UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-03859-ECT-LIB

Sorelys [redacted]

Petitioner,

v.

Todd Blanche, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed this habeas corpus petition seeking a bond hearing or release from custody. Respondents[1] submit this response to explain why Petitioner is not entitled to habeas relief because she is subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents respectfully emphasize that the facts of this case are **not** like the § 1226(a) and § 1225(b)(2) arguments that are discussed in *Avila*, because Petitioner was encountered at a port of entry and received humanitarian parole. The Court should deny Petitioner's request for habeas relief.

BACKGROUND

Any facts that are not specifically admitted herein are denied. Respondents submit the Declaration of Supervisory Deportation and Deportation Officer Steven Draves ("Decl.") and exhibits A-E. Petitioner is an arriving alien that is a native and citizen of Venezuela who entered the United States on March 14, 2024 at the Paso Del Norte Port of Entry in El Paso, Texas. Decl., Ex. B. Petitioner was granted humanitarian parole under 8

[1] This response is not being submitted on behalf of any state or local entity.

U.S.C. § 1182(d)(5)(A). Decl., Ex. B. Such parole is not an "admission" into the United States. *See* 8 U.S.C. § 1182 (d)(5)(A); *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). On March 14, 2024, Petitioner was served a Notice to Appear (NTA) and placed into removal proceedings. Decl. ¶ 5. Petitioner was taken back into ICE/ERO custody on December 2, 2025. Decl., ¶ 6. On December 3, 2025, Petitioner was served a Form I-200. Decl., ¶ 7. On February 13, 2026, an immigration judge ordered Petitioner removed from the United States. Decl., Ex. D. Petitioner timely filed an appeal. Decl., Ex. E. On June 25, 2026, Petitioner failed to file a brief in support of her appeal, essentially accepting her removal. Pet. ¶ 15; Decl., Ex. E. Petitioner remains in ICE/ERO Custody at the Crow Wing County Jail in Minnesota, until the completion of her removal proceedings or chooses to depart voluntarily. Pet. ¶ 6.

ARGUMENT

I. Petitioner is foreclosed from challenging their arrest in habeas proceedings

As a threshold matter, Petitioner is foreclosed from challenging their arrest in habeas proceedings due to their pending immigration proceedings. *See Arias v. Rogers*, 676 F.2d 1139, 1143-44 (7th Cir. 1982) ("[O]nce deportation proceedings have begun, the legality of the alien's detention" based on the absence of a warrant "can no longer be tested by way of a habeas corpus proceeding."); *Min-Shey Hung v. U.S.*, 617 F.2d 201, 202 (10th Cir. 1980) ("The deportation proceedings thus commenced must be allowed to proceed without intervention of proceedings in the district court challenging the arrest."). This conclusion comports with well-established Supreme Court precedence that absent sufficient basis to maintain detention, release is not an appropriate form of relief for unlawful arrest. *See*

I.N.S. v. Lopez-Mendoza, 468 U.S. 1032, 1039 (1984) ("The 'body' or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred."); *U.S. ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 158 (1923) ("A writ of habeas corpus is not like an action to recover damages for an unlawful arrest or commitment, but its object is to ascertain whether the prisoner can lawfully be detained in custody; and if sufficient ground for his detention by the government is shown, he is not to be discharged for defects in the original arrest or commitment.") (quotation marks omitted).

The foreclosure of an alien challenging their arrest in immigration habeas proceedings if the alien is in removal proceedings has been long-standing precedent in the Seventh Circuit. *See Arias v. Rogers*, 676 F.2d 1139 (7th Cir. 1982). In *Arias*, Immigration and Naturalization Service[2] officers entered the petitioners' apartment *without an arrest warrant* and arrested them under suspicion that they were illegal aliens. 676 F.2d at 1141. The *Arias* petitioners were arrested prior to the initiation of deportation proceedings, but proceedings were then initiated "within 24 hours" which was "before [they] could be released by the judge in the habeas corpus action." *Id.*, at 1143.

