UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Civil Action No. 1:26-cv-3307

JOSE MUNOZ,
[redacted]

Petitioner,

v.

JUAN BALTAZAR, Warden of Denver Contract Detention Facility,
GEORGE VALDEZ, Acting Field Office Director, Denver Field Office, Immigration and Customs Enforcement,
MARKWAYNE MULLIN, Secretary, Department of Homeland Security,
TODD BLANCHE, Acting U.S. Attorney General,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. This case demonstrates the continued refusal by Respondents to provide necessary due process in bond proceedings both in and out of immigration court.
2. In immigration court the immigration judge provided ***no*** due process, instead issuing a decision denying bond ***before*** the hearing was even held only to retract the order and issue it again after the hearing. Coupled with the failure to address the evidence and claims Petitioner Jose Munoz presented only furthers the growing evidence that immigration judges are not neutral arbiters and noncitizens are being deprived of their due process rights in immigration court. *See, e.g., Shulqui v. Bondi*, No. 26-cv-00205-KG-DLM, ECF No. 18, at *5-6 (D.N.M. Mar. 25, 2026) ("bond hearing did not satisfy [] due process requirements" when "before hearing from either party, the IJ stated 'I'll

hear the bond argument' but 'I'm denying it outright...regardless' of this Court's prior order"); *Chiguano v. Lowe*, No. 1:24-CV-02210-JPW, 2025 WL 3280946, at *3 (M.D. Pa. Nov. 25, 2025) (finding IJ's determination "falls short of due process" and cautioning that "due process is not satisfied, . . ., by rubberstamp denials") (cleaned up); *Briceno Duran v. Wolford*, No. 25-cv-00583-SLH-KT, ECF No. 17, at *1 (W.D. Pa. Mar. 13, 2026) (granting motion to enforce because "Petitioner was not provided with a fundamentally fair bond hearing in compliance with due process"); *Meija Orozco v. Lyons*, 1:25-cv-01762-AJT-WEF, Order, ECF No. 20 at *2-3, 5-6 (E.D. Va. Dec. 1, 2025) (IJ provided no individualized determination when decision merely stated that bond was denied because "Respondent is a flight risk").

3. Additionally, Respondents violated Mr. Munoz's due process rights outside of immigration court by arresting him without proper justification or documentation, in violation of the preliminary injunction in *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1240-41 (D. Colo. 2025).
4. Because Respondents have deprived Mr. Munoz of his recognized due process rights, the Court should grant the petition and order his release.

JURISDICTION AND VENUE

5. Mr. Munoz is detained at the Denver Contract Detention Facility in Aurora, Colorado, and is in physical custody of Respondents. Ex. 1 (ICE Detainee Locator).
6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 2201-02 (declaratory relief), and 28 U.S.C. § 1651 (All Writs Act).

7. This Court may grant relief pursuant to 28 U.S.C. § 2241, § 2243, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
8. Venue is proper because Mr. Munoz's immediate custodian at Denver Contract Detention Facility is located in this District and a "substantial part of the events or omissions giving rise to the claim" occurred in this District. 28 U.S.C. § 1391(e)(1).

PARTIES

9. Petitioner Jose Munoz is a native of Venezuela. Immigration and Customs Enforcement ("ICE") is detaining him at the Denver Contract Detention Facility in Aurora, Colorado. *See* Ex. 1.
10. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility and is the immediate custodian of Mr. Munoz. He is sued in his official capacity.
11. Respondent George Valdez is the Acting Field Office Director of the ICE Denver Field Office and is responsible for ICE's operations in Colorado where Mr. Munoz is held. He is sued in his official capacity.
12. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE and ICE's policies, which are responsible for Mr. Munoz's detention. Secretary Mullin has ultimate custodial authority over Mr. Munoz and is sued in his official capacity.
13. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration court system it operates is a component agency. He is sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

15. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added).

16. "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

17. Mr. Munoz requests the Court issue an Order to Show Cause, and direct Respondents to file a response within three days, in light of the significant restraint on his liberty and clear Constitutional violations in this case.

