IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Emilio San Roman-Gonzalez, Petitioner, v. **Markwayne Mullin**, Secretary, Department of Homeland Security; **Todd M. Lyons**, Acting Director, Immigration and Customs Enforcement; and **David Easterwood**, Acting Director, St. Paul Field Office Immigration and Customs Enforcement; Respondents.	Civil No.: 0:26-cv-02189 **PETITION FOR WRIT OF HABEAS CORPUS** **8 U.S.C. § 1231** **28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Emilio San Roman-Gonzalez came to the United States in 1980 at the age of 23, as a refugee from Cuba. Petitioner boarded a boat to escape destitution and oppression in his home country, as a part of an exodus of around "125,000 Cubans who had entered the United States . . . in a mass migration now known as the 'Mariel Boatlift.'" *See* Alexander M. Stephens, *Making Migrants "Criminal": The Mariel Boatlift, Miami, and U.S. Immigration Policy in the 1980s*, 17 Anthurium, no. 2, art. 4, at 1 (2021).

2. Mr. San Roman-Gonzalez became a lawful permanent resident, retroactive to his date of entry. However, he was ordered removed in 1997, following a criminal conviction. He served around 90 days of immigration detention at that time and was

subsequently released on an order of supervision. For decades, Cuba refused to accept deportees from America, repeatedly refusing to agree to repatriation agreements. Annasofia A. Roig, Note, *No Way, USA!: The Lack of a Repatriation Agreement with Cuba and its Effects on U.S. Immigration Policies*, 13 Fla. Int'l Univ. L. Rev. 875, 877 (2019). In 1995, Cuba agreed to accept deportees who were caught while still at sea, but continued to refuse any other repatriations. *Id.* After some back and forth policy changes during the Obama and first Trump administrations, *Id.* at 882, the current state of affairs is that Cuba will accept roughly one deportation flight a month from America. *See* Carol Rosenberg, *The Journey of a Group of Cuban Deportees Stuck at Guantánamo, N.Y. Times* (Jan. 28, 2026), https://www.nytimes.com/2026/01/28/us/politics/cubans-gitmo-deportations.html; Syra Ortiz Blanes, *Cuba Takes Back Deportees with U.S. Rap Sheets Amid Growing Pressure from Administration*, Mia. Herald (Feb. 19, 2026, at 6:32 P.M), https://www.miamiherald.com/news/nation-world/world/americas/cuba/article314758606.html (reporting data from "Human Rights First, an advocacy group that tracks deportation flights" finding that "there were 12 removal flights carrying at least 1,379 Cuban nationals" in 2025, which was the same as in 2024).

3. Cuban refugees who were ordered deported, but not accepted by Cuba, were almost universally released on orders of supervision, with annual check-ins with INS and then ICE. Mr. San Roman-Gonzalez was similarly released from immigration custody on an order of supervision.

4. Historically, when circumstances changed and ICE gained the ability to remove individuals on orders of supervision, ICE would call the individual in to the field

office or wait until the next scheduled check-in appointment to take them into custody to execute removal. When it would likely take some time to obtain travel documents from the country of citizenship, ICE would not detain the individual at that time but instead have them complete an application for travel documents.

5. While ICE has recently been able to remove some Cuban refugees to their home country, it has instead chosen to arrest Cuban individuals—at their homes, on the streets, or wherever it can find them—and indefinitely detain them.

6. On March 9, 2026, ICE agents detained Mr. San Roman-Gonzalez. He had just been released from the Faribault County Jail, in Blue Earth, Minnesota, after serving a sentence for felony possession of ammunition or firearms. *See State v. Gonzalez-Sanroman*,[1] No. 14-CR-22-4059 (Minn. Dist. Ct. May 15. 2023). Upon his release, he found ICE agents waiting for him at the jail, where he was detained with no notice and no warrant. Mr. San Roman-Gonzalez did not receive any notice of revocation of his supervised release before he was detained by ICE.

7. ICE's detention of Mr. San Roman-Gonzalez is facially unlawful. Detention under 8 U.S.C. § 1231 is authorized for the purpose of executing the removal of a noncitizen with an unexecuted final order of removal. It does not authorize detention for other purposes, even for a noncitizen with an unexecuted final order of removal.

