UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Josué Anyelo Cely Soriano, Petitioner, v. Todd Blanche, Acting Attorney General, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement, David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement, and Joel Brott, Sheriff of Sherburne County Respondents.	Case No. _____ **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner Mr. Josué Anyelo Cely Soriano, ("Cely Soriano"), by and through undersigned 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 and, in the meantime, enjoin Petitioner's transfer to a facility outside of Minnesota.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All

Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

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

4. 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 federal immigration authorities. *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within the District of Minnesota.

6. 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

7. Petitioner is a citizen of Ecuador and a resident of Minneapolis, Minnesota, who is currently detained at the Sherburne County Facility in Elk River, Minnesota. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. 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. Attorney General Blanche shares responsibility for implementation and enforcement of the

immigration detention statutes, along with Respondent Mullin. Attorney General Blanch is a legal custodian of Petitioner.

9. 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 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.

10. 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.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul 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 St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

12. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for Sherburne County Facility, where Petitioner is currently detained. As such, Sheriff Joel Brott has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Since 2025, Respondents have undertaken mass deportation efforts that upended long-established norms and legal interpretations of immigration statutes. Those efforts

have included Operation Metro Surge in the Twin Cities metropolitan area, as well as other activities throughout this District and the rest of the country. In furtherance of these extreme and rapid mass deportation efforts, Respondents have disregarded the law—and the rulings of this Court—at historically unprecedented levels, and the tactics used by Respondents have been shocking to the Twin Cities community and to the rest of the country and the world.

14. Even as individual decisionmakers and officeholders have been replaced and the visibility of Respondents' actions have begun to recede from the news cycle, Respondents have continued to wrongfully detain immigrants and violate people's rights, as this case exemplifies.

15. Respondents' apparent orders are to detain as many people as possible—targeting those who do not have U.S. passports or simply do not have U.S. accents.

16. Petitioner Cely Soriano has lived in the United States since 2023.

17. Cely Soriano entered the United States without inspection, has resided in the country since that time without prior immigration proceedings, and is not subject to a final order of removal.

18. Cely Soriano was arrested by ICE agents on April 9, 2026, at approximately 2:55 p.m. Petitioner was not shown a warrant when ICE agents arrested him.

19. Since entering ICE custody, Cely Soriano has not received any documentation pursuant to his arrest or the basis for continued detention.

20. Cely Soriano was transferred to and remains confined in the Sherburne County Facility in Elk River, Minnesota.

21. Petitioner was at a factory at the time of his initial detention. Though Petitioner himself was not the subject of a deportation order, he was in the company of two other individuals who were subject to deportation orders. ICE agents approached these three individuals while repeatedly yelling "David" in the direction of Cely Soriano. Being aware of ICE's reputation for violence, he was fearful of the agents, who were yelling a name that was not his own. Amidst this chaotic scene, Cely Soriano attempted to leave to reach safety.

22. While attempting to leave, Cely Soriano was hit by one of the ICE agent's vehicles. Cely Soriano was knocked unconscious and regained consciousness in the ICE vehicle. He sustained injuries to his foot, arm, and knee.

23. Cely Soriano was not presented with a warrant or any explanation as to the reason for his arrest.

24. Upon information and belief, Respondents lacked probable cause to justify Petitioner's warrantless detention.

25. Pending the adjudication of this Petition, Cely Soriano further seeks an order restraining the Respondents from transferring Petitioner to a location outside of the State of Minnesota, so that the jurisdiction of this Court is not impeded, and so that Petitioner remains accessible to legal counsel and loved ones.

STANDARD OF LAW

Habeas Petitions

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful or unconstitutional detention, including noncitizens detained by

federal immigration authorities. *See, e.g.*, *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900-01 (D. Minn. 2020) (citations omitted).

27. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a federal law. 28 U.S.C. § 2241(c)(3). Such a petition should be granted if the petitioner proves the illegality of the detention by a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025). Detained noncitizens face no statutory exhaustion requirements to invoke 28 U.S.C. § 2241. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025).

28. Habeas corpus is "a critical check on the Executive, ensuring that it does not detain individuals except in accordance with the law." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Such a remedy is particularly appropriate here, amidst unprecedented Executive bids to transgress limits set by Congress and evade judicial temperament.

