

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

REY ADOLFO ANDRADE FLORES,

Petitioner,

v.

Todd Blanche, Attorney General,

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security,

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

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

Eric Tollefson, Sheriff of Kandiyohi
County.

Respondents.

Case No. _____

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Rey Adolfo Andrade Flores (“Petitioner”), by and through the undersigned attorneys, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release Petitioner from ICE detention.

JURISDICTION AND VENUE

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

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

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (e)(1)(B) because Petitioner has been detained within the District of Minnesota.

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

PARTIES

7. Petitioner is a citizen of Mexico and a resident of Brooklyn Park, Minnesota who is upon information and belief currently being held at the Sherburne County Jail in

Elk River, Minnesota. Petitioner is under the direct control of the Respondents and has no scheduled release date.

8. Respondent Todd Blanche is being sued in his official capacity as the acting Attorney General of the United States and the head of the Department of Justice. Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Mullin. Attorney General Blanche is a legal custodian of Petitioner.

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

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

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

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

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Since 2025, Respondents have engaged in mass deportation efforts that upended long-established norms and legal interpretations of applicable immigration statutes without any change in underlying statutes—or to the Constitution. Those efforts have included the Metro Surge operation in Minnesota as well as other activities throughout this District and the rest of the country. The tactics used by Respondents have been shocking to this community and to the rest of the country and the world. Respondents have disregarded statutory and constitutional limits on what may be a historically unprecedented level.

14. Those violations speak to systematic attacks on the rule of law and long-held basic liberties, which are often egregious in their impacts to individuals affected. Moreover, as courts have considered Respondents' pattern of conduct and frequently found legal violations, Respondents and their attorneys have faced unprecedented numbers of show cause hearings regarding lack of compliance with court orders.

15. Even as some decisionmakers and officeholders have been replaced in attempts to put a new face on the mass immigration deportation campaign, and even if the visibility of certain of Respondents' actions have lessened and receded from the media somewhat, individuals are still experiencing ill-effects and injuries from Respondents'

conduct, and the widespread pattern of rights violations has not yet been resolved, either in terms of bringing Respondents' overarching policies, procedures, training efforts, and enforcement activities into compliance with the law or with respect to righting Petitioners' wrongs committed against particular impacted individuals.

16. Petitioner is a resident of Brooklyn Park, Minnesota, and a citizen of Mexico, and has lived in the United States since his entry on or around March 15, 2001. He entered the county with his parents and siblings. At that time, he was four (4) years old.

17. Currently, his two siblings, who are now also adults, and his mother reside in the United States.

18. Petitioner applied for and received Deferred Action for Childhood Arrivals ("DACA") status on January 10, 2013. This was renewed every two (2) years until February 5, 2021.

19. For many years, Petitioner and his family were abused by [REDACTED]

[REDACTED]. Specifically, Petitioner is a victim of felonious assault and repeated [REDACTED]

20. On June 5, 2017, Petitioner called law enforcement to report that [REDACTED]

[REDACTED] Mr. Andrade Colorado was arrested. Petitioner cooperated fully with law enforcement and participated in the investigation and prosecution of this crime.

21. Prior to his sentencing for this matter, Mr. Andrade Colorado was convicted on another count of Felony Second Degree Assault in Minnesota District Court File 27-CR-18-11040 based on a separate incident that occurred on April 28, 2018, in Hennepin

County, Minnesota. On August 20, 2018, Mr. Andrade Colorado was sentenced to serve eighteen (18) months at a correctional facility.

22. The incident that occurred on June 5, 2017, wherein Petition was the victim, was prosecuted in Rice County, Minnesota, in District Court File 66-CR-17-1416. Mr. Andrade Colorado was again convicted of Felony Second Degree Assault and on January 9, 2019, sentenced to twenty-seven (27) months at the St. Cloud correctional facility.

23. Petitioner's father was incarcerated until he was deported.

24. Petitioner has struggled with substance use, specifically alcohol, for many years. [REDACTED]

[REDACTED] Unfortunately, Petitioner was arrested for two instances of driving while intoxicated on January 18, 2018, and August 13, 2018.

