UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Yonatan Alfredo Pena Pinto, Petitioner, v. Todd Blanche, Acting Attorney General, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, David J. Venturella, Acting Director of Immigration and Customs Enforcement, David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement, and Ryan Shea, Sheriff of Freeborn County, Respondents.	Case No. 26-cv-02949 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Yonatan Alfredo Pena Pinto, ("Mr. PENA PINTO"), by and through undersigned counsel, 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 and, in the meantime, enjoin Petitioner's transfer to a facility outside of Minnesota.

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 custody as a violation of the 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 federal immigration authorities. *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), (e)(1)(B), and 2241(d) because Petitioner is 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 Venezuela and a resident of Chicago, Illinois, who is currently detained at the Freeborn County Jail in Albert Lea, Minnesota. Petitioner is under the direct control of the Respondents and has no scheduled release date.

Search Results: 1

YONATAN ALFREDO PENA-PINTO
Country of Birth : Venezuela
A-Number: [redacted]
Status : In ICE Custody
State: MN
Current Detention Facility: FREEBORN ADULT DETENTION CENTER
** Click on the Detention Facility name to obtain facility contact information*

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 St. Paul 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 David V. Venturella is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Respondent Venturella 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 St. Paul 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 St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

12. Respondent Sheriff Ryan Shea is being sued in his official capacity as the Sheriff responsible for the Freeborn County Jail, where Petitioner is currently detained. As such, Sheriff Shea has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Since 2025, Respondents have undertaken mass deportation efforts that upended long-established norms and legal interpretations of immigration statutes. Those efforts have included Operation Metro Surge in the Twin Cities metropolitan area, as well as other activities throughout this District and the rest of the country. In furtherance of these extreme and rapid mass deportation efforts, Respondents have disregarded the law—and the rulings of this Court—at historically unprecedented levels, and the tactics used by Respondents have been shocking to the Twin Cities community and to the rest of the country and the world.

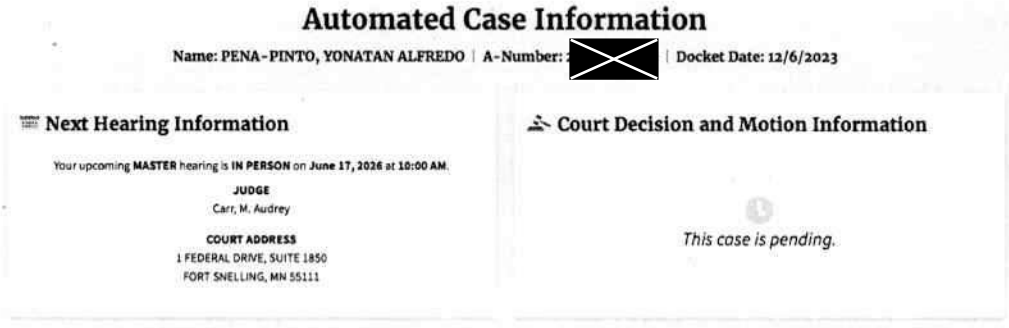
14. Even as individual decisionmakers and officeholders have been replaced and the visibility of Respondents' actions have begun to recede from the news cycle, Respondents have continued to wrongfully detain immigrants and violate people's rights, as this case exemplifies.

15. Apparently, Respondents' marching orders are to detain as many people as possible who do not have U.S. passports–or simply who do not have U.S. accents.

16. Petitioner Mr. PENA PINTO has lived in the United States since on or around December 1, 2023.

17. Mr. PENA PINTO has a pending asylum application. Upon entry into the United States, Mr. PENA PINTO surrendered to immigration enforcement officials. Respondents gave Petitioner an A number and paroled him into the interior within 24 hours.

18. Mr. PENA PINTO's A number is [redacted] He is already in immigration proceedings and has no final order of removal.



Automated Case Information

Name: PENA-PINTO, YONATAN ALFREDO | A-Number: [redacted] | Docket Date: 12/6/2023

Next Hearing Information

Your upcoming **MASTER** hearing is **IN PERSON** on **June 17, 2026** at **10:00 AM**.

