UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Francis Alfred Koromo,

Petitioner,

v.

Todd Blanche, Attorney General; Markwayne Mullin, Secretary of Homeland Security; David Venturella, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Executive Associate Director for Enforcement and Removal Operations; David Easterwood, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Joel Brott, Sheriff of Sherburne County,

Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

EXPEDITED HANDLING REQUESTED PURSUANT TO 28 U.S.C. § 1657

INTRODUCTION

1. Petitioner Francis Alfred Koromo ("Petitioner") is detained in the custody of U.S. Immigration and Customs Enforcement ("ICE") at the Sherburne County Jail in Elk River, Minnesota. ICE officers took custody of him on or about September 22, 2026, as he was leaving local criminal custody.

2. Petitioner has lived in the United States since 1999, when he was three years old. He arrived here on a visa. He has a work permit, was working at Amazon before his detention, and is a recipient of Deferred Action for Childhood Arrivals ("DACA").

3. **This Petition concerns the limits Congress placed on the Executive's authority to deprive a person of physical liberty.** Petitioner does not presently challenge his removability or seek suppression of evidence in his immigration proceedings. Nor does he ask this Court to review a discretionary custody determination. This Petition instead challenges Respondents' current statutory authority to continue depriving Petitioner of his physical liberty where ICE obtained custody over him through an arrest that failed to comply with the statutory requirements Congress imposed upon immigration arrests.

4. Congress defined the circumstances under which immigration officers may exercise the *extraordinary* power to arrest a person without judicial process. *See* 8 U.S.C. §§ 1226(a), 1357(a)(2). Section 1226(a) authorizes arrest "[o]n a warrant issued by the Attorney General." Section 1357(a)(2) delegates warrantless-arrest authority only where an immigration officer has reason to believe both that the individual is present in violation of immigration law and that the individual "is likely to escape before a warrant can be obtained for his arrest." Those requirements define the scope of the authority Congress delegated. They are not procedural formalities that the agency may dispense with after taking a person into custody.

5. Respondents did not satisfy those requirements here. No administrative warrant was presented to or served upon Petitioner when ICE arrested him. Upon information and belief, no Notice to Appear had been issued when ICE took him into custody. If Respondents contend that an administrative warrant authorized the seizure, they bear the burden of establishing the authority upon which his present custody rests,

including that any warrant was issued in the sequence their own regulation requires. *See* 8 C.F.R. § 236.1(b)(1).

6. Nor did the circumstances satisfy § 1357(a)(2)'s narrow authorization for warrantless arrest. Petitioner was arrested as he was leaving criminal custody. He has lived in the United States for about twenty-seven years. The Department of Homeland Security ("DHS") has known who he is, where he is working, and where he lives through his work permit and DACA grant, which he has had for about eleven years. Nothing known to the arresting officers supported a belief that he was "likely to escape before a warrant can be obtained for his arrest."

7. Those statutory limitations have independent force. An executive agency possesses only the authority Congress has delegated to it and must exercise that authority within the boundaries Congress prescribed. Where ICE proceeds without valid preexisting warrant authority, the arrest must fall within § 1357(a)(2). Post-arrest charging, custody determinations, or issuance of an administrative warrant do not eliminate the antecedent question whether ICE possessed statutory authority to effect the arrest through which it obtained custody.

8. This Petition therefore presents a narrow question of statutory authority. It does not ask whether Petitioner may ultimately be removed from the United States. It asks whether Respondents may continue physically detaining him where ICE arrested him without valid preexisting warrant authority and without satisfying § 1357(a)(2)'s requirements for a warrantless arrest.

9. Petitioner's detention also raises a due process question. Respondents granted him deferred action under DACA and renewed that grant. Upon information and belief, they have not terminated it or given notice of any intent to do so. *See* 8 C.F.R. § 236.23(d)(1).

10. Habeas corpus exists "at its core" as a remedy for unlawful executive detention. *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Because Respondents failed to satisfy the statutory prerequisites necessary to lawfully obtain custody over Petitioner, his continued detention lacks a lawful statutory predicate. Petitioner respectfully requests that this Court grant the writ and order his immediate release. In the alternative, because Petitioner has been confined without any individualized custody determination, he requests a prompt bond hearing.

11. In accordance with 28 U.S.C. § 1657, Petitioner requests that the district court issue an Order to Show Cause ("OSC") giving the government no more than 3 days to file evidence and argument in response to the OSC.

12. In accordance with 28 U.S.C. § 1657 and Rule 4 of the Rules Governing Section 2254 and 2255 Cases, Petitioner requests that rather than proceed via summonses, the Court order the Clerk of Court to serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved.

