner’s transfer to a facility outside of the District of Minnesota.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Mr. Rivera Vasquez seeks to challenge this custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. 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”). *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018); and *Nielsen v. Preap*, 586 U.S. 392, ___, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (e)(1)(B), because Mr. Rivera Vasquez was detained within the District of Minnesota and remains detained in this District.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of El Salvador and a resident of St. Paul, Minnesota, who is currently being held at the Sherburne County Jail in Elk River, Minnesota.

Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. Rivera Vasquez.

9. 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 of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Noem is a legal custodian of Mr. Rivera Vasquez.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent David Easterwood is being sued in his official capacity as 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 Mr. Rivera Vasquez. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

12. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Jail detention facility. Because Petitioner is detained in the Sherburne County Jail facility, Sheriff Brott has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Petitioner is a resident of St. Paul, Minnesota and a citizen of El Salvador, and has lived in the United States since approximately 2015. He is currently an adult.

14. Mr. Rivera Vasquez was a minor when he first entered the United States. Upon his arrival to this country, he went in front of an immigration agent, was detained for approximately one-and-a-half months, and then was released.

15. Mr. Rivera Vasquez does not have a final order of removal.

16. Mr. Rivera Vasquez is a beloved member of his community. He lives with his aunt and her minor children (his cousins), regularly attends church at Sacred Heart Catholic Church, and helps other families in need. He used to also live with his uncle until his uncle was deported a few months ago.

17. Mr. Rivera Vasquez's family lives in housing that is in his name, and he contributes funds towards the family's housing. He also regularly helps care for his cousins by watching them when their parents are away and preparing meals.

18. Respondent ICE arrested Mr. Rivera Vasquez in St. Paul at about 1:30 P.M. on February 8, 2026. Mr. Rivera Vasquez and his family were driving a few blocks from their home to a laundromat when four unmarked vehicles suddenly boxed in their car on the roadway and turned emergency/warning lights on. ICE agents with pistols

wearing face masks and tactical vests approached the car. They showed Mr. Rivera Vasquez and his aunt pictures of men on their cell phones whom the agents were looking for. The agents were not looking for Mr. Rivera Vasquez. However, the agents proceeded to arrest him and his aunt. An English-speaking family member had to come to the scene to drive Mr. Rivera Vasquez's aunt's children home.

19. Mr. Rivera Vasquez did not attempt to flee when detained by ICE agents.

20. Petitioner was arrested without a warrant. He was not shown a warrant at the time of his arrest, nor at any time thereafter.

21. At the time of his arrest, Mr. Rivera Vasquez was told by an ICE agent that he would be detained for a short check-in process and then released. Contrary to what he was told at that time, he has remained in detention without the ability to live with his family and be in his community for approximately a month.

22. After being taken detained at the Bishop Henry Whipple Federal Building, Mr. Rivera Vasquez was told on the same day of his arrest that he would have an immigration master hearing on March 10, 2026. However, from his arrest on February 8, 2026 to the present, he was not given a warrant, a bond hearing, a notice to appear, or any similar papers by Respondents.

23. Here, Petitioner was apprehended within interior of the United States, not at a border while seeking entry. Petitioner presented at the border upon his arrival into the United States many years ago and was taken into, then released from, immigration custody—nothing in the available facts indicate there is any individualized basis for a redetermination of custody or for redetaining Petitioner.

24. This arrest was part of an operation in Hennepin and Ramsey counties called “Operation Metro Surge.” This operation has involved hundreds 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 perceived noncitizens as possible into custody regardless of the constitutionality of their actions. *See, e.g.*, First Amended Compl., *Tincher v. Noem*, No. 0:25-cv-04669, ECF No. 136 (D. Minn. Feb. 13, 2026).

