IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nathan Samudzi, 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-04115 **EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR AN ORDER ENJOINING REMOVAL FROM THE STATE AND COUNTRY** **28 U.S.C. § 2241** **Expedited Handling Requested**

INTRODUCTION

1. Petitioner Nathan Samudzi, by and through undersigned counsel, hereby files this petition for a writ of habeas corpus to require United States Immigration and Customs Enforcement ("ICE") to release Petitioner from ICE detention and enjoin his removal from the United States.

2. Petitioner is a national of Zimbabwe who, over 20 years ago, was granted asylum withholding of removal for fear of persecution in his home country. Since that time, he has complied with every requirement ICE has placed on him. Yet ICE arrested him this morning and has taken steps to rapidly deport Petitioner to a third country to which he has

no relation and where likely faces torture or persecution, or further repatriation to his home country where he definitively faces torture or persecution.

3. Petitioner does not ask the Court to substitute its judgment for that of our country's immigration agencies and courts. Rather, Petitioner asks the Court to require Respondents to provide him the due process to which he is entitled in those venues. And to keep him in the United States and order release from his instant detention in the interim.

JURISDICTION AND VENUE

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

5. 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. ("INA").

6. Because Petitioner seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas* petitions by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) ("[T]he primary federal *habeas corpus* statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases."); *Moallin v. Cangemi*, 427 F. Supp. 2d 908, 920–21 (D. Minn. 2006).

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1), and

2241(d) because Petitioner is detained within this District, some of the Respondents reside and/or are headquartered within this District, and a substantial part of the events and omissions giving rise to the claim occurred within this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

EXHAUSTION

8. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

PARTIES

PETITIONER

9. Petitioner Nathan Samudzi lives in the State of South Dakota. Petitioner is a native of Zimbabwe. He has an administratively final order of removal, issued in 2006. At the same time, he was granted asylum withholding of removal. He was arrested by federal agents on September 23, 2026, at a routine check-in at ICE's satellite office in Sioux Falls, South Dakota. On information and belief, Petitioner is currently detained at the Freeborn County Jail in Albert Lea, Minnesota.

10. Petitioner is a member of the nationwide class certified in *D.V.D v. U.S.*

Dep't of Homeland Sec., No. 25-CV-10676 (D. Mass). The class consists of:

> All individuals who have a final removal order issued in proceedings under Section 240 [8 U.S.C. § 1229a], 241(a)(5) [8 U.S.C. § 1231(a)(5)], or 238(b) [8 U.S.C. § 1228(b)] of the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

Certification of this class and ensuing relief was upheld by the First Circuit Court of Appeals. *D.V.D v. U.S. Dep't of Homeland Sec.*, No. 26-1212 (1st Cir. Sept. 18, 2026).

11. Petitioner has a final order of removal issued under § 1229a, § 1231(a)(5), or § 1228(b), dated March 9, 2006. The only country designated for Petitioner's removal was Zimbabwe. Petitioner's asylum withholding of removal to Zimbabwe has not been disturbed, but DHS has indicated it seeks to remove Petitioner to some other country when no other country is designated nor identified in the prior proceedings after February 18, 2025. Petitioner therefore falls within the certified class.

FEDERAL RESPONDENTS

12. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration and implementation of federal immigration policies, including those that resulted in the arrest and detention of Petitioner. Secretary Mullin is a legal custodian of Petitioner.

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

General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Mullin. Attorney General Blanche is a legal custodian of Petitioner.

14. Respondent David Venturella is being sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Acting Director Venturella is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner.

15. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Acting Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The St. Paul Field Office is located in Fort Snelling, Minnesota.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

PETITIONER'S IMMIGRATION HISTORY AND STATUS

16. Petitioner Nathan Samudzi is a 30-year-old native of Zimbabwe. He came to the United States at the age of four. Petitioner eventually applied for and was granted asylum withholding of removal to Zimbabwe. The asylum and removal order did not identify any other country to which Petitioner may be removed. Petitioner was allowed to remain free from custody on an order of supervision.

17. Since that time, Petitioner has lived a fruitful life in America. He has lived in South Dakota for decades and Yankton for at least five years, was a high school soccer star in Sioux Falls, and has worked for UPS for seven years under a valid work permit.

Petitioner is happily married to a U.S. citizen, a middle school teacher, with whom he has a one-year-old daughter. He is actively working towards obtaining U.S. citizenship.

18. In 2017, Petitioner plead guilty to one count of marijuana possession and one county of possession with intent to distribute of less than a half-ounce of marijuana in South Dakota state court. Suspending Imposition of Sentence at 2, *South Dakota v. Samudzi*, No. 13CRI17-1258 (S.D. Cir. Ct. Jan. 12, 2018). He received suspended sentences on both counts, subject to certain conditions. *Id.* In 2016, Petitioner pled guilty to misdemeanor ingesting an intoxicant other than alcohol. Judgment of Conviction at 1, *South Dakota v. Samudzi*, No. 13CRI16-319 (S.D. Cir. Ct. Oct. 25, 2016).

19. Respondent was previously arrested by ICE on February 12, 2026, as he and his family deboarded a plane in St. Louis, Missouri, on their first family vacation since the birth of their daughter. For unknown reasons, ICE released Petitioner five days later on another order of supervision. On information and belief, Petitioner has been compliant with this order of supervision in the seven months since his release.

20. Petitioner has complied in good faith with all removal-related requests ICE has made of him pursuant to his order of supervision and governing regulations. He has cooperated with all attempts to secure removal to acceptable third countries.

RESPONDENTS' ARREST OF PETITIONER

21. On September 23, 2026, ICE agents arrested Petitioner at a routine check-in at ICE's satellite office in Sioux Falls, South Dakota. Petitioner has been actively engaged and compliant with ICE's attempts to secure his removal, as required by law. ICE made some sort of vague request that he come in to the Sioux Falls office and, when he promptly

did, they detained him.

22. Counsel for Petitioner has not been able to contact Petitioner. During a short, chaotic phone call with his wife at 12:57 P.M. CDT, Petitioner indicated that he was being taken to the Freeborn County Jail in Albert Lea, Minnesota, and would arrive in about two hours. However, Petitioner does not appear in ICE's Online Detainee Locator System, available at https://locator.ice.gov/odls.[1] Counsel for Petitioner attempted to contact the Freeborn County Jail but his calls to the assigned jail personnel for ICE detainees were not answered or returned.

