

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Leonardo V.M.,

Petitioner,

v.

Todd BLANCHE, in his official capacity as Acting
Attorney General of the United States;

Markwayne MULLIN, in his official capacity as
Secretary of the Department of Homeland Security;

David J. VENTURELLA, in his official capacity as
Acting Director of United States Immigration and
Customs Enforcement;

David EASTERWOOD, in his official capacity as
Acting Director, St. Paul Field Office, U.S.
Immigration and Customs Enforcement;

Eric TOLLEFSON, in his official capacity as
Sheriff of Kandiyohi County.

Respondents.

Case No. 26-cv-02954-
JWB-ECW

**REPLY IN SUPPORT
OF PETITION FOR
WRIT OF HABEAS
CORPUS PURSUANT
TO 28 U.S.C. § 2241**

Petitioner respectfully submits this brief pursuant to the Court's Order issued on June 16, 2026 (ECF No. 7) (the "Order"), permitting Petitioner to reply to Respondents' Response (ECF No. 8) filed on June 18, 2026 (the "Response").

I. Respondents Lack Authority to Detain Petitioner Under 8 U.S.C. § 1226(b) Because Their Bond Revocation is Invalid Under 8 C.F.R. § 1236(c)(9).

Respondents claim that Petitioner's detention is lawful under 8 U.S.C. § 1226(b) because Petitioner's bond was properly revoked by Chong Vang, an Enforcement and Removal Assistant, in satisfaction of the requirements of 8 C.F.R. § 1236.1(c)(9). *See*

Response at 3. Yet, Section 1236.1(c)(9) provides:

When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the **district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge** (except foreign), in which event the noncitizen may be taken into physical custody and detained.

8 C.F.R. § 1236.1(c)(9) (emphasis added). The title “Enforcement and Removal Assistant” is not included in the regulation and Respondents fail to explain how this regulatory requirement could otherwise be satisfied. Without such explanation, Respondents’ assertion that Petitioners’ bond revocation complied with Section 1236.1(c)(9) rings hollow. *See e.g., Mata Perez v. Hernandez*, No. 2:26-CV-01087-LK, 2026 WL 1506346, at *7 n. 8 (W.D. Wash. May 29, 2026) (finding an “Assistant Field Office Director” does not fall within the roles authorized to exercise the authority of the Attorney General under Section 1236.1(c)(9) because that role is not listed in the regulation); *Gomez v. Wamsley*, No. 2:25-CV-02642-JNW, 2026 WL 279966, at *1 (W.D. Wash. Feb. 3, 2026) (finding the same for a “Supervisory Detention and Deportation Officer”).

Respondents further allege that Petitioner has no claim under *Accardi* or the APA because, in supposed compliance with Section 1236.1(c)(9), the revocation of Petitioner’s bond was authorized “by any (non-foreign) officer in charge.” Response at 6. In its administrative materials, ICE equates “officer in charge” with the term “facility administrator” which, according to ICE, is “[a] generic term for the chief executive officer of a detention facility.” Definitions, ICE.gov at 467-68 (Dec. 2016), <https://www.ice.gov/doclib/detention-standards/2011/7-5.pdf>. Respondents do not explain

how Chong Vang, an Enforcement and Removal Assistant, could be considered the chief executive officer of a detention facility, or any other role listed in Section 1236.1(c)(9). The revocation of Petitioner's bond was therefore not authorized by Section 1236.1(c)(9) and is invalid. Respondents' detention of Petitioner under 8 U.S.C. § 1226(b) is, in turn, improper and unconstitutional and Petitioner should be released.

II. The Administrative Warrant Furnished to Petitioner by Respondents is Invalid Because it was not Served on Petitioner Upon His Arrest.

Respondents argue that Petitioner's Fourth Amendment claim of a warrantless arrest is baseless because an administrative warrant was issued and signed on May 10, 2026, prior to Petitioner's arrest and detention on May 11, 2026. *See* Response at 4. Respondents' analysis of the factual record is incomplete and their resulting argument is incorrect.

