

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Riky Alexis Morales Lopez,

Petitioner,

v.

Pamela Bondi, Attorney General, United
States Department of Justice,

Kristi Noem, Secretary, U.S. Department
of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Respondents.

Case No.0:26-cv-01429

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Riky Alexis Morales Lopez, (hereinafter “Petitioner”) by and through 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 ICE detention or, in the alternative, return Petitioner to detention in Minnesota and to provide him with a bond hearing.

2. Beyond the standard due process violation resulting in the grant of thousands of habeas petitions for all manner of immigrants, Petitioner’s detention is particularly egregious for at least two reasons:

- a. First, Petitioner applied for a U-1 VISA as a crime victim and was given “bona fide” deferred status by USCIS. Under Petitioner **cannot be**

deported, much less detained. As explained by the United States Supreme Court, if a U visa petition is deemed bona fide, USCIS grants the petitioner “deferred action,” along with work authorization. “Deferred action” refers to an “exercise in administrative discretion” under which “no action will thereafter be taken to proceed” with the applicant's removal from the United States. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (citation omitted).

b. **Second**, Petitioner’s removal case was dismissed by an Immigration Judge in El Paso **for failure to prosecute.** If the government is not seeking to deport Petitioner, they have no basis to detain him.

3. After entry to the United States in 2006, Petitioner has been living peacefully in Minnesota with his wife.

4. Respondents arrested Petitioner in January in Minneapolis, Minnesota without a warrant. Petitioner presented his work authorization and informed him of his U-1 deferred status. Despite, those obvious indicia of legal status, the ICE agents arrested Petitioner. They did not cite a statutory basis for his detention at that time.

5. At some point after Respondents detained Petitioner, ICE transferred him to Camp East Montana, an immigration detention facility in El Paso. Upon information and belief, that transfer was intended to move Petitioner out of this state and deprive this Court of its jurisdiction. During the period in which he was located in Minnesota, Respondents did not maintain updated publicly available information that would enable Petitioner’s legal counsel to locate him.

6. Petitioner's detention has been very difficult for both him and his family. He has been separated from his wife— transferred to a detention center more than a thousand miles away from his home and loved ones. This experience and his separation from his loved ones have caused Petitioner tremendous fear, worry, and anxiety.

7. Petitioner was a victim of an aggravated robbery on August 25, 2019. In that incident, two assailants demanded money. [REDACTED]

[REDACTED] Petitioner was hospitalized. In the coming weeks, he reported the crime and cooperated with police. Petitioner continues to suffer psychological and physical traumatic effects from the violent assault he suffered.

8. On April 22, 2020 date, based on the violent crime he suffered and his cooperation with the police, filed for a U-1 Visa for crime victims. On or about August 4, 2024, Petitioner was granted bona fide deferred action status, meaning that he meets the criteria to receive a U-1 Visa. A bona fide deferred action status has the equivalent protections from removal as receiving a U-1 Visa. Petitioner's status continues to be valid. As the Supreme Court has held:

If a U visa petition is deemed bona fide, USCIS grants the petitioner "deferred action," along with work authorization. "Deferred action" refers to an "exercise in administrative discretion" under which "no action will thereafter be taken to proceed" with the applicant's removal from the United States. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999)(internal citation omitted).

9. Petitioner's detention is unlawful for at least six reasons.

10. **First**, Petitioner was granted deferred action status which is still in effect and which Courts have found constitutes "the Government's decision *not* to proceed with

removal.” *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 906 (W.D. Wash. 2025). Thus, his continued detention – which is based on Defendants’ intention to remove him– lacks any legal basis and violates Petitioner’s due process rights. *Id.* at 911-914 (granting habeas relief to petitioner with deferred action status). Courts have granted habeas relief “where the government seeks to remove noncitizens whose deferred action status remains in effect.” *Walter A. v. Berg*, No. 25-CV-4720 (SRN/LIB), 2025 WL 3707593 (D. Minn. Dec. 22, 2025) (citing *Sepulveda Ayala*); *see also Guerra Leon v. Noem*, No. 3:25-cv-01495-TAD-KDM, ECF No. 21 (W.D. La. Oct. 30, 2025) (same). Petitioner’s grant of deferred action created a protectable interest in his continued liberty requiring pre-deprivation process before any detention, and the grant of deferred action demonstrates a prior finding that he no flight risk or danger. Since deferred action was granted, support for that determination has only strengthened. Petitioner detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release.

