IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Jean Ronald Francois, Petitioner, v. **Todd Blanche**, Acting Attorney General; **Markwayne Mullin**, Secretary, Department of Homeland Security; **David Venturella**, Acting Director, Immigration and Customs Enforcement; and **David Easterwood**, Acting Director, St. Paul Field Office Immigration and Customs Enforcement; Respondents.	Civil No.: 26-cv-04160 **PETITION FOR WRIT OF HABEAS CORPUS** **8 U.S.C. § 1226** **28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Jean Ronald Francois, by and through undersigned counsel, hereby files this petition for a writ of habeas corpus to require United States Immigration and Customs Enforcement ("ICE") to release Petitioner from ICE detention.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee *mandamus* action), § 1651 (All Writs Act), and § 2241 (*habeas corpus*); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 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. ("INA").

4. Because Petitioner seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas* petitions by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) ("[T]he primary federal *habeas corpus* statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases."); *Moallin v. Cangemi*, 427 F. Supp. 2d 908, 920–21 (D. Minn. 2006).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1), and 2241(d) because Petitioner is detained within this District, some of the Respondents reside and/or are headquartered within this District, and a substantial part of the events and omissions giving rise to the claim occurred within this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

EXHAUSTION

6. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

PARTIES

7. Petitioner Jean Ronald Francois is a citizen of Haiti and resident of Long Prairie, 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.

8. Respondent Todd Blanche is being sued in his official capacity as the Acting

Attorney General of the United States and the head of the Department of Justice. Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Mullin. Attorney General Blanche is a legal custodian of Petitioner.

9. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security ("DHS"). In this capacity, Secretary Mullin is responsible for the administration and implementation of federal immigration policies, including those that resulted in the arrest and detention of Petitioner. Secretary Mullin is a legal custodian of Petitioner.

10. Respondent David Venturella is being sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Acting Director Venturella is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Acting Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The St. Paul Field Office is located in Fort Snelling, Minnesota.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

12. Since 2025, Respondents have undertaken mass deportation efforts that upended long-established norms and legal interpretations of immigration statutes. Those efforts have included Operation Metro Surge in the Twin Cities metropolitan area, as well as other activities throughout this District and the rest of the country. In furtherance of these extreme and rapid mass deportation efforts, Respondents have disregarded the law and rulings of this Court at historically unprecedented levels.

13. Even as individual decisionmakers and officeholders have been replaced and the visibility of Respondents' actions have begun to recede from the news cycle, Respondents have continued to wrongfully detain immigrants and violate people's rights, as this case exemplifies.

14. Petitioner has lived in the United States since February 10, 2023.

15. The U.S. Department of Homeland Security ("DHS"), by statute, is empowered to parole noncitizens into the U.S. *See* 8 U.S.C. 1182(d)(5)(A) ("The Secretary of Homeland Security may…in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States"). Using this parole power, DHS published a Notice creating a process for certain Haitian nationals to be permitted to lawfully enter the United States under a case-by-case determination of parole. *See* Implementation of a Parole Process for Haitians, 88 Fed. Reg. 1243 (Jan. 9, 2023). Under this program, nationals of Haiti were paroled in if they had a financial supporter in the U.S., paid their own way into the U.S., received certain vaccinations, and passed all biographical and security background checks. *Id.* This program fit into a larger program designed to parole Cubans, Venezuelans, and Nicaraguans. The reasons behind the program were two-fold: serving the public interest by slowing entries without inspection at the southern border of the U.S., and for humanitarian reasons regarding the earthquake, pervasive hunger, gang violence, and political assassinations that "have devastated the country" of Haiti. *Id.* at 1246.

16. Having passed the required security and background checks, and meeting the other requirements, Mr. Francois was lawfully paroled into the United States under the above-described Processes for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV) program on February 10, 2023.

17. Mr. Francois was issued a Notice to Appear for removal proceedings on February 10, 2023. The Notice to Appear charged Mr. Francois as inadmissible pursuant to 8 U.S.C. § 1182(a)(7)(i)(I) – a noncitizen not in possession of a valid unexpired immigration visa, reentry permit, or other valid entry document. His first immigration court hearing was set for September 3, 2025 in Miami, Florida. On information and belief, Mr. Francois has attended all immigration court hearings and reported any changes in address.

