UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Harold Moises Moreno Vasquez,

Petitioner,

v.

Todd Blanche, Acting Attorney General,

Markwayne Mullin, Secretary, U.S. Department of Homeland Security,

Department of Homeland Security,

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

Immigration and Customs Enforcement,

Daren K. Margolin, Director for Executive Office for Immigration Review,

Executive Office for Immigration Review,

and,

David Easterwood, Acting Field Director, St. Paul Field Office Immigration and Customs Enforcement.

Respondents.

VERIFIED PETITION FOR WRIT OF HABEUS CORPUS

INTRODUCTION

1. Upon information and belief, Respondents detained Petitioner, Mr. Harold Moises Moreno Vasquez ("Mr. Moreno Vasquez") in violation of law.

2. Upon information and belief, Mr. Moreno Vasquez may have been arrested at a biometrics appointment without a warrant.[1]

3. Upon information and belief, Mr. Moreno Vasquez has a prior removal order from November 15, 2023. He has one criminal conviction stemming from a March 27, 2025 traffic stop for speeding, during which he failed a field sobriety test. His charge for speeding was dismissed while he was convicted of operating a motor vehicle with an alcohol concentration of .08 within two hours.

4. Upon information and belief, Mr. Moreno Vasquez was arrested through the use of confidential information pursuant to 8 USC §1367(a)(2). More specifically, Mr. Moreno Vasquez had a pending Form I-918A, Petition for Qualifying Family Member of U-1 Recipient when he was detained at his <u>second</u> biometrics appointment on March 31, 2026 at Application Support Center for United States and Citizenship Services ("USCIS") located at 1105 University Avenue West, Suite 102, St. Paul, MN 55104.[2] Petitioner attended this second appointment in furtherance of his application for immigration relief. The information used to find Mr. Moreno Vasquez and detain him (specifically at his required USCIS biometrics appointment),

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[1] It appears Petitioner may not have been served with a warrant upon his arrest, although it is unclear at this time.
[2] Petitioner suspects that this second biometrics appointment may have been scheduled just to detain him, as USCIS should have already captured his fingerprints at his first biometrics appointment that he previously attended on February 26, 2026. *See* Exhibit E.

upon information and belief, was obtained by ICE through Mr. Moreno Vasquez's submission of affirmative humanitarian relief through USCIS and all information derived therefrom from the processing of his application. This relief, U-Nonimmigrant status, is intended to protect and provide immigration relief to victims of qualifying criminal activity and their qualifying relatives, including spouses. *See* Exhibit Q.[3]

5. Upon information and belief, Mr. Moreno Vasquez's spouse is the qualifying victim of the crime of sexual assault and fully cooperated with authorities. She has a pending Form I-918, U Nonimmigrant Status petition, for which Mr. Moreno Vasquez is a beneficiary. She has already received a Bona Fide Determination for her application. *See* Exhibit D.

6. Upon information and belief, Mr. Moreno Vasquez's spouse suffers from mental health issues with which Mr. Moreno Vasquez assists her. *See* Exhibit B.

7. Based on the above, including the purpose and policy of U Visas, the continued detention of Mr. Moreno Vasquez, specifically while he has a

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[3] For a comprehensive and detailed summary of the history, purpose and policy of U visas, please refer to Exhibit Q at ¶¶ 39-48, which Petitioner incorporates herein. For a summary of U visa eligibility, how they are adjudicated and the benefits provided to the applicant, please refer to Exhibit Q at ¶¶ 49-52, which Petitioner incorporates herein. It is important to note, as is also outlined in Exhibit Q at ¶¶ 52-59, that U-Nonimmigrant applicants, as part of the U visa process, are also up for consideration of deferred action and a work permit, through a Bona Fide Determination process. *See* Exhibit N. Deferred action is generally defined as: "…a form of prosecutorial discretion that is used to **defer removal action** against an individual for a certain period of time." *See* Exhibit O (emphasis added). In order to make that finding, USCIS must first determine whether or not the application is made in "good faith; without fraud or deceit". *See* Exhibit N. Additionally, it has to be determined that the applicant does not pose a risk to national security or public safety, *in addition to* other relevant discretionary factors. *Id.*

pending U Non-immigrant visa application and with a pending waiver to forgive his prior deportation order[4], serves no legitimate purpose.

