UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

KEINER E.M.R. *Petitioner,* v. **DAVID EASTERWOOD**, ET AL. *Respondents.*	Case No. **0:26-cv-3299 (MJD/EMB)** **PETITIONER'S REPLY TO FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Petitioner, by and through undersigned counsel, offers this reply to Federal Respondents' Response. Federal Respondents' own evidence demonstrates that Petitioner was discretionarily released at the time of his arrest. Federal Respondents' own controlling regulations required he not be re-detained absent a material change in circumstances. As facts in the record demonstrate there was no change in the Petitioner's flight risk or dangerousness, his re-detention was unlawful. The appropriate remedy for unlawful arrest is immediate release. Federal Respondents also cannot arbitrarily "switch tracks" and subject a non-citizen to "mandatory" detention when they have already subjected him to discretionary procedures. At a minimum, Petitioner is entitled to a custody hearing pursuant to the regulations governing his

discretionary release and de facto warrantless arrest. Further, regardless of whether the Petitioner's initial arrest was Constitutional or had statutory authorization, Courts in this District and across the country have found similarly situated non-citizens are entitled to relief to redress the Fifth amendment violation arising from detention without a pre-deprivation hearing. Courts in this District and across the country have determined that persons subject to mandatory detention under §1225(b)(2) still have Fifth Amendment due process protections and have granted them immediate release or a bond hearing. Federal Respondents' own controlling regulations clarify that purported "mandatory" detention is discretionary and is thus subject to restrictions imposed by their own regulations. Federal Respondents fail to substantively engage with case law in this District or in other Courts. Consequently, the Petitioner reiterates his request for relief before this Court.

II. FACTS

Petitioner was paroled into the United States on April 9, 2024. ECF 6-2. Petitioner subsequent to parole, Petitioner peacefully resided in the United States, committing no crimes that would subject him to mandatory detention and filing an application for parole. ECF 6-5, 3 (noting no criminal history); ECF 6-6. Petitioner's parole expired on April 9, 2026. ECF 6-2. Federal Respondents allowed Petitioner to remain at liberty subsequent to expiry of

parole. On June 26, 2026, Federal Respondents' arrested Petitioner, solely on the basis of the lapse of parole. ECF 6-5.

III. ARGUMENT

A. Former Parolees Are Not Subject to § 1225(b)(2) Detention

Federal Respondents are correct that this case is not controlled by *Avila* and thus, the Court should find in accordance with other Courts in this District that the Respondent is not subject to mandatory detention as a former parolee. It is undisputed that the Petitioner was paroled into the United States. A Court in this District analyzed that once a parolee has been released into the United States for over two years, at the expiry of parole, they are straightforwardly not a non-citizen "seeking admission" subject to § 1225(b)(2). *Ivan L.C.R. v. Bondi*, No. CV 26-1735 (JWB/JFD), 2026 WL 1231738, at *3 (D. Minn. Mar. 20, 2026) (Hon. Blackwell). The Court determined immediate release was appropriate as the statutory interpretation undergirding his detention was unlawful. *Id.* Another Court similarly concluded that a former parolee who had a pending asylum application was not subject to § 1225(b)(2). *Joana J. v. Bondi*, No. 26-CV-892 (MJD/JFD), 2026 WL 327935, at *2 (D. Minn. Feb. 4, 2026), report and recommendation adopted, No. CV 26-892 (MJD/JFD), 2026 WL 331414 (D. Minn. Feb. 8, 2026) (Hon. Davis) (citing to *Beltran v. Bondi*, No. 25-04604

