IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MINNESOTA

MANUEL PLASENCIA NUGRA,

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**, Administrator, Sherburne County Jail; **DAVID VENTURELLA**, Acting Director, U.S. Immigration and Customs Enforcement; **TODD BLANCHE**, Attorney General of the United States,

Respondents.

Case No. 0:26-cv-03799

PETITION FOR WRIT OF HABEAS CORPUS

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

Petitioner Manuel Cristobel Plasencia Nugra, through undersigned counsel, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241.

INTRODUCTION

1. For approximately eight years before his arrest, Petitioner lived at liberty in the interior of the United States. He established his home, employment, and family life in Minnesota. He is the father of a four-year-old United States citizen

daughter, and his family depends substantially upon his financial and daily support.

2. On or about August 20, 2026, Petitioner was driving to work in Minnesota when Immigration and Customs Enforcement ("ICE") officers converged upon his vehicle. Approximately three ICE vehicles approached from behind while two additional vehicles positioned themselves in front of him, effectively surrounding and stopping his vehicle.

3. ICE officers ordered Petitioner from the vehicle, immediately placed him in handcuffs, and transported him into federal immigration custody.

4. This was not a consensual encounter or an investigatory stop. From the outset, ICE exercised complete physical control over Petitioner for the purpose of taking him into immigration custody.

5. No officer presented Petitioner with a judicial warrant, administrative arrest warrant, or other document authorizing his arrest before removing him from his vehicle, handcuffing him, and transporting him away.

6. Nor, by information and belief, did officers make any individualized inquiry before the arrest into whether Petitioner was likely to escape before a warrant could be obtained.

7. The circumstances instead demonstrate a planned enforcement action. Multiple ICE vehicles were deployed to locate and intercept Petitioner while he traveled to

work. If ICE knew Petitioner's identity and immigration circumstances sufficiently well to identify his vehicle, locate him, coordinate several officers and vehicles, and intercept him on his route to work, there is no apparent reason why ICE could not first obtain the administrative warrant federal law ordinarily requires.

8. Conversely, if ICE did not know Petitioner's identity and immigration circumstances before seizing him, then ICE lacked the individualized information necessary to establish probable cause for a civil immigration arrest before that arrest occurred.

9. Either way, Respondents cannot establish the narrow statutory exception permitting a warrantless civil immigration arrest.

10. Only after Petitioner had already been arrested and incarcerated did immigration officials show him paperwork reflecting an immigration-court appearance scheduled for September 11, 2026, at 9:00 a.m. Petitioner was not provided a copy of that paperwork.

11. After taking Petitioner into custody, officers also pressed him to sign paperwork relating to his removal. Petitioner declined and told officers that he wanted to appear before an immigration judge because his family is in the United States.

12. Petitioner remains detained at Sherburne County Jail. He has not received any individualized hearing before a neutral decisionmaker addressing whether his

incarceration is necessary because he presents a danger to the community or a genuine risk of flight.

13. Petitioner does not have criminal convictions. Before ICE abruptly deprived him of his liberty, he lived and worked in Minnesota, supported his family, and was raising his young United States citizen daughter.

14. Petitioner seeks immediate release because his custody is the direct and continuing product of a warrantless civil immigration arrest that exceeded the authority Congress conferred upon immigration officers in 8 U.S.C. § 1357(a)(2).

15. Independently, even if Respondents can identify a statute authorizing Petitioner's detention following a lawful arrest, statutory detention authority does not eliminate the protections of the Fifth Amendment. Petitioner alternatively seeks a prompt, constitutionally adequate individualized custody hearing before a neutral decisionmaker.

JURISDICTION AND VENUE

16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is presently in federal immigration custody and alleges that his custody violates the Constitution and laws of the United States.

17. Habeas corpus protects persons held in immigration detention and permits federal courts to determine whether such detention is authorized by statute and consistent

with the Constitution. *INS v. St. Cyr*, 533 U.S. 289, 305–06 (2001); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

18. This Court also has federal-question jurisdiction under 28 U.S.C. § 1331 because Petitioner asserts claims arising under the Constitution, the Immigration and Nationality Act, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706.