23. Thus, proceeding on information and belief, Petitioner asserts that the arresting agents did not present Petitioner any type of warrant (whether judicial or administrative) or other paperwork including a notice of revocation of release at the time of his arrest.

24. Upon information and belief, Respondents lacked probable cause to justify Petitioner's warrantless detention. Petitioner has longstanding community ties to both South Dakota and Yankton. He has been a UPS driver for seven years under a work permit authorized by USCIS. He is married to a U.S. citizen with whom he has an infant daughter. His first arrest in February, and subsequent release, prompted widespread local reporting in his home state. Moreover, Petitioner is subject to an order of supervision and is required

[1] This is likely because ICE has recently changed its policy to exclude noncitizens with final orders of removal, like Petitioner, from the ODLS system. *See* Ryan J. Foley, *AP Exclusive: ICE Hides Locations of Thousands of Detainees with Final Removal Orders*, Assoc. Press (Sept. 21, 2026, at 4:41 P.M. CDT), https://apnews.com/article/ice-detainee-locator-disappear-removal-orders-c3329a70bce424879bc5880b286c019c.

to make regular check-ins with ICE, which he complies with. Petitioner is required to update ICE of any change in residence or employment, which he has done. Where ICE has abundant points of contact and ways of monitoring and finding Petitioner, and where the barrier to obtaining a proper warrant is exceedingly low, he was not likely to escape ICE's grasp before he could be ordered removed and prepared for removal.

25. On information and belief, before his instant detention ICE had not formally notified Petitioner that it was revoking his order of supervision, nor did ICE identify any valid change in circumstance to justify revocation of his order of supervision before his arrest.

26. On information and belief, ICE has not formally notified Petitioner of the revocation of his supervised release. Or if they have, it was only after his detention and does not state a valid basis for revocation, as Petitioner cannot be removed to any country at this time. On information and belief, Petitioner was not provided an informal interview as required by regulation after revocation of his release.

27. ICE is legally prohibited from removing Petitioner to Zimbabwe.

28. Petitioner's removal order does not expressly allow him to be removed to any other country.

29. Petitioner was told by ICE officers, in passing, that they believed ICE would be rapidly removing him, perhaps within a day or two. But, on information and belief, Petitioner has not received any paperwork or formal notice of that removal.

30. On information and belief, ICE does not currently have authorization to remove Petitioner to any other country, nor has ICE obtained travel documents for

Petitioner to any other country. Petitioner does not have a passport to any other country to which he could possibly be removed.

31. Petitioner has not purposefully or intentionally acted to prevent his removal.

32. There is no apparent evidence that ICE can or will execute the removal of Petitioner in the reasonably foreseeable future.

33. Indeed, on information and belief, ICE does not have any valid travel document for Petitioner. Further, the regulatory procedure for revocation of Petitioner's order of supervision was not followed, and there were less restrictive alternatives to initiate the removal process And Respondents failed to observe the constitutional, statutory, and regulatory requirements for arresting Petitioner pursuant to a valid administrative warrant, resulting in an invalid warrantless arrest. As a result, Respondents' detention of Petitioner is unlawful and violates agency regulations, enabling statutes, and the Fourth Amendment to the U.S. Constitution.

34. At no time recently has ICE given sufficient advance notice and a meaningful opportunity to raise a reasonable fear of torture or persecution in any third country.

35. ICE has not provided Petitioner with an interview to assess the nature of his reasonable fears of torture and persecution in any potential third country.

36. ICE has not moved to reopen Petitioner's removal proceedings nor has EOIR issued a stay to permit Petitioner to present a fear-based claim.

37. Without the intervention of this Court, Petitioner believes that Respondents will continue to detain him indefinitely, without regard for the mandates of the U.S. Constitution, the Immigration and Nationality Act, and the agencies' own rules and

regulations.

38. To remedy this unlawful detention, Petitioner seeks relief in the form of immediate release from detention on the conditions of the order of supervision in place before his arrest.

REQUEST FOR INJUNCTIVE RELIEF

39. Petitioner, through his undersigned Counsel, requests that the Court issue injunctive orders preventing Respondents from both moving Petitioner out of the state of Minnesota and removing him from the United States altogether.

40. Counsel for Petitioner does not bring this request for emergency injunctive relief lightly. Since the end of Operation Metro Surge, courts of this District have become ever decreasingly likely to issue injunctive orders. And Counsel for Petitioner has stopped requesting them in the vast majority of his cases because, until this time, he has not faced challenges litigating such cases.

41. However, Respondents no longer maintain Petitioner's location in their publicly accessible database. *See* note 1, *supra*. Nor is there any other method readily accessible to Counsel for Petitioner which allows him to locate his client. If ICE moves Petitioner around the country, from facility to facility, it will completely frustrate Counsel's ability to reach him.

42. As explained throughout, Petitioner has not been provided with the required due process for a third-country removal. *See* paras. 34–36, 59–66, *infra* and *supra*. The Court should thus enjoin Petitioner's removal until Respondents meet their constitutional requirements. *See* para. 66, *infra*.

43. At least one court of this District has seen these circumstances fit to enjoin a habeas petitioner's removal from the United States:

> Petitioner alleges he is entitled to under the Fifth Amendment's Due Process Clause and federal regulations. The Court grants the Motion in part and temporarily enjoins his transfer out of Minnesota.
>
> The Court has previously considered many of the same issues raised by these circumstances in similar cases before the Court. The Court hereby grants an initial temporary restraining order to enable the parties to fully brief Petitioner's Motion. See Fed. R. Civ. P. 65; *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981). The Court observes that, at least preliminarily, it likely has jurisdiction to address this issue in light of binding Eighth Circuit precedent. See *Jama v. I.N.S.*, 329 F.3d 630, 632 (8th Cir. 2003), *aff'd in relevant part*, 543 U.S. 335 (2005). While there are important questions to be addressed regarding jurisdiction, whether habeas is the proper vehicle for this relief, and the merits, the balance of equities weighs overwhelmingly in favor of the Petitioner. Specifically, if a TRO is not granted, the Petitioner might be removed to a third country without necessary due process, and be beyond the reach of the Court for a remedy. If the removal is temporarily stayed, the Court struggles to see such a delay as risking irreparable harm to the interest of the government.

