UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Anthony N.,

Petitioner,

v.

Markwayne Mullin, et al.,

Respondents.

Case No. 26-cv-3017 (KMM/DTS)

REPORT AND RECOMMENDATION

INTRODUCTION

Petitioner Anthony N. has been detained by United States Immigration and Customs Enforcement (ICE) since May 28, 2026. Anthony N. challenges his detention through a Petition for Writ of Habeas Corpus. Because the Government unlawfully arrested Anthony N., the Court recommends the Petition be granted.

FINDINGS OF FACT

Anthony N. is a native and citizen of Liberia who came to the United States as a refugee and later became a lawful permanent resident. Pet. ¶ 12, Dkt. No. 1. Following a 2012 conviction of felony gross sexual imposition, he was ordered removed in 2015. *Id.* ¶¶ 12–14. The Government issued an I-205 administrative warrant of removal in May 2015, signed by a Supervisory Detention and Deportation Officer. Dkt. No. 8-2 at 1. After Anthony N. served ninety days in immigration detention, ICE decided that there was not a significant likelihood of removal, and he was released on an order of supervision. Pet. ¶ 17.

In late 2025 Anthony N. moved residences but failed to "register as a predatory offender" as required by Minnesota law. Ganzhorn Decl., Ex. A, Dkt. No. 9-1. Anthony N.

was later charged with knowingly failing to register as a sex offender. *Id.* On May 26, 2026, ICE revoked his order of supervision "because he failed to remain law abiding and had failed to check-in with ICE ERO since January 2025." Draves Decl. ¶ 9, Dkt. No. 8. On May 28, 2026, ICE officers arrested Anthony N. at his apartment home, where he lives with his sister, nephew, and grandmother. Pet. ¶ 19; Draves Decl. ¶ 10. According to the Government, ICE served Anthony N. with a Form I-200 administrative warrant while placing him under arrest. Draves Decl. ¶ 10. *But see* Pet. ¶ 21 ("The arresting officers did not present [Anthony N.] with any type of warrant . . . or other paperwork, at the time of arrest."). Anthony N. remains detained at the Freeborn County Jail in Albert Lea, Minnesota. Pet. ¶ 7.

On June 18, 2026, Anthony N. filed the five-count Petition. *See* Pet. Count One alleges that 8 U.S.C. § 1231 does not authorize his detention because "he was not detained in order to execute his removal and his removal is not likely to occur in the reasonably foreseeable future." Pet. ¶¶ 76–79. Count Two alleges the Government violated Anthony N.'s Fifth Amendment substantive due process rights. *Id.* ¶¶ 80–82. Count Three alleges the Government violated Anthony N.'s Fifth Amendment procedural due process rights. *Id.* ¶¶ 83–89. In Count Four, Anthony N. alleges the Government violated his Fourth Amendment rights by arresting him without a warrant. *Id.* ¶¶ 90–93. Count Five alleges the Government violated its own regulations, including 8 C.F.R. § 287.8(c)(2) by arresting Anthony N. without "the requisite probable cause to believe that Petitioner was a flight risk[.]" *Id.* ¶¶ 94–98.

For relief, Anthony N. requests: (1) a declaration that Anthony N.'s current detention exceeded the Government's authority and is unlawful; (2) immediate release

from custody; (3) require his release within Minnesota at a time and place communicated to counsel and with his personal belongings; (4) enjoin the Government from implementing any additional conditions of release; (5) retain jurisdiction to decide future motions for an award of reasonable attorneys fees and costs under the Equal Access to Justice Act. Pet. 30 (prayer for relief).

ANALYSIS

I. Legal Standard

"A district court may grant a writ of habeas corpus to any person who demonstrates he is in custody in violation of the Constitution or laws of the United States." *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 702 (D. Minn. 2025) (citing 28 U.S.C. § 2241(c)(3)). The right to file a writ of habeas corpus "extends to those persons challenging the lawfulness of immigration-related detention." *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020). "The burden is on the petitioner to prove illegal detention by a preponderance of the evidence." *Jose J.O.E. v. Bondi*, No. 25-cv-3051, 2025 WL 2466670, at *5 (D. Minn. Aug. 27, 2025) (citing *Aditya W. H.*, 782 F. Supp. 3d at 703).