8. Upon information and belief, Respondents are currently and actively working on transferring Petitioner to Louisiana. Pending the adjudication of his Petition, Mr. Moreno Vasquez respectfully seeks an immediate order restraining the Respondents from removing him from the United States and from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota.

9. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Mr. Moreno Vasquez.

10. Mr. Moreno Vasquez requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hours-notice prior to any removal or movement of him away from the State of Minnesota.

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[4] The issue of waiving a prior deportation in context of U Visas will be discussed further below. Is also important to note that a misdemeanor DUI conviction, in and of itself, is not an offense that makes someone inadmissible (i.e. ineligible) for immigration benefits. *See generally* Immigration and Nationality Act, Section 212. As such, there is no "waiver" required for a DUI conviction.

JURISDICTION AND VENUE

11. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1367(a)(5).

12. Custody is "separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding." 8 C.F.R. 1003.19(d). *Compare also* 8 U.S.C. 1229(a), *with* 8 U.S.C. 1226(a). The Board recently confirmed this in Matter of E-Y-F-G-, 29 I&N Dec. 103, 105 (BIA 2025). Because Mr. Moreno Vasquez seeks to challenge his custody as a violation of the Constitution and laws of the United States and of federal statute, jurisdiction is proper in this court.

13. 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 DHS. Demore 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); Sopo v. U.S. Attorney Gen., 825 F.3d 1199, 1209-12 (11th Cir. 2016). Despite limitations on judicial review at 8 U.S.C. § 1252, "§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention." Zadvydas v. Davis, 533 U.S. 678, 688 (2001). Detention is independent of removal and can be reviewed in a habeas action.

14. Upon information and belief, Federal district courts have jurisdiction to enforce 8 U.S.C. § 1367(a)(2). This statute, 8 U.S.C. § 1367, which in part encompasses applicants for U-Nonimmigrant status, provides in relevant part that:

> **a)** In general Except as provided in subsection (b), **in no case** may the Attorney General, **or any other official or employee of** the Department of Justice, the Secretary of Homeland Security, the Secretary of State, **or any other official or employee of the Department of Homeland Security** or Department of State (including any bureau or agency of either of such Departments)- [...]
> (2) **permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for *legitimate* Department, bureau, or agency purposes)** of any information **which relates to an alien who is the beneficiary of an application for relief under paragraph** (15)(T), **(15)(U)**, or (51) of section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(T), (U), (51)] or section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)].
> **The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.**
> **b) Exceptions**
> (1) [...]
> (2) The Secretary of Homeland Security or the Attorney General may provide in the discretion of the Secretary or the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose in a manner that protects the confidentiality of such information.

(3) [...]
(4) [...]
(5) [...]
(6) [...]
(7) [...]
(8) [...]

15. The Supreme Court has noted that prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." McCarthy v. Madigan, 503 U.S. 140, 148 (1992).

16. Despite knowing the existence of 8 U.S.C. § 1367, and knowing the delicate and confidential nature of U visa applications for victims of qualifying criminal activities and their qualifying relatives, the history and policy behind this relief, the vulnerable position that U visa applicants are placed into by giving USCIS all of their personal information including removal information, it appears that Respondents nevertheless may have pre-coordinated Mr. Moreno Vasquez's detention with the use of information he provided in pursuance of his application about his prior removal order as disclosed in his Form I-918A. Just 16 days after Mr. Moreno Vasquez attended a prior biometrics appointment in connection with a concurrently filed application for which his biometrics were captured, USCIS scheduled a second biometrics appointment relating to Mr. Moreno Vasquez's Form I-918A, which Mr. Moreno Vasquez attended as he believed it was required to

pursue his application. Upon information and belief, after his arrival, ICE officers detained Respondent. This renders administrative appeal a futile exercise. Therefore, there is no exhaustion impediment to the Court exercising jurisdiction.

17. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Moreno Vasquez was arrested and is detained within this District. Upon information and belief, he is currently in custody at the Immigration and Customs Enforcement ("ICE") detention facility inside of the Bishop Henry Whipple Federal Building in Fort Snelling, Minnesota. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

18. Petitioner Mr. Moreno Vasquez is a citizen of Nicaragua and a resident of Anoka County, Minnesota. He is not an arriving alien. He is not seeking admission. Upon information and belief, however, he does have a prior removal order from November 15, 2023.

19. Upon information and belief, Mr. Moreno Vasquez is currently in custody at the Immigration and Customs Enforcement ("ICE") detention facility inside of the Bishop Henry Whipple Federal Building in Fort Snelling, Minnesota.

20. Respondent Todd Blanche is being sued in his official capacity as the Acting Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Acting Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Mullin. Acting Attorney General Blanche is a legal custodian of Mr. Moreno Vasquez.

21. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Mr. Moreno Vasquez 's detention and removal. As such, Respondent Mullin is a legal custodian of Mr. Moreno Vasquez.

22. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

23. Respondent Daren K. Margolin is the Director of Executive Office for Immigration Review and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. He is sued in his official capacity.

24. Respondent Executive Office for Immigration Review is the adjudicatory body within EOIR with jurisdiction over the removal and bond cases of Petitioner. Its authority includes individuals detained in Minnesota, Iowa, North Dakota, and South Dakota through the Ft. Snelling immigration court.

25. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

26. Respondent Immigration and Customs Enforcement (ICE) is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

27. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. Moreno

Vasquez. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

EXHAUSTION

28. Upon reasonable belief, ICE asserts authority to detain Mr. Moreno Vasquez pursuant to the mandatory detention and re-instatement of removal order provisions of 8 U.S.C. § 1231.

29. No statutory requirement of exhaustion applies to Mr. Moreno Vasquez's challenge to the lawfulness of his detention. See, e.g., Araujo-Cortes v. Shanahan, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); Rodriguez v. Bostock, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing Marroquin Ambriz v. Barr, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'")); Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) (citing Portela-Gonzalez v. Sec'y of the Navy, 109 F.3d

74, 77 (1st Cir. 1997) (quoting McCarthy v. Madigan, 503 U.S. 140, 146 (1992)).

30. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." McCarthy v. Madigan, 503 U.S. 140, 148 (1992), superseded by statute on other grounds as stated in Woodford v. Ngo, 548 U.S. 81 (2006).

31. Despite knowing the existence of 8 U.S.C. § 1367, Respondents may have pre-coordinated Mr. Moreno Vasquez's detention with the use of confidential information he provided in pursuance of his application about his prior removal order disclosed in his Form I-918A to USCIS. USCIS required him to attend two biometrics appointments to be able to pursue his application, for which Mr. Moreno Vasquez did as was required. Presumably with the information obtained through his disclosure to USCIS and information obtained and shared to ICE after attending his first biometrics appointment, and counting on Mr. Moreno Vasquez attending his second required biometrics, Respondents seized the opportunity to arrest Mr. Moreno Vasquez and detain him at that specific date and time. This renders administrative appeal a futile exercise. Therefore, there is no exhaustion impediment to the Court exercising jurisdiction.

32. To the extent that Respondents argue that Mr. Moreno Vasquez's detention was for a legitimate purpose and/or in pursuance of national interests, it is important to note that, upon information and belief, Mr. Moreno Vasquez's removal order is waivable (forgivable) once and if his pending Form I-192 is granted, his DUI conviction does not make in inadmissible (i.e. ineligible for U-nonimmigrant status, which would have otherwise required a waiver), and Respondents waited more than two years to enforce his removal order. To the extent a warrant was not provided upon his detention, there is no indication that there was reason to believe that Mr. Moreno Vasquez, in filing for affirmative immigration relief, was likely to escape before a warrant for his arrest could be obtained.[5]

33. Pursuant to 8 U.S.C. § 1231(a)(5), generally, a person that has a prior order for deportation **shall be removed** pursuant to the prior order **at any time** after the re-entry and/or upon apprehension.

