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. 26-cv-2363-NEB-LIB **REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Josué Anyelo Cely Soriano, by and through the undersigned attorneys, respectfully submits this Reply in support of the Petition for a Writ of Habeas Corpus. Respondents filed a response to this Petition alleging that Mr. Cely Soriano is subject to mandatory detention under 8 U.S.C. § 1225 and that probable cause existed for a warrantless arrest. As Respondents explicitly arrested Mr. Cely Soriano under 8 U.S.C. § 1226 *without a warrant*, his arrest and subsequent detention are unlawful. Additionally, arresting officers did not have probable cause for a warrantless arrest under 8 U.S.C. § 1225, again demonstrating that Petitioner's arrest was unlawful. As a result, Mr. Cely Soriano respectfully requests that the Court grant his Petition for a Writ of Habeas Corpus.

I. FACTS

Since 2025, Respondents and their predecessors have undertaken mass deportation events in Minnesota. Verified Petition Writ Habeas Corpus, Apr. 24, 2026, ECF No. 1 ¶ 13 ("Pet."). These events have included Operation Metro Surge, which included extreme and rapid mass detention and deportation efforts, many of which judges have later determined were unlawful. *Id.*; *see e.g.*, *Berman J.P.H. v. Margolin,* No. CV 26-2131, 2026 WL 1245758 (D. Minn. May 6, 2026); *Aureliano M.S. v. Bondi,* No. CV 26-1974, 2026 WL 992445 (D. Minn. Apr. 13, 2026); *Alex P.G.T. v. Bondi*, No. 26-1892, 2026 WL 809938 (D. Minn. Mar. 24, 2026). These efforts have included widespread actions against citizens and noncitizens alike. *See, e.g.*, *Hussen v. Noem*, No. 26-CV-324, 2026 WL 657936, at *4 (D. Minn. Mar. 9, 2026) (detailing the stops and arrest of United States citizens as part of Operation Metro Surge); *Aureliano M.S. v. Bondi,* No. CV 26-1974, 2026 WL 992445 (D. Minn. Apr. 13, 2026).

As part of Operation Metro Surge, ICE agents arrested thousands of individuals, flew them out of the state, and denied them the opportunity to speak with an attorney. *See Advocs. for Hum. Rts. v. U.S. Dep't of Homeland Sec.,* No. 26-CV-749, 2026 WL 850270, at *1 (D. Minn. Mar. 26, 2026); *Advocs. for Hum. Rts. v. U.S. Dep't of Homeland Sec.,* No. 26-CV-749, 2026 WL 404457, at *2 (D. Minn. Feb. 12, 2026). Respondents have repeatedly violated individuals' constitutional rights and court orders. *See, e.g.*, *Ge Y. v. Noem*, No. 26-CV-1700, 2026 WL 800005 (D. Minn. Mar. 17, 2026), *report and recommendation adopted*, No. 26-CV-1700, 2026 WL 803129 (D. Minn. Mar. 23, 2026); *J.B.C.O. v. Bondi*, No. 26-1429, 2026 WL 638455, at *1, *3 (D. Minn. Mar. 6, 2026)

(noting that Respondents failed to release the petitioner by the deadline established by the Court and adding that, broadly, "[d]uring Operation Metro Surge, ICE repeatedly failed to return personal property to detainees ordered released by the Court"); *Riky A.M.L. v. Bondi,* No. CV 26-1429, 2026 WL 452419, at *1 (D. Minn. Feb. 17, 2026). The Court has recognized that "Operation Metro Surge has had a devastating impact on Minnesota residents, and public accountability for any unlawful conduct committed during its execution is still in its infancy." *Minnesota by & through Ellison v. Noem*, No. 26-CV-00190, 2026 WL 432314, at *3 (D. Minn. Feb. 16, 2026).

Mr. Cely Soriano is a citizen of Ecuador has lived in the United States since 2023. Pet. ¶¶ 7, 16; Decl. William J. Robinson, May 11, 2026, ECF 7, Ex. B, at 2 ("Robinson Decl."). On April 9, 2026, Mr. Cely Soriano was approached by ICE agents in an unmarked vehicle. Pet. ¶ 18. Respondents insist that officers were "conducting a targeted enforcement operation" at the time of Petitioner's arrest, and that officers stopped the vehicle in which Mr. Cely Soriano was a passenger. Robinson Decl., Ex. B, at 2. Respondents do not indicate how they performed a traffic stop as they were in unmarked black trucks that did not identify them as ICE agents. It is unclear how they could have conducted a traffic stop without this identification, and Respondents provide no explanation as to how this occurred.

