UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

KONG LEE,

Petitioner,

v.

DAVID EASTERWOOD, Director of St. Paul Enforcement and Removal Operations, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary of the Department of Homeland Security; **DAVE ISAIS**, Jail Commander of the Sherburne County Jail; **DAVID J. VENTURELLA**, Acting Director, U.S. Immigration and Customs Enforcement; **TODD BLANCHE**, Attorney General of the United States,

Respondents.

Case No. 0:26-cv-03669-LMP-LIB

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Kong Lee respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus and in response to the Federal Respondents' Response, ECF No. 7. The Government's production resolves several factual questions that were necessarily pleaded on information and belief when the Petition was filed. It does not resolve the Petition in Respondents' favor. To the contrary, the Government's own evidence, together with the District of Minnesota's August 27, 2026 decision in *Khounxai P. v. Easterwood*, demonstrates two independent defects in Petitioner's detention. First, Respondents did not comply with 8 C.F.R. § 241.13 when they revoked a twenty-one-year Order of Supervision on the basis of the same June 18, 2026 Lao travel-document development, the same September 16, 2026 expiration date, and materially the same

conclusory Form 71-091 that the Court held insufficient in *Khounxai P.* Second, the new Form I-205 on which ICE actually acted was signed by an SDDO who is not among the officials authorized by 8 C.F.R. § 241.2(a), and Respondents produced no delegation authorizing that officer to issue a warrant of removal. *Ger V. v. Mullin*, No. 26-cv-2543 (KMM/DTS), 2026 WL 1847044, at *2–4 (D. Minn. June 26, 2026), addresses that precise defect. The Petition should be granted and Petitioner restored immediately to the terms of his preexisting Order of Supervision.

FACTUAL CLARIFICATIONS FROM RESPONDENTS' RECORD

The Government's evidence clarifies the historical record in ways Petitioner accepts for purposes of this detention challenge. Petitioner was admitted to the United States as a refugee on May 24, 1989, and his status was adjusted to lawful permanent resident effective that same date. ECF No. 8 ¶¶ 5–6. An Immigration Judge ordered him removed to Laos on May 17, 2005, and ICE issued an I-205 that day. *Id.* ¶¶ 9–10. ICE then released Petitioner on an Order of Supervision on August 18, 2005 because it could not obtain travel documents. ECF No. 7 at 2; ECF No. 8 ¶ 11. Thus, Respondents themselves confirm that Petitioner spent approximately twenty-one years at liberty under formal post-order supervision because removal could not be effectuated.

The record also corrects the Petition's approximate chronology regarding Petitioner's criminal history. His first-degree burglary conviction occurred in July 2004, before the removal order and OSUP, while a later burglary-accomplice and weapons-possession conviction occurred on December 13, 2006, after the OSUP was issued. ECF No. 8 ¶¶ 7, 12. That clarification does not support the present revocation. ICE did not

invoke 8 C.F.R. § 241.13(i)(1), did not check the box alleging a violation of release, and did not identify the 2006 conviction as a reason for revocation. ECF No. 8-6 at 1. Instead, ICE expressly chose § 241.13(i)(2) and stated that the changed circumstance was a Lao travel document allegedly issued on June 18, 2026 and valid through September 16, 2026. *Id.* Any attempt now to transform a conviction that ICE knew about for nearly twenty years while continuing Petitioner on supervision into a separate justification for the August 2026 revocation would be an impermissible post-hoc rationale. *See SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943); *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 781–84, 788 (D. Minn. 2025).

The Government's records also establish the precise August 18 sequence. Petitioner reported to Fort Snelling as required by his OSUP. ECF No. 8-1 at 2. At 9:40 a.m., ICE created a new I-205, which the I-213 states was signed by "SDDO Carey." *Id.* At 9:42 a.m., ICE created and signed the Form 71-091 Notice of Revocation. *Id.* At 9:45 a.m., ICE took Petitioner into custody, and at 9:46 a.m. it served the I-205 and Form 71-091. *Id.* The Government thus confirms both that Petitioner appeared voluntarily at the place and time ICE required and that the new warrant and revocation paperwork were generated only minutes before his physical detention.

ARGUMENT

I. Under the governing regulation and the District of Minnesota's decision in *Khounxai P.*, Respondents did not lawfully revoke Petitioner's longstanding supervised release, and the same record independently violates due process.

