IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Kevin HERNANDEZ QUEVEDO, *Petitioner*, v. **Todd BLANCHE**, in his official capacity as Attorney General of the United States; **Markwayne MULLIN**, in his official capacity as Secretary of the Department of Homeland Security; **David J. VENTURELLA**, in his official capacity as Acting Director of United States Immigration and Customs Enforcement; **David EASTERWOOD**, in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; **Joel BROTT**, in his official capacity as Sheriff of Sherburne County *Respondents.*	Case No.: **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. This case seeks the immediate release of Kevin Hernandez Quevedo ("Mr. Hernandez Quevedo" or "Petitioner") from unlawful immigration detention by the Department of Homeland Security's ("DHS") U.S. Immigration and Customs Enforcement ("ICE"). ICE has been detaining Petitioner since at least June 5, 2026, at Sherburne County Jail.

2. In light of the information and belief that ICE is/has rapidly moved individuals in its custody out of the District of Minnesota, this petition also requests that the Court's Order to Show Cause ("OSC") immediately enjoin Respondents from moving Petitioner outside of the District of Minnesota. Ordering that relief in the OSC is now a nearly universal practice in this District.

3. Mr. Hernandez Quevedo is a citizen of Guatemala who has resided in the United States for more than eighteen years after entering without inspection. Mr. Hernandez Quevedo applied for a U visa in 2015, which was approved in 2020. His U visa status expired in 2024.

4. Mr. Hernandez Quevedo has struggled significantly with mental health and competency concerns. Prior to his ICE detention, he has been diagnosed with Posttraumatic Stress Disorder, Chronic. He also has had several criminal charges dismissed due to incompetency. Since being detained by ICE, Mr. Hernandez Quevedo has been deemed incompetent to represent himself in his removal proceedings by an Executive Office for Immigration Review Immigration Judge ("IJ") and appointed a qualified representative from the National Qualified Representative Program. In ICE detention, he has expressed suicidal ideation and has been placed on regular suicide watch. He has also been in a segregation unit since at least July 1, 2026, and remains there to this day.

5. On information and belief, ICE arrested Mr. Hernandez Quevedo without a valid warrant. ICE agents arrested Mr. Hernandez Quevedo on June 5, 2026, after Fish and Wildlife encountered him in Bloomington, Minnesota and called Respondent ICE.

Following his arrest, Mr. Hernandez Quevedo was taken in for booking and then taken to Sherburne County Jail, where he remains to this date.

6. Mr. Hernandez Quevedo's detention is unlawful for at least three reasons.

7. *First*, Mr. Hernandez Quevedo's warrantless arrest violates his Fourth Amendment rights, as well as statute and regulation, similarly mandating his release. *See, e.g.*, *Emily Andreina N.V. v. Blanche*, No. 26-CV-2570 (KMM/EMB), 2026 WL 2209844, at *5 (D. Minn. July 31, 2026) (ordering outright release where warrant not issued or served prior to arrest and the statutory conditions permitting a warrantless arrest were not met); *Sergio R.V.-P. v. Mullin*, No. 26-CV-02361 (NEB/ECW), 2026 WL 1727869, at *7 (D. Minn. May 29, 2026), *report and recommendation adopted*, No. 26-CV-2361 (NEB/ECW), 2026 WL 1725810 (D. Minn. June 15, 2026) (recommending "release based on Respondents' failure to satisfy the warrant requirement").

8. *Second*, the government has no legitimate interest in detaining Mr. Hernandez Quevedo when he is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. Accordingly, his detention violates his substantive due process rights, requiring his immediate release.

9. *Third*, procedural due process requires the opportunity to be heard at a meaningful time and in a meaningful manner when the government imposes constraints on a person's liberty. Procedural due process applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The government has deprived Mr. Hernandez Quevedo of his liberty without any procedural protections in place to ensure

that his detention is justified, in violation of his procedural due process rights. On this count alone, at minimum, this Court should order an individualized review of Mr. Hernandez Quevedo's detention at an immigration bond hearing where the *government* bears the burden of justifying Mr. Hernandez Quevedo's detention. *See Pedro O. v. Garland*, 543 F. Supp. 3d 733, 744 (D. Minn. 2021) (concluding that, where a petitioner's detention violates due process, as per *Mathews* the petitioner "is entitled to a bond hearing in immigration court at which the Government must justify [the petitioner's] detention. . . . [by] show[ing] by clear and convincing evidence that [petitioner] poses either a risk of flight or a risk of danger to the community").

10. For these reasons and as further explained below, Mr. Hernandez Quevedo respectfully asks this Court to declare that his detention is unlawful and order his immediate release. *See 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." (citations omitted)). Alternatively, absent outright release, the Due Process Clause requires, at a minimum, that this Court order an individualized review of Mr. Hernandez Quevedo's detention at an immigration bond hearing where the government bears the burden of justifying Mr. Hernandez Quevedo's detention. *See Pedro O.*, 543 F. Supp. 3d at 744; *see also, e.g.*, *Matamoros Rodriguez v. Woodbury Cnty. Jail*, No. C26-4041-LTS-MAR, 2026 WL 1735035, at *4 (N.D. Iowa June 16, 2026) (ordering bond hearing in which the government bears the burden of proof of showing dangerousness or flight risk by clear and convincing evidence).