Constitutional Limits on Immigration Detention

29. Federal immigration officers may detain people only as authorized by the Immigration and Nationality Act (INA), 8 U.S.C. §1101, *et seq*. The Constitution places additional limits on federal immigration detentions, independent of the question of statutory authority. *See Counselman v. Hitchcock*, 142 U.S. 547, 565 (1892), (overruled on other grounds by *Kastigar v. United States*, 406 U.S. 441 (1972)).

30. Here, Petitioner challenges the instant detention on constitutional grounds not foreclosed by the Eighth Circuit's recent decision in *Avila*, while otherwise preserving the claim that Petitioner is not lawfully detained pursuant to Section 1225 should *Avila* be reversed in the future. *See Avila v. Bondi*, ____ F.4th ____, No. 25-3248, 2026 WL 819258

(8th Cir. Mar. 25, 2026) (deciding, exclusively on statutory grounds, that 8 U.S.C. § 1225 authorizes immigration agents to detain noncitizens currently residing within the United States) and *Pedro A.D.L.O.O. v. Bondi*, No. 26-CV-01959, 2026 WL 948970 (D. Minn. April 8, 2026) (granting petitioner's habeas corpus petition because his detention violated due process, notwithstanding that *Avila* foreclosed petitioner's statutory argument).

Civil Immigration Detentions Must Comply with Fifth Amendment Due Process

31. The Fifth Amendment states that no individual may be "deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

32. The mandate of the Due Process Clause must be considered expansively. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) ("[D]ue process is flexible and calls for such procedural protections as the particular situation demands."). Unlike some legal rules, due process "is not a technical conception with a fixed content unrelated to time, place and circumstances"; instead, it is a critical liberty interest which must be considered in factual context. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162-163 (1951) (Frankfurter, J. concurring)).

33. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, civil

immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed." *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). If "detention's goal is no longer practically attainable," the detention becomes unreasonable and thus violates the Fifth Amendment right to due process. *Id.*

34. The purpose of detaining someone who is not subject to a final removal order is to ensure their appearance at a hearing where an immigration judge decides their admissibility or deportability. *E.g.* 8 U.S.C. § 1229a(a)(1). Absent an initial determination that confinement is necessary to ensure appearances in court, detention does not serve the process contemplated by statute and violates due process.

Arrests by Federal Immigration Agents Must Comply with the Fourth Amendment

35. The Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. CONST. amend. IV. The fundamental purpose of the Fourth Amendment is to "protect[] people, not places." *Katz v. United States*, 389 U.S. 347, 351 (1967). Fourth Amendment protections apply to non-citizens within the United States. *See, e.g.*, *United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008); *see also United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990); *Garrison G. v. Bondi*, No. 26-CV-172, 2026 WL 157677, at *4 (D. Minn. Jan. 17, 2026).

Constitutional and Statutory Limits on Warrantless Arrests

36. Valid warrantless arrests require officers to comply with procedures outlined in federal law, as well as the constitutional requirements of probable cause.

37. Immigration authorities must comply with the law when arresting noncitizens without a warrant. *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017) ("arrest and continued detention is lawful only if officers acted within their statutory authority for affecting a warrantless arrest."); *see also Fernando C.C. v. Bondi*, No. 26-cv-1235, 2026 WL 446408 at *4 (D. Minn. Feb. 17, 2026) (noting that "8 C.F.R. § 287.8(c)(2)(ii) sets the default rule: get a warrant").

38. Warrantless arrests are statutorily authorized in civil immigration matters only in limited circumstances: (i) to arrest a noncitizen who, in the presence or view of the arresting officer, "is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of [noncitizens]," or (ii) to arrest a noncitizen when the arresting officer has reason to believe the noncitizen is "in the United States in violation of any such law or regulation **and** is likely to escape before a warrant can be obtained for his arrest . . . ." 8 U.S.C. § 1357(a)(2) (emphasis added); *see also* 8 C.F.R. §§ 287.3(a) & (d) and 287.8(c)(2)(i)-(ii).

39. The Eighth Circuit has held that the "reason to believe" requirement of 8 U.S.C. § 1357(a)(2) "means constitutionally required probable cause." *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). The probable cause requirement applies to both the belief that the person is "in violation" and also that the person is "likely to escape before a warrant can be obtained." *See* 8 U.S.C. § 1357(a)(2). That is because, "[a]s a general rule, it is not a crime for a removable [noncitizen] to remain present in the United States." *Arizona v. United States*, 567 U.S. 387, 407 (2012) (*citing INS v. Lopez-Mendoza*, 468 U.S.