19. The APA waives sovereign immunity for actions seeking nonmonetary relief from unlawful federal agency action. 5 U.S.C. § 702.

20. Petitioner does not ask this Court to determine whether he is removable, adjudicate any application for immigration relief, or review the merits of any removal proceedings.

21. Petitioner challenges the legality of Respondents' acquisition and continued physical custody over his person, the traditional province of habeas corpus.

22. Venue is proper in the District of Minnesota because Petitioner is physically detained at the Sherburne County Jail in Elk River, Minnesota, within this District. *See* 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004).

23. Venue is independently proper under 28 U.S.C. § 1391(e) because Respondents perform their official duties within this District, a substantial part of the events giving rise to Petitioner's claims occurred within this District, and Petitioner is presently confined within this District.

PARTIES

24. Petitioner Manuel Cristobel Plasencia Nugra is a native and citizen of Ecuador. He has lived in the United States since approximately 2018 and has established substantial family, residential, and employment ties in Minnesota. He is presently detained in the custody of U.S. Immigration and Customs Enforcement ("ICE") at the Sherburne County Jail in Elk River, Minnesota.

25. Respondent **Dave Isais** is the Jail Commander of the Sherburne County Jail and is Petitioner's immediate physical custodian. He is responsible for Petitioner's physical confinement pursuant to the direction and authority of ICE. He is sued in his official capacity.

26. Respondent **David Easterwood** is the Field Office Director for ICE Enforcement and Removal Operations ("ERO") in the St. Paul Field Office. He exercises authority over ICE enforcement operations within Minnesota and over Petitioner's immigration detention, custody, transfer, and release. He is sued in his official capacity.

27. Respondent **David J. Venturella** is the Acting Director of U.S. Immigration and Customs Enforcement. He has supervisory authority over ICE and ERO, including the officers and agency components responsible for Petitioner's arrest and continued detention. He is sued in his official capacity.

28. Respondent **Markwayne Mullin** is the Secretary of the United States Department of Homeland Security ("DHS"). He has supervisory authority over DHS and ICE and responsibility for the administration and enforcement of the immigration laws implicated by Petitioner's arrest and detention. He is sued in his official capacity.

29. Respondent **Todd Blanche** is the Attorney General of the United States. He has authority over the Executive Office for Immigration Review and the Immigration Judges whose jurisdiction and procedures are relevant to Petitioner's ability, or inability, to obtain an individualized custody determination. He is sued in his official capacity.

FACTUAL ALLEGATIONS

19. Petitioner has lived in the United States since approximately 2018 and has established substantial family, residential, and employment ties here.

20. Petitioner resides in Minnesota and works to support his family.

21. Petitioner's four-year-old daughter was born in the United States and is a United States citizen.

22. On or around August 20, 2026, Petitioner was driving to work when ICE officers intercepted his vehicle.

23. The operation involved approximately five ICE vehicles. Three approached from behind Petitioner's vehicle and two positioned themselves in front of it.

24. ICE officers directed Petitioner from the vehicle, placed him in handcuffs, and took him into custody.

25. Petitioner did not flee from officers. He did not lead officers on a pursuit. He was traveling to work when ICE intercepted him.

26. No officer showed or served Petitioner with an arrest warrant before he was removed from the vehicle and handcuffed.

27. Petitioner was transported to immigration custody and ultimately detained at Sherburne County Jail.

28. Petitioner was therefore under full custodial arrest before any paperwork was shown to him.

29. After Petitioner was already incarcerated, officials showed him paperwork concerning an immigration-court hearing scheduled for September 11, 2026, at 9:00 a.m. They did not provide him a copy.

30. Officers also sought Petitioner's signature on paperwork concerning removal. Petitioner declined and requested the opportunity to appear before a judge.

31. At no time before Petitioner's physical arrest did a neutral decisionmaker determine that the statutory conditions for a warrantless civil immigration arrest existed.

32. Nor has any neutral decisionmaker subsequently determined whether Petitioner's present incarceration is necessary to prevent flight or protect the community.

