IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Anthony N., Petitioner, v. **Markwayne Mullin**, Secretary, Department of Homeland Security; **Todd Blanche**, Acting Attorney General; **David Venturella**, Acting Director, Immigration and Customs Enforcement; and **David Easterwood**, Acting Director, St. Paul Field Office Immigration and Customs Enforcement; Respondents.	Civil No.: 0:26-cv-03017 (KMM/DTS) **PETITIONER'S REPLY IN SUPPORT OF A WRIT OF HABEAS CORPUS**

INTRODUCTION

Respondents fail to justify their re-detention and continued detention of Petitioner Anthony N.[1] Respondents did not have a valid warrant when they arrested Petitioner and failed to comply with the requirements for a warrantless arrest, thus the Fourth Amendment requires his release. Respondents additionally failed to provide Petitioner with the due process he was owed under ICE's own regulations before re-detaining him – both in how they failed to use the correct administrative warrant for removal and in how they failed to

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

provide him adequate notice prior to his arrest that his order of supervision was being revoked. For the reasons above and those articulated in the Petition, Petitioner should be released from detention immediately.

ARGUMENT

I. The Court should find that the Petition is properly verified.

Respondents first argue that this case must be dismissed because "the present petition for habeas relief is not properly verified." Fed. Resp'ts' Resp. Pet. Writ Habeas Corpus. Dkt. 5, at 3 (hereinafter "*Response*"). This argument holds no water.

First, Respondents do not explain their basis for asserting that the petition is not properly verified. *See id.* And their own briefing notes that "[h]abeas petitions must be 'signed and verified by the person for whose relief it is intended or by someone acting in his behalf.'" *Id.* (emphasis added) (quoting 28 U.S.C. § 2242). That is precisely the nature of the Petition here: it is verified by one of Petitioner's attorneys. Petition, Dkt. 1, at 32. The plain text of the habeas statute is clear that "a habeas petitioner's attorney can sign and verify the petition for the petitioner. In the absence of evidence to the contrary, there is a presumption that a petitioner has been fully informed of, and has consented to, claims raised in the petition." *Lucky v. Calderon*, 86 F.3d 923, 925 (9th Cir. 1996) (discussing § 2242); *see also Stephen v. Sec'y, Dep't of Corr.*, No. 20-CV-727, slip op at 10 n.2 (M.D. Fla. Feb. 24, 2023) ("Of course, the prisoner may sign and verify the petition himself. But the language of the statute also contemplates that counsel for the prisoner may sign and verify the petition on behalf of the prisoner." (quoting Brian R. Means, *Postconviction Remedies* § 9:5 (2022))). And that is supported here, where Petitioner's attorney consulted

with Petitioner, Petition, Dkt. 1, at 32, and even obtained documents relating to Petitioner's arrest and filed them with the Petition. *See* Dkts. 2-2 and 2-3

Courts of this District have already rejected this "failure to verify" argument. In *Vu V.L. v. Mullin*, the court found that the circumstances concerning ICE's conduct in Minnesota, as well as the facts of the case, showed that the Petition was properly verified. No. 26-CV-2947 (LMP/JFD), slip op. at 6–7 (D. Minn. July 1, 2026). First, the *Vu V.L.* Court noted that "ICE has been less than diligent in communicating with detainees and their counsel regarding a detainee's circumstances of detention and has 'transferred detainees frequently, quickly, without notice, and often with no way for attorneys to know where or for how long their clients will be at a given facility.'" *Id.* at 7 (quoting *Advocs. for Hum. Rts. v. U.S. Dep't of Homeland Sec.*, No. 26-CV-749 (NEB/DLM), 2026 WL 850270, slip op. at 51 (D. Minn. Mar. 26, 2026). And *Vu V.L.* cited to this Court's decision in *Guadalupe O. G. v. Bondi*, which noted that "Respondents' ongoing shell game hides detainees' locations and leaves their counsel and families to chase ghosts at the whims of Respondents' detention decisions."[2] No. 26-CV-820 (KMM/DLM), 2026 WL 296370, slip op. at *6 (D. Minn. Feb. 4, 2026). "These circumstances—notably, created by the Government—no doubt present the sort of 'inaccessibility' and 'lack of time' that justifies an attorney to act on a petitioner's behalf in signing and verifying a habeas petition." *Vu V.L.*, No. 26-CV-2947, slip op at 7; *accord Phattakhone P. v. Mullin*, No. 26-CV-2948

[2] One of Petitioner's attorneys can even cite to an example before this District of Respondents' rapid movement of a detainee and subsequent loss of contact between counsel and his client. Not. of Voluntary Dismissal at 2, *Htun M.P. v. Mullin*, No. 26-CV-2428 (PJS/LIB) (D. Minn. May 20, 2026) (Dkt. 13).

(MJD/ECW), slip op. at 6–7 (D. Minn. July 2, 2026) (accepting a "habeas petition as properly verified" after being "persuaded by reasoning laid out in *Vu V.L. v. Mullin*").

