UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Sorelys R.O., Petitioner, v. Todd Blanche, et al., Respondents.	Case No. 26-cv-03859 (ECT/LIB) **REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

REPLY

Petitioner filed a verified petition for writ of habeas corpus on September 1, 2026. [Doc. 1]. The Court issued an order to show cause on September 1, 2026. [Doc. 3]. The Respondents filed their timely Response on September 4, 2026. [Doc. 5]. The Court gave Petitioner until September 7, 2026 to submit a Reply. [Doc. 3]. Petitioner submits this Reply in support of her request for habeas relief.

In its Response, the government argues that that Petitioner was arrested pursuant to a warrant. [Doc. 5, p. 12]. This argument is flatly contracted by the documents produced by the government. Additionally, the government does not even attempt to respond to Petitioner's argument that her warrantless arrest violated 8 U.S.C. § 1357(a)(2). The Court should, therefore, find that Petitioner's arrest was illegal and order her immediate release from custody.

I. The I-200 warrant is invalid because it was created after Petitioner's arrest.

"Like any federal agency, ICE 'literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute.'" *Luis A.S. v. Easterwood*, No. 26-cv-02447 (PJS/DTS), [Doc 9, p. 2] (D. Minn. May 26, 2026) (quoting *FEC v. Cruz*, 596 U.S. 289, 301 (2022)). As this Court has held, "Though § 1225 does not address warrants, I presume for the sake of analysis that a valid administrative warrant under § 1226(a) is sufficient authority to subject an individual to mandatory detention under § 1225(b)(2)(A)." *Velancio P.J. v. Blanche, et al.,* No. 26-cv-02740 (ECT/JFD), [Doc. 12, p. 4] (D. Minn. June 29, 2026). Such a warrant must be issued before the noncitizen's arrest. *See* 8 U.S.C. § 1226(a), "On a warrant issued by the Attorney General, an alien may be arrested and detained . . ." and 8 C.F.R. § 236.1(b)(1), "the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest."

The government argues, "Petitioner was arrested with a warrant and analysis for likelihood for escape is unnecessary." [Doc. 5, p. 12]. The government also argues, "The Form I-200 was issued after the issuance of the NTA and subsequently served at the time of the Petitioner's arrest." [Doc. 5, p. 17]. These arguments, however, are flatly contradicted by the documents produced by the government. According to Form 1-213, Petitioner was arrested on December 2, 2025. [Doc. 6-1, p. 2]. According to Form 1-200, Warrant for Arrest of Alien, however, the warrant was issued a day later, on December 3, 2025. [Doc. 6-3]. The government's own Supervisory Detention and Deportation Officer, Steven Draves, acknowledges this sequence of events in his declaration. "On December

2, 2025, ICE/ERO took Petitioner into custody following a consensual encounter in which Petitioner admitted being in the United States illegally. On December 3, 2025, an ICE/ERO Supervisory Detention and Deportation Officer issued a Form I-200, Warrant for Arrest of Alien." [Doc. 6, p. 2].[1]

As this Court noted in *Velancio P.J.*, the problem is "that the warrant was issued after the arrest." (*Id.* at p. 5). Because the warrant was not issued until after Petitioner's arrest, it is therefore invalid, and Petitioner's arrest was unlawful.

II. Respondents lacked probable cause for a warrantless arrest.

In their Response, the government does respond to Petitioner's argument that her warrantless arrest violated 8 U.S.C. § 1357(a)(2). The Court should, therefore, consider this argument unopposed. "[F]ailure to oppose a basis for summary judgment constitutes waiver of that argument." *Satcher v. University of Ark. at Pine Bluff Bd.*, 558 F.3d 731, 735 (8th Cir. 2009). Regardless, the Petitioner will explain why the Respondents lacked probable cause for a warrantless arrest.

Under 8 § 1357(a)(2), an immigration officer may "arrest any alien in the United States" without a warrant "if he has reason to believe that the alien . . . is in the United States in violation of any such law or regulation and is likely to escape before a warrant

[1] The government's assertion that Petitioner "was arrested with a warrant" is troubling because it directly contradicts the government's own records. Attorneys for the United States Department of Justice, like other licensed attorneys in Minnesota, have a duty of candor towards the tribunal. At appears that the government's attorneys have failed to uphold their duty of candor in this case.

can be obtained for his arrest." The language "reason to believe" in 8 U.S.C. § 1357(a)(2) "means constitutionally required probable cause." *United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). To meet the requirements for a warrantless arrest, the government must satisfy both prongs of this test.

a. Petitioner concedes, for the sake of this Reply, that Respondents had probable cause to believe that Petitioner was in the United States illegally.