25. Following these arrests, Immigration removal proceedings were initiated by the government in August of 2018. A bond hearing was held, and bond granted by the Immigration Judge. Petitioner was released on bond on September 5, 2018.

26. Shortly thereafter, in December of 2018, Petitioner filed applications for U Nonimmigrant Status (Form I-918) and Advance Permission to Enter as Nonimmigrant (Form I-192), both of which are still pending. Upon information and belief, he does not have a final order of removal.

27. On May 19, 2022, the Petitioner's immigration proceedings were administratively closed to allow for the adjudication of his pending U Nonimmigrant Status Application by United States Citizenship and Immigration Services ("USCIS").

28. On January 16, 2025, Petitioner was arrested in Stearns County, Minnesota, for driving while intoxicated. He was charged with a gross misdemeanor second degree driving while intoxicated. Petitioner posted bond on January 21, 2025, and the matter progressed in District Court.

29. On June 26, 2025, the Department of Homeland Security filed a motion to recalendar Petitioner's immigration proceedings. The basis for this request was that no relief had been obtained, so recalendaring the matter to resolve client's case on the merits was necessary to prevent delay in the resolution of the proceedings.

30. However, Petitioner's U Nonimmigrant Status Application is still awaiting review by USCIS, nearly eight (8) years after filing his application. If Petitioner is removed from the United States, this would significantly complicate his ability to return to the United States and his chances of his U Nonimmigration Application being approved.

31. On March 2, 2026, Petitioner was convicted of a gross misdemeanor second degree driving while intoxicated pursuant to the arrest on January 16, 2025 and sentenced, resulting in ninety (90) days in the Stearns County Jail to be completed on weekends.

32. Despite his efforts to seek rehabilitation, the lasting psychological impact of that abuse has made recovery difficult for the Petitioner and is an ongoing process. He remains committed to his rehabilitation and is actively taking steps to rebuild his life in light of his recent sentencing and probation. Recently, he completed a three-month inpatient rehabilitation program at Midwest Recovery.

33. Petitioner was detained by ICE agents on or around March 22, 2026 at the Sherburne County Jail. He appeared at the Sherburne County Jail on Friday, March 20, 2026 pursuant to his Sentencing Order.

34. Since entering ICE custody on March 22, 2026, Petitioner has not received any documentation pursuant to his arrest or the basis for continued detention.

35. Petitioner remains confined in the Sherburne County Jail in Elk River, Minnesota.

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

STANDARD OF LAW

Habeas Petitions

37. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by the Supreme Court as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 399-400 (1963). A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a federal law. 28 U.S.C. § 2241(c)(3). “Th[e] right [of habeas corpus] extends to those persons challenging the lawfulness of immigration-related detention.” *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900-01 (D. Minn. 2020) (citations omitted). A habeas petition should be granted if

the petitioner proves by preponderance of evidence that detention is unlawful. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025); *see also Walker v. Johnston*, 312 U.S. 275, 286-87 (1941); *Bradin v. U.S. Prob. & Pretrial Servs.*, No. 22-3032, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (collecting cases).

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

39. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained noncitizen's habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

Constitutional Limits on Detention Under 8 U.S.C. § 1225

40. The arrest and detention of any persons by immigration authorities is authorized only as described in the Immigration and Nationality Act (INA), 8 U.S.C. §1101 *et seq.*

41. Pursuant to 8 U.S.C. § 1225, immigration authorities may detain noncitizens who are “seeking admission” into the United States. After almost thirty years of detaining noncitizens at the border under § 1225 and noncitizens encountered internally under §

1226(a), in July of 2025 Respondents took the position that § 1225 also applies to noncitizens who are encountered within the United States. Todd Lyons, Acting Director of ICE, explained in an internal memorandum that ICE had “revisited its legal position” and “determined that [Section 1225] of the [INA], rather than [Section 1226], is the applicable immigration detention authority for all applicants for admission.” *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 (D. Mass. 2025). The BIA then adopted this position in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025), holding that all noncitizens who entered the country without inspection are subject to mandatory detention without a bond hearing under 8 U.S.C. § 1225.