Respondents also claim that "[a] majority of the legal arguments . . . could not have been made with actual knowledge of the Petitioner's situation," raise concerns about Petitioner pleading matters on "information and belief," and argue that "[a]ll of Petitioner's legal arguments are premised on a factual falsehood, namely that he has remained law-abiding and reported changes of address with ICE." *Response* at 3–4. Petitioner submits that this misreads the Petition. For example, nowhere in the Petition does Petitioner claim he complied with the terms of his order of supervision, but rather that the notice of supervision does not provide the details of how he failed to do so. Petition, Dkt. 1, at ¶ 24. And the Rules of Civil Procedure permit pleadings to be signed by an attorney "certif[ing] that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." *Id.* 11(b)(3) (emphasis added). "[T]he central purpose of Rule 11 is to deter baseless filings in district court." *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990). As the evidence[3] shows, this filing was not baseless.[4] The Court should find the Petition properly verified.

---

[3] Both the evidence submitted by Petitioner with his Petition and that produced by Respondents.

[4] Petitioner will not engage further with Respondents' claim that he submitted "factual falsehood" to the Court. *See Response* at 4. The substantive arguments below suffice to debunk that statement. These habeas petitions are difficult cases. Respondents have the

II. Respondents did not have a valid warrant when they arrested Petitioner and failed to comply with the requirements for a warrantless arrest.

Petitioner challenges his arrest and ensuing detention on Fourth Amendment and *Accardi* doctrine grounds, asserting that Respondents arrested him without a warrant, that any alleged warrant in this matter was invalid or unserved, and that Respondents did not comply with the requirements for a warrantless arrest. Petition, Dkt. 1, at ¶¶ 90-98. Thus, Petitioner must be released immediately.

A. Respondents provide no evidence of arrest pursuant to a valid warrant.

Respondents claim that they complied with the constitutional and statutory requirements for arrests pursuant to a warrant because "Petitioner was issued an I-205 warrant in 2015" and "[t]he I-205 is justification for detention and removal of an alien once he is subject to an order of removal." *Response* at 10. The fact remains, however, that Respondents arrested Petitioner on May 28, 2026, pursuant to a deficient I-200 warrant. Petition, Dkt. 1, at ¶ 23; *Draves Decl.* Ex. 4, Dkt. 8-4, at 1. Respondents have not demonstrated that the produced I-205 from 2015 was validly issued in compliance with 8 C.F.R. § 241.2 or properly served on Petitioner – in 2015, at the time of his arrest in 2026, or ever. Further, Respondents have provided no legal authority supporting that an 11-year-old warrant – valid or deficient – can be reused in circumstances like those of Petitioner's arrest here. As such, Respondents cannot demonstrate here that they arrested Petitioner pursuant to a valid warrant.

---

same right to zealous representation as the people they detain. But misrepresentation of the pleadings should not be mistaken for zeal.

Immigration law designates two types of warrants for immigration arrests. The first – a Form I-200 warrant – is used to arrest noncitizens "up to the time removal proceedings are completed." 8 C.F.R. § 236.1(b)(1). Meanwhile, after a removal order, "custody under § 1231 is pursuant to a warrant of removal." *Mong C. ex rel. Uphaphon P. v. Mullin*, No. 26-CV-2398 (DWF/ECW), slip op. at 6 (D. Minn. May 14, 2026). A Form I-205 must be issued in these cases. 8 C.F.R. §§ 241.2,241.3(a). "After a [noncitizen] is ordered removed, 'removal proceedings' are complete, the 'removal period' begins, and the alien may be arrested pursuant to a Form I-205 warrant of removal (but not pursuant to a Form I-200 warrant)." *Inti C.-L. v. Blanche*, No. 26-CV-2777 (PJS/SGE), slip op. at 3 (D. Minn. June 9, 2026); *accord Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), slip op. at 3 (D. Minn. June 26, 2026) (explaining the Form I-200 versus I-205 distinction).

Regardless of which warrant scheme applies, failure to obtain a warrant which complies with the governing statutes and regulations is grounds to invalidate the warrant, and failure by the government to provide the probable cause necessary to justify a warrantless arrest is grounds for immediate release. *See Jefferson G.H.L. v. Blanche*, No. 26-CV-2344 (JRT/ECW), 2026 WL 1229623, slip op. at 5, 8–9 (D. Minn. May 5, 2026) (holding a Form I-200 warrant invalid, finding a lack of probable cause for a warrantless arrest, and ordering release); *Inti C.-L.*, No. 26-CV-2777, slip op. at 2–5 (D. Minn. June 9, 2026) (holding that arrest of a detainee subject to a final order of removal must be pursuant to a Form I-205 warrant, finding a lack of probable cause for a warrantless arrest, and ordering release).

Here, Respondents claim that they complied with the statutory requirements for

arrests pursuant to a warrant because "Petitioner was issued an I-205 warrant in 2015" and that "because he was arrested under an I-205 warrant and had his release validly revoked under § 241.13(i), his claims are baseless." *Response* at 10-16. In fact, Respondents have produced an I-205 warrant issued to Petitioner in 2015. *Draves Decl.* Ex. 2, Dkt. 8-2. The existence of the produced I-205 from 2015, however, does not support Respondent's assertion that the detention of Petitioner was in compliance with the law or that Petitioner's claims brought forth in his petition for habeas corpus are baseless.