Samson C.C. v. Easterwood, No. 26-CV-3588 (KMM/DTS), 2026 WL 2324308, at *1 (D. Minn. Aug. 11, 2026) (enjoining removal).

LEGAL FRAMEWORK

HABEAS PETITIONS

44. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful or unconstitutional detention, including noncitizens detained by federal immigration authorities. *See, e.g.*, *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020). "The Great Writ is 'a vital instrument' to protect

individual liberties, and is an essential check on abuses of government power," particularly against "'arbitrary imprisonments,' which 'have been, in all ages, the favorite and most formidable instruments of tyranny.'" *Tou V. v. Bondi*, No. 26-CV-1831 (JMG/DLM), slip op. at 2 (D. Minn. Feb. 18, 2026) (quoting *Boumediene v. Bush*, 553 U.S. 723, 743–45 (2008)).

45. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a federal law. 28 U.S.C. § 2241(c)(3). Such a petition should be granted if the petitioner proves the illegality of the detention by a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

8 U.S.C. § 1231 AND ZADVYDAS

46. The Due Process Clause of the Fifth Amendment to the Constitution prohibits the United States government from depriving any person of their liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

47. The Fifth Amendment Due Process Clause also requires that Respondents follow procedures that are adequate to establish that detention is both statutorily and constitutionally valid. *See Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money.").

48. *Zadvydas v. Davis* is the landmark Supreme Court case on post-removal

detention under 8 U.S.C. § 1231. In that case, the Supreme Court ruled that 8 U.S.C. § 1231 provides a "presumptively reasonable period of detention" of six months to effect a noncitizen's deportation. *Zadvydas*, 533 U.S. at 701.

49. Importantly, while *Zadvydas* has been read to permit 180 days of detention under § 1231 and any additional "period reasonably necessary to bring about that alien's removal from the United States," *id.* at 689–90, it does not permit the Government to arbitrarily arrest a person subject to § 1231 whenever it can, simply because it can. Such detention under this section is permissible only with the intent and ability to actually execute a noncitizen's removal.

50. Even then, when a person is on an order of supervision with ICE, the preliminary steps toward removal can be accomplished without confinement. In the past, it has been common to call an individual into an ICE office to apply for a travel document and again when it is time for removal. *Zadvydas* also requires active, diligent efforts to carry out removal. It does not authorize the Government to detain a person for an extended period of time and *then* start the process.

SUPERVISED RELEASE UNDER 8 C.F.R. § 241.13

51. Agency regulations also "control the federal government's ability to detain, release, and revoke the release of noncitizens subject to orders of removal." *Garrison G. v. Bondi*, 825 F. Supp. 3d 853, 856 (D. Minn. 2026).

52. Government agencies must follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

53. "DHS implemented the requirements of *Zadvydas* through regulations

governing post-removal order custody determinations. *See* 8 C.F.R. §§ 241.4, 241.13. . . . These limits are not discretionary." *Mong C. v. Noem*, No. 26-CV-1541 (JWB/DLM), slip op. at 4 (D. Minn. Feb. 24, 2026).

54. When a noncitizen is detained pursuant to § 1231 and there is no significant likelihood of removal in the reasonably foreseeable future, they are released pursuant to 8 C.F.R. § 241.13(g). There are two grounds to revoke this supervised release: violation of the terms and conditions of release or changed circumstances. *Id.* at § 241.13(i).

55. "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 *Accardi*, 347 U.S. at 268).

56. Thus, when ICE intends to revoke the release of a noncitizen "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. It must notify an individual in writing before revoking their supervised release. *Id.* at 5. That communication must "notify the noncitizen 'of the reasons for revocation of his or her release.'" *Garrison G.*, 825 F. Supp. 3d at 857 (quoting 8 C.F.R. § 241.13(i)(3)). "Conclusory or post-hoc notices do not satisfy the regulation." *Mong C.*, No. 26-CV-1541, slip op. at 5. ICE must then "conduct an initial informal

interview promptly after the noncitizen's return to custody to afford the noncitizen an opportunity to respond to the reasons for revocation stated in the notification." *Garrison G.*, 825 F. Supp. 3d at 857. The interview must be held after the service of the notice revoking the noncitizens release. *Sunee T. v. Noem*, No. 26-CV-1638 (LMP/DTS), slip op. at 6 (D. Minn. Mar. 11, 2026).

57. Re-detention based on changed circumstances can occur when ICE "determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). ICE must "consider[ ] factors probative of the [noncitizen's] future removal," "including the [noncitizen's] history of compliance efforts, ICE's history in removing [noncitizens] to the country in question or third countries, and the State Department's views on the prospects of removal of [noncitizens] to those countries." *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 784–85 (D. Minn. 2025).

58. "Section 241.13 places the burden on ICE to establish that 'changed circumstances' justified the revocation of release." *Garrison G.*, 825 F. Supp. 3d at 857 (quoting *Roble v. Bondi*, 803 F. Supp. 3d 766, 772–73 (D. Minn. 2025)). ICE must provide "individualized explanation or confirmation of sufficient changed circumstances to justify re-detention." *Chong W.V. v. Noem*, No. 26-CV-1622 (JWB/DTS), slip op. at 7 (D. Minn. Mar. 9, 2026). "[V]ague, conclusory statements" are "insufficient to demonstrate that ICE's revocation of [an individual's] supervised release was justified." *Bounkieng S. v. Noem*, No. 26-CV-1830 (JRT/EMB), slip op. at 5 (D. Minn. Mar. 19, 2026).

THIRD COUNTRY REMOVAL AND LEGAL LIMITS THEREON

59. There are clear statutory and constitutional limits to the Government's right to remove Petitioner to a country besides his home country, to which he has no connection, referred to as a "third country."