The Government's central regulatory premise is no longer genuinely disputable. Respondents affirmatively concede that § 241.13 governs because Petitioner was released in 2005 after ICE could not obtain travel documents and therefore could not effect removal. ECF No. 7 at 10–11. Section 241.13(i)(2) permits ICE to revoke that release when, "on account of changed circumstances," ICE determines that there is a significant likelihood the noncitizen may be removed in the reasonably foreseeable future. But the regulation does not end with the identification of a new fact. It requires an actual foreseeability determination, meaningful notice of the reasons for revocation, an opportunity to respond, and a revocation custody review that evaluates contested facts and determines whether those facts warrant revocation and further denial of release. 8 C.F.R. § 241.13(i)(2)–(3). Under *Roble v. Bondi*, the burden rests on ICE to establish the changed circumstances necessary to undo a prior § 241.13 release. 803 F. Supp. 3d 766, 772–74 (D. Minn. 2025).

The decision entered a few days ago in *Khounxai P. v. Easterwood*, No. 26-cv-3748 (JMB/ECW), ECF No. 10 (D. Minn. Aug. 27, 2026), is materially indistinguishable on the regulatory facts. There, as here, the petitioner was a longtime Lao refugee who had been released on an OSUP because removal to Laos was not significantly likely in the reasonably foreseeable future. *Id.* at 2. There, as here, Laos allegedly issued a travel

document on June 18, 2026, and ICE represented that the document expired on September 16, 2026. *Id.* at 3. There, as here, ICE detained the petitioner at a scheduled August 18 check-in and relied on a Form 71-091 stating that circumstances had changed because Laos issued a travel document valid through September 16 and that removal would occur no later than that date. *Id.* at 3–4. The Court nevertheless granted habeas relief and ordered immediate release to the preexisting OSUP because Respondents had not complied with § 241.13. *Id.* at 8–10.

The first defect identified in *Khounxai P.* is present here without material distinction. The Court held that ICE must consider factors probative of future removal, including the factors identified in § 241.13(f), before making the § 241.13(i)(2) determination. *Id.* at 7–8; see also *Sarail A.*, 803 F. Supp. 3d at 782. Those factors include the history of the noncitizen's efforts to comply with the removal order, the history and foreseeable results of ICE's removal efforts, and Department of State information concerning prospects for removal. *Khounxai P.*, ECF No. 10 at 7. The Court found the record inadequate because nothing in the Form 71-091 or elsewhere showed that ICE considered those factors before revoking release. *Id.* at 8.

Respondents have produced no such contemporaneous analysis for Petitioner either. Their evidence establishes only that ICE says it received a Lao travel document on June 18, that Petitioner reported as directed on August 18, and that ICE generated a revocation form two minutes after generating an I-205 and three minutes before placing him in custody. ECF No. 8 ¶¶ 13–19; ECF No. 8-1 at 2. There is no decision memorandum, no § 241.13(f) analysis, no State Department assessment, no explanation of the twenty-one-year removal history, no evidence identifying the nature of the

supposed travel document, and no contemporaneous finding explaining why this particular document made Petitioner's removal significantly likely rather than merely possible. As in *Khounxai P.*, the evidentiary record contains no showing that the required individualized determination preceded the revocation.

The second defect identified in *Khounxai P.* is even more direct. The notice there told the petitioner that Laos had issued a travel document on June 18, 2026, valid through September 16, 2026. The Court held that this identified the existence of a changed circumstance but did not provide the reasons supporting ICE's conclusion that removal was significantly likely in the reasonably foreseeable future. *Khounxai P.*, ECF No. 10 at 8–9. The Court further held that explanations supplied later in habeas litigation could not substitute for the reasons ICE was required to provide at revocation. *Id.* at 9; see *Sarail A.*, 803 F. Supp. 3d at 781–84.

Petitioner received materially the same notice. The checked § 241.13(i) box states only that "[c]ircumstances have changed such that there is a significant likelihood of removal in the reasonably foreseeable future," followed by the statement that Laos issued a travel document on June 18, 2026, valid through September 16, 2026. ECF No. 8-6 at 1. It then checks a box stating that ICE "has obtained a travel document and scheduled your removal to take place no later than" September 16, 2026. *Id.* Under *Khounxai P.*, that is not a sufficient statement of reasons. It announces the agency's conclusion and identifies a new object; it does not disclose the reasoning that connects the two in a way that allows the supervisee to understand and contest the foreseeability determination.