According to Petitioner's Form I-213, Petitioner was taken into custody by ICE on May 11, 2026 at the Douglas County Jail. *See* Ganzhorn Decl. Ex. B at 3. Yet, the Form I-200 arrest warrant's certificate of service states that it was served on Petitioner at the Whipple Federal Building on May 11, 2026. *See* Ganzhorn Decl. Ex. H (the "Administrative Warrant"). Accordingly, the Administrative Warrant could not have been served on Petitioner for *at least* two hours after he was arrested, given the more than 150 miles between the Douglas County Jail and the Whipple Federal Building.

Furthermore, the Administrative Warrant states that the determination of probable cause was partially made based on "biometric confirmation of [Petitioner's] identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the [Petitioner] either lacks immigration status or

notwithstanding such status is removable under U.S. immigration law.”¹ Ganzhorn Decl. Ex. H. But, “Petitioner’s biometric information could have only been confirmed after Petitioner had been taken into ICE’s custody.” *Jefferson G.H.L. v. Blanche*, No. 26-2344 (JRT/ECW), 2026 WL 1229623, *2 (D. Minn. May 5, 2026). It is therefore evident that the Administrative Warrant was not served on Petitioner until after his arrest, detention, and transportation to the Whipple Federal Building, and that Respondents’ basis for probable cause was, at least in part, false.

Warrants that are not served until after a detainee is taken into custody by ICE are invalid. *See Ruben D.A.G. v. Blanche*, Civ. No. 26-2041, slip op. at 5 (D. Minn. Apr. 20, 2026) (disregarded and invalidated a Form I-200 administrative warrant that “clearly was not served on Petitioner until he arrived at the Freeborn County Adult Detention Center” after being arrested at the Rice County Courthouse); *see also Hector J.A.S. v. Shea*, No. 26-2242 (JRT/DLM), 2026 WL 1243500, *2 (D. Minn. May 6, 2026) (“Because the warrant was not served until after he was taken into custody by ICE and in detention at the Freeborn County Jail, the warrant is invalid.”). If a warrant is deemed to be invalid, detention under 8 U.S.C. § 1226 is unlawful. *See Jefferson G.H.L.*, 2026 WL 1229623 at *2 (“the Court concludes that Petitioner’s detention is unlawful because it appears that ICE did not serve him with the Form I-200 administrative warrant until **after** ICE took him into

¹ Biometric data includes “digital facial photographs, fingerprints, iris scans, palm prints, latent fingerprints¹⁰ (collected by federal, state, local, and foreign law enforcement agencies, and military operations for an investigation or for intelligence purposes), and other biometric modalities to be added in the future.” Privacy Impact for the Automated Biometric Identification System, DHS at 6 (Dec. 6, 2012), <https://www.dhs.gov/sites/default/files/publications/privacy-pia-nppd-ident-december2012.pdf>.

custody and transported him from Anoka County Jail to Sherburne County Jail”) (emphasis in original); *see also Gabriela G. v. Noem*, No. 26-590, 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)”).

The appropriate remedy for an invalid warrant that purportedly justified an individual’s detention is release. *See Jefferson G.H.L.*, 2026 WL 1229623 at *3 (“Because ICE failed to comply with federal immigration law when arresting and detaining Petitioner and because Respondents have not justified Petitioner’s continued detention, release is the proper remedy.”); *see also Ahmed M. v. Bondi*, No. 25-4711, 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (“[R]elease is an available and appropriate remedy” for “detention that lacks a lawful predicate”) (internal quotations omitted); *Lauro M. v. Bondi*, No. 26-134, 2026 WL 115022, at *3 (D. Minn. Jan. 15, 2026) (“As other judges in this District have found, the appropriate remedy for detention that lacks a proper statutory basis under § 1226(a) is release”). Because the Administrative Warrant was not served on Petitioner until after he was arrested, detained, and transported to the Whipple Federal Building, the Administrative Warrant is invalid, Petitioner’s detention is unlawful under Section 1226(a), and Petitioner should be released.