JURISDICTION AND VENUE

13. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 2241. A writ of habeas corpus may issue where a person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Federal district courts

retain jurisdiction under § 2241 to determine the legality of immigration detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 293–95 (2018).

14. Petitioner challenges the legality of his present physical custody under the Constitution and laws of the United States. He does not challenge his removability, seek suppression of evidence in his removal proceedings, or ask this Court to review an Immigration Judge's discretionary custody determination. Rather, Petitioner presents the antecedent legal question whether Respondents possessed statutory authority to arrest him and thereby place him into the civil immigration detention that continues today.

15. Petitioner's claim presents a question of statutory authority, not immigration-enforcement discretion. Congress prescribed the circumstances under which immigration officers may effect an arrest through 8 U.S.C. §§ 1226(a) and 1357(a). Petitioner alleges that Respondents failed to satisfy those statutory requirements before taking him into custody and that his resulting detention therefore lacks a lawful statutory predicate. Whether Respondents acted within the authority Congress delegated to them is a legal question properly resolved in habeas.

16. The limitations on judicial review of discretionary immigration determinations do not preclude review of these claims. *See* 8 U.S.C. §§ 1226(e), 1252; *Jennings*, 583 U.S. at 295–96. Petitioner does not ask this Court to undertake a discretionary determination concerning whether he should be detained. He asks whether

Respondents possessed statutory authority to deprive him of his physical liberty in the first instance and whether they may lawfully continue that detention.

17. Venue is proper in this District because Petitioner is presently confined at the Sherburne County Jail in Elk River, Minnesota, within the District of Minnesota, and his immediate custodian is located within this District. *See* 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 442–43 (2004).

PARTIES

18. Petitioner Francis Alfred Koromo is a native and citizen of Tanzania who has resided in the United States since 1999, when he was three years old. He is a DACA recipient. He is presently detained at the Sherburne County Jail in Elk River, Minnesota. His alien registration number ("A-Number") is [redacted].

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

20. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner's

detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.

21. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Respondent Venturella is responsible for Petitioner's detention.

22. Respondent Marcos Charles is being sued in his official capacity as the Executive Associate Director for Enforcement and Removal Operations. Respondent Charles is responsible for Petitioner's detention.

23. Respondent David Easterwood is being sued in his official capacity as the Field Office Director for the St. Paul Field Office of ICE Enforcement and Removal Operations within DHS. In that capacity, Respondent Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. The address for the St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

24. Respondent Sheriff Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Jail. Because Petitioner is detained at the Sherburne County Jail, Sheriff Brott has immediate day-to-day control over Petitioner.

25. Respondent Immigration and Customs Enforcement is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act ("INA"), including the detention of noncitizens.

26. Respondent Department of Homeland Security is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

EXHAUSTION

27. No statutory exhaustion requirement applies to Petitioner's challenge to the lawfulness of his immigration detention under 28 U.S.C. § 2241. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.").

28. To the extent prudential exhaustion may apply in some circumstances, it should not be required here. Petitioner does not seek review of an Immigration Judge's discretionary weighing of the evidence or ultimate custody determination. Rather, Petitioner challenges Respondents' present statutory authority to continue detaining him, including whether Respondents satisfied the statutory prerequisites Congress imposed before exercising arrest authority under 8 U.S.C. §§ 1226(a) and 1357(a)(2), and whether his resulting detention violates the Constitution. Those are legal questions properly resolved in habeas.

29. Prudential exhaustion is not required where the administrative agency lacks authority to resolve the issues presented. *McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006). Immigration Judges and the Board of Immigration Appeals lack jurisdiction to decide Petitioner's constitutional claims and cannot grant habeas

relief. *See Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012).

30. Further administrative review would likewise be futile as to the relief sought here. Neither the Immigration Judge nor the Board of Immigration Appeals can grant a writ of habeas corpus ordering relief from detention on the claims presented in this action. A custody redetermination addresses flight risk and danger. It does not reach whether an arrest complied with 8 U.S.C. §§ 1226(a) and 1357(a)(2), or the Constitution.

31. Requiring Petitioner to pursue further administrative proceedings would prolong the very detention challenged in this action without providing meaningful relief. *See McCarthy*, 503 U.S. at 147–48. Every additional day of Petitioner's allegedly unlawful detention constitutes an ongoing deprivation of liberty that cannot be remedied after the fact. *See Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018).

32. Because Petitioner's claims present legal and constitutional questions outside the authority of the immigration courts to remedy, and because further administrative proceedings would neither resolve the legality of the arrest nor provide the habeas relief Petitioner seeks, this Court should excuse any prudential exhaustion requirement.