According to the I-213, "Upon questioning, [Petitioner] freely admitted being in the United States illegally pending immigration court." [Doc. 6-1, p. 2]. For purposes of this Reply, Petitioner concedes that, based on his statement, Respondents had probable cause to believe that Petitioner was in the United States illegally.

However, merely satisfying the first prong of 8 § 1357(a)(2) is not sufficient to justify a warrantless arrest. As Judge Tunheim held in *Francisco M.A. v Blanche*, No. 26-cv-2032 (JRT/EMB), [Doc. 10, p. 7] (D. Minn. May 5, 2026), "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: Section 1357(a)(2) requires that the officer must have 'reason to believe' that (1) the noncitizen is in the United States illegally **and** (2) the noncitizen is 'likely to escape before a warrant can be obtained for his arrest.' If every noncitizen that is here illegally is presumed likely to escape authorities, then § 1357(a)(2)'s second, independent requirement is rendered superfluous."

b. Respondents had no probable cause to believe Petitioner was likely to escape before they could obtain a warrant for her arrest.

Respondents do not even argue that Petitioner was likely to escape before her arrest. As Judge Tunheim held in *Francisco M.A.*, "Just because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape." (*Id.* at 7). And as Judge Davis held in *Ruben D.A.G. v. Blanche*, No. 26-cv-2041 (MJD/DJF), [Doc 9, p. 8] (D. Minn. Apr. 20, 2026), "Anyone without a lawful presence does not immediately present a likelihood of escape merely by being a noncitizen."

Furthermore, federal courts have made the "self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 31, (D.D.C. 2025). Petitioner has three minor children. [Doc. 1, ¶ 12]. Petitioner has attended all immigration court proceedings. [Doc. 1, ¶ 13]. Petitioner's order of removal is not administratively final. [Doc. 1, ¶ 15]. Petitioner cooperated with her arrested and did not flee ICE agents. [Doc. 1, ¶ 16]. At the time of her arrest, Petitioner was living with her partner and three children at a fixed address in Bloomington, Minnesota. [Doc. 1, ¶ 18]. Petitioner has a valid employment authorization and was arrested while working. [Doc. 1, ¶ 19]. At the time of her arrest, Petitioner was financially responsible for providing for her three children. [Doc. 1, ¶ 19]. At the time of her arrest, Petitioner's children were attending school in Bloomington, Minnesota. [Doc. 1, ¶ 19]. Petitioner has no criminal history in the state of Minnesota. [Doc. 1, ¶ 20].

Of course, ICE officers at the scene knew none of this information because they did not bother to ask. Had ICE officers learned about Petitioner's stable residence, community ties, legal employment, financial obligations, and lack of criminal history, they would have learned that they were unlikely to have "trouble finding [him] again if they had released him while they obtained a warrant." *U.S. v. Bautista-Ramos*, 2018 WL 5726236, at *7 (N.D. Iowa Oct. 15, 2018); *see United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 890 (S.D. Ohio 2016) (finding no likelihood of escape when noncitizen had a stable job, lived with his fiancé, and helped pay her rent and raise her two children). Accordingly, Respondents did not have probable cause to believe that Petitioner was likely to escape before they could obtain a warrant for her arrest. Respondents' warrantless arrest of Petitioner, therefore, violated 8 § 1357(a)(2) and was unlawful.

III. Release from custody is the only meaningful remedy for Petitioner.

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). When immigration officers conduct a warrantless arrest in violation of 8 U.S.C. § 1357(a)(2), courts in this District have ordered release as a remedy. *See Jesus F. D. v. Mullin*, 26-cv-2486 (PJS/DTS), (D. Minn. June 10, 2026) [Doc. 10, p. 9] (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for unlawful executive detention)). Petitioner, therefore, respectfully requests that the Court grant her petition for habeas corpus and order her immediate release.

Date: September 7, 2026

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