11. **Second**, the government has no legitimate interest in detaining Petitioner when he is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, his detention also violates his substantive due process rights, warranting his immediate release. The lack of legitimate detention interests is particularly acute here, where Petitioner cannot be removed because of his valid deferred action grant, eliminating any flight risk concerns. Further, the fact the government’s prior immigration removal case was dismissed for failure to prosecute demonstrates the absence of any legitimate interest in further detaining Petitioner.

12. **Third**, Petitioner was arrested without changed circumstances, without a warrant, and without probable cause that he was a flight risk, under unlawful enforcement procedures that multiple courts across the country have declared illegal. Since then, there has been no determination that any probable cause exists to justify his detention. This violates his Fourth Amendment rights, as well as statutes and regulations, similarly mandating his release.

13. **Fourth**, Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, (C.D. Cal.). On November 20, 2025, the District Court of the Central District of California granted partial summary judgment on behalf of individual plaintiffs and, on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). After being presented with evidence that the Government was counseling noncompliance with the court's orders, the District Judge in *Maldonado-Bautista* issued a clarifying order on December 18, 2025, to make clear that all class members are entitled to benefit from the declaratory judgment and therefore entitled to a bond hearing. No. 5:25-cv-01873-SSS-BFM 2025 WL 3713982 at * 7(C.D. Cal. Dec. 18,

2025). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

14. Petitioner is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Webb County Detention Center;
- b. entered the United States over two years ago and was not apprehended upon arrival, *cf. id.*; and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

15. However, Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*. Petitioner is a member of the Bond Eligible Class and is therefore entitled to release.

16. **Fifth**, Petitioner’s detention is not governed by 8 U.S.C. § 1225(b)(2)(A), as he entered the United States without inspection and has lived in the interior of the United States since 2006. Courts throughout the United States have overwhelmingly rejected Respondents’ expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases ruling in favor of those challenging “the administration’s new position that *all* noncitizens who came in the United States illegally, but since have been living in the United States, *must be detained* until their removal

proceedings are completed[.]”); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent interpretation of § 1225(b)(2)(A)); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025). This renders Petitioner's current detention unlawful from its inception, in violation of the Immigration and Nationality Act (“INA”) and his due process rights.

17. For these reasons, Petitioner respectfully asks this Court to hold his arrest and detention unlawful; order restoration of the status quo prior to his detention, *i.e.* release without restraints on his liberty; order Respondents to transfer Petitioner back to Minnesota; and enjoin Respondents from re-detaining him without meaningful pre-detention process. If the Court does not grant immediate restoration of the status quo prior to detention, then Petitioner alternatively requests that this Court order Respondents to transfer Petitioner back to detention in Minnesota so that this petition may be considered while he is physically located in this jurisdiction or, in the alternative, a bond hearing may be had in this jurisdiction, and that this Court enjoin Respondents from any further transfers outside of this District for the duration of such proceeding.

JURISDICTION AND VENUE

18. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

19. Federal question jurisdiction exists because Petitioner seeks to challenge Petitioner's custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*

20. 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 the Department of Homeland Security ("DHS"). *Denmore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

21. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

22. Petitioner was apprehended within the State of Minnesota, conferring jurisdiction upon this Court. Slip Op. 2, *Sue H.*, No. 26-cv-416 (D. Minn. Jan. 20, 2026). Respondents' subsequent decision to remove Petitioner from Minnesota to frustrate his efforts to exercise his due process rights and obtain habeas relief does not divest this Court of jurisdiction. *Id.*

23. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events giving rise to these claims occurred in this District.