34. Prudential exhaustion is not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." McCarthy, 503 U.S. at 147. Pursuant to paragraph 33 above, Mr. Moreno Vasquez may be removed at any given

[5] For purposes of transparency, as mentioned previously, it is unclear at this time if Mr. Moreno Vasquez was indeed provided with a warrant upon his arrest at his biometrics appointment.

moment. Furthermore, every day that Mr. Moreno Vasquez is detained causes him and his wife irreparable harm. Matacua v. Frank, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); Hamama v. Adducci, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

35. Prudential exhaustion is additionally not required in cases where the agency "lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute." McCarthy, 503 U.S. at 147–48.

36. Immigration agencies have no jurisdiction over constitutional challenges of the kind Mr. Moreno Vasquez raises here. See, e.g., Matter of C-, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); Matter of Akram, 25 I. & N. Dec. 874, 880 (BIA 2012); Matter of Valdovinos, 18 I. & N. Dec. 343, 345 (BIA 1982); Matter of Fuentes-Campos, 21 I. & N. Dec. 905, 912 (BIA 1997); Matter of U-M-, 20 I. & N. Dec. 327 (BIA 1991). Furthermore, it is only appropriate for this Court, not the agency, to determine whether or not there was a violation of

federal statute, namely 8 USC § 1367 upon detaining Mr. Moreno Vasquez on the spot at his biometrics appointment after potentially obtaining said information pursuant to Mr. Moreno Vasquez's humanitarian application for immigration relief and/or through USCIS.

37. Because requiring Mr. Moreno Vasquez to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over his constitutional claims, this Court should not require exhaustion as a prudential matter.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

38. Petitioner Mr. Moreno Vasquez is a native and citizen of Nicaragua.

39. Upon information and belief, Petitioner Mr. Moreno Vasquez entered the United States on parole on or about June 20, 2021.

40. Mr. Moreno Vasquez was 29 years old at the time of his entry at or near Eagle Pass, Texas.

41. Upon information and belief, Petitioner Mr. Moreno Vasquez was detained upon entry in Eagle Pass, Texas by immigration enforcement, which resulted in his placement in removal proceedings before the Immigration Court at Fort Snelling, Minnesota.

42. Upon information and belief, due to confusion about the date, Mr. Moreno Vasquez failed to attend his hearing on November 15, 2023. As a result, Mr.

Moreno Vasquez received an Order of Removal, *in Absentia*. Upon information and belief, on or around January 2, 2024, just 48 days after his missed hearing, Mr. Moreno Vasquez filed a Motion to Reopen his removal order attempting to explain his confusion and resume his proceedings. This Motion was denied.

43. On June 30, 2025, Mr. Moreno Vasquez's wife filed a Form I-918A on his behalf for U Nonimmigrant Status. This relief, if granted, would provide Mr. Moreno Vasquez with lawful immigration status, with a pathway to lawful permanent residence. [6]

44. On March 23, 2026, Mr. Moreno Vasquez received a notice of a second upcoming biometrics appointment with USCIS on Tuesday, March 31, 2026. The notice noted that,

> To process [Petitioner's] application, petition, or request, U.S. Citizen and Immigration Services (USCIS) **must** collect [Petitioner's] biometrics [...] **IF YOU FAIL TO APPEAR AS SCHEDULED, USCIS WILL CONSIDER YOUR BENEFIT REQUEST ABANDONED AND IT MAY BE DENIED**. *See* Exhibits E-F (emphasis added).

[6] It is important to note that U Visa applications also allow for the discretionary waiver of a prior deportation order, amongst other immigration inadmissabilities, pursuant to Form I-192, Application for Advance Permission to Enter as a Nonimmigrant. *See also* INA 212(a)(9)(A). Those that are in the United States that have an approved Form I-192 (if required) in addition to I-918 or I-918A Forms are not required to consular process unless they depart or have departed the United States, hence the name "Form I-192, **Advanced Permission** to enter as Non-Immigrant" (emphasis added).

