

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

REY ADOLFO ANDRADE FLORES,

Petitioner,

v.

Todd Blanche, Acting 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. 0:26-cv-02287-NEB-JFD

**REPLY TO FEDERAL
RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner, Rey Aldofo Andrade Flores, ("Mr. Andrade Flores" or "Petitioner"), by and through the undersigned attorney, respectfully submits this Reply in support of the Petition for a Writ of Habeas Corpus. Petitioner is arguing for relief on due process grounds, both substantive and procedural.

As a preliminary matter, Petitioner clarifies that Mr. Tollefson, Sheriff of Kandiyohi County, was erroneous listed as party to this proceeding, as Petitioner was not arrested or detained in Kandiyohi County, Minnesota. The Petitioner maintains and the Respondents do not dispute that Petitioner was detained in Sherburne County. Pursuant to the Status Report filed by Respondents on May 26, 2026, Petitioner remains in Sherburne County,

Minnesota. Status Report. Rey Adolfo Andrade Flores v. Mullin et al. 0:26-cv-02287-NED-JFD Doc. 10 (D. Minn May 26, 2026).

Respondents filed a response to this Petition on May 18, 2026, claiming the authority to detain Mr. Andrade Flores under §1225(b)(2)(A) and arguing that Mr. Andrade Flores is subject to mandatory detention, and §1226 (c), attaching a warrant so as to claim that Petitioner's detention complied with the Fourth Amendment, asserting no violation to Administrative Procedure Act, and petitioning alternative relief under the Laken Riley Act. Simply, Respondent's response does not overcome Petitioner's constitutional claims.

I. Respondents admit Petitioner was not served with any documentation subject to his detention, violating Petitioner's right to Due Process.

Respondents argue that there was no violation of Petitioner's Due Process rights claiming no challenge to *procedural* due process. Respondents complicate this analysis citing support for ongoing detention and depriving a non-citizen of constitutionally protected rights, overlooking their own admission that Mr. Andrade-Flores was not properly served with a warrant and thus not provided with a valid legal basis to support his detention by ICE.

The basis for Petitioner's Petition is procedural under the Fifth Amendment of the Constitution. Petitioner was not provided a warrant or other document at the time of his arrest, a fact that Respondents admit in their Response. Response at 2. Rey Adolfo Andrade Flores v. Mullin et al. 0:26-cv-02287-NEB-JFD Doc. 7 (D. Minn. May 18, 2026). A warrant was only produced in Respondent's Response but never provided to Mr. Andrade-Flores.

Petitioner does not challenge Congress's authority to detain applicants for admission; rather, he challenges the absence of an individualized hearing to determine whether the specific criteria that trigger mandatory detention are properly applied to him. The failure to provide any opportunity to contest the factual basis for his classification as an 'applicant for admission not clearly entitled to be admitted' is precisely the kind of procedural deficiency cognizable under *Mathews v. Eldridge*. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

Even if his claim is interpreted to challenge substantive due process, Andrade Flores entered the United States in 2001 and has resided here for over 25 years, developing significant ties to this country. The length and depth of his residency distinguish his liberty interest from that of a person at the 'threshold of initial entry,' and a court could find that a 25-year-long physical presence creates a liberty interest that requires more than a bare statutory classification to justify indefinite detention without any individualized assessment.

AXEL J.M.C. v. Mike Stanski, Freeborn Adult Detention Center, et. al. is instructive. Civil No. 26-2281, 2026 WL 1171344 at *1-4 (D. Minn. April 29, 2026). In *AXEL*, a habeas proceeding under the same mandatory detention provision at issue in this matter, 8 U.S.C. § 1225 (b)(2)(A), the court applied the *Mathews v. Eldridge* balancing test and found a significant risk of erroneous deprivation of liberty given the pace and scope of immigration enforcement actions in Minnesota. *Id.* at *4. The court rejected the government's position that the statute itself provides constitutionally sufficient process, concluding instead that an individualized bond hearing was required to safeguard the petitioner's due process

rights. *Id.* This decision directly supports the argument that Mr. Andrade Flores's challenge is procedural and that the absence of an individualized hearing constitutes a cognizable constitutional deficiency.

II. Warrantless Arrest and Continued Detention of Mr. Andrade Flores.

Respondents argue that Petitioner's arrest was not unlawful under the Fourth Amendment or 8 U.S.C. § 1357(a)(2). Resp. at 8. Respondents allege that under 8 U.S.C. 1357(a)(2), an immigration officer may arrest an individual without a warrant if the officer has "reason to believe" the individual is in the United States illegally and is likely to escape before a warrant can be obtained. *Id.* at 8. Respondents further argue that under § 1225(b)(2)(A), if an immigration official following inspection determines the alien is not clearly entitled to stay, arrest and detention is mandatory, and no warrant is required. *Id.*) Respondents further argue that upon inspection of Petitioner, immigration officials knew Petitioner was an "illegal alien" not entitled to be admitted. *Id.* at 9.

