UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Emilio S.R.G.,

Petitioner,

v.

Markwayne Mullin, Secretary, Department of Homeland Security; Todd M. Lyons, Acting Director, Immigration and Customs Enforcement; David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement,

Respondents.

Case No. 26-cv-2189 (KMM/DLM)

REPORT AND RECOMMENDATION

This matter is before the Court on Petitioner Emilio S.R.G.'s Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. (Doc. 1.) Emilio S.R.G. alleges that his immigration detention violates federal law and regulations as well as the Fifth Amendment's Due Process Clause. He also alleges that his arrest violates the Fourth Amendment. Respondents, for their part, contend that because Petitioner was arrested pursuant to a valid warrant, and his detention complies with both 8 U.S.C. § 1231 and 8 C.F.R. § 241.13, his arrest and detention are both lawful, and therefore his petition should be denied. (*See generally* Doc. 5.) Emilio S.R.G.'s Petition now comes before the Court for review under Rule 4 of the Rules Governing Section 2254 Cases in the United States

District Court.[1] The case has been referred to the undersigned United States Magistrate Judge for a Report and Recommendation pursuant to 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1. For the reasons explained below, the Court recommends that Emilio S.R.G.'s Petition for Writ of Habeas Corpus (Doc. 1) be granted.

BACKGROUND

Emilio S.R.G. is a native of Cuba and came to the United States as a refugee on July 11, 1980, in a mass migration known as the Mariel Boatlift. (Docs. 1 ¶ 1; 6 ¶¶ 5, 47; 6-1 at 2.) On July 12, the United States Immigration & Naturalization Service ("USINS") paroled Petitioner into the United States in Key West, Florida as a Cuban parolee. (Doc. 6 ¶ 5.) Following a string of convictions in Nevada and Utah from 1985 to 1987, USINS placed Emilio S.R.G. in exclusion proceedings on January 13, 1988[2], and served him with a Form-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; and Form I-110, Notice to Immigration Judge. (Docs. 6 ¶¶ 6-12; 6-1; 6-9.) On June 12, 1990, Petitioner was released from USINS custody on parole by a USINS Cuban Review Panel. (Doc. 6 ¶ 13.)

After he was released from USINS custody, Emilio S.R.G. migrated to Minnesota, where between 1994 and 1997, he accrued several more convictions. (*Id.* ¶¶ 14-18.) On September 26, 1997, Petitioner was returned to USINS custody, and his parole status was

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[1]Although Emilio S.R.G.'s Petition is not filed under 28 U.S.C. § 2254, the Court may apply the rules governing that section per Rule 1(b).

[2] Respondents' Declaration indicates that Petitioner was placed in exclusion proceedings on June 13, 1988, however, Respondents' corresponding exhibits indicate that Petitioner was placed in exclusion proceedings on January 13, 1988. (*Contrast* Doc. 6 ¶ 12 *with* Docs. 6-1; 6-9.)

terminated for failure to comply with the conditions of his release. (*Id.* ¶ 19.) USINS issued a Form I-862, Notice to Appear in Removal Proceedings to Petitioner, on October 15, 1997. (*Id.* ¶ 20; Doc. 6-2.) Then, on October 28, 1997, an Immigration Judge in Chicago, Illinois, ordered Emilio S.R.G. removed from the United States to Cuba. (Docs. 6 ¶ 21; 6-3.) On February 20, 1998, Petitioner was again released from USINS custody on parole status by a USINS Cuban Review Panel. (Doc. 6 ¶ 22.)

After his 1998 parole, Emilio S.R.G. amassed another string of convictions in Minnesota from 1998 to 2001. (*Id.* ¶¶ 23-25.) On June 14, 2004, U.S. Immigration and Customs Enforcement ("ICE")[3] took Petitioner into custody once more for failure to comply with his release conditions. (*Id.* ¶ 26.) He was released again on parole by a Department of Homeland Security ("DHS") Cuban Review Panel. (*Id.* ¶ 27.)