LEGAL FRAMEWORK

8 U.S.C. § 1357(a)(2)

33. Congress has expressly limited when federal immigration officers may arrest a person without a warrant. Under 8 U.S.C. § 1357(a)(2), an immigration officer may make a warrantless civil immigration arrest only if the officer has reason to believe both that the person is in the United States in violation of immigration law **and** that the person "is likely to escape before a warrant can be obtained for his arrest."

34. The implementing regulation is equally explicit: "[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." 8 C.F.R. § 287.8(c)(2)(ii).

35. The Eighth Circuit interprets § 1357(a)(2)'s "reason to believe" requirement as equivalent to probable cause. *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

36. Probable cause must be individualized and "particularized with respect to the person to be searched or seized." *Maryland v. Pringle*, 540 U.S. 366, 371 (2003).

37. Section 1357 therefore requires probable cause not merely regarding immigration status, but also regarding the separate statutory fact that the individual "is likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2).

38. The District of Minnesota has repeatedly enforced that limitation in recent months. *See Nevarez-Puentes v. Blanche*, No. 26-cv-3368 (LMP/JFD), ECF No. 10, at 3–8 (D. Minn. Aug. 6, 2026); *Jorge Anibal P.P. v. Blanche*, No. 26-cv-3125 (LMP/LIB), 2026 WL 2017765, at *4 (D. Minn. July 13, 2026); *Walther Ademir A.S. v. Blanche*, No. 26-cv-2804 (LMP/SGE), 2026 WL 1734906, at *3–4 (D. Minn. June 16, 2026).

39. Indeed, in *Nevarez-Puentes*, ICE knew that the petitioner lacked lawful immigration status before arresting him. That fact did not establish probable cause that he was likely to escape before a warrant could be obtained. Because the Government failed to establish the independent escape requirement, the Court ordered his release. *Nevarez-Puentes*, No. 26-cv-3368, ECF No. 10 at 4–8.

40. Likewise, ICE cannot transform an immediate custodial arrest into a *Terry* stop merely by asserting after the fact that officers could have questioned the person first. *See Hector J.M. v. Blanche*, No. 26-cv-2945 (KMM/EMB), ECF No. 12, at 5–7 (D. Minn. Aug. 5, 2026); *Felix Alberto J.M. v. Blanche*, No. 26-cv-2944 (LMP/DLM), 2026 WL 1906596, at *2–4 (D. Minn. July 2, 2026).

ADMINISTRATIVE PROCEDURE ACT

41. The Administrative Procedure Act requires a reviewing court to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," that is "in excess of statutory

jurisdiction, authority, or limitations," or that occurs "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (C), (D).

42. Federal agencies possess only the authority Congress has conferred upon them. An agency "literally has no power to act . . . unless and until Congress confers power upon it." *Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 374 (1986).

43. Congress expressly limited ICE's authority to make warrantless civil immigration arrests through 8 U.S.C. § 1357(a)(2). Such an arrest is authorized only where an immigration officer has reason to believe both that the individual is in the United States in violation of immigration law and that the individual "is likely to escape before a warrant can be obtained for his arrest."

44. DHS's own regulations reinforce that limitation. Except where the statutory escape condition exists, "[a] warrant of arrest shall be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

45. These are not merely internal housekeeping provisions. They delimit the circumstances under which Congress and DHS have authorized immigration officers to deprive a person of physical liberty without first obtaining an administrative warrant.

46. An agency must also follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954).

47. Accordingly, where ICE effects a warrantless arrest without satisfying § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii), the resulting agency action is contrary to law, exceeds the authority conferred upon the agency, and occurs without observance of procedure required by law. 5 U.S.C. § 706(2)(A), (C), (D).

48. A later detention classification, Notice to Appear, administrative warrant, Form I-213, or other post-arrest paperwork cannot retroactively supply authority that was absent when ICE seized Petitioner. Agency action must be judged according to the lawful authority and factual basis existing when the challenged action occurred, not post hoc rationalizations developed after the fact. *See SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943).

ARGUMENT

I. PETITIONER'S CUSTODY IS UNLAWFUL BECAUSE ICE ARRESTED HIM WITHOUT A WARRANT AND WITHOUT SATISFYING 8 U.S.C. § 1357(a)(2).