JURISDICTION & VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause").

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

13. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas*, 533 U.S. at 687 ("[T]he primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases."). Because Mr. Hernandez Quevedo seeks to challenge his custody as a violation of the U.S. Constitution, laws, or treaties of the United States, jurisdiction is proper in this Court.

14. Venue lies in this District because it is the judicial district in which Petitioner is currently detained. Venue is also proper in this Court under 28 U.S.C. § 1391(b)(2), (e)(1)(A)-(B) because Respondents are employees, officers, and agencies of the United States, because a defendant resides in this District, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

15. Petitioner, Kevin Hernandez Quevedo, has lived in the United States for over 18 years. Prior to his detention on or about June 5, 2026, he was homeless in the area of

Bloomington, Minnesota. Petitioner is currently detained at Sherburne County Jail. Mr. Hernandez Quevedo is in the direct control of Respondents.

16. Respondent Todd Blanche is sued in his official capacity as the U.S. Attorney General. As Attorney General, he has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

17. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. As head of the U.S. Department of Homeland Security, the federal agency tasked with enforcing immigration laws, Secretary Mullin is Mr. Hernandez Quevedo's ultimate legal custodian.

18. Respondent David J. Venturella is sued in his official capacity as Acting Director of ICE. As ICE's Acting Director, Respondent Venturella is a legal custodian of Mr. Hernandez Quevedo.

19. Respondent David Easterwood is sued in his official capacity as Field Office Director of the St. Paul Field Office, Enforcement and Removal Operations, ICE. In that capacity, Field Office Director Easterwood has supervisory authority over the ICE agents responsible for detaining Mr. Hernandez Quevedo. In his official capacity, Respondent Easterwood is a legal custodian of Mr. Hernandez Quevedo.

20. Respondent Joel Brott is sued in his official capacity as Sheriff of Sherburne County. As Sheriff of Sherburne County, Respondent Joel Brott oversees Sherburne County Jail, the facility where Petitioner is presently detained and is therefore one of his legal custodians.

REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

22. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (citation omitted). "The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

23. Due to the nature of this proceeding, Mr. Hernandez Quevedo asks this Court to expedite proceedings in this case as necessary and practicable for justice.

EXHAUSTION OF LEGAL REMEDIES

24. Detained immigrants petitioning under 28 U.S.C. § 2241 *et seq.* face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here, time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967–68; *see also Giron Reyes v. Lyons*, 801 F. Supp. 3d 797, 803 (N.D. Iowa 2025). Further administrative exhaustion is unnecessary in this case as it would be futile. *See, e.g., Eliseo A.A. v. Olson*, No. 25-3381 (JWB/DJF), 2025 WL 2886729, at *7 (D. Minn. Oct. 8, 2025).

25. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the Board of Immigration Appeals ("BIA")'s recent decision holding that anyone who has entered the United States without inspection is now considered an "application for admission" who is "seeking admission" and therefore subject to the INA's mandatory detention provision under 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025); *see also Eliseo A.A.*, 2025 WL 2886729, at *7 ("[F]urther administrative review would be futile in light of the BIA's recent decision in *Matter of Yajure Hurtado* . . . . Where the agency has already adopted a definitive position, exhaustion serves no purpose." (citation omitted)).

26. Additionally, the IJ does not currently have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies related to that claim. *See, e.g.*, *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020); *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992). *Cf. Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) ("[E]xhaustion would be a futile exercise because the agency does not have jurisdiction to review [the] claim.").

LEGAL FRAMEWORK

I. Detention Authority Under the Immigration and Nationality Act.

27. The INA prescribes essentially three forms of detention for noncitizens in removal proceedings.

28. *First*, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings under 8 U.S.C. § 1229a who are "already in the country." *See Jennings v.*

Rodriguez, 583 U.S. 281, 289 (2018). Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of [a noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Id.* at 288 (quoting § 1226(a)). "To detain a noncitizen under § 1226(a), a warrant is required." *Martha C.G.P. v. Blanche*, No. 26-cv-2308, 2026 WL 1329577, at *3 (D. Minn. May 13, 2026) (citing *Ahmed M. v. Bondi*, No. 25-cv-4711, 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (collecting cases)). It thus follows that, absent a warrant, a noncitizen may not be arrested and detained pursuant to this section. *Id.*

29. Noncitizens properly detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a custody-redetermination hearing before an IJ—also known as a bond hearing—unless they have been arrested, charged with, or convicted of certain crimes that subject them to mandatory detention under § 1226(c). *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. § 1003.19(a) (providing that Immigration Judges may review custody determinations made by DHS), 1236.1(d) (providing the same).

30. *Second*, the INA provides for mandatory detention of noncitizens who are subject to expedited removal under 8 U.S.C. § 1225(b)(1), in addition to other arriving noncitizens who are deemed to be "seeking admission" to the United States under 8 U.S.C. § 1225(b)(2). *See Avila v. Bondi*, 170 F.4th 1128, 1135–36 (8th Cir. 2026) (holding that all applicants for admission are necessarily "seeking admission" and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)).