II. Verification

The Government argues that the Petition should be denied because it is not properly verified. Gov. Br. 3, Dkt. No. 7. "Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242. Here, the Petition was verified by Attorney Daniel Suitor, Anthony N.'s counsel. *See* Pet. 32. That is enough given the circumstances of this case. As one court in this District has explained:

> 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." *Advocs. for Hum. Rts. v. U.S. Dep't of Homeland Sec.*, No. 26-cv-749 (NEB/DLM), 2026 WL 850270, at *19–23 (D. Minn. Mar. 26, 2026); *see Guadalupe O. G. v. Bondi*, No. 26-cv-820 (KMM/DLM), 2026 WL 296370, at *2 (D. Minn. Feb. 4, 2026); *Aleksander B. v. Trump*, No. 26-cv-170 (KMM/DJF), 2026 WL 172435, at *3 (D. Minn. Jan. 22, 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. *Whitmore*, 495 U.S. at 163; *Funaro*, 164 F. at 153. Moreover, the whole point of requiring verification in a habeas petition is to prevent "intruders or uninvited meddlers" from filing habeas petitions for complete strangers. *Whitmore*, 495 U.S. at 164. Clearly, Vu's counsel is not an uninvited meddler: he has been retained by Vu and spoke with Vu about the circumstances of his arrest and detention. ECF No. 1 at 32. Under these circumstances, the Court is not inclined to deny Vu's habeas petition simply because it lacks his John Hancock. *See Quinn v. Dooley*, 272 F. Supp. 2d 839, 845 (D.S.D. 2003) (explaining that a court, "if it sees fit, may disregard" defects in the verification of a habeas petition).

Vu V. L. v. Mullin, No. 26-cv-2947, 2026 WL 1893611, at *3 (D. Minn. July 1, 2026); *see also Victor P. v. Blanche*, No. 26-cv-3217, 2026 WL 2110732, at *2 n.4 (D. Minn. July 22, 2026) (following *Vu V. L.*); *Phattakhone P. v. Mullin*, 26-cv-2948 (D. Minn. July 2, 2026) (Dkt. No. 9) (same). The Court follows *Vu V. L.* in rejecting the Government's verification argument.

III. Statutory Framework: ICE's Arrest Authority

Federal agencies, such as ICE, "'literally [have] no power to act'—including under [their] regulations—unless and until Congress authorizes [them] to do so by statute." *Fed. Election Comm'n v. Ted Cruz for Senate*, 596 U.S. 289, 301 (2022) (quoting *La. Pub. Serv. Comm'n v. F.C.C.*, 476 U.S. 355, 374 (1986)). "Generally, federal immigration

officers need an administrative warrant to arrest a noncitizen for purposes of removal." *Ahmed S. v. Blanche*, No. 26-cv-2265, 2026 WL 1998718, at *4 (D. Minn. July 10, 2026) (citing *Arizona v. United States*, 567 U.S. 387, 407 (2012)). "Form I-200 warrants are used to detain noncitizens suspected of violating immigration law and can be issued and executed at any time after immigration authorities issue a notice to appear and the completion of removal proceedings." *Id.* (citing 8 C.F.R. § 236.1(b)). "Form I-205 warrants are used to detain those already subject to a final order of removal." *Id.* (citing 8 C.F.R. § 241.2, 3).

IV. I-205 Administrative Warrant

The Government claims Anthony N. was lawfully arrested pursuant to the 2015 Form I-205 warrant. Gov. Br. 10–11.[1] The problem for the Government is that courts in this District have already rejected practically identical arguments. *Ahmed S. v. Blanche* is instructive. No. 26-cv-2265, 2026 WL 1998718, at *5 (D. Minn. July 10, 2026). There, the Government issued an I-205 warrant for Ahmed S. in 2014, held him in detention for ninety days, and then released him on an order of supervision. *Id.* When the Government revoked *Ahmed S.*'s supervision in December 2025, it served him an I-200 warrant. *Id.* at *2. The court rejected the Government's post-hoc reliance on the I-205 warrant:

> [The Government] point[s] to the I-205 warrant of removal issued for Mr. S in 2014. True, that warrant of removal is the proper form of a warrant to arrest a noncitizen with a final order of removal. However, that warrant was presumably already executed when Mr. S was taken into custody in May 2014 following his order of removal to Somalia. Mr. S was then released in August 2014, when ICE could not effect his removal to Somalia (or elsewhere) within ninety days of his detention. Nothing before the Court suggests that a decade

[1] The Government does not argue that the I-200 warrant provides a lawful basis for Anthony N.'s arrest. *See* Gov. Br. 10.