24. Petitioner was apprehended in Minneapolis, Minnesota on January 5, 2026. Venue is proper in this district pursuant to *Sue H. v. Donald Trump*, No. 26-cv-00416 (D. Minn. Jan. 20, 2026), and *Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D.

Minn. Jan. 19, 2026); *see also Jose A. v. Kristi Noem*, No. 26-cv-480 (JMB/ECW) (finding that jurisdiction was proper in Minnesota despite petitioner being transferred out of state because the decision to detain and arrest petitioner was made in Minnesota, witnesses of petitioner's arrest are in Minnesota, and petitioner was for some time actually detained in Minnesota); *Rumsfeld*, 542 U.S. at 454.

25. Venue is also proper under 28 U.S.C. § 2241(d) because Petitioner was detained at a facility within this District, and then unlawfully removed from this District while this Court had proper jurisdiction. Petitioner was transferred to the Camp East Montana El Paso, a facility in the Western District of Texas. However, as held in *Sue H.*, “habeas jurisdiction attaches at the time of the Petitioner’s apprehension,” further stating that “jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state.” Slip Op. 2, No. 26-cv-0416. That decision included an order requiring that a habeas petitioner transferred out of state be returned to Minnesota. *See also Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026) (“[H]abeas jurisdiction attached at the time of Petitioner’s apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, not on the Government’s unilateral post-seizure movement of the detainee. The position that jurisdiction lies exclusively in the district to which Respondents transfer a petitioner would permit the Government to determine the forum for judicial review through its own logistics. Federal courts may not be divested of jurisdiction in that manner.”); *see also*

Jose A. v. Kristi Noem (holding that to find jurisdiction proper in El Paso, Texas would encourage respondents to forum shop).

REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court should grant the petition for Writ of Habeas Corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (the detention of noncitizens who are within the Bond Eligible Class is not governed by 8 U.S.C. § 1225(b)(2)(A) but instead is governed by 8 U.S.C. § 1226(a)).

27. 8 U.S.C. § 1226(a) provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” “Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437, 2025 WL 2688541, at *11 (D. Me. Sep. 21, 2025), *appeal filed* (Nov. 7, 2025). “[I]t follows that absent a warrant a noncitizen may not be arrested and detained under section 1226(a).” *Id.*; *Fla. v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023) (8 U.S.C. ? 1226 “is not even triggered unless an arrest warrant is issued.”) *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025).

28. Courts in this district have overwhelmingly agreed and found that individuals like Petitioner who have been arrested and detained under 1226(a) without a warrant must be released. *Ahmed M. v. Bondi et al.*, No. 25-CV-4711 (ECT/SGE), 2026