18. On August 17, 2023, Mr. Francois submitted an application for asylum and withholding of removal to the DHS. Mr. Francois' application for asylum was based on [redacted]. Mr. Francois and his family had to flee Haiti to avoid further violence.

19. Mr. Francois obtained an asylum-based Employment Authorization Document on March 9, 2024, valid until March 8, 2029.

20. Former Secretary of Homeland Security Alejandro Mayorkas designated Haiti for Temporary Protected Status ("TPS"), effective August 3, 2021, later extended through to February 3, 2026. *See* Designation of Haiti for Temporary Protected Status, 86 Fed. Reg. 41863 (Aug. 3, 2026).

21. On August 20, 2024, Mr. Francois applied for TPS as a national of Haiti. His application was pending until DHS terminated the Haitian TPS designation.

22. On November 28, 2025, DHS terminated the designation of Haiti for TPS. *See* Termination of the Designation of Haiti for Temporary Protected Status, 90 Fed. Reg 54733 (Nov. 28, 2025). On June 25, 2026, DHS's de-designation of Haitian TPS was upheld by the Supreme Court of the United States. *Mullin v. Doe*, 146 S. Ct. 2121 (2026).

23. Mr. Francois was arrested by the Long Prairie Police Department in Long Prairie, Minnesota on September 6, 2026, and charged with Threaten violence; intent to terrorize and Domestic Assault-Fear. *See* Minn. Stat. §§ 609.713.1; 609.2242.1(1).

24. On September 8, 2026, a state judge ordered Mr. Francois released on bond. Mr. Francois' two criminal state charges are still pending, and no final disposition in the case has been reached. *State of Minnesota v. Francois*, No. 77-CR-26-891 (Minn. Dist. Ct., Todd Cnty. Sept. 8, 2026). Upon knowledge and belief, Mr. Francois has never been convicted of any crime.

25. Mr. Francois was taken into ICE custody on September 8, 2026 at approximately 9pm in the evening. Immediately upon his release on bond, Mr. Francois was led by local authorities to a side door, where an ICE agent was waiting for him. The ICE agent, while detaining him, did not speak to Mr. Francois.

26. On information and belief, the ICE agents did not have a detainer for Petitioner's arrest, nor did they show him or serve him any warrant at the time of his arrest, nor did they have any valid warrant for Petitioner's arrest. On information and belief, since entering ICE custody, Petitioner has not received any documentation pursuant to his arrest or the basis for continued detention. On information and belief, ICE has not made a formal custodial determination of Petitioner's arrest regarding whether release on bond or recognizance imposed a danger to the community or a flight risk

27. On information and belief, Respondents lacked probable cause at the time of Petitioner's arrest to justify Petitioner's warrantless detention. Mr. Francois has no history of avoiding court appointments or absconding. In fact, Mr. Francois actively sought TPS status and asylum in order to secure lawful status in the U.S. Furthermore, Mr. Francois was not a flight-risk. As he had recently posted bail in his criminal case, he had every incentive to remain in his current

location. Furthermore, Mr. Francois has two children that he financially supports. He and his girlfriend are expecting a child as well.

28. Mr. Francois had a subsequent immigration court hearing set for October 7, 2026 at the Fort Snelling Immigration Court in Fort Snelling, Minnesota. Following his detention, Mr. Francois' master calendar hearing was re-scheduled for September 15, 2026. Mr. Francois received no notice of the change in time or date of his hearing.

29. At the hearing on September 15, 2026, upon knowledge and belief, neither the judge nor the DHS prosecutor spoke to Mr. Francois. It was not until the next day when counsel reviewed his case information that it was discovered that Mr. Francois had been ordered removed. On information and belief, to this date, neither the court nor DHS has provided Mr. Francois the removal order.

30. The removal order entered on September 15, 2026 will become a final order of removal if a notice to appeal is not filed before 30 day elapses. *See* 8 U.S.C. § 1231; 8 C.F.R. § 1241.1(a). As of the time of this filing, Mr. Francois does not have a final order of removal.

