**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF NEW YORK**

SYED SERAMAT SHAHRYAR,
Petitioner,

v.

PHILIP RHONEY, in his official capacity as Acting Field Office Director, Buffalo Field Office, U.S. Immigration and Customs Enforcement;

DAVID J. VENTURELLA, in his official capacity as Senior Official Performing the Duties of Director, U.S. Immigration and Customs Enforcement;

TODD BLANCHE, in his official capacity as United States Attorney General;

MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security,

Respondents.

Case No. 9:26-cv-01831-AMN

Immigration No. [redacted]

**PETITIONER'S REPLY IN FURTHER SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR IMMEDIATE RELEASE WITHOUT A HEARING**

## PRELIMINARY STATEMENT

1. Respondents' own records conclusively establish the core allegations of the Petition. ICE arrested Petitioner at approximately 10:25 a.m. The first Form I-200 was not signed until 10:30 a.m. and was not served until 10:39 a.m. Dkt. No. 6-1 at 3. The Notice to Appear ("NTA") was issued only after officers transported Petitioner to the Malta office. Dkt. No. 6 at 2; Dkt. No. 6-3 at 1, 3. Thus, both supposed sources of authority were created after ICE had already seized and handcuffed Petitioner.

2. Respondents concede that 8 U.S.C. § 1226(a) governs. Dkt. No. 6 at 2. That provision authorizes arrest only "[o]n a warrant issued by the Attorney General" and only while a decision on removal is pending. The narrow warrantless-arrest exception requires a contemporaneous reason to believe that the person is likely to escape before a warrant can be obtained. Respondents do not invoke that exception and offer no evidence of escape risk.

3. The Government's discussion of bond hearings, the burden of proof at such hearings, and prolonged detention does not answer the Petition. This case concerns whether ICE had legal authority to make the arrest in the first place. A later bond proceeding assumes valid custody; it cannot retroactively legalize an arrest that preceded both the warrant and the charging instrument.

4. Respondents state that the Court may resolve the Petition on the present record without an evidentiary hearing. Dkt. No. 6 at 4. Petitioner agrees. The Government's exhibits fix the relevant chronology beyond dispute, and that chronology requires immediate release.

## ARGUMENT

### I. THE FIRST I-200 WAS SIGNED AFTER PETITIONER HAD ALREADY BEEN ARRESTED.

5. Section 1226(a)'s text is explicit: "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). A warrant must therefore exist before the arrest it purports to authorize. *Sisalema Rea v. Ball*, No. 9:26-CV-01248 (AMN), 2026 WL 1959270, at *2-3 (N.D.N.Y. July 2, 2026); *Last Name Unknown v. Ball*, No. 1:26-CV-01249-LJV, 2026 WL 2096666, at *2-4 (W.D.N.Y. July 21, 2026).

6. The I-213 records the sequence with minute-by-minute precision: "Arrest Time: Approximately 1025AM"; "I-200 signed Time: 1030AM"; and "I-200 served Time: 1039AM." Dkt. No. 6-1 at 3. The arrest preceded the warrant's signature by approximately five minutes and its service by approximately fourteen minutes.

7. Calling the warrant one that was served "while on scene" does not change the sequence. Dkt. No. 6 at 2. The statutory question is temporal, not geographic: whether a warrant had been issued when officers arrested Petitioner. It had not. A document signed minutes after the seizure is a post hoc record of an arrest, not prior authority to make one.

8. The second I-200 is even further removed from the arrest. It was served at Malta and relies in part on "the execution of a charging document to initiate removal proceedings." Dkt. No. 6-5 at 1. Respondents admit, however, that the NTA was issued only after Petitioner had been transported to Malta. Dkt. No. 6 at 2. Neither that second warrant nor the later NTA could supply authority that was absent at 10:25 a.m.

## II. RESPONDENTS DO NOT ESTABLISH THE NARROW ESCAPE EXCEPTION.

9. Under 8 U.S.C. § 1357(a)(2), a warrantless immigration arrest requires reason to believe both that the person is present in violation of immigration law and that the person "is likely to escape before a warrant can be obtained." The regulation likewise commands that "[a] warrant of arrest shall be obtained" absent such an escape determination. 8 C.F.R. § 287.8(c)(2)(ii). *Sisalema Rea* applied those conjunctive requirements and ordered immediate release. 2026 WL 1959270, at *2-4.

10. Respondents do not claim that any officer believed Petitioner was likely to escape before a warrant could be obtained. Their exhibits contain no contemporaneous escape-risk determination. Unlawful presence alone is insufficient because it would erase the second statutory predicate and make the warrant rule meaningless. *Last Name Unknown*, 2026 WL 2096666, at *2-3.

11. The Government's own account negates exigency. Officers performed records checks, located Petitioner's vehicle, followed it, and conducted a planned vehicle stop. Dkt. No. 6-1 at 2-3. Petitioner produced his driver's license, was arrested "without incident," had no arrest record, and was transported "without incident." *Id.* at 3-4. The agents had time and information to obtain a warrant; nothing in their records suggests that Petitioner was about to flee before they could do so.