(MJD/DTS), 2025 WL 3719856, at *1 (D. Minn. Dec. 23, 2025) (Hon. Davis)). That court concluded only § 1226(a) could serve as the lawful basis for discretionary detention for such a non-citizen. *Id.* Another Court similarly found that former parolees who are already present in the country cannot be "seeking admission" and can only be detained under the discretionary § 1226(a) scheme. *Hernan Jose M. M. v. Easterwood*, No. 26-CV-481 (LMP/DTS), 2026 WL 559746, at *8 (D. Minn. Feb. 27, 2026) (Hon. Provinzino). Another Court similarly the plain language of the statute did not authorize detention of a parolee under § 1225(b)(1) and there was no basis for detention under § 1225(b)(2). *Bashir K. A. v. Klang*, No. 25-CV-4559 (KMM/DJF), 2026 WL 452353, at *6-7 (D. Minn. Feb. 17, 2026) (collecting cases) (Hon. Menendez). Specifically, the Court found the Petitioner's presence subsequent to expiry of parole nor his asylum application meant he was "seeking admission" and subject to § 1225(b)(2). *Id.*

As the Petitioner here has been present in the United States for years and was discretionarily released pursuant to parole, he similarly can only be redetained under the discretionary to § 1226(a) framework and should be immediately released.

B. Petitioner's Re-Detention Was Unauthorized Absent A Change In Circumstances

Courts in this District have been clear that revocation of discretionary release must comport with Federal Respondents' own requirements as articulated in *Sugay* and analogous regulations. The government's discretion in immigration detention is not unlimited. *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1158 (D. Minn. 2025) (Hon. Blackwell). The Board of Immigration Appeals has held that where a non-citizen is discretionarily released, they should not be re-detained "absent a change of circumstance" as to a noncitizen's flight risk or dangerousness. *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981). As Federal Respondents observe, per *Matter of Sugay*, where a noncitizen is released on conditions and complies with those conditions, re-detention is not authorized. ECF 9, 15-16. In *Matter of Sugay*, the condition of release was bond. *Id.* Contrary to Federal Respondents' assertions, it is not material that the condition of release was bond. The logic of *Sugay* applies with respect to any discretionary release. *Islomov v. Arnott*, No. 6:26-CV-3115-MDH, 2026 WL 613473, at *2–3 (W.D. Mo. Mar. 4, 2026) (applying the logic of *Sugay* to revocation of parole). In *Islomov*, the Court ordered the Petitioner immediately released on the conditions of his pre-existing parole on the basis that the government had failed to show any material change justifying the revocation of his release. *Id.* at *3-4.

Courts in this District have also repeatedly ordered immediate release of non-citizens re-detained where the revocation of their discretionary release did not comply with the Federal Respondents' own requirements. *Roble v. Bondi*, 803 F. Supp. 3d 766, 772 (D. Minn. 2025) (concerning a non-citizen released on an Order of Supervision (OSUP)) (Hon. Provinzino); *Salazar v. Noem*, No. 0:26-CV-1040, 2026 WL 381889, at *1 (D. Minn. Feb. 11, 2026) (collecting cases) (Hon. Gerrard). Once the government makes the decision to discretionarily release a non-citizen, they must continue to conduct their proceedings with all the procedural protections of § 1226(a). *Salazar v. Noem,* at *2. A Court in this District affirmed that Federal Respondents are authorized to conditionally release non-citizens pursuant to § 1226 and 8 C.F.R. 236.1. *Mahad S. v. Noem*, No. 26-CV-476 (JMB/JFD), 2026 WL 177860, at *3 (D. Minn. Jan. 22, 2026) (Hon. Bryan). That Court ordered the non-citizen to be immediately released on Constitutional grounds. *Id.* at *3-4.

Post-*Avila*, a Court in this District applied *Roble* to find that where the Federal Respondents failed to establish changed circumstances justified revocation of his conditional release, his re-detention was unlawful and should be remedied by immediate release. *Bashir A. O. v. Blanche*, No. 26-CV-2426 (JRT/DLM), 2026 WL 1481591, at *4–6 (D. Minn. May 20, 2026), report and recommendation adopted sub nom. *A.O. v. Blanche*, No. CV 26-

2426 (JRT/DLM), 2026 WL 1491146 (D. Minn. May 27, 2026) (Hon. Tunheim). The Court further affirmed that the failure of Federal Respondents to comply with their regulations justifies immediate release, and this failure constitutes a Fifth Amendment violation also justifying immediate release. *Id.* at *6.