Under these facts, the Seventh Circuit faced a "question of first impression . . . whether someone who is in custody because the government is trying to deport him may test the legality of his detention in habeas corpus proceedings after formal deportation proceedings have begun but before a final order of removal." *Id.*, at 1141. Presuming that

[2] The INS was the predecessor to the Department of Homeland Security.

the arrest was illegal, the Seventh Circuit nonetheless determined that "once deportation proceedings have begun the legality of the alien's detention can no longer be tested by way of habeas corpus proceeding." *Id.*, at 1143-44. The Seventh Circuit limited its holding to only applying where "proceedings are begun with reasonable promptness after the alien's arrest." *Id.*, at 1144. The Seventh Circuit specifically noted that its opinion was not "condon[ing] unlawful arrests of person suspected of being deportable" and that other avenues of relief existed to challenge an unlawful arrest either in immigration proceedings or "in a civil rights damages action." *Id.*, at 1144.

District Courts in the Seventh Circuit continue to apply *Arias* in immigration habeas proceedings to foreclose an alien's challenge of an unlawful arrest to gain release. *See, e.g., Vega v. Mullin*, 3:26-cv-00554-jdp (W. D. Wis. August 18, 2026) (concluding that because that petitioner was "currently in removal proceedings and seeking asylum" he "may not challenge the legality of his arrest in the context of habeas corpus proceedings" (citing *Arias*)); *Gonzales-Martinez v. English*, (N.D. Ind. June 15, 2026) ("However, an unlawful arrest does not invalidate a subsequent detention that is otherwise authorized."); *Castellan v. Blanche*, 26-cv-112-wmc (W.D. Wis. May 28, 2026) ("Nevertheless, respondent correctly notes that petitioner may not challenge his warrantless arrest by immigration officials in this federal habeas corpus proceedings." (citing *Arias*)); *Rodriguez v. Olson*, 814 F.Supp.3d 945, 955 (N.D. Ill. Jan. 8, 2026) ("In this case petitioner's deportation proceedings have begun. Thus, *Arias* requires that any issues concerning his arrest are not redressable in this habeas petition."). And while no other Circuit Court has addressed the issue since *Arias*, other district courts in numerous Circuits have agreed with the Seventh

Circuit. *See, e.g., Singh v. Moss*, 26-cv-04785-DAD-CKD P (E.D. Cali. Aug. 5, 2026) ("To the extent petitioner argues his initial arrest was unlawful under the Fourth Amendment, she is not entitled to release from custody even if the initial seizure violated the Fourth Amendment." (citing *Arias*)); *Jaimes v. King*, (E.D. Mich. July 14, 2026) ("Therefore, once deportation proceedings have begun, the legality of the alien's detention based on the absence of a warrant can no longer be tested by way of a habeas corpus proceeding." (citing *Arias*)); *Navdeep v. Warden*, EP-cv-829-KC (W.D. Texas Apr. 23, 2026) ("And where detention is pursuant to that deportation proceeding, habeas relief is unavailable to remedy the illegal arrest." (citing *Arias*)); *Rodrigues De Oliveira v. Joyce*, 25-cv-291 (D. Me. July 2, 2025) (finding "[p]etitioner's argument that an illegal arrest automatically results in an illegal detention [ ] misguided"); *Chavez de Vasquez v. Baker*, CV SAG-25-03657, (D. Md. Dec. 23, 2025) ("Petitioner offers no authority, and this Court is not aware of any, granting an individual habeas relief as a result of a warrantless immigration arrest after the individual's immigration proceedings had begun. (citing *Arias*)); *H.N. v. Warden, Stewart Det. Ctr.*, 21-cv-59 (M.D. Ga. Sept. 15, 2021) ("[E]ven if the Court accepted Petitioner's argument that his initial detention was somehow unlawful, he is still not entitled to habeas relief.").

Neither the Eighth Circuit, nor courts in this district,[3] have yet weighed in on this issue; but a Nebraska District Court has adopted the Seventh Circuit's rationale. *See Singh*

[3] This Court has mentioned *Arias*, but only in disregarding Federal Respondents' citation without explanation to the same. *See Yociris P. v. Bondi*, 26-cv-1080 (ECT/EMB) (D. Minn. Feb. 8, 2026) ("Respondents do not explain how the cases they cite", including

v. Sommer, 7:26-CV-5013, 2026 WL 2042296 (D. Neb. July 14, 2026) ("And in the specific context of § 1357, it has been held that an arrest exceeding statutory authority doesn't void the subsequent detention and deportation proceedings."). The Court in *Singh*, after noting that "the Eighth Circuit hasn't set a particularly high bar for probable cause in this context," citing *United States v. Quintana*, 623 F.3d 1237 (8th Cir. 2010) and *Shu Fuk Cheung v. INS*, 476 F.2d 1180 (8th Cir. 1979), then held that an improper arrest "doesn't mean the appropriate remedy is a writ of habeas corpus." 2026 WL 2042296, at *3.

