IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Emilio S.R.G., Petitioner, v. **Markwayne Mullin**, Secretary, Department of Homeland Security; **David Venturella**, Acting Director, Immigration and Customs Enforcement; and **David Easterwood**, Acting Director, St. Paul Field Office Immigration and Customs Enforcement; Respondents.	Civil No.: 26-cv-2189 (KMM/DLM) **PETITIONER'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

On May 11, 2026, the Honorable Magistrate Judge Douglas L. Micko recommended that the Court grant Petitioner Emilio S.R.G.'s[1] petition for a writ of habeas corpus. R. &. R., Dkt. 8, at 15–16. On June 24, 2026, after objections by Respondents and opposition to the objections by Petitioner, the Court issued an order rejecting the Report and Recommendation. Order, Dkt. 14, at 5. In that order, the Court granted Petitioner leave to "file a memorandum addressing any grounds for relief not addressed by the Court" by July 8, 2026. *Id.* at 6.

[1] "This District has adopted a policy of using only the first name and last initial of any nongovernmental parties in immigration cases." *Jor Y. v. Noem*, No. 26-CV-1210, slip op. at 1 n.1 (D. Minn. Feb. 11, 2026).

Petitioner now addresses a single basis for relief: a Fourth Amendment claim based on Respondents' failure to comply with their warrant requirement or the statutory requirements for a warrantless arrest. Because Respondents did not comply with those requirements, Petitioner should be released.

ARGUMENT

As a threshold matter, the Fourth Amendment claim has not been addressed by the Court. The Report and Recommendation ruled solely on Petitioner's *Accardi* claim, which fairly rings in due process. *See* Dkt. 8 at 10, 12 (discussing adequacy of the notice of revocation and informal interview required by 8 C.F.R. § 241.13(i)(3)). Accordingly, the Court's order addressed only that basis for relief. *See* Order, Dkt. 14, at 3–5. There has been no analysis by the Court of the Fourth Amendment claim raised in the Petition.

I. Respondents did not arrest Petitioner pursuant to a valid warrant and failed to comply with the requirements for a warrantless arrest.

Petitioner challenges his arrest and ensuing detention on Fourth Amendment grounds, asserting that Respondents did not arrest him pursuant to a valid warrant, that any alleged warrant in this matter was invalid or unserved, and that Respondents did not comply with the requirements for a warrantless arrest. Petition, Dkt. 1, at ¶¶ 6, 60–62. Thus, Petitioner should be released immediately.

A. Petitioner requests that the Court hear this basis for relief or, in the alternative, give leave to amend or file a second petition pleading this basis for relief.

Petitioner's Fourth Amendment argument, in short, is that he was not arrested pursuant to a valid Form I-205 warrant. Petitioner admits that the case law of this District

on the topic of arrests pursuant to Form I-205 Warrants of Removal has developed in the time his case has been pending and that his Petition is not pled with the utmost specificity concerning those recent developments. Petitioner respectfully requests that the Court consider the Fourth Amendment claim discussed herein. If the Court does not see fit to consider this claim, Petitioner requests the Court grant leave to amend the instant petition or file a second petition in this matter.

The pleading standard for habeas petitions under 8 U.S.C. § 2242 challenging immigration detention is not precisely clear. While courts used to consider habeas pleading a "heighted pleading standard," this predates the imposition of the *Twiqbal* "plausibility" standard. *Mayle v. Felix*, 545 U.S. 644, 669 (2005) (Souter, J., dissenting) ("Unlike the generous notice-pleading standard for the benefit of ordinary civil plaintiffs . . . Habeas Corpus Rule 2(c) requires habeas petitioners to 'specify all the grounds for relief available,' and to 'state the facts supporting each ground.'"). And while some Courts of this District have applied *Twiqbal* to habeas petitions in the context of amendment,[2] this is because the habeas pleading statute specifically applies the Rules of Civil Procedure to the amendment of petitions. 8 U.S.C. § 2242 ("It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.").