25. In Mr. Rivera Vasquez’s case, he was brought Sherburne County Jail where he currently remains.

26. Mr. Rivera Vasquez, through his attorney, filed a petition for a writ of habeas corpus on February 8, 2026 challenging detention based upon (a) an incorrect interpretation of Section 1225 of the of the Immigration and Nationality Act, (b) violation of Fifth Amendment due process, and (c) Administrative Procedures Act violations. U.S. District Judge Daniel M. Traynor denied that petition without prejudice on February 19, 2026, concluding that Mr. Rivera Vasquez was subject to Section 1225 of the of the Immigration and Nationality Act, which mandates detention and precludes a bond hearing, consistent with the Fifth Circuit’s ruling in *Buenrostro-Mendez v. Bondi*, ___ F.4th ___, 2026 WL 323330 (5th Cir. Feb. 6, 2026). *Carlos V. v. Bondi*, No. 26-cv-01230-DMT-EMB, (D. Minn. Feb. 19, 2026), ECF No. 10 at ¶¶5-19. Judge Traynor’s order further found that because “Section 1225(b)(2)(A) squarely governs

his immediate detention” that detention of Mr. Rivera Vasquez was “pursuant to a constitutionally legitimate statute promulgated by Congress” and therefore was “not a due process violation.” *Id.* at ¶20. Further, Judge Traynor’s order found that “Petitioner’s APA violation claim fails because Section 1225(b)(2)(A) applies to Petitioner, meaning he was properly detained and is not bond eligible. Thus, there is no unlawful agency action for this court to review.” *Id.* at ¶21. In his findings, Judge Traynor said, “Since 1225(b)(2)(A) applies, the government also did not need to have a warrant when detaining the Petitioner.” *Id.* at ¶12. Additionally, in an order ruling on a motion to expedited discovery, Judge Traynor summarized the scope of the issues that were before the Court, say, “The issue before the Court is whether the Petitioner is detained under Section 1225 or 1226, and the attendant violations of Due Process or the APA. Section 1225 does not require a warrant, but Section 1226 does.” *Carlos V. v. Bondi*, No. 26-cv-01230-DMT-EMB, (D. Minn. Feb. 19, 2026), ECF No. 8 at ¶3 (internal citation omitted).

27. However, Judge Traynor’s rulings on Petitioner’s prior habeas petition did not address the grounds currently raised by Petitioner, namely, Respondents’ statutory authority for warrantless arrests under 8 U.S.C. § 1357(a)(2) and attendant Fourth and Fifth Amendment and APA claims. Petitioner did not previously raise § 1357(a)(2).

28. In the prior proceeding, Respondents put forward a purported Form I-200 administrative warrant bearing an alleged February 8, 2026 date of service. Exhibit A to Federal Respondents’ Response to Petition for Writ of Habeas Corpus, *Carlos V. v. Bondi*, No. 26-cv-01230-DMT-EMB, (D. Minn. Feb. 10, 2026), ECF No. 6-1.

However, that purported administrative warrant leaves the location of service blank and does not include any time of service or preparation, does not list Petitioner's full legal name, and the large redacted area at the top of the document was unexplained— Respondents did not produce any unredacted version. That purported administrative warrant was not accompanied by any affidavit for any signing or serving agent, nor did Respondents' attorney submit any affidavit attesting to the authenticity of the purported warrant, which was instead merely submitted as an unverified attachment to Respondents' response contrary to Local Rule 7.1(l). Although the purported administrative warrant carries a "Certificate of "Service", Mr. Rivera Vasquez did not actually receive a copy. Put simply, Petitioner has NEVER been personally served with a copy of the alleged warrant put forth by Respondents' counsel in the first petition briefing, even a month into his detention.

29. Detaining Mr. Rivera Vasquez is an expensive and pointless endeavor. Mr. Rivera Vasquez respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for noncitizens to seek status in this country.

30. Pending the adjudication of this Petition, Mr. Rivera Vasquez further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the State of Minnesota, so that the jurisdiction of this Court is not impeded, and so that Petitioner remains accessible to legal counsel and loved ones.

STANDARD OF LAW

31. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by the Supreme Court as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 399-400 (1963). A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a federal law. 28 U.S.C. § 2241(c)(3). “Th[e] right [of habeas corpus] extends to those persons challenging the lawfulness of immigration-related detention.” *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900-01 (D. Minn. 2020) (citations omitted). A habeas petition should be granted if the petitioner proves by preponderance of evidence that detention is unlawful. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025); *see also Walker v. Johnston*, 312 U.S. 275, 286-87 (1941); *Bradin v. U.S. Prob. & Pretrial Servs.*, No. 22-3032, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (collecting cases).

32. Detained noncitizens petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties’ disagreement is based on a legal conclusion. *Id.* at 967-68.

33. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained noncitizen’s habeas corpus petition

under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, No. 5:25-cv-04048, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

34. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

35. Noncitizens who have “established connections” in the United States by virtue of living in the country for a substantial period acquire a liberty interest in being free from government detention without due process of law. *Dept. of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

36. 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 claimed that individuals who have been residing within the United States—sometimes for decades—are somehow metaphorically “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

37. Regardless of which INA statutory provision Respondents rely upon as their basis for detaining Mr. Rivera Vasquez, warrantless arrests are statutorily authorized in civil immigration matters only in limited circumstances: (i) “to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of

any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens,” or (ii) “to arrest any alien in the United States, [(a)] if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation **and** [(b)] is likely to escape before a warrant can be obtained for his arrest” 8 U.S.C. § 1357(a)(2) (emphasis added); *see also* 8 C.F.R. §§ 287.3(a) & (d) and 287.8(c)(2)(i)-(ii). When considering a warrantless arrest by ICE, a person’s “arrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest.” *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017); *see also Fernando C. v. Bondi*, No. 26-cv-1235, 2026 WL 446408 at *2 (D. Minn. Feb. 17, 2026) (a warrantless arrest under 8 U.S.C. § 1357(a)(2) is a threshold exception to arrest by warrant detention under any of 8 U.S.C. §§ 1225, 1226, or 1231). Because the present detention occurred in the interior of the country, and not on the threshold of a border, only the second statutory (a)(2) authorization for warrantless arrest is relevant here, which requires “reason to believe”. The “reason to believe” requirement of 8 U.S.C. § 1357(a)(2) “means constitutionally required probable cause.” *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). That probable cause requirement applies individually to both the “in violation” and “likely to escape” prongs of § 1357(a)(2) warrantless arrests. That is because, “[a]s a general rule, it is not a crime for a removable [noncitizen] to remain present in the United States.” *Arizona v. United States*, 567 U.S. 387, 407 (2012) (citing *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984)). Therefore, if ICE “stop someone based on nothing more than *possible* removability, the usual predicate for an arrest is absent.” *Id.*

(emphasis added). For example, this Court has held that continued detention after being cleared for release following mere misdemeanor traffic citation for driving without a license based solely on “a perceived civil violation of U.S. immigration laws” is an “egregious” Fourth Amendment violation. *Parada v. Anoka Cnty.*, 332 F.Supp.3d 1229, 1242-43 (D. Minn. 2018). Under the second prong of the second ground in § 1357(a)(2), a deportation agent has the power to arrest an alien without a warrant only if the deportation officer has reason to believe that the alien is likely to escape before a warrant can be obtained. And, under that second prong of § 1357(a)(2), ICE officers must make a “particularized assessment” of the likelihood of escaping—sufficient to conclude that the subject is likely to abscond before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (for “detention under § 1357(a)(2) to be lawful, the Fourth Amendment demands a particularized assessment of [the subject]’s likelihood of escaping”); accord, e.g., *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006-07 (N.D. Ill. 2016); *Ramirez Ovando v. Noem*, No. 1:25-cv-03183, 2025 WL 3293467, at *2 (D. Colo. Nov. 25, 2025) (“particularized inquiry” required that subject is likely to abscond); see also *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025) (noting need to consider “individualized or particularized facts” to deprive a person of rights). This means that the ICE agents must have had probable cause that they would have been unable to later detain the suspect after obtaining a warrant. Courts have generally found that likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties. See, e.g.,

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) (no flight risk where noncitizen worked two jobs, owned a vehicle, paid rent, and never experienced legal trouble before his immigration arrest); *United States v. Kahn*, 324 F.Supp.2d 1177, 1186-87 (D. Colo. 2004); *United States v. Bautista-Ramos*, No. 18-CR-4066-LTS, 2018 WL 5726236, at *7 (N.D. Iowa Oct. 15, 2018) (no flight risk where ICE encountered noncitizen at his place of employment, “a place he routinely visited,” as opposed to anywhere near the border or heading in that direction); *United States v. Pacheco-Alvarez*, 227 F.Supp.3d 863, 890 (S.D. Ohio 2016) (no flight risk where noncitizen had a stable job, lived with his fiancé, and helped pay her rent and raise her two children).

38. The Fourth Amendment of the U.S. Constitution prohibits “unreasonable searches and seizures” and the Fifth Amendment prohibits deprivation of liberty without “due process of law[.]”

39. Warrantless arrest and detention constitute final agency actions under the APA. *See A.B.D. v. Wamsley*, No. 25-cv-02014, 2026 WL 178306 (D. Or. Jan. 22, 2026).