This Court should, like countless other districts around the country, adopt the Seventh Circuit's holding in *Arias* and conclude that an alien may not challenge their underlying arrest in immigration habeas proceedings if the alien is in removal proceedings. Absent case law to the contrary, *Arias*'s rationale equally applies in Minnesota. First, habeas proceedings concern the authority to *hold the "body" in detention*, not whether the "body" was *lawfully brought into detention*. *See Lopez-Mendoza*, 468 U.S. at 1039; *Tod*, 263 U.S. at 158. And second, an alien has appropriate avenues to alternatively challenge an unlawful arrest in immigration proceedings, via a motion to suppress, *see, e.g., Reno v. Flores*, 507 U.S. 292, 306 (1993), *Matter of Toro*, 17 I&N Dec. 340 (BIA 1980), and by filing a civil damages claim, *see* 42 U.S.C. § 1983. The Court should therefore conclude that Petitioner may not challenge the legality of their arrest in the context of these immigration habeas corpus proceedings.

II. Petitioner was lawfully detained under 8 U.S.C. § 1225

Arias, "apply."); *Alberto N. v. Bondi*, 26-cv-1228 (ECT/ECW) (D. Minn. Feb. 13, 2026) (same); F*rancisco S. v. Bondi*, 26-cv-1455 (ECT/DTS) (D. Minn. Feb. 20, 2026) (same).

Petitioner is not entitled to habeas relief. Again, this is ***not*** an *Avila* analysis case. Those cases involve noncitizens who enter the United States without admission or inspection and are later encountered by immigration officials inside the country. Here, in contrast, Petitioner was encountered immediately upon entering the country at port of entry. (Decl., Ex. B).

It is clear from the filed habeas petition that Petitioner misunderstands the nature of their detention status. "The term ***arriving alien*** means an applicant for admission coming or attempting to come into the United States at a port-of-entry . . . [a]n arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated . . ." 8 C.F.R. § 1001.1(q). An "applicant for admission" is defined, in relevant part, as an alien "who arrives in the United States []whether or not at a designated port of arrival." INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). Here, Petitioner was allowed to enter the United States on parole as part of a humanitarian program governed by § 1182(d)(5)(A). Decl., Ex. B. In relevant part, that statute states that "such parole of such alien shall *not* be regarded as an admission of the alien." *Id.* (emphasis added). It further states that when the Secretary of Homeland Security decides that the purposes of the humanitarian parole have been satisfied, "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Id.* This language is unequivocal: Petitioner is an "applicant for admission" as defined in § 1225(a)(1). At present Petitioner's parole has expired and

nothing has happened to extend it. Accordingly, she is an "applicant for admission" who is not on parole status.

To that end, the following sentence from *Jennings* is fatal to the Petitioner's habeas petition, "§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Based on this language, the Petitioner, an "applicant for admission" in non-expedited removal proceedings is not entitled to a bond hearing under § 1226(a). Therefore, the Court must conclude that Petitioner is subject to mandatory detention for the duration of her removal proceedings.

DHS may place aliens arriving in the United States in either expedited removal proceedings or full removal proceedings. *Matter of Q. LI*, 29 I&N Dec. 66, 68 (BIA 2025). For those placed in expedited removal proceedings who are referred to an Immigration Judge for consideration of their asylum application requires detention until the final adjudication of the asylum application. *See Matter of M-S-*, 27 I&N Dec. 509, 516 (A.G. 2019). Likewise, for aliens arriving in an and seeking admission into the United States who are placed directly in full removal proceedings mandates detention "until removal proceedings have concluded." *Jennings*, 583 U.S. at 299; *see also* 8 U.S.C. § 1225(b)(1)(B)(ii); and 8 U.S.C. § 1225(b)(1)(B)(IV).