31. *Third*, the INA authorizes detention of noncitizens who have received a final order of removal. 8 U.S.C. § 1231(a).

32. This case concerns Respondents' detention authority under 8 U.S.C. § 1225(b)(2). *See Avila*, 170 F.4th at 1135–36.[1]

II. The Due Process Clause Imposes Substantive and Procedural Limits on Immigration Detention.

33. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *accord Trump v. J.G.G.*, 604 U.S. 670, 673 (2025); *see also Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir. 2003) ("The Supreme Court has long recognized that deportable [noncitizens] are entitled to constitutional protections of due process." (citing *Yamataya v. Fisher*, 189 U.S. 89, 100–01 (1903))).

34. While the immigration laws afford the government discretion over its decisions to arrest, detain, and revoke prior release decisions, those decisions are nonetheless constrained by the laws Congress has enacted and the requirements of the Constitution, including the Due Process Clause. *See generally Zadvydas*, 533 U.S. at 690.

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[1] Petitioner maintains, for preservation purposes only, that *Avila* was wrongly decided, and the interpretation adopted by the majority of circuit courts on this issue is instead correct. *See Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz*, 180 F.4th at 1232; *Cirrus Rojas v. Olson*, 183 F.4th 909 (7th Cir. 2026); *Rodriguez Vazquez v. Bostock*, 183 F.4th 1160 (9th Cir. 2026); *Guerrero Orellana v. Moniz*, No. 25-2152, 2026 WL 2352042 (1st Cir. Aug. 13, 2026); *Buele Morocho v. Warden Philadelphia FDC*, Nos. 26-1150 and 26-1454 (3rd Cir. Aug. 28, 2026); *Lopez Garcia v. Guadian*, No. 25-7044, 2026 WL 2661092 (4th Cir. Sept. 10, 2026).

35. Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690. This fundamental due process protection applies to all noncitizens within the United States, including both deportable and inadmissible noncitizens. *See id.* at 693 (explaining procedural due process applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent"); *Plyler v. Doe*, 457 U.S. 202, 212 (1982).

36. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risk of danger to the community and prevent flight. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of immigration detention must be reasonably related to these purposes. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (quotation omitted); *accord, e.g.*, *Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (describing the standard for substantive due process violation).

37. Relatedly, even where detention is substantively justified, procedural due process protects noncitizens against deprivation of liberty without adequate notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 605 U.S. 91, 95–96 (2025); *J.G.G.*, 604 U.S. at 673. Prior to detaining a noncitizen in civil immigration detention, even for a legitimate purpose, the government must provide and follow sufficient procedural protections. *See*

Yrysbaev v. Arnott, No. 6:26-cv-3047, 2026 WL 395897, at *3 (W.D. Mo. Feb. 12, 2026) ("In the immigration context, the Constitution requires the government to afford notice of any action against [a noncitizen] and requires the opportunity for the [noncitizen] to be heard. The opportunity to be heard must be meaningful, that is, an opportunity granted at a meaningful time and in a meaningful manner." (internal citations omitted)).

38. To evaluate whether civil immigration detention violates procedural due process, some courts apply the three-part balancing test in *Mathews v. Eldridge*, weighing (1) "the private interest that will be affected by the official action;" (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976); *see, e.g.*, *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *5 (D. Minn. May 7, 2026) (applying *Mathews*); *Abbas v. Schneider*, No. 4:26-CV-00132, 2026 WL 1079292, at *2 (S.D. Iowa Apr. 17, 2026) (ordering outright release under due process clause—*Mathews* framework—for someone previously released on order of recognizance); *Aleksei v. Warden*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *1 (D.S.D. Apr. 27, 2026) (ordering outright release on due process grounds—*Mathews* framework—for individual previously granted humanitarian parole).

39. Importantly, even noncitizens subject to "mandatory immigration detention" are nevertheless "entitled to due process of law under the Fifth Amendment." *Mark O. v. Blanche*, No. 26-cv-02448, Doc. 7 at 5 (D. Minn. May 18, 2026); *see also id.* at 7 (holding

that *Banyee*, *Demore*, and *Thuraissigiam* "are inapposite" to Petitioner's procedural due process claim); *Heriberto R.E. v. Blanche*, No. 26-cv-2227 (JWB/LIB), No. 12 at 6 (D. Minn. May 1, 2026) ("Due process does not turn on statutory classifications alone, such as treating a noncitizen as an applicant for admission. It depends on the nature of the deprivation and the circumstances in which it is imposed.").