Meanwhile, while the Habeas Rules provide some guidance, they only strictly apply to petitions seeking relief under 8 U.S.C. §§ 2254 and 2255, which attack criminal

[2] *See, e.g.*, *Redifer v. Vaught*, No. 25-CV-933 (ECT/LIB), slip op. at 3–4 (D. Minn. Apr 21, 2026) (applying *Twiqbal* when considering a post-judgment motion to amend a habeas petition).

sentences by state or federal courts respectively. *See* Habeas Rules (Section 2254 Cases) 1 (hereinafter "Hab. R."); Habeas Rules (Section 2255 Cases) 1.[3] However, the Habeas Rules Governing Section 2254 Cases may, in the Court's discretion, be permissively applied in any habeas case. Hab. R. 1(b). Those rules apply a pleading standard which requires only that the petitioner "specify all the grounds for relief available to the petitioner," "state the facts supporting each ground," and "state the relief requested." Hab. R. 2(c)(1)–(3). The dissent in *Mayle* emphasizes the fact-centric nature of this scheme, even referring to it as "the habeas factpleading standard." 545 U.S. at 670. And a court reviews those pleadings with a highly deferential standard to the petitioner, only dismissing the petition if "[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief." Hab. R. 4.

It seems fair to suggest that Respondents' scheme of vigorous immigration enforcement has tested the limits of habeas procedure and case law, both around the country and here in Minnesota. From 2009 through 2024, federal district courts saw an average of 934 immigration-related habeas cases filed per year nationwide. Ruth Talbot, Pratheek Rebala, & Carla Astudillio, *Tracking Habeas Cases*, ProPublica (Feb. 10, 2026), https://projects.propublica.org/habeas-tracker (providing data updated as of June 30, 2026, available in a comma-separated values file at the hyperlink titled "Download all data"). The District of Minnesota averaged 27 immigration habeas filings per year over that span.

[3] The Habeas Rules are provided and maintained by the Judicial Branch here: https://www.uscourts.gov/sites/default/files/rules_governing_section_2254_and_2255_cases_in_the_u.s._district_courts_-_dec_1_2019.pdf.

Id. But through the first six months of 2026, this District alone has already seen 1,311 immigration habeas filings. *Id.* The 4,855% increase in filings in this District over historical average, with half the year remaining, may be a phenomenon unlike anything our legal system has ever seen. The sheer number of cases, filed under demanding conditions on behalf of immigrants rapidly detained by ICE, and often prepared by practitioners with little experience in habeas practice or immigration matters,[4] have forced open even the smallest cracks in the *corpus* of law governing habeas.

Under these circumstances, Petitioner respectfully submits that there is not clear guidance from our courts on the pleading standard for an immigration habeas petition addressing claims after the initial merits decision in the case, much less whether and how it should be applied where Respondents have already produced a fact record. During the pre-*Twiqbal* notice-pleading era, the Justice Souter noted that "the purpose of the heightened pleading standard in habeas cases is to help a district court weed out frivolous petitions before calling upon the State to answer." *Mayle*, 545 U.S. at 669–70 (Souter, J. dissenting). The Court can well find that the Petition is not frivolous. And even applying the standard for civil complaints, Petitioner has more than "state[d] a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombley*, 550 U.S. 544, 570 (2007)). That is, he has "ple[d] factual content that allows the court to draw the reasonable inference that the defendant is liable for the

[4] Counsel for Petitioner will be the first to admit this lack of experience. Decl. of Daniel P. Suitor at ¶ 17, *Anoulack N. v. Mullin*, No. 26-CV-1820 (NEB/DJF) (D. Minn. Apr. 17, 2026) ("Before February 7, 2026, I had never practiced immigration law in any capacity, nor had I practiced criminal law or filed a habeas petition at any point.").