This longstanding legal premise has been upheld time and time again by the Circuit Courts of the United States and the Board of Immigration Appeals. See, e.g., *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258, 1283 (11th Cir. 2026) (acknowledging the distinction between arriving aliens and all other inadmissible

aliens, with bond redetermination by an immigration judge being unavailable to arriving aliens); *Lopes-Campos v. Raycraft*, 175 F.4th 713, 725 (6th Cir. 2026) (similar acknowledgement); *Zheng v. Gonzales*, 422 F.3d 98, 117 (3rd Cir. 2005) (discussing the definition of "arriving aliens" as those seeking admission at a port-of-entry and recognizing that parole is a form of relief from immigration detention; it is not a form of relief from removal proceedings, and when the purposes of parole have been served the parolee must be returned to custody and removal proceedings must continue); *Succar v. Ashcroft*, 394 F.3d 8, 16 (1st Cir. 2005) (recognizing that, as arriving aliens (those seeking admission at a port of-entry), that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding..."); *Al Otro Lado v. Wolf*, 952 F.3d 999, 1012 (9th Cir 2020) (drawing a distinction between an alien who is already "physically present in the United States" on the one hand and arriving aliens on the other, including "at a land border," in the process of arriving); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2005) (discussing the distinction between "arriving aliens" and aliens apprehended inside the United States acter crossing the border without being admitted or paroled in the context of jurisdiction over adjustment of status); *Akhtar v. Gonzales*, 450 F.3d 587, 591 (5th Cir. 2005)(similar discussion *as Ortega-Cervantes*); *Xia v. Bondi*, 137 F.4th 85, 89 (2nd Cir. 2025) (similar discussion); *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019); *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998).

Petitioner misunderstands the nature of her specific status. The material fact regarding Petitioner's entry into the United States by Humanitarian Parole and then an argument stating that she should be considered detained under § 1226(a) makes no sense.

Pet. ¶ 41. The record is clear that Petitioner was served a Notice to Appear on the date of her entry in the United States indicating she is an arriving alien. Decl., Ex. B. Further Petitioner filed an asylum application with the immigration court seeking to be admitted into the United States. Decl., Ex. D. This Court should deny the habeas petition as the record is clear that she is an arriving seeking admission under § 1225(a) put into non-expedited removal proceedings under § 1225(b)(1)(A)(iii)(II).

III. Detention under § 1225 does not mention arrest by warrant

Section 1225, unlike § 1226, makes no mention of a warrant, only an inspection by an immigration official. *Luis M. v. Blanche*, No. 26-cv-03262 (PAM/DTS) Dkt. 9 at 3. (D. Minn. Aug. 11, 2026). Under 8 U.S.C. § 1357(a)(2), an immigration officer may arrest an alien without a warrant if the officer has "reason to believe" the alien is in the United States illegally and is likely to escape before a warrant can be obtained. However, under § 1225(b), if an immigration official following inspection determines the alien is not clearly entitled to stay in the country, arrest and detention is mandatory. The key difference between these statutes is the knowledge of the official. "Reason to believe" is a different standard than knowledge. "[R]easonable suspicion means only that immigration officers may briefly stop the individual and inquire about immigration status. . . . Only if the person is illegally in the United States may the stop lead to further immigration proceedings." *Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 3 (2025) (Kavanaugh, J., concurring). The Supreme Court acknowledged in 1984 that deportation proceedings are not meant to punish past action but prevent continuing illegal action. To allow someone subject to mandatory detention to go free would "require the courts to close their eyes to ongoing violations of

the law." *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1046 (1984). An immigration official who has knowledge an applicant for admission has no clear right to be in the United States is required to hold that person in detention until the removal proceedings are completed. Under § 1357(a)(2), a flight risk is required because the immigration official only has a reason to believe the person is here illegally, whereas with knowledge the assessment of flight risk is not needed because § 1225 requires detention. *Carlos R.V. v. Blanche*, No. 26-cv-01992 (DMT/EMB) (D. Minn. April 20, 2026) Dkt. 8 at 3.

In this case, the Record of Deportable/Inadmissible Alien and Notice to Appear make it clear that, following inspection, immigration officials knew Petitioner was an illegal alien not entitled to be admitted in accordance with Section 1225(b)(1)(A). Consequently, ICE arrested and detained Petitioner to initiate removal proceedings. Therefore, Petitioner did not suffer an unlawful arrest under the Fourth Amendment, 8 U.S.C. § 1357(a)(2) or 8 C.F.R. 287.3(d).