Respondents detained Petitioner on May 28, 2026, at his residence in New Hope, Minnesota. *Draves Decl.* at ¶ 10. Petitioner's detention took place around 10:00 A.M. that day. Decl. of Martha William, Dkt. 2-2 at 1. According to Respondents, the arresting immigration officers "identified themselves as immigration officers and provided Petitioner with a copy of Form I-200 and placed Petitioner under arrest." *Draves Decl.* at ¶ 10; *see also* Form I-213 Record of Deportable/Inadmissible Alien, *Draves Decl.* Ex. 1, Dkt. 8-1 at 2 (hereinafter "*Form I-213*"); Form I-200 Warrant for Arrest of Alien, *Draves Decl.* Ex. 4, Dkt. 8-4 (hereinafter "*Form I-200*"). At 11:50 A.M. Petitioner was served a Form 71-091 Notice of Revocation of Release at the Bishop Henry Whipple Federal Building in Fort Snelling, Minnesota. *Draves Decl.* Ex. 3, Dkt. 8-3, at 2 (hereinafter "*Notice of Revocation of Release*"). The Notice of Revocation of Release stated that Petitioner's order of supervision was being revoked pursuant to 8 C.F.R. § 241.13(i) because "you have failed to remain law abiding" and "you have failed to check in w/ICE

since January 2025."[5] *Id.* at 1.

On June 29, 2026, Respondents submitted as evidence in this present litigation a copy of an I-205 that was issued for Petitioner on May 29, 2015. *Form I-205.* The I-205 was signed by an "SDDO for" then Field Office Director Scott R. Baniecke.[6] *Id.* at 1. Respondents did not submit any evidence demonstrating that the I-205 from 2015 was served on Petitioner at any time before, during, or after his arrest on May 28, 2026. The I-205 itself does not show a date of service. *See id.* The Form I-213 submitted by Respondents only references that Petitioner was served an I-200 on May 28, 2026, and does not mention service of the I-205 on Petitioner at any point in time. *Form I-213.* And, in a sworn declaration, a different SDDO notes only that a copy of the I-205 was included as an attachment along with his declaration, but does not state in his detailed account of Petitioner's immigration and criminal history that Petitioner was served the I-205 in 2015, on the date of his 2026 arrest, or at any point in time. *See Draves Decl.*

These facts strongly resemble a recent decision in which this Court ordered the release of the petitioner. In *Ger V. v. Mullin*, Respondents arrested a noncitizen subject to

---

[5] Petitioner was ordered removed on May 21, 2015, and subsequently placed on the order of supervision on March 3, 2016. Form I-220B Order of Supervision, *Draves Decl.* Ex. 5, Dkt. 8-5 at 1 (hereinafter "*Order for Supervision*").

[6] "The acronym 'SDDO' refers to an official with the role of Supervisory Detention and Deportation Officer." *Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), 2026 WL 1847044, at *2 (D. Minn. June 26, 2026). The name of the signing party cannot be made out by looking at the signature alone. Following the signature, the acronym "SDDO" is written and then the word "for" is written. *Draves Decl.* Ex. 2, Dkt. 8-2 at 1. The signature line contains, typed out, "Scott R. Baniecke Field Office Director." The name of the "SDDO" who signed "for" Scott R. Baniecke is not printed out anywhere on the form. *Id.*

an order of removal and "served [him] with both an I-200 warrant and an I-205 warrant." 2026 WL 1847044 at *2. Respondents pointed to two warrants of removal to justify Petitioner's arrest: one that was issued in 2001 shortly after he received a removal order and prior to his time in immigration custody, and the other that was served after his arrest in 2026. *Id.* at *4 n.5. Regarding the 2026 I-205, the Court held that it was not validly issued because it was issued by an SDDO – a position that is not enumerated in the list of immigration officials authorized to issue I-205s pursuant to 8 C.F.R. § 241.2(a). *Id.* at *2. The Court did not accept Respondent's arguments that the warrant was validly issued because the SDDO issued it "for" the field office director. *Id.* Regarding the 2001 warrant of removal, the Court denied Respondent's claim that this older warrant justified the arrest of Petitioner. *Id.* at *4 n.5. The Court reasoned that:

> Respondents provide no legal authority supporting that a 25-year-old warrant can be reused in a circumstance like this. Respondents also provide nothing by way of establishing that [the petitioner]'s arrest was made "pursuant to" this warrant, 8 C.F.R. § 241.3(a), highlighted by the fact that there is no indication that the 2001 warrant was served on [the petitioner] in 2026. Moreover, the concerns with relying on a 25-year-old, possibly-already-executed, and possibly-never-served warrant of removal to establish the legality of this arrest are self-evident.

Id.

The facts are highly similar here. First, the record indicates that Petitioner already served one period of immigration detention following the issuance of the Form I-205 in the record. Petitioner was ordered removed from the United States on May 21, 2015. *Order for Supervision* at 1. On May 29, 2015, Respondents issued an I-205 for Petitioner. *Form*

I-205. Nearly a year later, on March 3, 2016, Petitioner was notified of his release from ICE custody. Release Notification, *Draves Decl.* Ex. 6, Dkt. 8-6. That same day, Petitioner was placed on his order of supervision. *Order for Supervision* at 1. Respondents have offered no evidence to demonstrate that the I-205 they have produced in this litigation was not already executed or offered any legal authority for how a "possibly-already-executed" warrant for removal can be relied on to establish the legality of Petitioner's 2026 detention. See *Ger V.*, 2026 WL 1847044, at *4 n.5.

