UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Sorelys [redacted] Petitioner, v. Todd Blanche, Attorney General, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, David J. Venturella, Acting Director of Immigration and Customs Enforcement, and David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement, Respondents.	Case No. 26-cv-03859 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner, Sorelys [redacted] by and through undersigned counsel, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Petitioner from unconstitutional and unlawful detention.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All

Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Petitioner seeks to challenge custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by federal immigration authorities. *Demore v. Kim*, 538 U.S. 510 516-17 (2003) and *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within the District of Minnesota.

PARTIES

6. Petitioner is a resident of Bloomington, Minnesota, who is currently detained at the Crow Wing County Jail in Brainerd, Minnesota. Petitioner is under the direct control of the Respondents and has no scheduled release date.

Search Results: 1

SORELYS [redacted]
Country of Birth : Venezuela
A-Number [redacted]
Status : In ICE Custody
State: MN
Current Detention Facility: CROW WING COUNTY JAIL
** Click on the Detention Facility name to obtain facility contact information*

7. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the head of the Department of Justice.

8. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the Department of Homeland Security.

9. Respondent David J. Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement.

10. Respondent David Easterwood is sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

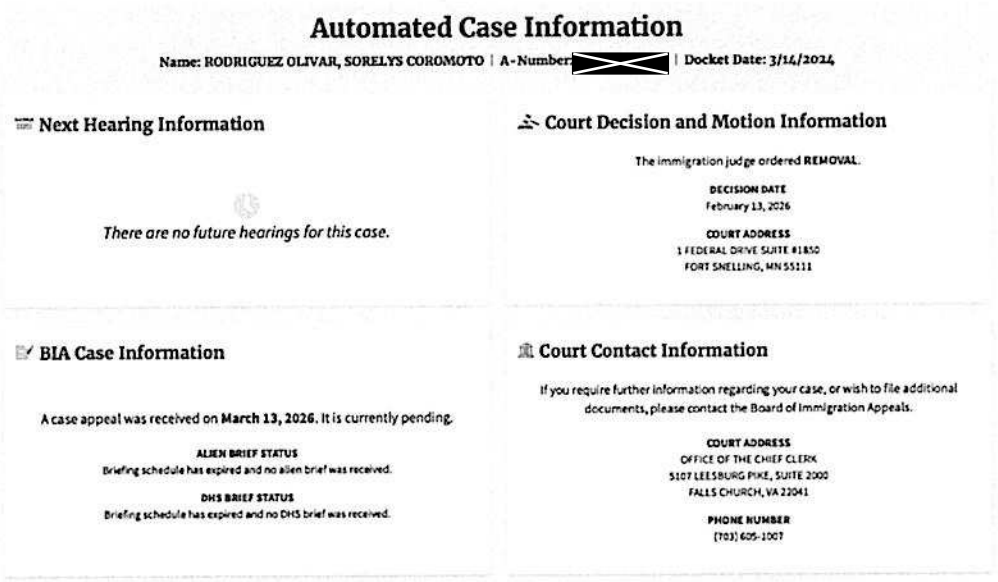
11. Petitioner [redacted] is a citizen of Venezuela who has lived in the United States since on or around March 17, 2024.

12. Petitioner entered the United States, with her three minor children, at the Paso Del Norte Porty of Entry in El Paso, Texas. She presented herself at the border and requested asylum.

13. Petitioner was placed in removal proceedings. Her A number is [redacted] She has attended all immigration court proceedings.

14. On February 13, 2026, Petitioner appeared in immigration court for an individual merits hearing on her asylum claim. The immigration judge denied Petitioner's asylum request and ordered her removal.

15. On March 11, 2026, Petitioner filed a timely appeal with the Board of Immigration Appeals. Her appeal was received on March 13, 2026. Petitioner's order of removal is, therefore, not administratively final.



Automated Case Information

Name: RODRIGUEZ OLIVAR, SORELYS COROMOTO | A-Number [redacted] | Docket Date: 3/14/2024

Next Hearing Information

There are no future hearings for this case.

Court Decision and Motion Information

The immigration judge ordered **REMOVAL.**

DECISION DATE
February 13, 2026

COURT ADDRESS
1 FEDERAL DRIVE SUITE #1850
FORT SNELLING, MN 55111

BIA Case Information

A case appeal was received on **March 13, 2026.** It is currently pending.

ALIEN BRIEF STATUS
Briefing schedule has expired and no alien brief was received.

DHS BRIEF STATUS
Briefing schedule has expired and no DHS brief was received.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the Board of Immigration Appeals.

COURT ADDRESS
OFFICE OF THE CHIEF CLERK
5107 LEESBURG PIKE, SUITE 2000
FALLS CHURCH, VA 22041

PHONE NUMBER
(703) 605-1007

16. [redacted] was arrested by ICE agents on December 3, 2025 in Bloomington, Minnesota while at work. ICE agents showed her no documents and did not know her name when they detained her. Petitioner cooperated with her arrested and did not flee ICE agents. Petitioner was not in the process of travelling to, or across, a border at the time of her arrest.

17. Upon information and belief, [redacted] was not shown a valid warrant when ICE agents arrested her.

18. At the time of her arrest, [redacted] was living with her partner and three children at a fixed address in Bloomington, Minnesota. Her partner is a lawful permanent resident.

19. Petitioner has a valid employment authorization from Respondents and was arrested while working. At the time of her arrest, Petitioner was working legally for [redacted]. At the time of her arrest, Petitioner was financially responsible for providing for her three children. At the time of her arrest, Petitioner's children were attending school in Bloomington, Minnesota.

