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

Jose Carlos Marroquin Jordan,

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, Acting Director for Executive Office for Immigration Review,

Executive Office for Immigration Review,

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

and,

Mike Stasko,
Freeborn County Jail Administrator

Respondents.

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Jose Carlos Marroquin Jordan ("Petitioner") entered the United States as an unaccompanied minor in 2021.

2. Petitioner filed an application for asylum with USCIS under the Trafficking Victims Protection Reauthorization Act ("TVPRA") prior to his 18th birthday.

3. Petitioner filed and was approved for Special Juvenile Immigrant Status ("SIJS") and was concurrently granted deferred action.

4. Based on his priority date and USCIS dates for filing chart, Petitioner is eligible to apply for his green card now.

5. However, Petitioner was detained by Immigration and Customs Enforcement "ICE" on April 11, 2026 because of a pending misdemeanor criminal case with the state of Minnesota.

6. Although the state released him on his own recognizance with minimal conditions (NOT including a no contact order with the victim), and despite not being removable or in removal proceedings, he remains in ICE custody.

7. The power of the government to detain and deport immigrants is not without limitations. To the contrary, the power of government to act is delineated by a specific set of statutes and federal regulations, and subject to the limitations of the United States Constitution.

8. To comport with due process, immigration detention must bear a reasonable relationship to its two regulatory purposes: ensuring the appearance of noncitizens

at future hearings and preventing danger to the community pending the completion of removal. *See Zadvydas v. Davis*, 533 U.S. 690, 691 (2001).

9. Petitioner has spent 11 days in custody.

10. DHS has no lawful basis for detaining him and his continued detention violates the Due Process Clause of the Constitution, Immigration and Nationality Act ("INA"), and the Administrative Procedures Act.

11. Each day that Petitioner remains in detention, he suffers irreparable harm. The deprivation of a constitutional right "for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

12. The continued detention of Petitioner serves no legitimate purpose.

13. Petitioner respectfully seeks an order: (1) issuing a writ of habeas corpus and directing him to be immediately released from ICE custody; (2) declaring that his detention is unlawful; and (3) enjoining Respondents from re-detaining him absent compliance with the Constitution and the INA.

14. Pending the adjudication of the Petition, Petitioner seeks an order restraining the Respondents 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 ICE's day-to-day operations out of their offices in Fort Snelling, Minnesota.

15. 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 Petitioner.

16. Petitioner 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.

## JURISDICTION AND VENUE

17. 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. § 1254a.

18. 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 USC 1226(a). The Board recently confirmed this in Matter of E-Y-F-G-, 29 I&N Dec. 103, 105 (BIA 2025). Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

19. 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 USC § 1252, "§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention." *Zadvydas*, 533 U.S. at 688. While this case involves pre-removal detention, the logic remains the same. Detention is independent of removal and can be reviewed in a habeas action.

20. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at the Freeborn County Jail in Albert Lea, 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

21. Petitioner is a citizen of Guatemala and a resident of Ramsey County, Minnesota.

22. Petitioner is currently in custody at the Immigration and Customs Enforcement ("ICE") detention center in Albert Lea, Minnesota.

23. 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 Petitioner.

24. 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 Petitioner's detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.

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

26. Respondent **Daren K. Margolin** is the Acting 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.

27. Respondent **Executive Office for Immigration Review** (EOIR) 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.

28. 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.

29. 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.

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

31. Respondent **Mike Stasko** is being sued in his official capacity as the Jail Administrator responsible for Freeborn County Jail in Albert Lea, Minnesota. Because Petitioner is detained in the Freeborn County Jail, Respondent has immediate day-to-day control over Petitioner.

## EXHAUSTION

32. Detained immigrants petitioning under 28 U.S.C. § 2241 *et seq.* face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate. *Id.* at 967-68; *see also Giron Reyes v. Lyons*, 801 F. Supp. 3d 797, 803 (N.D. Iowa 2025). Further, administrative exhaustion is unnecessary in this

case as it would be futile. *See, e.g.*, *Eliseo A.A. v. Olson*, No. 25-3381 (JWB/DJF), 2025 WL 2886729, at *7 (D. Minn. Oct. 8, 2025).

33. Additionally, the Immigration Judge (IJ) does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies related to that claim. *See, e.g., Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020); *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992). *Cf. Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) ("[E]xhaustion would be a futile exercise because the agency does not have jurisdiction to review [the] claim.").

**REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

34. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Ibid.* Nevertheless, the fact that Petitioner is detained without court and access to a fair hearing and due process outweighs any good cause argument for extension.

35. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

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).

36. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

## **LEGAL FRAMEWORK**

*Special Immigrant Juvenile Status*

37. A noncitizen child[1] is eligible for Special Immigrant Juvenile Status ("SIJS") if "a juvenile court located in the United States" determines that the child's "reunification with [one] or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law" and that "it would not be in the [noncitizen child]'s best interest to be returned to [their] country of nationality." 8 U.S.C. § 1101(a)(27)(J).

38. An individual with an approved SIJS petition can apply for lawful permanent residency. 8 U.S.C. § 1255(h). However, "SIJ[S] classification does not render a noncitizen lawfully present, does not confer lawful status, and does not result in eligibility to apply for employment authorization." (Exhibit "A" – Policy Alert PA-2022-10 Special Immigrant Juvenile Classification and Deferred Action (March 7, 2022))

39. Visas for special immigrant juveniles come from the employment-based fourth preference (EB-4) category by statute, pursuant to which no more than 7.1 percent

[1] The INA's definition of a child is "an unmarried person under twenty-one years of age." 8 U.S.C. § 1101(b)(1).

of the worldwide level of employment-based visas may be allocated to all categories of "special immigrants," which includes special immigrant juveniles. INA § 203(b)(4).

40. There is currently a multi-year wait for available visas in this category. "Due to ongoing visa number unavailability, the protection that Congress intended to afford [Special Immigrant Juveniles] through adjustment of status is often delayed for years, leaving this especially vulnerable population in limbo." (Exhibit A)

*Deferred Action*

41. Deferred action is an exercise of prosecutorial discretion in immigration enforcement. (Exhibit "B" – USCIS Policy Manual, Volume 1, Parth H, Chapter 2 – Deferred Action) It developed through agency practice and internal guidance rather than a single statute and has been applied in many immigration contexts including SIJS. *Id.*

42. On March 7, 2022, USCIS took action to address the SIJS grantees' vulnerability due to the visa backlog, announcing a new policy of considering individuals granted SIJS for deferred action.[2] (Exhibit A) With the 2022 deferred action

[2] USCIS's recent attempt to rescind its SIJS deferred action policy, and the subsequent litigation challenging that rescission, is irrelevant to Petitioner's case because USCIS's new policy explicitly states noncitizens "with current deferred action based on their SIJ classification will generally retain this deferred action . . . until the current validity periods expire." *USCIS Policy Alert: Special Immigrant Juvenile Classification and Deferred Action*, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (Jun. 6, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf. *See also A.C.R.*, 2025 WL 3228840, at *3 (noting current SIJS deferred action recipients are unaffected by USCIS attempted recission of the deferred action policy).

policy, USCIS sought to "protect [Special Immigrant Juveniles] who cannot apply for adjustment of status solely because they are waiting for a visa number to become available." *Id.* This protection was necessary because "[n]oncitizens without lawful status who have an approved SIJ petition remain subject to removal." *Id.*

43. The purpose of deferred action is to protect a noncitizen from removal.[3] In defining deferred action, the Supreme Court quoted a prominent immigration law treatise, stating, "[a]pproval of deferred action status means that . . . no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." *Reno v. AADC, 525 U.S. 471, 484* (quoting 6 C. Gordon, S. Mailman, & S. Yale–Loehr, Immigration Law and Procedure § 72.03 [2][h] (1998)).

44. In its Policy Manual, USCIS defines deferred action as "a form of prosecutorial discretion to defer removal action (deportation) against an alien for a certain period of time." (Exhibit B)

45. USCIS confirmed protecting SIJS recipients from removal was the purpose of deferred action in the SIJS context as well.

[3] Petitioner acknowledges that his deferred action notice describes the deferred action as "an act of administrative convenience to the government which gives some individuals lower priority for removal from the United States for a specific period of time." (Exhibit "C" – I-360 Approval Notice and Deferred Action Grant) To the extent this language suggests that USCIS grant of deferred action allows DHS to remove Petitioner while he maintains deferred action, it is legally meaningless because it contradicts clear DHS policy and established law.

