UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Luis A. Nouel Gonzalez, Petitioner V. Markwayne MULLIN, Secretary of the Department of Homeland Security; Todd BLANCHE, Attorney General of the United States; David VENTURELLA, Acting Director, Immigration and Customs Enforcement; David EASTERWOOD, Acting Field Office Director, ICE Enforcement and Removal Operations, St. Paul-Minneapolis; Ryan SHEA, Warden, Freeborn Co. Adult Detention Facility Respondents	Case No. 0:26-cv-03916 PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner Luis A. Nouel Gonzalez is a Venezuelan national seeking asylum in the United States. He first encountered the Department of Homeland Security near the Mexican border in August of 2022, where he was briefly detained before being released on his own recognizance. While his affirmative asylum application remains pending with USCIS, Petitioner was detained without a valid warrant while voluntarily reporting to an Alternatives to Detention "check-in" appointment. Without this Court's intervention, he will not be provided any mechanism by which to challenge his detention.

2. Petitioner here challenges his unlawful arrest, his re-detention without notice or the opportunity to be heard, and Respondents' position that he is subject to mandatory detention without any opportunity to receive a bond hearing. He asks this Court to declare that his August 19, 2026 arrest was unconstitutional, and order his immediate release; or in the alternative, order a bond hearing at which the Government bears the burden of proof.

II. FACTUAL CIRCUMSTANCES

3. Petitioner first entered the United States in August of 2022. *See* Pet. Exh. 1. He crossed the border, and shortly thereafter encountered the Department of Homeland Security Customs and Border Patrol, who in turn issued him a Form I-862 Notice to Appear in immigration court on August 30, 2022. *Id.* That same day, DHS evaluated his perceived level of danger to the community and flight risk, and chose to release Petitioner on his own recognizance. Pet. Exh. 2. Petitioner initially went to live in Orlando, Florida.

4. While his removal proceedings were pending, Petitioner initially filed for asylum with EOIR on or about August 25, 2023. Pet. Exh. 4.

5. While his first removal case was pending, USCIS separately granted Petitioner Temporary Protected Status ("TPS"). Pet. Exh. 5. Based on his approved TPS, the immigration judge terminated Petitioner's removal proceedings on August 15, 2024. Pet. Exh. 6.

6. On September 5, 2024, Petitioner re-filed his asylum application with USCIS. Pet. Exh. 7. That application remains pending as of September 3, 2026. On February 28,

2025, Petitioner received employment authorization based on the pendency of his asylum application, which is valid until February 27, 2030. Pet. Exh. 8.

7. On October 3, 2025, the Supreme Court permitted Petitioner's TPS to end with immediate effect. *See Noem v. National TPS Alliance*, 606 U.S. _____, Order No. 25A326 (Oct. 3, 2025) (slip op).

8. In November 2025, Petitioner moved to Cedar Rapids, Iowa because he works for a company building a data center there. His wife and daughter followed to join him in Iowa in June of 2026.

9. Over the summer of 2026, Petitioner received a "call-in" letter from ICE, instructing him to report for "case review/ ATD case review" in Orlando, Florida. Pet. Exh. 9. Petitioner dutifully boarded a flight to Orlando and attended that appointment on August 12, 2026. ICE Officers in Florida instructed him to report to the Cedar Rapids ICE suboffice instead. Pet. Exh. 10.

10. On August 19, 2026, Petitioner reported to the ICE suboffice in Cedar Rapids, Iowa. At that appointment, he was detained. After Petitioner was already detained and driven two hours to Hardin County Jail, ICE agents issued him a Notice to Appear, re-initiating removal proceedings. Pet. Exh. 12. The most recent Form I-213 (Record of Inadmissible Alien) refers to a Form I-200 being issued, but if such a form was issued, it was not served on Petitioner, nor does the form appear in EOIR Records. See Pet. Exh. 11

11. Petitioner was initially detained at Hardin County Jail in Eldora, Iowa, where he retained undersigned counsel Rebelskey. Pet. Exh. 13. Before a habeas petition could be

filed, Petitioner was moved to Freeborn County Adult detention center, where he remains today. Pet. Exh. 14.