20. Petitioner has no criminal history in the state of Minnesota.

21. Since Petitioner's arrest in December 2025, her children have lost their home, and Petitioner is unable to provide for them financially. Her children have been forced to relocate and now live in a hotel in Saint Louis Park, Minnesota, with Petitioner's partner.

22. Petitioner filed a previous petition for habeas corpus while she was detained at the Douglas County Jail in Wisconsin. *Sorelys R.O. v. Bondi, et al.*, No. 3:26-cv-00217 (JDP) [Doc. 1], (E.D. Wisc. March 16, 2026). In the Wisconsin habeas corpus proceeding, Petitioner asserted violation of the Immigration and Nationality Act, violation of due process under the Fifth Amendment, and violation of the Administrative Procedure Act. (*Id.* at p. 19 – 20). Petitioner did challenge the lawfulness of her arrest under the Fourth Amendment or under 8 U.S.C. § 1357(a)(2).

23. On July 29, 2026, the Wisconsin court entered an order denying Petitioner's petition for writ of habeas corpus. *Sorelys R.O. v. Bondi, et al.*, No. 3:26-cv-00217 (JDP) [Doc. 27], (E.D. Wisc. July 29, 2026). The Wisconsin court held that Petitioner must be detained without bond under 8 U.S.C. § 1225(b)(1)(B)(ii). (*Id.* at p. 4). The Wisconsin court also held that Petitioner's continued detention did not violate her right to due process. (*Id.* at p.

5). The Wisconsin court did not address whether Petitioner's arrest was lawful under the Fourth Amendment or under 8 U.S.C. § 1357(a)(2). Such claims have never been adjudicated in federal court.

24. Additionally, since Petitioner was taken into ICE custody on December 3, 2025, her mental and physical health have rapidly deteriorated.

25. Prior to being detained, Petitioner was working, providing for her three minor children, and maintained housing. When Petitioner first arrived at the Sherburne County Jail, she frequently initiated calls to her friends and asked for updates on her children. Petitioner was deeply concerned about the well-being of her children and making sure they were being taken care of in terms of attending school, being financially supported, and having a good living situation. Recently, Petitioner has expressed disorganized thinking and has had frequent dreams in which she believes her children have been harmed or will be harmed.

26. After getting off a recent phone call with Petitioner's three sons, Petitioner stated, "Those are not my sons." Petitioner now believes that her children have passed away, despite being shown recent images of them. Currently, Petitioner is not initiating calls to friends and family. She is refusing to leave her jail cell to answer scheduled calls, further harming her mental health by isolation.

27. Since being in ICE custody, Petitioner has undergone extreme weight loss and is in an emaciated state. She is refusing to sign any documents that will help her receive medical and mental health care treatment. Due to these extreme changes, Petitioner's family and

friends believe that she is experiencing either acute psychosis or an acute depressive episode.

28. This week, other detainees reported to Petitioner's family that she is talking to herself and to the walls.

29. Due to Petitioner's rapidly deteriorating health, her friend, Mary Ponce de Leon, filed a petition for emergency guardianship in Crow Wing County. The matter is state court file number [redacted] Yesterday, August 31, 2026, the Crow Wing County district court granted an emergency guardianship, finding, "[Petitioner] is an incapacitated person in that [Petitioner] lacks sufficient understanding or capacity to make personal decisions and is unable to understand, communicate, and meet [Petitioner's] personal needs. [Petitioner] has demonstrated behavioral deficits evidencing an inability to meet [Petitioner's] needs for medical care, nutrition, clothing, shelter, and safety."

30. The Crow Wing County district court appointed Mary Ponce de Leon as Petitioner's emergency guardian for a limited term of 60 days. One of the emergency guardianship powers granted Petitioner's guardian is to, "Start a lawsuit on behalf of and represent the person in all civil proceedings." Due to Petitioner's incapacitation, Petitioner's guardian has requested that the undersigned prepare a petition for habeas corpus on Petitioner's behalf.

31. Due to Petitioner's rapidly deteriorating physical and mental health, Petitioner is also requesting interim release, pending a decision on her habeas petition, so that she can access emergency medical treatment for her acute psychosis or acute depressive episode.

STANDARD OF LAW

Habeas Petitions

32. A detained noncitizen may petition for a writ of habeas corpus when their custody violates the U.S. Constitution or a federal law. 28 U.S.C. § 2241(c)(3). Such a petition should be granted if the petitioner proves the illegality of the detention by a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025). Detained noncitizens face no statutory exhaustion requirements to invoke 28 U.S.C. § 2241. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025).

33. Federal immigration officers may detain people only as authorized by the Immigration and Nationality Act (INA), 8 U.S.C. §1101, *et seq*. The Constitution places additional limits on federal immigration detentions, independent of the question of statutory authority. *See Counselman v. Hitchcock*, 142 U.S. 547, 565 (1892), (overruled on other grounds by *Kastigar v. United States*, 406 U.S. 441 (1972)). Due process and Fourth Amendment protections apply regardless of a person's immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) and *United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008).

34. Here, Respondents must comply with 1) statutory and due process limitations on Respondents' authority to keep a noncitizen in civil detention, and 2) statutory and Fourth Amendment limitations on Respondents' ability to perform the initial arrest.