In 2008, Petitioner accumulated three more convictions while in Minnesota. (*Id.* ¶¶ 28-30.) On December 1, 2008, Emilio S.R.G. was returned to ICE custody for failure to comply with the conditions of release and his parole was revoked the next day. (Docs. 6 ¶ 31; 6-10.) On March 4, 2009, ICE released Petitioner on an Order of Supervision ("OSUP") due to the Cuban government's unwillingness to repatriate him. (Docs. 6 ¶ 32; 6-4.) One of the conditions of Petitioner's OSUP was that he commit no crimes. (Doc. 6-4 at 3.) When Petitioner was released on the OSUP, he was instructed to report back on August 1, 2009.[4]

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[3] In March 2003, USINS was dissolved, and its enforcement functions were transferred to ICE.

[4] Respondents' Declaration states that Petitioner was instructed to report back on August 1, 2008, but the OSUP itself contains a handwritten notation which indicates he was instructed to "report in person on 8/01/09." (*Contrast* Doc. 6 ¶ 33 *with* Doc. 6-4 at 1.) This makes sense, as a 2009 OSUP could not order someone to appear in 2008.

(Docs. 6 ¶ 33; 6-4 at 1.) However, Respondents attest that DHS electronic records indicate that Emilio S.R.G. failed to report to ICE from 2009 to 2012. (Doc. 6 ¶ 33.)

On August 9, 2012, ICE sent a G-56 call-in letter to Emilio S.R.G.'s last known address instructing him to report to ICE on August 30, 2012, and ICE received a signed confirmation of delivery receipt with Petitioner's signature, establishing his receipt of the notice. (Docs. 6 ¶ 34; 6-5 at 1-2.) But Petitioner did not report, and ICE's attempts to contact him by phone were unsuccessful. (Doc. 6 ¶ 34.) Respondents attest that DHS electronic records show that Petitioner also failed to report to ICE in 2013, 2014, and 2015. (*Id.* ¶ 35.)

On March 3, 2015, ICE located Emilio S.R.G. at the Becker County Jail in Minnesota, contacted him by phone, and instructed him to report to ICE within 72 hours of release from jail. (*Id.* ¶ 36.) But Petitioner again failed to report. (*Id.*) Then on March 27, a woman identifying herself as Petitioner's girlfriend called ICE on his behalf and stated that it was not possible for Petitioner to appear at the ICE office, but he would appear on May 1, 2015. (*Id.*) On April 16, and July 8, 2015, ICE identified Petitioner as being in custody in county jails on criminal charges. (*Id.* ¶ 37.)

According to Respondents, Petitioner failed to report to ICE from 2015 to 2018. (*Id.*) This was likely because Emilio S.R.G. was convicted of third-degree drug sale on December 18, 2015, in Becker County and sentenced to 68 months in prison. (*Id.* ¶ 38.) On March 27, 2018, ICE located Petitioner at the Becker County Jail after his arrest on a parole violation. (*Id.* ¶ 39.) ICE sent another G-56 call-in letter by fax to the jail, instructing Petitioner to report to ICE within 72 hours of his release, but he did not report. (*Id.*) On

October 18, 2018, ICE located Petitioner at the Minnesota Correctional Facility ("MCF")-Lino Lakes with a projected release date of July 15, 2019. (*Id.* ¶ 40.) Emilio S.R.G. failed to report to ICE in 2019, 2020, and 2021. (*Id.* ¶ 41.)

On March 10, 2021, ICE identified Petitioner once more at the Becker County Jail and sent him another G-56 call-in letter by fax instructing him to report to ICE within 48 hours of his release. (*Id.* ¶ 42.) Petitioner failed to report as instructed and failed to report from 2022 through 2026. (*Id.*) Again, Petitioner's failures to report were linked to his criminal matters. On October 3, 2022, Emilio S.R.G. was convicted in North Dakota of unlawful possession of drug paraphernalia. (*Id.* ¶ 43.) Then on May 15, 2023, he was convicted in Minnesota of possession of ammunition/any firearm – conviction or adjudicated delinquent for crime of violence and sentenced to 60 months in prison. (*Id.* ¶ 44.)

On May 18, 2023, DHS lodged a detainer request with the Minnesota Department of Corrections for Emilio S.R.G. (*Id.* ¶ 45.) On March 2, 2026, ICE revoked Petitioner's release on supervision. (Doc. 6-6 at 2.) The next day, ICE arrested Petitioner upon his release from MCF-Faribault and served him with a Notice of Revocation, an Assumption of Custody Notification, and a Form I-205 Warrant of Removal. (Docs. 6 ¶ 46; 6-6 at 2-3, 5.) ICE then transferred Petitioner from MCF-Faribault to immigration custody at the Sherburne County Jail. (Doc. 6-11 at 4.) Later that same day, ICE conducted an informal interview with Petitioner at the Sherburne jail. (Docs. 6-6 at 4; 6-11 at 4.)

