UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Mohamoud Cumar Mohamed, 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, and David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement. Respondents.	Case No. 26-cv-3507 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner Mohamoud Cumar Mohamed, ("Mr. Mohamed"), 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 unconstitutional and unlawful detention.

JURISDICTION AND VENUE

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

3. Federal question jurisdiction exists because Petitioner seeks to challenge 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) and *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018).

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.

PARTIES

6. Petitioner is currently detained at the Kandiyohi County Jail in Willmar, Minnesota. Petitioner is under the direct control of the respondents and has no scheduled release date.

7. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the head of the Department of Justice.

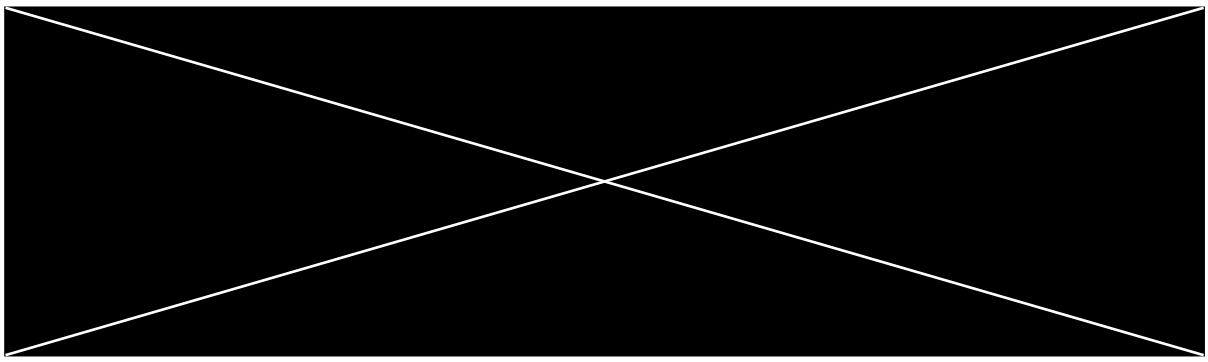
8. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the Department of Homeland Security.

9. Respondent David V. Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement.

10. Respondent David Easterwood is sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

11. Petitioner Mr. Mohamed is a citizen of Somalia who fled the country to avoid





As a result of this extreme trauma and grief, Mr. Mohamed has PTSD and a range of related conditions, including insomnia.

12. Mr. Mohamed has lived in the United States since late winter of 2023, when he entered through the southern border into California. Mr. Mohamed surrendered to immigration authorities upon entry, was detained for approximately two days, and then was released into the United States pursuant to an Order of Release on Recognizance and a Notice to Appear at immigration court in Colorado.

13. Mr. Mohamed filed a timely application for asylum, obtained employment authorization, and worked hard to address his ongoing mental health struggles by accessing services and prescribed medication for his PTSD and related symptoms. He was taking college classes and had a full time job, and has no criminal record.

14. In April of 2026, an immigration judge denied his application for asylum. Following this denial, and fearing that he would once again be tortured and subsequently killed should he be sent back to Somalia, Mr. Mohamed went to Canada and turned

himself in to the Canadian authorities to apply for asylum there. The Canadian authorities took him into custody, transported him back to the United States-Canada border, and transferred him to United States Customs and Border Protection. He spent one night in a cell at the border, then was transferred between a few different facilities, eventually to his current location of Kandiyohi County Jail in Willmar, Minnesota. After he was taken into custody, jail staff brought him a small stack of paperwork, which he sent to his immigration attorney. Amongst the paperwork in this stack were both an I-200 and an I-205 warrant, and an I-294 Warning document, all signed by CBP Officer Brandon M Foldoe. Exhibit 1, *Mr. Mohamed's Immigration Paperwork.*

15. Mr. Mohamed timely appealed the denial of his United States-based asylum claim, which remains pending before the Board of Immigration Appeals. He does not have a final order of removal.

STANDARD OF LAW

Habeas Petitions

16. A detained noncitizen may petition for 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).

17. 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)). Due process and Fourth Amendment protections apply regardless of a person's immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) and *United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008).

18. Here, Respondents must comply with 1) statutory and due process limitations on Respondents' authority to keep a noncitizen in civil detention, and 2) statutory and Fourth Amendment limitations on Respondents' ability to perform the initial arrest.