TRANSFER OUTSIDE THE DISTRICT; ALL WRITS ACT

18. The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

19. Courts both in and outside this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the judicial district. *See Arostegui-Maldonado v. Baltazar*, 794 F. Supp. 3d 926, 948-49 (D. Colo. Aug. 8, 2025) (listing cases).

20. Mr. Munoz requests that this Court invoke the All Writs Act to prevent any transfer out of the District of Colorado during the pendency of his habeas action. Mr. Munoz resided in Colorado prior to his detention and, if transferred and then released he would need to travel back to Colorado. Travel is increasingly difficult for noncitizens as ICE has been arresting people at airports and bus stations as they seek to travel.

EXHAUSTION

21. The failure to exhaust administrative remedies does not bar Mr. Munoz's claim unless "Congress specifically mandates" exhaustion. *Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (1993) (quoting *McCarthy v. Madigan*, 503. U.S. 140, 144 (1992)).

22. Moreover, because Mr. Munoz's claims are based on Respondents' violation of his constitutional rights, administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when . . . a plaintiff has raised a 'substantial constitutional question.'").

23. Although the Court may impose exhaustion requirements as a prudential matter, it should not do so in this case because further administrative exhaustion would be futile and further delay Mr. Munoz's unlawful detention.

STATEMENT OF RELEVANT FACTS

24. Mr. Munoz came to the United States in December 2024 without inspection. The Department of Homeland Security (DHS) released him without bond but required his enrollment in the Alternatives to Detention (ATD) program. ICE served Mr. Munoz with a Notice to Appear, placing him in removal proceedings.

25. Mr. Munoz complied with the conditions of his ATD program, including appearing at required check-ins and home visits. ICE never told him of any violations of the ATD program. On occasion, he had trouble uploading a required photo to the phone app, but he always took the photo as instructed. The case manager would subsequently call him and he would explain and re-upload the photo. When that happened, the case manager always told him it was fine.

26. On June 23, 2026, Mr. Munoz appeared at the ICE office for a scheduled check-in. He was arrested on the basis that he did not have any documents allowing him to legally remain in the United States. *See* Ex. 2 (Form I-213). He was not given a Form I-200 at the time.[1]

27. Mr. Munoz sought a bond redetermination hearing before an immigration judge. The immigration court scheduled the hearing for July 17, 2026, at 1:00 pm. Ex. 3 (Notice of Hearing).

28. At 11:12 am on July 17, 2026, approximately two hours before the hearing, the immigration court clerk uploaded an Order, signed by Immigration Judge Bobbie C. Masters, to the electronic Record of Proceedings. Ex. 4 (11:12 am Email). That order denied bond because of "Flight risk -". Ex. 5 (First Order).

29. At 12:10 pm on July 17, 2026, Mr. Munoz's counsel received an email that the order had been removed from the electronic Record of Proceedings. Ex. 6 (12:10 pm Email). There was no explanation, only a general statement at the bottom: "Typical reasons for removing a document are due to administrative error and/or technical difficulty with

[1] The Form I-213 states that Mr. Munoz was informed he was under arrest for immigration violations and served with an I-200 warrant of arrest, Ex. 2, but ICE did not file an I-200 in his bond proceeding and he maintains he was not sersved with the document.

the upload process. Contact your administrative court or the Board of Immigration Appeals for any questions." *Id.*

30. At the hearing, the immigration judge did not mention the withdrawn bond order.[2] She began by asking the parties about the filed evidence, noting Mr. Munoz submitted a packet of materials and ICE submitted the Form I-213. The immigration judge asked the parties if they had any objections to the evidence. Mr. Munoz's attorney objected to the Form I-213 because it had been filed less than three hours before the hearing and she needed more time to review it with Mr. Munos, noting it stated he violated the ATD program 10 times without any details and he disputed that he violated the terms of the ATD program at all. Mr. Munoz's attorney indicated that Mr. Munoz was prepared to testify. ICE argued that bond was inappropriate because the Form I-213 stated that Mr. Munoz violated the ATD program, he had not been in the United States for a long time, and he had filed an application for asylum.