In the instant case, Federal Respondents admit and concede that the Respondent was discretionarily paroled into the country and placed into discretionary proceedings. Federal Respondents are "stuck with the horse on which [they] rode into court" and cannot retroactively cure unauthorized agency actions by proffering alternative lawful rationales for the first time in subsequent litigation. *Souleimane C. v. Blanche*, No. 26-CV-2215 (LMP/JFD), 2026 WL 1180075, at *3 (D. Minn. Apr. 30, 2026) (Hon. Provinzino). The record is clear that agency determined the Petitioner was neither a danger nor a flight risk, made no determination as to his danger or flight risk to re-detain him, and thus must now release him consistent with their original determination.

i. "Mandatory" Detention is Discretionary

Even where the government "shall" detain a non-citizen, under BIA precedent, Federal Respondents retain discretion that is constrained by their own regulations. In *Matter of E-R-M- & L-R-M-*, the board analyzed the meaning of the term "shall" in the context of the statutory text stated that

"the officer shall order the alien removed from the United States." *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 521 (BIA 2011). The Board determined that the term "shall" meant DHS "may" make a discretionary determination. *Id.*, 521-22. The Board looked to Supreme Court precedent and determined that prosecutorial discretion is the exclusive province of the executive branch and may not be delegated to Congress. *Id.*, (citing to *United States v. Armstrong*, 517 U.S. 456, 464 (1996) and *United States v. Nixon*, 418 U.S. 683, 693 (1974)). The Court inferred that DHS enjoys the same prosecutorial discretion in immigration decisions as other executive agencies enjoy in exercising prosecutorial discretion. *Id.* 523. Consequently, the "shall" language of § 1225(b) does not vitiate ICE's discretion. That discretion continues to be constrained by their own regulations per *Accardi*.

Contrary to Federal Respondents' mischaracterization, Petitioner's Petition submits he is not "arriving" having entered the country pursuant to a grant of parole and been placed in § 240 proceedings. Pet. ¶¶ 89, 111. This is consistent with Federal Respondents' admission that subsequent to their expiry of parole, Federal Respondents permitted the Petitioner to continue to remain within the United States. Where the Petitioner has been present in the United States after the expiry of parole, he is plainly not "arriving." *Martinez Gamez v. Easterwood*, No. 4:26CV3009, 2026 WL 295400, at *4 (D.

Neb. Feb. 4, 2026). However, whether the Petitioner is properly described as "arriving" is immaterial to whether he was discretionarily released.

The record confirms Petitioner's release on parole was discretionary. He is thus subject to only the discretionary release procedures, which include the preclusion of his re-detention absent a material change in circumstances.

C. Petitioner's Initial Arrest Lacked A Lawful Predicate

i. The Record Does Not Support Finding the Petitioner Was Lawfully Arrested Under § 1226(a) Warrant

Federal Respondents produced an I-200 warrant that represented they attempted to arrest him pursuant to discretionary §1226(a) authority. ECF 6-5. Their own records demonstrate that this exercise of discretion was not based on any of the dangerousness or flight risk factors that are material under *Matter of Sugay*. *Id.* Courts in this Circuit determined that where a warrant itself declares the Petitioner is detained pursuant to § 1226(a), Federal Respondents are bound by that representation and cannot proffer alternative theories for arrest for the first time in subsequent litigation. *See* ECF 6-3 (citing to INA 236); *see also Duglas A.V.V. v. Blanche*, 26-CV-02701 (MJD/JFD), at *7-8 (D. Minn. Jun. 18, 2026) (Hon. Frank) (*citing to Martha C.G.P. v. Blanche*, 26-cv-2308 (DWF/JFD), 2026 WL 1329577, at *2 (D. Minn. May 13, 2026) (Hon. Frank)); *Vladimir G. v. Easterwood*, No. 26-CV-2971

