

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Case No. 26-cv-2410-PAB

EDGAR URIEL MARTINEZ SALAMANCA,

Petitioner,

v.

BALTAZAR, et. al.

Respondents.

PETITIONER'S SUPPLEMENTAL BRIEF (WARRANTLESS ARREST)

Introduction

The Court requested Petitioner brief the allegation regarding Petitioner's warrantless arrest contained in Petitioner's Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order. Specifically, the Court noted that Form I-200, Department of Homeland Security (DHS) Warrant for Arrest of Alien was filed as an exhibit. ECF No. 1-1.

Upon information and belief, on January 13, 2026, Petitioner was at a construction worksite at a private residence. On this date, at approximately 8:30 a.m., Petitioner was approached by officials who he believed to be police. Petitioner cooperated fully with the officials. After a few moments, the officials informed Petitioner that they were placing him under arrest. At no time did the officials present Petitioner with a warrant for arrest, or documentation of any type.

Upon information and belief, Petitioner was taken to an immigration field office in Centennial, Colorado, and was subsequently transferred to the Aurora ICE Processing Facility (AIPC). At some point after being arrested, U.S. Immigration and Customs Enforcement (ICE)

drafted a Notice to Appear, Form I-286 (NTA) and Warrant for Arrest of Alien, Form I-200, which was filed with the Executive Office of Immigration Review (EOIR) on January 23, 2026. ECF No. 1-1. Petitioner was served with these documents a few days after being detained by the Department of Homeland Security (DHS). This fact is supported by the Certificate of Service on the NTA that states that Petitioner was served with the documents "via detainee mail." *Id.* As such, by the Petitioner was served with the NTA and accompanying Warrant for Arrest *after* he was already detained at the AIPC.

The Warrant for Arrest states the basis for Petitioner's arrest was probable case that Petitioner was removable based on three factors: (1) the execution of a charging document to initiate removal proceedings, (2) biometric confirmation of the Petitioner's identity and a records check of federal databases that "affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law;" and (3) statements made by Petitioner voluntarily. Simply put, the warrant was based on information and events that occurred after the immigration officials arrested and detained Petitioner.

First, the determination in the warrant was based on the "execution of a charging document to initiate removal proceedings," which is the NTA that was drafted and signed the same day Petitioner was arrested, January 13, 2026. ECF No. 1-1. Petitioner's NTA was served on him via "detainee mail." ECF No. 1-1. This NTA and accompanying I-200 was filed with the court ten days later, January 23, 2026.¹ Thus, the first event that forms the basis of the warrant for arrest happened *after* Petitioner was arrested and detained.

¹ The date the NTA was uploaded by DHS can be seen on header of the NTA. This is the date that DHS uploaded the NTA, which initiates proceedings with the Executive Office of Immigration Review.

Second, the warrant states that the Petitioner's identity was establish with a "biometric confirmation." ECE No. 1-1. Upon information and belief, this refers to immigration officials taking Petitioner's fingerprints, which also happened *after* Petitioner was arrested and detained.

Finally, the warrant states that Petitioner made statements voluntarily that indicated he lacks immigration status or is removable under U.S. immigration law. Petitioner cooperated fully with the officials who approached him and answered their questions and presented his Colorado driver's license.

Legal Standing

Section 8 U.S.C. § 1357(a)(2) governs warrantless immigration arrests. This statute allows ICE officers to conduct a warrantless arrest if they have reason to believe an individual is (1) unlawfully present in the U.S. and (2) likely to "escape" before a warrant can be obtained for an arrest. 8 U.S.C. § 1357(a)(2).

On November 25, 2025, the District of Colorado addressed the pattern and practice of warrantless arrests by ICE. *See Ramirez Ovando, et. al. v. Mullin, et. al.*, No. 25-cv-03183 (Dist. Colo. 2025). In *Ramirez Ovando*, the court granted petitioners request for a preliminary injunction (PI order) which enjoined ICE from effecting warrantless arrest in the District of Colorado *unless* the arresting officer makes a pre-arrest, probable-cause determination that the individual is likely to escape before a warrant can be obtained. *See Ramirez Ovando* PI order, ECF No. 49 at 61. The court articulated the factors to be considered when determining if a noncitizen is likely to escape; including, the officer's ability to determine the person's identity, attempted flight from the officer, knowledge of the person's prior escapes or evasions of immigration authorities, prior court attendance or other compliance with authorities, ties to the community, other specific

circumstances that weigh in favor of or against a reasonable belief that the person is "likely to abscond." *Id.* The court stated that a noncitizen's unlawful presence in the U.S. is not, by itself, sufficient to conclude he is likely to escape before a warrant for arrest can be obtained. *Id.*

In the *Ramirez Ovando* PI order, the court adopted documentation standards that ICE developed in separate litigation in the Northern District of Illinois in *Castanon Nava v. Dept. of Homeland Sec.*, 806 F. Supp. 3d, 823 (N.D. Ill. 2025). The documentation requirement hinges on whether a warrant was obtained prior to the arrest or after the arrest. A warrant prior to the arrest of a noncitizen may be "preexisting" or a "field warrant." *Ramirez Ovando* PI order, ECF No. 49 at 19. Of note, the District of Colorado made note that Acting Field Office Director (AFOD) Davies testified that deportation officers may not detain a noncitizen for the sole purpose of obtaining an arrest warrant. *Id.* at 20.

Argument

Petitioner had no prior immigration history with ICE or the Executive Office for Immigration Review (EOIR). This assertion is evidenced by the fact that the DHS initiated removal proceedings against the Petitioner on January 23, 2026, when they filed the NTA that was served via "detainee mail" on January 13, 2026. The lack of prior immigration history makes it evident that Petitioner's arrest was a "collateral arrest" made in the field. When making Petitioner's arrest, ICE officers failed to follow procedure to assess whether probable cause existed to conduct a warrantless arrest. Additionally, the fact that Petitioner was transported to a field office prior to being transported to the AIPC indicates that not only did ICE make a warrantless arrest, but the arrest was also for the sole purpose to collect biometric data and run immigration checks to substantiate the arrest after the fact, an action that ICE policy prohibits.

Finally, the NTA and the I-200 both contain signatures of deportation officer (DO) Kurt Nissen and Acting Supervisory Deportation Officer M. Ketles on January 13, 2026. ECF No. 1-1. Petitioner was not provided a copy of a warrant prior to his arrest - digital or otherwise - nor was he read a warrant in Spanish, as is indicated on the certificates of service. *Id.* In fact, as the NTA was served via "detainee mail" it was impossible for Petitioner to have been read the NTA and/or the I-200 in Spanish.

Conclusion

Time and again, the Court has noted the pattern and practice of warrantless immigration arrests made in the field. The Petitioner has not been served with an I-213, nor has the DHS provided the Court with a copy of Petitioner's I-213, so the only evidence of Petitioner's arrest is contained in the I-200 that was filed with the NTA on January 23, 2026. Based on Petitioner's recollections and the evidence in the NTA and I-200, it is more likely than not that immigration DOs engaged in a warrantless field arrest, transported Petitioner to a field office, obtained the evidence needed to substantiate an NTA, then transferred Petitioner to the AIPC to be detained while the DHS initiated proceedings by filing the NTA with the EOIR ten days later on January 23, 2026.

Dated: June 16, 2026

Respectfully submitted,

/s/ Leanne Reetz

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