42. This interpretation is being invoked to detain thousands of noncitizens across the country—regardless of where they are encountered, how long they have lived in the United States, whether they have been issued work permits, have pending asylum applications, or are fully compliant with conditions in notices to appear in immigration court.

43. The District Court of Minnesota was finding these detentions unlawful by the hundreds on statutory grounds, but in March of 2026, the Eighth Circuit overruled the District Court and affirmed Respondents’ expanded interpretation of their authority under 8 U.S.C. § 1225 to detain noncitizens encountered internally. *Avila v. Bondi*, ____ F.4th ____ 2026 WL 819258 (8th Cir. 2026). *Avila* was decided entirely on statutory grounds, and did not opine on any Fourth or Fifth Amendment considerations.

44. Like the Eighth Circuit, the Fifth Circuit issued a recent decision rejecting the District Courts’ position that 8 U.S.C. § 1225(b) only applies at the border. *Buenrostro-*

Mendez v. Bondi, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Since this decision, however, multiple district courts in the Fifth Circuit have found a noncitizen's detention to be in violation of due process, even if "seeking admission" under 1225 now includes people who already reside in the United States. *See, e.g., Marceau v. Noem*, No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *Aleska Jamaly Bonilla Conforme v. De Anda-Ybarra*, No. EP-26-CV-263-KC, 2026 WL 381110, at *1–2 (W.D. Tex. Feb. 11, 2026); *Hassen v. Noem*, No. 3:26-cv-48-DB, at *4 n.1 (W.D. Tex. Feb. 9, 2026), ECF No. 8; *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *1 (W.D. Tex. Feb. 20, 2026); *Azua-Zuniga v. Bondi*, No. 1:26-CV-287-RP, 2026 WL 482453, at *3 (W.D. Tex. Feb. 20, 2026).

45. Constitutional protections exist independently of Respondents' statutory authority. *See Counselman v. Hitchcock*, 142 U.S. 547, 565 (1892), *overruled on other grounds by Kastigar v. United States*, 406 U.S. 441 (1972). Here, Petitioner challenges the instant detention on constitutional grounds not foreclosed by the Eighth Circuit's recent decision in *Avila*.

Arrests Under § 1225 Must Comply with Fifth Amendment Due Process

46. The Fifth Amendment states that no individual may be "deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V.

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

48. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* 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.” *Zadvydas*, 533 U.S. at 693. (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.*

49. The mandate of the Due Process Clause must be considered expansively. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (“[D]ue process is flexible and calls for such procedural protections as the particular situation demands.”). Although the liberty interest at stake is a legal one, it must be considered within the factual context of the current moment. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (“‘[D]ue process,’ unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances. It is ‘compounded of history, reason, the past course of decisions. . . .’”) (citing *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162–163 (1951) (Frankfurter, J. concurring)).

Arrests under § 1225 Must Comply with the Fourth Amendment

50. The Fourth Amendment protects “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” and requires that “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.

51. The fundamental purpose of the Fourth Amendment is to “protect[] people, not places.” *Katz v. United States*, 389 U.S. 347, 389 (1967). Fourth Amendment protections apply to non-citizens with established connections in this country, because “‘the people’ protected by the Fourth Amendment . . . refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community.” *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990); *see also United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008).

52. When considering a warrantless arrest by ICE, a person’s “arrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest.” *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017); *see also Fernando C.C. v. Bondi*, No. 26-cv-1235, 2026 WL 446408 at *2 (D. Minn. Feb. 17, 2026) (noting that “8 C.F.R. § 287.8(c)(2)(ii) sets the default rule: get a warrant”). *See also Molina v. United States Dep’t of Homeland Sec.*, Civil Action No. 25-3417 (BAH), 2025 U.S. Dist. LEXIS 234930, at *48 2025 WL 3465518 (D.D.C. Dec. 2, 2025) (“Generally, officers making civil immigration arrests must have an administrative warrant.”) (citing *Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012)).