misconduct alleged." *Id.*

Petitioner alleged that, upon his release from the Faribault County Jail, "he found ICE agents waiting for him at the jail, where he was detained with no notice and no warrant." Petition, Dkt. 1, at ¶ 6. This is the crux of Petitioner's Fourth Amendment claim: that no warrant was used to arrest him. The formal cause of action later quotes the Fourth Amendment and a case applying the Amendment to a noncitizen. *Id.* at ¶¶ 60–61. While the cause of action references the lack of "a judicial warrant to arrest" Petitioner, the facts pled are not restricted to judicial warrants, but includes administrative warrants. *See id.* at ¶ 6. The Court should find that Petitioner has pled the facts necessary to support his "no warrant" argument, under either the *Twiqbal* or habeas fact-pleading standard, and hear this claim.[5]

B. The record shows that Petitioner was not arrested pursuant to a valid Form I-205 warrant.

Petitioner was not arrested pursuant to a valid Form I-205 Warrant of Removal. The record shows Petitioner was not served with the warrant in the record during his arrest in March 2026, and it is likely that the warrant was used to detain Petitioner at least 17 years ago. Thus, the Court should move to warrantless arrest analysis.

There are two types of administrative warrants ICE may used to detain noncitizens.

> The plain language of § 236.1(b)(1) authorizes the use of a Form I-200 warrant only "up to the time removal proceedings are completed." After an alien is ordered removed, "removal proceedings" are complete, the "removal period" begins, and

[5] But if the Court does not find an appropriate pleading standard met, Petitioner respectfully requests leave to amend the Petition or file a successive petition concerning his Fourth Amendment claim.

> the alien may be arrested pursuant to a Form I-205 warrant of removal (but not pursuant to a Form I-200 warrant). 8 C.F.R. § 241.3(a)[.]

Inti C.-L. v. Blanche, No. 26-CV-2777 (PJS/SGE), slip op. at 3 (D. Minn. June 9, 2026). Thus, Respondents were required to have a "validly issued" Form I-205 to arrest Petitioner; he "cannot be arrested pursuant to an I-200 warrant because he is subject to a final order of removal." *Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), slip op. at 4 (D. Minn. June 26, 2026).

Respondents claim that they complied with the constitutional and statutory requirements for arrests of noncitizens "because Petitioner's arrest was *not* warrantless. There was a warrant." Fed. Resp'ts' Resp. Habeas Petition, Dkt. 5, at 12 (hereinafter "*Response*"). As support, Respondents cite to a Form I-205 warrant of removal dated August 11, 2004. *Id.* (citing *Minner Decl.*[6] Ex. F, Dkt. 6-6, at 5–6).

But Respondents fall short of actually claiming that Petitioner was "taken into custody pursuant to the warrant of removal." 8 C.F.R. § 241.3. Their briefing argues, at most, that the warrant existed at the time of Petitioner's arrest. *See Response* at 12. And the evidence Respondents provide supports Petitioner's claim that he was not arrested pursuant to the warrant in the record. The sworn declaration of an ICE deportation office discusses Petitioner's arrest and states only that he was served "a Notice of Revocation of Release" and a "Form 71-075 Assumption of Custody Notification based on his final order and warrant of removal." *Minner Decl.* at ¶ 46. The deportation officer never claims that

[6] The Declaration of Deportation Officer Angela Minner (hereinafter "*Minner Decl.*") is located at Docket 6.

Petitioner was served a warrant of removal. *See id.* The Assumption of Custody form is in the record and clearly not a warrant of removal. *Minner Decl.* Ex. F, Dkt. 6-6, at 3, 5–6. Plainly, a form "based on" a warrant cannot stand in for the warrant itself.

Turning to the Form I-205 itself, there is no evidence the warrant was served on Petitioner at the time of his arrest in March 2026. The warrant is dated August 11, 2004. *Id.* at 5. There is no strict attestation that the warrant was ever served on Petitioner, but the second page notes that Petitioner refused to provide his right index fingerprint and signature. *Id.* at 6. But Petitioner *did* provide his right index fingerprint on the Form I-213 report prepared when ICE processed Petitioner on the day of his arrest in March 2026. *Minner Decl.* Ex. K, Dkt. 6-11, at 1. And with all due respect to Petitioner, his photo in the March 2026 Report differs greatly from his appearance on the warrant and tracks the passage of time accordingly. *Compare id.*, *with Minner Decl.* Ex. F, Dkt. 6-6, at 6.