WL 25627 (D. Minn. Jan. 5, 2026) (Tostrud, J.); *Alberto C.M. v. Noem*, No. CV 26-380 (DWF/SGE), 2026 WL 184530 (D. Minn. Jan. 23, 2026) (Frank, J.) *Brian P. N. v. Bondi*, No. 26-cv-39 (KMM/DLM), ECF No. 14 at 2 (D. Minn. Jan. 21, 2026) (Menendez, J.); *Diego L. v. Bondi*, No. 26-cv-382 (JMB/DJF), 2026 WL 145206, at *3 (D. Minn. Jan. 20, 2026) (Bryan, J.); *Alex G. C. v. Bondi*, No. 26-cv-271 (NEB/EMB), ECF No. 7 at 5 (D. Minn. Jan. 17, 2026) (Brasel, J.); *Gabriela G. v. Noem et al.*, No. 26-CV-590 (ECT/EMB), 2026 WL 242007 at *3 (D. Minn. Jan. 29, 2026); *Jose L.M.S. v. Bondi*, No. 26-CV-474 (DWF/LIB), 2026 WL 185066 at *2 (D. Minn. Jan. 25, 2026); *Juan R. v. Bondi*, No. 26-cv-252 (SRN/DTS), 2026 WL 125255, at *2–3 (D. Minn. Jan. 16, 2026) (Nelson, J.); *Lauro M. v. Bondi*, No. 26-CV-134 (SRN/DJF), 2026 WL 115022 (D. Minn. Jan. 15, 2026) (Nelson, J.) *Juan S. R. v. Bondi*, No. 25-cv-5 (PJS/LIB), ECF No. 8 at 3–4 (D. Minn. Jan. 12, 2026) (Schiltz, C. J.); *Joaquin Q. L., v. Bondi, et al.*, No. 26-CV-233 (LMP/DTS), 2026 WL 161333, at *2 (D. Minn. Jan. 21, 2026) (Provinzino, J.); *Maria F. v. Bondi et al.*, No. 26-CV-486 (ECT/DTS), 2026 WL 172537 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Fulgencio B. v. Lyons et al.*, No. 26-CV-395 (ECT/DTS), 2026 WL 172677 (D. Minn. Jan. 22, 2026) (Tostrud, J.); *Daniel S. v. Bondi, et al.*, No. 26-CV-338 (ECT/ECW), 2026 WL 146509 (D. Minn. Jan. 20, 2026) (Tostrud, J.); *William M. v. Bondi, et al.*, No. 26-CV-346 (ECT/DJF), 2026 WL 131690 (D. Minn. Jan. 19, 2026) (Tostrud, J.); *Cristian Z. v. Bondi, et al.*, No. 26-CV-157 (ECT/ECW), 2026 WL 123116 (D. Minn. Jan. 16, 2026) (Tostrud, J.); *Omar E.F.G. v. Bondi, et al.*, No. 26-451 (DWF/DLM), 2026 WL 184571 (D. Minn. Jan. 23, 2026); *see also Munaf v. Geren*, 553

U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.”).

29. Habeas corpus is “perhaps the most important writ known to the constitutional law...affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

30. Separately, this case also implicates a grant of deferred action. “Deferred action” is an “affirmative immigration benefit” that operates to “prevent[] recipients’ removal from the United States,” for a specified period of time, even if they are otherwise potentially removable. *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 909, 912 (W.D. Wash. 2025); *see generally* USCIS Policy Manual [hereinafter “USCIS PM”], Vol. 1, Pt. H, Ch. 2.A.4, <https://www.uscis.gov/policy-manual>; *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999) (noting deferred action means “no action will thereafter be taken to proceed against an apparently deportable alien even on grounds normally regarded as aggravated”); *Victor G. v. Lyons* No. 26-cv-119, 2026 WL 127733, at *2-3 (D. Minn. Jan. 17, 2026) (explaining deferred action). Deferred action does not confer lawful status and does not prevent an immigration judge from issuing a removal order. However, it is a “formal determination” by DHS “not to remove a particular individual,” and noncitizens with

deferred action are “considered to be in a period of stay authorized under USCIS policy for the period deferred action is in effect.” *Sepulveda Ayala*, 794 F. Supp. 3d at 912-13 (citation omitted); *see* 8 C.F.R. § 1.3(A)(4)(vi). Deferred action is “not simply a non-enforcement policy.” *DHS v. Regents of the University of Cal.*, 591 U.S. 1, 18 (2020). Rather, it is an “affirmative determination that certain individuals meet enumerated criteria and are entitled to forbearance from removal and work authorization.” *Sarmiento v. Perry*, 2026 WL 131917, at *7 (E.D. Va. Jan. 19, 2026) (citing *Regents*, 591 U.S. at 18); *see also* 8 C.F.R. § 274a.12(c)(14) (eligibility for work authorization).