JUDGE
Carr, M. Audrey

COURT ADDRESS
1 FEDERAL DRIVE, SUITE 1850
FORT SNELLING, MN 55111

Court Decision and Motion Information

This case is pending.

19. Mr. PENA PINTO has valid work permit. He works for DoorDash and Uber.

20. Mr. PENA PINTO was arrested by ICE agents on April 30, 2026 in Bloomington, Minnesota. Upon information and belief, Respondent ICE agents did not possess or present a warrant of any kind when they arrested Petitioner.

21. Since entering ICE custody, Mr. PENA PINTO has not received any documentation pursuant to his arrest or the basis for continued detention, including a warrant, a judicial warrant, or an I-200 administrative warrant.

22. Mr. PENA PINTO did not resist ICE officers during his arrest, nor did he try to flee from them.

23. Upon information and belief, Respondents lacked probable cause to justify Petitioner's warrantless detention. Respondents arrested Petitioner at a Walmart in Bloomington, Minnesota. He was not arrested near a border nor while travelling to the border. He cooperated with his arrest and did not try to flee. ICE agents had no basis to believe that Petitioner was unlawfully present in the United States or was likely to escape before they could obtain a warrant.

24. Furthermore, upon information and belief, Petitioner was not adequately advised of his rights, nor was a custodial determination made within 48 hours of Petitioner's warrantless arrest making findings as to whether Petitioner was a flight risk.

25. ***Mr. PENA PINTO has diagnoses of HIV and neurosyphilis. Within days of being detained, Respondents provided Petitioner with appropriate HIV medication. Respondents, however, are not providing adequate treatment for Petitioner's neurosyphilis. Petitioner has an RPR (Rapid Plasma Reagin) level of 1:32. This is a highly reactive result that indicates an active, untreated syphilis infection. At this level, Petitioner is at risk of irreversible hearing loss, vision loss, and spinal cord damage. Petitioner is intolerant to doxycycline. Respondents, however, are providing him with daily doxycycline, which is not decreasing his RPR level. Petitioner requires daily penicillin treatment to lower his RPR level and treat the neurosyphilis infection.***

26. Pending the adjudication of this Petition, Mr. PENA PINTO further seeks an order restraining the 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

27. 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) (citations omitted).

28. 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). Detained noncitizens face no statutory exhaustion requirements to invoke 28 U.S.C. § 2241. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025).

29. Habeas corpus is "a critical check on the Executive, ensuring that it does not detain individuals except in accordance with the law." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Such a remedy is particularly appropriate here, amidst unprecedented Executive bids to transgress limits set by Congress and evade judicial temperament.

Constitutional Limits on Immigration Detention

30. Federal immigration officers may detain people only as authorized by the Immigration and Nationality Act (INA), 8 U.S.C. §1101, *et seq.* The Constitution places

additional limits on federal immigration detentions, independent of the question of 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)).

31. Here, Petitioner challenges the instant detention on constitutional, statutory, and other grounds not foreclosed by the Eighth Circuit's recent decision in *Avila*, while otherwise preserving the claim that Petitioner is not lawfully detained pursuant to Section 1225 should *Avila* be reversed in the future. *See Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026) (deciding, exclusively on statutory grounds, that 8 U.S.C. § 1225 authorizes immigration agents to detain noncitizens currently residing within the United States) and, *e.g.*, *Pedro A.D.L.O.O. v. Bondi*, No. 26-CV-01959, 2026 WL 948970 (D. Minn. April 8, 2026) (granting petitioner's habeas corpus petition because his detention violated due process, notwithstanding that *Avila* foreclosed petitioner's statutory argument); *Orlando V.V. v. Blanche*, No. 26-cv-01903 (D. Minn. April 28, 2026) Doc. no. 11 at pp. 6-21 and 23 (same); *Axel J.M.C. v. Stanski*, No. 26-CV-02281, 2026 WL 1171344, at *2-4 (D. Minn. April 29, 2026) (same).