40. Although the decision on Petitioner’s earlier petition was dismissed and Judge Traynor found that Mr. Rivera Vasquez was subject to mandatory detention under Section 1225 of the Immigration and Nationality Act, the majority of decisions in this district 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 whose detention is discretionary and

governed by 8 U.S.C. § 1226(a). *Eliseo A.A. v. Olson*, No. 25-cv-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, No. 25-cv-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, No. 25-cv-4584 (JWB/DJF), ECF No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, No. 25-cv-4514 (JWB/DJF), ECF No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DJF), ECF No. 9 (D. Minn. Dec. 19, 2025); *see also, e.g., Lazaro B., v. Santacruz Jr.*, ___ F.Supp.3d ___, No. 5:25-cv-1873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) (issuing vacatur of unlawful DHS mandatory detention policy for a nationwide certified class); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486-91 (S.D.N.Y. 2025). Moreover, in general, “Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, ___, 144 S. Ct. 2244, 2273 (2024). Further, *Yajure Hurtado* is not entitled to deference under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944). *See Afghan v. Noem*, No. 25-cv-0410, 2025 WL 3713732 at *2 (D. Md. Dec. 23, 2025).

41. On February 18, 2026, the Central District of California issued an order enforcing a prior classwide declaratory judgment finding that 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), applies to Bond Eligible Class members nationwide, and vacating *Yajure Hurtado*. *Lazaro B., v. Santacruz Jr.*, No. 25-CV-01873, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). The *Lazaro B.* court ordered a classwide notice to be issued. *Id.* In a prior class certification ruling, that court held that the nationwide Bond Eligible Class members comprise:

“All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.”

Lazaro B., v. Santacruz Jr., No. 25-CV-01873, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

42. *Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025) is currently on appeal and involves an appeal by the government against a finding contrary to *Yajure Hurtado*. Respondents have previously acknowledged that Mr. Rivera Vasquez’s case presents similar legal issues. Federal Respondents’ Response to Petition for Writ of Habeas Corpus, *Carlos V. v. Bondi*, No. 26-cv-01230-DMT-EMB, (D. Minn. Feb. 10, 2026), ECF No. 6.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

43. Petitioner realleges and incorporates by reference the allegations contained above.

44. Mr. Rivera Vasquez has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693.

45. Moreover, Mr. Rivera Vasquez has “established connections” in the United States by virtue of having lived in the country for a substantial period of time—nearly a decade—prior to detention on February 8, 2026. *Dept. of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

46. Substantive due process prevents the government from engaging in conduct that “shocks the conscience,” *Rochin v. California*, 342 U.S. 165, 172 (1952), or interferes with rights “implicit in the concept of ordered liberty.” *Palko v. Connecticut*, 302 U. S. 319, 325-326 (1937). Even as a nation of immigrants, that is to say, colonists, the United States since its founding has relied upon a rejection of arbitrary executive (or royal) action. Arbitrary arrest and detention, to the point that people are snatched off the street by heavily-armed people in unmarked vehicles wearing masks and without identification, resembles drug cartel kidnappings or intolerable British actions complained about in the bill of particulars set forth in the Declaration of Independence. While this country has an ignoble history of chattel slavery, which deprived many persons of rights, Constitutional amendments and caselaw since the Reconstruction era have long established important liberty rights for all people regardless of ethnicity. Aliens present in this country are entitled to substantive due process and are not *homo sacer* as in ancient Rome—someone outside the law and denied all legal protections. But in the present moment, government actions seek to treat immigrants in a medieval or pre-medieval manner, or like non-white people in the era of the Fugitive Slave Act. This country long ago rejected such treatment.

47. Mr. Rivera Vasquez had previously been detained upon entry to this country and was released. He and another adult family member were detained by ICE agents in February of 2026 entirely randomly as those government agents searched for an entirely different person. This senseless deprivation of Mr. Rivera Vasquez’s liberty is not only senseless but it strains family relationships, burdens his other family members,

and makes access to his attorneys more difficult. That minor children in his family had to experience the senseless arrest of Mr. Rivera Vasquez and their mother will surely stand as a traumatic experience, on top of the absence of those caretakers from their lives. And Mr. Rivera Vasquez's absence due to his detention is all the more impactful on family members like his minor cousins since their father was deported a few months ago.