Although DHS and the State Department have engaged in "diplomatic efforts to increase acceptance" of Cuban nationals by the Cuban government, Respondents represent

that the Cuban government has traditionally denied repatriation to people like Emilio S.R.G., who came to the United States during the Mariel Boatlift. (Doc. 6 ¶ 47.) Even so, according to Respondents, other countries have "entered into agreements with the United States in 2025 and 2026 to accept third-country nationals." (*Id.*) For example, say Respondents, Mexico is now accepting third-country nationals who are not eligible to return to Cuba, and these third-country removals to Mexico "are occurring on a weekly basis at various border ports along the southern border[.]" (*Id.* ¶ 48.)

Within this context, on March 3, 2026,[5]—at the same time he was taken into ICE's custody—ICE served Emilio S.R.G. with a Notice of Third Country Removal for Mexico, Form I-229(a). (Docs. 6 ¶ 49; 6-7 at 1.) A few days later, on March 8, ICE then served Petitioner with a Warning for Failure to Depart and Instruction Sheet, informing him of the legal consequences should he fail to comply with the final order of removal. (Docs. 6 ¶ 49; 6-7 at 2-3.) On March 13, ICE transferred Emilio S.R.G. to a facility in Louisiana, and then on March 23, 2026, transferred him to a facility in Arizona in preparation for removal to Mexico. (Doc. 6 ¶ 50.) But on March 25, 2026, Petitioner refused to comply with removal to Mexico and so he was transferred back to the Sherburne County Jail on March 31. (*Id.* ¶¶ 51-52.) ICE issued a Notice of Failure to Comply Pursuant to 8 C.F.R. § 241.4(g), on April 7, 2026, and served Petitioner with the Notice on April 13, 2026. (Docs. 6 ¶ 53; 6-8.)

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[5] Respondents' Declaration states that ICE served Emilio S.R.G. with a Notice of Third Country Removal on March 9, 2026, but Respondents' exhibits shows that the notice was served on Petitioner on March 3, 2026, at 7:10 a.m., the same time he was released from MCF-Faribault and taken into ICE custody. (*Contrast* Doc. 6 ¶ 49 *with* Doc. 6-7 at 1.)

ICE has referred Petitioner's case to DHS Headquarters for nomination to an alternate third country for removal. (Doc. 6 ¶ 54.)

Emilio S.R.G. filed his petition for habeas relief on April 9, 2026. (Doc. 1.) The Court ordered Respondents to show cause why Emilio S.R.G.'s petition should not be granted no later than April 23, 2026, with Petitioner's reply due by April 30, 2026. (Doc. 3.) The matter is now fully briefed. (Docs. 5 (Response), 7 (Reply).)

In his petition Emilio S.R.G. challenges his arrest and detention on the grounds that Respondents failed to follow their own procedure; violated 8 U.S.C. § 1231; violated his Fifth Amendment Substantive and Procedural Due Process rights; and violated his Fourth Amendment right against warrantless arrest. Respondents contend that Petitioner's arrest was supported by a warrant; that his detention complies with 8 U.S.C. § 1231, and that the revocation of his Order of Supervision followed the requirements of 8 C.F.R. § 241.13(i)(1) and (3). In his reply brief, Petitioner winnows his argument down to focus on what he alleges was an inadequate revocation procedure under § 241.13(i)(3). He asserts that Respondents failed to provide proper notice of revocation, which in turn invalidated the informal interview, all in violation of his due process rights. According to Petitioner, because of this deficient process, he should be immediately released.

ANALYSIS

The writ of habeas corpus is a procedure available to prisoners to create government accountability for unlawful detention. *See Peyton v. Rowe*, 391 U.S. 54, 58 (1968); *Ex parte McCardle*, 73 U.S. (6 Wall.) 318, 325-26 (1867). The right to habeas relief extends to "persons challenging the lawfulness of immigration-related detention." *Deng Chol A. v.*

Barr, 455 F. Supp. 3d 896, 900-01 (D. Minn. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 517 (2003) and *Zadvydas*, 533 U.S. at 687). Federal courts have the authority to order the release of "detained noncitizens when ICE fails to follow its own regulations." *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 779 (8th Cir. 2025).