60. Under the INA, the government can only deport someone to a third country if it follows "four consecutive removal commands" governing where a person can be sent. *Jama v. ICE*, 543 U.S. 335, 341 (2005). First, the noncitizen themself can designate an acceptable country for removal. 8 U.S.C. § 1231(b)(2)(A). If they do not do so, DHS designates the country of the person's nationality or citizenship. *Id.* § 1231(b)(2)(D). If that is not possible, DHS must look to one of several listed alternatives (e.g., countries of prior residence, birth, or admission). *Id.* § 1231(b)(2)(E). Finally, only if removal to all of those previously listed countries is "impracticable, inadvisable, or impossible," DHS designate a third country. *See id.* § 1231(b)(2)(E)(vii); *see also Samson C.C. v. Easterwood*, No. 26-CV-3588 (KMM/DTS), 2026 WL 2754418, at * 3 (D. Minn. Sept. 17, 2026) (discussing the legal framework for third-country removal).

61. Even then, there are still limits to the government's power to remove someone to a third country. In "all cases," the INA prohibits removal to a country where a noncitizen would face persecution or torture. *Kumar v. Wamsley*, 817 F. Supp. 3d 1059, 1065 (W.D. Wash. 2025). Specifically, the government "may not remove [a person] to a country if . . . the [person's] life or freedom would be threatened in that country" on account of race, religion, nationality, social group, or political opinion. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18; *Sagastizado v. Noem*, 802 F. Supp. 3d 992, 1004 (S.D. Tex. 2025).

62. Thus, even if ICE follows the rules to properly identify a third country, to satisfy the statute and the Due Process Clause, the government must give the person sufficient advance notice and a meaningful opportunity to "raise a reasonable fear of torture or persecution in that third country" before removal. *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 364 n.2 (D. Mass. 2025); See *Jama*, 543 U.S. at 348; *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Notice is only meaningful if given sufficiently in advance to stop the deportation, in a language the person understands, and coupled with an automatic stay sufficient to present a fear-based claim. *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019).

63. "[C]ourts around the country have determined that the procedures currently provided by the Government to noncitizens like [Petitioner] to challenge their removal to a third country on fear-based grounds are constitutionally inadequate." *Folashade O. v. Schilling*, No. 26-CV-2705 (LMP/DTS) 2026 WL 1734877, at *4 (D. Minn. June 16, 2026) (citing cases).

64. Multiple courts have held that to protect the statutory and Due Process rights of someone facing third-country removal, like Petitioner, the Government must reopen removal proceedings so that the person may fairly contest the third-country designation and explain why she has a legitimate fear of being tortured or persecuted in that third country. *See, e.g., Roberts v. Anda-Ybarra*, No. EP-26-CV-00377-DCG, 2026 WL 1459725, at *11 (W.D. Tex. May 22, 2026); *Velasquez Jimenez v. Mullin*, No. ED-CV-26-356-AGR, 2026 WL 1455385, at *9 (C.D. Calif. May 18, 2026) ("District courts have placed the burden on the government to move to reopen so that Petitioner is afforded the

opportunity to apply for protection."); *Aden*, 409 F. Supp. 3d at 1010; *Kuot v. Bondi*, No. 25-CV-02313-BAT, 2025 WL 3763930, at *5 (W.D. Wash. Dec. 30, 2025).

65. The First Circuit recently affirmed the District of Massachusetts' order holding that members of the certified class—of which Petitioner is a member, *see* paras. 10–11, *supra*—have the right to effective and meaningful notice of the specific third country to which ICE seeks to remove them and a meaningful opportunity to raise country-specific fear-based claims before removal. *D.V.D v. U.S. Dep't of Homeland Sec.*, No. 26-1212 (1st Cir. Sept. 18, 2026). This relief applies to Petitioner and binds Respondents nationwide. Detention or imminent removal of a class member without those procedures is therefore unlawful.

66. These required processes and proceedings take time, and courts therefore enjoin removal until the Executive Office of Immigration Review ("EOIR"), commonly referred to as "immigration court, can rule upon this question. *Aden*, 409 F. Supp. 3d at 1011; *Velasquez Jimenez*, 2026 WL 1455385, at *9; *Sagastizado*, 802 F. Supp. 3d at 1011–12; *Cruz-Medina v. Noem*, 806 F. Supp. 3d 536, 549 (D. Md. 2025); *see also* 8 C.F.R. § 1003.23(b)(1); *D.V.D.*, 821 F. Supp. 3d at 135; *Kumar*, 817 F. Supp. 3d at 1069; *Aden*, 409 F. Supp. 3d at 1010 (quoting *Oshodi v. Holder*, 729 F.3d 883, 889 (9th Cir. 2013)).[2]

[2] Petitioner asserts that an indefinite stay of removal is the proper approach, given the uncertain timeframe of third-country removal determinations and the benefit of reducing the administrative burden on the Court in the event extensions of the stay are necessary. The Court may simply order Petitioner's or Respondents' counsel (or both) to submit a status update within a certain time after the third-country removal proceedings are final. However, Petitioner acknowledges that some courts take a different approac, ordering an explicit timeframe after notice for the noncitizen to raise a fear-based claim of being

THE FOURTH AMENDMENT

67. The Fourth Amendment to the United States Constitution enshrines "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. This right "shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *Id.*

68. The Fourth Amendment applies to noncitizens. *See United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

69. 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) ("[A]rrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest.").

70. Even to the extent a noncitizen present in the country could be detained under other statutory authority, "it does not follow that [such a noncitizen] can be arrested and detained . . . without first complying with 8 U.S.C. § 1357(a), which addresses federal immigration officials' authority to make warrantless arrests." *Jefferson G.H.L. v. Blanche*,

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tortured or persecuted in the third country, and an additional period for review by EOIR. *See Sagastizado*, 802 F. Supp. 3d at 1009; *Folashade O. v. Schilling*, No. 26-CV-2705 (LMP/DTS) 2026 WL 1734877, at *5 (D. Minn. June 16, 2026); *Kumar*, 817 F. Supp. 3d at 1073; *Portela-Hernandez v. Trump*, No. 25-1633-BAH, 2026 WL 74042, at *14 (D. Md. Jan. 9, 2026). However, courts taking this approach still enjoin removal until the process is complete. *See, e.g.*, *Folashade O.*, 2026 WL 1734877, at *5; *Sagastizado*, 802 F. Supp. 3d at 1016.