LEGAL FRAMEWORK

Habeas Corpus

33. A writ of habeas corpus may issue when a person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The "essence of habeas corpus is an attack by a person in custody upon the legality of that custody," *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973), and habeas remains "at its core, a remedy for unlawful executive detention." *Munaf*, 553 U.S. at 693.

34. Habeas review therefore permits a federal court to determine whether the Executive possesses lawful authority for a person's present physical confinement. *See Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001). That inquiry is distinct from review of a discretionary immigration custody determination. *See Jennings*, 583 U.S. at 295–96. Petitioner challenges the former: Respondents' statutory authority to maintain his present physical custody.

Congress Defines the Scope of the Executive's Immigration-Arrest Authority

35. Federal agencies possess only the authority Congress confers upon them. *FEC v. Cruz*, 596 U.S. 289, 301 (2022). An agency "literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute." *Id.* Congress has separately prescribed authority governing immigration detention and the circumstances in which immigration officers may effect an arrest. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The existence of general immigration-enforcement or detention authority therefore does not eliminate statutory limitations Congress placed upon the particular power to arrest.

36. Courts in this District have applied that principle by asking separately whether ICE possessed valid administrative-warrant authority or satisfied § 1357(a)(2)'s requirements for a warrantless arrest. *See Giordan M.G. v. Blanche*, No. 26-cv-2585 (JWB/DTS), Doc. 19 at 4–6 (D. Minn. Aug. 14, 2026); *Orellana v. Nobles County*, 230 F. Supp. 3d 934, 945–46 (D. Minn. 2017). The relevant question is therefore not merely whether immigration law authorized the Government to pursue removal or detention in the abstract, but whether ICE exercised the arrest authority Congress conferred in the manner Congress authorized.

37. *Santos Gomez v. Guadian* recently applied the same framework. No. GLR-26-3078, slip op. at 4–10 (D. Md. Aug. 28, 2026). The court recognized § 1226(a)'s warrant mechanism as the "default rule for immigration arrests and detention" and § 1357(a)(2) as Congress's limited authorization for warrantless immigration arrests. *Id.* at 4–5. As the court explained, Congress "explicitly created the warrant requirement" and separately prescribed the circumstances in which officers may proceed without one. *Id.* at 9; *see also Arizona*, 567 U.S. at 408.

Arrest Pursuant to a Form I-200 Administrative Warrant

38. Section 1226(a) provides that "[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). DHS regulations further provide that "[a]t the time of issuance of the notice to appear, or at any time thereafter," a respondent may be arrested under the authority of a Form I-200. 8 C.F.R. § 236.1(b)(1).

39. Courts in this District have treated that sequence as material to whether an arrest was made pursuant to valid administrative-warrant authority. *See Giordan M.G.*, Doc. 19 at 5; *Pedro D.C. v. Blanche*, No. 26-cv-2450 (KMM/DLM), Doc. 11 at 3–4 (D. Minn. June 18, 2026). A Form I-200 issued before a Notice to Appear does not comply with the regulation. Courts have accordingly asked whether the record establishes that "the Notice to Appear was issued prior to issuance of the I-200 administrative warrant, and the warrant was in turn issued prior to the arrest." *Wilfredo C.M. v. Blanche*, No. 26-cv-3966 (JRT/DJF), Doc. 9 at 6 (D. Minn. Sept. 24, 2026); *see also Jany W.G.C. v. Easterwood*, No. 26-cv-3486, 2026 WL 2364413, at *2 (D. Minn. Aug. 14, 2026).

40. Where the Government cannot establish that valid warrant authority existed before the arrest, the antecedent seizure must instead find authority in the statutory exception Congress created for warrantless immigration arrests. *See* 8 U.S.C. § 1357(a)(2); *M.-G. v. Easterwood*, No. 26-CV-3479 (LMP/SGE), 2026 WL 2531525, at *2 (D. Minn. Aug. 27, 2026) ("Although immigration officers do not need to issue a warrant to detain a noncitizen under 8 U.S.C. § 1225(b)(2)(A), warrantless arrests of individuals ultimately detained under 8 U.S.C. § 1225(b)(2)(A) must still comply with the requirements of 8 U.S.C. § 1357(a)(2).") (*citing Muse v. Mullin*, No. 26-cv-4024-CJW-MAR, 2026 WL 1008532, at *2–3 (N.D. Iowa Apr. 14, 2026)); *Francisco M.A. v. Blanche*, No. 26-cv-2032 (JRT/EMB), 2026 WL 1229701, at *2 (D. Minn. May 5, 2026).