To begin, although 8 U.S.C. § 1231 is the primary statute governing detention and removal of noncitizens, because Emilio S.R.G. is a noncitizen with a final removal order who was released from immigration detention under an Order of Supervision and now faces revocation of his release, the proper framework for review is 8 C.F.R. § 241.13. *See Levkovich v. Trump*, 26-cv-938 (SHL/DLM) (Order found at Doc. 4) (D. Minn. Feb. 8, 2026) (describing § 241.13's applicability to petitioner's revocation of supervised release after a final order of removal). Respondents spend much of their response trying to persuade the Court that Petitioner's continued detention is lawful under 8 U.S.C. § 1231 and *Zadvydas v. Davis*[6] because Petitioner refused to cooperate with his removal. (Doc. 5 at 8-12.) But this misses the mark. Under Petitioner's circumstances, § 241.13(i) applies, and the government must show that it followed its own regulations when it revoked Petitioner's release. *Vang v. Bondi*, No. 26-cv-1381 (JMG/DLM), 2026 WL 458195, at *3 (D. Minn. Feb. 18, 2026) (citing *Trejo v. Warden of ERO El Paso E. Mont.*, 25-cv-401, 2025 WL 2992187, at *6-7 (W.D. Tex. Oct. 24, 2025) (distinguishing noncitizens released under an order of supervision from "typical *Zadvydas* petitioners")). "The government's failure to follow the regulations set forth in § 241.13 indicates an unlawful

[6] *Zadvydas v. Davis*, 533 U.S. 678 (2001).

detention." *Id.* at *2; *see also Rokhfirooz v. Larose*, 804 F. Supp. 3d 1095, 1099 (S.D. Cali. 2025) ("Courts have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered."); *Faysal N. v. Noem*, No. 25-cv-4641 (JMB/DLM), 2026 WL 36066, at *5 (D. Minn. Jan. 6, 2026) (detention is unlawful where "ICE did not comply with its own regulations under section 241.13(i)(2)."); *Phongsavanh v. Williams*, No. 25-cv-426 (SMR/SJB), 2025 WL 3124032, at *5 (S.D. Iowa Nov. 7, 2025) (same); *accord Zhu v. Genalo,* 798 F. Supp. 3d 400, 414 (S.D.N.Y. 2025) (detention is unlawful where ICE failed to follow procedures in § 241.4).

I. RESPONDENTS VIOLATED PETITIONER'S DUE PROCESS RIGHTS WHEN THEY FAILED TO PROVIDE HIM WITH A MEANINGFUL OPPORTUNITY TO BE HEARD DURING HIS INFORMAL INTERVIEW.

Title 8 C.F.R. § 241.13(i) sets out the requirements to revoke the release of a noncitizen subject to an order of supervision. *Id.* § 241.13(i). There are two situations which justify revocation of a noncitizen's release: when a noncitizen violates any conditions of their release, *id.* § 241.13(i)(1), or "on account of changed circumstances, the Service determines that there is a significant likelihood that [the noncitizen] may be removed in the reasonably foreseeable future" *id.* § 241.13(i)(2). In either case the government must follow certain revocation procedures. *Id.* § 241.13(i)(3). First, "[u]pon revocation," the noncitizen must be "notified of the reasons for revocation of his or her release." *Id.* Then, the government must "conduct an initial informal interview promptly after [the noncitizen's] return to Service custody to afford the [noncitizen] an opportunity to respond to the reasons

for revocation stated in the notification." *Id.* At the informal interview, the noncitizen "may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision." *Id.*

Emilio S.R.G. argues that his detention violates the Fifth Amendment's Due Process clause because the government did not follow its own regulations when it revoked his release. Petitioner does not dispute that his OSUP might be subject to revocation, but contends that Respondents failed to provide the bare requirements of due process necessary to lawfully revoke his release and re-detain him. (Doc. 7 at 5.) From Petitioner's view, Respondents only revoked his release *after* he was detained, which gave him insufficient notice of revocation. And, says Petitioner, conducting his informal interview on the same day as his arrest (and just after completing a three-year prison sentence at a different facility) rendered him unable to prepare evidence or collect information for his interview, which deprived him of any meaningful opportunity to be heard. Respondents, for their part, provide a single perfunctory paragraph explaining, from their perspective, that the government followed the required procedures under § 241.13(i)(3) when it revoked Petitioner's release.