45. Mr. Moreno Vasquez had previously been scheduled for and attended a biometrics appointment on February 26, 2026 in connection with the Form I-765 (Application for Employment Authorization) filed together with his Form I-918A. However, USCIS inexplicably scheduled Mr. Moreno Vasquez for a subsequent biometrics appointment less than five (5) weeks after the previous appointment, rather than using the very recently collected biometrics data for the Form I-918A background checks.

46. Despite this, and bearing in mind the enumerated consequences of failure to attend the biometrics appointment, Mr. Moreno Vasquez attended the second appointment as scheduled.

47. During the biometrics appointment Mr. Moreno Vasquez was detained by Immigration and Customs Enforcement.

48. It would appear that Respondents scheduled this second biometrics appointment potentially for the sole purpose of detaining him.

49. Respondents took Petitioner Mr. Moreno Vasquez into custody on March 31, 2026.

50. Upon information and belief, Respondents maintain that Petitioner is not eligible to be released or to seek a bond redetermination rehearing consistent with § 1231(a)(5). Furthermore, he is subject to imminent removal from the United States.

LEGAL FRAMEWORK

51. Mr. Moreno Vasquez's removal is subject 8 U.S.C. § 1231(a)(5).

52. The "[d]etention and removal of aliens ordered removed", as governed under 8 U.S.C. § 1231(a)(5), provides that:

> If the Attorney General finds that an alien has reentered the United States illegally **after having been removed** or having departed voluntarily, **under an order of removal, the prior order of removal is reinstated** from its original date **and is not subject to being reopened or reviewed**, the alien is not eligible and may not apply for any relief under this chapter, and the alien **shall be removed under the prior order at any time after reentry.** (emphasis added).

53. Pursuant to 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii), an immigration official may only make an arrest if they have a reason to believe the person is in violation of an immigration law or regulation and is likely to escape before a warrant can be obtained for arrest. The language of 8 C.F.R. § 287.8, states, "the following standards for enforcement of activities contained in this section must be adhered to by every immigration officer involved in enforcement activities." Whether Mr. Moreno Vasquez is being held under § 1226(a) or § 1231, a person cannot be lawfully arrested by immigration officials without the official first making an individualized assessment of probable cause to believe the person is in violation of immigration laws and whether the person is likely to escape before a warrant (Form I-200, Warrant for Arrest of Alien) may be obtained. *Id.*

54. 8 U.S.C. § 1367(a)(2), states:

> In General. Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)-
> (2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for **legitimate** Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under paragraph (15)(T), (15)(U), or (51) of section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(T), (U), (51)] or section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)]. (emphasis added). *See also,* 8 U.S.C. § 1367(b)(8).

REMEDY

55. Respondents' detention of Mr. Moreno Vasquez violates the Due Process Clause of the United States Constitution. Mr. Moreno Vasquez's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const., Amend. 5.

56. Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." Zadvydas, v. Davis, 533 U.S. 678, 690 (2001) (citing Jackson v. Indiana, 406 U.S. 715, 738 (1972)).

57. Mr. Moreno Vasquez seeks immediate release to the extent that Respondents arrested him without a warrant/and or by using the information provided in

his U visa application to detain him at a second biometrics appointment not pursuant to legitimate purposes that are in the national interests. *See* 8 U.S.C. § 1367.

58. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, I.N.S. v. St. Cyr, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. Boumediene v. Bush, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

59. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. See, e.g., Munaf v. Geren, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); See also Wajda v. US, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody.").

60. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," Schlup v. Delo, 513 U.S. 298, 319 (1995), and that as an equitable

remedy, federal courts "[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters 'as law and justice require.'" Hilton v. Braunskill, 481 U.S. 770, 775 (1987), quoting 28 U.S.C. § 2243. An order of release falls under court's broad discretion to fashion relief. See, e.g., Jimenez v. Cronen, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) ("Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

61. Mr. Moreno Vasquez respectfully requests a constitutionally adequate remedy of immediate release.

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

62. Mr. Moreno Vasquez re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

63. To the extent it is not proven that a warrant was provided during Mr. Moreno Vasquez's arrest, he requests a declaratory judgment pursuant to 8 U.S.C. § 1357(a)(2) that he was detained without a warrant and without good cause.

64. Mr. Moreno Vasquez requests a declaratory judgment that Respondents violated 8 U.S.C. § 1367 in using Respondent's confidential U visa

application information to arrest him without a legitimate interest and/or in furtherance of national security interests.

COUNT TWO: VIOLATION OF THE FIFTH AMENDMENT

65. Mr. Moreno Vasquez re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

66. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

67. Mr. Moreno Vasquez's detention appears to have been coordinated by virtue of the information contained in his pending and confidential U visa application with USCIS, culminating into a prompt and pre-coordinated detention at a required biometrics appointment, through no prior knowledge of Mr. Moreno Vasquez, and prior to allowing USCIS to adjudicate his Bona Fide Determination and pending applications. This detention goes against the policy of providing protection and relief to vulnerable individuals who provide valuable information to authorities in efforts to resolve qualifying criminal acts, and their qualifying family members, to help make the community safer.

COUNT THREE: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT – CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY POLICY

68. Mr. Moreno Vasquez re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

69. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

70. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

71. Respondents through their recent administrative decision failed to articulate any reasoned explanations for detaining Mr. Moreno Vasquez at his routine USCIS biometrics appointment when his prior removal order could have been forgiven through his pending applications.

72. The application of re-instatement of Mr. Moreno Vasquez's removal pursuant to 8 U.S.C. § 1231(a)(5) and 8 C.F.R. § 241, two years and four months after his order of removal was entered with a waivable (forgivable) removal order through a pending Form I-192, and only after Mr. Moreno Vasquez provided his removal information as part of his U Nonimmigrant

visa application, which led to his detention when he was attending his second biometrics appointment at USCIS within five weeks, is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

73. Unilaterally denying Mr. Moreno Vasquez the equal opportunity to be considered for a Bona Fide Determination and adjudication of his waiver *prior* to enforcing this removal against him is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).[7]

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mr. Moreno Vasquez, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an immediate order restraining Respondents from removing Mr. Moreno Vasquez from the United States during the pendency of this Petition.
3. Issue an order restraining Respondents from attempting to move Mr. Moreno Vasquez from the State of Minnesota during the pendency of this Petition.

[7] It is of note that Mr. Moreno Vasquez's wife had already been granted a Bona Fide Determination, a pre-requisite for Mr. Moreno Vasquez's consideration for the same.

4. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Mr. Moreno Vasquez.

5. Find that Respondents' administrative decision to detain Mr. Moreno Vasquez as he attended a <u>second</u> Biometrics Appointment with USCIS is arbitrary and capricious in violation of the Administrative Procedures Act, since such detention relied on the violation of 8 U.S.C. § 1367.

6. Find that Respondents' administrative decision to detain Mr. Moreno Vasquez without first providing him with an opportunity to be meaningfully considered for a Bona Fide Determination and deferred action from removal and prior to adjudicating his waiver application is arbitrary and capricious and in violation of the Administrative Procedures Act, since such detention disregarded the Bona Fide Determination Process pursuant to INA § 214(p)(6); 8 U.S.C. §1184 (p)(6). *See also* section 8 U.S.C. §1101(a)(15)(U).

7. Declare that Petitioner's detention without a warrant, if none was issued, violates the Due Process Clause of the Fifth Amendment.

8. Grant Mr. Moreno Vasquez reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

9. Grant all further relief this Court deems just and proper.

THE LAW OFFICE OF IRIS RAMOS LLC

Dated: April 3, 2026 By: ______________________

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Harold Moises Moreno Vasquez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. Dated this 3rd day of April 2026.

s/Iris Ramos Nieves
Iris Ramos Nieves, #MN 0392421