Due Process Requires a Legitimate Statutory Purpose for Civil Detentions

19. 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.

20. 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 that 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)).

21. To comply with Due Process, civil immigration detention must at a minimum "bear[] a reasonable relation to the purpose for which the individual was committed." *Zadvydas*, 533 U.S. at 690 (*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). Generally, absent an individualized determination that confinement is necessary to ensure appearances in immigration court or to protect the community, indiscriminate detention does not serve the purpose contemplated by the immigration statutes and violates due process.

Arrests by Federal Immigration Agents Must Comply with the Fourth Amendment

22. 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; *see also Trump v. Illinois*, 607 U.S. ___, 146 S. Ct. 432, 436 n.4 (2025) (Kavanaugh, J., concurring) ("The basic constitutional rules . . . are longstanding and clear: The Fourth Amendment requires that . . . arrests must be based on probable cause"). Federal statutes and regulations lay out the processes that implement the constitutional requirements of the Fourth Amendment.

23. Detention statutes such as 8 U.S.C. §§ 1225(b)(2), 1226(a), and 1231 provide Respondents with the authority to detain a noncitizen. Those detention statutes are distinct from 8 U.S.C. § 1357(a), which establishes the statutory requirements for when an immigration official can make a warrantless arrest. It is § 1357(a) and the Fourth Amendment that govern when a warrantless arrest is lawful, independent from statutory provisions related to detention.

24. Fourth Amendment analysis of immigration seizures varies depending on which statute offers the basis for the arrest and detention. For example, arrest and detention

pursuant to 8 U.S.C. § 1226(a) requires issuance and service of an I-200 warrant; and, further, because an I-200 warrant on its face invokes the authority of § 1226(a), that basis for detention is being asserted to an arrestee upon its service. *Jefferson G.H.L. v. Blanche*, No. 26-CV-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026). Similarly, an I-205 warrant is issued for arrest and detention pursuant to 8 U.S.C. § 1231 of noncitizens who are subject to final removal orders. 8 C.F.R. § 241.3(a) ("Once the removal period defined in section 241(a)(1) of the Act begins, an alien in the United States will be taken into custody pursuant to the warrant of removal."); 8 C.F.R. § 241.2(a)(1) (defining "Form I-205" as a "Warrant of Removal"); and *Inti C.-L. v. Blanche*, No. 26-CV-02777, Doc. 10, slip op. at 4 (D. Minn. June 6, 2026) ("Section § 1231(a)(2) does indeed mandate detention, but the regulations are clear that a [I-205] warrant of removal is nevertheless necessary to effect arrest.").

25. Detention pursuant to 8 U.S.C. § 1225(b)(2) is characterized by the Government as "mandatory," but invoking this statute as the basis for detaining a noncitizen does not eliminate the Fourth Amendment requirement for the Government to have probable cause when making warrantless arrests in the interior of the country. Those probable cause requirements are outlined in 8 U.S.C. § 1357(a).

26. Therefore, discretionary detentions pursuant to 8 U.S.C. § 1226(a) are conducted based upon arrests pursuant to I-200 warrants. So-called "mandatory" detention arrests under the catchall provision of 8 U.S.C. § 1225(b)(2) may be affected in the interior of the country without a warrant only if arresting officers satisfy 8 U.S.C. § 1357(a)(2).

27. Even where statutory language of 8 U.S.C. § 1225(b)(2)—as interpreted by the Eighth Circuit—provides for "mandatory" *detention* without a bond hearing and only narrow discretionary release exceptions under 8 U.S.C. § 1182(d)(5)(A), Government powers to *arrest* persons who have lived in the country for years remain implicitly discretionary under the statutory scheme set forth in 8 U.S.C. § 1357. The Government's policy of scouring the interior of the country to satisfy large, arbitrary noncitizen arrest quotas has forced courts handling habeas cases to confront constitutional limits on the use—and abuse—of discretionary arrest powers under § 1357(a). *See Almeida-Sanchez v. United States*, 413 U.S. 266, 271-74 (1973) (the "permissible scope of intrusiveness" under the Fourth Amendment is greater at "the border itself" or "its functional equivalents" than in the interior of the country).