8. While ICE has been able to remove some Cubans to their home country, there

[1] Petitioner's name appears in multiple different permutations in state court records, but immigration records reflect his name as "Emilio San Roman-Gonzalez." When citing to state court records, Petitioner's last name is reproduced as it appears in those cases.

is no indication that it can or will execute the removal of Mr. San Roman-Gonzalez in the reasonably foreseeable future. Indeed, on information and belief, ICE does not have any valid travel document for Mr. San Roman-Gonzalez. Further, the regulatory procedure for revocation of Mr. San Roman-Gonzalez's order of supervision was not followed, and there were less restrictive alternatives to initiate the removal process. As a result, Respondents' detention of Mr. San Roman-Gonzalez under 8 U.S.C. § 1231 is unlawful and violates agency regulations, § 1231 itself, and the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

9. Without the intervention of this Court, Petitioner believes that Respondents will continue to detain him indefinitely, without regard for the mandates of the U.S. Constitution, the Immigration and Nationality Act, and the agencies' own rules and regulations.

10. Petitioner is currently detained at the Sherburne County Jail in Elk River, Minnesota. ICE has a well-documented habit of transferring Minnesota detainees out of state and repeatedly shuttling them around the country, seemingly to evade this District's jurisdiction.[2] Indeed, after his detention in March, Mr. Roman-Gonzalez was flown to ICE

[2] *See, e.g.*, Elizabeth Shockman ,*'ICE Conveyor Belt' Illegally Detaining, Moving Minnesota Children to Texas Faster Than Courts Can Respond*, MPR News (Jan. 28, 2026, at 4:00 AM), https://www.mprnews.org/story/2026/01/28/ice-detaining-moving-minnesota-children-to-texas-faster-than-courts-can-respond (describing how a father and his two-year-old daughter were moved out of Minnesota 20 minutes after this Court ordered their release); Transcript of Show Cause Hearing at 19–27, *Segundo A.P.G. v. Bondi*, No. 26-CV-603 (D. Minn. Feb. 3. 2026) (describing how one detainee was ordered returned from Texas to Minnesota, but wound up in New Mexico and remained there despite additional orders from this Court), https://drive.google.com/drive/u/0/folders/1-QsB0RfJ8Zm6Ux8Exb0pen8wSNB3GWjM.

facilities in Louisiana and El Paso before being transported back to Minnesota. ICE may well transfer him outside of the State of Minnesota and the District of Minnesota, and to an unknown location, without even a moment's notice.

11. To remedy this unlawful detention, Mr. San Roman-Gonzalez seeks declaratory and injunctive relief in the form of immediate release from detention on the conditions of the order of supervision in place before his arrest.

12. Further, Petitioner respectfully requests that this Court issue an order enjoining Respondents from moving Petitioner outside of Minnesota so that Petitioner may consult with counsel while the Court is considering the petition, and so that there is no risk that removal of Petitioner from Minnesota will deprive this Court of jurisdiction over the petition, and ordering Respondents to immediately return Petitioner to Minnesota if he has been moved prior to issuance of such order.

JURISDICTION AND VENUE

13. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee *mandamus* action), § 1651 (All Writs Act), and § 2241 (*habeas corpus*); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). Because Petitioner seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas* petitions by noncitizens challenging the lawfulness of their detention. *See Zadvydas*, 533 U.S. 678, 687 (2001) ("[T]he primary federal *habeas corpus* statute, 28 U.S.C. § 2241,

confers jurisdiction upon the federal courts to hear these cases."); *Moallin v. Cangemi*, 427 F. Supp. 2d 908, 920–21 (D. Minn. 2006).

14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1), and 2241(d) because Petitioner is detained within this District, some of the Respondents reside and/or are headquartered within this District, and a substantial part of the events and omissions giving rise to the claim occurred within this District.

PARTIES

15. Petitioner Emilio San Roman-Gonzalez lives in the State of Minnesota. Mr. San Roman-Gonzalez is a native of Cuba. He has an administratively final order of removal, issued in 1997. He was detained by federal agents on March 9, 2026. He is currently detained at the Sherburne County Jail in Elk River, Minnesota.

16. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration and implementation of federal immigration policies, including those that resulted in the arrest and detention of Petitioner.

17. Respondent Todd Lyons is being sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Acting Director Lyons is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner.

18. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Acting Field Director Easterwood has supervisory authority over the ICE agents

responsible for detaining Petitioner. The St. Paul Field Office is located in Fort Snelling, Minnesota.

EXHAUSTION

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

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

OPERATION METRO SURGE

20. ICE, CBP, and other federal agencies began Operation Metro Surge on December 1, 2025. Operation Metro Surge is billed as the largest immigration enforcement operation in U.S. history.