III. JURISDICTION

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

14. This matter is not subject to the jurisdiction stripping provisions of 8 U.S.C. § 1252(g). Section 1252(g)'s narrow jurisdictional bar applies only to the three specific situations enumerated in the statutory language: the Attorney General's decision or action to 1) commence proceedings, 2) adjudicate cases, or 3) execute removal orders. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); 8 U.S.C. § 1252(g). Petitioner's claims fall outside § 1252(g)'s narrow jurisdictional bar. He does not challenge commencement of proceedings, the adjudication of his case, or the execution of a removal order. Rather, Petitioner challenges his unlawful arrest and detention without a bond hearing.

IV. VENUE

15. Venue is proper because Petitioner is detained at Freeborn County Adult Detention Facility in Albert Lea, Minnesota, which is within the jurisdiction of this District. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. § 1391(e).

V. PARTIES

16. Petitioner is currently detained at the Freeborn County Jail and is in the custody, and under the direct control, of Respondents and their agents.

17. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

18. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the immigration courts and the Board of Immigration Appeals. Respondent Blanche is a legal custodian of Petitioner.

19. Respondent David Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Venturella is a legal custodian of Petitioner and has authority to release him.

20. Respondent David Easterwood is sued in his official capacity as the Acting Director of the St. Paul ICE-Enforcement and Removal Operations Field Office, which has jurisdiction over immigration respondents such as Petitioner who reside in the state of Iowa. Respondent Easterwood is a legal custodian of Petitioner.

21. Respondent Ryan Shea is named in his capacity as Freeborn County Sheriff and administers the Freeborn County Jail where Petitioner is detained. Respondent Shea is Petitioner's immediate custodian.

VI. LEGAL FRAMEWORK

22. A writ of habeas corpus may be granted to any person who demonstrates he is in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3); *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (concluding that the Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States" (citing U.S. Const., Art. I, § 9, cl. 2)). For most of the nation's history, habeas review "has remained a critical check on the Executive, ensuring that it does not detain individuals except in accordance with law." *Hamdi*, 542 U.S. at 525 (quotation omitted). The right to challenge the legality of a person's confinement through a petition for a writ of habeas corpus "extends to . . . immigration-related detention." *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900-01 (D. Minn. 2020) (citation omitted.) The petitioner bears the burden of proving that his detention is illegal by a preponderance of evidence. *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154 (D. Minn. 2025).

A. Petitioner's August 19, 2026 Arrest Was Unlawful

23. Petitioner first challenges the lawfulness of his August 19, 2026 arrest. This section presents arguments as to why the I-200 in this matter was improperly issued, as well as why Petitioner's warrantless arrest was improper.

1. *The I-200 administrative warrant does not comply with ICE's own regulatory requirements.*

24. 8 CFR § 236.1 and 8 CFR § 1236.1 govern the issuance and execution of Form I-200, Warrant for Arrest of Alien. 8 CFR § 236.1(b)(1) provides that an administrative warrant may issue concurrently with a Notice to Appear, or at any time thereafter until removal proceedings are completed. In other words, 8 CFR § 236.1 does not permit the issuance of an I-200 warrant in the absence of an NTA.

25. At the time he presented to the ICE office on August 19, 2026, there was no NTA pending against Petitioner. Removal proceedings based on the earlier NTA, issued in August of 2022, had already concluded–the immigration judge terminated those proceedings based on Petitioner's receipt of TPS. Thus an I-200 could not have been validly issued based on the earlier NTA.

26. The I-200 in this matter purports to have been issued and served in Cedar Rapids, Iowa, at the Cedar Rapids ICE suboffice. See Pet. Exh. 15. Meanwhile, the NTA issued after Petitioner's arrest. Petitioner reports that he was detained first, and served with an NTA around the time he arrived at Hardin County Jail. The available documentation in this matter supports his version of events: the August 19, 2026 NTA indicates that it was served on Petitioner when he was already in ICE custody at Hardin County Jail in Eldora, Iowa, roughly a two-hour drive away from where he was initially taken into custody in Cedar Rapids. See Pet. Exh. 12. *See also, e.g.*, *Gonzalez Ochoa v. McCleary*, 816 F.