> old, previously executed Form I-205 for Mr. S can be used in perpetuity. And Respondents do not allege that Mr. S's arrest was actually made pursuant to this archival warrant, nor that the arresting officers were even aware of it.

Ahmed S., 2026 WL 1998718, at *5; *see also Ger V. v. Mullin*, No. 26-cv-2543, 2026 WL 1847044, at *4 n.5 (D. Minn. June 26, 2026) ("[T]he 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."); *Manuel P. v.* Blanche, No. 26-cv-3445, 2026 WL 2281048, at *4 (D. Minn. Aug. 7, 2026) ("Absent some binding legal authority that establishes that Form I-205 warrants are always and forever valid, the Court concludes Manuel P.'s arrest was not lawful."). As in *Ahmed S.*, (1) the Government issued the I-205 warrant more than a decade ago; (2) the Government presumably already executed the warrant when arresting Anthony N. in 2015; and (3) nothing in the record suggests the arresting officers knew of the I-205 warrant's existence, let alone arrested Anthony N. "pursuant to" the aged warrant.[2] Thus, the same result follows here: the Government's post-hoc reliance on the decade-old, already-executed I-205 warrant does not provide a lawful basis for Anthony N.'s arrest.

The Government counters by citing a 1954 Ninth Circuit Court of Appeals case. Gov. Br. 11–12 (citing *Spector v. Landon*, 209 F.2d 481 (9th Cir. 1954)).[3] In *Spector*, the Government issued a deportation warrant for Spector, a Russian native, in 1930. *Id.* at 482. After twenty years of failed attempts to deport Spector, he moved for declaratory judgment that the warrant was "without force" and requested an injunction restraining the

[2] To the contrary, the Government appears to have arrested Anthony N. pursuant to an I-200 warrant.

[3] Even after the Court requested supplemental briefing on the validity of the I-205 warrant, the Government could supply no additional authority.

Government "from proceeding against him under the warrant[.]" *Id.* 481–82. The Ninth Circuit rejected Spector's arguments, reasoning, in relevant part, that "[n]o cases have been found by counsel holding that a deportation warrant becomes invalid or unenforceable through mere lapse of time, or for that matter because of dilatory conduct or laches on the part of the immigration authorities in effecting a deportation." *Id.* at 483.

The Government's reliance on *Spector* is misplaced, as the First Circuit Court of Appeals has explained:

> In concluding that Kong's arrest in 2018 was justified by the initial 1996 warrant, the district court relied almost entirely on the Ninth Circuit's 1954 decision in Spector v. Landon to support its position. That reliance is problematic. Spector is an old, out-of-circuit precedent with internal inconsistencies. . . . The Spector court begins its decision by stating that the case is about "an outstanding warrant for the deportation of appellant." Yet in that same paragraph it describes the issue as whether a "deportation order had spent its force or become *functus officio* by virtue of unexcused lapse of time." Later in the opinion, the court again switches back and forth between the terms "warrant" and "order" in its reasoning. 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.
>
> Read as a whole, the issue at the heart of Spector appears to be whether a deportation order ever expires, not a deportation warrant. The court asks repeatedly whether the government loses the ability to deport Spector due to the passage of time, not whether it loses the ability to arrest Spector in order to deport him.
>
> Not surprisingly, Ninth Circuit decisions citing Spector have recognized that it is about a deportation order, and they cite it to support the proposition that the validity of a deportation order, not a deportation warrant, does not expire over time.

Kong v. United States, 62 F.4th 608, 618–19 (1st Cir. 2023) (citations omitted). Because this case, like *Kong*, involves a deportation warrant, not a deportation order, *Spector* has no persuasive value here.