Due Process Requires a Legitimate Statutory Purpose for Civil Detentions

35. The Fifth Amendment states that no individual may be "deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V.

36. Unlike some legal rules, due process "is not a technical conception with a fixed content unrelated to time, place and circumstances"; instead, it is a critical liberty interest that must be considered in factual context. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162-163 (1951) (Frankfurter, J. concurring)).

37. To comply with Due Process, civil immigration detention must at a minimum "bear[] a reasonable relation to the purpose for which the individual was committed." *Zadvydas*, 533 U.S. at 690 (*citing Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). "Executive detention must rest on more than categorical, unsubstantiated, or facially deficient grounds, particularly where the government has not demonstrated with evidence that the detainee poses a danger to the community, presents a flight risk, or is subject to removal based on any criminal or national security ground." *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Generally, absent an individualized determination that confinement is necessary to ensure appearances in immigration court or to protect the community, indiscriminate detention does not serve the purpose contemplated by the immigration statutes and violates due process.

38. The Fifth Circuit found that mandatory detention under 8 U.S.C. § 1225(b)(2) for more than 90 days without any individualized determination presumptively violates

noncitizens' due process rights. *Sosnava Rodriguez v. Ortega*, No. 26-50183, 2026 WL 1906557, at *1 (5th Cir. July 2, 2026) *vacated pending rehearing en banc* (July 10, 2026).

Arrests by Federal Immigration Agents Must Comply with the Fourth Amendment

39. The Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. CONST. amend. IV; *see also Trump v. Illinois*, 607 U.S. ___, 146 S. Ct. 432, 436 n.4 (2025) (Kavanaugh, J., concurring) ("The basic constitutional rules . . . are longstanding and clear: The Fourth Amendment requires that . . . arrests must be based on probable cause"). Federal statutes and regulations lay out the processes that implement the constitutional requirements of the Fourth Amendment.

40. Detention statutes such as 8 U.S.C. §§ 1225(b)(2), 1226(a), and 1231 provide Respondents with the authority to detain a noncitizen. Those detention statutes are distinct from 8 U.S.C. § 1357(a), which establishes the statutory requirements for when an ICE agent can make a warrantless arrest. It is § 1357(a) and the Fourth Amendment that govern when a warrantless arrest is lawful, independent from statutory provisions related to detention.

41. Fourth Amendment analysis of immigration seizures varies depending on which statute offers the basis for the arrest and detention. For example, arrest and detention pursuant to 8 U.S.C. § 1226(a) requires issuance and service of an I-200 warrant; and, further, because an I-200 warrant on its face invokes the authority of § 1226(a), that basis for detention is being asserted to an arrestee upon its service. *Jefferson G.H.L. v. Blanche*,

No. 26-CV-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026). Similarly, an I-205 warrant is issued for arrest and detention pursuant to 8 U.S.C. § 1231 of noncitizens who are subject to final removal orders. 8 C.F.R. § 241.3(a) ("Once the removal period defined in section 241(a)(1) of the Act begins, an alien in the United States will be taken into custody pursuant to the warrant of removal."); 8 C.F.R. § 241.2(a)(1) (defining "Form I-205" as a "Warrant of Removal"); and *Inti C.-L. v. Blanche*, No. 26-CV-02777, Doc. 10, slip op. at 4 (D. Minn. June 6, 2026) ("Section § 1231(a)(2) does indeed mandate *detention*, but the regulations are clear that a[n I-205] warrant of removal is nevertheless necessary to effect *arrest*." (emphasis in original)).

42. Detention pursuant to 8 U.S.C. § 1225(b)(2) is characterized by the Government as "mandatory," but invoking this statute as the basis for detaining a noncitizen does not eliminate the Fourth Amendment requirement for the Government to have probable cause when making warrantless arrests in the interior of the country. Those probable cause requirements are outlined in 8 U.S.C. § 1357(a).

43. Therefore, discretionary detentions pursuant to 8 U.S.C. § 1226(a) are conducted based upon arrests pursuant to I-200 warrants. So-called "mandatory" detention arrests under the catchall provision of 8 U.S.C. § 1225(b)(2) may be affected in the interior of the country without a warrant only if arresting officers satisfy 8 U.S.C. § 1357(a)(2).

44. Even where statutory language of 8 U.S.C. § 1225(b)(2)—as interpreted by the Eighth Circuit—provides for "mandatory" *detention* without a bond hearing and only narrow discretionary release exceptions under 8 U.S.C. § 1182(d)(5)(A), Government

powers to *arrest* persons who have lived in the country for years remain implicitly discretionary under the statutory scheme set forth in 8 U.S.C. § 1357. The Government's policy of scouring the interior of the country to satisfy large, arbitrary noncitizen arrest quotas has forced courts handling habeas cases to confront constitutional limits on the use—and abuse—of discretionary arrest powers under § 1357(a). *See Almeida-Sanchez v. United States*, 413 U.S. 266, 271-74 (1973) (the "permissible scope of intrusiveness" under the Fourth Amendment is greater at "the border itself" or "its functional equivalents" than in the interior of the country).

Arrests Under 8 U.S.C. § 1226(a) Require I-200 Warrants and Valid Notices to Appear

45. When a noncitizen is arrested pursuant to an I-200 warrant, such an arrest is pursuant to discretionary detention under 8 U.S.C. § 1226(a), and in order for the I-200 warrant to authorize arrest, it must have been issued together with or after a valid Notice to Appear was issued:

> A noncitizen "may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1); *see* 8 U.S.C. § 1226(a). A Form I-200 warrant "empowers [immigration agents] to arrest aliens during removal proceedings," *Cesar F.F.* Order at 4. Therefore, an I-200 warrant is valid only if it is issued "[a]t the time of issuance of the notice to appear, or at any time thereafter[.]" 8 C.F.R. § 236.1(b)(1).