1032, 1038 (1984)). Therefore, if ICE "stops someone based on nothing more than *possible* removability, the usual predicate for an arrest is absent." *Id.* (emphasis added).

40. Probable cause that a person has violated an immigration law has to be based on actual facts and knowledge of a violation of immigration law, not on an accent or skin color: "apparent ethnicity alone cannot furnish reasonable suspicion[.]" *Noem v. Vazquez Perdomo*, 606 U.S. ___, ___ S. Ct. ___, 2025 WL 2585637, Slip Op. At *5 (U.S. Sept. 8, 2025) (Kavanaugh, J., concurring); *see also Parada v. Anoka Cnty.*, 332 F. Supp. 3d 1229, 1243 (D. Minn. 2018) (finding continued detention beyond the time reasonably required to issue a traffic citation in order to await transfer to immigration authorities based solely on "a perceived civil violation of U.S. immigration laws" to be an "egregious" Fourth Amendment violation).

41. Probable cause that a person might escape requires a "particularized assessment" sufficient to conclude that the subject is likely to abscond before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)); *accord, e.g., United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006-07 (N.D. Ill. 2016); *Ramirez Ovando v. Noem,* 810 F. Supp. 3d. 1209, 1217 (D. Colo. 2025) (requiring "particularized inquiry" that subject is likely to abscond).

42. The facts informing the assessment of whether a person is likely to escape "may vary." *See Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 13 (D.D.C. 2025). "Courts have also made the self-evident finding that the likelihood of escape is

lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Id.* (collecting cases).

43. The Government itself admits these two distinct probable cause requirements for warrantless immigration arrests. *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1052 (7th Cir. 2025) (citing ICE's own "Broadcast Statement of Policy," which requires ICE officers to have probable cause both that the noncitizen is present in violation of immigration laws, and is likely to escape before a warrant may be obtained.).

44. It is Respondents' burden to establish both of these probable cause predicates for reliance on 8 U.S.C. § 1357's exceptions to the warrant requirement, and the absence of either warrants Petitioner's immediate release. *See, e.g., Cutberto R.P. v. Bondi*, No. 26-CV-1934 (MJD/DTS) Doc. No. 11, 13 (D. Minn. April 10, 2026). Failure to establish probable cause, such as through reliance on a deficient or inadequate Form I-200 administrative warrant, is insufficient to satisfy Section 1357(a)(2) and its associated regulations. *See, e.g., Sergio P. v. Bondi*, No. 26-CV-01538, 2026 WL 497290 (D. Minn. Feb. 23, 2026) (overruled on other grounds by *Avila v. Bondi*, ____ F.4th ____, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026)).

Regulatory Limits on Warrantless Arrests

45. The only appropriate manner for immigration authorities to make warrantless arrests for perceived civil violations of immigration law is laid out in 8 C.F.R. § 287.3.

46. The arrestee must be interviewed by an immigration officer other than the arresting officer, "unless no other qualified officer is readily available and locating one would entail

unnecessary delay." *See Puc-Ruiz v. Holder*, 629 F.3d 771, 780 (8th Cir. 2010) (quoting 8 C.F.R. § 287.3(a)).

47. The arrestee must "be advised of the reasons for his arrest, of his right to legal representation, and that any statement made may be used against him in a subsequent proceeding," and "be given a list of the free legal services available in the district where the hearing will be held. *Id.* (quoting 8 C.F.R. § 287.3(c)).

48. A determination must be made "within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, whether the alien will be continued in custody or released on bond or recognizance ***and*** whether a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239 will be issued." 8 C.F.R. § 287.3(d) (emphasis added). The use of the word "and" in § 287.3(d) confirms that the warrant, NTA, and an individual determination regarding continued confinement are discrete requirements that each must be satisfied to comply with § 287.3(d).

49. The use of the words "release on bond or recognizance," and the reference to 8 C.F.R. § 236 also confirm that Respondents are required to make specific findings about whether "the alien is likely to appear for any future proceedings." 8 C.F.R. § 236.1(c)(8).