40. Accordingly, several courts in the Eighth Circuit have granted post-*Avila* habeas petitions filed by unadmitted noncitizens challenging various forms of mandatory detention on procedural due process grounds. *See, e.g.*, *Manuel G.*, 2026 WL 1256358, at *3 ("While *Avila* addressed a noncitizen's statutory rights, it did not address his due process rights."); *Heriberto R.E.*, No. 26-cv-2227 (JWB/LIB), No. 12 at 8; *Axel J.M.C. v. Stanski*, No. CV 26-2281 (JRT/EMB), 2026 WL 1171344, at *4 (D. Minn. Apr. 29, 2026); *Aleksei*, 2026 WL 1133615, at *1; *David J.C.P. v. Blanche*, No. 26-cv-2181 (DWF/ECW), 2026 WL 1102725, at *3 (D. Minn. Apr. 23, 2026); *Dharamnir Singh v. Mullin*, No. C26-00053-LTS-KEM, 2026 WL 1078710, at *1 (N.D. Iowa Apr. 20, 2026); *Abbas*, 2026 WL 1079292, at *2; *Ermekov v. Mullin*, No. C26-41-LTS-KEM, 2026 WL 1046766, at *3 (N.D. Iowa Apr. 17, 2026); *Osman J.M.A. v. Blanche*, No. 26-cv-2123 (DWF/DJF), 2026 WL 1005056, at *3 (D. Minn. Apr. 14, 2026)).

FACTUAL ALLEGATIONS

41. Mr. Hernandez Quevedo is a resident of Minnesota and a citizen of Guatemala and has resided in the United States since 2008. Ex. 1 at 31.

42. Mr. Hernandez Quevedo entered the United States without inspection at the age of 15 and has remained in the United States since his arrival in 2008. *Id.* at 32.

43. Mr. Hernandez Quevedo has a history of employment and financially supporting his ill parents so that they could seek treatment, as well as his younger siblings so that they could study. *Id.* at 33. He also was a member of Mission Cristiana Elim church in Saint, Paul Minnesota, where he participated in bible study and volunteered to improve the building. *Id.*

44. On March 30, 2015, Mr. Hernandez Quevedo applied for a I-918 Petition for U Nonimmigrant Status after being the victim of an assault. *Id.* at 1. His application was received on April 2, 2015. Ex. 2. On February 6, 2020, his application was approved and he was awarded a U visa. Ex. 3. Mr. Hernandez Quevedo's U visa expired on February 5, 2024. Ex. 5.

45. Following the assault that was the basis for his U visa application, Mr. Hernandez Quevedo started to experience mental and emotional issues. A mental health professional diagnosed Mr. Hernandez Quevedo with Posttraumatic Stress Disorder, Chronic and suggested that he receive ongoing treatment. Ex. 1 at 36.

46. Since 2020, Mr. Quevedo Hernandez has had numerous encounters with law enforcement for several alleged crimes – including trespassing, driving while impaired, possession of a controlled substance, and others. Ex. 5 at 2-3. According to the DHS's records, at least two of those encounters led to convictions.

47. One of Hernandez Quevedo's convictions stemmed from a June 5, 2021 arrest. Following that arrest, he received a conviction for Traffic - DWI - Operate Motor Vehicle - Alcohol Concentration 0.08 Within 2 Hours. *Id.* Another of Mr. Hernandez

Quevedo's convictions stemmed from a November 8, 2025 arrest. Following that arrest, he received a conviction for Traffic - Careless Driving. *Id.*

48. The remaining charges stemming from Mr. Hernandez Quevedo's arrests between 2020 and the time of his current detention are without disposition, were dismissed, are still pending, or, in several cases, were dismissed after findings of incompetency. *Id.*

49. On May 21, 2026, while reviewing the Hennepin County Jail roster, DHS flagged Mr. Hernandez Quevedo. *Id.* at 1. He was incarcerated there following an arrest for trespassing. *Id.* At some point after that date, he was released from Hennepin County Jail.

50. Respondent ICE arrested Mr. Hernandez Quevedo on June 5, 2026, near the Richardson Nature Center in Bloomington, MN after Fish and Wildlife encountered him and contacted Respondents. *Id.* Mr. Hernandez Quevedo's initial encounter with Fish and Wildlife took place at 13:45 hours on that day. *Id.*

51. Upon information and belief, Respondent ICE arrested Mr. Hernandez Quevedo on June 5, 2026, without a warrant.

52. Immediately following his June 5, 2026, arrest by Respondent ICE in Bloomington, MN, Mr. Hernandez Quevedo was transported to Enforcement and Removal Operations in St. Paul, MN for booking. *Id.*

53. That same day, on June 5, 2026, Mr. Hernandez Quevedo was transported to Sherburne County Jail. Ex. 4 at 4. He remains detained at Sherburne County Jail to this day.

54. That same day, on June 5, 2026, Respondent ICE issued and served Mr. Hernandez Quevedo with a Form I-862 Notice to Appear, identifying him as "an alien present in the United States who has not been admitted or paroled" and charging him as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being "an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General." *Id.* at 1, 4.

55. The Notice to Appear states that Mr. Hernandez Quevedo's current residence was Sherburne County Jail. *Id.* at 4.

56. On June 22, 2026, an Executive Office for Immigration Review IJ deemed that Mr. Hernandez Quevedo was incompetent to represent himself in his removal proceedings and appointed him a qualified representative through the National Qualified Representative Program. Ex. 7.

57. Since arriving at Sherburne County Jail, Mr. Hernandez Quevedo has expressed suicidal ideation and been placed on suicide watch. Ex. 6 at 77.

58. Mr. Hernandez Quevedo was placed in segregation at Sherburne County Jail since, at the earliest, July 1, 2026. Ex. 8. On information and belief, he has been in segregation since that time and remains there at the time of the filing of the present petition.