There is another independent problem with the Government's reliance on the I-205; it was issued by the wrong person. The I-205 warrant was signed by a Supervisory Detention and Deportation Officer (SDDO) "for" then Field Office Director Scott Baniecke; "[t]he SDDO position is simply not enumerated in the list of authorized officials per § 241.2(a). The fact that the SDDO position *is* expressly authorized to issue I-200 warrants, *see* 8 C.F.R. § 287.5(e)(2)(xxxii), confirms their omission from the I-205 list." *Ger V.*, 2026 WL 1847044, at *2.

The Government counters that Field Officers Directors are authorized to issue I-205 warrants, and the regulation expressly allows Field Officer Directors to delegate this authority. Gov. Suppl. Br. 1, Dkt. No. 12 (citing 8 C.F.R. § 241.2(a)(1)(xxxii)). But § 241.2(a)(1)(xxxii) provides that such a delegation may occur "as provided in 8 CFR 2.1[.]" 8 C.F.R. § 241.2(a)(1)(xxxii). In turn, § 2.1 provides that the Secretary of Homeland Security may delegate "by regulation, directive, memorandum, or other means as deemed appropriate by the Secretary in the exercise of the Secretary's discretion." 8 C.F.R. § 2.1. The Government fails to provide any factual basis for its claim that a delegation occurred here. It has not identified a regulation, directive, or memorandum, delegating authority to SDDOs generally or this SDDO in particular. Nor has it explained how the Secretary delegates such authority as a matter of course. *See Ger V.*, 2026 WL 1847044, at *2 (rejecting the Government's argument because "[t]he record does not support that the SDDO was validly delegated the authority necessary to sign this I-205").

The Government disagrees, arguing that such evidence is unnecessary because it is entitled to a presumption of regularity. Gov. Suppl. Br. 2 (citing *Coreas v. Holder*, 526 F. App'x 322 (4th Cir. 2013) (per curiam)). In *Coreas*, a "group supervisor" issued a notice to appear even though the supervisor was not found in the 8 C.F.R. § 239(a) list of immigration officials authorized by regulation to issue such a notice. *Id.* at 326. The Fourth Circuit was "baffled by the government's inability to define exactly what a 'group supervisor' is" and "puzzled that it was unable to answer how the DHS delegated its authority such that a 'group supervisor' could serve the notice to appear[.]" *Id.* Nonetheless, the court held that "we are unable to say that the government's failure in this regard is enough to overcome the presumption of regularity that is attached to the DHS's issuance of a notice to appear." *Id.*

Although the Government's reliance on *Coreas* is fair, that case is a *per curiam* out-of-circuit decision. The Government fails to offer, and the Court's research has not uncovered, any binding or persuasive authority from this Circuit applying the presumption of regularity so expansively in similar factual circumstances. This Administration's conduct, which has been far from regular, *see, e.g.*, *Juan T.R. v. Noem*, No. 26-cv-0107, 2026 WL 555601, at *2 (D. Minn. Feb. 26, 2026) ("The Court is not aware of another occasion in the history of the United States in which a federal court has had to threaten contempt—again and again and again—to force the *United States government* to comply with court orders."); *In re Grand Jury Subpoenas*, No. 26-mc-43 PJS, 2026 WL 1783899, at *7 (D. Minn. June 22, 2026) (describing "the Trump administration's well-established history of using criminal investigations to retaliate against and pressure the President's political and personal adversaries"), leaves the Court with no inclination to apply a

presumption of regularity in its favor unless it is required to do so. Moreover, here, unlike in *Coreas*, the Court entered an order to show cause ordering the Government to establish the lawfulness of Anthony N.'s detention. Dkt. No. 5. It then directed the Government to file a supplemental brief on this delegation issue. Dkt. No. 11. And authority suggests evidence of ICE delegations exists. *Cf. Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161–62 (W.D.N.Y. 2025) (discussing the scope of an ICE delegation order). The Court declines to apply a presumption of regularity to overcome the Government's failure to supply evidence of a delegation.