No. 26-CV-2344 (JRT/ECW), 2026 WL 1229623, at *2 (D. Minn. May 5, 2026) (discussing detention under 8 U.S.C. § 1225(b)(2)); *see also Almeida-Sanchez v. United States*, 413 U.S. 266, 271—74 (1973) (holding the "permissible scope of intrusiveness" under Fourth Amendment greater at "the border itself" or "its functional equivalents" than in interior of the country).

71. There are two regulatory schemes for administrative warrants issued by DHS and ICE. First, there are warrants of arrest, which are authorized by 8 U.S.C. § 1226 and implemented via regulation at 8 C.F.R. § 236.1(b). These administrative warrants of arrest are used to "arrest[] and detain[] pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). These warrants are issued on ICE "Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1). Second, there are warrants of removal, which are authorized by 8 U.S.C. § 1231 and implemented via regulation at 8 C.F.R. §§ 241.2, 241.3. This brand of administrative warrant is issued on "Form I-205, Warrant of Removal," *id.* at § 241.2(a), and is used to arrest and detain noncitizens with a final order for removal pending their actual removal from the United States.

72. Because Petitioner is subject to a final order of removal, the warrant required to arrest him was the second kind of administrative warrant, the warrant of removal. *Inti C.-L. v. Blanche*, No. 26-CV-2777 (PJS/SGE), slip op. at 2–3 (D. Minn. June 9, 2026). "A warrant of removal must be prepared in every case resulting in a final order of removal," *United States v. Orozco-Acosta*, 607 F.3d 1156, 1163 (9th Cir. 2010). And a warrant of removal was required for his arrest because a "removal order is not a surrogate for an arrest warrant." *United States v. Segura-Gomez*, No. 17-CR-65-FL-1, 2018 WL 6582823, slip

op. at 16–17 (E.D.N.C. May 25, 2018), *R. & R. adopted*, (E.N.D.C. Nov. 30, 2018); *accord 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.").

73. A warrant of removal is not valid unless signed by an individual authorized to issue such a warrant. *Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), 2026 WL 1847044, at *2–3 (D. Minn. June 26, 2026). And a court may consider a wide variety of information in determining whether an administrative warrant "is false, inauthentic, or materially inaccurate." *Fernando C.C. v. Bondi*, No. 26-CV-1235 (LMP/JFD), 2026 WL 446408, at *3 (D. Minn. Feb. 17, 2026); *see Victor O. v. Bondi*, No. 26-CV-1122 (ECT/LIB), 2026 WL 392428, at *2 (D. Minn. Feb. 11, 2026) (discussing various, noninclusive bases on which a court may disregard an administrative warrant).[3]

74. Absent a valid warrant for removal, arrests of noncitizens with a final order for removal are held to the same statutory and regulatory standards for warrantless arrest as for noncitizens being placed into removal proceedings. *Id.* at 9 n.7; *Inti C.-L.*, No. 26-

[3] Out of candor to the Court, Petitioner notes that two courts of this District have elaborated on the analysis in *Ger V.* which suggested that ICE may not be able to rely on years-old, already executed Form I-205 warrants of removal to provide arrest authority. 2026 WL 1847044 at *4 n.5. One court found that "an I-205 warrant of removal remains effective if the subject of the warrant is arrested but not removed from the country," *Pao M. v. Blanche*, No. 26-CV-3399 (LMP/DJF), 2026 WL 2454331, at *3 (D. Minn. Aug. 21, 2026), and the court which issued *Ger. V.* embraced that reasoning. *Ansumana S. v. Blanche*, No. 26-CV-3371 (KMM/DJF), 2026 WL 2606655, at *8 (D. Minn. Sept. 3, 2026). However, nothing in this line of reasoning disturbs the requirement that ICE "ha[ve] a valid administrative warrant in hand at the time of [Petitioner's] arrest." *Id.* (second alteration in original) (quoting *Pao M.*, 2026 WL 2454331, at *3).

CV-2777, slip op. at 4–5.

75. ICE must have statutory authority to arrest a noncitizen before it can exercise its statutory authority to detain them. *Fernando C.C.*, 2026 WL 446408, at *2 ("[A] warrantless arrest under 8 U.S.C. § 1357(a)(2) is a threshold exception to arrest by warrant and, after the arrest, detention may proceed under Sections 1225, 1226 and 1231."); *see also Luis A.S. v. Easterwood*, No. 26-CV-2447 (PJS/DTS), slip op. at 2 (D. Minn. May 26, 2026), ECF No. 9 ("Like any federal agency, ICE 'literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute.'") (quoting *Fed. Elec. Comm'n v. Cruz*, 596 U.S. 289, 301) (2022)).

76. The Immigration and Naturalization Act permits ICE officers "to arrest a noncitizen without a warrant only in limited circumstances: (1) to arrest a noncitizen who, in the presence or view of the arresting officer, "is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of [noncitizens]," or (2) to arrest a noncitizen when the arresting officer has "reason to believe" the noncitizen is "in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest . . . ." 8 U.S.C. § 1357(a)(2) (emphasis added); *see also* 8 C.F.R. §§ 287.3(a), (d) and 287.8(c)(2)(i)–(ii); *accord Cutberto R.P. v. Blanche*, No. 26-CV-1934 (MJD/DTS), slip op. at 9 (D. Minn. Apr. 10, 2026).

77. "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 1237.

78. However, 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. at 945 (quotation omitted). That is because "it is not a crime for a removable alien to remain present in the United States." *Arizona v. United States*, 567 U.S. 387, 407 (2012). "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." *Jefferson G.H.L.*, 2026 WL 1229623, at *3.

79. Rather, "the Fourth Amendment demands a particularized assessment of [Petitioner]'s likelihood of escaping" before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)); *accord, e.g.*, *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006–07 (N.D. Ill. 2016); *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1217 (D. Colo. 2025) (requiring "particularized inquiry" that subject is likely to abscond).

80. The facts informing the assessment of whether a person is likely to escape "may vary." *See Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 13 (D.D.C. 2025). However, "[j]ust because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape." *Jefferson G.H.L.*, 2026 WL 1229623, at *3. "Courts have also made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time

and has strong community ties." *Escobar Molina*, 811 F. Supp. 3d at 31 (collecting cases).