III. Pre-Deprivation Process is Still Required under 8 U.S.C. § 1226(b).

Contrary to Respondents’ assertions, *see* Response at 3-4, detaining an individual under Section 1226(b) does not negate the requirement to provide pre-deprivation process to noncitizens arrested and detained by ICE. *See Doh H. v. Blanche*, No. 26-cv-02413, Doc. No. 8 at 8 (D. Minn. May 6, 2026) (ordering outright release for an individual previously

released on order of recognizance despite being subject to mandatory detention under Section 1226(c), as “*Mathews* requires DHS officials invoking Section [1]236.1(c)(9) to make at least a showing of material changed circumstance **before** revoking release”) (emphasis added); *Jiminez v. Bostock*, No. 3:25-cv-00570-MTK, 2025 WL 2430381, *7 (D. Or. Aug. 22, 2025) (finding that Respondents violated Petitioner’s Fifth Amendment right to Due Process because “[r]evoking release without making an individual determination as to whether such revocation is warranted carries a high risk of erroneous deprivation of liberty, and Respondents could hardly argue that compliance with existing laws would be overly burdensome.”); *J-E-R-P v. Dora Castro*, No. 2:26-cv-00791-MLG-KK, Doc. No. 13 at 6 (D.N.M. May 28, 2026) (“Because J-E-R-P did not receive a pre-deprivation hearing . . . his detention is an ongoing violation of his right to due process. . . . Accordingly, J-E-R-P- must be immediately released.”). Respondents cannot change their tune and mandatorily detain someone they already released pursuant to discretionary procedures without providing pre-deprivation due process. *See Doh H.*, No. 26-cv-02413, Doc. No. 8. And, as discussed above, Respondents’ revocation of Petitioner’s bond was not otherwise procedurally sound. *See supra* Section I.

Because Respondents failed to make an individualized custody determination at the time they re-detained Petitioner, there is nothing for an Immigration Judge (“IJ”) to re-determine.² *See* 8 C.F.R. § 1003.19(a)-(b) (recognizing IJ authority to review “[c]ustody

² This determination would be memorialized on a Notice of Custody Determination. *See* ICE Bond Mgmt. Handbook, at 3 (Aug. 2014) (“Bond Mgmt. Handbook”), https://www.ice.gov/doclib/foia/dro_policy_memos/eroBondManagementHandbook2018-ICFO-31476.pdf. Respondents offer no such Notice here.

and bond determinations made by” DHS through a “bond redetermination”); 8 C.F.R. § 1236.1(d)(1) (providing right to seek a bond hearing only following “an initial custody determination” by DHS); Bond Mgmt. Handbook, at 3 (explaining that only after initial DHS determination, “the [noncitizen] may request a review of the custody determination” from an IJ); Exec. Off. of Immigr. Revi., Policy Manual, Chapter 8.3 Bond Proceedings, <https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-8-3> (stating that only after custody determinations are “initially” set by DHS does “the [IJ] ha[ve] the authority to redetermine”).

In this circumstance, the appropriate remedy for Petitioner is return to the status quo ante. *See, e.g., Rodriguez v. Woosley*, No. 4:25-cv-168, 2026 WL 36345, at *11-12 (W.D. Ky. Jan. 6, 2026) (ordering release); *see also Gonzalez v. Stamper*, No. 1:25-cv-120, 2026 WL 751992, at *5 (D. Me. Mar. 17, 2026) (stating that Respondents have 48 hours from the time that the Petitioner is confirmed to be detained under § 1226(a) to make an individualized custody determination, or release is warranted); *cf. Codina v. Chertoff*, No. 06-cv-4048, 2007 WL 1582670, at *11 (D. Minn. May 30, 2007), *aff’d*, 283 F. App’x 432 (8th Cir. 2008) (finding custody permissible because there was a valid Notice of Custody Determination).³

³ Indeed, where the purpose of pre-detention process is to “avoid erroneous deprivation of a noncitizen’s liberty. . . [n]othing this Court can do can retroactively cure the lack of process resulting in Petitioner[’s] wrongful detention; indeed, additional process would not so much cure their unconstitutional detention as prolong it.” *Rodriguez Romero v. Ladwig*, No. 25-cv-1106, 2026 WL 321437 (M.D. La. Feb. 6, 2026).