It is fair to say that Petitioner may have seen the warrant of removal at some point in history. It is possible that he was presented the warrant as late as 2009. But the evidence is clear that the sole warrant in the record was last before Petitioner many years ago and very like used to detain Petitioner once before, possibly in 2006 or 2008. Petitioner's picture appears on the warrant and is identical to his picture on his 2009 Order of Supervision. *Compare id.* at 6, *with Minner Decl.* Ex. D, Dkt. 6-4, at 2. His clothing, hair, facial hair, skin tone, the lighting effects of the room and/or camera flash, and even the bags under his eyes are identical. There is a black speck on Petitioner's left cheek in the picture placed on the order of supervision, but this appears to be a photocopying artifact or defect with the physical evidence. *See Minner Decl.* Ex. D, Dkt. 6-4, at 2. The warrant,

dated in 2004, states that Petitioner refused to provide a right index fingerprint. *Minner Decl.* Ex. F, Dkt. 6-6, at 6. But Petitioner provided a right index fingerprint when he was re-detained in December 2008, *Minner Decl.* Ex. J, Dkt. 6-10, at 3, and on the 2009 order of supervision. *Minner Decl.* Ex. D, Dkt. 6-4, at 2.

The date of the warrant along with a comparison of the three different photos of Petitioner in the record suggests the warrant was issued at the end his 2004 stint in immigration detention. *See Minner Decl.* at ¶ 27; *compare Minner Decl.* Ex. F, Dkt. 6-6, at 6, *with Minner Decl.* Ex. J, Dkt. 6-10, at 3, *with Minner Decl.* Ex. K, Dkt. 6-11, at 1. This is reinforced by the fact that Petitioner's photo on the December 2008 intake report is highly distinct from his photo on the order of supervision. *Compare Minner Decl.* Ex. J, Dkt. 6-10, at 3, *with Minner Decl.* Ex. F, Dkt. 6-6, at 6. It also appears Petitioner served a period of immigration detention not discussed in the declaration, as the 2008 revocation of parole states that Petitioner was "released from ICE custody via parole" on March 20, 2006. *Minner Decl.* Ex. J, Dkt. 6-10, at 1. The likeliest sequence of events seems to be that ICE issued the warrant in 2004 and reused the warrant photo for Petitioner's 2009 order of supervision. In any case, Petitioner submits that, despite its issue date, the warrant in the record was prepared as early as 2004 or as late as 2009 and used to detain Petitioner for one of his previous periods of immigration detention, in 2006 or 2008 (if ever).

Respondents' narrative of Petitioner's arrest in the March 2026 Report does not specifically discuss the Form I-205 in the record. It states that "Deportation Officer (DO) Willwerscheid placed [Petitioner] under administrative arrest at Minnesota Correctional Facility - Faribault pursuant to a warrant." *Minner Decl.* Ex. K, Dkt. 6-11, at 2. But, while

DO Willwerscheid's name appears on the certificates of service for the Notice of Revocation and Assumption of Custody Notification in the record, it appears nowhere on the warrant. *Minner Decl.* Ex. F, Dkt. 6-6, at 2–3, 5–6. This comports with Respondents' update of their narrative for this litigation, which only states that Petitioner was arrested pursuant to an "Assumption of Custody Notification based on his final order and warrant of removal." *Minner Decl.* at ¶ 46.

In *Ger V. v. Mullin*, this Court addressed a remarkably similar warrant scenario to the one here. In that case, there were two Form I-205 warrants in the record: one that the Court found was issued after the petitioner's arrest, and one issued November 15, 2001. *Ger V.*, No. 26-CV-2543, slip op. at 8 & n.5. The Court found the Form I-205 issued after the petitioner's arrest did not provide warrant authority for an arrest. *Id.* at 8–9. Regarding the 2001 warrant, the Court determined it "was issued shortly after Mr. V. received his final order of removal in September 2001 and prior to his stint in immigration custody in late 2001." *Id.* at 8 n.5. The Court noted that Respondents "provide[d] no legal authority supporting that a 25-year-old warrant can be reused in a circumstance like this" and "provide[d] nothing by way of establishing that Mr. V.'s arrest was made 'pursuant to' this warrant, 8 C.F.R. § 241.3(a), highlighted by the fact that there is no indication that the 2001 warrant was served on Mr. V. in 2026." *Id.*