Pedro D.C. v. Blanche, No. 26-cv-02450, 2026 WL 1759444, at *1 (D. Minn. June 18, 2026) (*quoting Cesar F.F. v. Blanche*, No. 26-CV-02540, Doc. No. 8, slip op. at 4 (D. Minn. June 2, 2026)).

46. Timing matters because a Notice to Appear initiates the removal proceeding for which the Form I-200 then authorizes arrest. *Giordan M.G., v. Blanche*, No. 26-cv-02585, Doc. 19, slip op. at 5 (D. Minn. Aug. 14, 2026) (citing *Niz-Chavez v. Garland*, 593 U.S.

155, 163–64 (2021) (A notice to appear is a single written instrument that "serves as the basis for commencing a grave legal proceeding" and, by statute, "time and place information must be included" (emphasis added))); 8 U.S.C. § 1229(a); *see also Pereira v. Sessions*, 585 U.S. 198 (2018) (statutes require NTAs to inform noncitizens when and where to appear for removal proceedings).

47. If an I-200 warrant is used, then immigration authorities are invoking 8 U.S.C. § 1226(a) as the basis for detention and are representing the same to the detainee. *Jefferson G.H.L.*, 2026 WL 1229623, at *2. Under § 1226(a), detention is discretionary and requires the detainee to be provided with a bond hearing.

48. If the I-200 warrant is found invalid, such as if it cannot be shown that the warrant was accompanied or predated by a valid Notice to Appear, or if the I-200 warrant was served only after the noncitizen was taken into custody, the arrest is only lawful if the requirements for a warrantless arrest pursuant to 8 U.S.C. § 1357(a) were met. *Jefferson G.H.L.*, 2026 WL 1229623, at *2; *Pedro D.C.*, 2026 WL 1759444.

Warrantless Arrests Under 8 U.S.C. § 1225(b)(2) Must Comply with 8 U.S.C. § 1357(a)

49. While 8 U.S.C. § 1225(b)(2) does not explicitly reference warrants, arresting officers are constrained by the independent requirements of 8 U.S.C. § 1357(a) when making any warrantless arrest. *Jefferson G.H.L.*, 2026 WL 1229623, at *2 ("it does not follow that [a noncitizen] can be arrested and detained pursuant to § 1225(b)(2) without first complying with 8 U.S.C. § 1357(a), which addresses federal immigration officials'

authority to make warrantless arrests."); *Cutberto R.P. v. Bondi*, No. 26-CV-01934, Doc. No. 11, slip. op. at *8-14 (D. Minn. April 10, 2026).

50. Warrantless arrests in the interior of the country are permissible only when the arresting officer has reason to believe the noncitizen is "in the United States in violation of any such law or regulation **and** is likely to escape before a warrant can be obtained for his arrest . . . ." 8 U.S.C. § 1357(a)(2) (emphasis added); *see also* 8 C.F.R. §§ 287.3(a) & (d) and 287.8(c)(2)(i)-(ii) *and Arizona v. United States*, 567 U.S. 387, 408 (2012) (citing § 1357(a)(2) to find that immigration officers "may arrest an alien for being 'in the United States in violation of any [immigration] law or regulation,' for example, but only where the alien 'is likely to escape before a warrant can be obtained.'").

51. The "reason to believe" requirement of 8 U.S.C. § 1357(a)(2) "means constitutionally required probable cause." *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

52. Probable cause that a person has violated an immigration law has to be based on actual facts substantiating a suspected violation of immigration law, not on an accent or skin color: "apparent ethnicity alone cannot furnish reasonable suspicion[.]" *Noem v. Vazquez Perdomo*, 606 U.S. ___, ___, 146 S. Ct. 1, 3 (2025) (Kavanaugh, J., concurring); *see also Parada v. Anoka Cnty.*, 332 F. Supp. 3d 1229, 1243 (D. Minn. 2018) (continued detention to await transfer to immigration authorities based solely on "a perceived civil violation of U.S. immigration laws" was an "egregious" Fourth Amendment violation); *Hussen v. Noem*, 822 F. Supp. 3d 944 (D. Minn. 2026) ("compelling and

troubling" evidence established that, during Operation Metro Surge, the government "adopted a policy authorizing federal immigration officers to conduct investigatory stops based on ethnicity or race without reasonable suspicion that the individuals were violating immigration laws."); *Juan J. v. Blanche*, No. 26-cv-02977 (D. Minn. July 2, 2026) (insufficient evidence of reason to believe an individual was unlawfully present at time of arrest).

53. Probable cause that a noncitizen is likely to escape requires distinct factual support beyond just that a person is undocumented. *Jefferson G.H.L.*, 2026 WL 1229623, at *3 ("To hold that a noncitizen is likely to escape merely because they are removable would effectively collapse § 1357(a)(2)'s two distinct requirements into one . . . . If every noncitizen that is here illegally is presumed likely to escape authorities, then § 1357(a)(2)'s second, independent requirement is rendered superfluous."). Probable cause that a person might escape requires a "particularized assessment" sufficient to conclude that the subject is likely to abscond before an arrest warrant can be obtained. *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 946 (D. Minn. 2017) (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)). The relevant inquiry is "whether it was likely that ICE officers would be able to locate [a noncitizen] after obtaining a warrant to arrest him" and not merely "whether a noncitizen will remain at the scene of encounter with law enforcement before an administrative warrant can be obtained." *Walther Ademir A.S. v. Blanche*, No. 26-CV-02804, 2026 WL 1734906, at *2-5 (D. Minn. June 16, 2026).