Supp. 3d 921, 927-28, (S.D. Iowa 2026) (concluding ICE had no authority to arrest petitioner relying on Form I-200 that was issued before the NTA.)

2. *Petitioner's warrantless arrest did not comply with the requirements of 8 USC 1357(a)(2)*

27. "As a general rule, it is not a crime for a removable alien to remain present in the United States," so police may not arrest "someone based on nothing more than possible removability." Instead, the "federal statutory structure instructs when it is appropriate to arrest an alien during the removal process." *Id.* Relevant here, 8 U.S.C. § 1226(a) allows the Attorney General to "exercise discretion to issue a warrant for an alien's arrest and detention." *Id.* But if "no federal warrant has been issued, [ICE] officers have more limited authority," *Arizona v. United States*, 567 U.S. 387, 407 (2012).

28. ICE may arrest a noncitizen without a warrant only when an officer has "reason to believe" first, that a noncitizen is in violation of the immigration laws; and second, "is likely to escape before a warrant can be obtained for his arrest." *See* 8 U.S.C. § 1357(a)(2). 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).

29. The Minnesota District Court discussed the extent of ICE's warrantless arrest powers in *Ademir AS v. Blanche*:

> [T]he Supreme Court has explained that warrantless arrests should be conducted in "specific, limited circumstances"...Instead, courts have construed that phrase to mean "likely to evade detention by immigration officers…" And that analysis considers not just whether the noncitizen will be located at the scene of encounter

> with immigration enforcement but also whether immigration enforcement would be able to arrest the noncitizen at "another clearly identifiable location."

Case No. 26-cv-2804 (LMP/SGE) (D. Minn. June 16, 2026) (citing *Hussen v. Noem*, 822 F. Supp. 3d 944, 988 (D. Minn. 2026) (quoting *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006-07 (N.D. Ill. 2016)); *Jesus F. D. v. Mullin*, No. 26-cv-2486 (PJS/DTS), ECF No. 10 at 8 (D. Minn. June 10, 2026) (interpreting "likely to escape" to mean "risk of flight"); Campos v. United States, 888 F.3d 724, 734-35 (5th Cir. 2018) (interpreting "likely to escape" as likely to "disappear before a warrant could be obtained"); United States v. Khan, 324 F. Supp. 2d 1177, 1187 (D. Colo. 2004). Escobar Molina v. U.S. Dep't of Homeland Sec., Civil Action No. 25-3417 (BAH), 2026 WL 1256234, at *10 (D.D.C. May 7, 2026); see United States v. Bautista-Ramos, No. 18-cr-4066-LTS, 2018 WL 5726236, at *7 (N.D. Iowa Oct. 15, 2018) (considering whether immigration officers "would have had trouble finding [arrestee] again if they had released him while they obtained a warrant"), report and recommendation adopted, 2018 WL 5723948 (N.D. Iowa Nov. 1, 2018).

30. As to 8 USC § 1357(a), Petitioner first challenges ICE's conclusion that he was present in the United States in violation of its immigration laws. To the contrary, EOIR had previously allowed him to remain in the United States by terminating his removal case in 2024. Even after Petitioner's Temporary Protected Status terminated, he remained a lawful asylum seeker, with an affirmative application pending with USCIS. See 8 USC 1158(a)(describing who may apply for asylum) and 8 USC 1158(d) (describing procedures for deciding asylum cases.) Petitioner continues to hold lawful employment

authorization based on that application, and USCIS has not interviewed him on that application, nor made any decision on his asylum application.

31. Petitioner contests ICE's conclusion that there was probable cause to believe he was likely to "escape before a warrant could be issued," or that he otherwise presented a flight risk. At the time of his arrest, Petitioner was voluntarily reporting to the ICE office in compliance with the terms of his prior release. The August 19th appointment was the second ATD appointment that Petitioner had attended in the span of seven days, the first of which required him to fly to Orlando, Florida.

32. The I-213 issued on August 19, 2026 indicates that ICE had Petitioner's current home address, as well as the information of his employer. Pet. Exh. 11. Proper service of an NTA could have been achieved by mail, which would have allowed ICE-ERO to initiate removal proceedings and then properly issue an I-200 warrant in accordance with 8 USC 236.1.

