UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MINNESOTA

Kevin Jose RAMIREZ MANCIA,

Petitioner,

v.

Todd BLANCHE, *et al.,*

Respondents.

Case No. 26-cv-3122-KMM-JFD

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Kevin Jose Ramirez Mancia ("Petitioner") hereby submits this Reply Memorandum in further support of his Petition for a Writ of Habeas Corpus and in response to the Respondents' July 1, 2026 Response to the Petition.

ARGUMENT

1. **Petitioner is not subject to 8 U.S.C. § 1231, and therefore not subject to mandatory detention under the statute, because his order for removal is not final.**

Pursuant to 1231(a)(2)(A), noncitizens are subject to mandatory detention "[d]uring the removal period[.]" By statute, "[t]he removal period begins on the latest of" either "[t]he date the order of removal becomes administratively final" or "[i]f the removal order is judicially reviewed. . . the date of the court's final order." *See* 8 U.S.C. § 1231(a)(1)(B). Neither event has occurred here: Petitioner's order of removal is not administratively final by virtue of his appeal to the BIA. Likewise, his removal order has not yet been judicially reviewed. Therefore, because Petitioner remains in pending removal proceedings, his detention does not fall under Section 1231. 1231(a)(1)(B); *cf.* 8 U.S.C. § 1226(a) (permitting detention "pending a decision on whether the [noncitizen] is to be removed"); 8 U.S.C. § 1225(b)(2)(A) (governing detention for those in "proceeding[s] under section 1229a").

Although Respondents allege that the order of removal is final due to Petitioner's alleged waiver of appeal, such a waiver must be *valid*. *See In re Patino*, 23 I. & N. Dec. 74, 76 (BIA 2001) ("[The BIA] is not divested of jurisdiction where the waiver is not valid.") Petitioner submits that his right to appeal was not knowingly or voluntarily waived, as evidenced by his subsequent appeal filing. It is now for the BIA to determine whether the waiver was valid, but, until then, the removal order is not final. *See* 8 U.S.C. § 1101(a)(47)(B) ("[An order of removal] shall become final upon the earlier of "a determination by the Board of Immigration Appeals affirming such order or the expiration of the [appeal period]."); 8 CFR § 1003.6(a) ("[No decision shall] be executed while an appeal is pending or while a case is before the Board by way of certification."); *Jeremiah O.A.N. v. Barr*, No. 19-CV-1076 (DSD/DTS), 2019 WL 6879520, at *3 (D. Minn. Nov. 26, 2019) ("An order for removal becomes final when the alien either *declines to appeal to the BIA* or when his appeal to the BIA is unsuccessful." (emphasis added)); Ex. K (BIA Notice of Receipt of Appeal) (noting that an alien's departure prior to a BIA decision can cause "the Immigration Judge's decision [to] *become final*").

2. Respondents failed to provide process to revoke Petitioner's deferred action.

No process was provided to the Petitioner regarding the revocation of his BFD and deferred action prior to his detention. Respondents themselves acknowledge that Petitioner's status has not yet been revoked and that the process to revoke this status has not yet begun. Rather, Respondents assure that they will provide this process at an unknown future date. *See* Resp. at 4.

Furthermore, although Respondents allege that Petitioner's counsel was "advised by ICE" that USCIS is working to revoke Petitioner's deferred status and planning to issue an intent to deny (ITD) to Petitioner, such counsel has not received any contact from ICE regarding these efforts, nor an ITD. *See* accompanying Declaration of Khanh Nguyen, Esq. dated July 2, 2026. Therefore, to this day, no process has been provided regarding the revocation of Petitioner's deferred status; not even Respondents' promises of *future* process, such as the ITD, have been provided to counsel.

3. Respondents failed to provide process to revoke Petitioner's release on recognizance.

No process was provided to Petitioner regarding the revocation of his 2019 Order of Release on Recognizance. Although "Respondents agree that. . . immigration officials are required to show a 'material change in circumstances' before re-detaining noncitizens it previously released on recognizance," Respondents have not shown through any process that Petitioner's circumstances materially changed prior to his detention. *See* Respondents' Resp. at 10. Respondents excuse this lack of process by arguing that there is no "formal revocation process" nor any "specific procedures" in the regulations to revoke an Order of Release on Recognizance. *Id.* A lack of regulatory guidance for immigration officials, however, does not make Respondents immune to the requirements of the Due Process Clause. Due Process requires that Respondents provide Petitioner notice of the revocation and an opportunity to respond, prior to revoking his release and re-detaining him. *See Sandhu v. Mullin*, No. 7:26CV5009, 2026 WL 1146643, at *5 (D. Neb. Apr. 28, 2026) (ordering immediate release). Therefore, if Respondents wish to now revoke Petitioner's release and allege that he is a threat to public safety, they must do so through the appropriate procedure.

Furthermore, to the degree Respondents appear to be now arguing a revocation is appropriate because Petitioner's recent arrest makes him a danger to the community, that is again inconsistent with the factual record. Petitioner has never been charged with a violent crime. Nothing indicates Petitioner acted in any way to endanger anyone, to resist arrest or to present any type of safety concern. Indeed, he was charged only with a misdemeanor. As such, any concern with dangerousness is entirely unwarranted. Finally, if the Court is not prepared to release Petitioner based on this reason, we would respectfully suggest that a hearing addressing the issue is the appropriate alternative.

4. **In the alternative, Petitioner was detained under 8 U.S.C. § 1226(a), under which detention is discretionary, not under the mandatory detention provision of § 1225(b)(2).**

The I-200 warrant that Respondents have now entered into the record 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." Resp. Ex. D. Courts in this District have repeatedly held the government to those representations in the I-200 administrative warrant and evaluated the detention at issue in those cases under the discretionary detention framework set forth in § 1226, regardless of any subsequent assertion that the detention was pursuant to § 1225(b)(2). *See, e.g., Hector J.A.S. v. Shea*, No. 26-cv-2242 (D. Minn. May 06, 2026); *Jefferson G.H.L. v. Blanche*, No. 26-cv-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026).

CONCLUSION

For all of the foregoing reasons and those set forth in Petitioner's initial Petition, this Court should:

1. Issue a Writ of Habeas Corpus declaring that Petitioner's detention is unlawful and ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his unlawful re-detention;

2. Pursuant to the May 20, 2026 Preliminary Injunction Order in *ICWC v. Noem*, order that Respondents cannot re-detain Petitioner while he is in valid deferred action status;

3. Order that, if at any time in the future Petitioner is no longer in valid deferred action status, Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;

4. Order that upon Petitioner's release, Respondents must return to Petitioner any personal property, including personal identification documents and employment authorization documents;

5. 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

6. Grant Petitioner any further relief that this Court deems to be just and proper.

Dated: July 2, 2026

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