48. Petitioner's substantive due process rights have been violated due to the shocking deprivation of long-established rights to be free of arbitrary arrest. Such violations are in addition to procedural due process violations.

49. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's procedural due process rights. 424 U.S. 319 (1976). The Court considers: (1) "the private interest that will be affected by the official action;" (2) the "risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335. "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *M.S.L. v. Bostock*, No. 25-cv-1204, 2025 WL 2430267, at *8 (D. Or. Aug. 21, 2025) (citing *Mathews*, 424 U.S. at 348).

50. Here, all three *Mathews* factors favor the petitioner.

51. First, Mr. Rivera Vasquez 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 (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."). Mr. Rivera Vasquez is wrongfully confined, a direct attack on Petitioner's liberty interests.

52. Mr. Rivera Vasquez has strong private liberty interests due to established connections in this country and state, and is and was not merely on the threshold of initial entry to the country. *See Jose L. v. De Anda-Ybarra*, No. 26-CV-00249 (W.D. Tex. Feb. 9, 2026) ECF 7 (constitutional interest in liberty exists above and apart from the INA where there are established connections); *see also Parham v. J.R.*, 442 U.S. 584, 600 (1979) (noting "substantial liberty interest in not being confined unnecessarily" in civil proceedings).

53. Second, Mr. Rivera Vasquez will continue to be deprived of this interest if the current procedure (detaining Mr. Rivera Vasquez without a legal basis) is followed. There is no rational explanation for detaining Mr. Rivera Vasquez. Without an individualized determination establishing probable cause, detaining Mr. Rivera Vasquez creates a substantial risk that Mr. Rivera Vasquez may be erroneously deprived of his liberty. "Procedural due process rules are meant to protect persons not from the deprivation, but from the *mistaken* or *unjustified* deprivation of . . . liberty . . ." *Carey v. Piphus*, 435 U.S. 247, 259 (1978) (emphasis added).

54. The unplanned aspects of Mr. Rivera Vasquez's arrest on February 8th, in which he was arrested by ICE agents looking for someone else, demonstrate that those ICE agents could not have had any particularized belief that Mr. Rivera Vasquez would have likely absconded before a warrant could have been obtained. Mr. Rivera Vasquez did not attempt to flee when stopped. While he was in a vehicle at the time of arrest, he was traveling to a laundromat near his home—he was not leaving the area where he lives with family. And he has long-established connections to his community in Minnesota. The unplanned aspects of Mr. Rivera Vasquez's warrantless arrest also highlight the significant risk of *erroneous* or *mistaken* deprivation of his liberty. Indeed, the administrative warrant, issued presumably after Mr. Rivera Vasquez's arrest, lacks his full legal name—omitting his middle name—which heightens the risk of erroneous detention. *See Brown v. Ramsay*, 785 F. Supp. 3d 1214, 1223-24, 1230 (S.D. Fla. 2025) (erroneous ICE detention based on Form I-205 administrative warrant that lacked a middle name resulting in detention of the wrong person with the same first and last names).

55. Further, when detention becomes prolonged without any particularized assessment of need, it is less likely there is a nonpunitive rationale for continued detention and the risk of erroneous deprivation of liberty interests increases. *See Victor S. v. Noem*, No. 3:25-cv-00403, 2026 WL 596133 at *13 (W.D. Tex. March 2, 2026). Rather, “[w]here the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is separate families and remove from the community breadwinners, caregivers, parents, siblings and employees.” *Black v.*

Decker, 103 F. 4th 133, 154 (2d Cir. 2024) (citation omitted; internal quotation marks and original alterations removed).

56. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Mr. Rivera Vasquez poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment—as well as prosecutorial and judicial resources expended addressing over and over again conduct this Court and others have found illegal or unconstitutional. *See Black*, 103 F.4th at 154 (noting the cost of detaining noncitizens per day).

57. Even under 8 U.S.C. § 1225(b)(2), the purpose of detention is to facilitate a hearing where “[a]n immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.” 8 U.S.C. § 1229a(a)(1). Petitioner’s detention without the opportunity for bond does not promote the process contemplated by statute. And there is nothing to suggest that detainees subject to § 1225(b)(2) share a categorical characteristic that supersedes their individual interests in physical freedom.