Civil Immigration Detentions Must Comply with Fifth Amendment Due Process

32. 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. "[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); *accord Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

33. 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."). Unlike some legal rules, due process "is not a technical conception with a fixed content unrelated to time, place and circumstances"; instead, it is a critical liberty interest which must be considered in factual context. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162-163 (1951) (Frankfurter, J. concurring)).

34. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, civil immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed." *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). "Executive detention must rest on more than categorical, unsubstantiated, or facially deficient grounds, particularly where the government has not demonstrated with evidence that the detainee poses a danger to the community, presents a flight risk, or is subject to removal based on any criminal or national security ground." *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025); *see also Zadvydas*, 533 U.S. at 690-91.

35. The main purpose of detaining a noncitizen who is not subject to a final removal order is to ensure their appearance at a hearing where an immigration judge decides their admissibility or deportability. *E.g.* 8 U.S.C. § 1229a(a)(1). Absent an initial determination

that confinement is necessary to ensure appearances in court, detention does not serve the process contemplated by statute and violates due process. And, even if the government can articulate a purpose for detention, if "detention's goal is no longer practically attainable," the detention becomes unreasonable and thus violates the Fifth Amendment right to due process. *Zadvydas*, 533 U.S. at 690.

Arrests by Federal Immigration Agents Must Comply with the Fourth Amendment

36. The Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. CONST. amend. IV. The fundamental purpose of the Fourth Amendment is to "protect[] people, not places." *Katz v. United States*, 389 U.S. 347, 351 (1967). Fourth Amendment protections apply to non-citizens within the United States. *See, e.g., United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008); *see also United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990); *Garrison G. v. Bondi*, No. 26-CV-172, 2026 WL 157677, at *4 (D. Minn. Jan. 17, 2026).

Constitutional and Statutory Limits on Warrantless Arrests

37. Valid warrantless arrests require officers to comply with procedures outlined in federal law, as well as the constitutional requirements of probable cause.

38. Immigration authorities must comply with the law when arresting noncitizens without a warrant. *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017) ("arrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest."); *see also Fernando C.C. v. Bondi*, No. 26-cv-

1235, 2026 WL 446408 at *4 (D. Minn. Feb. 17, 2026) (noting that "8 C.F.R. § 287.8(c)(2)(ii) sets the default rule: get a warrant").

39. Even to the extent a noncitizen present in the interior of the country qualifies as an "applicant for admission" and is subject to detention under 8 U.S.C. § 1225(b)(2) post-*Avila*, "it does not follow that [such a noncitizen] can be arrested and detained pursuant to § 1225(b)(2) 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, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026); *see also Almeida-Sanchez v. United States*, 413 U.S. 266, 271-74 (1973) ("permissible scope of intrusiveness" under Fourth Amendment greater at "the border itself" or "its functional equivalents" than in interior of the country).

40. Warrantless arrests are statutorily authorized in civil immigration matters only in limited circumstances: (i) 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 (ii) 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). *Arizona v. United States*, 567 U.S. 387, 408 (2012) ("If no federal warrant has been issued, [immigration enforcement] officers have more limited authority. See 8 U.S.C. § 1357(a).

They may arrest an alien for being 'in the United States in violation of any [immigration] law or regulation,' for example, but only where the alien 'is likely to escape before a warrant can be obtained.' § 1357(a)(2)."); *United States v. Harrison*, 168 F.3d 483, 1999 WL 26921, *4 (4th Cir. 1999) (per curiam) (unpublished table decision); *Jefferson G.H.L.*, 2026 WL 1229623, at *3 ("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.").

41. The Government itself has admitted these two distinct probable cause requirements for warrantless immigration arrests. *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1052 (7th Cir. 2025); ICE, "Broadcast Statement of Policy," *available at* <https://www.ice.gov/legal-notices>.

42. The Eighth Circuit has held that 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). The probable cause requirement applies to both the belief that the person is "in violation" and also that the person is "likely to escape before a warrant can be obtained." *See* 8 U.S.C. § 1357(a)(2). 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*, 567 U.S. at 407 (*citing INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984)).