81. It is Respondents' burden to establish both 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, slip op. at 11 (requiring "probable cause to support that Petitioner was 1) not lawfully present and 2) likely to escape before they could get a warrant based on the totality of the circumstances"); *accord Jefferson G.H.L.*, 2026 WL 1229623, at *2–3.

82. If Petitioner was arrested without a valid Form 1-205 and without the appropriate probable cause, he must be released. *Inti C.-L.*, No. 26-CV-2777, slip op. at 4–5 (granting release to a habeas petitioner where he was arrested without a valid I-205 warrant or probable cause to believe he was a flight risk); *Ger V.*, No. 26-CV-2543, slip op. at 9 (same).

83. ICE regulations further constrain Respondents' conduct in making warrantless arrests. The only appropriate manner for immigration authorities to make warrantless arrests for perceived civil violations of immigration law is laid out in 8 C.F.R. § 287.3.

84. Retroactively served warrants cannot cure an otherwise unlawful detention. *See also Alberto C.M. v. Noem*, No. 26-CV-380 (DWF/SGE), 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the warrant "was not issued until after his arrest and initial detention"); *Marlon S.T.L. v. Bondi*, No. 26-CV-665 (DWF/LIB), 2026 WL 251975, at *2 (D. Minn. Jan. 30, 2026) ("A detainee being held pursuant to § 1226(a), as Petitioner is here, must have been served an arrest warrant prior to detainment.").

RELEASE AND A STAY OF REMOVAL IS THE PROPER REMEDY

85. "Habeas is at its core a remedy for unlawful executive detention. The typical remedy is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citations omitted).

86. "Courts in this District have repeatedly found that the government's failure to follow its own requirements under Section 241.13 warrants release, not a 're-do' of Section 241.13 procedures." *Por M. v. Noem*, No. 26-CV-1546 (PJS/DJF), slip op. at 11 (D. Minn. Mar. 9, 2026) (collecting cases), *R. & R. adopted*, (D. Minn. Mar. 19, 2026).

87. "The remedy for a warrantless arrest is immediate release." *Edison D.M.J. v. Bondi*, No. 26-CV-1588 (DWF/LIB), slip op. at 5 (D. Minn. Feb. 27, 2026). This is because "[t]he [Fourth] Amendment is a constraint on the power of the sovereign, not merely on some of its agents. The remedy for its violation imposes costs on that sovereign, motivating it to train all of its personnel to avoid future violations." *Arizona v. Evans*, 514 U.S. 1, 18–19 (1995) (Stevens, J., dissenting).

88. In addition to release, the Court should order an indefinite stay of Petitioner's removal pending the outcome of third-country removal proceedings in EOIR. *See* para. 66 & n. 2, *supra.*

CAUSES OF ACTION

COUNT ONE: FOURTH AMENDMENT SEARCH AND SEIZURE

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

90. Respondents did not have Petitioner's consent to arrest him. On information

and belief, Respondents did not present any valid warrant, including a valid Form I-205 administrative warrant, to Petitioner when they detained him and it is unclear whether they have produced once since. Petitioner, proceeding upon information and belief, does not believe that a warrant was properly issued and served in this instance.

91. Thus, Petitioner alleges that he was not arrested pursuant to a valid warrant.

92. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Petitioner under 8 U.S.C. § 1357(a)(2) because, at the time of Petitioner's warrantless arrest, Respondents lacked probable cause, or "reason to believe," that Petitioner was both "in the United States in violation of any such law or regulation" regulating the admission, exclusion, expulsion, or removal of noncitizens and "likely to escape before a warrant can be obtained for his arrest."

93. Respondents have made, and continue to make, an unreasonable warrantless seizure of Petitioner under the Fourth Amendment. Petitioner's resultant detention is therefore unlawful.

COUNT TWO: VIOLATION OF *ACCARDI* DOCTRINE

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

95. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) ("If Petitioner can prove the allegation [that the agency failed to follow its rules in a hearing] he should receive a new hearing"). *Accardi* prohibits agencies from taking actions "inconsistent with their internal regulations when it would affect individual rights." *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001).

96. On information and belief, Respondents' detention of Petitioner violates the law because ICE did not comply with its own regulations under 8 C.F.R. § 241.13 in revoking his supervised release.

97. By arresting Petitioner without a valid warrant and without the requisite probable cause to believe that Petitioner was a flight risk, Respondents violated 8 C.F.R. § 287.8(c)(2)(ii)).

98. Respondents' basis for revoking Petitioner's release fails as a matter of law. Respondents may revoke Petitioner's release if "changed circumstances" exist. That is, if "there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). However, Respondents are barred from removing Petitioner at all until they provide certain due process concerning third-country removals. *See* paras. 60–64, *supra*. Where Respondents have not even begun the process to properly remove Petitioner to a third-country, they do not present a valid basis to revoke Petitioner's release, much less a "reasoned determination." *See Garrison G.*, 825 F. Supp. 3d at 857. Courts consider the factors in 8 C.F.R. § 241.13(f), *id.*, which include

> the history of the Service's efforts to remove aliens to the country in question or to third countries, including the ongoing nature of the Service's efforts to remove this alien and the alien's assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question.

99. There is no evidence available to Petitioner or his counsel that ICE considered any of those § 241.13(f) factors when revoking Petitioner's release, much less that his removal to a proper third-party country is possible at all. Thus, Respondents did

not properly revoke his supervised release.

100. All of Respondents' violations of their own regulations directly impacted Petitioner's individual rights, namely, Petitioner's personal liberty interests in freedom from confinement. As such, Petitioner's detention is unlawful and should be set aside under the *Accardi* doctrine.

COUNT THREE: IMPROPER THIRD COUNTRY REMOVAL UNDER GOVERNING STATUTES AND REGULATIONS

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

102. This count rests on two independent protections against Petitioner's threatened removal to a third country.

103. First, because he was previously granted withholding of removal to his home country under 8 U.S.C. § 1231(b)(3), Respondents cannot remove him there

104. Second, to the extent Respondents instead pursue removal to a different country, they may do so only in a manner that satisfies the procedural and substantive requirements the INA and Foreign Affairs Reform and Restructuring Act (which implements the United States' obligations under the Convention Against Torture) impose on any third-country removal. *See id.*; *see also* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105-277, div. G, subdiv. B, tit. XXII, § 2242, 112 Stat. 2681-822.