CLAIMS FOR RELIEF

COUNT 1
Violation of the Fourth Amendment, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d) Unlawful Arrest

59. Mr. Hernandez Quevedo repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

60. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

61. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a 'substantial probability' based on facts related to the individual." *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1231 (D. Colo. 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking)). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

62. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person "is likely to escape before a warrant can be obtained,"

i.e., is a flight risk. *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

63. Even where a noncitizen is "subject to mandatory detention under 8 U.S.C. § 1225(b)(2), federal immigration officials must still comply with 8 U.S.C. § 1357(a)(2)." *Martha C.G.P.*, 2026 WL 1329577, at *3 (internal citations omitted); *see also, e.g.*, *Wilson L.L. v. Blanche*, No. CV 26-2475 (JRT/EMB), 2026 WL 1283186, at *2 (D. Minn. May 11, 2026) ("Because Respondents have not shown that Petitioner was likely to escape, they failed to comply with 8 U.S.C. § 1357—the requirement for arresting a noncitizen without a warrant. Respondents therefore improperly arrested and detained Petitioner under 8 U.S.C. § 1225(b)(2).").

64. Only where circumstances permit a warrantless arrest as outlined in 8 U.S.C. § 1357(a)(2) do the regulations at 8 C.F.R. § 287.3 come into play. *See* 8 C.F.R. 287.3(a) (regulating noncitizens "arrested without a warrant of arrest *under the authority contained in [8 U.S.C. § 1357(a)(2)]*" (emphasis added)).

65. Mr. Hernandez Quevedo's warrantless arrest occurred without probable cause that he was a flight risk. An individualized determination of probable cause is required—one's classification as a noncitizen present without admission does not, on its own, give reason to believe that they are "likely to escape before a warrant can be obtained[.]" 8 U.S.C. § 1375(a)(2); *see also Jefferson G.H.L. v. Blanche*, No. CV 26-2344 (JRT/ECW), 2026 WL 1229623, at *3 (D. Minn. May 5, 2026) ("Just because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape."); *Ruben D.A.G.*, Civ. No. 26-2041, slip op. at 8 ("Anyone without a lawful presence does

not immediately present a likelihood of escape merely by being a noncitizen."). In contrast, "[c]ourts 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.*, No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Mr. Hernandez Quevedo had been in the United States for over 18 years and had built ties to his community during his time in the country. Moreover, Mr. Hernandez Quevedo fully complied with the ICE officers and there is no indication that he tried to disobey or flee. Therefore, no officer could have probable cause that Mr. Hernandez Quevedo was likely to escape before a warrant could be obtained.

66. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Mr. Hernandez Quevedo. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such judicial determination, yet his detention continued well beyond 48 hours, rendering it presumptively unconstitutional.

67. Because Respondents failed to establish probable cause for Mr. Hernandez Quevedo's warrantless arrest under 8 U.S.C. § 1357(a)(2), the regulations outlined in 8 C.F.R. § 287.3 are inapplicable. Even so, *arguendo*, these regulations require a noncitizen arrested without a warrant receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make

findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Mr. Hernandez Quevedo has received no such custody determination.

68. Respondents' warrantless arrest of Mr. Hernandez Quevedo, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release, as no post-detention process can cure this violation. *See, e.g., Wilson L.L.*, 2026 WL 1283186, at *2 (ordering immediate release where the I-200 "was not served on Petitioner until after his arrest and detention") (citing *Francisco M.A. v. Blanche*, No. 26-CV-2032, 2026 WL 1229701, at *1–2 (D. Minn. May 5, 2026)).

COUNT 2
Violation of the Fifth Amendment Due Process Clause
Substantive Due Process

69. Mr. Hernandez Quevedo repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

70. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *see also, e.g., Mark O.*, No. 26-cv-02448, Doc. 7 at *5 ("[T]he Court feels it necessary to acknowledge both [sic] that Petitioner is entitled to due process of law under the Fifth Amendment."). And "[f]reedom from imprisonment—from government custody, detention, or other forms

of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

71. Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

72. Immigration detention is civil detention and must "bear a reasonable relation to the purpose for which the individual was committed" so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264–69 (1984) (stating that detention must be a proportional—not excessive—response to a legitimate state objective); *see also Santillan Quiroz v. Mullin*, 180 F.4th 1226, 1249 (10th Cir. 2026) (noting that immigration detention requires a "strong special justification") (citing *Zadvydas*, 533 U.S. at 690).

73. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas,* 533 U.S. at 690–91.

74. To satisfy substantive due process under the Fifth Amendment, a noncitizen's detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

75. Neither purpose is served by Mr. Hernandez Quevedo's detention. Respondents have not made any claim that Mr. Hernandez Quevedo presents a flight risk or a danger to the community, nor could they.