54. It is Respondents' burden to establish both of these probable cause predicates for reliance on 8 U.S.C. § 1357's exceptions to the warrant requirement, and the absence of either one warrants Petitioner's immediate release. *See, e.g., Cutberto R.P.*, No. 26-CV-1934, Doc. No. 11, 13 (D. Minn. April 10, 2026); *Jefferson G.H.L.*, 2026 WL 1229623, at *2-3. Failure to establish probable cause, such as through reliance on a deficient or inadequate Form I-200 administrative warrant, is insufficient to satisfy § 1357(a)(2) and its associated regulations. *Id.*

Regulatory Limits on Warrantless Immigration Arrests

55. The only appropriate manner for immigration authorities to make warrantless arrests for perceived civil violations of immigration law is laid out in 8 C.F.R. § 287.3.

56. The arrestee must be interviewed by an immigration officer other than the arresting officer, "unless no other qualified officer is readily available and locating one would entail unnecessary delay." *See Puc-Ruiz v. Holder*, 629 F.3d 771, 780 (8th Cir. 2010) (quoting 8 C.F.R. § 287.3(a)).

57. The arrestee must "be advised of the reasons for his arrest, of his right to legal representation, and that any statement made may be used against him in a subsequent proceeding," and "be given a list of the free legal services available in the district where the hearing will be held. *Id.* (quoting 8 C.F.R. § 287.3(c)).

58. A determination must be made "within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, whether the alien will be continued

in custody or released on bond or recognizance ***and*** whether a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239 will be issued." 8 C.F.R. § 287.3(d) (emphasis added). The use of the word "and" in § 287.3(d) confirms that the warrant, NTA, and an individual determination regarding continued confinement are discrete requirements that each must be satisfied to comply with § 287.3(d).

59. The use of the words "release on bond or recognizance," and the reference to 8 C.F.R. § 236 also confirm that Respondents are required to make specific findings about whether "the alien is likely to appear for any future proceedings." 8 C.F.R. § 236.1(c)(8).

Interim Release

60. The Court has the "inherent power" to grant interim release on bond to a habeas petitioner pending a decision on her application for writ of habeas corpus. *Martin v. Solem*, 801 F.2d 324, 329 (8th. Cir. 1986). Under *Martin*, to grant interim release the Court must find (1) a substantial federal constitutional claim that is not only clear on the law but also readily evident on the facts, and (2) the existence of exceptional circumstances justifying special treatment in the interests of justice. *Id.* at 329-30.

61. Petitioner meets both prongs of the *Martin* test. First, Petitioner presents a clear, substantial federal constitutional claim that Respondents have violated her Fourth Amendment rights by arresting and detaining her without a warrant.

62. Second, there are exceptional circumstances justifying special treatment. Petitioner is experiencing either acute psychosis or an acute depressive episode. Petitioner refuses to

meet with friends and family members. She believes her own children have died. She has undergone extreme weight loss, is in an emaciated state, and is talking to the walls.

63. The Crow Wing district court found Petitioner is an incapacitated person who lacks sufficient understanding or capacity to make personal decisions and is unable to understand, communicate, and meet her own personal needs.

64. These exceptional circumstances justify releasing Petitioner on an interim basis to receive emergency medical treatment.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Procedural Due Process

Respondents are Detaining Petitioner Without Due Process

65. Petitioner realleges and incorporates by reference the allegations contained above.

66. Courts often use the three-factor *Mathews* test to evaluate due process claims when noncitizens are detained: 1) the private interest affected by the official action; 2) the risk of erroneous deprivation of that interest coupled with the probable value of alternate procedural safeguards; and 3) the government's interest, including any potential burden from the alternate procedure. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

67. First, Ms. RODRIGUEZ OLIVAR has a significant private interest at stake because she is in a detention facility. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Parham v. J.R.*, 442 U.S. 584, 600 (1979).

68. Second, [redacted] will continue to be deprived of this interest if the current procedure—*en masse* detentions for the sake of detentions—is followed. Where, as here, thousands of individuals are being detained across the country "[w]ithout an individual assessment, the risk of erroneous deprivation is high." *Pedro A.D.L.O.O. v. Bondi*, No. 26-CV-01959, 2026 WL 948970, at *3 (D. Minn. April 8, 2026).

69. Third, the government has no legitimate interest in detaining people arbitrarily and then waiting to see if the person they have detained will be able to pull together the legal resources to seek accountability in court. The government's interest in detaining a noncitizen is weak where the government has not established that the noncitizen is unlikely to appear nor that the noncitizen poses a threat to the community. *Id.* Put simply, bond hearings are inexpensive proceedings and "the federal government has very little interest in incarcerating individuals en masse who pose little or no risk of flight or danger to the community." *Yonatan S. v. Blanche*, No. 26-CV-02949 (JMB-EMB) (D. Minn. June 26, 2026) Doc. 14 at n. 5. Considering alternative procedures, asking the government to conduct a particularized, fair, and meaningful inquiry as to the necessity of detention is reasonable to protect civilians' rights and preserve government resources, as opposed to a policy of detaining first irrespective of the detainee's particular circumstances and then forcing the person they have detained to summon legal resources to seek accountability in federal court. Immigration-related habeas corpus petitions have consumed a large part of the court and U.S. Attorney's Office's dockets. *See Jefferson Y.M. v. Blanche*, No. 26-CV-03038, 2026 WL 1848510, at *1 (D. Minn. June 26, 2026).