58. The placement of Mr. Rivera Vasquez in detention pending the resolution of ongoing immigration proceedings violates Mr. Rivera Vasquez’s constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO
Fourth Amendment Unreasonable Seizure

59. Petitioner realleges and incorporates by reference each and every allegation contained above.

60. Whether a warrantless arrest was constitutionally valid depends upon whether, at the moment the arrest was made, the officers had probable cause to make it—“whether, at that moment, the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense.” *Beck v. Ohio*, 379 U.S. 89, 91 (1964). To determine whether an officer had probable cause, the Court “examine[s] the events leading up to the arrest and then decide[s] whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause.” *Dist. of Columbia v. Wesby*, ___ U.S. ___, 138 S.Ct. 577, 586 (2018) (quoting *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)). There need only be a “probability or substantial chance” rather than an “actual showing”. *United States v. Mendoza*, 421 F.3d 663, 667 (8th Cir.2005); see also *United States v. Amaya*, 52 F.3d 172, 174 (8th Cir.1995) (totality of the circumstances); *United States v. Morgan*, 997 F.2d 433, 435 (8th Cir.1993) (court may consider collective knowledge).

61. A warrantless arrest in a civil immigration context that exceeds statutory authority under 8 U.S.C. § 1357(a)(2) is an unreasonable seizure under the Fourth

Amendment, where such a warrantless arrest is premised only on immigration status and not the provisions of § 1357(a)(4) or (5).

62. Applicable statutory authority under 8 U.S.C. § 1357(a)(2) for Respondents “to arrest any alien in the United States” “without warrant” necessitates establishing that, at the time of arrest, the arresting officer(s) had “reason to believe that the alien so arrested is” both (i) “in the United States in violation of any such law or regulation” regulating the admission, exclusion, expulsion, or removal of aliens, **and** (ii) “is likely to escape before a warrant can be obtained for his arrest . . .”

63. Unless a particularized inquiry is performed to establish probable cause for each and every requirement for warrantless arrest pursuant to 8 U.S.C. § 1357(a)(2), there is a Fourth Amendment violation. *Orellana*, 230 F.Supp.3d at 946.

64. The warrantless arrest of Mr. Rivera Vasquez and subsequent placement in detention pending the resolution of ongoing immigration proceedings, despite established connections and a lack of a likelihood of escape by evading detention, violates Mr. Rivera Vasquez’s constitutional rights against unreasonable seizure guaranteed in the Fourth Amendment.

COUNT THREE **Immigration and Nationality Act, 8 U.S.C. § 1357(a)(2)**

65. Petitioner realleges and incorporates by reference each and every allegation contained above.

66. Respondents have exceeded authority to make a warrantless arrest of Mr. Rivera Vasquez under 8 U.S.C. § 1357(a)(2) because the arresting ICE agents lacked

“reason to believe that the alien so arrested is” both (i) “in the United States in violation of any such law or regulation” regulating the admission, exclusion, expulsion, or removal of aliens and (ii) “is likely to escape before a warrant can be obtained for his arrest . . .” at the time of Mr. Rivera Vasquez’s warrantless arrest.

67. The warrantless arrest of Mr. Rivera Vasquez and his subsequent placement in detention pending the resolution of ongoing immigration proceedings, despite established connections and a lack of a likelihood of escape, violated 8 U.S.C. § 1357(a)(2).

COUNT FOUR
Violation of the Administrative Procedure Act, 5 U.S.C. § 706

68. Mr. Rivera Vasquez re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

69. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

70. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

71. The application of 8 U.S.C. § 1357(a)(2) to Mr. Rivera Vasquez is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

REMEDY

72. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

73. Immigration detention is civil in nature, and any detention by Respondents must be reasonably related to the statutory purpose of the Congressionally-granted authority upon which Respondents rely. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose, and there is no indication that Petitioner's detention was based on any individualized assessment of facts that might indicate that Petitioner should be in custody for some reason.

74. Petitioner has a significant liberty interest in not being subject to unreasonable seizure and a significant interest in not being deprived of liberty without due process of law. The absence of an individualized probable cause assessment at the time of warrantless arrest deprives Mr. Rivera Vasquez of constitutional rights and exceeds statutory authority granted to Respondents.

75. The emergence of seemingly retro-active and/or insufficiently filed or served administrative warrants appears to be a new tactic by the Respondents—*post-hoc* rationalization at best, and potential fabrication at worst.