105. Those requirements are both procedural and substantive. Procedurally, the INA provides "four consecutive removal commands" that DHS must follow in sequence, permitting third-country removal only after removal to the designated country and each

statutory alternative proves "impracticable, inadvisable, or impossible." *Jama*, 543 U.S. at 341; 8 C.F.R. § 1240.12(d); 8 U.S.C. § 1231(b)(2)(E)(vii). Substantively, 8 U.S.C. § 1231(b)(3) and FARRA together bar removal to any country—third country or otherwise—where a noncitizen is more likely than not to face persecution or torture.

106. Respondents have violated both requirements here: they have threatened to remove Petitioner to a third country without following the required sequencing, and without providing her sufficient notice or a meaningful opportunity to invoke the protections that 8 U.S.C. § 1231(b)(3), FARRA, and their regulations guarantee.

107. Respondents' anticipated reliance on vague categorical diplomatic assurances cannot cure this failure. The INA, FARRA, and their implementing regulations require individualized consideration of Petitioner's fears of persecution or torture, *see* 8 U.S.C. § 1231(b)(3); 8 C.F.R. §§ 208.31, 1208.16–1208.18.

108. Respondents' plan to remove Petitioner to a third country is therefore unlawful under the INA, FARRA, and their implementing regulation. Consistent with relief granted by multiple district courts, an injunction is necessary to prevent his removal to any third country until Respondents provide notice and a meaningful opportunity to seek protection. *See, e.g.*, *Tamrat v. Blanche*, No. 26-CV-1529, 2026 WL 1871887, at *8 (W.D. Wash. Jun. 30, 2026) (prohibiting removal to a third country without notice and a meaningful opportunity to be heard in reopened proceedings before an Immigration Judge); *D.J.R.R. v. Genalo*, No. 26-CV-3124, 2026 WL 1746716, at *9 (E.D.N.Y. Jun. 17, 2026) (same); *Elshourbagy v. Bondi*, 817 F. Supp. 3d 1102, 1117 (W.D. Wash. Dec. 23, 2025) (same); *Nguyen v. Scott*, 796 F. Supp. 3d 703, 739 (W.D. Wash. 2025) (same via

preliminary injunction).

109. This request is properly brought in habeas, as multiple district courts and the Supreme Court have confirmed. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (remanding habeas action requesting preliminary injunction against unlawful removal for consideration of the injunction factors); *J.G.G.*, 604 U.S. at 672 (requiring suit challenging removal and detention under Alien Enemies Act to be brought in habeas); *Ali v. Sessions*, No. 17–CV–5334 (PJS/KMM), 2017 WL 6205789, at *6 (D. Minn. Dec. 7, 2017) (enjoining the Government "from removing or causing the removal of petitioner . . . from the United States until the Board of Immigration Appeals issues a decision"); *Velasquez Jimenez*, 2026 WL 1455385, at *8 (collecting cases showing that a habeas petition is a proper vehicle for challenging third country removal).

COUNT FOUR: IMPROPER THIRD COUNTRY REMOVAL UNDER GOVERNING STATUTES AND REGULATIONS

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

111. Independent of whether Respondents' third-country removal process in this case satisfies the INA's and FARRA's substantive protections addressed in Count Three, the Fifth Amendment separately requires that Respondents provide Petitioner meaningful notice and a meaningful opportunity to be heard before carrying out that removal.

112. This constitutional requirement is well established. "[T]he Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings," *Reno v. Flores*, 507 U.S. 292, 306 (1993), and "no person shall be removed from the United States without opportunity, at some time, to be heard," *A.A.R.P.*, 605 U.S. at 94; *see also Yamataya v.*

Fisher, 189 U.S. 86, 99–101 (1903) (requiring "notice and . . . an opportunity to be heard" before removal). The Supreme Court recently clarified what that "opportunity" requires in practice: notice must come early enough for the person to have a genuine chance to seek relief. *A.A.R.P.*, 605 U.S. at 94–95 (holding that "roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster")

113. Respondents' plan to remove Petitione rto a third country falls short of that standard: they have stated their intent to remove Petitioner to a third country without providing him meaningful notice or a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. § 1231(b)(3) and FARRA.

114. This procedural failure is independently unlawful—regardless of whether Respondents ultimately comply with the INA and FARRA—and numerous courts have held that ICE's third-country removal policy violates due process on this basis alone. *See Kumar*, 2025 WL 3204724, at *6 (collecting cases). Due process therefore requires an injunction against Petitioner's removal to a third country until the government moves to reopen his removal proceedings so that he may present fear-based claims to EOIR regarding the third country. *See, e.g.*, *Navarro-Maury v. Hermosillo*, 26-CV-333, 2026 WL 1413166, at *5 (W.D. Wash. May 20, 2026) (finding Due Process violation where government denied the petitioner's claim of credible fear without reopening Petitioner's removal proceedings); *Aden*, 409 F. Supp. 3d at 1011; *Baltodano v. Bondi*, 815 F. Supp. 3d 1191, 1201 (W.D. Wash. 2025); *Velasquez Jimenez*, 2026 WL 1455385, at *9; *Kuot*, 2025 WL 3763930, at *5.

REQUEST FOR EVIDENTIARY HEARING

115. An evidentiary hearing is appropriate when material facts are in dispute. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995). However, an evidentiary hearing is not required when a conclusion can be reached on the issue pursuant to undisputed facts. *United States v. Winters*, 411 F.3d 967, 973 (8th Cir. 2005).

116. Petitioner anticipates that Respondents may contest various facts such as the date, time, and location that any warrant and/or notice to revocation were issued or served in this case, or ICE officers' authority to do so. They may also dispute ICE's analysis of Petitioner's potential third-country removal Such issues could be dispositive. If the Court finds that material facts are in dispute, and it does not order his release based on undisputed facts, then Petitioner respectfully requests an evidentiary hearing so that sworn testimony may be taken from him and the relevant ICE officers and officials to determine the truth of these issues.