53. Warrantless arrests are statutorily authorized in civil immigration matters only in limited circumstances: (i) “to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in

pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens,” or (ii) “to arrest any alien in the United States, [(a)] if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation **and** [(b)] is likely to escape before a warrant can be obtained for his arrest . . .” 8 U.S.C. § 1357(a)(2) (emphasis added); *see also* 8 C.F.R. §§ 287.3(a) & (d) and 287.8(c)(2)(i)-(ii).

54. The “reason to believe” requirement of 8 U.S.C. § 1357(a)(2) “means constitutionally required probable cause.” *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). That probable cause requirement applies individually to both the “in violation” and “likely to escape” prongs of § 1357(a)(2) warrantless arrests. That is because, “[a]s a general rule, it is not a crime for a removable [noncitizen] to remain present in the United States.” *Arizona v. United States*, 567 U.S. 387, 407 (2012) (citing *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984)). Therefore, if ICE “stops someone based on nothing more than *possible* removability, the usual predicate for an arrest is absent.” *Id.* (emphasis added). For example, this Court has held that continued detention after being cleared for release following mere misdemeanor traffic citation for driving without a license based solely on “a perceived civil violation of U.S. immigration laws” is an “egregious” Fourth Amendment violation. *Parada v. Anoka Cnty.*, 332 F.Supp.3d 1229, 1242-43 (D. Minn. 2018).

55. Additionally, “apparent ethnicity alone cannot furnish reasonable suspicion[.]” *Noem v. Vazquez Perdomo*, 606 U.S. ___, ___ S. Ct. ___, 2025 WL 2585637, Slip Op. At *5 (U.S. Sept. 8, 2025) (Kavanaugh, J., concurring).

56. Under the second prong in § 1357(a)(2), a deportation agent has the power to arrest an alien without a warrant only if the deportation officer has reason to believe that the alien is likely to escape before a warrant can be obtained. And, under that second prong of § 1357(a)(2), ICE officers must make a “particularized assessment” of the likelihood of escaping—sufficient to conclude that the subject is likely to abscond before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (for “detention under § 1357(a)(2) to be lawful, the Fourth Amendment demands a particularized assessment of [the subject]’s likelihood of escaping”); *accord, e.g., United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006-07 (N.D. Ill. 2016); *Ramirez Ovando v. Noem*, ___F.Supp.3d___, No. 1:25-cv-03183, 2025 WL 3293467, at *2 (D. Colo. Nov. 25, 2025) (requiring “particularized inquiry” that subject is likely to abscond); *see also Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025) (noting need to consider “individualized or particularized facts” to deprive a person of rights). This means that the ICE agents must have had probable cause that they would have been unable to later detain the suspect after obtaining a warrant.

57. “Courts have . . . 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 v. U.S. Dep’t of Homeland Sec.*, No. 25-CV-03417, 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases).

58. The Government has previously acknowledged the two distinct probable cause requirements for warrantless immigration arrests when it entered into a “consent decree requiring a ‘Broadcast Statement of Policy’ affirming ‘the underlying laws and

policies applicable to all arrests effected under 8 U.S.C. § 1357(a)(2),’ provide relevant training, and document compliance. Dkt. 155-1 at 5, 6, 17.” *Castañon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1052 (7th Cir. 2025). That “Broadcast Statement of Policy” states, *inter alia*:

Under 8 U.S.C. § 1357(a)(2) / INA § 287(a)(2), Immigration & Customs Enforcement (“ICE”) Officers may conduct warrantless arrests if there is “reason to believe that the alien [] [to be] arrested is [present] in the United States in violation of any [U.S. immigration] law and is likely to escape before a warrant can be obtained for [the] arrest.” The “reason to believe” standard requires ICE Officers to have probable cause that an individual is in the United States in violation of U.S. immigration laws *and* probable cause that the individual is likely to escape before a warrant can be obtained for the arrest.

mere presence within the United States in violation of U.S. immigration law is not, by itself, sufficient to conclude that an alien is likely to escape before a warrant for arrest can be *obtained*.