Arguendo, if this Court finds that warrant is necessary for non-citizens detained under § 1225, Respondents discuss that issue. The legal basis of the arrest derives from DHS's statutory detention authority pursuant to 8 U.S.C. §§ 1225(b) and 1226(a). Section 1226 states "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is be removed from the United States. 8 U.S.C. § 1226(a). When DHS established probable cause to believe an individual is removable through existing evidence – such as biometric confirmation of identity, immigration records, voluntary statements – the Fourth Amendment and the INA do not require service of the NTA to precede the service of an I-200 arrest warrant. *Ramirez v.*

Genalo, 2026 U.S. Dist. LEXIS 140337 (E.D.N.Y. June 24, 2026). The legality of the arrest turns on the existence of statutory authority and probable cause, not on the sequence in which the I-200 and NTA are served. *Id.* Furthermore, Courts in this District have held that validity of a warrant turns on whether the warrant was issued, not whether it was served. *Fernando C. C. v. Bondi*, No. 26-cv-1235 (LMP/JFD) (D. Minn. Feb. 17, 2026); *Tanneh W. S. v. Blanche*, No. 26-cv-2775 (LMP/EMB) (D. Minn. June 23, 2026)(holding an administrative warrant arrest warrant need not be served to be valid it need only be issued); *Rey A. v. Blanche*, No. 26-cv-2287 (NEB/JFD) (D. Minn. May 29, 2026) (Adoption R&R holding the Fourth Amendment speaks of issuance of warrants not the service of warrants). Petitioner was arrested with a warrant and analysis for likelihood to escape is unnecessary. Decl., Ex. B.

Petitioner next argues, citing 8 C.F.R. § 236.1, that Form I-200 may only be issued at the same time or after a valid NTA was issued. Pet. ¶ 46. This is wrong. First the regulation does not expressly state that issuance of Notice to Appear is a jurisdictional prerequisite to every administrative arrest. Rather, it describes one circumstance under which an arrest warrant may be executed—"*In General*. At the time of issuance of the notice to appear, or at any time thereafter." 8 C.F.R. § 236.1. Nothing in the regulation expressly withdraws the broader arrest authority Congress granted in §§ 1226(a) and 1357(a). Had the agency intended to eliminate the statutory authority to arrest removable noncitizens before preparing a charging document, it would have done so in unmistakably clear language.

Accordingly, the better reading is that the issuance of a Notice to Appear satisfies one avenue for establishing probable cause reflected on Form I-200, but it is not the exclusive avenue. Where DHS independently establishes probable cause through biometric confirmation, immigration records, and other evidence demonstrating removability, the administrative warrant is authorized by statute even if the Notice to Appear is prepared contemporaneously with, or after, issuance of the Form I-200.

Furthermore, 8 C.F.R. § 236.1 is not phrased as limitation. It simply says "[*i*]*n general* [a]t the time of issuance of the [NTA], or at any time thereafter . . . the respondent 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). This Court has generally treated 8 C.F.R. §236.1(b) as requiring the NTA before execution of an I-200 arrest. However, those decisions applied a blanket standard that addressed arrests based on probable cause in the first two categories. Whereas this arrest falls under the independent probable-cause certifications reflected in the later sections of the I-200 and grounded directly in § 1226(a) arresting authority.

Applying the fundamental canon of statutory construction "that unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." *Perrin v. United States*, 444 U.S. 37 at 42 (1979). The ordinary contemporary, common meaning of the word "issuance" is defined, in the context of 8 C.F.R. § 236.1(b)(1), as "the official act of making something available or of giving something to people to be used: the act of officially issuing something.[4] Thus the issuance of the NTA

[4] "Issuance." Merriam-Webster.com Simple Definition, Merriam-Webster, https://www.merriam-webster.com/simple/issuance. (Last visited July 21, 2026).

is the preparation and generating the document making it available to be used is the regulation requirement, not service of the NTA. The regulation allows DHS to arrest with Form I-200 at the issuance of the NTA, it should not be narrowly construed to mean I-200 can only be used if the NTA is served first. When Congress intends to invalidate government action for noncompliance with a procedural requirement it does so expressly. *See generally United States v. James Daniel Good Real Property*, 510 U.S. 43 (1993) (declining to give force to agency regulations that purport to require invalidation of agency action for technical procedural violations). Here, neither the statute or regulation provide that consequence.