A. Respondents Provided Adequate Notice of Revocation.

Petitioner alleges that Respondents failed to provide effective notice of his revocation when he was arrested on March 3, 2026, because, as he puts it, ICE agents detained him first and then served the Notice of Revocation of Release second. Petitioner

appears to imply that ICE failed to provide a Notice of Revocation of Release either before or during his arrest on March 3.

The government is required to provide notice upon revocation. § 241.13(i)(3) ("Upon revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release."). Here, the Notice of Revocation was digitally signed the day before Petitioner's arrest by the Acting Director of ICE's St. Paul Field Office. (Doc. 6-6 at 2.) The Notice states that Petitioner's OSUP, which was issued on March 4, 2009, was revoked under 8 C.F.R. § 241.13(i) because he violated the conditions of his release based on his conviction of third-degree drug sale (committed in 2014) and a conviction of possession of ammunition/any firearm (committed in 2022). (*Id.* at 1.) The Notice also shows that it was personally served on Petitioner on March 3, 2026, at 7:10 a.m., at MCF-Faribault. (*Id.* at 2.) The Notice of Revocation of Release was also accompanied by an Assumption of Custody Notification, which shows that it was also served on Petitioner on March 3, 2026, at 7:10 a.m., at MCF-Faribault, where ICE agents arrested Emilio S.R.G. (*Id.* at 3.) And Petitioner's Record of Deportable/Inadmissible Alien from the day of his arrest also shows that both the Notification of Revocation of Release, Form 71-091, and Assumption of Custody Notification, Form 71-075 were provided to Petitioner at the time of his arrest. (Doc. 6-11 at 4.)

On this record, the Court finds that ICE provided adequate notice to Emilio S.R.G. The Notice of Revocation of Release was signed the day before Petitioner's arrest and detailed the violations of the conditions of his release, as required by § 241.13(i)(1), which ICE said justified his return to custody—two convictions for crimes committed in 2014

and 2022. ICE agents then served both the Notification of Revocation of Release and Assumption of Custody Notification on Petitioner on March 3, 2026, at 7:10 a.m., at the time of his arrest. (Docs. 6-6 at 2-3; 6-11 at 4.) Nothing in § 241.13 prohibits providing notice it the manner employed here.

But the Court's inquiry does not end at there. ICE's revocation procedures also require an informal interview after a noncitizen has been returned to custody to "afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." § 241.13(i)(3). Although the Court finds that ICE provided adequate notice to Emilio S.R.G. at the time of his arrest, the question remains whether Petitioner's informal interview was conducted in a manner that ensured due process.

B. Respondents Deprived Emilio S.R.G. of a Meaningful Opportunity to Be Heard During His Informal Interview.

Petitioner contends that although he was provided with an informal interview after he was taken into ICE's custody, he was deprived of any opportunity to prepare evidence or collect information to submit during the interview because it was conducted on the same day of his arrest, just after his release from a three-year prison sentence. Thus, according to Petitioner, any due process afforded by the interview was "completely illusory." (Doc. 7 at 9.)

"The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal citations omitted). For noncitizens subject to re-detention, this fundamental right is secured by the informal interview requirement under § 241.13(i)(3).

At the interview, a noncitizen is provided an opportunity to challenge their return to custody by adequately responding to the stated reasons in the Notice of Revocation. *See id.* To overcome the stated reasons, the noncitizen "may submit any evidence or information that he . . . believes shows . . . that he . . . has not violated the order of supervision." *Id.*

When ICE arrested Petitioner on March 3, 2026, he was transferred directly from the custody of MCF-Faribault to ICE's custody at 7:10 a.m. (Docs. 6 ¶¶ 44, 45, 46; 6-6 at 2-3.) That same day, ICE agents transferred Petitioner to the Sherburne County Jail in Elk River, Minnesota. (Doc. 6-11 at 4.) Then, around 5:00 p.m. on that same day, an ICE agent conducted an informal interview with Petitioner. (Doc. 6-6 at 4.) Petitioner provided no documents or statements to the agent. (*Id.*)