70. Here, Respondents made no individualized inquiry and had no rational basis to believe that detention is necessary to ensure [redacted] appearance in immigration court. Her arrest was random and unplanned. ICE agents did not know who she was prior to detaining her. ICE agents, therefore, could not have had any particularized belief that she was not lawfully present in the United States. Furthermore, Petitioner had a fixed address, strong community ties, was not in the process of travelling to or across a border, cooperated with her arrest, and did not flee immigration authorities. Additionally, Petitioner has a valid employment authorization and was working legally to support her three minor children. ICE agents, therefore, could not have had any particularized belief that Petitioner would have escaped prior to obtaining a warrant.

71. [redacted] poses no safety threats to the community and is not likely to abscond. She has no criminal history in the state of Minnesota. Releasing Petitioner would in fact *save* the government the resources and expense of continued imprisonment. *See Black v. Decker*, 103 F.4th 133, 154-55 (2d Cir. 2024) (noting that not only the incarcerated individual, but society bears the direct and indirect costs of incarceration, and evaluating the high financial costs per day of incarcerating immigrants).

72. Therefore, the placement of [redacted] in detention pending the resolution of ongoing immigration proceedings without reason violates [redacted] constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Violation of the Fourth Amendment to the U.S. Constitution, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(a), (c), (d)

73. Petitioner re-alleges and incorporates by reference the paragraphs above.

74. Upon information and belief, Respondents did not serve any administrative warrant on [redacted] when they detained her, and have not produced one to date.

75. Absent a valid warrant, Respondents exceeded their authority to make a warrantless arrest of [redacted] under 8 U.S.C. § 1357(a)(2) because, at the time of [redacted] warrantless arrest, the arresting ICE agents lacked probable cause, or "reason to believe," that petitioner was both "in the United States in violation of any such law or regulation" regulating the admission, exclusion, expulsion, or removal of noncitizens **and** "likely to escape before a warrant can be obtained for his arrest."

76. Petitioner's arrest was random and unplanned. ICE agents did not know who she was prior to detaining her. ICE agents, therefore, could not have had any particularized belief that she was not lawfully present in the United States. Furthermore, Petitioner had a fixed address, strong community ties, was not in the process of travelling to or across a border, cooperated with her arrest, and did not flee immigration authorities. Additionally, Petitioner has a valid employment authorization and was working legally to support her three minor children. ICE agents, therefore, could not have had any particularized belief that Petitioner would have escaped prior to obtaining a warrant.

77. Respondents have made, and continue to make, an unreasonable seizure of Ms. [redacted] under the Fourth Amendment. [redacted] ongoing detention is unlawful.

REMEDY

78. When a habeas petitioner's detention is without legal basis, the typical and appropriate remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention"); *Wilson L.L. v. Blanche*, No. 26-CV-02475, 2026 WL 1283186, at *2-3 (D. Minn. May 11, 2026) (because "Petitioner's detention is unlawful . . . as in other similar cases, the Court concludes that the appropriate remedy is release from custody"); *Emily Andreina N.V. v. Blanche*, No. 0:26-cv-02570, 2026 WL 2209844, at *4-5 (D. Minn. July 31, 2026) (ordering release; distinguishing "[s]eeking release from custody in an immigration habeas case" from "a noncitizen's effort to prohibit the government from pursuing removal proceedings"); *see also Pedro Eduardo R. P. v Bondi,* No. 26-CV-01323, 2026 WL 473140 (D. Minn. Feb. 17, 2026) (recommending immediate release after the government failed to contest petitioner's Fourth and Fifth Amendment arguments), *report and recommendation adopted*, 2026 WL 478607 (Feb. 19, 2026); *Jefferson Y.M.*, 2026 WL 1848510 (granting immediate release when government responded in an untimely manner and thereby waived any challenge to Fifth Amendment arguments). Courts across the country have accordingly ordered release when granting immigration habeas petitions. *See, e.g. Jose L.R.O. v. Bondi*, No. 5:26-CA-850, Doc. No. 11 at 25 (W.D. Tex. Mar. 23, 2026); *Sanchez v. Sec'y of*

Homeland Sec., No. 3:26-cv-00695, 2026 WL 1238601, at *2 (M.D. Fla. May 6, 2026); *Amandeep S. v. Mullin*, No. 6:26-cv-03341 (W.D. Mo. June 25, 2026), Doc. No. 11.

79. Release is an appropriate remedy for individuals with various immigration histories. *See*, e.g., *Dylan M. v. Blanche*, No. 26-CV-2802 (D. Minn. June 8, 2026), Doc 12 at p. 10 (granting the habeas corpus petition of a teenager who arrived on a tourist visa as a child, which visa subsequently expired, and who was found to have been detained unlawfully) and *Makitio G. A., v. Blanche*, No. 26-CV-2200, 2026 WL 1584457, at *6 (D. Minn. May 22, 2026) (recommending release for someone who was unconstitutionally and unlawfully detained after Respondent's revoked petitioner's order of supervision), *report and recommendation adopted*, 2026 WL 1591270 (June 3, 2026).