31. Mr. Francois was not arrested pursuant to the removal order issued on September 15, 2026. On information and belief, Mr. Francois was arrested without a warrant and while in removal proceedings pursuant to 8 U.S.C. § 1229a.

32. Petitioner remains in Respondents' custody at the Sherburne County Jail in Elk River, Minnesota.

33. Without the intervention of this Court, Petitioner believes that Respondents will continue to detain him indefinitely, without regard for the mandates of the U.S. Constitution, the Immigration and Nationality Act, and the agencies' own rules and regulations.

LEGAL FRAMEWORK

HABEAS PETITIONS

34. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful or unconstitutional detention, including noncitizens detained by federal immigration authorities. *See, e.g., Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 900–01 (D. Minn. 2020).

35. A petitioner may seek 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).

36. Habeas corpus is "a critical check on the Executive, ensuring that it does not detain individuals except in accordance with the law." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Such a remedy is particularly appropriate here, amidst unprecedented Executive bids to transgress limits set by Congress and evade judicial recourse.

CONSTITUTIONAL LIMITS ON IMMIGRATION DETENTION

37. Federal immigration officers may detain people only as authorized by the 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).

38. Here, Petitioner challenges the instant detention on constitutional and statutory grounds not foreclosed by the Eighth Circuit's recent decision in *Avila*, while otherwise preserving the claim that Petitioner is not lawfully detained pursuant to Section 1225 should *Avila* be reversed in the future. *See Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026) (deciding, exclusively on statutory grounds, that 8 U.S.C. § 1225 authorizes immigration agents to detain noncitizens currently residing within the United States); *e.g., Pedro A.D.L.O.O. v. Bondi*, No. 26-CV-01959, 2026 WL 948970 (D. Minn. April 8, 2026) (granting petitioner's habeas corpus petition because his

detention violated due process, notwithstanding that *Avila* foreclosed petitioner's statutory argument); *Orlando V.V. v. Blanche*, No. 26-CV-01903, slip op. at 6–21, 23 (D. Minn. April 28, 2026) (same); *Axel J.M.C. v. Stanski*, No. 26-CV-02281, 2026 WL 1171344, at *2–4 (D. Minn. April 29, 2026) (same).

39. Noncitizens that are applicants for admission—if the examining immigration officer determines the noncitizen is not entitled to be admitted—shall be detained for removal proceedings. 8 U.S.C. § 1225(b)(2). The Supreme Court has determined that these "applicants for admission" fall into two categories: noncitizens determined to be inadmissible due to fraud, misrepresentation, lack of valid documentation, and certain other designated non-citizens, covered by § 1225(b)(1); and a broad catch-all provision for "applicants for admission," covered by § 1225(b)(2). *See Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018). Applicants for admission are subject to mandatory detention. *Id.*

40. Applicants for admission who are paroled into the U.S under humanitarian parole, shall return or be returned to the custody from which they were paroled once their parole has been served. *Jennings*, 583 U.S. at 288; 8 U.S.C. § 1182(d)(5).

41. Courts have differentiated petitioners similarly situated to Mr. Francois from both *Avila* and *Jennings*. Principally, courts have found that when the petitioner is detained, released on humanitarian parole and put into a secondary type of , and then re-detained, "the government necessarily invoked 8 U.S.C. § 1226." *Perez-Padron v. Mullin*, No. 8:26CV500, slip op. at 2 (D. Neb. Sept. 21, 2026) *See also Matamoros Rodriguez Gonzalez Arias v. Woodbury Cnty. Jail*, No. No. 5:2026cv04041, slip op. at 3 (N.D. Iowa June 16, 2026) ("the fact that the Government once deemed [the petitioner] to be worthy of parole establishes that the Secretary previously evaluated his dangerousness and flight risk and made favorable findings as to those characteristics....This

puts [the petitioner] in a similar position to those who have been granted release after a bond hearing").

42. 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). *See also Bryan A.G.D. v. Blanche,* No. CV 26-2366, 2026 WL 2163098 at *3 (D. Minn. July 27, 2026) ("But statutory authority to detain does not itself resolve whether the manner in which that authority is exercised comports with the Constitution. Indeed, in *Jennings*, the Supreme Court rejected a statutory construction that would have required bond hearings under § 1225(b)(2), while expressly declining to reach constitutional due process arguments.") (citation omitted); *Felipe S.P. v. Blanche*, No. 26-CV-2212, 2026 WL 1911656 at *2 (D. Minn. July 2, 2026) ("...*Avila* does not close the door on [the petitioner's] as-applied Fifth Amendment challenge.") (citation omitted).