Arrests Pursuant to 8 U.S.C. § 1226(a) Require I-200 Warrants and a Notice to Appear

28. When a noncitizen is arrested pursuant to an I-200 warrant, such an arrest is pursuant to discretionary detention under 8 U.S.C. § 1226(a), and in order for this I-200 warrant to authorize arrest, it must have been issued together with or after a valid Notice to Appear was issued:

> A noncitizen "may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1); *see* 8 U.S.C. § 1226(a). A Form I-200 warrant "empowers [immigration agents] to arrest aliens during removal proceedings," *Cesar F.F.* Order at 4. Therefore, an I-200 warrant is valid only if it is issued "[a]t the time of issuance of the notice to appear, or at any time thereafter[.]" 8 C.F.R. § 236.1(b)(1).

Pedro D.C. v. Blanche, No. 26-cv-02450, 2026 WL 1759444, at *1 (D. Minn. June 18, 2026) (*quoting Cesar F.F. v. Blanche*, No. 26-CV-2540, Doc. No. 8, slip op. at 4 (D. Minn. June 2, 2026)).

29. If an I-200 warrant is used, then immigration authorities are invoking 8 U.S.C. § 1226(a) as the basis for detention and are representing the same to the detainee. *Jefferson G.H.L.*, 2026 WL 1229623, at *2. Under § 1226(a), detention is discretionary and requires the detainee to be provided with a bond hearing.

30. If the I-200 warrant is found invalid, such as if it cannot be shown that the warrant was accompanied or predated by a valid Notice to Appear, or if the I-200 warrant was served only after the noncitizen was taken into custody, the arrest is only lawful if the requirements for a warrantless arrest pursuant to 8 U.S.C. § 1357(a) were met. *Id.*; *Pedro D.C.*, 2026 WL 1759444.

Warrantless Arrests Under 8 U.S.C. § 1225(b)(2) Must Comply with 8 U.S.C. § 1357(a)

31. While 8 U.S.C. § 1225(b)(2) does not explicitly reference warrants, arresting officers are constrained by the independent requirements of 8 U.S.C. § 1357(a) when making any warrantless arrest. *Jefferson G.H.L.*, 2026 WL 1229623, at *2 ("it does not follow that [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."); *Cutberto R.P. v. Bondi*, No. 26-CV-01934, Doc. No. 11, slip. op. at *8-14 (D. Minn. April 10, 2026).

32. Warrantless arrests in the interior of the country are permissible only 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) *and Arizona v. United States*, 567 U.S. 387, 408 (2012) (citing

§ 1357(a)(2) to find that immigration officers "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.'").

33. 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).

34. Probable cause that a person has violated an immigration law has to be based on actual facts substantiating a suspected 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) (continued detention to await transfer to immigration authorities based solely on "a perceived civil violation of U.S. immigration laws" was an "egregious" Fourth Amendment violation); *Hussen v. Noem*, 822 F. Supp. 3d 944 (D. Minn. 2026) ("compelling and troubling" evidence established that, during Operation Metro Surge, the government "adopted a policy authorizing federal immigration officers to conduct investigatory stops based on ethnicity or race without reasonable suspicion that the individuals were violating immigration laws."); *Juan J. v. Blanche*, No. 26-cv-02977 (D. Minn. July 2, 2026) (insufficient evidence of reason to believe an individual was unlawfully present at time of arrest).

35. Probable cause that a noncitizen is likely to escape requires distinct factual support beyond just that a person is undocumented. *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."). 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 v. Nobles Cnty.*, 230 F. Supp. 3d 934, 946 (D. Minn. 2017) (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)). The relevant inquiry is "whether it was likely that ICE officers would be able to locate [a noncitizen] after obtaining a warrant to arrest him" and not merely "whether a noncitizen will remain at the scene of encounter with law enforcement before an administrative warrant can be obtained." *Walther Ademir A.S. v. Blanche*, No. 26-CV-02804, 2026 WL 1734906, at *2-5 (D. Minn. June 16, 2026).

36. 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.*, 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. *Id.*

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Procedural Due Process

Respondents are Detaining Petitioner Without Due Process

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

38. Detaining a noncitizen pursuant to an I-205 warrant means that immigration officials are invoking mandatory detention pursuant to 8 U.S.C. § 1231, which requires the factual predicate of a final removal order. 8 C.F.R. § 241.3(a). Absent other circumstances, such as an affirmative waiver of appeal, a removal order is not final until 30 days have passed since its issuance and an appeal is not filed. 8 C.F.R. § 1241.1. Here, Respondents appear to have detained Mr. Mohamed pursuant to an invalid I-205 warrant, which cannot support his detention.