Release Based on Unlawful Arrest

80. Judges in this district have repeatedly found that when Respondents arrest a noncitizen unlawfully, the remedy should be release rather than a bond hearing. *Cutberto R.P.*, No. 26-CV-01934 (MJD-DTS) (D. Minn. April 10, 2026), Doc. no. 11 at pp. 10-13; *Jefferson G.H.L.*, No. 26-CV-2344 (JRT-ECW), 2026 WL 1229623, at *3; *Hector J.A.S. v. Shea*, No. CV 26-2242 (JRT-DLM), 2026 WL 1243500, at *3 (D. Minn. May 6, 2026); *Martha C.G.P. v. Blanche*, No. CV 26-2308 (DWF-JFD), 2026 WL 1329577, at *3 (D. Minn. May 13, 2026); *Jesus F.D. v. Mullin*, No. 26-CV-2486 (PJS-DTS), 2026 U.S. Dist. LEXIS 137045, at *5 (D. Minn. June 10, 2026); *Walther Ademir A.S.*, No. 26-CV-02804 (LMP-SGE), 2026 WL 1734906, at *2-5 (D. Minn. June 16, 2026); *Pedro D.C.*, 2026 WL 1759444; *Yonatan S. v. Blanche*, No. 26-CV-02949 (JMB-EMB) (D. Minn. June 26, 2026)

Doc. No. 14; *Sergio F.M. v. Blanche*, No. 26-CV-02749 (ECT-DTS) (D. Minn. June 15, 2026) Doc. No. 8, *report and rec. adopted,* (D. Minn. July 8, 2026) Doc. No. 11.

Release Based on Absence of Due Process

81. There is no indication here that Petitioner's detention was based on any facts that might indicate Petitioner should be in custody and deprived of her liberty. Due Process requires that Petitioner be able to continue engaging in her substantive civil immigration proceedings while released from custody rather than from a jail cell.

82. As a court in the Western District of Texas has explained, "bond hearings are no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Jose L.R.O.*, No. 5:26-CA-00850, Doc. No. 11 at 26.

83. In the context of preventative civil detention, the Supreme Court has permitted narrow categorical rationales for such detention in only limited circumstances when applicable exclusively to "small segments" of people and even then only when subject to "strong" and "strict" procedural safeguards. *Zadvydas*, 533 U.S. at 690-91; *see also, e.g., Victor S. v. Noem*, No. 25-CV-00403, 2026 WL 596133, at *10 (W.D. Tex. March 2, 2026) (collecting cases); and *Rincon v. Hyde*, 810 F.Supp.3d 101, 114 (D. Mass. 2025) (categorical presumptions do not hold "where the only rationale for mandatory detention appears to be Respondents' asserted authority to withhold generally available due-process protections based on Petitioner's immigration status."). It stands to reason that "[i]f the Constitution imposes limits on detention after a final order of removal," as *Zadvydas* held,

"it necessarily imposes at least comparable limits, and requires meaningful procedural safeguards, before one is entered." *Haiguang Z. v. Rokosky*, No. 26-CV-01689, 2026 WL 800203, at *8 (D.N.J. Mar. 23, 2026).

84. The Government's recent policy of mass detentions under 8 U.S.C. § 1225(b)(2) is not being applied to a narrow class of persons for a special nonpunitive purpose in a way that provides a "special justification" that outweighs the individual's constitutionally protected interest in avoiding physical restraint. Section 1225(b)(2) is merely a catchall provision. *Jennings*, 583 U.S. at 287. There is nothing to suggest that detainees subject to § 1225(b)(2) share a categorical characteristic that supersedes their individual interests in physical freedom sufficient to satisfy Due Process by proxy. *See Victor S.*, 2026 WL 596133, at *7-10; *see also Rincon*, 810 F. Supp. 3d at 113. Civil detention is punitive if it "become[s] a 'mechanism for retribution or general deterrence.'" *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (*quoting Kansas v. Hendricks*, 521 U.S. 346, 372 (1997) (Kennedy, J., concurring)). Because detention is being applied for general deterrence or retribution, rather than narrowly for a special nonpunitive purpose, Respondents' application of § 1225(b)(2) to Petitioner is unconstitutional.

Futility and/or Inadequacy of a Bond Hearing

85. Immediate release is particularly appropriate in view of Respondents' oft-stated position following *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that administrative immigration courts have no jurisdiction to conduct bond hearings for noncitizens detained under 8 U.S.C. § 1225(b)(2). Ordering a bond hearing in that context

would require an administrative immigration judge to do that which he or she believes he or she lacks authority to do as an "inferior officer"[1] of the executive branch. Indeed, the Government regularly asserts that immigration judges lack authority to conduct bond hearings. *E.g., Ignacio R.M. v. Blanche*, No. 26-CV-03182, Doc. No. 6 at p. 9 (D. Minn. July 8, 2026) ("Even if this Court were to order a bond hearing to occur before an immigration judge, the immigration judge would not be able to hear the merits under binding precedent."). As explained by another district court in this circuit, petitioners in such circumstances have "no forum, administrative or judicial, through which [they] may seek release based on [their] circumstances. This is not minimal process. It is zero process. Respondents' position, that no such process is required, cannot be reconciled with the Fifth Amendment." *Stepan H. v. Arnott*, No. 6:26-CV-03220, 2026 WL 1103450, at *4 (W.D. Mo. April 23, 2026). And, when a bond hearing is ordered, Respondents have made only an "illusory" and "hypothetical" reference to release on bond. *David J.C.P. v. Blanche*, No. 26-CV-02181, slip op. at 2-3 (D. Minn. May 14, 2026) Doc. no. 19 (IJ determined she lacked jurisdiction to grant bond following court order for bond hearing, and IJ's "alternative finding . . . setting a hypothetical bond does not suffice" and is "ultimately immaterial in light of the immigration judge's decision that she lacked jurisdiction. Petitioner has no option to pay that bond and be released. The bond is illusory."). And release has been ordered in this district where a bond hearing was inadequate because it