Indeed, Respondents' own evidence undermines the Form 71-091's assertion that removal had already been "scheduled." Eight days after revocation, Deportation Officer

William J. Robinson declared only that "ICE is currently scheduling Petitioner on a removal flight to Laos." ECF No. 8 ¶ 20. The Government's litigation brief similarly states that it "plan[s] to have him on a flight to Laos in the near future." ECF No. 7 at 7. Neither statement identifies a booked flight, a flight date, an itinerary, an airline, an acceptance confirmation, or any other contemporaneous fact showing that a removal had actually been scheduled when the Form 71-091 made that representation on August 18. Neither has any actual travel document been produced. The distinction matters because § 241.13 requires the agency's determination to rest on the facts that existed when liberty was revoked, not on later efforts to make the notice's conclusion come true.

The third defect identified in *Khounxai P.* is stronger here because Petitioner actually responded. Section 241.13(i)(3) requires ICE, after the informal interview, to conduct a "revocation custody review," including an evaluation of contested facts and a determination whether the facts as found warrant revocation and further denial of release. 8 C.F.R. § 241.13(i)(3). The *Khounxai P.* Court found the absence of any evidence of that review independently significant. *Khounxai P.*, ECF No. 10 at 9 n.8. Here, Petitioner did not decline to respond. The Government concedes that he provided a written statement. ECF No. 8 ¶ 17; ECF No. 8-6 at 3. That statement told ICE that he had lived in the United States since he was approximately eight years old, did not know anything about Laos or its language, had serious health issues, and recalled that during prior immigration custody an attorney told him he would never be able to get out if he did not sign papers. ECF No. 8-6 at 3. Yet Respondents produced no post-interview custody decision, no factual findings, no evaluation of that submission, and no determination explaining why the facts as determined warranted continued detention. The Respondents' response also

demonstrates that it was not an interview upon which the Petitioner was actually provided with an opportunity to respond because he does not try to respond to what the Respondents are alleging is the basis for his revocation. That is precisely the problem identified in *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 782–84 (D. Minn. 2025): the informal interview exists to permit a response to reasons already disclosed, because "without those reasons, the petitioner has no way to know what evidence or information is responsive." *Id.* at 782. Likewise, *Roble v. Bondi* held that a detainee "cannot be expected to 'respond to the reasons for revocation stated in the notification' if the notification does not actually state any reasons for revocation." 803 F. Supp. 3d 766, 772 (D. Minn. 2025). An interview therefore does not become meaningful merely because ICE generated a Form 71-090; the detainee must actually know the factual proposition he is being asked to contest. See also *Khounxai P. v. Easterwood*, No. 26-cv-3748 (JMB/ECW), ECF No. 10 at 9 & n.8 (D. Minn. Aug. 27, 2026) (explaining that insufficient reasons prevent a noncitizen from identifying disputed facts, contesting them, submitting responsive evidence, or challenging the agency's reasoning). The Government cannot convert the opportunity to write on Form 71-090 into the separate review that the regulation expressly requires.

The actual travel document is also absent from this record, just as it was in *Khounxai P.* The Court there emphasized that, without the document itself, it could not know the nature of the purported document, assess how strongly it supported removal, or even independently verify the represented expiration date. *Khounxai P.*, ECF No. 10 at 3 nn.2–3. Respondents have done the same here. Their twenty-one-page evidentiary submission contains Robinson's declaration, the I-213, historical removal records, the

OSUP, the Form 71-091 and interview form, and two I-205 warrants, but no travel document issued by Laos. ECF Nos. 8, 8-1 through 8-7. The Court therefore has the agency's description of the document, but not the document on which the entire changed-circumstances determination supposedly depends.

The parallel is even closer because Respondents rely on the same Deportation Officer, William J. Robinson. In *Khounxai P.*, the Court observed that Robinson's declaration did not attest to personal knowledge of the relevant removal arrangements, but instead relied on records and information from unidentified officers; the declaration also did not explain when repatriation arrangements were made or whether they predated the revocation notice. *Khounxai P.*, ECF No. 10 at 4 n.5. Robinson's declaration here contains the same generalized foundation: he relies on his "personal and professional knowledge," agency systems, and information from other agents and officers. ECF No. 8 ¶ 3. And his only present-removal assertion is that ICE "is currently scheduling" Petitioner for a flight. *Id.* ¶ 20. That is not evidence that the § 241.13 determination and required analysis occurred before the 9:42 a.m. revocation on August 18.