(JMB/ECW), 2026 WL 1786418, 2 (D. Minn. June 22, 2026) (Hon. Bryan). Federal Respondents cannot switch horses and argue for an alternative basis for erroneous agency decisions. *Souleimane C. v. Blanche*, at *3 (D. Minn. Apr. 30, 2026) (Hon. Provinzino). Courts in this District have repeatedly ruled that administrative warrants with "facial" errors are invalid and consequently justify immediate release of those detained. *Jose L.B. v. Bondi*, No. 26-CV-2119 (KMM/EMB), 2026 WL 1484689, at *5 (D. Minn. Apr. 28, 2026) (collecting cases) (Hon. Menendez); *see also Jaminton R.B. v. Mullin*, 26-cv-3091 (ECT/JFD), Report and Recommendation (D. Minn. Jul. 17, 2026) (Hon. Docherty). As noted above, the I-213 documents no criminal record, no flight from the scene, and full cooperation with arrest, indicating there was no basis to determine the Petitioner was dangerous or a flight risk. ECF. 6-5. As the warrant lacked a valid discretionary basis, it is invalid and could not have authorized the Petitioner's arrest.

Courts in this District have consistently held that where an arrest lacks a lawful predicate, the subsequent detention is unlawful and should be remedied by immediate release. In analyzing arrest under § 1226(a), Courts have found the arrest to be unlawful where Respondents failed to comply with the statutory requirement to produce a valid warrant prior to detention. *Omar E.F.G. v. Bondi*, No. CV 26-451 (DWF/DLM), 2026 WL 184571, at *3

(D. Minn. Jan. 23, 2026) ("A detainee being held pursuant to § 1226(a), as Petitioner is here, must have been served an arrest warrant prior to detainment") (Hon. Frank); *Yeferson G.C. v. Easterwood*, No. 25-CV-4814 (MJD/DJF), 2026 WL 207266, at *3 (D. Minn. Jan. 21, 2026), report and recommendation adopted sub nom. *Yeferson G. C., Petitioner, v. David Easterwood*, et al., Defendants., No. 25-4814 (MJD/DJF), 2026 WL 209825 (D. Minn. Jan. 27, 2026) (Hon. Davis).

Courts have ordered immediate release where Federal Respondents failed to produce evidence that they complied with the statutory requirements to authorize arrest. *Gabriel J. v. Bondi*, No. 26-CV-00865 (SRN/LIB), 2026 WL 295192 (D. Minn. Feb. 4, 2026) (Hon. Nelson); *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627 (D. Minn. Jan. 5, 2026) (Hon. Tunheim); *Joaquin Q. L. v. Bondi*, No. 26-CV-233 (LMP/DTS), 2026 WL 161333 (D. Minn. Jan. 21, 2026) (Hon. Provinzino).

D. Regardless of Whether the Petitioner's Arrest Was Statutorily Authorized, His Constitutional Rights Were Violated

Courts have consistently found similarly situated petitioners were owed immediate release due to violation of their Constitutional rights.

i. Petitioner's Due Process Rights Were Violated By Denial Of Liberty Without A Pre-Deprivation Hearing

Courts in the Eighth Circuit post-*Avila* and in the Fifth Circuit post-*Buenrostro-Mendez* have granted habeas petitions to cure Due Process violations.

As noted above, Post-*Avila* Court in this District applied *Roble* to find that where the Federal Respondents failed to establish changed circumstances justified revocation of his conditional release, his re-detention was unlawful and should be remedied by immediate release. *Bashir A. O. v. Blanche*, No. 26-CV-2426 (JRT/DLM), 2026 WL 1481591, at *4–6 (D. Minn. May 20, 2026), report and recommendation adopted sub nom. *A.O. v. Blanche*, No. CV 26-2426 (JRT/DLM), 2026 WL 1491146 (D. Minn. May 27, 2026) (Hon. Tunheim).