43. Here, Petitioner challenges the instant detention on constitutional grounds.

FOURTH AMENDMENT PROTECTIONS

44. The Fourth Amendment to the United States Constitution enshrines "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. This right "shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." *Id.*

45. The Fourth Amendment applies to noncitizens. *See United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010).

46. Immigration authorities must comply with governing statutes when arresting noncitizens without a warrant. *Orellana v. Nobles Cnty.*, 230 F. Supp. 3d 934, 945 (D. Minn. 2017) ("[A]rrest and continued detention is lawful only if officers acted within their statutory authority

for affecting a warrantless arrest."); *see also Fernando C.C. v. Bondi*, No. 26-CV-1235, 2026 WL 446408, at *4 (D. Minn. Feb. 17, 2026) (noting that "8 C.F.R. § 287.8(c)(2)(ii) sets the default rule: get a warrant").

47. Even to the extent a noncitizen is subject to detention under 8 U.S.C. § 1225(b)(2), "it does not follow that [such 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." *Jefferson G.H.L. v. Blanche*, No. 26-CV-2344, 2026 WL 1229623, at *2 (D. Minn. May 5, 2026); *see also Almeida-Sanchez v. United States*, 413 U.S. 266, 271–74 (1973) (holding the "permissible scope of intrusiveness" under Fourth Amendment greater at "the border itself" or "its functional equivalents" than in interior of the country).

48. The INA permits ICE officers "to arrest a noncitizen without a warrant only in limited circumstances: (1) to arrest a noncitizen who, in the presence or view of the arresting officer, "is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of [noncitizens]," or (2) to arrest a noncitizen 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); *accord Cutberto R.P. v. Blanche*, No. 26-CV-1934, slip op. at 9 (D. Minn. Apr. 10, 2026).

49. "Because the Fourth Amendment applies to arrests of illegal aliens, the term 'reason to believe' in § 1357(a)(2) means constitutionally required probable cause." *Quintana*, 623 F.3d at 1237.

50. However, having "reason to believe" that Petitioner is "'an alien subject to removal

from the United States' does not, without more, provide the probable cause needed to make a lawful arrest." *Orellana*, 230 F. Supp. at 945 (quotation omitted). That is because "it is not a crime for a removable alien to remain present in the United States." *Arizona v. United States*, 567 U.S. 387, 407 (2012). "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." *Jefferson G.H.L.*, 2026 WL 1229623, at *3.

51. Rather, "the Fourth Amendment demands a particularized assessment of [Petitioner]'s likelihood of escaping" before an arrest warrant can be obtained. *Orellana*, 230 F. Supp. 3d at 946 (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)); *accord, e.g.*, *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1006–07 (N.D. Ill. 2016); *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016); *Ramirez Ovando v. Noem,* 810 F. Supp. 3d 1209, 1217 (D. Colo. 2025) (requiring "particularized inquiry" that subject is likely to abscond).

52. The facts informing the assessment of whether a person is likely to escape "may vary." *See Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 13 (D.D.C. 2025). "Courts have also 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." *Id.* (collecting cases). However, "[j]ust because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape." *Jefferson G.H.L.*, 2026 WL 1229623, at *3.

53. It is Respondents' burden to establish both 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, slip op. at 11 (requiring

"probable cause to support that Petitioner was 1) not lawfully present and 2) likely to escape before they could get a warrant based on the totality of the circumstances"); *accord Jefferson G.H.L.*, 2026 WL 1229623, at *2–3. If Respondents fail to establish probable cause, such as by relying on a deficient or inadequate Form I-200 administrative warrant, they have failed to satisfy § 1357(a)(2) and its associated regulations. *See, e.g.*, *Sergio P. v. Bondi*, No. 26-CV-01538, 2026 WL 497290 (D. Minn. Feb. 23, 2026), *abrogated on other grounds by Avila*, 170 F.4th 1128.