Respondents' reliance on *Abraham M. v. Mullin*, No. 26-cv-2609 (LMP/DJF), 2026 WL 1864079 (D. Minn. June 29, 2026), does not alter this conclusion. *Abraham M.* held that "one basis will do" where ICE expressly revoked an OSUP based in part on actual post-release violations, including criminal conduct the petitioner conceded constituted a valid revocation basis, and where the petitioner declined to provide information at his interview. *Id.* at *3. Here, by contrast, ICE did not invoke § 241.13(i)(1) at all. The violation box is unchecked, ECF No. 8-6 at 1, and the sole stated basis is § 241.13(i)(2)'s changed-circumstances foreseeability determination. Moreover,

Khounxai P., decided after *Abraham M.*, holds that where ICE chooses that basis it must do the work § 241.13 requires: consider the relevant factors, give nonconclusory reasons, provide a meaningful opportunity to respond, and conduct the revocation custody review. *Khounxai P.*, ECF No. 10 at 7–9.

The Government's *Zadvydas* argument similarly addresses the wrong question. Petitioner does not contend that every post-order detention of less than six months is automatically unlawful. The ordinary six-month presumption described in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), does not erase the agency's prior § 241.13 determination or grant ICE a fresh six-month period of detention every time it chooses to revoke an OSUP twenty-one years later. The re-detention regulation specifically governs this posture and places the changed-circumstances burden on ICE. 8 C.F.R. § 241.13(i)(2)–(3); *Roble*, 803 F. Supp. 3d at 772–74; *Khounxai P.*, ECF No. 10 at 6–9. Respondents' response even incorrectly states that Petitioner had been detained for "three weeks" when the brief was filed only eight days after the August 18 arrest. ECF No. 7 at 8. More importantly, elapsed time is not the dispositive issue. The issue is whether ICE lawfully undid the § 241.13 release that had governed Petitioner for two decades. It did not.

Petitioner therefore need not establish in this Reply that Laos can never remove him. He recognizes that a genuine Lao travel document may constitute an important changed fact. But *Khounxai P.* squarely rejects Respondents' position that the bare existence of such a document, coupled with a conclusory form and later litigation assertions, necessarily establishes regulatory compliance. The Government had to make

and communicate the required individualized determination before and during the revocation process. The present record does not show that it did.

The same defects establish Petitioner's Fifth Amendment claim. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by due process. *Zadvydas*, 533 U.S. at 690. Petitioner was not newly encountered at the border. He entered as a refugee in 1989, became an LPR, and then lived under Government-authorized supervision for approximately twenty-one years. ECF No. 8 ¶¶ 5–6, 11. Conditional liberty of that kind is constitutionally significant. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 147–52 (1997). Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Petitioner's interest in freedom from incarceration is substantial, the risk of error is high when ICE may revoke first and explain later, and the Government's burden in following the review procedures it already promulgated is minimal.

Khounxai P. independently reached the same constitutional conclusion. Although the Court granted relief on the regulatory violation, it held in the alternative that the *Mathews* factors favored the petitioner because the private liberty interest was substantial, inexpensive procedures reduced a needlessly high risk of erroneous incarceration, and the Government had little interest in incarcerating individuals who posed little or no risk of flight or danger. *Khounxai P.*, ECF No. 10 at 9–10 n.9. Petitioner's flight-risk facts are at least as favorable: he was arrested because he appeared at the very appointment ICE ordered him to attend, after years of reporting. ECF No. 8-1 at 2. The Fifth Amendment does not disappear because § 1231 authorizes detention in appropriate circumstances; the Constitution governs the procedure by which an established liberty is extinguished.

Finally, the same record preserves Count IV under the Administrative Procedure Act. Petitioner seeks release through the writ of habeas corpus; he does not depend on the APA as an independent vehicle for discharge. But to the extent the Court reaches Count IV, revoking release without the required § 241.13 analysis and custody review is agency action "not in accordance with law" and taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (D). The Court need not separately decide that claim if it grants relief under § 2241, just as *Khounxai P.* declined to reach the APA after finding the regulatory and constitutional defects. *Khounxai P.*, ECF No. 10 at 5 n.6.

II. Independently, Respondents have not established a valid warrant for Petitioner's arrest: the 2026 I-205 was signed by an unauthorized SDDO, the 2005 I-205 cannot be resurrected as perpetual arrest authority, and the warrantless-arrest exception does not apply.

