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

Hernan Antonio Mata Calderon,

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,

Joel Brott,
Sherburne County Jail Administrator

Respondents.

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Hernan Antonio Mata Calderon ("Petitioner") entered the United States in 2016 when he was 21 years old.

2. Petitioner has three children, one of which was born in the United States.

3. He was granted deferred action based upon his pending application for U-nonimmigrant status in 2024. (Exhibit "A" – Bona Fide Determination Letter)

4. On April 24, 2026, Petitioner was arrested and charged with misdemeanor domestic assault – fear in violation of Minnesota Statute § 609.2242, subd. 1(1). (Exhibit "B" – Register of Actions for criminal case 62-CR-26-2860) (Exhibit "C" - Citation Data Summary for criminal case 62-CR-26-2860) (Exhibit "D" - Citation for criminal case 62-CR-26-2860) (Exhibit "E" - Court Clerk Minutes for criminal case 62-CR-26-2860)

5. He was released the same day on his own recognizance with no bail, bond, or conditions required. *Id.*

6. Immigration and Customs Enforcement ("ICE") detained Petitioner as he was leaving the custody of the Ramsey County Sheriff.

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. The Department of Homeland Security ("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.

10. 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).

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

12. 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.

13. 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.

14. 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.

15. 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

16. 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.

17. 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.

18. 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.

19. 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 Sherburne County Jail in Elk River, 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

20. Petitioner is a citizen of El Salvador and a resident of Ramsey County, Minnesota.

21. Petitioner is currently in custody at the Immigration and Customs Enforcement ("ICE") detention center in Elk River, Minnesota.

22. 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.

23. 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.

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

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. Respondent **Joel Brott** is being sued in his official capacity as the Jail Administrator responsible for Sherburne County Jail in Elk River, Minnesota. Because Petitioner is detained in the Sherburne County Jail, Respondent has immediate day-to-day control over Petitioner.

## EXHAUSTION

31. 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).

32. 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**

33. 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.

34. 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).

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

## LEGAL FRAMEWORK

*U-nonimmigrant Visas*

36. In 2000, Congress created the U-nonimmigrant visa classification under the Victims of Trafficking and Violence Protection Act ("TVPRA"), as part of broader legislation addressing human trafficking and violence against women. VTPA, Publ. L. No. 106-386, 114 Stat. 1464 (2000) (codified at 22 U.S.C. §§ 7101 *et seq.*)

37. Nested within the TVPRA like Russian dolls, the Violence Against Women Act of 2000 ("VAWA") and Battered Immigrant Women Protection Act ("BIWPA") both addressed aspects of domestic violence with the BIWPA recognizing the particularly vulnerable position of non-citizen immigrant women. *Id.* at 1491, 1518-37.

38. Under the BIWPA, Congress sought to ensure victim and witness cooperation with law enforcement for the investigation and prosecution of crimes including, but not limited to, domestic violence, sexual assault, and trafficking, while protecting noncitizen crime victims. *Id.;* (codified in part at 8 U.S.C. §§ 1101(a)(15)(U), 1184(p)).

39. A non-citizen is eligible for U-nonimmigrant status if he has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity in the United States, possesses credible and reliable information establishing he has knowledge of the details of the crime, has been helpful, is helpful, or is likely to be helpful to investigators and prosecutors of the crime, and is admissible to the United States or eligible for a waiver of their inadmissibilities. 8 C.F.R. § 214.14(b).

40. The non-citizen victim must obtain the signature of a law enforcement agency called a U nonimmigrant status certification, attesting to their eligibility to apply for U-nonimmigrant status. 8 C.F.R. § 214.14(a)(12); 8 U.S.C. § 1184(p).

41. DHS publishes a guide for law enforcement that encourages a victim-centered approach when considering certifications. (Exhibit "F" – USCIS's U Visa Law Enforcement Resource Guide)

42. Non-citizen victims of serious crime "often · Distrust law enforcement, and fear arrest and deportation; · Fear for themselves and family members; · Worry about immediate needs (foods, shelter, family); · Have medical needs, including physiological support; · Are confused about the U visa process; and · May face language and cultural barriers." *Id.*

43. Once a U-certification is signed, the non-citizen may apply for U-nonimmigrant status. 8 C.F.R. § 214.14(c).

44. The jurisdiction over U-visa applications rests exclusively with the United States Citizenship and Immigration Services ("USCIS"). 8 C.F.R. § 214.14(c)(1).

45. Even where the non-citizen has a final order of removal, USCIS may still consider and approve an application for U-nonimmigrant status. 8 C.F.R. § 214.14.(c)(1)(ii).

46. Because of the cap on the number of U-visas issued for any given year, and because the number of applications filed exceeds the number of visas available year after year, a tremendous backlog now exists.[1] 2007 U-Visa Interim Rule at 72 Fed. Reg. 53014 (Sept. 17, 2007); (Exhibit "G" - USCIS processing times for Form I-918)

*Deferred Action*

47. Under 8 U.S.C. 1184(p)(6) and 1103(a), DHS may conduct a bona fide determination of a non-citizen's pending application for U-nonimmigrant status, and if warranted as a matter of discretion, provide employment authorization and deferred action. (Exhibit A)

48. Deferred action is an exercise of prosecutorial discretion in immigration enforcement. (Exhibit "H" – USCIS Policy Manual, Volume 1, Part 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 pending U-visa applications. *Id.*

[1] As noted on their case processing times page, the processing time provided refers only to the time from filing to issuance of a bona fide determination letter. (Exhibit G)

49. The purpose of deferred action is to protect a noncitizen from removal.[2] 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)).