31. Deferred action is granted “based on a prescribed set of factors generally related to humanitarian grounds,” *Sepulveda Ayala*, 794 F. Supp. 3d at 912 (citations omitted), often in connection with an application for lawful immigration status for survivors of violence or abuse. For example, deferred action is available for: crime survivors with approved U-visa applications or pending applications USCIS has determined are bona fide; trafficking survivors with pending T-visa applications that USCIS has determined are bona fide; domestic abuse survivors with approved self-petitions under the Violence Against Women Act (VAWA), and youth who have been abused, neglected, or abandoned by a parent who have approved petitions for Special Immigrant Juvenile Status (SIJS). 8 C.F.R. §§ 214.14(d)(2), 214.205(c), (e); USCIS PM, Vol. 3, Pt. C, Ch. 5 & Pt. D, Ch. 5.D.2; *see also A.C.R. v. Noem*, No. 25-cv-3962, 2025 WL 102611 (E.D.N.Y. Jan. 14, 2026) (explaining SIJS deferred action program). Deferred Action for Childhood Arrivals (DACA) is also a form of deferred action. *Regents*, 591 U.S. at 10.

32. In deciding deferred action requests, USCIS considers whether the noncitizen warrants a favorable exercise of discretion based on the totality of the evidence. Generally, this evaluation includes consideration of whether the noncitizen poses a danger to the public or a national security risk. *See, e.g., Victor G.*, 2026 WL 127733, at *3 (noting USCIS “already determined [the petitioner] is not a ‘risk to national security or public safety’ by virtue of its bona fide determination and grant of employment authorization and deferred action”); *F.R.P. v. Wamsley*, No. 3:25-CV-1917, 2025 WL 3037858, at *4 (D. Or. Oct. 30, 2025) (explaining that the “mere fact” of the petitioner’s VAWA approval, giving rise to deferred action, suggests he is neither a flight risk or a danger to the community, since it required a criminal background check and showing of “good moral character”); *Gamez Lira v. Noem*, No. 1:25-cv-855, 2025 WL 2581710, at *3 (D.N.M. Sept. 5, 2025) (explaining that a DACA grant was evidence that DHS already determined the recipient poses no danger or flight risk).

PARTIES

33. Petitioner, Riky Alexis Morales Lopez, has been in ICE custody since January 5, 2026, when he was arrested in Minneapolis, Minnesota.

34. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

35. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

36. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

RELEVANT FACTS & PROCEDURAL HISTORY

37. Petitioner is a resident of Minneapolis, Minnesota, and a citizen of Guatemala. Petitioner has lived in the United States since 2006, when he crossed the border without inspection in Laredo, Texas.

38. Petitioner lives with his wife in Minneapolis, MN.

39. Petitioner has a work permit issued by the Department of Homeland Security and a valid social security card, obtained after getting deferred action status and work authorization. Petitioner works at  in Fridley, Minnesota as a framer and previously worked from Professional Roofers as a roofer.

40. Petitioner's criminal record is limited to misdemeanor driving without a license. Notably, the USCIS was aware of these misdemeanors when it granted Petitioner deferred status.

41. In January 2026, was arrested by ICE agents without a warrant after being stopped and questioned based on his race.

42. At some point following his arrest, Petitioner was transferred to the Camp East Montana detention facility in El Paso, Texas, where he may be detained although the Petitioner has never shown up in the ICE locator and still does not at the time of this filing.

43. This arrest is part of an operation in Hennepin County and Ramsey County called "Operation Metro Surge." This operation has involved hundreds of masked,

unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody, regardless of the constitutionality of their actions.

44. Petitioner was held without consistent access to counsel for several weeks in El Paso, Texas.

45. Petitioner eventually requested a bond hearing, but the Immigration Judge determined that the Immigration Court lacked jurisdiction to grant a bond because the Respondents' removal case had been previously dismissed for failure to prosecute. Petitioner continues to be detained despite no active deportation case, and no ability for Respondents to bring one given his deferred action status.

