UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Riky Alexis Morales Lopez, Petitioner, v. Todd Blanche, Attorney General, United States Department of Justice, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, David Venturella, Acting Director of Immigration and Customs Enforcement, Respondents.	Case No.0:26-cv-01429 **RENEWED 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, to provide him with a bond hearing.

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

3. 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.

4. At some point after Respondents detained Petitioner, ICE transferred him to Camp East Montana, an immigration detention facility in El Paso.

5. Petitioner filed his Petition for Writ of Habeas Corpus on February 13, 2026. ECF No. 1. On February 17, 2026, the Court granted Petitioner's Petition for a Writ of Habeas Corpus and ordered that Respondents were "ENJOINED from re-detaining Petitioner under this same statutory theory, absent materially changed circumstances." *Riky A.M.L. v. Bondi*, Civ. No. 26-1429, 2026 WL 452419, at *1 (D. Minn. Feb. 17, 2026). ICE issued a Notice to the Court on March 6, 2026, that all conditions of release with respect to Petitioner were revoked. ECF No. 15-1. Petitioner was illegally detained for over 30 days prior to release. ECF No. 1. Petitioner was rearrested after being detained. See ECFs 61, 65.

6. Respondents first violated the Order by failing to return Petitioner's property, necessitating a contempt hearing. As the Court observed, "The Court remains troubled that its intervention was necessary to compel compliance with its orders, and to ensure the safety, liberty, and well-being of persons who were subject to unlawful arrest and detention. The Court regrets the hardship imposed on Petitioners by the United States Government." ECF No. 42 at 6.

7. On August 12, 2026, Petitioner pled guilty in Dakota County Court to a gross misdemeanor carrying of a BB gun in a public place in violation of Minnesota Statute 624.7181.2, as well as driving without a license. Declaration of Joshua J. Rissman

("Rissman Decl."), Exhibit 1, ECF No. 56. Petitioner was sentenced to probation and time served. *Id.* ICE issued a detainer to Dakota County, and custody of Petitioner was transferred to ICE. Petitioner was arrested by ICE pursuant to a Form 1-200 warrant. Rissman Decl. Exhibit 2, ECF NO. 56-2. The warrant states that "Any immigration officer authorized pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." *Id.* Petitioner is currently detained at the Sherburne County jail. Rissman Decl. ¶ 3.

8. On August 31, 2026 the Court denied Petitioner motion to enforce the previous habeas order. ECF No. 68. The Court concluded Petitioner was not detained under the same statutory theory, as he was arrested under § 1226(a), not § 1225(b)(2). *Id.* The Court permitted Petitioner to file the instant petition. *Id.*

9. Petitioner's previous and current detention has been very difficult for both him and his family. He was previously 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.

10. Petitioner was a victim of an aggravated robbery on August 25, 2019. In that incident, two assailants demanded money. When he refused, he was punched in the face which caused him to fall to the ground. He was then repeatedly kicked and hit until he lost consciousness. 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.

11. 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).

12. Petitioner's detention is unlawful for at least five reasons.

13. **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.

14. **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.

15. **Third**, Petitioner was released by Respondents pursuant to an I-830E form, with no conditions, ECF No. 15-1. Although Petitioner's name is redacted, the alien number 216-744-766 is that of Petitioner's. Petitioner's release is governed by 8 C.F.R. §§ 236.1(c)(9). That section reads, in full:

> When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign), in which event the alien may be taken into physical custody

and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and canceled.

Bryan A.Q.C. v. Lyons, No. CV 26-3165 (JRT/EMB), 2026 WL 1998719, at *2 (D. Minn. July 10, 2026).

16. Respondents did not provide any evidence—in a Form I-220A itself or in thane accompanying declaration—that the Deportation Officer who canceled Petitioner's order of release had the authority to revoke Petitioner's release, or that any deportation officer even cancelled the release before Petitioner was re-arrested.

17. Respondents have further failed to provide any evidence or justification for the revocation of release, or that anyone revoked the release. The revocation of the release must occurr subsequent to the issuance of the 2021 Form I-200. *Wilson P. v. Blanche*, No. 26-CV-3448 (JMB/SGE), 2026 WL 2294612, at *1 (D. Minn. Aug. 10, 2026) (ordering outright release based on improper parole revocation under 8 C.F.R. § 236.1 following a previous release on recognizance and, independently, on warrantless arrest grounds).