The issuance of the Form I-200 can be prior to the issuance of the NTA so long as probable cause was established. *Ramirez v. Genalo*, 26-cv-3229 (HG) (E.D.N.Y. June 24, 2026). Looking again at Form I-200 reflects distinct statutory bases to establish probable cause for arrest. The form does not contain a single probable-cause determination tied exclusively to the commencement of removal proceedings. Instead, it identifies multiple independent grounds upon which probable cause may exist. The first categories concern situations in which a charging document has already been issued or removal proceedings have already commenced. Those categories naturally correspond to 8 C.F.R. § 236.1(b), which provides that an alien may be arrested under an administrative warrant "[a]t the time of *issuance* of the notice to appear, or at any time thereafter." 8 C.F.R. § 236.1(b) (*emphasis added*).

The remaining probable-cause categories, however, are materially different. They require the officer to certify that the person's identity has been confirmed through

fingerprints or other reliable biometric evidence and that agency records establish the individual is removable or otherwise subject to detention under the immigration laws. Those findings do not depend upon the prior issuance of a Notice to Appear. Instead, they establish the factual basis necessary for the exercise of Congress's independent detention authority under 8 U.S.C. § 1226(a). Here the issuance of Form I-200 was based on probable cause established reliable evidence and to execute a NTA. Decl., Ex. B.

Here, the Court need not make a ruling on whether a non-citizen can be arrested prior to issuance of NTA, because the actual arrest was more than a year after issuance of the NTA. Decl., Ex. B. Also, the Petitioner was already in removal proceedings when the arrest occurred.

IV. The use of Form I-200 does not determine the detention authority

Although not necessary for § 1225 detention Respondents address Petitioner's concern for the use of warrant. Petitioner argued that non-citizens being detained under § 1225(b) may only be arrested without a warrant pursuant § 1357(a)(2). Pet. ¶ 41. This argument fails by just a simple reading of the referenced statute, which states:

> Any officer or employee of the Service . . . shall have power without warrant . . . to arrest any alien . . . if he has reason to believe that the alien . . . is likely to escape ***before a warrant*** can be obtained for his arrest . . ." 8 U.S.C. § 1357(a)(2) (***emphasis added***).

Essentially, § 1357(a)(2) creates the exigent circumstance exception to arrest without a warrant similar to criminal proceedings when police are in hot pursuit of a fleeing felon. *See United States v. Santana*, 427 U.S. 38 (1976). Thus, a warrant is preferred in all

situations not just for non-citizens that are subject to detention under § 1226(a), as Petitioner would lead this Court to believe[5].

The Form I-200 is consistent with this reading, as the first statement is directed "To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." Decl., Ex. C. That language identifies which officers are authorized to conduct arrest and does not indicate that the arrest will occur pursuant § 1226 or represent to Petitioner that she is being arrested under that statute. *Picazo Jimenez. v. Blanche*, 26-cv-2740-ECT-JFD at 3 (D. Minn. June 29, 2026); *See* also *Gudino v. Almodovar*, No. 1:26-cv-00402-MKV, 2026 WL 251887, at *3 (S.D.N.Y. Jan. 30, 2026); *Liang v. Almodovar*, No. 1:25-cv-09322-MKV, 2025 WL 3641512, at *2 & n.6 (S.D.N.Y. Dec. 15, 2025). The direction does not limit the applicability of the warrant to a certain class of detainee. Rather, the direction limits the class of people who can serve it; namely, those who are authorized to serve warrants under 8 U.S.C. §§1226 and 1357, and 8 C.F.R. § 287.

Whereas § 1357 deals with warrantless arrest procedures, including procedures to be followed before any I-200 warrant has been issued. A warrant issued *pursuant to* a statute that describes warrantless detention, arrest, and search powers is a contradiction in terms. The parameters for I-200 warrants are set out in 8 CFR § 236.1(b)(1), which places

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[5] In fact there are plausible situations when a non-citizen that entered the United States on a B-2 Travel Visa, and overstayed their visa, can be arrested without a warrant if the Service believes there is likelihood of escape.

no limitations on using warrants to arrest individuals detained under § 1225 versus § 1226. The regulation reads:

> At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

Like the I-200, the regulation specifies *who* can serve the warrant rather than *on whom* the warrant can be served. With that said, this Form I-200 was served after the issuance of NTA. Decl., Ex. B and C. The record shows the NTA was issued the same day Petitioner was discovered at the Rice County Jail. Decl., ¶ 6, Ex. B. The Form I-200 was issued after the issuance of the NTA and subsequently served at the time of the Petitioner's arrest. Decl., ¶ 7. The Court should deny the habeas petition as there are no procedural defects in this matter.