Second, there is no evidence in the record that the I-205 from 2015 was ever served on Petitioner. The evidence clearly states that Petitioner's arrest was made pursuant to the Form I-200.[7] *Draves Decl.* at ¶ 10. The evidence is silent on whether Petitioner was served with the I-205 from 2015 at any point before or after it was issued. There is also no evidence that a second, more recent, I-205 was produced to effectuate Petitioner's 2026 arrest. Respondents do not even attempt to justify the glaring absence of evidence regarding service of the I-205; nor do they attempt to provide a legal basis for why a "possibly-never-served" warrant of removal can be relied on to establish the legality of Petitioner's 2026 detention. See *Ger V.*, 2026 WL 1847044, at *4 n.5.

Third, the I-205 from 2015 was not validly issued because it was not issued by an official with the authority to issue it. As detailed above, the officer who issued the I-205 from 2015 was an "SDDO." *Form I-205* at 1. Regulation 8 C.F.R. § 241.2(a) enumerates

[7] This warrant was invalid to effect Petitioner's arrest "because a final order of removal had already been issued for [him], that means removal proceedings were over, and he could no longer be arrested pursuant to an I-200 warrant." *Ger V.*, 2026 WL 1847044, at *2 n.2

a list of which immigration officials have the authority to issue Form I-205 warrants of removal. "The SDDO position is simply not enumerated in the list of authorized officials per § 241.2(a)." *Ger V.*, 2026 WL 1847044, at *2. Like in *Ger V.*, Respondents in the present case have not produced any evidence that then-Field Office Director Scott R. Baniecke – who would have had authority to issue an I-205 – delegated issuing authority to the SDDO who issued Petitioner's I-205 in 2015. Nor does the I-205 from 2015 identify the name of the signing SDDO. *Form I-205*. The name of the signing agent cannot be made out from their signature alone. *Id.* at 1. Standing alone, the failure to comply with the issuance requirements demonstrate that Petitioner was "not arrested to a validly issued I-205 warrant of removal." *Ger V.*, 2026 WL 1847044, at *3 (citing *Pedro Eduardo R.P. v. Bondi*, No. 26-CV-1323 (ECT/DJF), 2026 WL 473140, at *4 (D. Minn. Feb. 17, 2026) ("The Court therefore concludes that the warrant's lack of a signature by an authorized, issuing immigration agent renders the warrant legally void."), *R&R adopted,* 2026 WL 478607 (D. Minn. Feb. 19, 2026)).

The final similarity is that, like in *Ger V.*, Respondents rely on an over decade-old warrant of removal. Although the warrant relied upon in *Ger V.* was older than the one in the present case, the issues concerning its legality are the same. Even if the facts were put aside that the I-205 from 2015 appears to have already been executed, has not been proven to be served on Petitioner, and was not validly issued, Respondents still have offered no legal authority supporting the assertion that an 11-year-old warrant can be used to justify Petitioner's arrest.

Respondents offer no support for their departure from the plain text of the

regulations governing their warrant requirements. They argue that the mere existence of the I-205 from 2015 proves the legality of Petitioner's arrest. Instead of attempting to provide legal authority for how the 11-year-old possibly-already-executed, possibly-never-served, invalidly issued I-205 warrant of removal or its use to arrest Petitioner was legal. Respondents' simply state that Petitioner's claims that his arrest was not made pursuant to a valid warrant are "without merit" and "baseless." *Response* at 10, 16.

Respondents also seem to argue (with no support from case law) that the existence of a final removal order, Petitioner's status as a noncitizen, and the existence of 8 U.S.C. § 1231 allows them to bypass both the warrant requirement and the analysis required for a warrantless arrest. *Response* at 12-13. But that runs afoul of what the plain text of Respondents' own regulations require. The Government cannot use a removal order as a surrogate for a warrant of removal. *Kong v. United States*, 62 F.4th 608, 619 (1st Cir. 2023) ("The concepts of a deportation order and a deportation warrant cannot be conflated. The deportation order authorizes removal from the country. The warrant authorizes an arrest to effect removal."); *accord United States v. Segura-Gomez*, No. 17-CR-65-FL-1, 2018 WL 6582823, slip op. at 16 (E.D.N.C. May 25, 2018), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018) ("[The Government] asserts that defendant was arrested under the authority of the order of removal and no arrest warrant was required. The government's argument is unconvincing. A removal order is not a surrogate for an arrest warrant in this case. . . . [n]or is the court aware of any such authority."). "Section § 1231(a)(2) does indeed mandate *detention*, but the regulations are clear that a warrant of removal is nevertheless necessary to effect *arrest*." *Inti-C.-L.*, No. 26-CV-2777, slip op. at 4 (citing 8 C.F.R. § 241.3(a)).

Respondents are disputing the applicability of regulations that they themselves promulgated, but it is well established that "[t]he government is bound to follow the regulations it has promulgated." *Mong C. v. Noem*, No. 26-CV-1541 (JWB/DLM), slip op. at 4 (D. Minn. Feb. 24, 2026) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)).