[1] *Jackler v. Dept. of Justice*, 2026 MSPB 3, 2 (2026); *United States v. Arthrex, Inc.*, 594 U.S. 1, ___, 141 S.Ct. 1970, 1984 (2021) (dicta); *see also* 8 U.S.C. § 1101(b)(4).

failed to provide constitutionally adequate process with a "meaningful opportunity to test the justification for continued detention . . . ." *Juan C.M.C. v. Blanche*, No. 26-CV-02402, Doc. 34, slip op. at 2 (D. Minn. Aug. 13, 2026).

86. In terms of constitutionally-sufficient procedural Due Process safeguards, an impartial decisionmaker is essential. *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970) (stressing importance of decisionmaker's conclusion being grounded in the evidence presented and accompanied by a statement indicating the reasons for the decision and the evidence relied upon). Sham bond hearings do not provide Due Process. Current circumstances surrounding immigration bond hearings "raise substantial concerns as to whether any non-citizen can receive the impartial hearing that due process requires." *Haiguang Z.*, 2026 WL 800203, at *3,7 (questioning "whether the constitutional guarantee of an impartial decisionmaker is being honored in any case brought before an IJ [immigration judge]" today after hundreds of IJs were terminated and the Government seeks to fill vacancies created by those firings by openly advertising for "deportation judge" roles).

87. Moreover, courts have scrutinized the burden of proof applied in immigration bond hearings. If the Government permits a bond hearing at all, it places the burden of proof on detainees. *E.g., Matter of Adeniji*, 2 I&N Dec. 1102 (BIA 1999); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *Matter of A-L-S-*, 29 I&N Dec. 794 (BIA 2026). That does not provide constitutional Due Process and is a structural error that constitutes a *per se* prejudice. The Supreme Court has struck down civil detention schemes that placed the

burden on the detainee to prove nondangerousness but has upheld civil detention processes where the government bore the burden of proof by clear and convincing evidence. *Zadvydas*, 533 U.S. at 691 (*citing Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) and *United States v. Salerno*, 481 U.S. 739, 747,750-52 (1987)); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 40 (1st Cir. 2021) (under the second *Mathews* factor, the Government carries the burden of proof).

88. Immediate release is the appropriate remedy where "a new [bond] hearing would either be unnecessary, futile, or an inadequate remedy", and "would effectively allow the Government to transform an unlawful detention into a lawful one through *post-hoc* justifications." *Haiguang Z.*, 2026 WL 800203, at *10-11. Here, a bond hearing would be futile or inadequate. Immediate release is therefore the appropriate remedy. *See Stepan H.*, 2026 WL 1103450, at *4; *Briceno Solano v. Mason*, 818 F. Supp. 3d 802, 835-36 (S.D. W. Va. 2026) (ordering release where a court had "no faith that the Government would comply with an order to hold a bond hearing" and "a bond hearing would be futile").

REQUEST FOR ORDER TO SHOW CAUSE

89. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

90. Petitioner respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted. Petitioner requests that the Court's order require Respondents to specifically provide (1) a statement concerning immigration court jurisdiction over Petitioner, including jurisdiction to consider bond; and (2) a statement concerning whether Petitioner is, or may be, a class member of any pending or certified immigration class action suit. Additionally, Petitioner asks the Court to order Respondents to release Petitioner without conditions if they choose to release her instead of responding.

91. Petitioner further respectfully requests that an Order to Show Cause direct Respondents, should they offer a warrant in this case, to provide sufficient details to establish the validity of the proffered warrant, such as: (1) the name, title, training, and qualifications of the officer who issued the warrant; (2) the time and place at which the warrant was issued; (3) the evidence the issuing officer relied upon in making his determination that an arrest was warranted in this case, including any existing Notice to Appear; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas corpus petition.

PRAYER FOR RELIEF

WHEREFORE, [redacted] prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. ***Grant Petitioner immediate interim release, pending resolution of this petition, so that she can obtain emergency medical treatment;***
3. Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, or transport Petitioner back to Minnesota if moved out of state;
4. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;
5. Require that Petitioner be released within the State of Minnesota, at a safe time and place communicated to counsel and with all of Petitioner's personal belongings and effects in Respondents' possession, such as Petitioner's driver's license, immigration papers, identification documents including any passport or employment authorization document, cell phone, and keys;
6. Enjoin Respondents from implementing any condition of release, including the "Alternatives to Detention" program involving ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile application;
7. Declare that Petitioner's arrest and detention exceeded Respondents' authority;
8. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
9. Grant any other and further relief that this Court may deem just and proper.

Respectfully submitted,

Date: September 1, 2026

/s/ Jason L. Schellack

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612-200-9920

Verification Pursuant to 28 U.S.C. § 2242

I am Petitioner's guardian's attorney and submit this verification on behalf of Petitioner. I hereby verify that the factual statements made in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, which knowledge comes from my and my investigator's conversations with Petitioner's guardian, Petitioner's friends and family, a review of Respondents' publicly available websites, and my own experience litigating similar petitions for habeas corpus relief by wrongfully detained immigrants since the beginning of Operation Metro Surge.

Date: September 1, 2026

/s/ Jason L. Schellack
Jason L. Schellack