33. In sum, if there was a warrant, it was improperly issued. If there was no warrant, there was no probable cause to believe Petitioner was "in violation of" the immigration laws of the United States, nor was there probable cause to believe that he presented a flight risk such that he could not be properly served with a Notice to Appear or I-200 Warrant for Arrest of Alien.

3. *Immediate Release is the Proper Remedy for Unlawful Arrest*

34. Where ICE fails to comply with its own regulations regarding a petitioner's arrest, "release is the proper remedy." *Cristian FJZ v. Blanche*, Civil No. 26-3469 (JRT/DTS),

(D. Minn. August 13, 2026) (citing *Francisco M.A.*, 2026 WL 1229701, at *3; *Hector J.A.S.*, 2026 WL 1243500 at *3; *Sergio P. v. Bondi,* Civ. No. 26-1538, 2026 WL 497290, at *3 (D. Minn. Feb. 23, 2026); *Munaf v. Geren,* 553 U.S. 674, 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention . . . . The typical remedy for such detention is, of course, release."); see also, e.g. *Alberto CM v. Noem*, 817 F. Supp. 3d 735,739 (D. Minn. 2026) (ordering petitioner's immediate release.); *Winston N.P. v. Blanche*, Case No. 26-cv-3368 (LMP/JFD) (D. Minn. Aug. 6, 2026.)

B. Petitioner's re-detention without a bond hearing violates his right to procedural due process.

35. Even if the Court finds that Petitioner is not entitled to immediate release based on improper arrest, subjecting Petitioner to mandatory detention in this context, without the opportunity for a bond hearing, violates his Fifth Amendment right to due process.

36. Petitioner has a cognizable liberty interest owing to his prior release, and upon a balancing of Mathews v. Eldridge factors, he has not been provided the proper level of due process necessary to protect that interest. Accordingly, the proper remedy is a bond hearing in which the government bears the burden of proof.

1. *Petitioner has a cognizable liberty interest owing to his prior release.*

37. The Fifth Amendment guarantees that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law[.]" U.S. Const. amend. V (emphasis

added.) Freedom from physical detention is the most elemental of liberty interests. *Hamdi v. Rumsfeld,* 542 U.S. 507, 529 (2004).

38. "Freedom from physical restraint `lies at the heart of the liberty' that the Due Process Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention violates due process unless special, non-punitive circumstances outweigh an individual's interest in avoiding restraint.) "Detention is a constitutionally permissible part of removal proceedings. . . . But in this context, it implicates an important liberty interest protected by the Due Process Clause, so it must serve a constitutionally acceptable purpose." *Felipe S.P.*, 2026 WL 1911656, at *2; *Victor R.R. v. Blanche*, No. 26-cv-2853 (KMM/DJF) (D. Minn. Aug. 26, 2026).

39. The Eighth Circuit in *Avila v. Bondi* found that a noncitizen arrested in the interior of the United States may be properly detained under provisions of either 8 USC § 1226(a) or 8 USC § 1225(b)(2). 170 F.4th 1128 (8th Cir. 2026). But *Avila* does not foreclose as-applied due process challenges to this new government policy, as Petitioner brings here. 170 F.4th at 1140 at n.8 (Erickson, J., dissenting).

40. This Court has distinguished *Avila* from cases such as Petitioner's, where a non-citizen was previously detained and then released into the interior of the United States. *See, e.g.*, *Enrique F.G. v. Blanche*, Civil No. 26-3457 (JRT/ECW) (D. Minn. Aug. 13, 2026) ("[U]nlike Avila who 'entered the United States without inspection or admission' and had lived in the country for years without seeking admission, *Avila*, 170 F.4th at 1132, Petitioner is an asylum applicant.").