39. Perhaps to cover their bases, the officer who served Mr. Mohamed with an I-205 warrant and a warning that he had been removed also provided him with an I-200 warrant, which applies to a distinct category of noncitizens, those who are in pending removal proceedings. Exhibit 1.

40. When someone is detained allegedly pursuant to an apparent I-200 produced in habeas proceedings, the Government is asserting § 1226(a) as the basis for detention and violates due process by attempting to retroactively claim custody under § 1225(b)(2) so as to refuse to provide a bond hearing. *Yonatan P. v. Blanche*, 2026 WL 1842652, at *3 (D. Minn. June 26, 2026) (gathering cases); *Vladimir G. v. Easterwood*, 2026 WL 1786418, at *2 (D. Minn. June 22, 2026) (prohibiting Respondents from "now chang[ing]

the basis for the arrest" after an arrest pursuant to an I-200 warrant, notwithstanding Respondents' attempt to "alter this fact through filing of their written responsive submissions."); and *Sergio R.V.-P. v. Mullin*, 2026 WL 1727869, at *4 fn4 (D. Minn. May 29, 2026), *report and recommendation adopted*, 2026 WL 1725810 (D. Minn. June 15, 2026) ("A court may hold the Government to its representation [in an I-200 warrant] that it detained Petitioner under § 1226(a).").

41. This is especially true when a noncitizen has already been detained and released pursuant to § 1226(a) by way of conditional parole; it is a due process violation warranting immediate release for the government to redetain the noncitizen without properly revoking that parole. *Salazar v. Noem*, 2026 WL 381889, at *2 (D. Minn. Feb. 11, 2026) ("Accordingly, the Court concludes that the government's administrative warrant does not justify revoking the petitioner's prior release on recognizance, and that outright release from his present confinement is the appropriate remedy.")

42. Mr. Mohamed's circumstances are similar to those of the petitioner in *Mohammed A.A. v. Tadman*, where the petitioner was detained and then released on an OREC upon entry into the United States, sought asylum here, then sought asylum in Canada which was denied pursuant to the Safe Third Country Agreement ("STCA") treaty between Canada and the United States, and was transferred into United States immigration custody. 2026 WL 712441, at *1 (D. Minn. Mar. 13, 2026). A few factual differences between the petitioner in *Mohammed A.A.* and Mr. Mohamed only make Mr. Mohamed's case stronger: first, Mr. Mohamed waited until an immigration judge denied his asylum application before seeking asylum in Canada; and second, Mr. Mohamed made an

appointment to meet with Canadian immigration authorities affirmatively to seek asylum as opposed to being apprehended by Canadian Border Patrol like *Mohammed A.A. Id.* The *Mohammed A.A.* Court analyzed an otherwise identically situated petitioner and found that redetaining the petitioner without the arresting officers invoking a breach of OREC conditions was unlawful and ordered his immediate release. *Id.* at 5 ("According to Respondents, Petitioner failed to comply with his OREC when he attempted to seek asylum in Canada and thereby change his place of residence without permission from his immigration officer … However, the record does not show that any immigration officer actually cancelled Petitioner's OREC.")

43. When Border Patrol first encountered Petitioner at the United States-Mexico border in the late winter of 2023, at *that* point in time Respondents had the authority to detain Petitioner pending removal proceedings without a bond hearing, pursuant to 8 U.S.C. § 1225(b)(2). Respondents chose not to do so, and instead released Mr. Mohamed into the United States on conditional parole. It is a due process violation warranting a petitioner's immediate release for the government to redetain someone 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.").

44. Courts often use the three-factor *Mathews* 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).

45. First, Mr. Mohamed has a significant private interest at stake because he is in a detention facility, experiencing ongoing deprivation of medical care and medication for his PTSD and trauma-related symptoms. 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).

46. Second, Mr. Mohamed 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. v. Bondi*, No. 26-CV-01959, 2026 WL 948970, at *3 (D. Minn. April 8, 2026).