31. Without taking testimony as to the details of the supposed ATD violations, the immigration judge admitted the Form I-213 into evidence because a Form I-213 is "inherently reliable." Counsel for Mr. Munoz further argued that he has complied with the ATD program, has numerous letters of support, including a sponsor from his church who was in the courtroom and a letter from his daughter's educational program.

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[2] Undersigned counsel has a copy of the Digital Audio Recording for the bond hearing. However, the file type is not one that allows for automated transcription through any program undersigned counsel has access to. If the Court would like a copy of the audio recording, counsel can file an electronic copy. As stated in the verification at the end of this petition, counsel verifies the description in this pleading is an accurate description of the hearing.

32. At the conclusion of counsels' statements, the immigration judge stated she was denying bond because Mr. Munoz had not demonstrated that he is not a flight risk.

33. Counsel for Mr. Munoz indicated that the bond order had been uploaded in advance of the hearing and that the hearing was not fair. The immigration judge claimed to know nothing about the order being uploaded in advance of the hearing, stating she was preparing the order at that moment, and said she had technical difficulty accessing the electronic bond record that day.

34. The immigration court subsequently uploaded the exact same order denying bond that had been uploaded hours earlier. Ex. 7 (Second Order). The order contained no reasoning other than "Flight risk -". *Id.*

LEGAL BACKGROUND

Immigration Arrests

35. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. "Except at the border and its functional equivalents," immigration officers may stop individuals in public only after identifying "specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion" of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).

36. Like the authority to stop and question individuals, both the INA and the Fourth Amendment limit ICE's authority to arrest noncitizens without a warrant. *See* 8 U.S.C. § 1357(a); *Brignoni-Ponce*, 422 U.S. at 884 (1975).

37. Apart from noncitizens observed at the border entering or attempting to enter the United States, the statute only authorizes ICE to "arrest a[noncitizen] in the United

States [without a warrant], if he has reason to believe that the [noncitizen] so arrested is in the United States in violation of any [immigration] law or regulation *and is likely to escape before a warrant can be obtained for his arrest.*" *Id.* U.S.C. § 1357(a)(2) (emphasis added).

38. Federal regulations track these strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii) ("A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.").

39. In November 2025, Judge Jackson issued a preliminary injunction precluding ICE from "effect[ing] warrantless arrest in this District unless, pre-arrest, the arresting officer has probable cause to believe that the individual is in the United States in violation of United States immigration law and probable cause that the person being arrested is likely to escape before a warrant can be obtained, as required by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(2)." *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1240-41 (D. Colo. 2025).

40. The warrant has to be issued before the arrest or must otherwise include a flight risk assessment. *Id.* at 1226; *accord De La Paz v. Coy*, 786 F.3d 367, 376 (5th Cir. 2015) ("[E]ven if an agent has reasonable belief, before making an arrest, there must also be a likelihood of the person escaping before a warrant can be obtained for his arrest.") (internal quotations omitted); *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995) ("Section 1357(a)(2) requires that the arresting officer reasonably believe that the alien is in the country illegally *and* that she 'is likely to escape before a warrant can be obtained for [her] arrest.'") (quoting 8 U.S.C.

§ 1357(a)(2)) (emphasis in original); *Westover v. Reno*, 202 F.3d 475, 479-80 (1st Cir. 2000) (noting that an immigration arrest was "in direct violation" of Section 1357(a)(2) because "[w]hile INS agents may have had probable cause to arrest [plaintiff] by the time they took her into custody, there is no evidence that [plaintiff] was likely to escape before a warrant could be obtained for her arrest"); *see* 8 U.S.C. § 1226(a) ("*On a warrant issued by the Attorney General*, a [noncitizen] may be arrested and detained pending a decision on whether the [noncitizen] is to be removed.").

41. DHS's administrative arrest warrant is produced on a Form I-200.

Immigration Detention and Bond

42. After arrest, DHS must make an initial custody determination in order to keep someone detained. This is typically recorded on a Form I-286, Notice of Custody Determination. 8 C.F.R. § 236.1(c)(8), (g)(1); *see Martinez-Orellana v. Hagan*, 26-cv-355, ECF No. 14 at p. 7-8 (D. Colo. Feb. 13, 2026).