46. At the time USCIS granted Petitioner deferred action, the USCIS Policy Manual's SIJS chapter defined deferred action as "an act of prosecutorial discretion that defers proceedings to remove a noncitizen from the United States for a certain period of time." (Exhibit "D" – USCIS Policy Manual Chapter 7 - Special Immigrant Juveniles (March 2023))

47. And, at the time USCIS granted Petitioner deferred action, USCIS's Special Immigrant Juveniles application page used identical language to define deferred action. (Exhibit "E" – USCIS Special Immigrant Juveniles (March 2023))

*TVPRA Asylum*

48. The Trafficking Victims Protection Reauthorization Act created special procedural rules for unaccompanied alien children ("UAC"), including special treatment for their asylum cases that are different from adults. 8 U.S.C. § 1158(b)(3)(C).

49. The TVPRA gives USCIS initial jurisdiction over asylum applications filed by UACs; meaning their cases will go to an asylum officer first, rather than to an immigration judge in immigration court, even if they are in removal proceedings. *Id.; Matter of M-A-C-O,* 27 I&N Dec. 477, 478 (BIA 2018) ("asylum officer … shall have initial jurisdiction over any asylum application *filed by an unaccompanied alien child ...* ") (asylum application filed by a former UAC who turned 18 prior to filing)

*Detention Authority*

50. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear in immigration court or a danger to the community. *Zadvydas,* 533 U.S. at 690.

51. The INA does not provide justification for indefinite civil detention. *Id.* Instead it authorizes detention in narrow circumstances related to removal.

52. First, 8 U.S.C. § 1226 authorizes detention for noncitizens subject to removal proceedings.[4] Second, 8 U.S.C. § 1231 authorizes detention for noncitizens who have been ordered removed and are awaiting the execution of their removal order.

53. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

54. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691.

55. Because Petitioner does not have a removal order to execute, 8 U.S.C. § 1231 cannot provide authority for his detention.

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[4] Unaccompanied alien children from countries noncontinuous with the United States are not treated as arriving aliens due to their vulnerable status and instead must be placed in removal proceedings under section 240 of the INA. 8 U.S.C. § (a)(5)(D).

56. Section 1226 authorizes ICE to arrest and detain a noncitizen "pending a decision on whether the alien is to be removed from the United States" in removal proceedings held before an Immigration Judge under 8 U.S.C. § 1229a.

57. To initiate removal proceedings, "written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any)." 8 U.S.C. § 1229(a)(1).

58. DHS has not initiated removal proceedings against Petitioner and cannot lawfully do so unless or until USCIS rescinds its grant of deferred action, as he is not removable.

59. Accordingly, Petitioner's detention does not comport with due process because it bears no relationship to the statute's two regulatory purposes for detention—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691. *See also Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 914 (W.D. Wash. 2025).

60. Each day that Petitioner remains unlawfully detained, he suffers irreparable harm. The deprivation of a constitutional right "for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

## FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

*Petitioner's Entry and Parole into the United States*

61. Petitioner is a native and citizen of Guatemala.

62. Petitioner entered the United States as an unaccompanied minor on October 14, 2021 and was transferred to the custody of the Office of Refugee Resettlement (Exhibit "F" – Office of Refugee Resettlement Verification of Release)

63. Petitioner was subsequently released into the custody of his paternal aunt in Minnesota. *Id.*

64. Prior to turning 18 years old, Petitioner filed for asylum under the Trafficking Victims Protection Reauthorization Act (TVPRA). (Exhibit "G" – ASC Appointment Notice with Receipt Number), (Exhibit "H" – Annual Asylum Fee Receipt).

65. On September 21, 2022, a Minnesota Judge placed Petitioner under the protection of the court, which determined that Petitioner's "father physically abused the minor child by beating him with objects or his hands […] neglected and abandoned [him] […] by refusing to provide even for his basic necessities such as food and clothing." (Exhibit "I" – Custody Order)

66. The court further found that Petitioner's mother "failed to protect [him] from the physical abuse of his father" as well as "failing to provide for his basic necessities such as food and clothing, which resulted in [the Petitioner] dropping out of school and working at a young age." *Id.*

67. The court found that it was not in Petitioner's best interest to return to his country of citizenship, Guatemala. *Id.*

68. Petitioner was granted deferred action status based on the approval of his Form I-360 for Special Juvenile Immigrant Status ("SIJS") which has not been revoked. (Exhibit C), (Exhibit "J" – Initial Employment Authorization Document), (Exhibit "K" – Current Employment Authorization Document)