47. Third, the government has no legitimate interest in detaining people arbitrarily 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. The government's interest in detaining a noncitizen is weak where the government has not established that the noncitizen is unlikely to appear nor that the noncitizen poses a threat to the community. *Id.* Put simply, bond hearings are inexpensive proceedings and "the federal government has very little interest in incarcerating individuals en masse who pose little or no risk of flight or danger to the community." *Yonatan S. v. Blanche*, No. 26-CV-02949 (JMB-EMB) (D. Minn. June 26, 2026) Doc. 14 at n. 5. Considering alternative procedures, asking the government to conduct a particularized, fair, and meaningful inquiry as to the necessity of

detention is reasonable to protect civilians' rights and preserve government resources, as opposed to a policy of detaining first irrespective of the detainee's particular circumstances and then forcing the person they have detained to summon legal resources to seek accountability in federal court. Immigration-related habeas corpus petitions have consumed a large part of the court and U.S. Attorney's Office's dockets. *See Jefferson Y.M. v. Blanche*, No. 26-CV-03038, 2026 WL 1848510, at *1 (D. Minn. June 26, 2026).

48. Here, Respondents made no individualized inquiry and had no rational basis to believe that detention is necessary to ensure Mr. Mohamed's appearance in immigration court. At every stage, Mr. Mohamed has done his best to follow the rules, to present himself to government officials and beg for the legal protections his life depends on. First, he and his family took measures to remain in Somalia before attempting to seek asylum elsewhere. Tragically, these measures were not enough and his sister and father were killed. When Mr. Mohamed entered the United States at the southern border, he turned himself in to immigration authorities. He pursued his asylum claim in court, while also putting tremendous effort into recovering from the horrors he had witnessed. He worked full-time and attended college courses, sought treatment and medication to recover from his immense trauma, and maintained a spotless criminal record. When an immigration judge in the United States denied his asylum claim, he went to Canada and reported promptly to immigration authorities there. The STCA requires asylum seekers to pursue claims in whichever of the two countries, United States and Canada, they enter first. Mr. Mohamed did just that, applying for asylum in the United States before turning himself into the Canadian authorities to seek asylum there. Mr. Mohamed has repeatedly

sought out engagement with the immigration systems of the United States and Canada, trying to navigate two complicated systems in a second language, with deadly stakes, all while grieving the recent deaths of two close family members. Mr. Mohamed is doing his absolute best under horrible circumstances.

49. Releasing Petitioner would in fact *save* the government the resources and expense of continued imprisonment. *See Black v. Decker*, 103 F.4th 133, 154-55 (2d Cir. 2024) (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).

50. Therefore, the placement of Mr. Mohamed in detention pending the resolution of ongoing immigration proceedings without reason violates Mr. Mohamed's constitutional rights to due process guaranteed in the Fifth Amendment. *Mohammed A.A. v. Tadman* is squarely on point, and the same result should follow here: immediate release.

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)

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

52. Upon information and belief, Mr. Mohamed was not presented with a valid I-200 warrant until after United States immigration authorities had already taken him into custody. Serving a warrant only after a noncitizen has been detained is not sufficient. *Pedro D.C.*, 2026 WL 1759444, at *1. Respondents have made, and continue to make, an unreasonable seizure of Mr. Mohamed under the Fourth Amendment. Mr. Mohamed's ongoing detention is unlawful.

REMEDY

53. 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"); *Wilson L.L. v. Blanche*, No. CV 26-2475, 2026 WL 1283186, at *2-3 (D. Minn. May 11, 2026) (because "Petitioner's detention is unlawful . . . as in other similar cases, the Court concludes that the appropriate remedy is release from custody"); *see also 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); *Jefferson Y.M.*, No. 26-CV-03038 (D. Minn. June 26, 2026) Doc. no. 12 (granting immediate release when government responded in an untimely manner and thereby waived any challenge to Fifth Amendment arguments). Courts across the country have accordingly ordered release when granting immigration habeas petitions. *See, e.g. Jose L.R.O. v. Bondi*, No. 5:26-CA-850, Doc. No. 11 at 25 (W.D. Tex. Mar. 23, 2026); *Sanchez v. Sec'y of Homeland Sec.*, No. 3:26-cv-00695, 2026 WL 1238601, at *2 (M.D. Fla. May 6, 2026); *Amandeep S. v. Mullin*, No. 6:26-cv-03341 (W.D. Mo. June 25, 2026), Doc. No. 11.