IV. Respondents' Inflammatory Assertions that Petitioner is a Danger to His Community, Without More, Do Not Justify the Violation of his Substantial Liberty Interests

Respondents argue that their revocation of Petitioner's bond and resulting detention are justified because Petitioner's DUI arrest supposedly constitutes a change in circumstance, making him a flight risk or danger to his community.⁴ *See* Response at 3. This argument is contrary to law in this District, including case law cited by the Court's Order.

The Court's Order required Respondents to address how, if at all, the legal issues in three specified cases are materially different from those presented here. *See* Order at 2. Perhaps because these cases support Petitioner's request for relief, Respondents addressed only one of these three cases, and only in passing. *See* Response at 4. For example, *Heriberto R.E.* explains that DUI convictions alone are insufficient to establish that someone is a danger to the community or a flight risk without an independent individualized determination. *See* Civ. No. 26-2227 (JWB/LIB), Doc. No. 12 (D. Minn. May 1, 2026) (granting Petitioner's bond hearing after being arrested and detained for driving under the influence). This is consistent with other cases in this district which have found that a noncitizen is not a danger to the community merely because they have DUI/DWI convictions. *See e.g., Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358 (D. Minn. May 7, 2026) (granting a bond hearing to Petitioner who had

⁴ Respondents also gratuitously detail—in the Response and the associated exhibits—Petitioner's interactions with law enforcement prior to his grant of bond by an IJ in 2019. These matters are of no consequence here, as they pre-date an IJ's determination that Petitioner is not a flight risk or a danger to the community.

three prior DUI convictions); *Enrique U.R. v. Secretary of Homeland Security*, Civ. No. 19-1063 (MJD/BRT), 2019 WL 4120149 (D. Minn. June 17, 2019) (granting Petitioner a bond hearing after he was arrested on a DWI charge that resulted in a pedestrian getting severely injured because there was a previous ruling from an IJ stating that he was not a danger to the community nor a flight risk); *Günaydin v. Trump*, 784 F.Supp.3d 1175 (D. Minn. May 21, 2025) (Petitioner released following his DUI conviction); *Matacua v. Frank*, 308 F.Supp.3d 1019 (D. Minn. Apr. 18, 2018) (ordering the release of a Petitioner with a DUI conviction because he was determined to have not been a danger to the community in a prior bond hearing). DUI convictions alone are insufficient to justify detention without an individualized determination that a noncitizen is a danger to the community or a flight risk, especially if an IJ has previously released the noncitizen on bond, as is the case here.

Additionally, all three cases referenced in Section 2(d) of the Court's Order highlight the importance of evaluating a petitioner's community ties and his time spent in the United States when assessing one's danger to the community and flight risk. *See Heriberto R.E.*, Civ. No. 26-2227, Doc. No. 12, at 6-7 ("[Petitioner] was arrested within the United States, where he has lived for more than two decades. He has established community ties, has family living here, including a United States citizen child, and has been employed in the community. His detention therefore implicates a substantial liberty interest, given his decades-long presence in the United States."); *Pablo J.Q.M.*, Civ. No. 26-2302, Doc. No. 14, at 7 (granting petitioner a bond hearing partially because he had strong community ties after living in the US only three years as "[h]e has established

community ties, lives with his spouse, and holds an active work permit.”); *Jaime A.H.C.*, Civ. No. 26-2600, Doc. No. 8, at 7 (“[Petitioner] was arrested within the United States, where he has lived for more than three decades. He has established community ties, has family living here . . .”).

Petitioner has an even stronger substantial liberty interest than the petitioners in the cases cited by the Court. He has lived in the United States for over 25 years. He has a wife, U.S.-born children, and numerous other family members living here. He also has a valid work permit. Without an individualized determination that Petitioner poses a flight risk or a danger to the community, his substantial liberty interest is being unjustly subverted in violation of the Due Process Clause. Petitioner should therefore be released.