Here, the only warrant in the record is dated August 11, 2004. *Minner Decl.* Ex. F, Dkt. 6-6, at 5. Petitioner served at least two periods of immigration detention after the issuance of that warrant and before his instant detention: one from which he was released on March 20, 2006, and another which began on December 1, 2008. *Minner Decl.* Ex. J,

Dkt. 6-10, at 1, 4. There is no evidence that the 2004 warrant was served on Petitioner in 2026. Respondents certainly do not claim so. And the face of the warrant contains no indicia of service. The Court has previously found that "the concerns with relying on a 25-year-old, possibly-already-executed, and possibly-never-served warrant of removal to establish the legality of this arrest are self-evident." *Ger V.*, No. 26-CV-2543, slip op. at 8 n.5. Where the facts are much the same, with the exception that the warrant is only 22 years old, the Court should find that Petitioner was not arrested pursuant to the warrant in the record and that, even if he was, the warrant was invalid to effect his arrest.

Respondents merely point to the existence of a warrant from 2004, somewhere, to justify Petitioner's arrest. *Response* at 12. That cannot meet Petitioner's warrant requirement. *See Ger V.*, No. 26-CV-2543, slip op. at 8 n.5. "The government is bound to follow the regulations it has promulgated." *Mong C. v. Noem*, No. 26-CV-1541 (JWB/DLM), slip op. at 4 (D. Minn. Feb. 24, 2026) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). The record shows that Petitioner was not "taken into custody pursuant to the warrant of removal." 8 C.F.R. § 241.3. Thus, the Court should move to warrantless arrest analysis. *See Ger V.*, No. 26-CV-2543, slip op. at 9 n.7; *Inti C.-L*, No. 26-CV-2777, slip op. at 4–5.

C. Respondents did not comply with the requirements for a warrantless arrest.

Respondents did not arrest Petitioner pursuant to a valid warrant, so their arrest must be analyzed as a warrantless one. And because Respondents do not offer any analysis of their basis for a warrantless arrest, and cannot otherwise carry their burden to prove that Petitioner was likely to escape before a warrant could be obtained for his arrest, Petitioner

must be released.

The Fourth Amendment to the United States Constitution prohibits "unreasonable searches and seizures" and requires that "no Warrants shall issue, but upon probable cause." U.S. Const. amend. IV. The Fourth Amendment applies to noncitizens. *See United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). Immigration authorities must comply with governing statutes when arresting noncitizens without a warrant. *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017).

Where a noncitizen is arrested by ICE without a warrant, "the Court must consider the statutory framework for warrantless arrests of noncitizens, which is a convoluted maze of statute and regulations." *Cutberto R.P. v. Blanche*, No. 26-CV-1934 (MJD/DTS), slip op. at 9 (D. Minn. Apr. 10, 2026).

The Immigration and Nationality Act

> specifically enumerates the "powers" of immigration officers to act without a warrant. See 8 U.S.C. § 1357. The statute permits officers to arrest a noncitizen without a warrant if they have "reason to believe" that 1) "the alien . . . is in the United States in violation of any such law or regulation," and 2) "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2).

Id. "Because the Fourth Amendment applies to arrests of illegal aliens, the term 'reason to believe' in § 1357(a)(2) means constitutionally required probable cause." *Quintana*, 623 F.3d at 1239. Having "reason to believe" that Petitioner is "'an alien subject to removal from the United States' does not, without more, provide the probable cause needed to make a lawful arrest." *Orellana*, 230 F. Supp. 3d at 945 (quotation omitted). That is because "it is not a crime for a removable alien to remain present in the United States." *Arizona*, 567

U.S. at 407. Rather, "the Fourth Amendment demands a particularized assessment of [Petitioner]'s likelihood of escaping." *Orellana*, 230 F. Supp. 3d at 946.