49. Petitioner's detention began with a warrantless civil immigration arrest. ICE did not merely approach Petitioner and briefly detain him for questioning. Multiple ICE vehicles surrounded his vehicle while he was traveling to work; officers removed him from the vehicle; officers placed him in handcuffs; and officers transported him into immigration detention.

50. An ordinary understanding of those events permits only one conclusion: Petitioner was arrested. Section 1357(a)(2) therefore required probable cause both as to an

immigration violation and as to the likelihood that Petitioner would escape before a warrant could be obtained. *Quintana*, 623 F.3d at 1239.

51. The present record establishes no facts supporting probable cause as to the second element. Petitioner was not fleeing. He was not concealing himself from immigration authorities. He was not encountered while attempting to leave the jurisdiction. He was simply driving to work.

52. Petitioner had lived in the United States for years, maintained a home and employment in Minnesota, supported his family, and was raising a four-year-old United States citizen daughter.

53. Nothing about those circumstances demonstrates that Petitioner was likely to disappear during the period necessary for ICE to obtain an administrative arrest warrant. More fundamentally, the scale and coordination of ICE's operation refute any suggestion that obtaining a warrant was impracticable.

54. ICE deployed approximately five vehicles to intercept Petitioner's vehicle. Such a coordinated operation necessarily involved some advance ability to locate and identify the person or vehicle the officers intended to stop.

55. That leaves Respondents with the same fundamental problem presented in other recent warrantless-arrest cases in this District. If ICE already knew enough about Petitioner to identify him, locate his vehicle, and coordinate a multi-vehicle

interception, Respondents must explain why officers could not obtain an administrative arrest warrant beforehand.

56. If ICE did not know Petitioner's identity or immigration circumstances before surrounding his vehicle and taking him into physical custody, then officers lacked the individualized probable cause necessary to arrest him when the seizure occurred.

57. And regardless of which proposition Respondents choose, there presently is no evidence that officers possessed probable cause to believe Petitioner would "escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2).

58. *Nevarez-Puentes* is particularly instructive. There, the petitioner was encountered while traveling home from work, provided ICE with identification containing a verifiable home address, and admitted that he lacked lawful immigration status. Yet the Court held that ICE lacked probable cause to believe he was likely to escape before a warrant could be obtained and ordered his immediate release. *Nevarez-Puentes*, No. 26-cv-3368, ECF No. 10 at 4–8.

59. Petitioner's circumstances present even less evidence of imminent escape. He was intercepted during the routine act of traveling to work, did not flee, and was immediately subjected to a coordinated custodial arrest.

60. The Government may not substitute generalized assumptions about undocumented persons for the individualized assessment Congress required. *See Orellana v. Nobles County*, 230 F. Supp. 3d 934, 946 (D. Minn. 2017).

61. Nor does mere uncertainty concerning a person's future behavior amount to probable cause that the person is likely to escape. *See Nevarez-Puentes*, No. 26-cv-3368, ECF No. 10 at 5–7.

62. The facts here bear none of the circumstances that supported the escape finding in *Quintana*, where the individual was speeding in a vehicle registered in a distant state, stated that he was headed to that distant state, provided false information, and was suspected of drug trafficking. 623 F.3d at 1238, 1241.

63. Because Respondents did not satisfy the statutory conditions authorizing a warrantless civil immigration arrest, Petitioner's arrest exceeded the authority Congress conferred upon ICE.

II. PAPERWORK CREATED OR SERVED AFTER PETITIONER'S ARREST CANNOT RETROACTIVELY AUTHORIZE THE SEIZURE.

61. Respondents may produce an administrative warrant, Notice to Appear, Form I-213, or other immigration paperwork created or served after Petitioner's physical arrest.

62. Such paperwork does not answer whether officers possessed lawful authority at the moment they surrounded Petitioner's vehicle, removed him, handcuffed him, and took him into custody.

63. The legality of a warrantless arrest turns on facts known to the officers when the arrest occurs. It cannot be established through information learned or documents generated afterward.