V. Respondents Failed to Comply with the Preliminary Injunction Issued on March 26, 2026.

The Court’s Order also requires that the Respondent address whether they have complied with the preliminary injunction issued on March 26, 2026, in *Advocates for Human Rights v. U.S. Dep’t of Homeland Security*, Civ. No. 26-749 (NEB/DLM), Doc. No. 178 (the “Preliminary Injunction”). Respondents suggest they have complied with the Preliminary Injunction because they provided Petitioner with a document describing his rights. *See* Response at 9. This is insufficient to establish compliance with the Preliminary Injunction.

As an initial matter, the Preliminary Injunction is applicable to Petitioner because he was brought to the Whipple Federal Building following his arrest on May 11, 2026. *See* Preliminary Injunction at 39-40 (defining the class subject to the Preliminary Injunction as

“noncitizens taken into custody by [ICE] under the Immigration and Nationality Act and detained at the ERO Holding Facility at the Whipple Federal Building”); *see also* Ganzhorn Decl. Ex. G. The Preliminary Injunction requires Respondents to, among other things, (i) furnish all noncitizen detainees in the Whipple Federal Building with a notice of their rights *and* (ii) to “ensure that the Online Detainee Locator System of [ICE] accurately identifies the location of each Detainee by name, date of birth, and A-number in real time.” Preliminary Injunction at 66-67.

Respondents may have complied with the requirement to furnish Petitioner with notice of his rights, but they have not complied with the requirement to ensure Petitioner can be located through the ICE Online Detainee Locator System. As recently as June 22, 2026—42 days after Petitioner’s arrest—the undersigned counsel was unable to locate Petitioner in the ICE Online Detainee Locator System using his full name, date of birth, or A-number. Respondents have therefore not complied with the Preliminary Injunction and, in failing to explain this to the Court, have also not complied with the Court’s Order.

VI. Immediate Release is the Appropriate Remedy for Petitioner’s Unlawful Detention.

Petitioner re-asserts that release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner’s re-arrest, which cannot be remedied by a post-deprivation hearing. *See, e.g., Alfaro Herrera v. Baltazar*, No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released by ICE and holding a bond hearing would prolong his unlawful detention, “[r]espondents’ violations of Petitioner’s

rights are best remedied by ordering Petitioner's immediate release from immigration detention.”); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (post-deprivation review cannot remedy the due process violation of detention with no individualized assessment); *Diallo v. Trump*, No. 25-cv-2012-JE-JMP, 2026 WL 1230389, at *3 (W.D.L.A. Mar. 5, 2026) (granting immediate release as the appropriate remedy for illegal re-detention, and in light of medical hardship petitioner was suffering in detention).

In fact, since Petitioner filed his Petition on June 15, 2026, at least two courts in this District have determined that, under circumstances similar to Petitioner’s here, an order granting immediate release rather than a bond hearing is the appropriate remedy. *See e.g.*, *Mohamed A. v. Blanche et al*, No. 26-CV-2799, Doc. No. 31 at 12-14 (D. Minn. June 18, 2026) (ordering immediate release of petitioner who was re-detained without a proper bond revocation or valid administrative warrant); *Duglas A.V.V. v. Blanche et al*, No. 26-CV-02701, Doc. No. 8 at 13-14 (D. Minn. June 18, 2026) (ordering immediate release of petitioner due to an invalid arrest warrant and the government’s failure to support the required particularized determination that petitioner was a flight risk). Consistent with prevailing law and practice in this District, Petitioner should be immediately released.

CONCLUSION

For the reasons set forth in the Petition and herein, Petitioner renews his Petition’s Request for Relief, including an order for his immediate release or, in the alternative, an order declaring the Petitioner’s detention unlawful and ordering Respondents to release Petitioner immediately unless they provide a prompt custody hearing before a neutral

adjudicator at which Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk.

Respectfully submitted,

Dated: June 23, 2026

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