54. ICE regulations further constrain Respondents' conduct in making warrantless arrests. 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.

55. 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)).

56. 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)).

57. 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).

58. 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).

59. Retroactively served warrants cannot cure an otherwise unlawful detention. *Alberto C.M. v. Noem*, No. 26-CV-380, 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the warrant "was not issued until after his arrest and initial detention"); *Marlon S.T.L. v. Bondi*, No. 26-CV-665 (DWF/LIB), 2026 WL 251975, at *2 (D. Minn. Jan. 30, 2026) ("A detainee being held pursuant to § 1226(a), as Petitioner is here, must have been served an arrest warrant prior to detainment.").

FIFTH AMENDMENT PROTECTIONS

60. The Fifth Amendment to the United States Constitution states that no individual may be "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "[T]he Due Process Clause 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); *accord Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

61. The mandate of the Due Process Clause must be considered expansively. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) ("[D]ue process is flexible and calls for such procedural protections as the particular situation demands."). Unlike some legal rules, due process "is not a technical conception with a fixed content unrelated to time, place and circumstances," but rather a critical liberty interest which must be considered in factual context. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist Refugee Cmte.*

v. McGrath, 341 U.S. 123, 162–63 (1951) (Frankfurter, J. concurring)).

62. "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 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). At a minimum, civil immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed." *Id.* (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); *accord Zadvydas*, 533 U.S. at 690–91.

63. The Fifth Amendment Due Process Clause also requires that Respondents follow procedures that are adequate to establish that detention is both statutorily and constitutionally valid. *See Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money.").

64. The main purpose of detaining a noncitizen who is not subject to a final removal order is to ensure their appearance at a hearing where an immigration judge decides their admissibility or deportability. *See* 8 U.S.C. § 1229a(a)(1). Absent an initial determination that confinement is necessary to ensure appearances in court, detention does not serve the process contemplated by statute and violates due process. And, even if the government can articulate a purpose for detention, if "detention's goal is no longer practically attainable," the detention becomes unreasonable and thus violates the Fifth Amendment right to due process. *Zadvydas*, 533

U.S. at 690.

RELEASE IS THE PROPER REMEDY

65. "Habeas is at its core a remedy for unlawful executive detention. The typical remedy is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citations omitted).

66. "The remedy for a warrantless arrest is immediate release." *Edison D.M.J. v. Bondi*, No. 26-CV-1588, slip op. at 5 (D. Minn. Feb. 27, 2026); *accord Cutberto R.P.*, No. 26-CV-1934, slip op. at 10–13. This is because "[t]he [Fourth] Amendment is a constraint on the power of the sovereign, not merely on some of its agents. The remedy for its violation imposes costs on that sovereign, motivating it to train all of its personnel to avoid future violations." *Arizona v. Evans*, 514 U.S. 1, 18–19 (1995) (Stevens, J., dissenting).

67. The remedy for a violation of Petitioner's due process rights is immediate release. *See 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 the petitioner's Fourth and Fifth Amendment arguments), *R. & R. adopted*, 2026 WL 478607 (Feb. 19, 2026); *Jose L.R.O. v. Bondi*, No. 26-CA-850, slip op. at 25 (W.D. Tex. Mar. 23, 2026) ("[W]here the Court finds an ongoing detention unlawful, 'the typical remedy for such detention is, of course, release.'" (quoting *Munaf*, 553 U.S. at 693)).

68. As a sister court in the Western District of Texas recently 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." *Id.* at 26.

69. Immigration detention is civil in nature and, as a result, Congress must have expressly authorized it by statute and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738

(1972)). Detention here serves no statutory purpose, and there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody. Due Process requires that Petitioner be able to continue engaging in his substantive immigration proceedings while released from custody rather than from a jail cell, potentially in some far flung corner of the country far from his family and counsel.

CAUSES OF ACTION

COUNT ONE: FOURTH AMENDMENT SEARCH AND SEIZURE

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

71. On information and belief, Respondents did not have Mr. Francois' consent or a judicial warrant to arrest him. Nor did Respondents present any administrative warrant to Petitioner when they detained him, and it is unclear whether they have not produced once since. Petitioner, proceeding upon information and belief, does not believe that a warrant was properly issued and served in this instance. And on information and belief, if any warrant was issued and served it was served after the arrest when Petitioner was already in ICE custody.

72. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Mr. Francois under 8 U.S.C. § 1357(a)(2) because, at the time of Petitioner's warrantless arrest, Respondents 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."

73. Respondents have made, and continue to make, an unreasonable warrantless seizure of Petitioner under the Fourth Amendment. Petitioner's resultant detention is therefore unlawful.

COUNT TWO: FIFTH AMENDMENT PROCEDURAL DUE PROCESS

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

75. *Mathews v. Eldridge* instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at affected by an official action; (2) the risk of erroneous deprivation of that interest through the procedures used, coupled with the probable value, if any, of additional procedural safeguards; and (3) the government's interest, including fiscal and administrative burdens, that additional or substitute procedural requirements entail. 424 U.S. 319, 335 (1976). All three factors favor Petitioner.

76. Regarding the first factor, Mr. Francois has a significant private interest at stake. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. This freedom from imprisonment, is the "the most elemental of liberty interests." *Hamdi*, 542 U.S. at 529; *see also Parham v. J.R.*, 442 U.S. 584, 600 (1979) (noting a "substantial liberty interest in not being confined unnecessarily" in civil proceedings). Petitioner is wrongfully confined, a direct attack on his liberty interests.

77. Regarding the second factor, Mr. Francois will continue to be erroneously deprived of his liberties if Respondents' current procedure entailing *en masse* detentions of immigrants for the sake of detentions is followed. Where 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.*, 2026 WL 948970 at *3. This lack of individual assessment is an issue not only at the outset, but also as these indefinite detentions continue. Prolonged detention without any particularized assessment of need "no longer bears a reasonable relation to its purpose." *See Zamudio Sanchez v. Noem*, No. 25-CV-00403, 2026 WL 596133, at *13 (W.D. Tex. Mar. 2, 2026); *see also Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024) ("Where the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is separate families

and remove from the community breadwinners, caregivers, parents, siblings and employees." (citation and internal quotations omitted)).

78. Requiring Respondent to consider alternative procedures—that is, a particularized inquiry as to the necessity of detention rather than a policy of "detain first, justify later"—is reasonable to protect individual rights and liberty as well as preserve government resources. *See, e.g., Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1188 (D. Minn. 2025) ("[T]he automatic stay regulation includes no requirement that the agency official invoking it consider any individualized or particularized facts, which increases the potential for erroneous deprivation of individuals' private rights.").

79. Here, Respondents made no individualized inquiry and had no rational basis to believe that detention is necessary to ensure Petitioner's appearance in immigration court. In fact, Respondent was paroled into the U.S. under the CHNV program only after successfully completing a security screening. In doing so, Respondents essentially already made an individualized finding that Mr. Francois is not a danger or a flight risk. They have not made a second individualized finding determining otherwise.

80. Mr. Francois has no history of absconding, has attended all previous court hearings, has affirmatively sought lawful status in the United States, supports his children financially, is expecting a child to be born soon, and has every incentive to follow through on his criminal case in addition to his immigration case. Respondents have no reason to believe Petitioner's detention was necessary in any way to secure his presence at immigration proceedings.

81. Regarding the third factor, the government has no legitimate interest in refusing to follow its own rules, or in wasting its resources detaining people, flying them to Texas and back, and flooding cities with armed officers who chase people down for civil infractions. The

government has no legitimate interest in detaining someone simply because they are undocumented. *Pedro A.D.L.O.O.*, 2026 WL 948970 at *3 (finding that "the government's interest in detaining Petitioner is weak because they have not established that Petitioner is unlikely to appear or that he poses any threat to the community as he has no criminal history."). And yet, that is precisely what Respondents have been doing across the country and here in Minnesota: detaining people simply because they are undocumented (or appear to be), 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. Furthermore, Mr. Francois was lawfully allowed into the country, given an opportunity to apply for status and relief from the persecution he suffered in Haiti, and only lost that status when the government de-designated Haiti both for humanitarian parole and TPS.