"[B]ecause a final order of removal had already been issued for [the petitioner], that means removal proceedings were over, and he could no longer be arrested pursuant to an I-200 warrant." *Ger V.*, 2026 WL 1847044 at *2, n. 2. And there is no evidence that Respondents arrested Petitioner pursuant to the 2015 Form I-205 in the record or that the 2015 Form I-205 was not already executed, was in fact served on Petitioner, and was even valid. *Id.* at 4 n.5. Where statutes or regulations provide for the use of a warrant, a warrant is "a necessary condition to justify" immigration detention. *See Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, slip op. at 7 (D. Minn. Jan. 5, 2026) (quotation omitted) (discussing discretionary detention under section 1226(a)). Therefore, because Petitioner was not arrested under a valid Form I-205 warrant, he was not arrested pursuant to a valid warrant and the Court must move to warrantless arrest analysis.

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

For the reasons mentioned above, Part II.A, *supra*, the Court should find that Petitioner was not arrested under a valid warrant. Because there is no valid warrant, we must turn to analysis of the arrest as a warrantless one. And because Respondents do not offer any meaningful analysis of their basis for a warrantless arrest, Petitioner must be released.

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

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

The Immigration and Nationality Act

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

Id. "Because the Fourth Amendment applies to arrests of illegal aliens, the term 'reason to believe' in § 1357(a)(2) means constitutionally required probable cause." *Quintana*, 623 F.3d at 1239. Having "reason to believe" that Petitioner is "'an alien subject to removal from the United States' does not, without more, provide the probable cause needed to make a lawful arrest." *Orellana*, 230 F. Supp. 3d at 945 (quotation omitted). That is because "it is not a crime for a removable alien to remain present in the United States." *Arizona*, 567 U.S. at 407. Rather, "the Fourth Amendment demands a particularized assessment of

[Petitioner]'s likelihood of escaping." *Orellana*, 230 F. Supp. 3d at 946.

But Respondents decline to provide any actual analysis of Petitioner's likelihood of escaping. Instead, they simply insist, without any explanation, that "[t]here was just as much evidence that he was likely to escape once officers made him aware he was to be detained." *Response* at 17. Respondents do not, however, explain what that evidence was. Because Respondents do not actually argue the merits of their warrantless arrest of Petitioner, the Court should find that "Respondents waived any challenge to these arguments." *Estephanny P. v. Bondi*, No. 26-CV-198 (ECT/JFD), slip op. at 3 (D. Minn. Jan. 15, 2026).

But even considering the merits, Petitioner alleges facts which show he was not "likely to escape before a warrant can be obtained for his arrest" at or immediately leading up to the moment of warrantless arrest. See 8 U.S.C. § 1357(a)(2). Courts have construed § 1357(a)(2) "to mean 'likely to evade detention by immigration officers.' And that analysis considers not just whether the noncitizen will be located at the scene of encounter with immigration enforcement but also whether immigration enforcement would be able to arrest the noncitizen at 'another clearly identifiable location.'" *Walther A.S. v. Blanche*, No. 26-CV-2804 (LMP/SGE), slip op. at 6 (D. Minn. June 16, 2026) (citing and quoting cases).

As an initial matter, the fact that Respondents issued the notice of revocation two days before Petitioner's arrest shows that they had more than adequate time to obtain a proper warrant. *Notice of Revocation of Release* at 2. This is especially true where, as one court noted, a Form I-205 can be obtained in an hour or less. *United States v. Segura-*

Gomez, No. 17-CR-65-FL-1, 2018 WL 6582823, slip op. at 14–16 (E.D.N.C. May 25, 2018) (finding that a one-hour lunch break during a court hearing was sufficient for two Homeland Security agents to obtain a Form I-205), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018). And ICE knew where Petitioner lives. Respondents' accounts of Petitioner's arrest confirm that this was a "targeted enforcement action."[8] *Form I-213* at 2; *Draves Decl.* at ¶ 10. Because ICE officers "knew where [Petitioner] was staying," this is further evidence that he was not likely to escape before a warrant could be drawn. *Vladimir G. v. Easterwood*, No. 26-CV-2971 (JMB/ECW), slip op. at 9 (D. Minn. June 22, 2026). Finally, at least one court has noted that, where ICE officers attempt an arrest under an invalid warrant, they "did not believe they were undertaking a warrantless arrest" and thus "did not make any mention of any fear of [the petitioner]'s likelihood of escape." *Id.*

There is no evidence in the record to suggest that ICE officers could not apprehend Petitioner in his home or at some other location before he was likely to escape their grasp forever. Petitioner does not dispute that he violated the terms of his order of supervision by failing to check in with ICE. But the question is not whether Petitioner will voluntarily appear and submit himself for arrest, but whether ICE can obtain a warrant, then locate Petitioner and effect his involuntary arrest. Moreover, Petitioner still maintains that ICE officers invaded his home without consent or a judicial warrant to enter. Petition, Dkt. 1, at ¶¶ 19–22. Absent any § 1357(a)(2) analysis, this would be an independent Fourth

[8] These accounts also claim that Petitioner gave ICE officers consent to enter his home. *Form I-213* at 2; *Draves Decl.* at ¶ 10. Petitioner disputes this: he did not give consent. Petition, Dkt. 1, at ¶¶ 19-20.