64. The District of Minnesota recently applied precisely that principle in *Felix Alberto J.M.* and *Hector J.M.* In both cases, the Government attempted to rely on immigration information and Form I-200 documentation surrounding an arrest, but the courts examined whether ICE possessed the required individualized probable cause before the custodial seizure occurred. *Felix Alberto J.M.*, 2026 WL 1906596, at *2–4; *Hector J.M.*, No. 26-cv-2945, ECF No. 12 at 3–7.

65. As Judge Menendez explained in *Hector J.M.*, a Government account stating that officers "apprehended" an individual and then served an I-200 did not transform the preceding custodial seizure into a valid investigative stop. *Id.*

66. Here, Petitioner was not even shown the immigration-court paperwork he recalls until he was already incarcerated, and he was not provided a copy. In addition, no warrant would have contained a date and time to appear at immigration court, so more likely the document shown (not served) on Petitioner was a Notice to Appear, and never a warrant.

67. Respondents cannot arrest first, investigate or generate paperwork second, and then use the products of that post-arrest process to retroactively establish the statutory authority that was required when the seizure occurred.

68. Petitioner's present custody flows directly and continuously from that warrantless arrest. There has been no intervening release or independent event breaking the causal relationship between ICE's acquisition of custody and Petitioner's present confinement.

69. Immediate release is therefore an appropriate habeas remedy. *See Nevarez-Puentes*, No. 26-cv-3368, ECF No. 10 at 8–9; *Emily Andreina N.V. v. Blanche*, No. 26-cv-2570 (KMM/EMB), 2026 WL 2209844, at *4–5 (D. Minn. July 31, 2026); *Hector J.M.*, No. 26-cv-2945, ECF No. 12 at 7–8.

III. PETITIONER'S CONTINUED DETENTION WITHOUT AN INDIVIDUALIZED CUSTODY DETERMINATION VIOLATES THE FIFTH AMENDMENT.

70. Petitioner's detention is independently unconstitutional because Respondents have deprived him of physical liberty without providing any neutral, individualized process to determine whether incarceration is necessary.

71. Respondents may contend that under *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2)(A).

72. But *Avila* resolves a question of statutory classification. It does not hold that Congress may eliminate the minimum process independently required by the Fifth Amendment.

73. Courts in this District have repeatedly recognized that distinction after *Avila*. *See Felipe S.P. v. Blanche*, No. 26-cv-2212 (NEB/DJF), 2026 WL 1911656, at *7–10 (D. Minn. July 2, 2026); *Anthony Javier R.M. v. Blanche*, No. 26-cv-2283 (LMP/DLM), 2026 WL 1506306, at *4–10 (D. Minn. May 29, 2026); *Manuel G. v. Blanche*, No. 26-cv-2385 (SRN/ECW), 2026 WL 1256358, at *3–5 (D. Minn. May 7, 2026); *Dubon v. Blanche*, No. 26-cv-3374 (KMM/SGE), ECF No. 10, at 4–16 (D. Minn. Aug. 12, 2026).

74. Most recently, *Dubon* held that although *Avila* authorized detention under § 1225(b)(2), detention without an individualized bond hearing violated the petitioner's Fifth Amendment right to due process. The Court ordered an individualized hearing within fourteen days or release. *Dubon*, No. 26-cv-3374, ECF No. 10 at 16–17.

75. The Due Process Clause protects "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That protection applies to persons within the United States regardless of the lawfulness of their immigration status. *Id.* at 693.

76. The adequacy of the procedures afforded to Petitioner is evaluated under *Mathews v. Eldridge*, which considers the private interest affected, the risk of erroneous

deprivation and value of additional safeguards, and the Government's interests and burdens associated with additional process. 424 U.S. 319, 335 (1976).

77. Each factor weighs in Petitioner's favor.

78. First, Petitioner's private interest is among the most profound recognized in American law: physical liberty from government incarceration. *See Zadvydas*, 533 U.S. at 690; *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

79. That deprivation is concrete here. Petitioner had lived at liberty for approximately eight years, worked in Minnesota, maintained a family home, and supported his four-year-old United States citizen daughter. ICE abruptly converted that longstanding liberty into physical incarceration.