Therefore, if an officer "stops someone based on nothing more than *possible* removability, the usual predicate for an arrest is absent." *Id.* (emphasis added).

43. Probable cause that a person has violated an immigration law has to be based on actual facts and knowledge of a violation of immigration law, not on an accent or skin color: "apparent ethnicity alone cannot furnish reasonable suspicion[.]" *Noem v. Vazquez Perdomo*, 606 U.S. ___, ___, 146 S. Ct. 1, 3 (2025) (Kavanaugh, J., concurring); *see also Parada v. Anoka Cnty.*, 332 F. Supp. 3d 1229, 1243 (D. Minn. 2018) (finding continued detention beyond the time reasonably required to issue a traffic citation in order to await transfer to immigration authorities based solely on "a perceived civil violation of U.S. immigration laws" to be an "egregious" Fourth Amendment violation).

44. Probable cause that a person might escape requires a "particularized assessment" sufficient to conclude that the subject is likely to abscond 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).

45. 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, 13 (D.D.C. 2025). "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." *Id.* (collecting cases). 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 (D. Minn. May 5, 2026) (*citing Ruben D.A.G. v. Blanche*, No. 26-CV-02041, slip op. at 8 (D. Minn. April 20, 2026) ("Anyone without a lawful presence does not immediately present a likelihood of escape merely by being a noncitizen.")).

46. It is Respondents' burden to establish both of these 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. v. Bondi*, No. 26-CV-1934, Doc. No. 11, 13 (D. Minn. April 10, 2026); *Jefferson G.H.L.*, 2026 WL 1229623, at *2-3. 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 its associated regulations. *See, e.g., Sergio P. v. Bondi*, No. 26-CV-01538, 2026 WL 497290 (D. Minn. Feb. 23, 2026) *abrogated on other grounds by Avila*, 170 F.4th 1128.

Regulatory Limits on Warrantless Arrests

47. 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.

48. The arrestee must 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." *See Puc-Ruiz v. Holder*, 629 F.3d 771, 780 (8th Cir. 2010) (quoting 8 C.F.R. § 287.3(a)).

49. The arrestee must "be advised of the reasons for his arrest, of his right to legal representation, and that any statement made may be used against him in a subsequent proceeding," and "be given a list of the free legal services available in the district where the hearing will be held. *Id.* (quoting 8 C.F.R. § 287.3(c)).

50. A determination must be made "within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, 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). The use of the word "and" in § 287.3(d) confirms that the warrant, NTA, and an individual determination regarding continued confinement are discrete requirements that each must be satisfied to comply with § 287.3(d).

51. The use of the words "release on bond or recognizance," and the reference to 8 C.F.R. § 236 also 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).

Legal Requirements for Arrests Pursuant to Warrants

52. For Respondents to lawfully detain Petitioner without meeting the requirements for making a warrantless arrest, they must have at least complied with the separate legal

requirements for arresting a noncitizen pursuant to a warrant. The warrant must be served during or prior to the time of the arrest and be predated by a Notice to Appear.

53. Courts inspecting proffered administrative warrants often find a litany of insufficiencies. For example:

> [M]uch about the warrant remains unclear. Respondents do not provide an accompanying declaration explaining the legal basis for the warrant, attesting to its validity, identifying the officers who issued and obtained it, or confirming that those officers had received the necessary training to issue and serve warrants. *Cf.* 8 C.F.R. § 287.5. It appears likely that the I-200 warrant was issued either in the field or after Petitioner was arrested and detained.
>
> *Fedrik D.W. v. Bondi*, No. 26-CV-01294, 2026 WL 413741, at *1 (D. Minn. Feb. 14, 2026)

54. Retroactively served warrants cannot cure an otherwise unlawful detention. *Alberto C.M. v. Noem*, No. 26-CV-00380, 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") and *Marlon S.T.L., P, v. Pamela Bondi, et al.*, No. 26-CV-00665, 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.").