Respondents warrant is facially subject to the same issuance defect the District of Minnesota held fatal in *Ger V.* Section 241.3(a) provides that a final-order noncitizen "will be taken into custody pursuant to the warrant of removal." The officials authorized to issue a Form I-205 are enumerated in § 241.2(a)(1). That list includes Field Office Directors, Deputy and Assistant Field Office Directors, several other specified positions, and other officers who have actually been delegated I-205 authority under § 241.2(a)(1)(xxxii). A Supervisory Detention and Deportation Officer is not listed by title. 8 C.F.R. § 241.2(a)(1).

The I-213 expressly states that the new I-205 created at 9:40 a.m. "was signed by SDDO Carey." ECF No. 8-1 at 2. The face of the warrant identifies Sergio Albarran as

Field Office Director but bears a handwritten signature by another person rather than Albarran. ECF No. 8-7 at 1. Respondents have not submitted a declaration from Carey, a delegation order, an agency directive, or any other evidence showing that Carey was delegated authority under § 241.2(a)(1)(xxxii) to issue warrants of removal.

That is the precise issue decided in *Ger V. v. Mullin*. The I-205 there was signed by an "SDDO" "for" the Acting St. Paul Field Office Director. 2026 WL 1847044, at *2. Judge Menendez held that an SDDO is not among the officials enumerated in § 241.2(a), and the fact that an SDDO may sign for an authorized official is not self-proving delegation. *Id.* The Government was required to produce evidence that the SDDO had actually been delegated I-205 authority under § 241.2(a)(1)(xxxii). *Id.* at *2–3. Because the record contained no such evidence, the warrant was invalid and could not supply the arrest predicate. *Id.* at *3. The Court expressly rejected the proposition that an unauthorized official can satisfy the regulation merely by writing "for" above the name of an authorized officer. *Id.*

The same result follows here on the record Respondents chose to submit. Their I-213 does not say Field Office Director Albarran issued the warrant. It says SDDO Carey signed it. ECF No. 8-1 at 2. The Government's brief never addresses Carey's authority and never identifies any delegation. See ECF No. 7 at 11–14. Under *Ger V.*, Respondents therefore have not established that Petitioner was taken into custody pursuant to a validly issued I-205.

Respondents' delegation order does not cure the defect in the August 18 Form I-205. By its terms, Delegation Order DO99-004 concerns the separate authority to revoke release under 8 C.F.R. §§ 241.4 and 241.13. It delegates that authority only to Field

Office Directors, Deputy Field Office Directors, and Assistant Field Office Directors, and expressly provides that the delegated authority "may not be further re-delegated." The operative I-205, however, was not signed by one of those officials. Respondents' own I-213 states that it was "signed by SDDO Carey." Thus, this delegation may establish AFOD Kenney's authority to sign the Form 71-091; it establishes no authority whatsoever for SDDO Carey to issue the Form I-205 under § 241.2(a).

Abraham M. is again distinguishable in a way that favors Petitioner. Judge Provinzino denied the warrant claim there because ICE had issued an I-205 two days before arrest and the petitioner "ma[de] no claim that the I-205 warrant [was] facially invalid." 2026 WL 1864079, at *2. This case presents the precise facial-issuance challenge absent from *Abraham M.* The Government's own document identifies the issuing signatory as an SDDO, and *Ger V.* holds that such a warrant is invalid absent proof of actual delegation.

Respondents attempt to avoid any defect in the 2026 warrant by arguing that the May 17, 2005 I-205 remained eternally available because it had never been "executed" through physical removal. ECF No. 7 at 11–13. That theory is inconsistent with the current District of Minnesota authority and with Respondents' own conduct. In *Ahmed S. v. Blanche*, No. 26-cv-2265 (KMM/DLM), 2026 WL 1998718, at *5 (D. Minn. July 10, 2026), the Court rejected reliance on an old I-205 that had supplied authority for the petitioner's earlier post-order custody and held that it could not simply be resuscitated years later to validate a new arrest. *Ger V.* likewise observed that the concerns with relying on a decades-old, possibly already used and never served warrant to establish a new arrest are "self-evident." 2026 WL 1847044, at *4 n.5. And in *Manuel P. v. Blanche*,

No. 26-cv-3445 (JMB/EMB), ECF No. 8 at 8–9 (D. Minn. Aug. 7, 2026), the Court rejected the Government's proposed "evergreen" rule that an I-205 remains arrest authority at any and all points into the indefinite future.