The Government alternatively argues that "[n]o additional warrant is required for re-detention." Gov. Br. 12 (citing 8 C.F.R. § 241.13(i)(1)–(2)). But courts in this District have disagreed: "the regulations are clear that a warrant of removal is nevertheless necessary to effect arrest." Order 4, *Inti C.L. v. Blanche*, 26-cv-2777 (D. Minn. June 9, 2026) (Dkt. No. 10) (reaching this conclusion as to a noncitizen's redetection); *Ger V.*, 2026 WL 1847044, at *2–4 (same); *Ahmed S.*, 2026 WL 1998718, at *4–6 (same). At this time, the Court is not persuaded to reach a different conclusion.

Therefore, the Court concludes Anthony N. was not arrested pursuant to a validly issued I-205 warrant of removal.

V. Warrantless Arrest

That Anthony N. was arrested without a warrant does not end the inquiry. 8 U.S.C. § 1357(a) provides immigration officers with limited authority to make warrantless arrests. Relevant here, an immigration officer may arrest a noncitizen without a warrant "if he has reason to believe that the [noncitizen] so arrested 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). "Because the Fourth Amendment applies to arrests of illegal aliens, the term 'reason to believe' in § 1357(a)(2) means constitutionally required probable cause." *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

The Government argues "[t]here was clear probable cause that he was in the country unlawfully and had violated the terms of his supervised release. There was just as much evidence that he was likely to escape once officers made him aware he was to be detained." Gov. Br. 16. Although the Government had reason to believe Anthony N. was in the country unlawfully and had violated the terms of his supervised release, nothing in the record suggests ICE had any reasonable basis to conclude Anthony N. was a flight risk. ICE arrested Anthony N. at his apartment. Nothing prevented it from performing the routine administrative task of issuing an I-205 warrant before arresting Anthony N. at his home. *See, e.g.*, *Jorge Anibal P.P. v. Blanche*, No. 26-cv-3125, 2026 WL 2017765, at *4 (D. Minn. July 13, 2026) ("[B]ecause ICE knew [the noncitizen's] address, it could have easily arrested him at his residence on a warrant. It did not do so."). Anthony N.'s warrantless arrest thus failed to comply with § 1357(a)(2).[4]

VI. Remedy

Most courts, when faced with similar petitions, have ordered the petitioner's release from custody. Order 9–10, *Jesus F.D. v. Mullin*, 26-cv-2486 (D. Minn. June 10, 2026) (Dkt. No. 10) (ordering petitioner's release because his "warrantless arrest was not lawful under either §§ 1226(a) or 1357(a)(2)"); Order 9, *Ruben A.G. v. Blanche*, 26-cv-

[4] Having found Anthony N. entitled to habeas relief, the Court declines to reach his alternative arguments.

2041 (D. Minn. Apr. 20, 2026) (Dkt. No. 9) (ordering petitioner's release because "ICE agents did not act within their statutory authority in effectuating Petitioner's warrantless arrest"); *Ger V.*, 2026 WL 1847044, at *4; *Ahmed S.*, 2026 WL 1998718, at *7–8. Accordingly, this Court recommends granting the Petition insofar as Anthony N. seeks his release.[5]

RECOMMENDATION

For the reasons set forth above, the Court RECOMMENDS THAT:

1. Anthony N.'s Petition for Writ of Habeas Corpus (Dkt. No. 1) be GRANTED as follows:

A. Anthony N. be released from custody within the State of Minnesota at a time and place communicated to his counsel; and

B. The Government be ordered to return Anthony N.'s property, if any, in its possession.

2. Anthony N.'s Petition (Dkt. No. 1) be DENIED to the extent he requests declaratory relief and an order enjoining the Government from implementing any additional conditions of release.

Dated: August 17, 2026

s/ David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge

[5] To the extent Anthony N. requests this Court "[r]etain jurisdiction over this matter to decide any future motion for an award of reasonable attorney fees," Pet. at 30 (prayer for relief), this requested is mooted by District of Minnesota Local Rule 54.3(a). D. Minn. LR 54.3(a) ("A party must file and serve an application for fees under the Equal Access to Justice Act within 30 days of final judgment as that term is defined in 28 U.S.C. § 2412(d)(2)(G).").

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court. It is not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within **5 days** after being served a copy" of the Report and Recommendation. A party may respond to those objections within **5 days** after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).