76. Mr. Hernandez Quevedo's convictions and encounters with law enforcement do not make him a danger to the community for civil immigration detention purposes. While he has been arrested and charged on countless occasions, none of those charges documented by DHS have been crimes of violence and very few of those charges have resulted in convictions. Those that have resulted in convictions are not sufficient to prove that he is a danger to the community for purposes of civil immigration detention. His most serious conviction – a conviction for a DWI stemming from a June 5, 2021 arrest – is not only from a five-year-old action but also is not sufficient to prove dangerousness. *Rey A. v. Blanche*, No. 26-CV-2287 (NEB/JFD), 2026 WL 1678230 (D. Minn. May 29, 2026), *report and recommendation adopted*, No. 26-CV-2287 (NEB/JFD), 2026 WL 1683219 (D. Minn. June 10, 2026) (ordering a bond hearing as required under due process clause—*Mathews* framework—for someone with a pending U-visa previously released on bond by an immigration judge, even with three DUI arrests).

77. Staff at Sherburne County Jail have explicitly stated that Mr. Hernandez Quevedo is not dangerous. In a "Sherburne County Jail Segregation Review" document dated September 1, 2026, jail staff answered "NO" when answering the questions of whether Mr. Hernandez Quevedo poses a threat to "others," "property," and "security." Ex. 8. Jail staff also answered "NO" when answering the question of whether Mr. Hernandez Quevedo's behavior was "a type which may provoke or instigate stressful/violent situations if housed in general population[.]"

78. Mr. Hernandez Quevedo is also not a flight risk. Mr. Hernandez Quevedo entered the United States at the age of fifteen and has lived in the country ever since for

the past eighteen years. During his time in the United States, he has found employment and has been an active member at his church. Nearly all of Mr. Hernandez Quevedo's adult life has taken place in Minnesota. Further, through the U visa process he complied with United States laws and honestly disclosed any information that was asked of him. There is no indication or charges levied against Mr. Hernandez Quevedo that he has not cooperated with law enforcement when ordered to do so.

79. Because the government is not detaining Mr. Hernandez Quevedo to serve legitimate interests in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

COUNT 3
Violation of the Fifth Amendment Due Process Clause
Procedural Due Process

80. Mr. Hernandez Quevedo repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

81. Even "[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Salerno*, 481 U.S. at 746.

82. The government's infringement on Mr. Hernandez Quevedo's liberty interest triggers a right to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–70 (1972). The essence of procedural due process is that a person risking a serious loss have "an

opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Yrysbaev*, 2026 WL 395897, at *3 (citation omitted).

83. Some courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors assess: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "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.

84. The first *Mathews* factor weighs heavily in Mr. Hernandez Quevedo's favor. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690. "[I]t is axiomatic that 'the interest in being free from physical detention' is 'the most elemental of liberty interests.'" *Abdirashid H.M. v. Noem*, No. 25-4779 (JRT/EMB), 2026 WL 127698, at *4 (D. Minn. Jan. 9, 2026) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)).

85. Mr. Hernandez Quevedo is a "person" within the meaning of the Due Process Clause, and all such persons have a strong, constitutionally protected interest in their liberty. Mr. Hernandez Quevedo entered the United States over eighteen years ago and has been residing here since then. During that time, Mr. Hernandez Quevedo has previously established community ties through employment, church, and living nearly his entire adult

life in Minnesota. Mr. Hernandez Quevedo's protected liberty interest "deserves great weight and gravity." *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026); *see also Heriberto R.E.*, No. 26-cv-2227 (JWB/LIB), No. 12 at 6 (finding a "substantial liberty interest" for a Petitioner who "has established community ties, has family living here, including a United States citizen child, and has been employed in the community"); *Manuel G.*, 2026 WL 1256358, at *4. Yet Mr. Hernandez Quevedo is being held in "the same conditions as criminal inmates." *Jacinto v. Trump*, 796 F. Supp. 3d 584, 590 (D. Neb. 2025); *see also Selvin Adonay E.M. v. Noem*, 817 F. Supp. 3d. 720, 734 (D. Minn. 2025) (finding the first *Mathews* factor weighed in petitioner's favor when the conditions of confinement were "indistinguishable from criminal incarceration"). "By his continued detention, [Mr. Hernandez Quevedo] is undoubtedly experiencing the deprivations of incarceration, like the loss of companionship and income. Therefore . . . the first *Mathews* factor favors [Mr. Hernandez Quevedo]." *Mark O.*, No. 26-cv-02448, Doc. 7 at 14.

86. Additionally, Respondents have been holding Mr. Hernandez Quevedo in segregation since at least July 1, 2026. Mr. Hernandez Quevedo's liberty interest is especially strong given his placement in among the most constrictive – if not *the* most constrictive – settings available for over two months at the hands of Respondents.