21. Operation Metro Surge has nominally ended. On February 12, 2026, White House Border Czar Tom Homan announced that he "proposed, and President Trump has concurred, that this surge operation conclude." Samantha Fischer, *Homan Announces End To Operation Metro Surge: 'Mn Now Less Of A Sanctuary State'*, KARE 11 (Feb. 12, 2026, at 5:27 P.M. CST), https://www.kare11.com/article/news/local/ice-in-minnesota/homan-announces-end-to-operation-metro-surge/89-12276bb4-a329-450e-a06b-8da67430105e. Homan claims that some federal law enforcement will be reassigned out of Minnesota, but

made clear some will remain to continue immigration enforcement and "ensure agitator activity continues to decline." *Id.*

22. Some 3,000 federal agents have been deployed to Minnesota and have arrested, detained, assaulted, terrorized, and harassed untold numbers of Minnesotans, both U.S. citizens, immigrants in lawful status, and other noncitizens. At least 4,000 Minnesota residents had been arrested during this operation as of February 4, 2026.[3] Agents affiliated with Operation Metro Surge have shot and killed two U.S.-born citizens, and shot a third person, a Venezuelan immigrant. Gabriel Brito, *By the Numbers: ICE in Minnesota*, Mpls St. Paul Mag. (Feb. 9, 2026), https://mspmag.com/arts-and-culture/by-the-numbers-ice-in-minnesota.

PETITIONER EMILIO SAN ROMAN-GONZALEZ

23. Petitioner Emilio San Roman-Gonzalez is a 69-year-old native of Cuba. Mr. San Roman-Gonzalez entered the United States in 1980 as a refugee and received lawful permanent resident status.

24. Mr. San Roman-Gonzalez has a criminal record. In 1994, he was convicted of misdemeanor 5th degree domestic assault and misdemeanor 5th degree assault (fear).

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[3] *New Milestone in Operation Metro Surge: 4,000+ Criminal Illegals Removed from Minnesota Streets*, The White House (Feb. 4, 2026), https://www.whitehouse.gov/articles/2026/02/new-milestone-in-operation-metro-surge-4000-criminal-illegals-removed-from-minnesota-streets. Allegedly, every single one of the over 4,000 people arrested are "criminal illegal aliens," though a significant number of these are children, asylum-seekers, breastfeeding mothers, and others with no documented criminal history. *Id.*; *see, e.g.*, Joe Augustine, *Records Undercut ICE Claims That MN Jails, Prisons Release 'Worst Of The Worst'*, FOX 9 (Jan. 24, 2026, 6:00 A.M. CST), https://www.fox9.com/news/ice-blames-jails-releasing-worst-worst-many-havent-been-behind-bars-years.

State v. Gonzales Sanramon, No. 27-CR-94-074378 (Minn. Dist. Ct. Sept. 1, 1994); *State v. Gonzales Sanramon*, No. 27-CR-94-077988 (Minn. Dist. Ct. Oct. 3, 1994). In 1997, he was convicted of felony 5th degree possession of crack cocaine. *State v. Gonzales Sanramon*, No. 27-CR-97-027347 (Minn. Dist. Ct. Apr. 16, 1997). In 1998, he was convicted of felony 5th degree possession. *State v. Gonzales Sanramon*, No. 27-CR-98-043774 (Minn. Dist. Ct. June 22, 1998). In 2001, he was convicted of felony 2nd degree assault with a deadly weapon, a felony attempted 2nd degree controlled substance crime, and a felony 4th degree controlled substance crime. *State v. Gonzales Sanramon*, No. 03-KX-01-000591 (Minn. Dist. Ct. Sept. 17, 2001); *State v. Gonzales Sanramon*, No. 03-K3-01-000772 (Minn. Dist. Ct. Sept. 17, 2001); *State v. Gonzales Sanramon*, No. 03-K3-01-000771 (Minn. Dist. Ct. Sept. 17, 2001). In 2008, he was convicted of two counts of felony 4th degree sale of a controlled substance and felony receiving stolen property. *State v. Gonzales Sanramon*, No. 03-CR-07-244 (Minn. Dist. Ct. July 7, 2008); *State v. Gonzales Sanramon*, No. 03-CR-07-871 (Minn. Dist. Ct. July 7, 2008). In 2014, he was convicted of misdemeanor theft and misdemeanor failure to properly keep or restrain a dangerous dog. *State v. Gonzalez-Sanroman*, No. 03-CR-13-2528 (Minn. Dist. Ct. Mar. 19, 2014); *State v. Gonzales Sanramon*, No. 03-CR-14-1605 (Minn. Dist. Ct. Sept. 29, 2014). In 2015, he was convicted of felony 3rd degree sale of a narcotic. *State v. Gonzales Sanramon*, No. 03-CR-15-908 (Minn. Dist. Ct. Apr. 17, 2015). In 2023, he was convicted of a felony possession of ammunition or firearms. *State v. Gonzalez-Sanroman*, No. 14-CR-22-4059 (Minn. Dist. Ct. May 15, 2023).