REQUEST FOR ORDER TO SHOW CAUSE

117. 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.

118. 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.

119. Petitioner respectfully requests that an Order to Show Cause direct Respondents, should they offer a warrant in this case, to provide sufficient details to establish the validity of this warrant, such as: (1) the name, title, training, and qualifications of the officer who issued the warrant; (2) the time and place at which the warrant was issued; (3) the evidence the issuing officer relied upon in making his determination that an arrest was warranted in this case; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas petition.

120. Petitioner respectfully requests that an Order to Show Cause direct Respondents, should they offer a notice of revocation of release and alien informal interview statement, to provide sufficient details to establish the validity of these documents, such as: (1) the name, title, training, and qualifications of the officer who issued the notice of revocation; (2) the time and place at which the notice of revocation was issued; (3) the basis for revocation and the evidence the issuing officer relied upon in making his determination that revocation was warranted; (4) the name, title, training and qualifications of the agent who served the notice of revocation upon Petitioner; (5) the time, place, and manner by which the notice of revocation was served upon Petitioner; (6) the name, title, training and qualifications of the agent who conducted any informal interview with Petitioner; (7) the time, place, and manner by which the informal interview was held; and (7) whether the documents in this case were created specifically in response to or in anticipation of this habeas petition.

121. Specifically, Petitioner requests that the Court order Respondents to produce evidence in **completely unredacted** form. In habeas cases in this District, Respondents continually produce evidence with key information redacted—without explanation, justification, or permission by the Court or rule of law—which deprives petitioners of their ability to conduct fact investigations and prepare certain evidence. Respondents are free to seek Petitioner's consent to file redacted documents, or seek leave of the Court to do so, but the Court should not accept as valid any evidence which is manipulated or redacted without prior permission.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter;

2. Issue an order enjoining Petitioner's removal or transfer outside of this District pending adjudication of this Petitioner;

3. Order Respondents to show cause as to why Petitioner should not be released immediately on his prior order of supervision;

4. Declare that Petitioner's current detention exceeded Respondents' authority and is unlawful;

5. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

6. 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;

7. Enjoin Respondents from implementing any additional conditions of release beyond those in Petitioner's current order of supervision;

8. Enjoin Petitioner's removal from the United States until Respondents provide him with access to her statutory rights to protection and due process of law concerning third country removal, namely:

    a. With respect to removal to any third country, Respondents must file a motion to reopen Petitioner's removal proceedings so he may pursue a fear-based claim as to removal to the third country;

    b. Enjoin Petitioner's removal indefinitely until he has a meaningful opportunity to be heard in reopened proceedings with a hearing before EOIR and any resulting removal decision is rendered and final;

    c. Alternatively, Require respondents to:

        i. Provide written notice of removal to a third country at least thirty (30) days prior to the removal, and notice to Petitioner in a language he understands;

        ii. If, after inquiring whether Petitioner has a fear of removal to that third country, he expresses such a fear, then Respondents must provide a reasonable fear interview to screen for Petitioner's fear of persecution and torture, consistent with 8 C.F.R. § 208.31 and other applicable law;

        iii. If Petitioner is found to have a reasonable fear of removal, then Respondents must move to reopen Petitioner's removal proceedings to allow him to present a full claim for relief under 8 U.S.C. § 1231(b)(3), FARRA, and other applicable law;

        iv. If Petitioner is not found to have such a fear, then Respondents must allow a further 45 days for her to file a motion to reopen with EOIR or Board of Immigration Appeals, as appropriate;

9. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), Local Rule 54.3(a), or any other basis

justified by law, upon such application; and

10. Grant any and all further relief this Court deems just and proper.

DATED: September 23, 2026

Respectfully submitted,

/s/ Daniel P. Suitor
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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 as well as my personal knowledge as an attorney filing over 60 habeas petitions for noncitizens detained during and after Operation Metro Surge. I further provide this verification pursuant to *Vu V.L. v. Mullin*:

> As courts in this District have observed over the last several months, 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." 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.

No. 26-CV-2947 (LMP/JFD), slip op. at 7 (D. Minn. July 1, 2026) (citations and quotations omitted).

Specific to this case, there are exigent circumstances justifying both my verification of the Petition and the form of pleading upon my own information and belief. I have made every attempt I can to contact Petitioner in short order. I have been in contact with Petitioner's wife and immigration counsel and asked them for any information concerning his arrest. I have contacted the jail to which Petitioner was being transported for detention, per his wife's last contact with him. ICE's online system for locating detainees has been rendered useless to find Petitioner, likely an intentional strategy by Respondents to frustrate

detainees' access to counsel.

It gives me no pleasure to plead Petitioner's case so broadly, but this is the best information I can muster. And the Rules of Civil Procedure permit an attorney to sign pleadings "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." Fed. R. Civ. P. 11(b)(3) (emphasis added). ICE has indicated that it intends to ship Petitioner off to a third country with undue and unconstitutional haste. Neither his counsel nor family can reach him. I have experienced the effect of the rapid movement of my clients and a resulting loss of contact in other cases. *See, e.g.*, Not. of Voluntary Dismissal at 2, *Htun M.P. v. Mullin*, No. 26-CV-2428 (PJS/LIB) (D. Minn. May 20, 2026) (Dkt. 13). This deprivation is not hypothetical in this case; Petitioner has already experienced it. And there is no promise I will ever be able to contact Petitioner if this Petition is not filed immediately.

As counsel for Petitioner, I gladly commit to amendment of this pleading if I can eventually contact my client in such a manner that allows the allegation of more specific facts. But until such time, this is what I can provide. Habeas has historically beem used to redeem people from "arbitrary proceedings" where they were sent to "remote islands, garrisons, and other places, thereby to prevent them from the benefit of the law, and to produce precedents for the imprisoning of any other of his majesty's subjects in like manner." 9 Holdsworth, History of English Law 116 (1926). That is precisely what the Court, Petitioner, and his counsel faces if Respondents are permitted to hide Petitioner

away, move him at will, and deport him without due process. The Court should thus accept this Petitioner as properly verified "under the circumstances." Fed. R. Civ. P. 11(b)(3).

DATED: September 23, 2026

Respectfully submitted,

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