80. Second, the risk of erroneous deprivation is substantial because no neutral decisionmaker has ever determined whether Petitioner's detention is actually necessary.

81. Civil immigration detention serves principally to prevent nonappearance and protect the public while proceedings are pending. *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018).

82. Yet no Immigration Judge or other neutral adjudicator has determined that Petitioner is likely to flee or that he poses any danger.

83. Indeed, the known facts point in the opposite direction. Petitioner has substantial residence, employment, and family ties to Minnesota, a young United States citizen daughter, and no criminal convictions.

84. Without an individualized hearing, there is no meaningful procedure through which Petitioner can present those facts, challenge contrary Government assertions, or demonstrate that physical incarceration is unnecessary.

85. Third, the Government's legitimate interests can readily be protected through an individualized custody hearing. Such a hearing does not prevent the Government from arguing that detention is necessary. It simply requires the Government's asserted reasons for imprisonment to be tested before a neutral decisionmaker.

86. *Demore v. Kim*, 538 U.S. 510 (2003), and *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024), do not dictate a different result. Those cases addressed § 1226(c), a mandatory detention provision directed at statutorily defined categories of noncitizens with qualifying criminal histories. Petitioner has no criminal convictions, and § 1225(b)(2) does not contain the individualized danger or flight-risk predicates underlying § 1226(c). *See Dubon*, No. 26-cv-3374, ECF No. 10 at 4–9; *Anthony Javier R.M.*, 2026 WL 1506306, at *4–7.

87. Nor is this case governed by *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020). Petitioner is not an individual apprehended immediately after initial entry seeking judicial review of an expedited-removal asylum

determination. He has lived for years in the interior of the United States and invokes habeas to challenge his present physical confinement.

88. The Fifth Amendment therefore requires a meaningful individualized process through which the necessity of Petitioner's detention can be adjudicated.

89. Because no such process has occurred, Petitioner's continued detention violates procedural due process.

CLAIMS

COUNT I VIOLATION OF 8 U.S.C. § 1357(a)(2) AND 8 C.F.R. § 287.8(c)(2)

1. Petitioner realleges and incorporates the preceding paragraphs.
2. ICE arrested Petitioner without a warrant.
3. Section 1357(a)(2) authorized such an arrest only if officers possessed probable cause to believe both that Petitioner was in the United States in violation of immigration law and that he was likely to escape before a warrant could be obtained.
4. Respondents lacked probable cause to believe Petitioner was likely to escape before a warrant could be obtained.
5. Respondents therefore acted outside the warrantless-arrest authority Congress conferred upon immigration officers.

6. Petitioner's present detention is the direct and continuing product of that unlawful arrest.

7. Petitioner is entitled to habeas relief and immediate release.

COUNT II FOURTH AMENDMENT — UNREASONABLE SEIZURE

1. Petitioner realleges and incorporates the preceding paragraphs.

2. Petitioner's forcible stop, removal from his vehicle, handcuffing, transportation, and confinement constituted a seizure of his person.

3. ICE immediately subjected Petitioner to a custodial arrest rather than a temporary investigatory detention.

4. A civil immigration arrest must be supported by individualized probable cause and lawful statutory authority.

5. To the extent Respondents lacked probable cause or otherwise lacked authority under § 1357(a)(2) to effect Petitioner's immediate custodial arrest, the seizure was unreasonable under the Fourth Amendment.

6. Petitioner's present physical custody flows directly and continuously from that seizure and he is in custody in violation of the Constitution of the United States, so whilst the remedy requested is not a suppression of the body, the Fourth Amendment has still been violated and the relief is cognizable in habeas because it is the exact purpose of a habeas petition to review custody that has occurred in violation of the laws or constitution of the United States.

7. Petitioner is entitled to habeas relief.

COUNT III FIFTH AMENDMENT — DEPRIVATION OF LIBERTY WITHOUT AN INDIVIDUALIZED CUSTODY DETERMINATION

1. Petitioner realleges and incorporates the preceding paragraphs.

2. Petitioner possesses a fundamental liberty interest in freedom from physical government restraint.

3. Respondents have deprived Petitioner of that liberty without any individualized hearing before a neutral decisionmaker concerning whether his incarceration is necessary because he poses a genuine risk of flight or danger to the community.