50. 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)

51. "[A]n unrevoked grant of deferred action prevents removal." *Victor G. v. Lyons*, No. 26-cv-119, 2026 WL 127733, at *2 (D. Minn. Jan. 17, 2026)) (quoting *Nevarez Jurado v. Freden*, No. 25-cv-943, 2025 WL 3687264, at *8 (W.D.N.Y. Dec. 19, 2025)); *see also Marcos L. v. Noem*, No. 26-cv-676, 2026 WL 327953 (D. Minn. Feb. 3, 2026), *R. & R. adopted by* 2026 WL 331418 (D. Minn. Feb. 8, 2026).

[2] Petitioner acknowledges that his deferred action notice describes the deferred action as "a favorable exercise of discretion," and that it is "an act of administrative convenience to the government which gives some cases lower priority for removal." (Exhibit A) 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.

*Detention Authority*

52. A circuit split exists presently regarding whether INA § 1225(b)(2)(A), which mandates detention of "an alien seeking admission," applies to all noncitizens whether apprehended at the border or in the interior of the country weeks to decades after their entry. *Joaquin Herrera Avila v. Pamela Bondi, et al.*, No. 25-3248 (8th Cir. March 25, 2026); *Buenrostro-Mendez v. Bondi*, 166 F. 4th 494 (5th Cir. 2026); *Cunha v. Freden*, No. 25-3141-pr (2d Cir. Apr. 28, 2026).

53. The Eighth and Fifth Circuits have held that INA § 1225(b)(2)(A) does mandate the detention of millions while the Second Circuit held it does not.

54. 8 U.S.C. § 1225(b)(2)(A) states that "in the case of an alien who is an applicant for admission, if the examining officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title."

55. Unlike the facts in the Eighth Circuit's decision in *Avila v. Bondi*, here the Petitioner had applied for U-nonimmigrant status, had his application reviewed, and a decision was made to extend to him deferred action. No. 25-3248 (8th Cir. March 25, 2026).

56. 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.

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

58. 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).

59. 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 into the United States*

60. Petitioner is a native and citizen of El Salvador.

61. Petitioner entered the United States in 2016 without authorization.

62. Petitioner has three children, the youngest of which was born in the United States.

63. Prior to his detention this month, he had never had any contact with immigration.

*Application for U-nonimmigrant status and deferred action*

64. On April 26, 2023, Petitioner was assaulted and beaten while men attempted to steal his car. (Exhibit "I" – Form I-918 Supplement B)

65. Saint Paul Police signed Form I-918 Supplement B on May 8, 2024.

66. Petitioner applied for U-nonimmigrant status on May 20, 2024. (Exhibit "J" – Receipt Notices I-918, I-192, and I-765)

67. Petitioner's Employment Authorization Document based on deferred action was issued on January 15, 2025, and expiring on January 14, 2029. (Exhibit "K" – Petitioner's Employment Authorization Document)

68. On December 11, 2024, USCIS issued a bona fide determination notice that has not been revoked.

*State Criminal Case and Release on Bond*

69. On April 24, 2026, Petitioner was charged with misdemeanor domestic assault – fear in criminal case 62-CR-26-2860. (Exhibit B)

70. Petitioner pleaded not guilty. *Id.*

71. He was released the same day on his own recognizance with no bail, bond or conditions required. *Id.*

72. Petitioner's next hearing in the criminal case is set for May 26, 2026. *Id.*

73. Petitioner has no criminal record.

74. Petitioner has not previously been in removal proceedings.

*Detention and Removal Proceedings*

75. Petitioner was detained by ICE upon his release from the Ramsey County Sheriff's office.

76. Petitioner was given a document purporting to be a warrant after he was sent to the Sherburne County Jail in Elk River, Minnesota on April 24, 2026.

77. The warrant is both typewritten and filled out by hand.

78. At the top of the document the date is typewritten as April 27, 2026.

79. The certificate of service at the bottom is handwritten and dated April 26, 2026.[3]

80. The Notice to Appear given to Petitioner in custody is dated April 28, 2026.[4]

81. Petitioner is now scheduled for a Master Calendar Hearing in immigration court on May 19, 2026.

82. Petitioner does NOT have a prior removal order.

83. As of the date of filing, Petitioner has not been informed that his deferred action has been revoked and it was valid on the date he was detained.

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

84. 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 "L" - Declaration of Dana Leigh Marks, Retired IJ (March 2026)), (Exhibit "M" - Declaration of Chloe Dillon, Former IJ (November 2025)), (Exhibit "N" -

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[3] Because Petitioner is in custody, Counsel was unable to make a copy during a jail visit on April 30, 2026.

[4] *Id.*

Artieda Declaration - Post-Habeas Systematic Denial of Bond (January 2026)), (Exhibit "O" - Affidavit Lawrence O. Burman, Retired IJ (February 2026))

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

86. 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 "P" – EOIR Precedent Decisions – Vol. 29)

87. 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."

88. 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.

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

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

91. 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 Q)

92. 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.*

93. 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 R)

94. 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 "S" - Federal judge in Colorado flags immigration bond hearings with "preordained outcomes," orders release of asylum seeker), (Exhibit "T" - *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 "U" - *Perez Velasquez v. Bondi*, No. 3:26-cv-01759-GPC-DDL (Apr. 16, 2026) (Flight Risk Denial Legally and Unconstitutionally Deficient), (Exhibit "V" - *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 "W" - *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 "X" - *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.")).

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

96. 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

97. Petitioner seeks immediate release.

98. 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.").

99. 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.").

100. 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

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

102. 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.

103. 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.

104. Here, Respondents have chosen to detain Petitioner despite his unrevoked deferred action.

105. 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**

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

107. 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).

108. 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).

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

110. 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).

111. 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: May 2, 2026

/s/ *Carrie Huxford Peltier*
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***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: May 2, 2026