41. Nor is Petitioner's due process claim foreclosed by the 8th Circuit's decision in *Banyee v. Garland*, 115 F. 4th 928 (8th Cir. 2024.) Mr. Banyee challenged the length of his detention in the context of 8 USC § 1226(c), which mandates the detention of noncitizens convicted of certain criminal offenses. *Id.* at 930. Courts have distinguished *Banyee* in cases challenging the application of 8 USC § 1225(b)(2). "[Petitioner] does not seek a temporal limitation on detention. Instead, he challenges the complete absence of any individualized process to test whether continued detention remains justified in his case." *Bryan AGD v. Blanche*, Civ. No. 26-2366 (JWB/EMB) (D. Minn. July 27, 2026)(discussing the applicability of *Banyee* outside the context of 8 USC §1226(c)); *see also*, *Axel JMC v. Stanski*, Civil No. 26-2281 (JRT/EMB) (D. Minn. April 29, 2026); *Filatau v. Mullin*, No. C26-143-LTS-MAR, (N.D. Iowa, July 24, 2026) (citing *Ermekov v. Mullin*, No. C26-41, 2026 WL 1046766 (N.D. Iowa Apr. 17, 2026); *Singh v. Mullin*, No. C26-53, 2026 WL 1078710 (N.D. Iowa Apr. 20, 2026); *Singh v. Mullin*, No. 26-56, 2026 WL 1021846 (N.D. Iowa Apr. 15, 2026.)).

42. Here, Petitioner's circumstances are similar to those of *Duarte-Salazar v. Noem*: "The petitioner had already been released. He was in the government's custody in 2022 and released on recognizance." No. 0:26-CV-1040 (D. Minn. Feb. 11, 2026.) "A number of courts have held that redetention of a person previously released under § 1226, without formally revoking that order of release or following any procedures prior to making a decision that conflicts with an order of release—violates due process." *Id.* (citing *Feisal O. v. Noem*, No. 26-CV-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (citing *Barco Mercado v. Francis*, No. 25-CV-6582, 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025));

Abdirashid H. M. v. Noem, No. 25-CV-4779, 2026 WL 127698, at *3 (D. Minn. Jan. 9, 2026) (citing *Qasemi v. Francis*, No. 25-CV-10029, 2025 WL 3654098 (S.D.N.Y. Dec. 17, 2025)); see also *Budha v. Murray*, No. 25-CV-1941, 2026 WL 266429, at *5-8 (E.D. Cal. Feb. 2, 2026); cf. *Edita M.S.C. v. Noem*, No. 26-CV-650, 2026 WL 252545, at *2 (D. Minn. Jan. 30, 2026); *Kalayci v. Noem*, No. 26-CV-56, 2026 WL 194170, at *2 (N.D. Ind. Jan. 26, 2026). "The petitioner had no notice before being redetained nor was he provided with an opportunity to be heard. More importantly, respondents have offered no reason why ICE redetained [the petitioner] beyond the fact that he entered the country illegally." *Duarte-Salazar*, 0:26-CV-1040 (D. Minn. Feb. 11, 2026). The District Court in *Duarte-Salazar* ordered his immediate release. *See id.*

2. *The balance of* Mathews *factors shows that Petitioner has not been provided the necessary level of due process to protect his liberty interest.*

43. "The fundamental requirement of due process is the opportunity to be heard `at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). This Court has applied the Mathews balancing test in similar cases:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id. at 335; see also *Hector HA v. Blanche*, Case No. 26-cv-02914 (KMM/ECW) (D. Minn Aug. 5, 2026.)

44. First, the private interest at stake is one of the most important enumerated in the Fifth Amendment: Petitioner's right to physical liberty. This is particularly true where, as here, Petitioner had previously been released from immigration custody on his own recognizance.

45. Second, the risk of erroneous deprivation of Petitioner's liberty interest is quite high. "[T]he government's authority to detain noncitizens is not limitless and should advance two regulatory goals: (1) ensuring the appearance of noncitizens at their immigration proceedings; and (2) preventing danger to the community while those proceedings are ongoing." *Jesus Alejandro G. A.*, 2026 WL 1383138, at *11 (citing *Zadvydas*, 533 U.S. at 690). This risk is heightened in Petitioner's case because the government already determined that Petitioner did not present a danger to the community or a risk of flight when they released him on his own recognizance in 2022. The Government has not alleged that Petitioner violated any condition of his release, or that any changed circumstance has affected its determination of his dangerousness or risk of flight. There is a high risk that Petitioner's re-detention is an arbitrary and unjustified deprivation of his liberty, and additional procedural safeguards, such as a bond hearing, would alleviate that risk.