54. Release is an appropriate remedy for individuals with various immigration histories. *See*, e.g., *Dylan M. v. Blanche*, No. 26-CV-2802 (D. Minn. June 8, 2026), Doc 12 at p. 10 (granting the habeas corpus petition of a teenager who arrived on a tourist visa as a child, which visa subsequently expired, and who was found to have been detained

unlawfully) and *Makitio G. A., v. Blanche*, No. 26-CV-2200, 2026 WL 1584457, at *6 (D. Minn. May 22, 2026) (recommending release for someone who was unconstitutionally and unlawfully detained after Respondent's revoked petitioner's order of supervision), *report and recommendation adopted*, 2026 WL 1591270 (June 3, 2026).

Release Based on Unlawful Arrest

55. Judges in this district have repeatedly found that when Respondents arrest a noncitizen unlawfully, the remedy should be release rather than a bond hearing. *Cutberto R.P.,* No. 26-CV-01934 (MJD-DTS) (D. Minn. April 10, 2026), Doc. no. 11 at pp. 10-13; *Jefferson G.H.L.*, No. 26-CV-2344 (JRT-ECW), 2026 WL 1229623, at *3; *Hector J.A.S. v. Shea*, No. CV 26-2242 (JRT-DLM), 2026 WL 1243500, at *3 (D. Minn. May 6, 2026); *Martha C.G.P. v. Blanche*, No. CV 26-2308 (DWF-JFD), 2026 WL 1329577, at *3 (D. Minn. May 13, 2026); *Walther Ademir A.S.*, No. 26-CV-02804 (LMP-SGE), 2026 WL 1734906, at *2-5 (D. Minn. June 6, 2026); *Jesus F.D. v. Mullin*, No. 26-CV-2486 (PJS-DTS), 2026 U.S. Dist. LEXIS 137045, at *5 (D. Minn. June 10, 2026); *Pedro D.C.*, 2026 WL 1759444; *Yonatan S. v. Blanche*, No. 26-CV-02949 (JMB-EMB) (D. Minn. June 26, 2026) Doc. 14.

Release Based on Absence of Due Process

56. There is no indication here that Petitioner's detention was based on any facts that might indicate Petitioner should be in custody and deprived of his liberty. Due Process requires that Petitioner be able to continue engaging in his substantive civil immigration proceedings while released from custody rather than from a jail cell.

57. As a court in the Western District of Texas has 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-00850, Doc. No. 11 at 26.

58. In the context of preventative civil detention, the Supreme Court has permitted narrow categorical rationales for such detention in only limited circumstances when applicable exclusively to "small segments" of people and even then only when subject to "strong" and "strict" procedural safeguards. *Zadvydas*, 533 U.S. at 690-91; *see also, e.g., Victor S. v. Noem*, No. 25-CV-00403, 2026 WL 596133, at *10 (W.D. Tex. March 2, 2026) (collecting cases); and *Rincon v. Hyde*, 810 F.Supp.3d 101, 114 (D. Mass. 2025) (categorical presumptions do not hold "where the only rationale for mandatory detention appears to be Respondents' asserted authority to withhold generally available due-process protections based on Petitioner's immigration status."). It stands to reason that "[i]f the Constitution imposes limits on detention after a final order of removal," as *Zadvydas* held, "it necessarily imposes at least comparable limits, and requires meaningful procedural safeguards, before one is entered." *Haiguang Z. v. Rokosky*, No. 26-CV-01689, 2026 WL 800203, at *8 (D.N.J. Mar. 23, 2026).

59. The Government's recent policy of mass detentions under 8 U.S.C. § 1225(b)(2) is not being applied to a narrow class of persons for a special nonpunitive purpose in a way that provides a "special justification" that outweighs the individual's constitutionally protected interest in avoiding physical restraint. *See Sosnava Rodriguez v. Ortega*, No. 26-50183, 2026 WL 1906557, at *13-14 (5th Cir. July 2, 2026). Section 1225(b)(2) is

merely a catchall provision. *Jennings*, 583 U.S. at 287. There is nothing to suggest that detainees subject to § 1225(b)(2) share a categorical characteristic that supersedes their individual interests in physical freedom sufficient to satisfy Due Process by proxy. *See Victor S.*, 2026 WL 596133, at *7-10; *see also Rincon*, 810 F. Supp. 3d at 113. Civil detention is punitive if it "become[s] a 'mechanism for retribution or general deterrence.'" *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (*quoting Kansas v. Hendricks*, 521 U.S. 346, 372 (1997) (Kennedy, J., concurring)). Because detention is being applied for general deterrence or retribution, rather than narrowly for a special nonpunitive purpose, Respondents' application of § 1225(b)(2) to Petitioner is unconstitutional.