43. The decision whether to release a noncitizen is an individualized determination first made by ICE. 8 C.F.R. § 236.1(c)(8); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 26 (1st Cir. 2021) (noting that ICE officers make the initial custody determination); *Velasco Lopez v. Decker*, 978 F.3d 842, 849 (2d Cir. 2020) (noting that 8 C.F.R. § 236.1(c)(8) "applies only to the initial custody determination made by the arresting officer and not to immigration judges in bond hearings" although immigration judges do apply the same rule regarding presumption of detention to custody hearings under § 1226(a)); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 484 (S.D.N.Y. 2025).

44. Detention under 8 U.S.C. § 1226(a) "must be premised on an individualized custody determination based on Petitioner's dangerousness and flight risk." *Campbell v. Almodovar*, 2025 WL 3626099, at *1 (S.D.N.Y. Dec. 15, 2025) (marks and citation omitted). A noncitizen who is neither a danger nor a flight risk may be released on a "bond of at least $1,500 with security approved by, and containing conditions prescribed by [ICE]." 8 U.S.C. § 1226(a); *see N-N- v. McShane*, 2025 WL 3143594, at *2 (E.D. Pa. Nov. 10, 2025).

45. If DHS elects to detain a noncitizen, the noncitizen may seek a custody *re*determination before an immigration judge. 8 C.F.R. §§ 1003.19(a) 1236.1(c)(8), (d)(1); *Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908, at *7 (D. Colo. Oct. 17, 2025); *Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 68-69 (D. Mass. 2025).

46. At the hearing, the immigration judge is required to consider all evidence presented and consider whether the noncitizen is a flight risk or danger to the community.

47. In order to re-detain a noncitizen after release from custody, there must be an individualized assessment that the noncitizen either presents a danger or is a flight risk. *Campbell v. Almodovar*, 1:25-cv-9509, 2025 WL 3626099, at *1 (S.D.N.Y. Dec. 15, 2025). Without such assessment, detention violates a petitioner's due process rights. *Id.*

Due Process Rights

48. Noncitizens within the United States are entitled to due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to [noncitizens] outside of our geographic borders.").

49. When the government deprives an individual of their liberty, which was "'formerly granted and approved by Respondent[s], *the absence of any deliberative process prior to or contemporaneous with the deprivation*, and the statutory and constitutional rights implicated, a writ of habeas corpus is the only form of relief and the most appropriate remedy.'" *Martinez-Orellana*, 1:26-cv-355, ECF No. 14 at 10 (quoting *J.U. v. Maldonado*, 805 F. Supp. 3d 485, 498 (E.D.N.Y. 2025)).

50. This relief is more important than ever because immigration judges have become biased and are not neutral arbiters who provide due process in custody hearings. *See, e.g., Singh v. Valdez*, 26-cv-1109-WJM, 2026 WL 890240, at *5 (D. Colo. Apr. 1, 2026) (stating "the mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore"); *Garcia Ortiz v. Henkey*, 1:26-cv-43, 2026 WL 948275, at *2 (D. Id. Apr. 7, 2026) (recognizing that "the integrity of these bond proceedings has now been cast sharply into doubt."), at *4 (describing concerns echoed by courts across the country that "immigration judges who provide neutral adjudications have been removed, and bond is systematically denied after a pro forma hearing with a predetermined outcome."); *Shulqui v. Bondi*, No. 26-cv-00205-KG-DLM, ECF No. 18, at *5-6 (D.N.M. Mar. 25, 2026) ("bond hearing did not satisfy [] due process requirements" when "before hearing from either party, the IJ stated 'I'll hear the bond argument' but 'I'm denying it outright...regardless' of this Court's prior order"); *Benipal v. Rokosky*, 2025 WL 1355010, at *12 (D. Ariz. Apr. 24, 2026) (citing additional cases in which immigration judges issued unlawful summary denials of bond without reasoning); *Briceno Duran v. Wolford*, No. 25-cv-00583-SLH-KT, ECF No. 17, at *1

(W.D. Pa. Mar. 13, 2026) (granting motion to enforce because "Petitioner was not provided with a fundamentally fair bond hearing in compliance with due process"); *Meija Orozco v. Lyons*, 1:25-cv-01762-AJT-WEF, Order, ECF No. 20 at *2-3, 5-6 (E.D. Va. Dec. 1, 2025) (IJ provided no individualized determination when decision merely stated that bond was denied because "Respondent is a flight risk"); *Chiguano v. Lowe*, No. 1:24-CV-02210-JPW, 2025 WL 3280946, at *3 (M.D. Pa. Nov. 25, 2025) (finding IJ's determination "falls short of due process" and cautioning that "due process is not satisfied, . . ., by rubberstamp denials") (cleaned up).

