IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

Phadky Tou Keungsavath, Petitioner v. Pamela Bondi, Attorney General; et al., Respondents.	Case No. 0:26-cv-00714 **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS** **EXPEDITED HANDLING REQUESTED**

PROCEDURAL & FACTUAL HISTORY

Petitioner incorporates by reference the facts alleged in his verified habeas corpus petition. *See* ECF No. 1. The Government responded to Petitioner's Habeas Petition asking the court to dismiss or transfer this matter to Texas. *See* ECF No. 8.

This court should not transfer this matter to Texas due to the games Respondents have been playing with attorneys and keeping them in the dark as to where their clients are located. Counsel's assistant contacted the St. Paul Field Office detention center ("Whipple Building") to attempt to locate Petitioner as the ICE locator did not show Petitioner. See Ex. 1, Affidavit. Counsel's office was informed there would be no contact at the Whipple Building but that Petitioner woul'd probably be transferred to Texas. *Id.* ICE would not confirm or deny whether Petitioner was still at the Whipple Building or when and if the transfer would take place for "security reasons." *Id.* The ICE officer also refused to give his name again citing, "security reasons." *Id.* The facts of this case and Respondent's egregious behavior of using a battering ramp to break down Petitioner's door

which occurred in Minnesota separates this case from other cases. The substantial and unlawful events all took place in Minnesota, witnesses were in Minnesota, unlawful arrest occurred in Minnesota, ICE's continued egregious behavior of refusing to allow counsel access to their clients occurred in Minnesota and not letting the attorneys know their clients' whereabouts all occurred in Minnesota. Respondents' unlawful actions of trying to break down Petitioner's door with a battering ramp to arrest him without a judicial warrant alone gives this court reason to keep the case in Minnesota, which Respondents do not deny this occurred in their response.

ARGUMENT

I. Venu

28 U.S.C. Section 2241, which provides that district courts may grant habeas relief "within their respective jurisdictions." 28 U.S.C. § 2241(a). The Supreme court has generally interpreted this language to mean that habeas petitions should, generally, be brought in the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 443–44 (2004). However, the *Padilla* court held there was an exception where the ICE officer was not forthcoming with the identity of the custodian or place of confinement. *Id.* at 454. That is exactly what occurred here, the ICE officer refused to give counsel access to the client and refused to answer questions because of "security reasons." Petitioner was not listed on the ICE locator at the time counsel attempted to locate him. Counsel assumed he would be taken to the Whipple Building as that is a common knowledge amongst all immigration attorneys. The ICE officer clearly impeded counsel's ability to obtain information on her client by citing "security reasons." This

court has applied similar exceptions in *Sue H. v. Donald Trump*, No. 26-cv-00416 (D. Minn. Jan. 20, 2026); *Victor P. v. Kristi Noem*, et al., No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19. 2026); and *Jose A. v. Kristi Noem*, No. 26-cv-480 (JMB/ECW). Petitioner urges this court to apply the same exception to this case and keep the matter in Minnesota.

II. Violation of the Fourth Amendment of the United States Constitution and 8 U.S.C. § 1357(a)(2)

The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person). As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *Id.* Arrest and detention of a person, including of a noncitizen, absent a neutral, judicial determination of probable cause violates the Fourth Amendment of the Constitution. Id.; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of

detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. S*ee Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

Congress enacted a strong preference that immigration arrests be based on warrants. See *Arizona v. U.S.,* 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have "reason to believe" the person is violating the immigration laws and that the person "is likely to escape before a warrant can be obtained." *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii). Without a statutory basis to arrest, the Government is required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Mr. Keungsavath. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. Mr. Keungsavath received no such judicial determination, yet his detention continued well beyond 48 hours, rendering it presumptively unconstitutional.

The Government cannot salvage this seizure by invoking generalized immigration enforcement interests and they do not in this case. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Here, Mr. Keungsavath was on an OSUP and there is no allegations that violated the terms of his OSUP, is a flight risk, a danger to the community, etc. yet ICE attempted to bust through his door with battering ramp to arrest

him. The warrantless arrest occurred in violation of the clear, narrow circumstances permitted by Statute. There has been no finding of probable cause or other determination by a neutral magistrate that would cure this infirmity; his arrest lacked any legal basis and there continues to be no legal basis for his detention. Therefore, the arrest and ensuing detention constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment and it took place in Minnesota so this court should take jurisdiction.

Respondents egregious behavior of using a battering ramp to try to breakdown Petitioner's door without a judicial warrant and unlawfully arrests him gives this court another reason to take jurisdiction over this case. For all the reasons discussed, Petitioner requests the court to take jurisdiction over this case and not transfer it to Texas.

CONCLUSION

The Court must order Respondents to immediately release Petitioner.

DATED: February 2, 2026

/s/ Alyssa Nguyen-Schmitz

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DECLARATION OF ESMERALDA LINARES

In accordance with the provisions of Section 1746 of Title 28, United States Code, I, the undersigned, Esmerald Linares, do hereby make the following declaration, under penalty of perjury in the above-styled and numbered cause:

1. I am Alyssa Nguyen-Schmitz's assistant.
2. I am trained when a client wishes to hire us to immediately look at the ICE locator to see where the client is located.
3. When Petitioner's family contacted us, I immediately looked to see if he could be located on the ICE locator website.
4. Client was not on the ICE locator website.
5. The attorney than told me to call ICE to see where the client will be and whether he is in the Whipple Building.
6. I contacted ICE and it took days as no one would answer the phone.
7. After numerous attempts I was able to speak to an Officer.

8. I asked the immigration Officer whether Petitioner was still at the Whipple Building or if he was transferred elsewhere.
9. The Officer would not confirm or deny but simply told me Petitioner would probably be transferred to Texas but due to security reasons he could not confirm any location.
10. I asked the Officer for a phone number where we can contact the client and he refused to provide the information.
11. I asked the Officer whether our office could have contact with the client but he advised me there would be no contact with the client when they are being "processed".
12. I asked for his name and he said for security reasons, he cannot provide his name but to refer to him as "officer."

Sworn to and subscribed this February 2, 2026.

Esmeralda Linares
Assistant at Nguyen Firm, LLC