46. Third, the Court should consider the interests of the Government. Petitioner acknowledges the Government's legitimate interest in uniform administration of the nation's immigration laws, in ensuring the availability of applicants for admission during

removal proceedings, and in avoiding undue administrative burdens. That said, the Government does not have a legitimate interest in violating the Constitution of the United States. *See e.g.*, *Zepeda v. INS*, 753. F.2d 719, 729 (9th Cir. 1983) (noting that the government "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.")

3. *The proper remedy is a bond hearing in which the government bears the burden of proof.*

47. This Court, in weighing the Mathews factors in similar matters, has repeatedly found that the proper remedy is a bond hearing. *Abdirashid H.M. v. Noem*, Civ. No. 25-4779, 2026 WL 127698, at *4 (D. Minn. Jan. 9, 2026); *Axel JMC v. Stanski*, Civil No. 26-2281 (JRT/EMB) (D. Minn. April 29, 2026); *Jesus Alejandro G. A. v. Blanche*, No. 26-cv-1932 (LMP/ECW), 2026 WL 1383138, at *5-12 (D. Minn. May 18, 2026); *Jany WGC v. Easterwood*, C. No. 26-3486 (JRT/DLM) (D. Minn. Aug. 14, 2026).

48. Petitioner further asks the Court to consider whether his procedural due process rights are satisfied by a bond hearing in which he bears the burden of proof to show a negative by clear and convincing evidence. *Compare Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (immigration respondents must show by clear and convincing evidence that they do not present a flight risk or danger to the community) *with Addington v. Texas*, 441 US 418, 432 (1979) (holding that the correct burden of proof to be borne by the government in civil detention matters is clear and convincing evidence.); *see also Brito v.*

Garland, 22 F. 4th 240, 256- 57, (1st Cir. 2021) (upholding classwide relief where *Matter of Guerra* placed the burden of proof on immigration respondents.)

49. While the Northern District of Iowa's due process reasoning is not identical to that commonly applied in the District of Minnesota, it regularly orders that similarly-situated habeas petitioners be provided a bond hearing in which the government bears the burden of proof. See, e.g., *Muse v. Mullin*, No. 26-CV-4024-CJW-MAR (N.D. Iowa, April 14, 2026); *Villegas Salazar v. Sheriff of Linn County*, No. C26-98, 2026 WL 1651508, at *3 (N.D. Iowa 2026); *Gonzalez Ochoa v. Gardner,* No. C26-134-LTS-KEM (N.D. Iowa July 14, 2026.)

VII. 28 USC § 2443 REQUIRES AN ORDER TO SHOW CAUSE

50. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

VIII. CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1357(a) and 8 CFR § 236.1

51. The allegations in the above paragraphs are realleged and incorporated herein.

52. Petitioner's arrest without a validly issued I-200 administrative warrant is unlawful insofar as it did not comply with the requirements for issuance in 8 CFR § 236.1.

53. Petitioner's arrest without a validly issued I-200 administrative warrant is unlawful because it did not comply with the requirements for warrantless arrest set for in 8 USC § 1357 et seq.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

54. The allegations in the above paragraphs are realleged and incorporated herein.

55. Petitioner's re-detention without notice or hearing after previously having been released on his own recognizance violates his Fifth Amendment right to procedural due process.

56. Subjecting Petitioner in these circumstances to mandatory detention without a bond hearing violates his Fifth Amendment right to procedural due process.

IX. PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Enjoin Respondents from transferring Petitioner during the pendency of the instant action;

(3) Declare that Petitioner's August 19th arrest was unlawful;

(4) Declare that Petitioner's re-detention without notice or hearing violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

(5) Order Petitioner's immediate release, or in the alternative that Petitioner be provided a constitutionally adequate bond hearing in which the government bears the burden of proof by clear and convincing evidence;

(6) Order that, prior to any re-detention or imposition of new conditions on his liberty, Respondents provide Petitioner with a bond hearing in which the Government bears the burden of proof by clear and convincing evidence;

(7) Grant any other further relief this Court deems just and proper.

Respectfully submitted this 4th day of September, 2026.

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Luis A. Nouel Gonzalez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 4th day of September, 2026.

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