18. Petitioner cannot be re-arrested without changed circumstances, and without probable cause that he was a flight risk, under unlawful enforcement procedures that multiple courts across the country have declared illegal. *Bryan A.Q.C. v. Lyons*, No. CV 26-3165 (JRT/EMB), 2026 WL 1998719, at *3 (D. Minn. July 10, 2026); *Ernest A.N. v. Blanche*, No. 0:26-cv-03470, ECF No. 11, 4-5 (D. Minn. Aug. 12, 2026) (ordering outright release where "the record demonstrates that ICE failed to follow its own procedures

[pursuant to 8 C.F.R. § 236.1(c)(9)] in revoking Petitioner's conditional parole" under 8 U.S.C. 1226(a)(2)(B)); *Wilson P. v. Blanche*, 2026 WL 2294612, at *1.

19. Due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before detaining Petitioner. The government previously detained and released Petitioner on his own recognizance. Since then, the government has not provided Petitioner with any evidence that his arrest is warranted, nor have they demonstrated that he is a flight risk or a danger to the community. On the contrary, Petitioner has built deep ties to the United States. As courts in this District have held in similar cases, Petitioner's re-detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025) (granting habeas petition and ordering release of a detained immigrant on supervised release where Government failed to give adequate pre-detention notice and "utterly fail[ed] to demonstrate to the Court why changed circumstances render [immigrant's] removal significantly likely in the reasonably foreseeable future"); *Yee S. v. Bondi*, No. 25-cv-02782, 2025 WL 2879479, at *4 (D. Minn. Oct. 9, 2025) (granting *habeas* petition of immigrant released into supervision where government failed to demonstrate a change in circumstances).

20. 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.

21. **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.

22. 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.

23. 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.

24. **Fifth**, as this Court concluded at ECF No. 68, Petitioner's detention is not governed by 8 U.S.C. § 1225(b)(2)(A), because he the 1-200 form warrant listed 1226(a) as the basis to detain him.

25. 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; 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, 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

26. 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.

27. 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.*

28. 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).

29. 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.

30. 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.*

31. 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.

32. 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.

33. Petitioner was re-apprehended in Dakota County, Minnesota on August 13th, 2026. He continues to be detained in Sherburne County prison in Minnesota.

REQUIREMENTS OF 28 U.S.C. § 2243

34. 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)).

35. 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).

36. 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).

37. 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.

38. 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

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

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

41. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). He is a legal custodian of Petitioner and is named in his official capacity.

42. Respondent Todd Blanche is the Attorney General of the United States Department of Justice. He is a legal custodian of Petitioner and is named in his official capacity.

RELEVANT FACTS & PROCEDURAL HISTORY

43. 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.

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

45. 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.

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

47. 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.

48. 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.

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

50. 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.

51. Petitioner filed his Petition for Writ of Habeas Corpus on February 13, 2026. ECF No. 1. On February 17, 2026, the Court granted Petitioner's Petition for a Writ of Habeas Corpus and ordered that Respondents were "ENJOINED from re-detaining Petitioner under this same statutory theory, absent materially changed circumstances." Order at 4. ICE issued a Notice to the Court on March 6, 2026, that all conditions of release with respect to Petitioner were not revoked. ECF No. 15. Petitioner was illegally detained for over 30 days prior to release. ECF No. 1. Petitioner was rearrested after being detained.

52. Respondents first violated the Order by failing to return Petitioner's property, necessitating a contempt hearing. As the Court observed, "The Court remains troubled that its intervention was necessary to compel compliance with its orders, and to ensure the safety, liberty, and well-being of persons who were subject to unlawful arrest and detention. The Court regrets the hardship imposed on Petitioners by the United States Government." ECF No. 42 at 6.

53. On August 12, 2026, Petitioner pled guilty in Dakota County Court to a gross misdemeanor carrying of a BB gun in a public place in violation of Minnesota Statute 624.7181.2, as well as driving without a license. "Rissman Decl.", Exhibit 1, ECF No. 56. Petitioner was sentenced to probation and time served. *Id.* ICE issued a detainer to Dakota County, and custody of Petitioner was transferred to ICE. Petitioner was arrested by ICE pursuant to a Form 1-200 warrant. Rissman Decl. Exhibit 2, ECF NO.

56-2. The warrant states that "Any immigration officer authorized pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." *Id.* Petitioner is currently detained at the Sherburne County jail. Rissman Decl. ¶ 3.

54. On August 31, 2026 the Court denied Petitioner motion to enforce the previous habeas order. ECF No. 68. The Court concluded Petitioner was not detained under the same statutory theory, as he was arrested under § 1226(a), not § 1225(b)(2). *Id.* The Court permitted Petitioner to file the instant petition. *Id*

55. 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.

56. 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

57. Respondents released Petitioner without any conditions. ECF NO. 15-1.

58. At the time of Petitioner's re-detention, ICE did not indicate a lawful reason for revoking Petitioner's release, nor have they done so subsequently.