69. On July 11, 2023 the immigration judge dismissed removal proceedings. (Exhibit "L" – Immigration Judge Order Dismissing Removal Proceedings)

70. Petitioner was issued a work authorization document pursuant to his deferred action status, and he renewed it once following the original grant. (Exhibit J and K)

71. As of April 1, 2026 Petitioner is eligible to apply to become a permanent resident according to published USCIS filing charts. (Exhibit "M" – USCIS Adjustment of Status Filing Charts)

*State Criminal Case and Release on Bond*

72. On November 25, 2025 Petitioner was charged with misdemeanor domestic assault and damage to property in Minnesota and a warrant was issued for his arrest. (Exhibit "N" – Register of Actions)

73. Petitioner turned himself in when he learned of the warrant and he was released on his own recognizance with conditions. (Exhibit "O" – Conditional Release)

74. A domestic no contact order was NOT issued. (Exhibit "P" – Court Clerk Minutes)

75. The case was set for a pretrial hearing on June 11, 2026 at 1:30 p.m. in Ramsey County. (Exhibit "Q" – Scheduling Order)

*Detention without Charge or Opportunity for Bond*

76. Petitioner has been in custody since April 11, 2026 when the state court released him into ICE custody.

77. To date, Petitioner has also not been placed in removal proceedings. (Exhibit "R" – Automated Case Information)

78. Irrespective of statutory interpretation, he is unable to request bond from a court because he doesn't have a court case.

*Absence of "Due Process" Immigration Court and Request for Petitioner's Release*

79. Based on sworn statements by former Immigration Judges, policy memos issued by the Trump administration, and court orders, "due process" is no longer obtainable in the Executive Office for Immigration Review ("EOIR" or "immigration court"). (Exhibit "S" - Declaration of Dana Leigh Marks, Retired IJ (March 2026)), (Exhibit "T" - Declaration of Chloe Dillon, Former IJ (November 2025)), (Exhibit "U" - Artieda Declaration - Post-Habeas Systematic Denial of Bond (January 2026)), (Exhibit "V" - Affidavit Lawrence O. Burman, Retired IJ (February 2026))

80. And the Board of Immigration Appeals ("BIA") acts as a rubber stamp of those decisions. *Id.*

81. The volume and frequency with which the BIA has been issuing precedential decisions that narrow, restrict, and eliminate aspects of due process has been overwhelming. (Exhibit "W" – EOIR Precedent Decisions – Vol. 29)

82. In *Matter of Tepec-Garcia,* 29 I&N Dec. 371 (BIA 2025) the BIA held in a precedential case that "where neither the respondent nor [DHS] appears at the hearing and DHS does not present evidence of removability in advance of the hearing, the Immigration Judge does not err in terminating proceedings without prejudice."

83. And then in *Matter of Bolivar-Bolivar,* 29 I&N Dec. 548 (BIA 2026), the BIA took it a step further and held that even if DHS doesn't appear, the judge is ***required*** to enter an in-absentia order against the Respondent; in a case where neither party appeared and the Respondent was not represented by an attorney.

84. On August 22, 2025, the Department of Justice issued Policy Memo 25-24. (Exhibit "X" - Policy Memo 25-24 Adjudicator Personnel Matters)

85. It cancelled the previous Policy Memorandum 21-15, Adjudicator Independence and Impartiality, issued on January 19, 2021. *Id.,* (Exhibit "Y" - Policy Memorandum 21-15, Adjudicator Independence and Impartiality)

86. It stated that, "[a]djudicator independence is not a license to ignore a clear directive from a proper appellate authority, even if the adjudicator disagrees with the decision. [...]" (Exhibit X)

87. The Policy Memo stated, moreover, that a "determination and ruling by the Attorney General with respect to all questions of law *shall* be controlling." *Id.*

88. The memo it cancelled, in contrast, directed that "no employee or officer can direct an adjudicator to rule in a particular way on a matter before him or her in the first instance." (Exhibit Y)