Respondents conflate two distinct legal frameworks. Section 1357(a)(2) governs warrantless arrests in the field, while § 1225(b) governs the inspection process at ports of entry or its functional equivalent. Andrade Flores was not arrested during an inspection at a port of entry. He was taken into ICE custody on March 22, 2026, following the issuance of an immigration detainer after his DWI and OWI convictions in Stearns County and Wright County. The record does not establish that a formal 'inspection' within the meaning of § 1225(b) occurred at the time of his March 22, 2026 arrest. Instead, the arrest was effectuated by an immigration detainer, and the constitutional adequacy of that arrest must

be assessed under the applicable Fourth Amendment standards for civil immigration arrests. The Government's reliance on *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984), does not resolve whether the specific arrest of Petitioner on March 22, 2026 complied with constitutional requirements. The Court should examine the factual record underlying that arrest before concluding no Fourth Amendment violation occurred.

III. Petitioner Challenges the Specific Agency Action at Issue, which Directly Resulted in his Detention.

Respondents argue APA claims exceed habeas scope and that § 701(a), § 704, and § 1226 provide alternative review mechanisms or bar review. In the alternative to habeas, requesting to preserve APA arguments recognizing Respondents' contention that APA claims are not cognizable in this proceeding; request, at minimum, leave to replead or parallel filing without prejudice, or construe claims as habeas-based constitutional/statutory challenges to custody.

Petitioner's APA claim, to the extent raised, is not a 'broad collateral attack' on agency policy but rather a challenge to the specific agency action, here, the detention decision, that directly results in his custody. Habeas corpus under § 2241 has historically been an expansive remedy for unlawful executive detention, and courts have recognized that § 2241 petitions can encompass claims that the legal basis for detention is unlawful, including claims that agency action violated statutory or constitutional requirements. Moreover, 8 U.S.C. § 1226(e) bars review of 'discretionary' custody determinations, but Petitioner's detention under § 1225(b)(2)(A) is characterized by the Government itself as mandatory, not discretionary. A mandatory detention decision is not a 'discretionary' determination

shielded from review under § 1226(e). The Government cannot simultaneously argue that detention is mandatory under § 1225(b) and that § 1226(e) bars review of that mandatory decision. The statutory review framework before an Immigration Judge and the BIA does not provide an adequate remedy for a constitutional challenge to the legality of detention itself.

IV. The Government's Reliance on the Laken Riley Act Fails.

Finally, Respondents argue that even if the Court finds that Petitioner should be detained under § 1226 rather than § 1225(b), Petitioner is subject to mandatory detention under the Laken Riley Act because he has been charged with operating a motor vehicle under the influence of alcohol, which constitutes an offense involving 'serious bodily injury to another person' within the meaning of the Act. Resp. at 10-11. The Laken Riley Act, Pub. L. 119-1, amends § 1226(c) to require mandatory detention of any alien who is inadmissible under INA § 212(a)(7) and who is 'charged with, arrested for ... acts which constitute the essential elements of any ... serious bodily injury to another person.' The Laken Riley Act also amended § 1226(e) to provide that no court 'may set aside any action or decision by the Attorney General' regarding detention under § 1226, further removing this Court's authority to order release.

The Government's Laken Riley Act argument fails on both statutory and constitutional grounds. First, as a threshold matter, operating a motor vehicle under the influence of alcohol, a conviction Andrade Flores received in Wright County, is not self-evidently an offense involving 'acts which constitute the essential elements of ... serious bodily injury to another person' under the Laken Riley Act. An OWI conviction does not

require proof of any actual injury to another person, let alone serious bodily injury, and the Government has not identified any victim who suffered serious bodily injury as a result of Petitioner's conduct. The Laken Riley Act's text requires that the alien be 'charged with' acts constituting the essential elements of serious bodily injury, not merely charged with an offense that could theoretically result in such injury. Second, the amended § 1226(e) stripping judicial review is subject to serious constitutional challenge under the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, because it purports to eliminate habeas review of detention decisions. Courts have held that Congress cannot strip habeas jurisdiction in a manner that violates the Suspension Clause, and an interpretation of § 1226(e) that bars all judicial review of mandatory detention would raise grave constitutional concerns that the Court should avoid through constitutional avoidance. Third, this argument is raised only as an alternative and should not substitute for the Court's primary analysis of the § 1225(b) mandatory detention claim.

CONCLUSION

Accordingly, Mr. Andrade-Flores reiterates that the appropriate form of release in this case is Petitioner's immediate release, and further requests that Respondents be enjoined from re-detaining Mr. Andrade-Flores upon or after his release under the same or similar statutory theory.

Respectfully submitted,

Date: May 26, 2026

/s/ Lena P. Brakel
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