46. Petitioner poses no risk to society and has strong connections to his community in Hennepin County, including his wife. Petitioner volunteers at a tenant's right organization called Renters United Justice since 2015. According to that organization:

Riky has been involved in helping hundreds of tenants get repairs in the their buildings. He has participated in countless hours of community meetings and education circles that were created to empower and educate renters in order to live in stress free lives environments. He is a dedicated member of the Minneapolis community and his care for others in a defining trait.

47. Petitioner respectfully seeks the opportunity to return to his home and family in Minneapolis, Minnesota, and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution Procedural Due Process

48. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

49. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.

50. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee’s due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government’s interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

51. Here, all three factors favor Petitioner.

52. **First**, Petitioner has a significant private interest at stake. A person’s interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v.*

Rumsfeld, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Petitioner currently experiences the gambit of deprivations that come with physical detention.

53. **Second**, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if Petitioner is not subsequently released, Petitioner still has a legal and constitutional interest in the hearing itself, in being heard.

54. **Third**, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or holding a hearing to release Petitioner on bond, would in fact *save* the government the resources and expense of continuing to imprison Petitioner.

55. Moreover, here, the government’s inability to lawfully remove Petitioner given his deferred action eliminates any justification of flight risk. *Victor G.*, 2026 WL 127733, at *2 (ordering release of noncitizen because he had an unrevoked grant of deferred action preventing his removal); *Santiago v. Noem*, No. EP-25-cv-361, 2025 WL 2792588, at *12 (W.D. Tex. Oct. 2, 2025) (“Where an individual is protected from removal through deferred action, their detention serves no valid purpose.”). The government’s previous decision to grant deferred action also demonstrates that the government agrees

Petitioner poses no danger to the community. *See, e.g., Victor G.*, 2026 WL 127733, at *3; *F.R.P.*, 2025 WL 3037858, at * 4; *Gamez Lira*, 2025 WL 2581710, at *3.

SECOND CLAIM
Violation of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution
Substantive Due Process

56. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

57. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

58. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

59. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

60. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690-91.

61. To satisfy substantive due process under the Fifth Amendment, a noncitizen's detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

62. Neither purpose is served by Petitioner's detention. Respondents have not made any claim that Petitioner presents a flight risk or a danger to the community, nor could they. ICE has had consistent meetings with Petitioner during his residency in the United States and at no point during those visits did the government conclude that he was a flight risk or a danger to the community.

63. Since then, Petitioner's ties to this country have only grown stronger. He has not only built his entire life here, but he has a safe and meaningful future for himself, his wife, and his step-children. *See Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 173-75 (3d Cir. 2018). And other than a traffic violation, he remains without any criminal record.

64. Because the government is not detaining Petitioner to serve legitimate interests in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

THIRD CLAIM

Violation of the Immigration and Nationality Act and Procedural Due Process

65. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

67. Petitioner is not subject to 8 U.S.C. §§ 1225(b)(1), 1226(c), or § 1231.

68. While Petitioner was cited for a traffic violation, this is not an enumerated crime pursuant to § 1126 nor a crime involving “moral turpitude”. Petitioner has had no other convictions during his residence in the United States.

69. Respondents’ application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

70. On January 20, 2026, the United States District Court for the District of Minnesota issued an order stating that “habeas jurisdiction attaches at the time of the Petitioner’s apprehension,” further stating that “jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state.” *Sue H. v. Trump*, Case No. 26-CV-0416 (MJD/ECW) at 2; *see also Victor P. v. Kristi Noem, et al.*, No. 26-cv-430 (MJD/SGE) (D. Minn. Jan. 19, 2026) (emphasis added) (“[H]abeas

jurisdiction attached at the time of Petitioner's apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, **not** on the Government's unilateral post-seizure movement of the detainee. The position that jurisdiction lies exclusively in the district to which Respondents transfer a petitioner would permit the Government to determine the forum for judicial review through its own logistics. Federal courts may not be divested of jurisdiction in that manner."'). Therefore, Petitioner is filing this habeas petition here, in what has now been clarified to be the proper jurisdiction, and request that this Court order that Petitioner be returned to Minnesota.