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Procedural Due Process

Respondents are Detaining Petitioner Without Due Process

50. Petitioner realleges and incorporates by reference the allegations contained above.

51. Courts often use the three-factor *Mathews* test to evaluate due process claims when noncitizens are detained: 1) the private interest affected by the official action; 2) the risk of erroneous deprivation of that interest coupled with the probable value of alternate procedural safeguards; and 3) the government's interest, including any potential burden from the alternate procedure. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

52. First, Cely Soriano 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 (2004); *see also Parham v. J.R.*, 442 U.S. 584, 600 (1979) (noting "substantial liberty interest in not being confined unnecessarily" in civil proceedings). Cely Soriano is wrongfully confined, a direct attack on Petitioner's liberty interests.

53. Second, Cely Soriano will continue to be deprived of this interest if the current procedure–en masse detentions for the sake of detentions–is followed. Where, as here, thousands of individuals are being detained across the country "[w]ithout an individual assessment, the risk of erroneous deprivation is high." *Pedro A.D.L.O.O.*, 2026 WL 948970 at *3. This lack of individual assessment is an issue for the duration of these indefinite detentions: prolonged detention without any particularized assessment of need "no longer bears a reasonable relation to its purpose." *See Zamudio Sanchez v. Noem*, No. 25-CV-00403, 2026 WL 596133, at *13 (W.D. Tex. Mar. 2, 2026); *see also Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024) ("[w]here the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is separate families and remove from

the community breadwinners, caregivers, parents, siblings and employees.") (citation and internal quotations omitted).

54. Considering alternative procedures, a particularized inquiry as to the necessity of detention, rather than a policy of "detain first, justify later," is reasonable to protect civilians' rights and preserve government resources. *See*, e.g., *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1188 (D. Minn. 2025) ("[T]he automatic stay regulation includes no requirement that the agency official invoking it consider any individualized or particularized facts, which increases the potential for erroneous deprivation of individuals' private rights.").

55. Here, Respondents made no individualized inquiry and had no rational basis to believe that detention is necessary to ensure Cely Soriano's appearance in immigration court. ICE agents did not set out to detain Petitioner – they were looking for a specific individual named "David" who may have been subject to a deportation order. Cely Soriano was not subject to a deportation order. His name is not "David." Cely Soriano's arrest was random and unplanned, suggesting that ICE agents could not have had any particularized belief that Petitioner was not lawfully present in the United States.

56. Lastly, the Government has no legitimate interest in refusing to follow its own rules, or in wasting its resources detaining people and flooding cities with armed officers who chase people down for civil infractions. The government has no legitimate interest in detaining someone simply because they are undocumented. *Pedro A.D.L.O.O.*, 2026 WL 948970 at *3 (finding that "the government's interest in detaining Petitioner is weak because they have not established that Petitioner is unlikely to appear or that he poses any

threat to the community as he has no criminal history."). And yet, that is precisely what Respondents have been doing, nationwide–detaining people simply because they are undocumented (or appear to be), and then waiting to see if the person they have detained will be able to pull together the legal resources to seek accountability in court.

57. Here, Cely Soriano poses no safety threats to the community. Releasing Petitioner would in save the government the resources and expense of continued imprisonment. *See Black*, 103 F.4th at 154-55 (noting that not only the incarcerated individual, but society bears the direct and indirect costs of incarceration, and evaluating the high financial costs per day of incarcerating immigrants).

58. Therefore, the placement of Cely Soriano in detention pending the resolution of ongoing immigration proceedings without reason violates Cely Soriano's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

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

59. Petitioner re-alleges and incorporates by reference the paragraphs above.

60. Upon information and belief, Respondents did not have a judicial warrant to arrest Cely Soriano. Respondents did not present any administrative warrant to Cely Soriano when they detained him, and have not produced one since.

61. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Cely Soriano under 8 U.S.C. § 1357(a)(2) because, at the time of Cely Soriano's warrantless arrest, the arresting ICE agents lacked probable cause, or "reason to

believe," that Petitioner was both "in the United States in violation of any such law or regulation" regulating the admission, exclusion, expulsion, or removal of noncitizens **and** "likely to escape before a warrant can be obtained for his arrest."

62. Respondents have made, and continue to make, an unreasonable warrantless seizure of Cely Soriano under the Fourth Amendment. Cely Soriano's resultant detention is unlawful.

COUNT THREE

Violation of the Administrative Procedure Act, 5 U.S.C. § 706

Detaining Petitioner in a Manner that is Arbitrary, Capricious, and Not in Accordance with the Law Violates the Administrative Procedure Act

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

64. 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).

65. Respondents failed to base their warrantless arrest on the requisite probable cause that Petitioner is in violation of immigration law and was likely to abscond. 8 U.S.C. § 1357(a)(2).