25. Mr. San Roman-Gonzalez was ordered removed by an immigration judge on

October 28, 1997. He served around 90 days of immigration detention at that time and was subsequently released on an order of supervision. The U.S. Government has been unable to execute his removal order, and he has been under an order of supervision at all times since. On information and belief, he has been compliant with that order of supervision.

26. Mr. San Roman-Gonzalez has not at any time recently, before his detention, been asked by ICE to come in to fill out an application for a travel document, and he does not have a passport from Cuba. He has not been informed of the prospect of removal to any other country. He has also not been called in to the ICE field office.

27. On March 9, 2026, Mr. San Roman-Gonzalez was detained immediately upon his release from the Faribault County Jail, in Blue Earth, Minnesota.

28. On information and belief, ICE did not formally notify Mr. San Roman-Gonzalez that it was revoking his order of supervision before detaining him, nor has ICE identified any change in circumstance to justify revocation of his order of supervision.

29. On information and belief, ICE does not currently have a plan to remove Mr. San Roman-Gonzalez to Cuba or any other country, nor has ICE obtained travel documents for Mr. San Roman-Gonzalez. Mr. San Roman-Gonzalez does not have a Cuban passport and has not filled out an application for a travel document.

30. Mr. San Roman-Gonzalez has not purposefully or intentionally acted to prevent his removal.

LEGAL FRAMEWORK

31. Under 8 U.S.C. § 1231, noncitizens with a final order of removal shall be removed from the United States within a period of 90 days. 8 U.S.C. § 1231(a)(1)(A).

32. The beginning of the 90-day removal period is determined by the latest of the following:

> (i) The date the order of removal becomes administratively final.
> (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.
> (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

Id. at § 1231(a)(1)(B).

33. During the removal period, the noncitizen may be detained, and may not be released under any circumstances if found inadmissible or deportable on criminal or national security grounds. *Id.* at § 1231(a)(2).

34. If the noncitizen is not removed during the 90-day period, he or he "shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien

> (A) to appear before an immigration officer periodically for identification;
> (B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;
> (C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and
> (D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

Id. at § 1231(a)(3).

35. The removal period may be extended beyond 90 days and the noncitizen may remain detained if the noncitizen frustrates his or her removal. *Id.* at § 1231(a)(1)(C).

36. Alternatively, the noncitizen may be detained beyond the 90 days if he is inadmissible under § 1182 or removable under various sections of § 1227, or determined

to be a risk to the community or unlikely to comply with the order of removal. *Id.* at § 1231(a)(6); 8 C.F.R. § 241.4(a).

37. The Due Process Clause of the Fifth Amendment to the United States Constitution requires that "[n]o person shall . . . be deprived of liberty . . . without due process of law." "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, detention in the context of immigration must "bear[] a reasonable relation to the purpose for which the individual [was] committed." *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). If "detention's goal is no longer practically attainable," detention becomes unreasonable and therefore violates the Fifth Amendment right to due process. *Id.*

38. The Fifth Amendment Due Process Clause also requires that Respondents follow procedures that are adequate to establish that detention is both statutorily and constitutionally valid. *See Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money.").

39. Importantly, while *Zadvydas* has been read to permit 180 days of detention under § 1231 and any additional "period reasonably necessary to bring about that alien's removal from the United States," 533 U.S. at 689–90, it does not permit the Government to arbitrarily arrest a person subject to § 1231 whenever it can, simply because it can. Such

detention under this section is permissible only with the intent and ability to execute removal.

40. Even then, when a person is on an order of supervision with ICE, the preliminary steps toward removal can be accomplished without confinement. In the past, it has been common to call an individual into an ICE office to apply for a travel document and again when it is time for removal. *Zadvydas* also requires active, diligent efforts to carry out removal. It does not authorize the Government to detain a person for an extended period of time and *then* start the process.

41. Agency regulations also "control the federal government's ability to detain, release, and revoke the release of noncitizens subject to orders of removal." *Garrison G. v. Bondi*, No. 26-CV-172, 2026 WL 157677, at *3 (D. Minn. Jan. 17, 2026).

42. Government agencies must follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

43. When a noncitizen is detained pursuant to § 1231 but there is no significant likelihood of removal in the reasonably foreseeable future, they are released pursuant to 8 C.F.R. § 241.13(g). There are two grounds to revoke that release: violation of the terms or conditions of supervised release or changed circumstances. *Id.* at § 241.13(i).