At the time of his arrest, Mr. Cely Soriano was in the presence of two individuals who were subject to deportation orders, but he himself was not subject to such an order. Pet. ¶ 21. ICE agents shouted "David" at Mr. Cely Soriano—the name of one of the individuals purportedly subject to a deportation order. Pet. ¶ 21, Robinson Decl. Ex. B, at

2. Fearing violence from ICE agents—who were well known for harming citizens and noncitizens throughout Operation Metro Surge—Mr. Cely Soriano attempted to leave the scene to reach safety. Pet. ¶ 21.

ICE agents ran over Mr. Cely Soriano with one of their vehicles as he attempted to reach safety. Pet. ¶ 22; *see also* Robinson Decl. Ex. B, at 2 (asserting, obliquely, that one of the ICE agents "used his vehicle to block [Petitioner] from further flight"). Mr. Cely Soriano was knocked unconscious by the vehicle. Pet. ¶ 22. He did not regain consciousness until he was in the back of the ICE vehicle. *Id.* Mr. Cely Soriano sustained injuries to his foot, arm, and knee. *Id.* He was not taken to the hospital, nor did he have a medical evaluation, after being struck by the vehicle and losing consciousness, and was instead transferred to the Sherburne County Jail. Pet. ¶ 20.

Mr. Cely Soriano was not shown a warrant at the time of his arrest. *Id.* ¶ 23. He was presented with an administrative warrant on April 10, 2026 – the day after his arrest – which was directed to: "Any immigration officer authorized pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." Robinson Decl. Ex. A. On that same date, he requested a hearing before an immigration judge and indicated that he feared returning to his home country. Robinson Decl. Ex. D.

More than one month after Mr. Cely Soriano's arrest he still has not received a medical evaluation. While he sustained injuries to his foot, arm, and knee, *see* Pet. ¶ 22,

the extent of his injuries is not known due to a lack of medical evaluation. Mr. Cely Soriano reports ongoing pain after being struck by the ICE agent's vehicle.

II. PETITIONER WAS UNLAWFULLY DETAINED UNDER § 1226 WITHOUT A WARRANT

In their response to Mr. Cely Soriano's Petition for a Writ of Habeas Corpus, Respondents represent that Mr. Cely Soriano's detention is mandatory pursuant to 8 U.S.C. § 1225. *See* Resp'ts' Resp. Pet. Writ Habeas Corpus, May 11, 2026, ECF 6, at 1-6 ("Resp."). But Respondents did not arrest Mr. Cely Soriano under 8 U.S.C. § 1225. Rather, they invoked *discretionary* detention under 8 U.S.C. § 1226 in the administrative warrant. *See* Robinson Decl. Ex. A. The administrative warrant was directed to: "Any immigration officer authorized pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." Robinson Decl. Ex. A. Respondents cannot now invoke mandatory detention under 8 U.S.C. § 1225 and should be held to the discretionary detention provisions explicitly included in the administrative warrant. *See Respondents JEFFERSON v. BLANCHE,* No. CV 26-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026) ("Because Respondents represented to Petitioner that his arrest was based on § 1226(a), the Court will hold Respondents to those representations" (citing *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 970 (D. Minn. 2025)); *see also Martha C.G.P., v. Blanche,* No. CV 26-2308, 2026 WL 1329577, at *2 (D. Minn. May 13, 2026); *HECTOR v. SHEA*, No. CV 26-2242, 2026 WL 1243500, at *2 (D. Minn. May 6, 2026); *FRANCISCO v. BLANCHE*, No. CV 26-2032, 2026 WL 1229701, at *1 (D. Minn. May 5, 2026).

Under 8 U.S.C. § 1226(a), "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). "Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a)." *Ahmed M. v. Bondi*, No. 25-CV-471, 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (quoting *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)). "[I]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a)." *Id.* (emphasis in original) (quoting *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)).

Respondents arrested Mr. Cely Soriano without a warrant in violation of 8 U.S.C. § 1226(a). Mr. Cely Soriano was arrested and detained on April 9, 2026. Pet. ¶ 18; Robinson Decl. Ex. B, at 2. Respondents did not serve the Form I-200 administrative warrant on Mr. Cely Soriano until *a day after* his arrest and detention. *Compare* Pet. ¶ 18; Robinson Decl. Ex. B, at 2 (showing that Mr. Cely Soriano was detained on April 9, 2026); *with* Robinson Decl. Ex. A (showing that the warrant was served on April 10, 2026, at Sherburne County Jail). Furthermore, the Form I-200 administrative warrant indicates that the arresting officer had probable cause based on "biometric confirmation of the subject's identity and a record check of federal databases that affirmatively indicate" that he is in the United States without documentation. Robinson Decl. Ex. A. Such information could only be obtained and confirmed after Mr. Cely Soriano's arrest, further demonstrating that the administrative warrant was served after his initial arrest. *See JEFFERSON v. BLANCHE,* No. CV 26-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026) (concluding that an

administrative warrant had been served after the petitioner's arrest due to the date included in the warrant and the confirmation of biometric records, which "could have only been confirmed after Petitioner had been taken into ICE's custody.").