Amendment basis to order Petitioner's release. *See Garrison G. v. Bondi*, No. 26-CV-172 (JMB/DJF), 2026 WL 157677, slip op. at 8–9 (D. Minn. Jan. 17, 2026). If the Court does not find sufficient uncontested facts to find that Respondents failed to meet their burden under § 1357(a)(2), Petitioner respectfully submits that the dispute over whether ICE officers had consent to enter justifies an evidentiary hearing to resolve that highly material question of fact. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995) ("Generally, a district court should hold an evidentiary hearing 'if the facts are in dispute . . . ." (quotation omitted)).

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

C. Release is the proper remedy for Respondents' failure to comply with their warrant requirements.

Respondents seem to argue that, regardless of any legal or factual deficiencies in their conduct, Petitioner cannot obtain release via a habeas petition because ICE has some statutory authority to detain him. *Response* at 13. But the courts of this District disagree. "Habeas is at its core a remedy for unlawful executive detention," and "[t]he typical remedy

for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citation omitted). "'[R]elease is an available and appropriate remedy' for 'detention that lacks a lawful predicate.'" *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, slip op. at 7 (D. Minn. Jan. 5, 2026); *accord Ger V.*, 2026 WL 1847044, at *4.

Respondents further argue that release is not a proper remedy because warrantless arrests are not remedied by release in criminal cases. *Id.* at 13–15. But Respondents seem to forget that this is not a criminal case. Immigration detention is civil in nature. *See Do v. Trump*, 784 F. Supp. 3d 1175, 1185 (D. Minn. 2025). Federal agencies engaged in civil detention, like ICE, "cannot 'operate independently of' the statute that authorized it." *Fed. Election Comm'n v. Ted Cruz for Senate*, 596 U.S. 289, 301 (2022) (quotation omitted). They "'literally ha[ve] no power to act' . . . unless and until Congress authorizes it to do so by statute." *Id.* Nor do they have the power to act to the contrary of their own regulations, which draw all of their authority from enabling statutes. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). And to the extent that Respondents rely on case law discussing evidentiary standards in immigration removal proceedings, the Seventh Circuit recently noted that the "indirect, collateral effects" of "requiring the government to comply with § 1357(a)(2)" do not run afoul of the statutory scheme of the INA or Supreme Court precedent. *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, No. 25-3050, ___ F.4th ___, 2026 WL 1223250, slip op. at 13 (7th Cir. May 5, 2026).

The warrant allegedly used to arrest Petitioner is invalid because it was a Form I-200, not a Form I-205 as required to detain a noncitizen pursuant to 8 U.S.C. § 1231. Part II.A, *supra*; *Inti C.-L.*, No. 26-CV-2777, slip op. at 2–3. And Respondents provided no

justification for a warrantless arrest, thus Petitioner must be released. *Edison D.M.J. v. Bondi*, No. 26-CV-1588 (DWF/LIB), slip op. at 5 (D. Minn. Feb. 27, 2026) ("The remedy for a warrantless arrest is immediate release."); *Inti C.-L.*, No. 26-CV-2777, slip op. at 5 (ordering release for failure to arrest pursuant to a Form I-205 and failure to provide evidence that the petitioner was "likely to escape before a warrant can be obtained for his arrest" (quotation omitted)).

III. Respondents owed Petitioner due process under 8 C.F.R. § 241.13 when revoking his release and failed to provide it.

The Court should order Petitioner's release based on his *Accardi*/8 C.F.R. § 241.13 claim. "DHS implemented the requirements of *Zadvydas* through regulations governing post-removal order custody determinations." *Mong C. v. Noem*, No. 26-CV-1541 (JWB/DLM), slip op. at 4 (D. Minn. Feb. 24, 2026) (citing 8 C.F.R. §§ 241.4, 241.13). "Noncitizens released pursuant to 8 C.F.R. § 241.13 under conditions of supervision maintain a protected liberty interest in their continued release." *Ge Y. v. Noem*, No. 26-CV-1700 (KMM/LIB), slip op. at 16 (D. Minn. Mar. 17, 2026) (collecting cases), *R. & R. adopted*, (D. Minn. Mar. 23, 2026). "Accordingly, any attempt to redetain an individual who has been released under § 241.13 necessarily implicates the individual's constitutionally protected liberty interests." *Id.* "These limits are not discretionary. The government is bound to follow the regulations it has promulgated." *Mong C.*, No. 26-CV-1541, slip op. at 4 (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)).

A. Respondents fail to meaningfully address the required procedures under agency regulations to revoke an order of supervision in their Response.

As an initial matter, "Respondents simply fail to provide any substantive response to the core of Petitioner's arguments." *Tou T. v. Noem*, No. 26-CV-1670 (PJS/LIB), slip op. at 4 & n.4 (D. Minn. Mar. 11, 2026) (holding such failure to respond could be grounds to grant the Petition), *R. & R. adopted*, (D. Minn. Mar. 14, 2026). Respondents simply state that Respondents properly followed all requirements of 8 C.F.R. § 241.13(i)." *Response* at 16. "This case is similar to *Mohamed P. v. Mullin*, where Respondents only provided a "limited response . . . concerning proper notice and compliance with the requisite procedures at section 241.13." No. 26-CV-2003 (JMB/EMB), slip op. at 4 (D. Minn. Apr. 16, 2026). Because Respondents do not actually argue the merits of the § 241.13 claim, the Court should find that "Respondents waived any challenge to these arguments." *Estephanny P. v. Bondi*, No. 26-CV-198 (ECT/JFD), slip op. at 3 (D. Minn. Jan. 15, 2026). The Court should grant Petitioner's release because the merits of his § 241.13 claim are unopposed. But even turning to the merits, Petitioner is owed release because Respondents only served the notice revoking his release on him after he was detained.