Post-*Avila*, a Court in this district found that in detention without bond provided independent Constitutional grounds for immediate release where the Petitioner was also subject to an unlawful arrest. *Vladimir G. v. Easterwood*, No. 26-CV-2971 (JMB/ECW), 2026 WL 1786418, at *4 n.3 (D. Minn. June 22, 2026) (Hon. Bryan). The Court specifically found that the *Matthews v. Eldridge* test favored the Petitioner where the government had

minimal interest in mass incarceration of individuals who posed little or no risk of flight or danger to the community. *Id.*

Another Court in this District granted immediate release to cure the violation of the Petitioner's "most elemental of liberty interests" in being free from physical imprisonment. *Aureliano M.S. v. Bondi*, No. CV 26-1974 (JRT/DJF), 2026 WL 992445 (D. Minn. Apr. 13, 2026) (Hon. Tunheim). Other Courts in this circuit granted immediate release to cure the Due Process violation on the grounds that a post-deprivation hearing would be inadequate to cure "the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Abbas v. Schneider*, No. 4:26-CV-00132, 2026 WL 1079292, at *8 (S.D. Iowa Apr. 17, 2026) (citing to *Bonilla Chicas v. Warden*, No. 5:26-CV-00131, 2026 WL 539475, at *12 (S.D. Tex. Feb. 20, 2026)); *see also Aleksei M. v. Warden, Lawrence County Jail*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *7 (D.S.D. Apr. 27, 2026).

A Court in this District similarly granted a post-*Avila* Petitioner a bond hearing to cure his due process violation and balance his fundamental liberty interest in freedom of restraint and any government interest in detaining him. *Pedro A.D.L.O.O. v. Bondi*, No. CV 26-1959 (DWF/DJF), 2026 WL 948970, at *3 (D. Minn. Apr. 8, 2026) (Hon. Frank). The Court noted that an individualized assessment was necessary to cure a high risk of erroneous

deprivation. *Id.* The Court noted the purported government interest was weak as they failed to establish the Petitioner was unlikely to appear or posed any threat to the community. *Id.* Respondents in the instant case have similarly produced no evidence that the Petitioner is a flight risk or poses any public safety threat.

Courts in the Fifth Circuit have continued to recognize the Due Process rights of persons subject to § 1225 under analogous precedent and granted habeas relief on that basis. Like *Avila*, *Buenrostro-Mendez v. Bondi* similarly held that persons present within the United States after entering without inspection were subject to mandatory detention under § 1225. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026). Fifth Circuit District Courts bound by *Buenrostro-Menendez* have granted habeas relief on due process grounds. *Cumbe Lema v. De Anda-Ybarra*, EP-26-CV-249-KC (W.D. Tex. Feb. 9, 2026); *Marceu v. Noem et al*, No. EP-26-CV-237-KC, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026)*; Clemente Ceballos v. Garite et al*, No. EP-26-CV-00312-DB, 2026 WL 446509 (W.D. Tex. Feb. 10, 2026); *Hassen v. Noem et al*, No. EP-26-CV-00048-DB, 2026 WL 446506 (W.D. Tex. Feb. 9, 2026).

A Texas Court found a significant body of post-*Buenrostro-Mendez* holdings that detention under § 1225 without any individualized determination of flight risk was a due process violation. *Mendez Godinez v.*