4. Statutory detention authority does not eliminate the independent requirements imposed by the Due Process Clause.

5. Under *Mathews v. Eldridge*, Petitioner's profound private liberty interest, the substantial risk of erroneous deprivation in the absence of any individualized custody determination, and the minimal burden associated with providing such a determination establish that additional process is constitutionally required.

6. Respondents' continued incarceration of Petitioner without constitutionally sufficient process violates the Fifth Amendment.

7. Petitioner is therefore entitled, independently of his warrantless-arrest claim, to a prompt individualized custody hearing before a neutral decisionmaker or release.

COUNT IV VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. § 706(2)(A), (C), AND (D)

1. Petitioner realleges and incorporates the preceding paragraphs.

2. The Federal Respondents' apprehension, arrest, detention, and continued exercise of custody over Petitioner constitute final or otherwise judicially reviewable agency action insofar as Petitioner challenges the legal authority under which Federal Respondents presently restrain his physical liberty.

3. The Federal Respondents arrested Petitioner without a warrant notwithstanding Congress's express limitation of warrantless immigration arrests to circumstances satisfying 8 U.S.C. § 1357(a)(2).

4. The Federal Respondents likewise failed to comply with 8 C.F.R. § 287.8(c)(2)(ii), which requires that a warrant be obtained unless officers have reason to believe the person is likely to escape before a warrant can be obtained.

5. The circumstances known at the time of Petitioner's arrest did not establish that Petitioner was likely to escape before a warrant could be obtained.

6. Instead, ICE conducted a coordinated enforcement operation involving multiple vehicles to locate and intercept Petitioner while he was traveling to work, circumstances demonstrating that officers had an opportunity to obtain appropriate arrest authority before seizing him.

7. By exercising warrantless arrest authority outside the circumstances Congress permitted, Federal Respondents acted "not in accordance with law" and "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

8. By disregarding the mandatory arrest procedures imposed by DHS's own regulations, Federal Respondents additionally acted "without observance of procedure required by law." 5 U.S.C. § 706(2)(D); *Accardi*, 347 U.S. at 267–68.

9. Federal Respondents may not cure those violations through post hoc creation or service of immigration paperwork, subsequent processing, or a later characterization of Petitioner's detention under another provision of the INA.

10. Because Petitioner's present physical custody is the direct product of agency action undertaken contrary to law, in excess of statutory authority, and without observance of required procedure, this Court should hold that action unlawful and set it aside under 5 U.S.C. § 706(2)(A), (C), and (D).

11. Petitioner is entitled to an order setting aside the unlawful agency action and directing his release from custody.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this action;

B. Issue a writ of habeas corpus under 28 U.S.C. § 2241;

C. Declare that Petitioner's warrantless arrest violated 8 U.S.C. § 1357(a)(2) and applicable federal law and the Fourth Amendment of the United States Constitution;

D. Order Respondents to immediately release Petitioner from immigration custody;

E. Order that Petitioner's release occur within the State of Minnesota, at a safe time and location communicated to counsel in advance, and with all of Petitioner's personal possessions in Respondents' custody;

F. Alternatively and independently, declare that Respondents' continued detention of Petitioner without an individualized custody determination violates the Due Process Clause of the Fifth Amendment;

G. Order Respondents to provide Petitioner with a prompt, individualized, constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing the necessity of continued detention by clear and convincing evidence;

H. Order that if such hearing does not occur within the period established by this Court, Petitioner be immediately released;

I. Enjoin Respondents from transferring Petitioner outside the District of Minnesota while this Petition remains pending to preserve this Court's habeas jurisdiction and Petitioner's access to counsel;

J. Order Respondents to pay reasonable fees under the Equal Access to Justice Act; and,

K. Grant such other and further relief as this Court deems just and appropriate.

Dated: August 28, 2026

Respectfully submitted,

/s/ Hannah Brown
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