CLAIMS FOR RELIEF

COUNT ONE
Violation of Procedural Due Process
Lack of Neutral Bond Re-Determination Hearing

51. Mr. Munoz realleges and incorporates by reference the paragraphs above.

52. It is well established that noncitizens like Mr. Munoz are entitled to due process. *See Zadvydas*, 553 U.S. at 693 ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to [noncitizens] outside of our geographic borders."). "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

53. "[D]ue process entitles a person to factfinding based on a record produced before the decisionmaker and disclosed to that person, and an individualized determination of his interests." *De la Llana-Castellon v. INS*, 16 F.3d 1093, 1096 (10th Cir. 1994) (internal citations omitted). Additionally, due process requires the immigration judge to

"actually consider the evidence and arguments that a party presents." *Id.* (citation omitted).

54. The immigration judge was biased against Mr. Munoz and decided *and issued* his bond request prior to the hearing and without hearing his arguments, depriving him of an "opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews*, 424 U.S. at 333.

55. The immigration judge did not take the offered testimony from Mr. Munoz that was offered to rebut ICE's evidence of ATD violations.

56. There is no indication that the immigration judge considered the arguments and evidence Mr. Munoz presented.

57. Respondents did not provide Mr. Munoz with due process and an opportunity to be heard.

58. The lack of due process at the custody redetermination hearing violated Mr. Munoz's procedural due process rights.

59. While egregious, this is no surprise. Immigration judges "often cite little or no reasoning in determining that noncitizens are a flight risk." *Singh v. Valdez*, 2026 WL 890240, *5 (D. Colo. Apr. 1, 2026) (noting that "the Court learned that an IJ declined to release a petitioner on bond for whom it had ordered a bond hearing in a summary decision that merely stated, without any citation to specific facts"); *Solano Tellez v. Valdez*, No. 26-cv-2757-NRN (D. Colo. July 9, 2026), ECF No. 13, Order at 4 (Judge Neureiter stating that another bond hearing is not an appropriate remedy after a previous faulty one "because it is unlikely to be a fair one."); *see also supra* ¶ 50.

60. Immediate release is warranted. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects").

COUNT TWO
Violation of Substantive Due Process
Arbitrary Detention; Re-Arrest

61. Mr. Munoz realleges and incorporates by reference the paragraphs above.

62. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690. Indeed, the liberty interest in freedom from detention "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

63. The Supreme Court, recognizing the strong private interest in remaining free from detention, has held "that detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (cleaned up).

64. Indeed, Mr. Munoz had a strong liberty interest in his freedom after ICE released him at the border in 2024. *See Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025) ("[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody").

65. However, in June 2026, ICE decided to place him in custody solely because he was in the United States without legal status. Ex. 2.

66. There is no indication that Mr. Munoz received any evaluation of a material change in circumstances. The only analysis in the Form I-213 regarding ICE's decision to re-arrest him is that Mr. Munoz "was not currently in possession of any documentation that would allow the subject to be in or remain [in] the United States legally at this time." Ex. 2, at p. 2.

67. While the government has an interest in ensuring Mr. Munoz's appearance at his removal proceedings and protecting the community, the government did not justify the arrest with any reason related to flight risk or dangerousness.

68. Moreover, while the Form I-213 stated that Mr. Munoz had "accumulated 10 violations" of the ATD program, the document neither explains the scope of those violations or when they occurred. Ex. 2. Notably, it could not have been on the day that Mr. Munoz was arrested because the document indicates he was arrested at a "scheduled office visit" in compliance with the ATD program. *Id.* And more importantly, the ATD violations were not the articulated reason for the detention – the only explanation in that section of the Form I-213 is that Mr. Munoz did not have lawful status in the U.S.