Mullin, No. 1:26-CV-860-RP, 2026 WL 1078579, at *4 (W.D. Tex. Apr. 17, 2026) (collecting cases). The Court determined the appropriate remedy for the due process violation of unlawful detention is immediate release. *Id.* *5 (W.D. Tex. Apr. 17, 2026) (collecting cases). A Western District of Texas Court specifically determined immediate release was appropriate when the Petitioner was subjected to "[d]etention without notice or explanation as required by regulation." *Flores Molina v. Thompson*, No. 5:26-CV-0631-JKP, 2026 WL 908556, at *5, 7 (W.D. Tex. Mar. 27, 2026). A Court in the Southern District of Texas also ordered immediate release "with additional safeguards against redetention" as the appropriate remedy for the lack of an initial individualized hearing. *Bonilla Chicas v. Warden*, No. 5:26-CV-00131, 2026 WL 539475, at *12 (S.D. Tex. Feb. 20, 2026). A Court in the Northern District of Texas found that the appropriate cure for unlawful detention would be a bond hearing. *Eneke v. Noem*, No. 3:26-CV-133-K-BN, 2026 WL 321458, at *3 (N.D. Tex. Feb. 6, 2026).

Other Courts have similarly determined persons subject to §1225 are owed a hearing to safeguard their liberty. *E. V. v. Raycraft* found parolees had a procedural due process right bond hearing or immediate release. *E.V.* concerned two parolees who entered under the Haitian Humanitarian Parole ("HHP") program. *E.V. v. Raycraft,* No. 4:25-CV-2069, 2025 WL 3122837, at

*1 (N.D. Ohio Nov. 7, 2025). Both were detained after the initial period of parole had lapsed the prior month. *Id.* at *2. The Petitioners did not contest they were subject to § 1225 detention, but challenged their detention without a hearing on due process grounds. *Id.* at *9. The Court found the Respondents had "developed a protected liberty interest in remaining out of custody during their removal proceedings." *Id.* at *10. The Court noted that it was the long practice of the government to afford similarly situated persons present in the United States a § 1226(a) hearing to safeguard the liberty interests they enjoyed as persons present in the United States. *Id.* at *9-10.

Where a long-term resident Petitioner is subject to § 1225, his continued presence in the United States means he has accrued a protected liberty interest in being free of detention, which provides an independent ground for his release. As Federal Respondents re-detained the Petitioner without a material change in the circumstances that led to his conditional release, Petitioner's unlawful re-detention violated his due process rights and should be cured with immediate release. Had Federal Respondents complied with their own procedures and held a hearing prior to re-detaining the Petitioner, the neutral magistrate would have discovered the lack of factual basis for his re-detention, barred his re-detention, and thereby conserved judicial resources. Because the violation of the Petitioner's due process rights cannot

be cured with a post-deprivation hearing, he must be immediately released, and Federal Respondents enjoined from re-detaining him without a § 1226(a) warrant and subsequent bond hearing or the § 1357(a) warrantless arrest procedures including the post-arrest custody redetermination within 48 hours.

Respondents cannot prevail because they have neither provided Petitioner a hearing nor explained why he was not entitled to one, nor do they argue that he received any process relating to his detention, which is separate from and collateral to his removal proceedings. Petitioner has long been present in the United States, as has inhered a protected liberty interest to continue to contribute to his community, and otherwise enjoy the fruits of liberty. Therefore, even under 1225(b)(2), Petitioner should still be granted immediate release to cure the unlawful deprivation of his liberty interest without a pre-deprivation hearing.

Consequently, the Petition can be granted immediate release on these independent grounds. Further, Respondents should be enjoined from re-detaining the Petitioner without abiding by their own statutory and regulatory procedures.

ii. Petitioner's Right To Freedom From Unreasonable Seizure Was Violated

Petitioner had a liberty interest in being free from unreasonable seizure. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). As noted above, there was no lawful basis for the discretionary warrant issued to detain the Petitioner. *See* Sec. III. C.

