**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF MINNESOTA**

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| Fernando Rosas Carrera,<br><br>Petitioner,<br>v.<br><br>Todd Blanche, Attorney General,<br><br>Markwayne Mullin, Secretary, U.S. Department of Homeland Security,<br><br>David J. Venturella, Acting Director of Immigration and Customs Enforcement,<br><br>David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement, and<br><br>Joel Brott, in his official capacity as Sherburne County Sheriff,<br><br>Respondents. | Case No. _____<br><br>**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**<br><br>Expedited Handling Requested |

## INTRODUCTION

1. Petitioner Fernando Rosas Carrera ("Carrera"), 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, cl. 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(a) because Petitioner is detained within the District of Minnesota.

## PARTIES

6. Petitioner is a resident of Austin, Minnesota, who is currently detained at the Sherburne County Jail in Elk River, Minnesota. Petitioner is under the direct control of the Respondents and has no scheduled release date.

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.

11. Respondent Joel Brott is sued in his official capacity as Sherburne County Sheriff. He is Petitioner's immediate physical custodian at Sherburne County Jail in Elk River, Minnesota.

## FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

12. Petitioner Carrera is a citizen of Mexico who has lived in the United States since 2016.

13. Carrera resides in Austin, Minnesota. He lives with his longtime partner and three children, including an older child for whom he serves as a caretaker.

14. One of the children has autism. Carrera also has extended family in Minnesota and sends financial support to his mother in Mexico, who is ill.

15. Carrera does not have a final order of removal.

16. Before his immigration arrest, Carrera had been detained on charges of driving while intoxicated. A state-court judge had released Carrera subject to conditions.

17. Carrera was arrested by ICE agents on September 1, 2026, on the sidewalk outside the Mower County Courthouse in Austin, Minnesota, as he was arriving for his appointment with his probation officer.

18. The agents wore ordinary clothing and used unmarked vehicles. Carrera recalls being shown an unidentified document on a phone without time to read it. He reports that no document was read to him at the arrest.

19. The Form I-200 warrant for Carrera is dated August 24, 2026. The warrant checks boxes for biometric and records information and statements or other evidence, but does not check the boxes for execution of a charging document or pending removal proceedings.

20. ICE issued a Notice to Appear (NTA), Form I-862, for Carrera dated September 1, 2026, eight days after the date on the I-200 warrant. The NTA directs him to appear in immigration court at Fort Snelling on September 15, 2026, at 8:30 a.m.

21. The NTA alleges that Carrera is present without admission or parole and charges inadmissibility under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I).

22. Upon information and belief, no NTA had been issued before September 1, 2026.

23. The NTA certificate of service indicates personal service, bears a signature on the respondent-signature line, and states that oral notice was provided in English.

24. Carrera's preferred language is Spanish.

25. As of September 7, 2026, Carrera remains detained at Sherburne County Jail and has not received a bond hearing.

26. After the arrest, Carrera was taken to Fort Snelling and then transferred to the Sherburne County Jail in Elk River, Minnesota, where he remains confined.

## STANDARD OF LAW

### *Habeas Petitions*

27. 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).

28. 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); *United States v. Castellanos*, 518 F.3d 965, 971-72 (8th Cir. 2008).

29. 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***

30. 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.

31. 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)).

32. 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.

33. 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 on grant of *rehearing en banc* (July 10, 2026).

***Arrests by Federal Immigration Agents Must Comply with the Fourth Amendment***

34. 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.

35. 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.

36. 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)).

37. 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).

38. 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 effected in the interior of the country without a warrant only if arresting officers satisfy 8 U.S.C. § 1357(a)(2).

39. 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

40. An arrest pursuant to an I-200 warrant invokes the discretionary-detention authority of 8 U.S.C. § 1226(a). For the warrant to authorize arrest, it must have been issued at the same time as or after a valid Notice to Appear:

> 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)).

41. 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).

42. 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.

43. If the I-200 warrant is found invalid, such as if Respondents cannot show 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.*, No. 26-cv-02450, 2026 WL 1759444.

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

44. 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).

45. 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.'").

46. 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).

47. 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).

48. 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).

49. 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

50. 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.

51. 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)).

52. 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)).

53. 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).

54. 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).

## CLAIMS FOR RELIEF

### COUNT ONE

### Fifth Amendment Procedural Due Process

*Respondents are Detaining Petitioner Without Due Process*

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

56. 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).

57. First, Carrera has a significant private interest at stake because he 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).

58. Second, Carrera 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).

59. 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).

60. Here, the Form I-286 gives no individualized explanation why detention is necessary to ensure Carrera's appearance in immigration court, and he has not received a bond hearing. Carrera has a fixed residence in Austin, Minnesota, substantial family ties, and caregiving responsibilities. He was arrested while arriving for a required appointment with his probation officer after a state-court judge had released him subject to conditions.

61. Carrera is not likely to abscond. 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).

62. Therefore, the placement of Carrera in detention pending the resolution of ongoing immigration proceedings without reason violates Carrera's 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)**

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

64. Upon information and belief, the I-200 warrant dated August 24, 2026, preceded the issuance of any Notice to Appear for Carrera. The available NTA is dated September 1, 2026. For the reasons stated above, the I-200 warrant relied upon for Carrera's arrest was invalid.

65. Absent a valid warrant, Respondents exceeded their authority to make a warrantless arrest of Carrera under 8 U.S.C. § 1357(a)(2) because, at the time of Carrera's 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." In particular, Carrera's fixed residence, family ties, and appearance for a required appointment provided no basis to conclude that he was likely to escape before a valid warrant could be obtained.