The Court finds that the government violated its regulations when it conducted Petitioner's informal interview on the same day that it arrested him immediately upon his release from a three-year prison sentence. *See Kiwana v. LaRose*, No. 25-cv-3678 (JES/SBC), 2026 WL 102661, at *5 (S.D. Cal. Jan. 14, 2026); *Saengphet v. Noem, et al.*, No. 25-cv-2909 (JES/BLM), 2025 WL 3240808, at *5-6 (S.D. Cal. Nov. 20, 2025). Conducting the interview in this manner, under these constraints, "deprived Petitioner of a meaningful opportunity to contest his detention, which violated his due process rights." *Kiwana*, 2026 WL 102661, at *5 (citing *Mathews*, 424 U.S. at 335). This problem was exacerbated by ICE transferring Petitioner from MCF-Faribault to the Sherburne County Jail before conducting the interview, leaving Petitioner in a resource-free environment when called upon to discuss the revocation of his OSUP.

The Court recognizes that § 241.13(i)(3) requires that after a noncitizen is re-detained and provided notice, an informal interview must be provided "promptly." *Id.* But to give any meaning to this prompt interview the noncitizen must also be afforded the opportunity to submit evidence or information relevant to whether he violated the order of supervision (or whether there is no significant likelihood he will be removed in the reasonably foreseeable future, as the case may be). *See id.* And yet here, the moment Petitioner's three-year sentence expired, ICE agents were there to re-arrest him before he left MCF-Faribault and took him directly to ICE custody in the Sherburne County Jail. Throughout this process, Petitioner had no ability to access his personal or legal records. And so, when an ICE agent conducted his informal interview the same day he was re-arrested, he could submit no evidence or information to overcome the government's stated justifications for revocation.

Fairly, one might struggle to contemplate any defense Petitioner might conjure to show he did not violate his conditions. But predicting the ultimate result of such an inquiry is not the constitutional question. Rather, "[t]he essence of due process is notice *and* an opportunity to respond." *Roble v. Bondi,* 803 F. Supp. 3d 766, 772 (D. Minn. 2025) (emphasis added). There is no due process with one, but not the other. *See id.* And an opportunity to respond, if it is to satisfy the requirements of due process, must afford a noncitizen facing revocation of release "a meaningful opportunity to present their case" during the informal interview. *Mathews*, 424 U.S. at 348-49. Because Petitioner had no ability to access his personal or legal records when ICE re-arrested him in prison and then took him directly to the Sherburne County Jail, he had no evidence or information to submit

in the informal interview, and thus no "meaningful opportunity to present [his] case" in response to the government's Notice of Revocation. *Id.* As a result, Respondents failed to provide Petitioner with a meaningful opportunity to challenge his detention, as § 241.13(i)(3) and due process require. The Court therefore recommends that Petitioner Emilio S.R.G.'s Petition for Writ of Habeas Corpus (Doc. 1) be granted.

II. NO EVIDENTIARY HEARING IS REQUIRED.

An evidentiary hearing is appropriate only when material facts are in dispute. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995). An evidentiary hearing is not required when a conclusion can be reached on the issue with the undisputed facts. *United States v. Winters*, 411 F.3d 967, 973 (8th Cir. 2005). This matter can be resolved based on the existing record, and thus the Court finds no evidentiary hearing is necessary.

III. OBJECTIONS.

Given the expedited nature of these proceedings, the Court exercises its discretion to alter the standard timelines for Respondents to file objections to this Report and Recommendation. *See* Local Rule 72.2(b)(1) ("A party may file and serve specific written objections to a magistrate judge's proposed findings and recommendations within 14 days after being served with a copy of the recommended disposition, unless the court sets a different deadline.") (emphasis added). Respondents must file any objection to this Report and Recommendation on or before **May 16, 2026**. Petitioner may file a response to any objections on or before **May 21, 2026**. *See* L.R. 72.2(b)(2).

RECOMMENDATION

Accordingly, based on all the files, records, and proceedings in this case, **IT IS RECOMMENDED** that:

1. Petitioner Emilio S.R.G.'s Petition for Writ of Habeas Corpus (Doc. 1) be **GRANTED**; and;

2. Respondents be ordered to release Petitioner Emilio S.R.G. from custody

   a. Immediately;

   b. Inside the State of Minnesota;

   c. And with all of Petitioner's personal effects in Respondents' possession or control, including, but not limited to, his driver's license, immigration paperwork, work authorization, cell phone, keys, clothing, personal effects.

Date: May 11, 2026

s/Douglas L. Micko
DOUGLAS L. MICKO
United States Magistrate Judge