A Southern District of West Virginia Court analyzed the requirements of the Fourth amendment as they pertain to non-citizens present in the United States. That Court noted the historical background of the Fourth amendment "the Framers sought to erect firm constitutional barriers against unchecked government power." *Urquilla-Ramos v. Trump*, No. 2:26-CV-00066, 2026 WL 475069, at *9 (S.D.W. Va. Feb. 19, 2026). The *Urquilla-Ramos* Court described the evolution of modern Fourth Amendment jursipurdence "to personal security and privacy, free of arbitrary and abusive governmental interference." *Id.* (cleaned up.) That Court further noted that Supreme Court precedent – and precedential caselaw in the Eighth Circuit – establishes these protections extend to non-citizens within the United States. *Id.* (citing to *Carcamo v. Holder*, 713 F.3d 916, 921 (8th Cir. 2013)). The Court determined that a government practice "whose sole operational effect is the

elimination of accountability... is unreasonable under the Fourth Amendment." *Id.* 16. The court determined that under a totality of the circumstances test, warrantless arrest by unidentifiable agents was a prohibited unreasonable detention method. *Id*, 14, 16.

A New Jersey District Court followed *Urquilla-Ramos* granting immediate release to remedy warrantless arrest, reasoning that finding otherwise would "give the Government a free pass to violate a person's statutory and constitutional rights first and search for authority later." *Usmonov v. Soto et al.*, No. 26-1108 (SDW), 2026 WL 608771, (D.N.J. Mar. 4, 2026).

In the instant case, Federal Respondents produced a discretionary warrant, but the warrant is fatally defective as government evidence demonstrates there was no factual basis to justify detention of the Petitioner. ECF 6-5. As noted above, there is no Constitutional interest in mass detention of individuals who pose no risk of flight or danger to the public. *Vladimir G. v. Easterwood*, No. 26-CV-2971 (JMB/ECW), 2026 WL 1786418, at *4 n.3 (D. Minn. June 22, 2026) (Hon. Bryan). The Court should find that under the totality of the circumstances, a factually deficient that is demonstrably lacking in statutory or regulatory justification and is purely pretextual constitutes a Fourth Amendment violation.

Consequently, the Petition can be granted immediate release on these independent Fourth Amendment grounds.

E. Relief Should Be Structured To Ensure Compliance

Petitioner requests the Court grant relief structured to ensure timely and complete compliance, and to provide timely notification of any non-compliance. Petitioner notes the "96 court orders that ICE has violated in 74 cases" before the end of last January. *Juan T.R. v. Noem*, No. 26-CV-0107 (PJS/DLM), 2026 WL 232015, at *1 (D. Minn. Jan. 28, 2026). This pattern of non-compliance with Court orders by Federal Respondents has continued and been extensively documented, and judges in other cases have structured their orders to ensure compliance. *Hueso v. Soto,* No. 26-1455 (ZNQ), 2026 WL 539271, at *3 (D.N.J. Feb. 26, 2026) (documenting scores of violations); *see also Rigoberto S. J. v. Bondi*, No. 26-CV-957 (LMP/JFD), 2026 WL 490104, at *2 (D. Minn. Feb. 20, 2026) (documenting serial violations) (Hon. Provinzino). In order to ensure complete and timely compliance with the Court's order, Petitioner requests Federal Respondents be required notify Petitioner's counsel of his release to ensure a party knowledgeable of the law, the Court's Order, and the Petitioner's condition can timely monitor compliance and move to expeditiously redress any non-compliance with the Court's Order. The Petitioner should also be separately guaranteed a phone call to

coordinate his safe release from custody with his preferred party. Federal Respondents should be further required to provide status updates to the Court to document their full compliance and to preserve the record in the event of any non-compliance.

IV. CONCLUSION

For all the reasons stated above, the Petitioner asks this Court to grant him immediate release. Petitioner requests Federal Respondents to be enjoined from re-detaining him without first granting him on a § 1226(a) warrant and with a subsequent §1226(a) bond hearing or complying with the §1357(a)(2) warrantless arrest procedures, including the 48-hour post-arrest custody redetermination requirement. Further, Petitioner requests that he be ordered released with all of his property, so his liberty is not constrained upon release. Given recent controversies regarding the compliance of federal Respondents with court orders, Petitioner also requests Respondents be required to give status updates with respect to their compliance with the Court's Order.

July 27, 2026

Respectfully Submitted,

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