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) **AMENDED PETITION FOR WRIT OF HABEAS CORPUS** **8 U.S.C. § 1231** **28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Emilio San Roman-Gonzalez, by and through undersigned counsel, hereby files this petition for a writ of habeas corpus to require United States Immigration and Customs Enforcement ("ICE") to release Petitioner from ICE detention.

JURISDICTION AND VENUE

2. 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"); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Petitioner seeks to challenge

custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. ("INA").

4. 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 v. Davis*, 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).

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

EXHAUSTION

6. 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).

PARTIES

7. Petitioner Emilio San Roman-Gonzalez lives in the State of Minnesota. Petitioner is a native of Cuba. He has an administratively final order of removal, issued in 1997. He was arrested by federal agents on March 3, 2026, upon his release from a state prison sentence. He is currently detained at the Sherburne County Jail in Elk River, Minnesota.

8. 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. Secretary Mullin is a legal custodian of Petitioner.

9. Respondent David Venturella 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 Venturella is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner.

10. 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.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

PETITIONER'S IMMIGRATION HISTORY AND STATUS

11. Petitioner Emilio San Roman-Gonzalez is a 69-year-old native of Cuba. He 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); *see also Caballero v. United States*, 145 F. Supp. 2d 550, 552 (D.N.J. 2001) (discussing the facts of the Mariel Boatlift).

12. Petitioner was paroled into the United States under the special parole status that many Mariel Cubans received. *See* 8 C.F.R. § 212.12. However, he was ordered removed in 1997, following a criminal conviction.

13. 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). *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).

14. Petitioner was ordered removed by an immigration judge on October 28, 1997. But there are often major legal barriers to deporting Cuban nationals. 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).

15. Cuban refugees who were ordered deported, but not accepted by Cuba, whether because of legal protections or Cuba's refusal to accept them, were almost universally released on orders of supervision, with required annual check-ins with INS and then ICE. Similarly, the U.S. Government has been unable to execute Petitioner's removal order for the last 29 years. He served 115 days of immigration detention at the time of his removal before being released on parole status by an Immigration and Naturalization Service Cuban Review Panel. Declaration of Deportation Officer Angela Minner, Dkt. 6, at ¶¶ 21–22 (hereinafter "*Minner Decl.*").

16. Petitioner served at least two additional stints of immigration detention. In 2004, he was re-detained for failure to comply with conditions of release and, after 58 days, released on parole. *Id.* at ¶¶ 26–27. Between 2008 and 2009, he was re-detained for failure to comply with his conditions and, after 93 days, released "on an Order of Supervision due

to Cuban government's unwillingness to accept [him] back." *Id.* at ¶¶ 31–32.[1]

RESPONDENTS' ARREST OF PETITIONER

17. On March 3, 2026, ICE agents arrested Petitioner upon his release from the Minnesota Correction Facility in Faribault, Minnesota. Petitioner had just completed a three-year sentence for felony possession of ammunition or firearms. *See State v. Gonzalez-Sanroman*,[2] No. 14-CR-22-4059 (Minn. Dist. Ct. May 15, 2023). Upon his release, he found ICE officers waiting for him at the jail, where he was detained without his consent.

18. The arresting officers did not serve or otherwise present Petitioner with any warrant at the time of his arrest. The officers served an "Assumption of Custody Notification" form on Petitioner at MCF - Faribault, but this form was not a warrant. *Minner Decl.* Ex. 6, Dkt. 6-6, at 3.

19. Upon information and belief, Respondents lacked probable cause to justify Petitioner's warrantless detention. ICE officers were waiting for Petitioner upon his release from a three-year prison sentence. They were well capable of obtaining a Form I-205 warrant before Petitioner's arrest and serving him on the spot.[3] Moreover, the ICE officers

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[1] In addition, it appears Petitioner served a period of immigration detention ending in 2006, 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.

[2] 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.

[3] This is especially true where 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

had no reason to believe that Petitioner could not be located and detained at some other location once a warrant had been properly drawn.