55. So many of these warrants have openly been served after the date of arrest that it is unclear whether or not Respondents understand and acknowledge that the law requires them to obtain warrants before the fact of arrest and detention. *Id.*; *Victor O. v. Bondi*, No. 26-CV-01122, Doc. Nos. 1, 5-1 (D. Minn. Feb. 6 & 8, 2026) (where a warrant shows a signature dated Feb. 7, 2026, when the petitioner's detention was on Feb. 5, 2026 and habeas petition was filed on Feb. 6, 2026); and *Oscar R. v. Bondi*, No. 26-CV-001204 (D.

Minn. Feb. 11, 2026), Doc. No. 5 (describing how Respondents' warrant was served an hour after the habeas petition was filed).

56. Similarly, I-200 warrants can only be drawn or served at the same time or after a Notice to Appear has been issued, 8 C.F.R. § 236.1(b), and yet Respondents appear also unaware or unconcerned with that requirement. *See*, e.g., *Henry V. P. v. Bondi*, No. 26-CV-01121 (D. Minn. April 3, 2026) Doc. No. 6-1 (Respondents provided a warrant that was **blank** where it ought to have indicated the person who was the subject of the warrant, and was purportedly served three days prior to the issuance of a Notice to Appear) and *Oliver M. v. Bondi*, No. 26-CV-02003 (D. Minn. April 3, 2026) Doc. No. 10 (invalidating a warrant that was issued two days prior to the existence of a Notice to Appear, because "DHS may arrest a non-citizen using a Form I-200 [warrant] only if the Form I-200 issues at the same time or after DHS issues an NTA.").

Interim Release

57. The Court has the "inherent power" to grant interim release on bond to a habeas petitioner pending a decision on his application for writ of habeas corpus. *Martin v. Solem*, 801 F.2d 324, 329 (8th. Cir. 1986). Under *Martin*, to grant interim release the Court must find (1) a substantial federal constitutional claim that is not only clear on the law but also readily evident on the facts, and (2) the existence of exceptional circumstances justifying special treatment in the interests of justice. *Id.* at 329-30.

58. Petitioner meets both prongs of the *Martin* test. First, Petitioner presents a clear, substantial federal constitutional claim that Respondents have violated his Fifth

Amendment right to procedural due process. He also presents a clear, substantial federal constitutional claim that Respondents have violated his Fourth Amendment rights by arresting and detaining him without a warrant.

59. Second, there are exceptional circumstances justifying special treatment. Mr. PENA PINTO is not receiving the correct treatment for his neurosyphilis infection. ***Without the correct antibiotic treatment, Mr. PENA PINTO is at risk of irreversible hearing loss, vision loss, and spinal cord damage.***

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Procedural Due Process

Respondents are Detaining Petitioner Without Due Process

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

61. When Border Patrol first encountered Petitioner at the border, at *that* point in time Respondents had the authority to detain Petitioner indefinitely pending removal proceedings, pursuant to 8 U.S.C. § 1225(b)(2). Respondents chose not to do so, and instead paroled Mr. PENA PINTO into the United States. It is a due process violation warranting a petitioner's immediate release for the government to detain someone, regardless of whether they have a warrant, who has previously been paroled into the United States when that parole has not properly been revoked–with written notice–or otherwise terminated. *Dervin C.H. v. Bondi*, 2026 WL 827571 (D. Minn. 2026) (finding that detaining someone who had previously been paroled into the United States "offends the very core of due process."). This redetention violates due process where, as here, a

noncitizen is detained near the United States-Mexico border and immigration officials then release the noncitizen into the United States on an order of recognizance. *See*, e.g., *Muse v. Mullin*, No. 26-CV-4024-CJW-MAR, 2026 WL 1008532, at *4 (N.D. Iowa Apr. 14, 2026) *(*finding it a due process violation according to the *Matthews* test for the government to re-detain a noncitizen who was encountered and released at the US-Mexico border, without first demonstrating danger or flight risk or giving the petitioner an opportunity to respond to allegations that he violated his conditions of release).

62. Courts often use the three-factor *Matthews* test to evaluate due process claims when noncitizens are detained: 1) the private interest affected by the official action; 2) the risk of erroneous deprivation of that interest coupled with the probable value of alternate procedural safeguards; and 3) the government's interest, including any potential burden from the alternate procedure. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).424 U.S. at 335.