76. Warrants are now occasionally being offered, replete with inconsistencies, errors, incompletions, redactions of material contents (like signatures), and illegalities. These warrants are sometimes introduced as unverified attachments to Respondents'

briefs, *e.g.*, *Victor O. v. Bondi*, No. 26-1122 (ECT/LIB), 2026 WL 392428, and sometimes as attachments to affidavits of Assistant U.S. Attorneys, but without an affidavit from anyone with (or even a reference to the source of) personal knowledge as to the creation or service of the warrant or its factual basis. These warrants are facially insufficient, and inadmissible under Fed. R. Evid. 901 for lack of authentication, as is the one previously proffered by Respondents against Mr. Rivera Vasquez.

77. Further, Respondents' alleged Form I-200 administrative warrant is insufficient to provide competent evidence to show why, at a minimum, the arresting agents had probable cause to believe, *at the time of warrantless arrest*, that Petitioner was "likely to escape" before a warrant could be obtained. Therefore, outright release remains the appropriate remedy.

REQUEST FOR ORDER TO SHOW CAUSE

78. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

79. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

80. Petitioner respectfully requests that an Order to Show Cause directs Respondents, should they offer a warrant in this case, to provide sufficient details to establish the validity and authenticity of such a warrant, such as: (1) the name, title, training, and qualifications of the officer who issued the warrant; (2) the time and place at which the warrant was issued; (3) the evidence the issuing officer relied upon in making his determination that an arrest was warranted in this case, including any existing Notice to Appear; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas corpus petition. Further, Petitioner respectfully requests that an Order to Show Cause directs Respondents, should they offer an affidavit regarding reasons for the warrantless arrest, to provide sufficient details, under oath, to establish the basis for such warrantless arrest under 8 U.S.C. § 1357(a)(2), such as: (1) the name and title of the agent(s) who made the warrantless arrest (the “Involved Agent(s)”); (2) the evidence the Involved Agent(s) were aware of no later than the time of the warrantless arrest that was relied upon in making the determination that a warrantless arrest was warranted in this case, including but not limited to (a) any information bearing on the extent of Petitioner’s established connections known to the Involved Agents and (b) any information about the likelihood of Petitioner escaping before a warrant could be obtained; (3) identification of which Involved Agent(s) knew of particular facts relied upon, to the extent that collective knowledge of multiple Involve Agents is asserted and was relied upon; (4) any relevant

facts any other factual circumstances that, in the totality of the circumstances the Involved Agent(s)' relied upon at the time the warrantless arrest was made; and (5) identification of the time at which relevant facts were known to the Involved Agent(s) relative to the warrantless arrest, with express identification of any asserted facts which the Involved Agents learned or relied upon only after the time of the warrantless arrest.

PRAYER FOR RELIEF

WHEREFORE, Mr. Rivera Vasquez prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, or transport Petitioner back to Minnesota if he is moved out of state;
- (3) Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions, or in the alternative afforded a bond hearing;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner, without conditions, unless they provide a bond hearing within seven days;
- (5) If the Court sees fit to order Petitioner's release, include conditions to ensure Petitioner's safety, including that release be:
 - (a) Inside the State of Minnesota;
 - (b) At a safe time and place communicated in advance to counsel at least two (2) hours prior to release; and

- (c) With all of Petitioner's personal effects in Respondents' possession, such as driver's license, immigration papers, passport, mobile phone, and keys;
- (6) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;
- (7) If a writ of habeas corpus is granted, and if Respondents transfer venue of an underlying immigration proceeding involving Petitioner away from Minnesota, ordering Respondents to transfer venue back to Minnesota;
- (8) Declare that Petitioner's arrest exceeded Respondents' authority;
- (9) Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
- (10) Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: March 5, 2026

By: s/ Austen Zuege

Austen Zuege (MN Bar 330267)
WESTMAN, CHAMPLIN &
KOEHLER, P.A.
121 South Eighth Street, Suite 1100
Minneapolis, MN 55402
(612) 330-0585 – Phone
(612) 334-3312 – Fax

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 I am Petitioner's attorney. Petitioner's other counsel and I have discussed the factual assertions in this petition with Petitioner, via a translator, and petitioner's other counsel has further spoken with Petitioner's family, who are also acting on Petitioner's behalf and who I understand to also have personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: March 5, 2026

By: s/ Austen Zuege

Austen Zuege