As the warrant was not served on Mr. Cely Soriano until after he was detained at Sherburne County Jail, the warrant is invalid. *See HECTOR v. SHEA*, No. CV 26-2242, 2026 WL 1243500, at *2 (D. Minn. May 6, 2026). In light of the invalid warrant, Mr. Cely Soriano's detention is unlawful under 8 U.S.C. § 1226. *Gabriela G. v. Noem,* No. 26-CV-590, 2026 WL 242007, at *2 (D. Minn. Jan. 29, 2026) ("[I]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a)." (emphasis in original)) (quoting *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)). Mr. Cely Soriano respectfully requests that the Court grant his Petition for a Writ of Habeas Corpus and order his immediate release from detention.

III. RESPONDENTS HAVE NOT ESTABLISHED ANY WARRANTLESS ARREST COMPLIED WITH § 1225

If the Court entertains Respondents' post-hoc attempt to argue that Mr. Cely Soriano was arrested under 8 U.S.C. § 1225 – which is contrary to the evidence they produced – it should hold that Respondents lacked probable cause to arrest Mr. Cely Soriano without a warrant. Alternatively, the Court should order immediate production of the body worn camera footage, expand the record under Rule 7 of the Rules Governing Section 2254 Cases, and hold an evidentiary hearing under Rule 8 if material factual disputes remain.

A. Respondents Did Not Have Probable Cause to Arrest Petitioner Without a Warrant

If the Court considers Respondents' argument that Mr. Cely Soriano was arrested and subject to mandatory detention pursuant to 8 U.S.C. § 1225, *see Avila v. Bondi,* 170 F.4th 1128, 1138 (8th Cir. 2026), then it should find that, on this record, Respondents lacked probable cause to arrest Petitioner without a warrant. A warrantless arrest must comply with the requirements of § 1357(a)(2), which provides that such an arrest may take place if the arresting officer has "reason to believe" that the individual (1) is in the United States without documentation *and* (2) "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a). Under Eighth Circuit jurisprudence, "reason to believe" is the equivalent of probable cause. *See United States v. Quintana,* 623 F.3d 1237, 1239 (8th Cir. 2010) (internal citations omitted).

ICE agents did not have reason to believe that Mr. Cely Soriano was in the country without documentation. Respondents assert that "ICE had reason to believe that individuals riding in a vehicle that was a target of immigration enforcement action had a suspect basis to be or remain in the United States." Resp. at 7. But Respondents provide no support for the assertion that merely riding in a vehicle that could be subject of an enforcement action constitutes probable cause, and proximity to a purportedly undocumented individual should not constitute probable cause to believe Petitioner is undocumented. *See M-J-M-A- v. Hermosillo*, No. 6:25-CV-02011-MTK, 2026 WL 562063, at *22 (D. Or. Feb. 27, 2026) (citing *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019)) (persuasive

authority holding that "A person's proximity to others suspected of unlawful activity, without more, also cannot serve as the basis for probable cause.").

Having approached Mr. Cely Soriano without individualized suspicion, Respondents argue "ICE had reason to believe Petitioner was likely to escape because he was actively escaping ICE." Resp. at 8. But Mr. Cely Soriano's attempt to flee the scene –in the aftermath of Operation Metro Surge, after being somehow "pulled over" by an unmarked car by ICE agents who were yelling another individual's name –does not evince his documentation status. *Any* individual, regardless of immigration status, may have engaged in the same conduct in fear of agents that had participated in violent detention of citizens and noncitizens, and repeatedly violated individuals' constitutional rights and court orders. Respondents offer no authority to suggest that attempted flight, in the context of Operation Metro Surge, is pertinent to Mr. Cely Soriano's documentation status, let alone sufficient to establish probable cause. As a result, Respondents have not met the requirements to conduct a warrantless arrest under § 1357(a)(2), and Mr. Cely Soriano's detention is unlawful.

B. Evidentiary Disputes Requiring an Evidentiary Hearing

In the alternative, the Court should find that evidentiary issues exist regarding whether ICE agents had probable cause to arrest Mr. Cely Soriano, warranting an evidentiary hearing.

Respondents rely primarily on Forms I-200 and I-213 to establish the facts that purportedly support their probable cause determination. As discussed above, however, these forms do not justify the arrest or establish that ICE agents had "reason to believe"

that Mr. Cely Soriano was undocumented. Even if the facts relied upon by Respondents *could* establish probable cause to justify Mr. Cely Soriano's arrest, those facts are sharply contested. Factual disputes exist concerning whether ICE agents ran over Petitioner, whether Petitioner admitted to entering the country without inspection, and whether he fears returning to his home country. Thus, the facts purportedly supporting the probable cause determination remain in dispute and an evidentiary hearing is appropriate.