20. Following his arrest, Petitioner was transported to the Bishop Henry Whipple Federal Building in Fort Snelling, Minnesota, and was subsequently flown to ICE facilities in Louisiana and Arizona before being transported back to Minnesota. *Minner Decl.* at ¶¶ 50. At no point in his detention was Petitioner served a Form I-205 warrant of removal.

21. Petitioner filed his first petition for a writ of habeas corpus on April 9, 2026. Dkt. 1. On May 11, 2026, the Honorable Magistrate Judge Douglas L. Micko recommended that the Court grant Petitioner's 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. On July 5, 2026, Petitioner filed a supplemental memorandum. Dkt. 16. On July 6, 2026, the Court issued an order finding that Petitioner's memorandum raised a challenge not identified in the original petition, but granted leave to file an amended petition. Dkt. 17. This pleading follows.

22. To date, Respondents have not produced any evidence that Petitioner was served a Form I-205 warrant of removal. This alone should justify Petitioner's release because he was not arrested "pursuant to" a valid Form I-205 as required by regulation.

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sufficient for two Homeland Security agents to obtain a Form I-205), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018).

8 C.F.R. § 241.3.

23. Respondents claim that their arrest of Petitioner was pursuant to a warrant because a Form I-205 was issued in 2004 and existed at the time of Petitioner's arrest. *Minner Decl.* Ex. 6, Dkt. 6-6, at 5. But, on information and belief, this warrant was used to detain Petitioner during one of his previous stints of immigration detention, either in 2006 or 2008. This 22-year-old, previously used warrant cannot be re-used to detain Petitioner again around two decades later.

24. 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.

25. To remedy this unlawful detention, Petitioner seeks relief in the form of immediate release from detention on the conditions of the order of supervision in place before his arrest.

LEGAL FRAMEWORK

HABEAS PETITIONS

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful or unconstitutional detention, including noncitizens detained by federal immigration authorities. *See, e.g.*, *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020). "The Great Writ is 'a vital instrument' to protect individual liberties, and is an essential check on abuses of government power," particularly against "'arbitrary imprisonments,' which 'have been, in all ages, the favorite and most

formidable instruments of tyranny.'" *Tou V. v. Bondi*, No. 26-CV-1831 (JMG/DLM), slip op. at 2 (D. Minn. Feb. 18, 2026) (quoting *Boumediene v. Bush*, 553 U.S. 723, 743–45 (2008)).

27. 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). Such a petition should be granted if the petitioner proves the illegality of the detention by a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

THE FOURTH AMENDMENT

28. The Fourth Amendment to the United States Constitution enshrines "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. This right "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." *Id.*

29. The Fourth Amendment applies to noncitizens. *See United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

30. 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) ("[A]rrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest.").

31. Even to the extent a noncitizen present in the country could be detained under other statutory authority, "it does not follow that [such a noncitizen] can be arrested and

detained . . . without first complying with 8 U.S.C. § 1357(a), which addresses federal immigration officials' authority to make warrantless arrests." *Jefferson G.H.L. v. Blanche*, No. 26-CV-2344 (JRT/ECW), 2026 WL 1229623, at *2 (D. Minn. May 5, 2026) (discussing detention under 8 U.S.C. § 1225(b)(2)); *see also Almeida-Sanchez v. United States*, 413 U.S. 266, 271—74 (1973) (holding the "permissible scope of intrusiveness" under Fourth Amendment greater at "the border itself" or "its functional equivalents" than in interior of the country).

32. There are two regulatory schemes for administrative warrants issued by DHS and ICE. First, there are warrants of arrest, which are authorized by 8 U.S.C. § 1226 and implemented via regulation at 8 C.F.R. § 236.1(b). These administrative warrants of arrest are used to "arrest[] and detain[] pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). These warrants are issued on ICE "Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1). Second, there are warrants of removal, which are authorized by 8 U.S.C. § 1231 and implemented via regulation at 8 C.F.R. §§ 241.2, 241.3. This brand of administrative warrant is issued on "Form I-205, Warrant of Removal," *id.* at § 241.2(a), and is used to arrest and detain noncitizens with a final order for removal pending their actual removal from the United States.