87. The second *Mathews* factor also weighs in Mr. Hernandez Quevedo's favor. Respondents detained Mr. Hernandez Quevedo without any notice or meaningful opportunity to respond. Respondents claim that they are statutorily obligated to detain him without any individualized review, despite no evidence demonstrating that Mr. Hernandez

Quevedo poses any risk of flight or danger. The lack of any mechanism to determine whether Mr. Hernandez Quevedo's detention serves a legitimate statutory purpose makes the risk of erroneous deprivation of liberty not just high, but certain. His detention is the direct result of insufficient safeguards and lack of procedure. *See, e.g.*, *Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1188 (D. Minn. 2025) (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Selvin Adonay E.M.*, 817 F. Supp. 3d. at 734 (finding the second factor weighed in a petitioner's favor when the government took the position detention was mandatory without individualized review); *Rodriguez Brizuela v. Noem*, No. 5:26-cv-0279-JKP, 2026 WL 752257, at *6 (W.D. Tex., Mar. 12, 2026) ("[A] substantial risk of erroneous deprivation of liberty exists when detention without bond of a noncitizen who was arrested within the United States *and lacks any prior release by immigration authorities*, but who has established a life here in the United States." (emphasis added) (citing *Martinez v. Noem*, No. 25-cv-430-KC, 2025 WL 2965859, at *4 (W.D. Tex. Oct. 21, 2025))). Under these circumstances, the second *Mathews* factor weighs heavily in Mr. Hernandez Quevedo's favor.

88. The third factor favors Mr. Hernandez Quevedo as well. Mr. Hernandez Quevedo's erroneous detention imposes high fiscal and administrative burdens on Respondents, and unlawful detention and violation of noncitizens' constitutional rights disserve the public interest. The third *Mathews* factor generally favors saving the government from expending "substantial resources on needless detention." *Idle H. v. Bondi*, No. 26-cv-315, 2026 WL 266462, at *7 (D. Minn. Feb. 2, 2026) (noting the

"staggering" costs of immigration detention); *see also Vega v. Arnott*, No. 6:26-CV-3097-MDH, 2026 WL 482906, at *6 (W.D. Mo. Feb. 20, 2026) ("[L]imiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from [unnecessarily] expending substantial resources." (citation omitted)). Unnecessary detention also "imposes substantial societal costs," such as "reduced economic contributions and tax payments by detained immigrants," as well as the separation of individuals from their families and communities. *Vega*, 2026 WL 482906, at *6 (citation omitted). In any event, detention with *no* process is wholly unnecessary to allow Respondents to detain those who truly pose a legitimate risk of flight or danger. *Ochoa v. Vergara*, No. 1:26-cv-266, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026). Ultimately, "detention is not self-justifying." *Heriberto R.E.*, No. 26-cv-2227, No. 12 at 7. Releasing Mr. Hernandez Quevedo and requiring the government to provide a pre-deprivation hearing before detaining him stands to save the government money and effort wasted on erroneous detention.

89. For these reasons, regardless of the statutory authority, mandatory detention as applied to Mr. Hernandez Quevedo violates his procedural due process rights, rendering his present detention unconstitutional. *See, e.g.*, *Selvin Adonay E.M.*, 817 F. Supp. 3d. at 733–354 (finding procedural due process violation was an independent basis for granting habeas petition challenging application of § 1225(b)(2) to person who had been residing in the United States); *Abdirashid H.M.*, 2026 WL 127698, at *4–5 (similar); *Ochoa*, 2026 WL 482211, at *3 (finding mandatory detention of inadmissible noncitizen who had been living in the United States for over a year violated procedural due process under *Mathews*,

collecting cases reaching the same conclusion, and ordering release as the appropriate remedy).

COUNT 4
Violation of the Immigration and Nationality Act
(Argument Presented for Preservation Purposes Only)

90. Mr. Hernandez Quevedo repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

91. Mr. Hernandez Quevedo should not be subject to mandatory detention under § 1225(b)(2) if that statutory provision is correctly understood. Mr. Hernandez Quevedo acknowledges that this argument is presently foreclosed by *Avila*. 170 F.4th 1128. Mr. Hernandez Quevedo nonetheless advances the argument to preserve it for appeal or in the event that *Avila* is vacated or abrogated by the Supreme Court.

92. Respondents claim that Mr. Hernandez Quevedo is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But district courts across the United States have overwhelmingly concluded that noncitizens like Mr. Hernandez Quevedo who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are not detained under § 1225(b)(2)(A). *See, e.g.*, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way). Likewise, the majority of circuit courts have concluded the same. *See Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, 180 F.4th 1226, 1232 (10th Cir. 2026); *Cirrus Rojas*

v. Olson, 183 F.4th 909 (7th Cir. 2026); *Rodriguez Vazquez v. Bostock*, 183 F.4th 1160 (9th Cir. 2026); *Guerrero Orellana v. Moniz*, No. 25-2152, 2026 WL 2352042 (1st Cir. Aug. 13, 2026); *Buele Morocho v. Warden Philadelphia FDC*, Nos. 26-1150 and 26-1454 (3rd Cir. Aug. 28, 2026); *Lopez Garcia v. Guadian*, No. 25-7044, 2026 WL 2661092 (4th Cir. Sept. 10, 2026).

93. Accordingly, Mr. Hernandez Quevedo's mandatory detention under 8 U.S.C. § 1225(b)(2)(A) violates both the INA and Mr. Hernandez Quevedo's procedural due process rights. As this renders his detention unlawful from its inception, he should be released.

REMEDY

94. The appropriate remedy for Respondents' unlawful conduct is Mr. Hernandez Quevedo's immediate release.

95. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf*, 553 U.S. at 693 (describing release as the "typical remedy" for "unlawful executive detention").