82. Mr. Francois poses no safety threats to the community[1] and is not likely to abscond. He has no convictions on his criminal record and no history of absconding. Releasing Petitioner would in fact save the government the resources and expense of continued imprisonment. *See Black*, 103 F.4th at 154–55 (noting that not only the incarcerated individual but also society as a whole bears the direct and indirect costs of incarceration, and evaluating the high financial costs per day of incarcerating immigrants).

83. Therefore, the placement of Petitioner in detention pending the resolution of ongoing immigration proceedings without reason violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT THREE: VIOLATION OF THE *ACCARDI* DOCTRINE

[1] Mr. Francois acknowledges the pending criminal charges against him and the serious nature of those allegations. But "[c]harges are not convictions." *Jaspreet S. v. Blanche*, No. 26-CV-3307 (MJD/LIB), slip op. at 16 (D. Minn. Sept. 3, 2026). And Mr. Francois' release on bond by local authorities supports a finding that "he need not be detained to protect the public or to insure his presence at future hearings." *Id.* at 13.

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

85. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) ("If Petitioner can prove the allegation [that the agency failed to follow its rules in a hearing] he should receive a new hearing"). *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).

86. By arresting Petitioner without a 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)).

87. By failing to make a custodial determination of Petitioner's arrest regarding whether release on bond or recognizance imposed a danger to the community or a flight risk, Respondents violated 8 C.F.R. § 287.3(d).

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

REQUEST FOR EVIDENTIARY HEARING

89. An evidentiary hearing is appropriate when material facts are in dispute. *Ruiz v. Norris*, 71 F.3d 1404, 1406 (8th Cir. 1995). However, an evidentiary hearing is not required when a conclusion can be reached on the issue pursuant to undisputed facts. *United States v. Winters*, 411 F.3d 967, 973 (8th Cir. 2005).

90. Petitioner anticipates that Respondents may contest the date, time, and location that the warrant and notice to appear were issued in this case. Such issues could be dispositive of Petitioner's Fourth Amendment argument. If the Court finds that material facts concerning the warrants and Petitioner's warrantless arrest are in dispute, and it does not order his release based

on undisputed facts, then Petitioner respectfully requests an evidentiary hearing so that sworn testimony may be taken from him and the relevant ICE officers and officials to determine the truth of the warrant issue.

REQUEST FOR ORDER TO SHOW CAUSE

91. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering 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.

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.

93. Petitioner 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 this 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; and (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 petition.

94. Specifically, Petitioner requests that the Court order Respondents to produce evidence in **completely unredacted** form. In habeas cases in this District, Respondents continually produce evidence with key information redacted—without explanation, justification, or permission by the Court or rule of law—which deprives petitioners of their ability to conduct fact

investigations and prepare certain evidence. Respondents are free to seek Petitioner's consent to file redacted documents, or seek leave of the Court to do so, but the Court should not accept as valid any evidence which is manipulated or redacted without prior permission.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner asks this Court for the following relief:

1. Assume jurisdiction over this matter;

2. Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions;

3. Declare that Petitioner's current detention exceeded Respondents' authority and is thus unlawful;

4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

5. 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;

6. 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;

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 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 fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), Local Rule 54.3(a), or any other basis justified by law, upon such application; and

9. Grant any and all further relief this Court deems just and proper.

DATED: September 25, 2026

Respectfully submitted,

/s/ Gabriel Spellberg

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Pro Bono Attorney for Petitioner

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

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 knowledge comes from my conversations with my client, via an interpreter, as well as my personal knowledge as an immigration attorney. I further provide this verification pursuant to *Vu V.L. v. Mullin*:

> As courts in this District have observed over the last several months, ICE has been less than diligent in communicating with detainees and their counsel regarding a detainee's circumstances of detention and has "transferred detainees frequently, quickly, without notice, and often with no way for attorneys to know where or for how long their clients will be at a given facility." These circumstances—notably, created by the Government—no doubt present the sort of "inaccessibility" and "lack of time" that justifies an attorney to act on a petitioner's behalf in signing and verifying a habeas petition.

No. 26-CV-2947 (LMP/JFD), slip op. at 7 (D. Minn. July 1, 2026) (citations and quotations omitted).

DATED: September 25, 2026

Respectfully submitted,

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