The factual record makes Respondents' fallback especially implausible here. Robinson states that ICE created an "updated" I-205 on August 18 specifically "because the prior I-205 was located in another field office." ECF No. 8 ¶ 15. The contemporaneous I-213 likewise identifies the newly created warrant as part of the arrest sequence. ECF No. 8-1 at 2. ICE thus acted on the premise that a new warrant was needed for this new custody event. Respondents cannot generate a new warrant for the arrest, discover that the new warrant suffers a regulatory defect, and then retrospectively characterize a 2005 instrument as the actual arrest authority when their own operational record says otherwise.

The Ninth Circuit decisions cited by Respondents do not compel a different result. *Spector v. Landon*, 209 F.2d 481 (9th Cir. 1954), predates the current regulatory framework and does not decide whether an I-205 used in connection with an earlier period of post-order custody remains perpetual authority to re-arrest a supervisee decades later. *Sulit v. Schiltgen*, 213 F.3d 449, 453 (9th Cir. 2000), addressed whether a deportation warrant must be served before deportation; it does not authorize a new arrest under an otherwise defective warrant. ECF No. 7 at 12–13. More importantly, this Court is sitting in the District of Minnesota, where multiple 2026 decisions have rejected the evergreen-warrant theory in the exact immigration re-detention context. *Ahmed S.*, 2026 WL 1998718, at *5; *Ger V.*, 2026 WL 1847044, at *4 n.5; *Manuel P.*, ECF No. 8 at 8–9.

Because Respondents have not established a valid I-205, the arrest can stand only if ICE satisfied the narrow warrantless-arrest authority in 8 U.S.C. § 1357(a)(2). That statute requires probable cause both that the noncitizen is in violation of immigration law and that he "is likely to escape before a warrant can be obtained for his arrest." The Eighth Circuit treats the statutory "reason to believe" standard as the equivalent of probable cause. *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). The second requirement is independent; removability alone does not satisfy it. *Ahmed S.*, 2026 WL 1998718, at *5–7.

There is no plausible escape-before-warrant showing here. Petitioner was not located during a surprise street encounter. He reported to ICE because his OSUP required him to do so. ECF No. 8-1 at 2. ICE knew his identity, A-number, supervision history, reporting date, reporting location, and the very moment he would enter the Fort Snelling office. Respondents claim the supposed travel document existed since June 18—two full months before the August 18 appointment. ECF No. 8 ¶ 13. If ICE believed that development warranted detention, it had ample time to obtain a properly issued I-205 from an authorized official before the check-in.

Ger V. again is directly on point. There the petitioner attended regular ICE check-ins and was arrested when he appeared for a scheduled appointment. The Court held there was no evidence he was likely to escape before a warrant could be obtained and emphasized that ICE had "plenty of time to get their ducks in a row" before the scheduled encounter. 2026 WL 1847044, at *3–4 & n.6. *Ahmed S.* likewise held that criminal history does not itself establish the escape element where ICE knows where the supervisee lives and can locate him. 2026 WL 1998718, at *6–7. And this Court recently

ordered release where the Government failed to establish the independent escape requirement, explaining that the inquiry concerns whether ICE could locate the individual long enough to obtain a warrant. *Nevarez-Puentes v. Blanche*, No. 26-cv-3368 (LMP/JFD), ECF No. 10 at 5–7 (D. Minn. Aug. 6, 2026).

Petitioner's two decades of supervised liberty reinforce the same conclusion. The Government does not allege that he failed to appear for the August 18 appointment; its evidence says the opposite. It does not allege that he attempted to flee once there. And the revocation notice does not rely on absconding, noncooperation, or a supervision violation. ECF No. 8-6 at 1. Under § 1357(a)(2), the question is not whether ICE preferred to secure Petitioner's presence for a future removal; it is whether probable cause existed to believe he would escape before a warrant could be obtained. On this record, the answer is no.

The Government's assertion that § 241.13 revocation itself eliminates the need for a warrant conflates two different legal acts. Section 241.13 governs whether ICE may revoke a previously granted release. Sections 241.2 and 241.3 govern the warrant by which a final-order noncitizen is taken into custody. The District of Minnesota has repeatedly treated these as distinct requirements. *Ger V.*, 2026 WL 1847044, at *2–4; *Ahmed S.*, 2026 WL 1998718, at *5–7. A lawful reason to revoke release cannot validate an arrest under an invalid I-205 any more than a valid warrant can substitute for the revocation custody review required by § 241.13. Respondents had to comply with both frameworks. They did not.