12. On the same material facts, *Last Name Unknown* held that a § 1226(a) arrest without a pre-arrest warrant or evidence of likely escape violated the governing statutes, regulations,

and due process, and it ordered release without bond. 2026 WL 2096666, at *3-4. The same result is warranted here.

**III. THE POST-ARREST NTA CANNOT RETROACTIVELY CREATE SECTION 1226(a) AUTHORITY.**

13. Section 1226(a) authorizes detention only "pending a decision on whether the alien is to be removed." Its implementing regulation provides that a noncitizen may be arrested under an I-200 "[a]t the time of issuance of the notice to appear, or at any time thereafter." 8 C.F.R. § 1236.1(b)(1). Removal proceedings commence when the charging document is filed with the Immigration Court. 8 C.F.R. § 1003.14(a).

14. The response admits the NTA did not exist at the roadside arrest. It states that, after the arrest, Petitioner was brought to Malta, "where he was issued a Notice to Appear." Dkt. No. 6 at 2. The I-213 likewise says Petitioner was taken to the Albany ERO office "for further processing" and that officers at Malta then served the I-200, NTA, and custody forms. Dkt. No. 6-1 at 3, 5. The NTA itself identifies Malta as the place of issuance. Dkt. No. 6-3 at 1.

15. The response's assertion that the NTA "thereby initiat[ed] removal proceedings" is both a timing admission and legally incomplete. Dkt. No. 6 at 2. Even accepting Respondents' characterization, the initiation occurred only after the arrest. And under 8 C.F.R. § 1003.14(a), proceedings begin upon filing with the Immigration Court, not merely upon service; Respondents provide no evidence of any pre-arrest filing because none existed.

16. *Franco Loaeza v. Bausch*, No. 1:26-CV-00945-MAV, 2026 WL 2150155, at *1-3 (W.D.N.Y. July 27, 2026), is directly on point. There, the NTA was generated after the traffic-stop arrest and the I-200 purported to rely on the execution of a charging document. The court held that removal proceedings were not pending when the arrest occurred, that §

1226(a) therefore supplied no authority to arrest or detain, and that the petitioner "must be released from custody." *Id.* at *2-3.

17. The chronology here is even clearer because ICE's own I-213 expressly timestamps the arrest before the first I-200 and the Government expressly concedes that the NTA followed at Malta. The later paperwork cannot bootstrap a completed seizure into compliance with § 1226(a) and § 1236.1(b)(1).

**IV. A BOND HEARING AND ADMINISTRATIVE EXHAUSTION CANNOT CURE THE UNLAWFUL ARREST.**

18. The Government's prudential-exhaustion argument fails because an immigration judge cannot adjudicate whether the arrest violated § 1226(a), § 1357(a)(2), and the governing regulations or grant habeas relief for that completed violation. A bond hearing asks whether continued custody should be permitted on the assumption that DHS lawfully obtained custody. It cannot supply retroactive arrest authority. Resort to that process therefore would be futile and would not provide the relief sought.

19. *Last Name Unknown* rejected the same contention that a bond hearing was an adequate remedy. Although an immigration judge already had ordered release on bond, the district court held that the unlawful arrest required immediate release without bond. 2026 WL 2096666, at *3-4. *Franco Loaeza* likewise ordered immediate release because a bond hearing assumes a valid initial arrest and custody determination. 2026 WL 2150155, at *3.

20. The Government's reliance on *Jennings v. Rodriguez* and *Mahmodi v. Marich* is therefore beside the point. Petitioner need not establish prolonged detention or win a burden-shifting dispute to obtain relief from custody that was unlawful at its inception. The Court can grant the primary relief requested without reaching Petitioner's alternative bond-hearing claim.

## V. THE COURT SHOULD ORDER IMMEDIATE RELEASE ON THE PRESENT RECORD.

21. No evidentiary hearing is necessary. The controlling facts come from Respondents' exhibits, and Respondents themselves ask the Court to decide the Petition without a hearing. Dkt. No. 6 at 4. There is no factual dispute to resolve: the arrest occurred at approximately 10:25 a.m.; the first I-200 was signed at 10:30 a.m.; and the NTA was issued later at Malta.

22. Habeas relief addresses unlawful executive custody, and the ordinary remedy is release. *Sisalema Rea* ordered immediate release where ICE lacked a pre-arrest warrant and the record did not establish the escape exception. 2026 WL 1959270, at *3-4. *Last Name Unknown* ordered release without bond notwithstanding the availability of a bond hearing. 2026 WL 2096666, at *3-4. *Franco Loaeza* ordered release where the NTA and asserted warrant authority postdated the arrest. 2026 WL 2150155, at *2-3.

23. Those decisions compel the same relief. Petitioner respectfully requests that the Court grant the writ on the present record, order his immediate release without a bond hearing, and direct Respondents to certify compliance within twenty-four hours.

## CONCLUSION

24. For the foregoing reasons, the Petition should be granted and Respondents should be ordered to release Petitioner immediately, without an evidentiary hearing or bond hearing.

Dated: October 1, 2026

Respectfully Submitted,

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