(emphasis and alterations in original).

Warrantless Arrests Require a Custody Determination Within 48 Hours

59. “Section 287.3(a) [of the applicable regulations] requires that an alien arrested without a warrant and placed in removal proceedings be interviewed by an immigration officer other than the arresting officer, unless no other qualified officer is readily available and locating one would entail unnecessary delay.” *Puc-Ruiz v. Holder*, 629 F.3d 771, 780 (8th Cir. 2010).

60. Where, upon a post-arrest examination, Respondents have probable cause to support warrantless arrest of an immigrant, they must normally do two more things within

48 hours: make “a determination [about] whether the alien will be continued in custody or released on bond or recognizance *and* whether a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239 will be issued.” 8 C.F.R. § 287.3(d) (emphasis added).

61. The use of the word “and” in this § 287.3(d) confirms that discrete requirements exist. Thus, the mere issuance of a notice to appear and warrant to initiate removal proceedings is insufficient to satisfy § 287.3(d).

62. The use of the words “release on bond or recognizance,” and the reference to 8 § C.F.R. § 236 confirm that Respondents are required to make specific findings about whether “the alien is likely to appear for any future proceedings.” 8 C.F.R. § 236.1(c)(8).

63. It is Respondents’ burden to establish a lawful probable cause predicate for reliance on 8 U.S.C. § 1357’s exceptions to the warrant requirement. Failure to establish probable cause, such as through reliance on a deficient or inadequate Form I-200 administrative warrant, is insufficient to satisfy § 1357(a)(2) and associated regulations. *Sergio P. v. Bondi*, No. 26-CV-01538, Doc. 7 (D. Minn. Feb. 23, 2026).

64. Upon information and belief, no custodial determination was made by Respondents within 48 hours of Petitioner’s warrantless arrest making findings as to whether Petitioner was a flight risk or unlikely to appear for future proceedings. Moreover, upon information and belief, Petitioner was not subjected to a post-arrest interview by an immigration officer.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents are Confining Petitioner without A Valid Legal Basis or any Semblance of Due Process.

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

66. Petitioner has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693. The Fifth Amendment Due Process Clause protects against arbitrary and indefinite detention by the executive branch, regardless of a person's citizenship or immigration status. *Id.* at 699.

67. 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.

68. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's procedural due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

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

70. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v.*

Rumsfeld, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Petitioner is wrongfully confined, which is a direct attack on Petitioner’s liberty interests.

71. Petitioner has strong private liberty interests due to established connections in this country, and is not merely on the threshold of initial entry to the country, but has been in this country since he was the age of three (3). The United States is the only home that Petitioner has truly known. *See Jose L. v. De Anda-Ybarra*, No. 26-CV-00249 (W.D. Tex. Feb. 9, 2026) ECF 7 (constitutional interest in liberty exists above and apart from the INA where there are established connections); *see also Parham v. J.R.*, 442 U.S. 584, 600 (1979) (noting “substantial liberty interest in not being confined unnecessarily” in civil proceedings).

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

73. When detention becomes prolonged without any particularized assessment of need, it is less likely there is a nonpunitive rationale for continued detention and the risk

of erroneous deprivation of liberty interests increases. *See Victor S. v. Noem*, No. 3:25-cv-00403, 2026 WL 596133 at *13 (W.D. Tex. March 2, 2026). Rather, “[w]here the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is separate families and remove from the community breadwinners, caregivers, parents, siblings and employees.” *Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024) (citation omitted; internal quotation marks and original alterations removed).

74. Petitioner has resided in Minnesota for the vast majority of his life. He has strong community and familial ties keeping him in Minnesota, with his siblings and Mother residing here. Petitioner’s ongoing detention in Sherburne County, Minnesota is doing no more than unnecessarily separating Petitioner from his family, and prevent him from lawfully abiding by the terms of his probation and ability to engage meaningfully in rehabilitation.