First, there is a factual dispute regarding whether Petitioner was run over by ICE agents and therefore unable to confirm that he entered the United States without inspection as Respondents argue. The Form I-213 indicates that "Officer Jorgenson . . . used his vehicle to block [Petitioner] from further flight." *Id.* But ICE agents did not use the vehicle as a makeshift barrier – they ran Petitioner over with their vehicle, rendering him unconscious. Pet. ¶ 22. Agents did not "assist[]" Mr. Cely Soriano to the ground as their records state, *see* Robinson Decl., Ex. B at 2; he was unconscious after being hit by the vehicle. Pet. ¶ 22.

Respondents claim that Mr. Cely Soriano made an admission regarding his immigration status during a field interview. *See* Robinson Decl., Ex. B, at 2. This is disputed because, as a result of being run over by a vehicle, Mr. Cely Soriano was rendered unconscious. *See* Pet. ¶ 22. Petitioner only regained consciousness in the back of an ICE vehicle. *Id.* He could not have provided information regarding his immigration status to ICE agents before his arrest because he was unconscious. *Compare* Robinson Decl., Ex. B, at 2 (indicating that agents conducted a "field interview" to determine Mr. Cely Soriano's status) *with* Pet. ¶ 22 (noting that Mr. Cely Soriano was unconscious after being

hit by the agents' vehicle and regained consciousness in the back of the vehicle). Respondents' own evidence supports the existence of this factual dispute. Robinson Decl., Ex. D (showing that Petitioner did *not* mark or initial the statement regarding entering the United States without documentation).

Second, a factual dispute exists as to whether Mr. Cely Soriano fears returning to his home country. The Form I-213 states "Subject states he does not fear returning to his country of citizenship." Robinson Decl., Ex. B, at 3. But the Form I-826 – notably the only document written in Spanish, Mr. Cely Soriano's native language – shows that Mr. Cely Soriano affirmatively marked and wrote his initials next to the statement that he considered himself in danger if he were to be returned to his home country. Robinson Decl., Ex. D.

Finally, Respondents insist that officers were "conducting a targeted enforcement operation" at the time of Petitioner's arrest, that officers stopped the vehicle in which Mr. Cely Soriano was a passenger, and that Mr. Cely Soriano's attempt to reach safety constituted probable cause that he was undocumented. Resp. at 6-8; Robinson Decl., Ex. B, at 2. Yet Respondents do not indicate how they performed a traffic stop as they were in unmarked black trucks that did not identify them as ICE agents. It is unclear how they could have conducted a traffic stop without this identification, and Respondents provide no explanation as to how this occurred, casting doubt as to the facts of ICE agents' interaction with Mr. Cely Soriano and their purported probable cause determination.

Respondents' proffered evidence does not resolve the factual disputes in this case, but these factual disputes *can* be resolved: ICE agents wore body cameras during Petitioner's arrest which recorded the interaction. *See* Robinson Decl., Ex. B, at 1. This

footage would show how ICE agents first encountered the vehicle in which Mr. Cely Soriano was a passenger, prove whether Mr. Cely Soriano was run over by ICE agents and rendered unconscious, and indicate whether he disclosed his immigration status during the purported field interview. While Respondents have not provided said footage, the Court could order the immediate production of the body camera footage and expand the record under Rule 7 of the Rules Governing section 2254 cases.[1] In the unlikely event that the body camera footage does not firmly resolve the factual disputes, the Court could hold an evidentiary hearing under Rule 8 to make credibility determinations about the contents of the exhibits to determine whether ICE agents had probable cause to arrest Mr. Cely Soriano without a warrant.

IV. CONCLUSION

ICE officers approached Mr. Cely Soriano in an unmarked vehicle, ran him over with their vehicle, and proceeded to detain him while he was unconscious. These agents had no lawful basis to detain Mr. Cely Soriano, and Respondents have not provided any information to support such an assertion. Respondents explicitly indicated that Mr. Cely Soriano was detained pursuant to 8 U.S.C. § 1226, but arrested him without a warrant. As a result, his detention is unlawful. Furthermore, Respondents have not demonstrated that arresting officers had probable cause to detain Mr. Cely Soriano without a warrant under § 1357(a)(2); Respondents have not provided documentation of the purported targeted enforcement action, nor support for the claim that an attempt to reach safety constitutes

[1] Concurrent with this motion, Petitioner files his Motion for Limited Discovery and Expansion of the Record.

probable cause as to an individual's immigration status. As such, Mr. Cely Soriano's detention is unlawful, and he respectfully requests that the Court grant his Petition for a Writ of Habeas Corpus.

Respectfully submitted,

Date: May 18, 2026

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