B. The notice of revocation was served after Petitioner was detained.

Petitioner's immediate release is necessary because the notice of revocation was served on him after he was detained and the deficient notice undermines the regulatorily required informal interview. Here, the facts are clear: Respondents detained Petitioner and *then* served the Notice of Revocation of Release on him. But "[t]hat's not how this works." *Tou V.*, No. 26-CV-1381, slip op. at 4. "The government detained the petitioner first, and asked questions later." *Id.* Where "[t]he Notice was served on Petitioner . . . clearly after Petitioner was arrested and taken into custody . . . .[t]his was no notice." *Kao Y. v. Noem*,

No. 26-CV-1403 (MJD/DJF), slip op. at 9 (D. Minn. Feb. 26, 2026) (citation omitted). "The complete lack of the required notice prior to Petitioner's arrest as required by § 241.13(i)(3) represents a violation of Petitioner's due process rights and a sufficient, independent basis upon which to grant habeas relief to Petitioner." *Ge Y. v. Noem*, No. 26-CV-1700 (KMM/LIB), slip op. at 9 (D. Minn. Mar. 17, 2026) (collecting cases), *R. & R. adopted*, (D. Minn. Mar. 23, 2026).

Respondents issued the notice of revocation of Petitioner's release on May 26, 2026. *Order for Supervision* at 2. Respondents detained Petitioner at his residence in New Hope, Minnesota on May 28, 2026, around 10:00 A.M. *Decl. of Martha William* at 1.[9] The Form 71-091 Notice of Revocation of Release was not served on Petitioner until 11:50 that day at the Bishop Henry Whipple Federal Building. *Notice of Revocation of Release* at 2. In sum, Respondents arrested Petitioner in New Hope, Minnesota around 10:00 A.M. without providing notice that his order for supervision was being revoked, transported him from New Hope, Minnesota to the Bishop Henry Whipple Federal Building, and there, served him with the notice there at 11:50.

Where Petitioner was detained first, then served his revocation of release after, Respondents have failed to "strictly follow the procedures outlined in §§ 241.13." *Tou V.*, No. 26-CV-1381, slip op. at 7. "Respondents provided Petitioner with a Notice of

[9] Respondents do not dispute the time of the arrest in their Response or declaration. *See Response*; *Draves Decl.* Nor do the Form I-213 report or invalid I-200 warrant suggest the time of Petitioner's arrest. *See Form I-213* at 2; *Form I-200.* "Where Respondents did not contest any of the factual allegations in the Petition, these allegations are deemed admitted." *Jor Y.*, No. 26-CV-1210, slip op. at 2 n.2.

Revocation of Release after he had been arrested . . . but post hoc notice of the revocation of an individual's supervised release is insufficient to satisfy the notice requirement of § 241.13(i)." *Ge Y.*, No. 26-CV-1700, slip op. at 9 n.7. Providing Petitioner with a notice of revocation after the fact, "while he remains unlawfully detained, does not cure the violation." *Reinaldo Q. v. Noem*, No. 26-CV-1699 (JWB/DJF), slip op. at 6 (D. Minn. Mar. 9, 2026).

C. This deficiency requires Petitioner's release.

Respondents argue that Petitioner is not owed release under the *Accardi* Doctrine because "[r]ecent uses of the *Accardi* doctrine are a novelty" and "haphazard application" of that case. *Response* at 18. They also argue Petitioner must demonstrate prejudice to obtain release. *Id.* at 17. But neither argument has any basis in law concerning civil detention for immigration purposes. Respondents cite no cases directly on point for either proposition and, instead, discuss only cases which challenge an underlying removal proceeding. *Id.* at 17–18. Those cases are inapplicable when Petitioner's request for relief seeks only release from his current detention. Petition, Dkt. 1, at 30.

Rather, the proper remedy for Petitioner given Respondents failure to follow their own procedures is immediate release. "Habeas is at its core a remedy for unlawful executive detention," and "[t]he typical remedy for such detention is, of course, release." *Munaf*, 553 U.S. at 693 (citation omitted). ICE is required to follow its own regulations. *See Accardi*, 347 U.S. at 268; *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at *2 (D. Minn. Sep. 3, 2025).