71. This Court is also entitled to exercise jurisdiction over this petition because, on information and belief, the Government's purpose in removing Petitioner within less than 48 hours and without providing information sufficient to allow his counsel to access him was intended to deprive Petitioner access to counsel and/or deprive this Court of jurisdiction. *Rumsfeld v. Padilla*, 542 U.S. 426, 454 (2004)) (Kennedy, J., concurring).

FOURTH CLAIM
Violation of the Fourth Amendment to the U.S. Constitution,
8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d)
Unlawful Arrest

72. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

73. 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.

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).

74. 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). “Probable cause requires a ‘substantial probability; based on facts related to the individual.’” *Ramirez Ovando v. Noem*, No. 25-cv-03183, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking); *U.S. v. Williams*, No. 19-cr-325, 2020 WL 4228095 (D. Minn. May 13, 2020), report and recommendation adopted, 2020 WL 4226865 (July 23, 2020). That 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. *See Gerstein*, 420 U.S. at 125. It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). Petitioner has been in custody for **30 days**.

75. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person “is likely to escape before a warrant can be

obtained,” *i.e.*, is a flight risk. *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

76. Petitioner’s warrantless detention occurred without probable cause that he was a flight risk. “Courts have...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 v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-3417, 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Petitioner (a) was living at a stable home address in Minnesota, of which the government was fully aware, and (b) had been in the United States for over two years and with strong ties to his community. Moreover, Petitioner fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that he was likely to escape before a warrant could be obtained.

77. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Petitioner. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57; *see Slip Op. 8–9 Garrison v. Bondi*, No. 26-cv-00172, (D. Minn. Jan. 15, 2026), ECF No. 6. He received no such judicial determination, yet his detention has continued well beyond 48 hours, rendering it presumptively unconstitutional.

78. Regulations also provide that noncitizens arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is “an

emergency or other extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Petitioner has received no such determination, despite being in custody for 30 days.

79. Petitioner’s re-detention after a prior release, without any new showing of probable cause, was also unconstitutional. When the government releases a person from detention, the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (“It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable.”). As a result, any probable cause justifying the prior arrest, if any, is extinguished.

80. Thus, under the Fourth Amendment, the government cannot re-arrest someone without changed circumstances that amount to new probable cause. *See Carlson v. Landon*, 342 U.S. 524, 546-47 (1952) (holding that re-arrest for immigration detention required a new warrant after previous release from immigration detention on bail).

81. Respondents’ warrantless re-arrest of Petitioner without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Order Respondents to return Petitioner to this District within 48 hours and for the duration of these proceedings;
- b. Declare that Petitioner is a Bond Class Member under *Maldonado Bautista*;
- c. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;
- d. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty;
- e. Alternatively, issue a Writ of Habeas Corpus requiring Respondents to release Petitioner immediately unless they provide a bond hearing under 8 U.S.C. § 1226(a) within three days, at which hearing Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;
- f. Issue an Order prohibiting Respondents from seeking a stay of any order granting bond by the Immigration Judge, including by filing a form EOIR-43 (Notice of Service Intent to Appeal Custody Redetermination) or a motion for emergency stay;
- g. Issue an Order to Show Cause ordering Respondents to explain why this Petition should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 USC § 2243;

- h. Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- i. Grant bail pending the conclusion of the habeas review; *see, e.g., Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001);
- j. Order that Petitioner may move to recover attorneys' fees and costs under the Equal Access to Justice Act;
- k. Grant such further relief as this Court deems just and proper.

Dated: February 13, 2026

Respectfully submitted,

/s/ Joshua J. Rissman

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Attorney for Petitioner

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because his current detention makes him unable to submit one on his own behalf. I, Joshua J. Rissman, hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 13, 2026

/s/ Joshua J. Rissman
Joshua J. Rissman