89. Federal courts across the country have acknowledged the mountain of evidence that now exists showing that only "preordained outcomes" are acceptable in immigration court. (Exhibit "Z" - Federal judge in Colorado flags immigration bond hearings with "preordained outcomes," orders release of asylum seeker), (Exhibit "AA" - *Garcia Ortiz v. Henkey*, No. 26-cv-43, 2026 WL 948275, at *3 (D. Idaho Apr. 7, 2026) (Immediate release after IJ found Danger to Community)), (Exhibit "AB" - *Perez Velasquez v. Bondi*, No. 3:26-cv-01759-GPC-DDL (Apr. 16, 2026) (Flight Risk Denial Legally and Unconstitutionally Deficient), (Exhibit "AC" - *Singh v. Valdez*, No. 1:26-cv-01109, slip op. at ___ (D. Colo. Apr. 1, 2026) (To the contrary, the mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) **have preordained outcomes has become impossible to ignore**.), (Exhibit "AD" - *R.R.C. v. Streeval*, No. 4:25-cv-525 (CDL) (M.D. Ga. Mar. 16, 2026) (Discovery permitted after bond denial in immigration court following habeas court order for hearing)), (Exhibit "AE" - *Garcia v Hyde*, Slip Copy (2025)), Westlaw citation: 2025 WL 3466312 ("The Court is mindful that, in recent months, IJs have faced enormous pressure from the Executive Branch to dismiss cases quickly and rule in certain ways.")).

90. For these reasons we request that the court order his release rather than a bond hearing.

91. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location while 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 Enforcement's ("ICE") Enforcement and Removal Operations Fort Snelling Office in the State of Minnesota.

**CLAIMS FOR RELIEF**

92. Petitioner seeks immediate release.

93. 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.").

94. 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.").

95. 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.").

## CAUSE OF ACTION

## COUNT ONE: VIOLATION OF THE FIFTH AMENDMENT

96. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

97. 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.

98. While the government has discretion to detain individuals either under 8 U.S.C. § 1226(a) or § 1225(b)(2), this discretion is not "unlimited" and must comport with constitutional due process. See *Zadvydas, supra*, at 698.

99. Here, Respondents have chosen to detain Petitioner despite his deferred action and without placing him in removal proceedings, leaving him in legal limbo.

100. Even if they were to place him in removal proceedings, USCIS still has exclusive initial jurisdiction over Petitioner's asylum case.

101. Petitioner's detention therefore violates the Due Process Clause as it bears no relationship to the lawful purposes of civil immigration detention.

## COUNT TWO: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT – ARBITRARY AND CAPRICIOUS AGENCY POLICY, ABUSE OF DISCRETION, AND CONTRARY TO LAW

102. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

103. 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).

104. 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).

105. Under the terms of the INA, the governing regulations, and the APA, Petitioner's detention is unlawful.

106. First, USCIS granted Petitioner deferred action and that grant has not been rescinded and remains in effect. Accordingly, DHS will take "no action . . . to proceed against [Petitioner,] an apparently deportable alien." *Am.-Arab Anti-Discrimination Comm.*,

525 U.S. at 484 (quoting 6 C. Gordon, S. Mailman, & S. Yale–Loehr, Immigration Law and Procedure § 72.03 [2][h] (1998).

107. Second, DHS previously moved to dismiss removal proceedings against Petitioner due to USCIS's grant of deferred action and an Immigration Judge dismissed those proceedings. There are no new removal proceedings against Petitioner.

108. Third, the INA only provides DHS authority to arrest and detain individuals against whom DHS is pursuing removal.

109. Petitioner's detention is therefore contrary to law.

## PRAYER FOR RELIEF

WHEREFORE, Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an order restraining Respondents from attempting to move Petitioner from the State of Minnesota during the pendency of this Petition.
3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153.
5. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
6. Find that Respondents' administrative decision is arbitrary and capricious, an abuse of discretion, and/or otherwise in violation of the Administrative Procedures Act.
7. Order Petitioner's release.

8. Grant Petitioner 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.

Date: April 22, 2026

*/s/ Carrie Huxford Peltier*
PELTIER LAW PLLC
Carrie Huxford Peltier, Esq.
MN Attorney Lic. No. 0390698
1611 County Road B West, Suite 105
Roseville, MN 55113
Phone: 651-505-0030
Fax: 651-344-0548
Email: carrie@cpeltierlaw.com

***Attorney for Petitioner***

**Verification by
Petitioner Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with him. I thereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioners detention status, are true and correct to the best of my knowledge.

/s/ Carrie Huxford Peltier
Carrie Huxford Peltier

Date: April 22, 2026