"The procedures set forth in 8 C.F.R. § 241.13 are intended to provide noncitizens

with fundamental due process protections that courts have found to be constitutionally required." *Tou T. v. Noem*, No. 26-CV-1670 (PJS/LIB), slip op. at 6 (D. Minn. Mar. 11, 2026) (listing cases), *R. & R. adopted*, (D. Minn. Mar. 14, 2026). Respondents' own evidence shows that they did not comply with the requirements of 8 C.F.R. § 241.13(i)(3). "Respondents cannot arrest first and then attempt to justify detention after the fact." *Chong W.V. v. Noem*, No. 26-CV-1622 (JWB/DTS), slip op. at 6 (D. Minn. Mar. 9, 2026). "Conclusory or post-hoc notices do not satisfy the regulation." *Mong C.*, No. 26-CV-1541, slip op. at 5. These regulatory requirements are "a *bare minimum* procedural protection that the government is already required to provide. . . . To remove or detain the petitioner, the government must strictly follow the procedures outlined in §§ 241.13 and 241.4." *Tou V.*, No. 26-CV-1381, slip op. at 6–7. The government failed to do so. Thus, "Petitioner must be released immediately." *Garrison G.*, No. 26-CV-172, slip op. at 8.[10]

---

[10] *Accord Jor Y.*, No. 26-CV-1210, slip op. at 7; *Tou V.*, No. 26-CV-1381, at 7; *Yeng X. v. Noem*, No. 26-CV-1399 (JMG/ECW), slip op. at 2–3 (D. Minn. Feb. 18, 2026); *Chou T. v. Noem*, No. 26-CV-1432 (SHL/ECW), slip op. at 12 (D. Minn. Feb. 20, 2026), *R. & R. adopted*, (D. Minn. Mar. 4, 2026); *Tong X. v. Noem*, No. 26-CV-1548 (JMB/ECW), slip op. at 7–8 (D. Minn. Feb. 23, 2026); *Si T.P. v. Noem*, No. 26-CV-1445 (ECT/DJF), slip op. at 11, *R. & R. adopted*, (D. Minn. Mar. 2, 2026); *Mong C.*, No. 26-CV-1541, slip op. at 6; *Kao Y. v. Noem*, No. 26-CV-1403 (MJD/DJF), slip op. at 12 (D. Minn. Feb. 26, 2026); *Pha S.*, No. 26-CV-1539, slip op. at 10; *Chong W.V.*, No. 26-CV-1622 (JWB/DTS), slip op. at 9; *Reinaldo Q. v. Noem*, No. 26-CV-1699 (JWB/DJF), slip op. at 7 (D. Minn. Mar. 9, 2026); *Por M. v. Noem*, No. 26-CV-1546 (PJS/DJF), slip op. at 12 (D. Minn. Mar. 9, 2026), *R. & R. adopted*, (D. Minn. Mar. 19, 2026); *Sunee T. v. Noem*, No. 26-CV-1638 (LMP/DTS), slip op. at 7 (D. Minn. Mar. 11, 2026); *Kikham S. v. Noem*, No. 26-CV-1621 (LMP/ECW), slip op. at 7 (D. Minn. Mar. 11, 2026); *Tou T. v. Noem*, No. 26-CV-1670 (PJS/LIB), slip op. at 15 (D. Minn. Mar. 11, 2026), *R. & R. adopted*, (D. Minn. Mar. 14, 2026); *Ge Y. v. Noem*, No. 26-CV-1700 (KMM/LIB), slip op. at 16 (D. Minn. Mar. 17, 2026), *R. & R. adopted*, (D. Minn. Mar. 23, 2026); *Anoulack N. v. Noem*, No. 26-CV-1820 (NEB/DJF), slip op. at 3 (D. Minn. Mar. 18, 2026); *Bounkieng S. v. Noem*, No. 26-CV-1830 (JRT/EMB), slip op. at 6 (D. Minn. Mar. 19, 2026); *Meng Y. v. Noem*, No. 26-CV-1876

CONCLUSION

Petitioner cannot and does not use this proceeding to contest the ultimate ability of Respondents to deport him. But conversely, that "does not mean that Respondents can ignore the rules while they do so." *Pha S. v. Noem*, No. 26-CV-1539 (MJD/ECW), slip op. at 9 (D. Minn. Mar. 1, 2026). For the reasons articulated in the Petition and above, Petitioner respectfully requests that the Petition for a Writ of Habeas Corpus be granted.

DATED: July 6, 2026

Respectfully submitted,

/s/ Benjamin Gleekel
Benjamin Gleekel (MN # 0504552)
Immigrant Law Center of Minnesota
450 N Syndicate St, Suite 200
St. Paul, MN 55104
(651) 641-1011, ext 228
benjamin.gleekel@ilcm.org

/s/ Daniel P. Suitor
Daniel P. Suitor (#0403979)
Attorney at Law
331 Second Avenue S
Ste. 400-3099
Minneapolis, MN 55401
(612) 234-2149
dan@danielsuitor.com

Attorneys for Petitioner

(LMP/DTS), slip op. at 2 (D. Minn. Mar. 24, 2026); *Linh H.V. v. Mullin*, No. 26-CV-2090 (JWB/SGE), slip op. at 8–9 (D. Minn. Apr. 6, 2026); *Mohamed P. v. Mullin*, No. 26-CV-2003 (JMB/EMB), slip op. at 7 (D. Minn. Apr. 16, 2026); *Luis D. v. Mullin*, No. 26-CV-2188 (JRT/DJF), slip op. at 5–6 (D. Minn. April 30, 2026); *Cher Y. v. Mullin*, No. 26-CV-2474 (JMB/DTS), slip op at 7 (D. Minn. May 21, 2026); *Hlao V. v. Mullin*, No. 26-CV-2750 (JMB/DJF), slip op. at 7 (D. Minn. May 28, 2026); *Sao V. v. Mullin*, No. 26-CV-2520 (ECT/JFD), slip op. at 9 (D. Minn. June 10, 2026).