96. By detaining Mr. Hernandez Quevedo without any individualized assessment of dangerousness or flight risk to justify his detention, Respondents have failed to respect the safeguards demanded by the Fifth Amendment. The proper remedy is immediate release.

97. Where a noncitizen is arrested and detained without a valid warrant, the appropriate remedy is immediate release. *See Martha C.G.P.*, 2026 WL 1329577, at *3 ("The remedy for a warrantless arrest is immediate release."); *see also Wilson L.L.*, 2026

WL 1283186, at *3 (ordering immediate release on these grounds and citing multiple supporting cases from the District of Minnesota). Respondents must comply with 8 U.S.C. § 1347 when effectuating all noncitizen arrests—even those subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See, e.g.*, *Martha C.G.P.*, 2026 WL 1329577, at *3; *Wilson L.L.*, 2026 WL 1283186, at *3; *Francisco M.A.*, 2026 WL 1229701, at *3. Thus, Petitioner's detention under this section is unlawful. Nor here would § 1226(a) have supported a lawful detention in the first instance. Detention under § 1226(a) would require a warrant issued by the Attorney General in a manner that complies with the INA and associated regulations. *See, e.g.*, *Hector J.A.S. v. Shea*, No. CV 26-2242 (JRT/DLM), 2026 WL 1243500, at *2 (D. Minn. May 6, 2026); *Joaquin Q. L. v. Bondi*, No. 26-cv-233 (LMP/DTS), 2026 WL 161333, at *2–3 (D. Minn. Jan. 21, 2026) (collecting cases); *Jose J.O.E.*, 797 F. Supp. 3d at 961. Upon information and belief, Respondents served no such warrant on Mr. Hernandez Quevedo.

98. Additionally, by detaining Mr. Hernandez Quevedo without any individualized assessment of dangerousness or flight risk to justify his detention, Respondents have failed to respect the safeguards demanded by the Fifth Amendment. The proper remedy is immediate release. *See, e.g.*, *Victor G. v. Lyons*, No. 26-CV-119 (ECT/SGE), 2026 WL 127733, at *3 (D. Minn. Jan. 17, 2026) (ordering immediate release where Petitioner was previously granted deferred action).

99. *Alternatively*, should this Court decline to order outright release, it should order Respondents to release Mr. Hernandez Quevedo immediately unless they provide a bond hearing before a neutral adjudicator at which Respondents will bear the burden of

justifying Mr. Hernandez Quevedo's continued detention by clear and convincing evidence of dangerousness or flight risk. *See Pedro O.*, 543 F. Supp. 3d at 744 (concluding that, where a petitioner's detention violates due process, as per *Mathews* the petitioner "is entitled to a bond hearing in immigration court at which the Government must justify [the] detention[] . . . show[ing] by clear and convincing evidence that [petitioner] poses either a risk of flight or a risk of danger to the community"); *Koffi D. v. Garland*, No. 23-CV-2421 (ECT/TNL), 2024 WL 1537801, at *2, n. 5 (D. Minn. Apr. 9, 2024) (explaining that where a habeas petition is granted following a "request[] for an initial bond hearing because petitioners were subject to mandatory detention" the "majority of courts [have] conclud[ed] that the Government must justify the . . . confinement of a[] [noncitizen] . . . by clear and convincing evidence"); *see also, e.g.*, *Matamoros Rodriguez*, 2026 WL 1735035, at *4 (ordering bond hearing in which the government bears the burden of proof of showing dangerousness or flight risk by clear and convincing evidence); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (describing "consensus" that "courts granting immigration detainees' habeas petitions" and opting to order bond hearings "have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk").

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

1. Assume jurisdiction over this matter;
2. Immediately issue an Order to Show Cause:

a. Enjoining Respondents and individuals acting in concert with Respondents from removing Petitioner or transferring Petitioner outside of this District pending adjudication of this petition;

b. Requiring Respondents to show cause within **three days** as to why this petition should not be granted;

3. Issue a writ of habeas corpus declaring that Petitioner's detention is unlawful and ordering Respondents to release Petitioner from custody within 24 hours of this Court's order;

4. *In the alternative*, issue a writ of habeas corpus declaring the Petitioner's detention is unlawful and ordering Respondents to release Petitioner immediately unless they schedule a custody hearing before a neutral adjudicator within five days, to be held at least one week after the scheduling date to provide Petitioner preparation time, at which Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;

5. Enjoin Respondents and individuals acting in concert with Respondents from re-detaining Petitioner without a pre-deprivation hearing before a neutral adjudicator where the government bears the burden of justifying Petitioner's re-detention by clear and convincing evidence;

6. 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

7. Grant Petitioner any further relief that this Court deems to be just and proper.

Respectfully submitted,

Dated: September 11, 2026

s/ Benjamin Gleekel
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ATTORNEY FOR PETITIONER

VERIFICATION

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I was appointed by an Immigration Judge to represent Petitioner before the Executive Officer for Immigration Review after her was found to be incompetent to represent himself. My office has discussed the factual assertions in this petition with Petitioner to the best of our ability given his serious competency issues. I have access to his file through my role as his qualified representative. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Executed this 11th day of September, 2026.

/s/ Benjamin Gleekel
Benjamin Gleekel
Attorney at Law