33. Because Petitioner is subject to a final order of removal, the warrant required to arrest him was the second kind of administrative warrant, the warrant of removal. *Inti C.-L. v. Blanche*, No. 26-CV-2777 (PJS/SGE), slip op. at 2–3 (D. Minn. June 9, 2026). "A warrant of removal must be prepared in every case resulting in a final order of removal," *United States v. Orozco-Acosta*, 607 F.3d 1156, 1163 (9th Cir. 2010). And a warrant of

removal was required for his arrest because a "removal order is not a surrogate for an arrest warrant." *United States v. Segura-Gomez*, No. 17-CR-65-FL-1, 2018 WL 6582823, slip op. at 16–17 (E.D.N.C. May 25, 2018), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018); *accord Kong v. United States*, 62 F.4th 608, 619 (1st Cir. 2023) ("The concepts of a deportation order and a deportation warrant cannot be conflated. The deportation order authorizes removal from the country. The warrant authorizes an arrest to effect removal."). A warrant of removal is not valid unless signed by an individual authorized to issue such a warrant. *Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), slip op. at 4–5 (D. Minn. June 26, 2026).

34. The Immigration and Naturalization Act permits ICE officers "to arrest a noncitizen without a warrant only in limited circumstances: (1) to arrest a noncitizen who, in the presence or view of the arresting officer, "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 [noncitizens]," or (2) to arrest a noncitizen when the arresting officer has "reason to believe" the noncitizen is "in the United States in violation of any such law or regulation and 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); *accord Cutberto R.P. v. Blanche*, No. 26-CV-1934 (MJD/DTS), slip op. at 9 (D. Minn. Apr. 10, 2026).

35. "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 1237.

36. However, 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. at 945 (quotation omitted). That is because "it is not a crime for a removable alien to remain present in the United States." *Arizona v. United States*, 567 U.S. 387, 407 (2012). "To hold that a noncitizen is likely to escape merely because they are removable would effectively collapse § 1357(a)(2)'s two distinct requirements into one . . . . If every noncitizen that is here illegally is presumed likely to escape authorities, then § 1357(a)(2)'s second, independent requirement is rendered superfluous." *Jefferson G.H.L.*, 2026 WL 1229623, at *3.

37. Rather, "the Fourth Amendment demands a particularized assessment of [Petitioner]'s likelihood of escaping" before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)); *accord, e.g.*, *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006–07 (N.D. Ill. 2016); *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1217 (D. Colo. 2025) (requiring "particularized inquiry" that subject is likely to abscond).

38. The facts informing the assessment of whether a person is likely to escape "may vary." *See Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 31 (D.D.C. 2025). However, "[j]ust because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape." *Jefferson G.H.L.*, 2026 WL 1229623, at *3. "Courts have also made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina*, 811 F. Supp. 3d at 31 (collecting cases).

39. It is Respondents' burden to establish both probable cause predicates for reliance on 8 U.S.C. § 1357's exceptions to the warrant requirement, and the absence of either one warrants Petitioner's immediate release. *See, e.g.*, *Cutberto R.P.*, No. 26-CV-1934, slip op. at 11 (requiring "probable cause to support that Petitioner was 1) not lawfully present and 2) likely to escape before they could get a warrant based on the totality of the circumstances"); *accord Jefferson G.H.L.*, 2026 WL 1229623, at *2–3.

40. If Petitioner was arrested without a valid Form 1-205 and without the appropriate probable cause, he must be released. *Inti C.-L.*, No. 26-CV-2777, slip op. at 4–5 (granting release to a habeas petitioner where he was arrested without a valid I-205 warrant or probable cause to believe he was a flight risk); *Ger V.*, No. 26-CV-2543, slip op. at 9 (same).

41. ICE regulations further constrain Respondents' conduct in making warrantless arrests. The only appropriate manner for immigration authorities to make warrantless arrests for perceived civil violations of immigration law is laid out in 8 C.F.R. § 287.3.

42. Retroactively served warrants cannot cure an otherwise unlawful detention. *See also Alberto C.M. v. Noem*, No. 26-CV-380 (DWF/SGE), 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the warrant "was not issued until after his arrest and initial detention"); *Marlon S.T.L. v. Bondi*, No. 26-CV-665 (DWF/LIB), 2026 WL 251975, at *2 (D. Minn. Jan. 30, 2026) ("A detainee being held pursuant to § 1226(a), as Petitioner is here, must have been served an arrest warrant prior to detainment.").