63. First, Mr. PENA PINTO 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 Parham v. J.R.*, 442 U.S. 584, 600 (1979) (noting "substantial liberty interest in not being confined unnecessarily" in civil proceedings). Mr. PENA PINTO is wrongfully confined, a direct attack on Petitioner's liberty interests.

64. Second, Mr. PENA PINTO will continue to be deprived of this interest if the current procedure–en masse detentions for the sake of detentions–is followed. Where, as here,

thousands of individuals are being detained across the country "[w]ithout an individual assessment, the risk of erroneous deprivation is high." *Pedro A.D.L.O.O.*, 2026 WL 948970 at *3. This lack of individual assessment is an issue not only at the outset, but also as these indefinite detentions continue: prolonged detention without any particularized assessment of need "no longer bears a reasonable relation to its purpose." *See Zamudio Sanchez v. Noem*, No. 25-CV-00403, 2026 WL 596133, at *13 (W.D. Tex. Mar. 2, 2026) and *Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024) ("[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.") (citation and internal quotations omitted).

65. Considering alternative procedures, a particularized inquiry as to the necessity of detention, rather than a policy of "detain first, justify later," is reasonable to protect civilians' rights and preserve government resources. *See*, e.g., *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1188 (D. Minn. 2025) ("[T]he automatic stay regulation includes no requirement that the agency official invoking it consider any individualized or particularized facts, which increases the potential for erroneous deprivation of individuals' private rights.").

66. Here, Respondents made no individualized inquiry and had no rational basis to believe that detention is necessary to ensure Mr. PENA PINTO's appearance in immigration court. He cooperated with his arrest, he did not flee, and he was not in the process of travelling to or across a border. ICE agents, therefore, could not have had any

particularized belief that he would have fled or escaped Minnesota before a warrant could be obtained.

67. Lastly, the Government has no legitimate interest in refusing to follow its own rules, or in wasting its resources detaining people, flying them to Texas and back, and flooding cities with armed officers who chase people down for civil infractions. The government has no legitimate interest in detaining someone simply because they are undocumented. *Pedro A.D.L.O.O.*, 2026 WL 948970 at *3 (finding that "the government's interest in detaining Petitioner is weak because they have not established that Petitioner is unlikely to appear or that he poses any threat to the community as he has no criminal history."). And yet, that is precisely what Respondents have been doing, nationwide– detaining people simply because they are undocumented (or appear to be), and then waiting to see if the person they have detained will be able to pull together the legal resources to seek accountability in court.

68. Here, Mr. PENA PINTO poses no safety threats to the community and 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 154-55 (noting that not only the incarcerated individual, but society bears the direct and indirect costs of incarceration, and evaluating the high financial costs per day of incarcerating immigrants).

69. Therefore, the placement of Mr. PENA PINTO in detention pending the resolution of ongoing immigration proceedings without reason violates Mr. PENA PINTO'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(a), (c-d)
Unlawful Warrantless Arrest

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

71. Upon information and belief, Respondents did not have a judicial warrant to arrest Mr. PENA PINTO. Nor, did Respondents present any administrative warrant to Mr. PENA PINTO when they detained him and have not produced one since.

72. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Mr. PENA PINTO under 8 U.S.C. § 1357(a)(2) because, at the time of Mr. PENA PINTO's warrantless arrest, the arresting ICE agents 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."

73. Respondents have made, and continue to make, an unreasonable warrantless seizure of Mr. PENA PINTO under the Fourth Amendment. Mr. PENA PINTO's resultant detention is unlawful.