V. No Violation of Due Process Rights

Like other applicants for admission to the U.S. whose legal status is governed by 8 U.S.C. § 1225, Petitioner is subject to mandatory detention until the end of her removal proceedings. Those removal proceedings are not indefinite, and are actively progressing, as Petitioner has waiting for the Board of Immigration Appeals to issue dismissal of her appeal, since she did not file a brief in support of her appeal. Pet. ¶ 17; Decl., Ex. E.

Substantive Due Process

Petitioner's arguments in this case are statutory. But even if she was raising constitutional due process claims, those should likewise be denied. In truth, Petitioner is

not challenging the *procedures* available under the statute, but Congress's *substantive* determination that aliens covered by § 1225(b) are not entitled to a bond hearing. Petitioner's true claim sounds in *substantive* due process, i.*e.*, that the government cannot constitutionally detain aliens in Petitioner's situation *notwithstanding* the fact that they are subject to mandatory detention by statute. But Petitioner has not attempted to satisfy the standard for a substantive due process claim. Petitioner does not purport to identify any fundamental right, so her substantive due process claim must fail so long as mandatory detention under § 1225(b) is "rationally related to legitimate government interests." *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997). The Supreme Court has long "recognized [that] detention during deportation proceedings [i]s a constitutionally valid aspect of the deportation process," because "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Demore v. Kim*, 538 U.S. 510 (2003).

Procedural Due Process

Recognizing the claim is foreclosed, Petitioner raises procedural due process. The Constitution prohibits the federal government and States from "depriv[ing]" a "person" of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. *See Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024). A procedural-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but challenges the "adequacy of the[] procedures" for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is "completely disabled" within the meaning of the statute. *Id.* At 323, 336. The procedural due process claim did not challenge the statute's substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* at 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner has not challenged the adequacy of the procedures for determining whether Petitioner is an "applicant for admission," a matter determined in immigration proceedings, and that subjects Petitioner to mandatory detention under § 1225(b). Instead, Petitioner argues that the determination that Petitioner is an applicant for admission and "not clearly and beyond a doubt entitled to be admitted," 8 U.S.C. § 1225(b), is a constitutionally insufficient basis on which to justify the deprivation of liberty. Petitioner's due process argument is substantive, not procedural, in nature.

Petitioner has requested that this Court find that due process requires additional procedures in the form of a bond hearing. But a bond hearing is merely the vehicle for making substantive determination about flight risk or dangerousness. Those factors are irrelevant under the statute. Section 1225(b) requires mandatory detention and does not require such determinations.

Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Petitioner. Whether Petitioner is a flight risk or danger

is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Petitioner is asking this Court to do is override Congress's substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. Procedural due process can do no such thing.

Accordingly, Petitioner has no procedural due process right to a bond hearing on flight risk or danger to the community. Individualized findings about flight risk and danger are irrelevant to § 1225(b), which subjects Petitioner to mandatory detention based on Petitioner's uncontested status as an "applicant for admission" who has not shown she is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(a)(1).

The Supreme Court's decision in *Connecticut Dep't of Pub. Safety*, is illustrative on this point. The statute in that case required sex offenders to register with the State so their information could be published on a sex-offender registry. 538 U.S. at 4-5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due-process rights by requiring him to register without a "hearing to determine whether" he was "currently dangerous." *Id.* At 4 (citation omitted)

But the Court concluded that no additional process is needed to resolve an uncontested issue of fact. As the Court held, "Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." *Id.* At 9. Here, whether Petitioner is a flight risk or a danger is irrelevant to the statutory scheme; thus, a bond hearing to assess those issues would be "a bootless exercise." *Id.* At 7. In the end, the only process due for those who have never "been admitted into the country pursuant to law" is whatever process is

"expressly conferred by Congress." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138 (2020).

The supreme Court has elsewhere made clear that *lawful admission*—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon v. Plasencia*, 459 U.S. 21 (1982), the Court observed that only "*once an alien gains admission* to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[]." *Id.* At 32 (emphasis added). "Th[is] rule," the Court explained, "rests on [the] fundamental proposition" that "the power to admit or exclude aliens is a sovereign prerogative," and "the Constitution gives the political department of the government plenary authority to decide which aliens to admit." *Id.* at 32.