But Respondents decline to provide any analysis of Petitioner's likelihood of escaping. Instead, they simply insist that "Petitioner's arrest was *not* warrantless." *Response* at 12. Because Respondents do not actually argue the merits of their warrantless arrest of Peititoner, the Court should find that "Respondents waived any challenge to these arguments." *Estephanny P. v. Bondi*, No. 26-CV-198 (ECT/JFD), slip op. at 3 (D. Minn. Jan. 15, 2026).

But even considering the merits, the record does not show that Petitioner was "likely to evade detention by immigration officers." *Walther A.S. v. Blanche*, No. 26-CV-2804 (LMP/SGE), slip op. at 6 (D. Minn. June 16, 2026). This "analysis considers not just whether the noncitizen will be located at the scene of encounter with immigration enforcement but also whether immigration enforcement would be able to arrest the noncitizen at 'another clearly identifiable location.'" *Id.* (quotation omitted). Thus, "the relevant inquiry is not simply whether [Petitioner] was likely to leave [MCF - Faribault] before ICE officers could obtain a warrant, but rather whether it was likely that ICE officers would be able to locate [Petitioner] after obtaining a warrant to arrest him." *Id.* at 7.

The *Walther A.S.* Court ordered release despite a far fuller record about the potential of that petitioner's escape. *Id.* at 7–8. Here, all we know is that "ICE/ERO arrested SAN ROMAN following his release from the Minnesota Correctional Facility-Faribault." *Minner Decl.* at ¶ 46; *accord Minner Decl.* Ex. K, Dkt. 6-11, at 2 (stating that "Deportation Officer (DO) Willwerscheid placed SAN ROMAN under administrative arrest at

Minnesota Correctional Facility - Faribault"). Respondents will likely point to Petitioner's failure to report or otherwise check-in with ICE when required or ordered to over the course of two decades. *Minner Decl.* at ¶¶ 33–39, 40–42. But the question is not whether Petitioner will voluntarily appear and submit himself for arrest, but whether ICE can obtain a warrant, then locate Petitioner and effect his involuntary arrest. This is a particularly low bar, were, as one court noted, a Form I-205 can be obtained in an hour or less. *United States v. Segura-Gomez*, No. 17-CR-65-FL-1, 2018 WL 6582823, slip op. at 14–16 (E.D.N.C. May 25, 2018) (finding that a one-hour lunch break during a court hearing was sufficient for two Homeland Security agents to obtain a Form I-205), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018). Further, ICE knew where and when Petitioner was being released, which makes it clear that Respondents were well capable of obtaining a warrant before Petitioner could escape altogether.

Respondents do not provide any information to the contrary. "The question here is whether Petitioner's detention is lawful on this record. Even where detention is authorized in general, it must comply with the limits imposed by statute, regulation, and the Constitution." *Linh H.V. v. Mullin*, No. 26-CV-2090 (JWB/SGE), slip op. at 4 (D. Minn. Apr. 6, 2026) (emphasis added). As discussed above, Part I.B, *supra*, Petitioner was not arrested pursuant to a valid warrant. And Respondents provide no effective evidence concerning Respondent's likelihood of escaping before a proper warrant could be obtained. Thus, Petitioner must be released.

D. Release is the proper remedy in this case.

Habeas is at its core a remedy for unlawful executive detention," and "[t]he typical

remedy for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citation omitted). "'[R]elease is an available and appropriate remedy' for 'detention that lacks a lawful predicate.'" *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, slip op. at 7 (D. Minn. Jan. 5, 2026). "Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings." *Id.* at 8 (ordering release for failure to comply with the warrant requirement of 8 U.S.C. § 1226(a)).