RELEASE IS THE PROPER REMEDY

43. "Habeas is at its core a remedy for unlawful executive detention. The typical remedy is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citations omitted).

44. "The remedy for a warrantless arrest is immediate release." *Edison D.M.J. v. Bondi*, No. 26-CV-1588 (DWF/LIB), slip op. at 5 (D. Minn. Feb. 27, 2026). This is because "[t]he [Fourth] 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).

CAUSES OF ACTION

COUNT ONE: FOURTH AMENDMENT SEARCH AND SEIZURE

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

46. Respondents did not have Petitioner's consent to arrest him. Respondents did not serve a valid administrative warrant on Petitioner when they detained him and have not produced once since. No Form I-205 warrant was properly issued and served for Petitioner's arrest in March 2026.

47. Thus, Petitioner alleges that he was not arrested pursuant to a valid Form I-205 Warrant of Removal.

48. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Petitioner under 8 U.S.C. § 1357(a)(2) because, at the time of Petitioner's warrantless arrest, Respondents lacked probable cause, or "reason to believe,"

that Petitioner was both "in the United States in violation of any such law or regulation" regulating the admission, exclusion, expulsion, or removal of noncitizens and "likely to escape before a warrant can be obtained for his arrest."

49. Respondents have made, and continue to make, an unreasonable warrantless seizure of Petitioner under the Fourth Amendment. Petitioner's resultant detention is therefore unlawful.

COUNT TWO: VIOLATION OF *ACCARDI* DOCTRINE

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

51. Under the *Accardi* doctrine, Petitioner 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 the agency failed to follow its rules in a hearing] he should receive a new hearing"). *Accardi* prohibits agencies from taking actions "inconsistent with their internal regulations when it would affect individual rights." *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001).

52. By arresting Petitioner without a valid warrant and without the requisite probable cause to believe that Petitioner was a flight risk, Respondents violated 8 C.F.R. §§ 241.3, 287.8(c)(2)(ii)).

53. All of Respondents' violations of their own regulations directly impacted Petitioner's individual rights, namely, Petitioner's personal liberty interests in freedom from confinement. As such, Petitioner's detention is unlawful and should be set aside under the *Accardi* doctrine.

REQUEST FOR EVIDENTIARY HEARING

54. An evidentiary hearing is appropriate when material facts are in dispute. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995). However, an evidentiary hearing is not required when a conclusion can be reached on the issue pursuant to undisputed facts. *United States v. Winters*, 411 F.3d 967, 973 (8th Cir. 2005).

55. Petitioner anticipates that Respondents may contest various facts such as the date, time, and location that any warrant was issued or served in this case, as well as any facts concerning Petitioner's likelihood of escape. Such issues could be dispositive. If the Court finds that material facts are in dispute, and it does not order his release based on undisputed facts, then Petitioner respectfully requests an evidentiary hearing so that sworn testimony may be taken from him and the relevant ICE officers and officials to determine the truth of these issues.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Order Respondents to show cause as to why Petitioner should not be released immediately on his prior order of supervision;

3. Declare that Petitioner's current detention exceeded Respondents' authority and is unlawful;

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

5. Require that Petitioner be released within the State of Minnesota, at a safe time and place communicated to counsel and with all of Petitioner's personal belongings and effects in Respondents' possession, such as Petitioner's driver's license, immigration papers, identification documents including any passport or employment authorization document, cell phone, and keys;

6. Enjoin Respondents from implementing any additional conditions of release beyond those in Petitioner's current order of supervision;

7. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), Local Rule 54.3(a), or any other basis justified by law, upon such application; and

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

DATED: July 8, 2026

Respectfully submitted,

/s/ Daniel P. Suitor
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am Petitioner's attorney and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, which knowledge comes from my conversations with my client as well as my personal knowledge as an attorney filing over 60 habeas petitions for noncitizens detained during and after Operation Metro Surge.

DATED: July 8, 2028

Respectfully submitted,

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