REMEDY

74. 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-CV-1588, 2026 WL 559747 (D. Minn. Feb. 27, 2026) ("The remedy for a

warrantless arrest is immediate release."); *Cutberto R.P.*, No. 26-CV-01934 (D. Minn. April 10, 2026), Doc. no. 11 at pp. 10-13 ("release is the appropriate remedy" when there was a lack of probable cause predicate for likelihood of escape at the time of a warrantless arrest); *Sergio P. v. Bondi*, No. 26-CV-01538, 2026 WL 497290 (D. Minn. Feb. 23, 2026) ("Release is an available and appropriate remedy for detention that lacks a lawful predicate," including where the government fails to satisfy its burden that Section 1357(a)(2)'s probable cause-based exceptions to the warrant requirement apply); *Pedro Eduardo R. P. v Bondi,* No. 26-CV-01323, 2026 WL 473140 (D. Minn. Feb. 17, 2026) (recommending immediate release after the government failed to contest petitioner's Fourth and Fifth Amendment arguments), *report and recommendation adopted*, 2026 WL 478607 (Feb. 19, 2026); *see also Jose L.R.O. v. Bondi*, No. 5:26-CA-850, Doc. No. 11 at 25 (W.D. Tex. Mar. 23, 2026) ("[W]here the Court finds an ongoing detention unlawful, 'the typical remedy for such detention is, of course, release.'" (quoting *Munaf*, 553 U.S. at 693)). As a court in the Western District of Texas recently explained "bond hearings are no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Jose L.R.O.*, No. 5:26-CA-850, Doc. No. 11 at 26.

75. 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*, 406 U.S. at 738). 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. Due Process requires that Petitioner be able to continue engaging in his substantive immigration proceedings while released from custody rather than from a jail cell.

76. Immediate release is particularly appropriate in view of Respondents' oft-stated position following *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that administrative immigration courts have no jurisdiction to conduct bond hearings for noncitizens detained under 8 U.S.C. § 1225(b)(2). Ordering a bond hearing in that context would require an administrative immigration judge to do that which he or she believes he or she lacks authority to do as an "inferior officer"[1] of the executive branch. Petitioners in such circumstances have "no forum, administrative or judicial, through which [they] may seek release based on [their] circumstances. This is not minimal process. It is zero process. Respondents' position, that no such process is required, cannot be reconciled with the Fifth Amendment." *Stepan H. v. Arnott*, No. 6:26-CV-03220, 2026 WL 1103450, at *4 (W.D. Mo. April 23, 2026). And, when a bond hearing is ordered, Respondents have made only an "illusory" and "hypothetical" reference to release on bond. *David J.C.P. v. Blanche*, No. 26-CV-02181 (D. Minn. May 14, 2026) Doc. 19 at 2-3 (IJ determined she lacked jurisdiction to grant bond following court order for bond hearing, and IJ's "alternative finding . . . setting a hypothetical bond does not suffice" and is "ultimately immaterial in

[1] *Jackler v. Dept. of Justice*, 2026 MSPB 3, 2 (2026); *United States v. Arthrex, Inc.*, 594 U.S. 1, ___, 141 S.Ct. 1970, 1984 (2021) (dicta).

light of the immigration judge's decision that she lacked jurisdiction. Petitioner has no option to pay that bond and be released. The bond is illusory."). A bond hearing would be futile or inadequate. Immediate release is therefore the appropriate remedy. *Stepan H.*, 2026 WL 1103450, at *4.

REQUEST FOR ORDER TO SHOW CAUSE

77. 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.

78. 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.

79. Petitioner respectfully requests that an Order to Show Cause direct 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, Mr. PENA PINTO prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. ***Grant Petitioner immediate interim release, pending resolution of this petition, so that he can obtain effective treatment for neurosyphilis infection;***
3. Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, or transport Petitioner back to Minnesota if moved out of state;
4. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;
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 condition of release, including the "Alternatives to Detention" program involving ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile application;
7. Declare that Petitioner's arrest exceeded Respondents' authority;
8. 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
9. Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: June 13, 2026

/s/ Jason L. Schellack

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Attorney for Petitioner

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 and my investigator's conversations with my client, my client's loved ones when preparing this filing, a review of Respondents' publicly available websites, and my own experience litigating similar petitions for habeas corpus relief by wrongfully detained immigrants since the beginning of Operation Metro Surge.

Date: June 13, 2026

/s/ Jason L. Schellack
Jason L. Schellack
Attorney for Petitioner