75. Lastly, the Government has no legitimate interest in refusing to follow its own rules. At present, Petitioner poses no safety threats to the community and is committed to sobriety and rehabilitation. He is not likely to abscond. Releasing Petitioner would in fact *save* the government the resources and expense of continued imprisonment. *See Black*, 103 F.4th at 154 (noting the cost of detaining noncitizens per day).

76. Under 8 U.S.C. § 1225(b)(2), the purpose of detention is to facilitate a hearing where “[a]n immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.” 8 U.S.C. § 1229a(a)(1). Petitioner’s detention without the opportunity for bond does not promote the process contemplated by statute.

And there is nothing to suggest that detainees subject to § 1225(b)(2) share a categorical characteristic that supersedes their individual interests in physical freedom.

77. Therefore, the placement of Petitioner in detention pending the resolution of his ongoing immigration proceeding violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Violation of the Fourth Amendment to the U.S. Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d) Unlawful Arrest

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

79. “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; *see also Lopez-Mendoza*, 468 U.S. at 1044 (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

80. The Fourth Amendment applies to noncitizens. *See Garrison G. v. Bondi*, No. 26-cv-172 (JMB/DJF), 2026 WL 157677, at *4 (D. Minn. Jan. 17 2026).

81. “Fourth Amendment seizures are ‘reasonable’ only if based on probable cause.” *Dunaway v. New York*, 442 U.S. 200, 213 (1979). Whether a warrantless arrest was constitutionally valid depends upon whether, at the moment the arrest was made, the officers had probable cause to make it—“whether, at that moment, the facts and

circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense.” *Beck v. Ohio*, 379 U.S. 89, 91 (1964). To determine whether an officer had probable cause, the Court “examine[s] the events leading up to the arrest and then decide[s] whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause.” *Dist. of Columbia v. Wesby*, ___ U.S. ___, 138 S.Ct. 577, 586 (2018) (quoting *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)).

82. A warrantless arrest in a civil immigration context that exceeds statutory authority under 8 U.S.C. § 1357(a)(2) is an unreasonable seizure under the Fourth Amendment, where such a warrantless arrest is premised only on alleged immigration status and not the provisions of § 1357(a)(4) or (5).

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

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

85. On information and belief, Respondents did not have a judicial warrant to arrest Petitioner. Respondents also did not present an administrative warrant to Petitioner when they detained him and have not produced one since to establish probable cause or to rationalize his ongoing detention. Even if the Court finds that Petitioner's initial warrantless arrest was appropriate under 8 U.S.C. § 1357(a)(2), it is still necessary for a subsequent administrative warrant outlining the basis for continued detention. Petitioner's resultant ongoing detention is therefore unlawful.

86. Respondents have made, and continue to make, an unreasonable seizure of Petitioner under the Fourth Amendment.

COUNT THREE

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

Detaining Petitioner in a Manner that is Arbitrary, Capricious, and Not in Accordance with the Law Violates the Administrative Procedure Act

87. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

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

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

90. Respondents' arrest of Petitioner prior to the issuance of a Notice to Appear and administrative warrant, their failure to base a warrantless arrest on the requisite

probable cause, and their failure to make a custodial determination within 48 hours of the warrantless arrest violated 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 236.1(b)(1), 8 C.F.R. § 287.8(c)(2)(ii), 8 C.F.R. § 287.8(c)(2)(iii); 8 C.F.R. § 287.3(d). As such, Respondent's actions were without observance of procedures required by law and should be set aside.

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

COUNT FOUR

Violation of the *Accardi* Doctrine

92. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

93. Under the *Accardi* doctrine, a Court can 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”). *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).

94. By arresting Petitioner prior to the issuance of a Notice to Appear, and with the use of an I-200 warrant, Respondents violated 8 C.F.R. § 236.1(b)(1).

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

96. By the arresting officer failing to identify himself or herself as an immigration officer authorized to execute an arrest and failing to state the reason for the arrest, Respondents violated 8 C.F.R. § 287.8(c)(2)(iii).

97. By failing to conduct an examination by an officer other than the arresting officer, Respondents violated 8 C.F.R. § 287.3(a).