Those conclusions put Petitioner's due process claims in this case on shaky ground because he is essentially challenging the constitutionality of § 1225(b)'s mandatory detention provisions. "The rule has been clear for decades: detention during deportation proceedings is constitutionally valid." *Banyee v. Garland*, 115 F.4th 928, 931 (8th Cir. 2024) (cleaned up); *see also Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003). *Banyee* and *Demore* analyzed detention under § 1226(c), but there is no constitutionally significant difference between the detention provisions in § 1226(c) and the provisions in § 1225(b) that govern Petitioner's detention in this case. *See Rodriguez v. Jeffreys*, 2025 U.S. Dist. LEXIS 266244, at *43 (D. Neb. Dec. 29, 2025) (substantive and procedural due process challenge to § 1225(b) detention failed under *Banyee* and

Demore). Take for instance Petitioner's allegation that Due Process requires the Respondents to afford her a bond hearing. Pet. ¶ 47. Noncitizens detained under § 1226(c) do not receive bond hearings either. Yet the Eighth Circuit and Supreme Court have already rejected Due Process challenges to mandatory detention under that statute. An argument regarding the government not having a legitimate purpose fails, because the Eighth Circuit and Supreme Court precedent have already decided that mandatory detention under § 1226(c) passes constitutional muster because "the government can detain an alien for as long as deportation proceedings are still '*pending*.'" *Banyee*, 115 F.4th at 933 (original emphasis) (cleaned up).

Petitioners do not acknowledge *Banyee* or the fundamental defect in her Due Process challenge to detention under § 1225(b). That is a mistake. In the context of mandatory detention during removal proceedings, the Supreme Court has "already done whatever balancing is necessary." *Banyee*, 115 F.4th at 933. To the extent Petitioner disagrees with that balancing, she must take it up with Congress or the Supreme Court itself. Petitioner's Due Process claims in this case fail as a matter of law, and her habeas petition should therefore be denied.

The same result should follow here. Once Petitioner's humanitarian parole expired, her presence in the United States became unlawful. Section 1182(d)(A)(5) clearly reverts the Petitioner back to her original status, thus § 1225(b) governs the Petitioner's mandatory detention. Any change to detention status in this situation is ultimately an issue for Congress to address.

VI. Habeas Petition is not the appropriate vehicle for interim release for medical care.

Petitioner requests interim release for medical reasons, however the Eighth Circuit in *Spencer v. Haynes*, held "if the prisoner is not challenging the validity of his conviction or the length of his detention . . . then a writ of habeas corpus is not the proper remedy." *Spencer v. Haynes*, 774 F.3d 467, 469 (8th Cir. 2014)(citing *Kruger v. Erickson*, 77 F.3d 1071, 1073 (8th Cir. 1996). Additionally, Petitioner can ask for healthcare at any time while in custody and the health service will be provided free of cost. 42 U.S.C. § 249(c); 42 C.F.R. § 34.7(a). Accordingly, this Court should deny Petitioner's request for interim release as it's outside of the scope of a habeas corpus petition, and the medical issues that are of concerned can be treated free of charge in the facility.

VII. No violation of the APA or *Accardi* Doctrine

For the reasons discussed, *supra*, Petitioner failed to prove the agency failed to follow its regulations. The facts and documentation clearly show that the agency completely and methodically completed all its regulated requirements. Petitioner cannot support an *Accardi* challenge for want of an arrest of warrant, because a warrant was properly issued and served. Decl. Ex. C. The NTA was issued prior to the arrest of the non-citizen, therefore, no violation of 8 C.F.R. § 236.1 exists. Decl., Ex. B. In each instance, Respondents followed and satisfied every regulation required under these particular facts. There is nothing to correct, thus there is no violation of the APA and no *Accardi* doctrine argument can take hold here. Thus, the Court should deny this habeas petition.

EVIDENTARY HEARING

Respondents believe the Court can rule on this petition without holding an evidentiary hearing. The only issues before the Court are ones of legal interpretation capable of resolution on the parties' submissions.

CONCLUSION

Petitioner is subject to mandatory detention under § 1225(b)(1)-(2), as an arriving alien in removal proceedings. The Court should therefore deny this habeas petition.

Dated: September 4, 2026

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