66. Respondents have made, and continue to make, an unreasonable seizure of Carrera under the Fourth Amendment. Carrera's ongoing detention is unlawful.

## COUNT THREE

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706**
*Detaining Petitioner in a Manner that is Arbitrary, Capricious, and Not in Accordance with the Law Violates the Administrative Procedure Act*

67. Carrera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

68. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

69. Respondents' reliance on an I-200 warrant issued before any valid Notice to Appear exceeded their arrest authority under 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(b)(1).

70. To the extent Respondents rely on warrantless-arrest authority, they lacked the requisite probable cause that Carrera was likely to escape before a valid warrant could be obtained. 8 U.S.C. § 1357(a)(2).

71. The application of 8 U.S.C. § 1357(a)(2) to Carrera without factual predicates for both required probable cause findings is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

72. As such, Respondents' actions were without observance of procedures required by law and should be set aside.

## COUNT FOUR

### Violations Under the *Accardi* Doctrine

*Respondents' Contravention of DHS Policy Violates the* Accardi *Doctrine*

73. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

74. Under the *Accardi* doctrine, a Court can set aside agency action that violates agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy,* 347 U.S. 260, 268 (1954). *Accardi* prohibits agencies from taking actions "inconsistent with their internal regulations when it would affect individual rights." *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001).

75. By relying on an I-200 warrant issued before any valid Notice to Appear for Carrera, Respondents violated 8 C.F.R. § 236.1(b)(1).

76. By arresting Petitioner without a valid warrant and without the requisite probable cause to believe that Petitioner was a flight risk, Respondents violated 8 C.F.R. § 287.8(c)(2)(ii).

77. Respondents' violations of their own regulations directly impacted Petitioner's individual rights, namely, Carrera's personal liberty interests. As such, Petitioner's detention is unlawful and should be set aside under the *Accardi* doctrine.

## REMEDY

78. "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). "Indeed, in 1670, the Chief

Justice of the Common Pleas [in England] was able to say, in ordering the immediate discharge of a juror who had been jailed by a trial judge for bringing in a verdict of not guilty, that '[t]he writ of habeas corpus is now the most usual remedy by which a man is restored again to his liberty, if he have been against law deprived of it.'" *Id.* at 484-85 (*quoting Bushell's Case*, Vaughan 135, 136, 124 Eng. Rep. 1006, 1007). Thus, 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 Respondents 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; *Pedro D.C.*, No. 26-cv-02450 (KMM-DLM), 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. The Form I-286 provides no individualized explanation why Carrera's continued detention is necessary in light of his family ties, fixed residence, and appearance for a required appointment. Due process requires that Petitioner be able to continue engaging in his 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. When the Government's obvious goal is to interfere with a noncitizen's liberty interests in a manner that the Constitution prohibits, it would be a grave error to let the Government proceed even one step further with unlawful detention. As aptly stated in the District of Vermont, when a habeas petition establishes that immigration detention violates the Fifth Amendment, "[a] habeas remedy that allows unconstitutional government conduct to achieve its aim is not an effective one." *Patin v. Trump*, 824 F. Supp. 3d 484, 493 (D. Vt. 2026) (ordering immediate release for due process violation).

84. 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).

85. 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, any application of § 1225(b)(2) to Petitioner is unconstitutional.

***Release Based on Accardi Violation***

86. Release is the appropriate remedy for violation(s) of Respondents' own regulations and established policy because the violations concern the legal authority for Petitioner's present physical custody, as opposed to just an irregularity in an administrative proceeding where the final outcome would be unaffected. *Wilson T. v. Blanche*, No. 26-CV-02981, 2026 WL 2445467, at *2 (D. Minn. Aug. 20, 2026) ("Petitioner does not seek to invalidate his removal proceedings because an agency failed to follow a collateral procedural requirement. He seeks habeas relief from detention that lacked a lawful predicate when it began.").

***Futility and/or Inadequacy of a Bond Hearing***

87. If Respondents treat Carrera as subject to mandatory detention under 8 U.S.C. § 1225(b)(2), 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

[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).

hearings. *See, 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 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).

88. 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).

89. 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*, 22 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 *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).

90. 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, if Respondents deny a meaningful bond hearing on jurisdictional grounds, such a 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 bond hearing would be futile").

**REQUEST FOR ORDER TO SHOW CAUSE**

91. "A court, justice or judge entertaining an application for 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. Section 2243 directs a return within three days unless, for good cause, additional time not exceeding twenty days is allowed.

92. 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 him instead of responding.

93. 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, Carrera prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Petitioner out of the District of Minnesota for the duration of these proceedings, or transport Petitioner back to Minnesota if moved out of state;
3. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;
4. 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;

5. 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;

6. Declare that Petitioner's arrest and detention exceeded Respondents' authority;

7. In the alternative, if immediate release is not ordered, order Respondents to afford Petitioner a bond hearing within seven days, with at least 48 hours' advance notice, in which Respondents bear the burden of proof to demonstrate by clear and convincing evidence that Petitioner is a flight risk or a danger to the community that justifies his continued detention;

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.

Dated: September 7, 2026

Respectfully submitted,

/s/ Luke Norquist
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*Attorney for Petitioner*

**Verification Pursuant to 28 U.S.C. §§ 2242 and 1746**

I am Petitioner's attorney and submit this verification on his behalf. 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 comes from my conversations with Petitioner and his aunt, Maria Rubio, during intake, and my review of the intake notes and immigration documents provided for this petition. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 7, 2026

/s/ Luke Norquist
Luke Norquist
*Attorney for Petitioner*