69. Such a lack of any process, necessarily leading to an erroneous deprivation of liberty, cannot be supported by the Constitution. Release is the appropriate remedy.

COUNT THREE
Violation of Procedural Due Process
Unlawful Warrantless Arrest

70. Mr. Munoz realleges and incorporates by reference the paragraphs above.

71. It is well established that noncitizens like Mr. Munoz are entitled to due process. *See Zadvydas*, 553 U.S. at 693 ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to [noncitizens] outside of our geographic borders.").

72. The Supreme Court's decision in *United States ex. rel. Accardi v. Shaughnessy*, established the well-settled principle that agency actions in violation of its own regulations and procedures offends due process. 347 U.S. 260, 267-68 (1954) (finding that the agency must exercise its judgment in a habeas case because the agency committed itself by regulation). The *Accardi* doctrine applies with particular force "[w]here the rights of individuals are affected." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). The doctrine's purpose is "to prevent the arbitrariness which is inherently characteristic of an agency's violation of its own procedures." *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).

73. "Although DHS may revoke release 'at any time,' 8 U.S.C. § 1226(b), courts require 'a material change in circumstances as to whether the noncitizen poses a danger to the community or an unreasonable risk of flight' before such revocation." *Cuya-Priale v. Castro*, No. 2:25-CV-01166-KG-DLM, 2025 WL 3564145, at *2 (D.N.M. Dec. 12, 2025) (citing *Y.M.M. v. Wamsley*, 2025 WL 3101782, at *2 (W.D. Wash.); *see, e.g., Valdez v. Joyce*, 2025 WL 1707737, at *3 n.6 (S.D.N.Y.); *Singh v. Andrews*, 2025 WL 1918679, at *7 (E.D. Cal.)).

74. ICE must also obtain a warrant prior to making an arrest unless there is a proper flight risk analysis. *Ramirez Ovando*, 810 F. Supp. 3d at 1226.

75. ICE did not prepare and serve a warrant prior to Mr. Munoz's arrest. He submits he did not receive an I-200 warrant when he was arrested in June 2026. And the Form I-213 only states that an I-200 was served after he was told he was arrested (although Mr. Munoz contests that statement).

76. ICE did not make a flight risk assessment, nor is there a flight risk. Mr. Munoz has complied with all ICE reporting requirements for more than one and one-half years. He has a family and community in the United States.

77. Provided that ICE cannot produce evidence of an I-200 that was prepared *and served* prior to Mr. Munoz's arrest, his arrest violates the preliminary injunction in *Ramirez Ovando*, 810 F. Supp. 3d 1240-41.

78. ICE's arrest was unlawful and therefore the Court should order Mr. Munoz immediately released.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Munoz requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Order under the All Writs Act that Mr. Munoz not be removed from this District while this petition is pending;

(3) Issue an order requiring Respondents to show cause why this Petition should not be granted within three days, or not more than fourteen days;

(4) Declare that Respondents violated Mr. Munoz's due process rights in not providing a fair hearing with a notice and opportunity to be heard;

(5) Declare that Respondents have violated Mr. Munoz's due process rights by failing to analyze a material change in circumstances to justify his re-detention;

(6) Declare that Respondents' arrest was unlawful;

(7) Order Mr. Munoz's immediate release with all of his personal property, including any driver's license, passport, employment authorization documents, and any identification cards. *See Cortes v. Guadian*, 2026 WL 327906 (D. Colo. Feb. 6, 2026).

(8) Grant Mr. Munoz leave to forthwith file a motion for attorneys' fees and costs of this suit under the Equal Access to Justice Act, and 28 U.S.C. § 2412(2), *et seq.*; and

(9) Grant any further relief this Court deems just and proper.

July 21, 2026

Respectfully submitted,

/s/ Jessica A. Dawgert
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF 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 based this petition on documents and information received from Petitioner and Petitioner's immigration attorney and listening to the audio recording of the July 17 custody hearing. Based on that evidence, I hereby verify that the statements made in this Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 21, 2026

Respectfully submitted,

/s/ Jessica A. Dawgert

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