Futility and/or Inadequacy of a Bond Hearing

60. 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. As explained by another district court in this circuit, 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

[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).

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, slip op. at 2-3 (D. Minn. May 14, 2026) Doc. no. 19 (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 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.").

61. In terms of constitutionally-sufficient procedural Due Process safeguards, an impartial decisionmaker is essential. *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970) (stressing importance of decisionmaker's conclusion being grounded in the evidence presented and accompanied by a statement indicating the reasons for the decision and the evidence relied upon). Sham bond hearings do not provide Due Process. Current circumstances surrounding immigration bond hearings "raise substantial concerns as to whether any non-citizen can receive the impartial hearing that due process requires." *Haiguang Z.*, 2026 WL 800203, at *3,7 (questioning "whether the constitutional guarantee of an impartial decisionmaker is being honored in any case brought before an IJ [immigration judge]" today after hundreds of IJs were terminated and the Government seeks to fill vacancies created by those firings by openly advertising for "deportation judge" roles).

62. Moreover, courts have scrutinized the burden of proof applied in immigration bond hearings. If the Government permits a bond hearing at all, it places the burden of

proof on detainees. *E.g., Matter of Adeniji*, 2 I&N Dec. 1102 (BIA 1999); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *Matter of R-A-V-P-*, 27 I&N Dec. 803 (BIA 2020). That does not provide constitutional Due Process and is a structural error that constitutes a *per se* prejudice. The Supreme Court has struck down civil detention schemes that placed the burden on the detainee to prove nondangerousness but has upheld civil detention processes where the government bore the burden of proof by clear and convincing evidence. *Zadvydas*, 533 U.S. at 691 (*citing Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) and *United States v. Salerno*, 481 U.S. 739, 747,750-52 (1987)); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 40 (1st Cir. 2021) (under the second *Mathews* factor, the Government carries the burden of proof).

63. Immediate release is the appropriate remedy where "a new [bond] hearing would either be unnecessary, futile, or an inadequate remedy", and "would effectively allow the Government to transform an unlawful detention into a lawful one through *post-hoc* justifications." *Haiguang Z.*, 2026 WL 800203, at *10-11. Here, a bond hearing would be futile or inadequate. Immediate release is therefore the appropriate remedy. *See Stepan H.*, 2026 WL 1103450, at *4.

REQUEST FOR ORDER TO SHOW CAUSE

64. 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.

65. 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. Petitioner requests that the Court's order require Respondents to specifically provide (1) a statement concerning immigration court jurisdiction over Petitioner, including jurisdiction to consider bond; and (2) a statement concerning whether Petitioner is, or may be, a class member of any pending or certified immigration class action suit. Additionally, Petitioner asks the Court to order Respondents to release Petitioner without conditions if they choose to release him instead of responding.

66. Petitioner further respectfully requests that an Order to Show Cause direct Respondents, should they invoke the warrant in this case, specify 1) which warrant they purportedly served or explain why they served two different warrants, and 2) specify the timing of when and where the warrant(s) relied upon were served to the Petitioner.

PRAYER FOR RELIEF

WHEREFORE, Mr. Mohamed prays that this Court grant the following relief;

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

4. 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;

5. 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;

6. Declare that Petitioner's arrest and detention exceeded Respondents' authority;

7. In the alternative, if immediate release is not ordered, order Respondents to afford Petitioner a bond hearing within seven days, with at least 48 hours advance notice, in which Respondents bear the burden of proof to demonstrate by clear and convincing evidence that Petitioner is a flight risk or a danger to the community that justifies his continued detention;

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.

Date: August 4, 2026

Respectfully submitted,

/s/ Kira A. Kelley

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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 conversations with my client, his immigration attorney, and his friend, 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: August 4, 2026

Respectfully submitted,

/s/ Kira A. Kelley

Kira A. Kelley, Esq. (402932)

Attorney for Petitioner