59. Petitioner cannot be re-arrested without changed circumstances, and without probable cause that he was a flight risk, under unlawful enforcement procedures that multiple courts across the country have declared illegal. *Bryan A.Q.C. v. Lyons*, No. CV 26-3165 (JRT/EMB), 2026 WL 1998719, at *3 (D. Minn. July 10, 2026); *Ernest A.N. v. Blanche*, No. 0:26-cv-03470, ECF No. 11, 4-5 (D. Minn. Aug. 12, 2026) (ordering outright release where "the record demonstrates that ICE failed to follow its own procedures [pursuant to 8 C.F.R. § 236.1(c)(9)] in revoking Petitioner's conditional parole" under 8 U.S.C. 1226(a)(2)(B)); *Wilson P. v. Blanche*, No. 26-CV-3448 (JMB/SGE), 2026 WL 2294612, at *1 (D. Minn. Aug. 10, 2026) (ordering outright release based on improper parole revocation under 8 C.F.R. § 236.1 following a previous release on recognizance and, independently, on warrantless arrest grounds).

60. Due process requires that the government show, in a pre-deprivation hearing, materially changed circumstances before detaining Petitioner. The government previously detained and released Petitioner on his own recognizance. Since then, the government has not provided Petitioner with any evidence that his arrest is warranted, nor have they demonstrated that he is a flight risk or a danger to the community. On the contrary,

Petitioner has built deep ties to the United States. As courts in this District have held in similar cases, Petitioner's re-detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025) (granting habeas petition and ordering release of a detained immigrant on supervised release where Government failed to give adequate pre-detention notice and "utterly fail[ed] to demonstrate to the Court why changed circumstances render [immigrant's] removal significantly likely in the reasonably foreseeable future"); *Yee S. v. Bondi*, No. 25-cv-02782, 2025 WL 2879479, at *4 (D. Minn. Oct. 9, 2025) (granting *habeas* petition of immigrant released into supervision where government failed to demonstrate a change in circumstances).

61. Respondent's failure to follow their own administrative procedures warrants release.

62. Respondents' revocation of release without any pre-deprivation process violates the 5th amendment.

SECOND CLAIM
Violation of Immigration and Nationality Act and Accompanying Regulations (8 C.F.R. §§ 236.1, 241.3, 287.38)

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

64. Petitioner's detention violates the INA regulations because Respondents never revoked Petitioner's order of release.

65. Respondents are required to revoke Petitioner's release prior to the issuance of a Form I-200 warrant.

66. Respondents are required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (providing that executive branch agencies must comply with their own regulations).

67. Respondents failure to follow their own regulations renders the arrest and detention unlawful.

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

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

69. 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.

70. Federal courts use the three-part test in *Matthews 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.

71. Here, all three factors favor Petitioner.

72. **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.

73. **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.

74. **Third**, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community, his convictions are limited to non-violent misdemeanors. 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.

75. Petitioner deferred action status, which has not been revoked, further demonstrates the lack of legitimate gov't interest in detaining Petitioner. *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733, at *3 (D. Minn. Jan. 17, 2026);

Nevarez Jurado v. Freden, 813 F. Supp. 3d 376, 390 (W.D.N.Y. 2025); Jaime *D.B. v. Easterwood*, No. 26-CV-891, 2026 WL 578754, at *2 (D. Minn. Feb. 25, 2026), *R&R adopted*, 2026 WL 592854 (D. Minn. Mar. 2, 2026) ("The Court agrees with 'an ever-growing number of district courts across the country. . .that an unrevoked grant of deferred action prevents removal.'"); *Marcos L. v. Noem*, No. CV 26-CV-676, 2026 WL 327953, at *2 (D. Minn. Feb. 3, 2026), *R&R adopted,* 2026 WL 331418 (D. Minn. Feb. 8, 2026).

76. 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.

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

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

78. 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.

79. 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)).

80. 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).

81. 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.

82. 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.

83. 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.

84. 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.

85. 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.

PRAYER FOR RELIEF

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

a. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment.;

b. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty;

c. 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;

d. 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;

e. 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;

f. 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;

g. Grant bail pending the conclusion of the habeas review; *see, e.g.*, *Mapp v.*

Reno, 241 F.3d 221 (2d Cir. 2001);

h. Order that Petitioner may move to recover attorneys' fees and costs under the Equal Access to Justice Act;

i. Grant such further relief as this Court deems just and proper.

Dated: September 1, 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, I 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: September 1, 2026

/s/ Joshua J. Rissman
Joshua J. Rissman