III. Immediate restoration to Petitioner's preexisting Order of Supervision is the proper habeas remedy; the Government may not cure the detention through post-hoc paperwork while continuing to hold him.

Respondents ask the Court to treat the present detention as lawful because § 1231 authorizes post-order detention in some circumstances. That frames the question at too high a level of generality. Habeas asks whether this Petitioner's present custody is in accordance with the Constitution and laws of the United States. 28 U.S.C. § 2241(c)(3). Statutory detention authority does not authorize the Executive to disregard the conditions Congress and the agency's own regulations impose on the seizure and revocation that produced the custody. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954).

The remedy is immediate release to the preexisting OSUP. That is exactly what *Khounxai P.* ordered today after finding the same § 241.13 failures involving the same alleged Lao travel-document development. *Khounxai P.*, No. 26-cv-3748, ECF No. 10 at 9–10. The Court did not leave the petitioner incarcerated while inviting ICE to repair the record. It ordered release "immediately, subject to the same terms and conditions previously ordered." *Id.* at 10. Judge Provinzino likewise ordered release to the preexisting OSUP in *Vu V.L. v. Mullin*, No. 26-cv-2947 (LMP/JFD), ECF No. 8 at 8–9 (D. Minn. July 1, 2026), when ICE failed to follow the regulatory revocation process. The same remedy follows from the unlawful-arrest line of cases. See *Ahmed S.*, 2026 WL 1998718, at *7; *Jairo L.U.G. v. Mullin*, No. 26-cv-3051 (JRT/SGE), 2026 WL 1893624, at *2 (D. Minn. July 1, 2026); *Carlos L.V.B. v. Bondi*, No. 26-cv-898 (JWB/DJF), 2026 WL 1231286, at *3 (D. Minn. Mar. 20, 2026).

That relief does not vacate the 2005 removal order, adjudicate the validity of Petitioner's criminal convictions, prevent ICE from pursuing lawful removal, or immunize Petitioner from future re-detention if a lawful basis arises. It simply restores the status quo that existed before the unlawful August 18 custody event. If Respondents possess a valid basis for a future revocation, they may act in accordance with the governing statutes and regulations. What they may not do is continue the present detention while constructing, after the fact, the analysis, delegation, custody findings, or removal arrangements that should have existed when Petitioner's liberty was taken.

Nor is an evidentiary hearing necessary to deny relief to Petitioner, as Respondents suggest. ECF No. 7 at 14. The present record is sufficient to grant relief: it contains the exact Form 71-091, the exact Form 71-090, the I-213 identifying the SDDO signatory, the I-205 itself, and Robinson's declaration. If Respondents contend that an unproduced delegation authorized SDDO Carey or that an unproduced Lao document establishes facts not apparent from the record, those matters cannot support denial of habeas on the evidentiary submission they actually made. At minimum, the Court should require immediate production of any written delegation to Carey and the actual Lao travel document rather than presume either exists in the form Respondents need. But because *Khounxai P.* establishes an independent § 241.13 violation on this materially identical record, the Court can and should order release now.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition, order his immediate release in Minnesota subject to the same terms and

conditions of his preexisting Order of Supervision, order the return of his identification documents, immigration documents, personal property, and effects, and grant the remaining relief requested in the Petition to the extent necessary to preserve the effectiveness of the writ. The Court may resolve the Petition on the mandatory-regulation and statutory-arrest grounds without reaching every constitutional or APA question. If it reaches those claims, the same record establishes that Petitioner's continued detention violates the Fifth Amendment and is contrary to law and without observance of required procedure.

Dated: August 31, 2026

Respectfully submitted,

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2026, I electronically filed the foregoing Petitioner's Reply in Support of Petition for Writ of Habeas Corpus with the Clerk of Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Stacey R. Rogers
Stacey R. Rogers

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(f), I certify that the foregoing Petitioner's Reply in Support of Petition for Writ of Habeas Corpus contains 5,363 words, excluding the portions exempted from the word count by Local Rule 7.1(f)(1)(C), and therefore complies with the applicable word limitation.

/s/ Stacey R. Rogers
Stacey R. Rogers