98. By failing to make a custodial determination within 48 hours of Petitioner's arrest regarding whether release on bond or recognizance imposed a danger to the community or a flight risk, Respondents violated 8 C.F.R. § 287.3(d).

99. Respondents' violations of their own regulations directly impacted Petitioner's individual rights, namely, his interest in personal liberty. As such, Petitioner's detention violates *Accardi* and should be set aside.

REMEDY

100. When a habeas petitioner's detention is without legal basis, the typical and appropriate remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention"); *Edison D.M.J. v. Bondi*, No. 26-1588 (DWF/LIB), 2026 U.S. Dist. LEXIS 40534, at *6 2026 WL 559747 (D. Minn. Feb. 27, 2026) ("The remedy for a warrantless arrest is immediate release."); *Sergio P.*, No. 26-CV-01538, Doc. 7 (D. Minn. Feb. 23, 2026) (where government fails to satisfy its burden that § 1357(a)(2)'s probable cause-based exceptions to the warrant requirement apply, then "[r]elease is an available and appropriate remedy for [such a] detention that lacks a lawful predicate." (citation omitted and cleaned up)); *see also Pedro Eduardo R. P. v Bondi*, No. 26-CV-01323 (D. Minn. Feb. 17, 2026) Doc. 8 *report and*

recommendation adopted (Feb. 19, 2026) Doc. 9 (granting a habeas and ordering immediate release when the government failed to contest the 4th and 5th Amendment arguments); *Jose R. O. v. Bondi*, No. 5:26-cv-00850 (W.D. Tex. March 23, 2026) Doc. 11 (“in habeas cases where the Court finds an ongoing detention unlawful, ‘the typical remedy for such detention is, of course, release.’” *quoting Munaf*, 553 U.S. at 693)..

101. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose, and there is no indication that Petitioner’s detention was based on any facts that might indicate that Petitioner should be in custody.

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

REQUEST FOR ORDER TO SHOW CAUSE

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

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

105. Petitioner respectfully requests that an Order to Show Cause directs Respondents, should they offer a warrant in this case, to provide sufficient details to establish the validity of this warrant, such as: (1) the name, title, training, and qualifications of the officer who issued the warrant; (2) the time and place at which the warrant was issued; (3) the evidence the issuing officer relied upon in making his determination that an arrest was warranted in this case, including any existing Notice to Appear; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas corpus petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief;

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, and an ongoing obligation to transport Petitioner back to Minnesota if he is moved out of state in violation of this Order;
3. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;

4. In the alternative, order Respondents to afford Petitioner a bond hearing within seven (7) days in which Respondents bear the burden to demonstrate that Respondent is a flight risk or a danger to the community which justifies his continued detention;
5. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
6. If the Court sees fit to order Petitioner's release, include conditions to ensure Petitioner's safety, including that release be:
 - a. Inside the State of Minnesota;
 - b. At a safe time and place communicated in advance to counsel; and
 - c. With all of Petitioner's personal effects in Respondents' possession, such as driver's license, immigration papers, identification documents including any passport or employment authorization document, cell phone, and keys;
7. Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;
8. Declare that Petitioner's arrest exceeded Respondents' authority;
9. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
10. Grant any other and further relief that this Court may deem just and proper.

CHESTNUT CAMBRONNE PA

Date: April 20, 2026

By: /s/ Lena P. Brakel

Lena P. Brakel (#0403506)

Annaliisa P. Gifford (#0402671)

100 Washington Ave. S.

Suite 1700

Minneapolis, MN 55331

Telephone: (612) 339-7300

Facsimile: (612) 336-2940

lbrakel@chestnutcambronne.com

agifford@chestnutcambronne.com

Attorneys for Petitioner

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My colleagues and I have discussed the factual assertions in this Petition with Petitioner's immigration attorney and family members, who are also acting on Petitioner's behalf. I understand both Petitioner's immigration attorney and family members have personal knowledge of the facts alleged herein, and they have communicated with Petitioner directly. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: April 20, 2026

By: /s/ Lena P. Brakel
Lena P. Brakel (#0403506)

Attorney for Petitioner