44. Re-detention based on changed circumstances can occur when ICE "determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." *Id.* at § 241.13(i)(2). ICE must "consider[ ] factors probative of the [noncitizen's] future removal," "including the [noncitizen's] history of compliance efforts, ICE's history in removing [noncitizens] to the country in question or

third countries, and the State Department's views on the prospects of removal of [noncitizens] to those countries." *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 784–85 (D. Minn. 2025).

45. When ICE intends to revoke the release of a noncitizen, on either basis, it must "notify the noncitizen 'of the reasons for revocation of his or her release' and to conduct an initial informal interview promptly after the noncitizen's return to custody to afford the noncitizen an opportunity to respond to the reasons for revocation stated in the notification." *Garrison G.*, 2026 WL 157677, at *3 (quoting 8 C.F.R. § 241.13(i)(3)). "Section 241.13 places the burden on ICE to establish that 'changed circumstances' justified the revocation of release." *Id.*

CAUSES OF ACTION

COUNT ONE: VIOLATION OF 8 U.S.C. § 1231

46. Petitioner re-alleges and incorporates by reference the paragraphs above.

47. 8 U.S.C. § 1231 authorizes the detention of noncitizens in order to execute a final order of removal, so long as removal is likely to occur in the reasonably foreseeable future.

48. Petitioner has a final order of removal to Cuba and was on an order of supervision prior to his arrest. To date, Respondents have not taken any steps or made any efforts to execute the removal order. Respondents have not indicated that there is a specific plan in place to remove Petitioner or that Cuba will accept Petitioner, and the ability to carry out his removal is currently only speculative.

49. Therefore, 8 U.S.C. § 1231 does not authorize further detention of Petitioner

as he was not detained in order to execute his removal and his removal is not likely to occur in the reasonably foreseeable future.

COUNT TWO: VIOLATION OF FIFTH AMENDMENT SUBSTANTIVE DUE PROCESS

50. Petitioner re-alleges and incorporates by reference the paragraphs above.

51. The Fifth Amendment Due Process Clause protects against arbitrary and indefinite detention by the executive branch. *Zadvydas*, 533 U.S. at 699.

52. Due process requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals. *See Zadvydas*, 533 U.S. at 690–91. As removal was not the primary purpose for detention and is not substantially likely to occur in the reasonably foreseeable future, his detention is arbitrary and unreasonable, and therefore in violation of the Fifth Amendment's guarantee of Due Process.

COUNT THREE: FIFTH AMENDMENT PROCEDURAL DUE PROCESS

53. Petitioner re-alleges and incorporates by reference the paragraphs above.

54. *Mathews v. Eldridge* instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. 424 U.S. 319, 335 (1976). All three factors favor Petitioner.

55. The first factor, the private interest at issue, favors Mr. San Roman-Gonzalez.

"Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

56. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Mr. San Roman-Gonzalez. While agency regulations prescribe the process that must be followed prior to revocation of supervised release, that process was not followed here. Further, agency press releases and social media posts make clear the arrest of Mr. San Roman-Gonzalez was not based on a procedurally permissible ground identified in agency regulations.

57. The third factor, the government's interest, also favors Mr. San Roman-Gonzalez. The government has no legitimate interest in detaining an individual based on their race or ethnicity, or where they have not violated a material term of their supervised release or there has been a change in conditions that would make removal in the reasonably foreseeable future to be substantially likely.

58. For these reasons, arresting and detaining Mr. San Roman-Gonzalez violated procedural due process under the Fifth Amendment to the U.S. Constitution.

COUNT FOUR: FOURTH AMENDMENT SEARCH AND SEIZURE

59. Petitioner re-alleges and incorporates by reference the paragraphs above.

60. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const.,

Amend. IV.

61. The Fourth Amendment applies to noncitizens. *See Garrison G.*, 2026 WL 157677, at *4.

62. On information and belief, Respondents did not have Petitioner's consent or a judicial warrant to arrest him. His resultant detention is therefore unlawful.

COUNT FIVE: VIOLATION OF *ACCARDI* DOCTRINE

63. Petitioner re-alleges and incorporates by reference the paragraphs above.

64. Under the *Accardi* doctrine, Mr. San Roman-Gonzalez has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) ("If Petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

65. The detention of Mr. San Roman-Gonzalez violates the law because ICE did not comply with its own regulations under 8 C.F.R. § 241.13.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Declare that Petitioner's current detention is unlawful;

3. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

4. Prohibit Respondents from transferring Petitioner from this District pending resolution of this petition and without the Court's approval;

5. Award reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), upon such application; and

6. Grant any and all further relief this Court deems just and proper.

DATED: April 9, 2026

Respectfully submitted,

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