Petitioner does not dispute his long and serious criminal record nor his repeated failure to comply with his obligation to report to ICE. But a person does not and should not need to be a stereotypical model noncitizen to benefit from the protections of our Constitution. Earlier in this case, Petitioner pointed to President John Adams' work as a defense attorney for the British soldiers on trial for the murder of demonstrators during the Boston Massacre as an example of the vital importance of upholding the law even for those "guilty of serious misdeeds." Pet'r's Reply, Dkt. 7, at 15–16. This principle is particularly well-applied to the Fourth Amendment. In the landmark case incorporating the exclusionary rule against the states, Justice Tom C. Clark warned that "[n]othing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence." *Mapp v. Ohio*, 367 U.S. 643, 659 (1961). Justice Potter Stewart, a frequent skeptic of the rights of criminal defendants, still cautioned that "[t]he needs of law enforcement stand in constant tension with the Constitution's protections of the individual against certain exercises of official power. It is precisely the predictability of these pressures that counsels a resolute loyalty to constitutional

safeguards." *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973).[7]

Release as a remedy inures to Petitioner's benefit, to be sure, but society benefits as well. In the aftermath of his work as a prosecutor for the Nuremberg Trials, Justice Robert H. Jackson issued a warning that has borne out in Minnesota, noting that the rights issuing from the Fourth Amendment:

> I protest, are not mere second-class rights but belong in the catalog of indispensable freedoms. Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government. . . . But the right to be secure against searches and seizures is one of the most difficult to protect. Since the officers are themselves the chief invaders, there is no enforcement outside of court.

Brinegar v. United States, 338 U.S. 160, 181 (1948) (Jackson, J., dissenting). Meanwhile, Justice John Paul Stevens counseled "[t]he Amendment is a constraint on the power of the sovereign, not merely on some of its agents. The remedy for its violation imposes costs on that sovereign, motivating it to train all of its personnel to avoid future violations." *Arizona v. Evans*, 514 U.S. 1, 18–19 (1995) (Stevens, J., dissenting).

A recounting of ICE's misdeeds in Minnesota would and may fill many volumes of legal, academic, and social texts. But only one such misdeed is before the Court now: ICE's failure to comply with the Constitutional, statutory, and regulatory requirements for Petitioner's arrest. This Court and others have regularly ordered release for such failures.

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[7] *Almedia-Sanchez* suppressed the warrantless search of "a Mexican citizen . . . convicted of having knowingly received, concealed, and facilitated the transportation of a large quantity of illegally imported marihuana" via a dragnet operation. 413 U.S. at 267–68, 275.

E.g., *Ger V.*, No. 26-CV-2543, slip op. at 9; *Inti C.-L.*, No. 26-CV-2777, slip op. at 5; *Edison D.M.J. v. Bondi*, No. 26-CV-1588 (DWF/LIB), slip op. at 5 (D. Minn. Feb. 27, 2026) ("The remedy for a warrantless arrest is immediate release."). And with good reason: imposing release as a remedy for constitutional violations by the Government finds support in both the law for this District and the policy of our highest court. Petitioner respectfully submits that the result should be the same here: immediate release.

II. If Respondents augment the record or their defenses, Petitioner requests leave to file a responsive memorandum.

The Court's Order provides only for a memorandum from Petitioner and a responsive brief from Respondents. Dkt. 14 at 6. If the case is to be decided on the record before the Court, Petitioner does not seek a reply memorandum. However, if Respondents expand or alter the fact record, or raise new arguments of law, Petitioner would respectfully request permission to file a reply memorandum which complies with the requirements of Local Rule 7.1(f) as pertains to this memorandum and any reply granted.

III. If the Court does not order Petitioner's release on the record before it, he requests an evidentiary hearing.

If the Court finds there to be material disputes of fact concerning Petitioner's arrest and 2004 warrant which cannot be reconciled, the state of the record justifies an evidentiary hearing. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995) ("Generally, a district court should hold an evidentiary hearing 'if the facts are in dispute . . . ." (quotation omitted)). Petitioner would seek to examine any arresting officers to resolve ambiguities concerning the circumstances of Petitioner's arrest at MCF - Faribault, specifically concerning what warrant (if any) was used to arrest Petitioner as well as any facts

concerning Petitioner's likelihood of escape.

CONCLUSION

For the reasons articulated in the Petition and above, Petitioner respectfully requests that the Petition for a Writ of Habeas Corpus be granted.

DATED: July 5, 2026

Respectfully submitted,

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