66. The application of 8 U.S.C. § 1357(a)(2) to Cely Soriano without factual predicates for both required probable cause findings is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

67. As such, Respondent's actions were without observance of procedures required by law and should be set aside.

COUNT FOUR

Violations Under the *Accardi* Doctrine

Respondents' Contravention of DHS Regulations Violates the Acardi *Doctrine*

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

69. Under the Accardi doctrine, a Court can set aside agency action that violates agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy,* 347 U.S. 260, 268 (1954) ("If petitioner can prove the allegation [that the agency failed to follow its own rules in a hearing] he should receive a new hearing."). *Accardi* prohibits agencies from taking actions "inconsistent with their internal regulations when it would affect individual rights." *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001).

70. By arresting Petitioner without a warrant and without the requisite probable cause to believe that Petitioner was a flight risk, Respondents violated 8 C.F.R. § 287.8(c)(2)(ii)).

71. Respondents' violations of their own regulations directly impacted Petitioner's individual rights, namely, Cely Soriano's personal liberty interests. As such, Petitioner's detention is unlawful and should be set aside under the *Accardi* doctrine.

REMEDY

72. When a habeas petitioner's detention is without legal basis, the typical and appropriate remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention"); *Edison D.M.J. v. Bondi*, No. 26-CV-1588, 2026 WL 559747 (D. Minn. Feb. 27, 2026) ("The remedy for a warrantless arrest is immediate release."); *Sergio P. v. Bondi*, No. 26-CV-01538, 2026 WL

497290 (D. Minn. Feb. 23, 2026) ("Release is an available and appropriate remedy for detention that lacks a lawful predicate," including where the government fails to satisfy its burden that Section 1357(a)(2)'s probable cause-based exceptions to the warrant requirement apply); *Pedro Eduardo R. P. v Bondi,* No. 26-CV-01323, 2026 WL 473140 (D. Minn. Feb. 17, 2026) (recommending immediate release after the government failed to contest petitioner's Fourth and Fifth Amendment arguments), *report and recommendation adopted*, 2026 WL 478607 (Feb. 19, 2026); *Jose L.R.O. v. Bondi*, No. 5:26-CA-850, Doc. No. 11 at 25 (W.D. Tex. Mar. 23, 2026) ("[W]here the Court finds an ongoing detention unlawful, 'the typical remedy for such detention is, of course, release.'" (quoting *Munaf*, 553 U.S. at 693)). As a sister court in the Western District of Texas recently explained "bond hearings are no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Jose L.R.O.*, No. 5:26-CA-850, Doc. No. 11 at 26.

73. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose, and there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody.

REQUEST FOR ORDER TO SHOW CAUSE

74. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

75. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

76. Petitioner respectfully requests that an Order to Show Cause direct Respondents, should they offer a warrant in this case, to provide sufficient details to establish the validity of this warrant, such as: (1) the name, title, training, and qualifications of the officer who issued the warrant; (2) the time and place at which the warrant was issued; (3) the evidence the issuing officer relied upon in making his determination that an arrest was warranted in this case, including any existing Notice to Appear; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas corpus petition.

PRAYER FOR RELIEF

WHEREFORE, Cely Soriano prays that this Court grant the following relief;

1. Assume jurisdiction over this matter;

2. Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, or transport Petitioner back to Minnesota if moved out of state;

3. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;

4. Require that Petitioner be released within the State of Minnesota, at a safe time and place communicated to counsel and with all of Petitioner's personal belongings and effects in Respondents' possession, such as Petitioner's driver's license, immigration papers, identification documents including any passport or employment authorization document, cell phone, and keys;

5. Enjoin Respondents from implementing any condition of release, including the "Alternatives to Detention" program involving ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile application;

6. Declare that Petitioner's arrest exceeded Respondents' authority;

7. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and

8. Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: April 24, 2026

/s/ Ashlynn Kendzior

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Attorneys for Petitioner

Verification Pursuant to 28 U.S.C. § 2242

I am Petitioner's attorney and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, which knowledge comes from my conversations with my client's loved ones when preparing this filing, a review of Respondents' publicly available websites, and my own experience litigating similar petitions for habeas corpus relief by wrongfully detained immigrants since the beginning of Operation Metro Surge.

Date: April 24, 2026

/s/ Ashlynn Kendzior

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