Warrantless Arrest Under 8 U.S.C. § 1357(a)(2)

41. Congress permits an immigration officer to arrest a noncitizen without a warrant only where the officer has "reason to believe" both that the person is in the United States in violation of immigration law and that the person "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2). DHS's regulation correspondingly provides that "[a] warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

42. The Eighth Circuit construes § 1357(a)(2)'s "reason to believe" standard as requiring constitutionally sufficient probable cause. *United States v. Quintana*, 623 F.3d 1237, 1239–40 (8th Cir. 2010). The statute's two requirements have independent force. *See Orellana*, 230 F. Supp. 3d at 945–46; *Santos Gomez*, slip op. at 4–9. Thus, probable cause concerning immigration status does not itself establish probable cause to believe the person is likely to escape before a warrant can be obtained. *Santos Gomez*, slip op. at 6–9.

43. Treating potential removability as sufficient to establish likelihood of escape would collapse the statute's two requirements and effectively permit warrantless arrest whenever officers believe a person is unlawfully present. Courts have rejected that construction. *See Orellana*, 230 F. Supp. 3d at 945–46; *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1007–09 (N.D. Ill. 2016); *Santos Gomez*, slip op. at 7–9.

44. The likelihood-of-escape inquiry instead considers whether immigration authorities reasonably could obtain a warrant before apprehending the individual, including

whether the individual could be located at another identifiable place. *See Santos Gomez*, slip op. at 9–10; *S. v. Blanche*, No. 26-cv-2265 (KMM/DLM), 2026 WL 1998718, at *6 (D. Minn. July 10, 2026) (quoting *Walther Ademir A.S. v. Blanche*, No. 26-cv-2804 (LMP/SGE), 2026 WL 1734906, at *3 (D. Minn. June 16, 2026)). Accordingly, where the Government invokes § 1357(a)(2), it must establish the independent statutory basis for proceeding without a warrant. *Quintana*, 623 F.3d at 1239–40; *Orellana*, 230 F. Supp. 3d at 945–46.

Immigration Detainers and Transfers from Criminal Custody

45. An immigration detainer is governed by 8 C.F.R. § 287.7. A detainer advises another law-enforcement agency that DHS seeks custody of a person presently held by that agency and requests cooperation concerning the person's release. 8 C.F.R. § 287.7(a). A detainer is distinct from a Form I-200 warrant of arrest. *Compare* 8 C.F.R. § 287.7, *with* 8 C.F.R. § 236.1(b)(1).

46. A person's confinement on a criminal matter does not establish federal authority to detain that person for civil immigration purposes. When the criminal basis for custody ends and ICE assumes custody, the person is seized anew, and that seizure must rest upon authority supplied by the INA. *See Orellana*, 230 F. Supp. 3d at 945–46; *Parada v. Anoka County*, 332 F. Supp. 3d 1229, 1242–43 (D. Minn. 2018); *Moreno*, 213 F. Supp. 3d at 1007–09 (holding that ICE exceeded its authority under § 1357(a)(2) by seeking to detain persons held in local custody without a warrant and without an individualized determination of likelihood of escape).

47. Thus, where ICE acquires custody of a person upon release from a local jail, the prior criminal arrest does not dispense with the requirements governing ICE's own exercise of arrest authority. If ICE relies upon § 1226(a), the arrest must be supported by a valid Form I-200. If ICE proceeds without one, the arrest must satisfy § 1357(a)(2).

48. Courts in this District have recognized that § 1357(a)(2)'s likelihood-of-escape requirement is difficult to satisfy where the person is already confined. *See Jesus D. v. Blanche*, No. 26-cv-3370 (JMB/DTS), Doc. 10 at 6 n.4 (D. Minn. Aug. 12, 2026) (where the petitioner was detained when ICE encountered him and his whereabouts were known, "officers had no reason to believe that he was likely to escape"); *Ruben D.A.G. v. Blanche*, No. 26-cv-2041 (MJD/DJF), Doc. 9 at 8 (D. Minn. Apr. 20, 2026) (a petitioner held in a county jail and subject to an ICE detainer "was certainly not a flight risk").

Deferred Action for Childhood Arrivals

49. DHS regulations describe a grant of deferred action under DACA as a "period of forbearance." During that period the recipient may receive employment authorization and is considered "lawfully present" for specified purposes. 8 C.F.R. § 236.21(c)(2)–(3); *see Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 10 (2020).

50. The regulations also prescribe how a grant ends. U.S. Citizenship and Immigration Services ("USCIS") "will provide a Notice of Intent to Terminate and an opportunity to respond prior to terminating a grant of" DACA, unless the recipient

has been convicted of a national security-related offense or an egregious public safety offense. 8 C.F.R. § 236.23(d)(1). An agency must follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

51. Courts have held that a grant of deferred action under DACA confers a liberty interest protected by the Due Process Clause. *See Morales Martinez v. Warden*, No. 8:26-CV-319, 2026 WL 2056542, at *1 (D. Neb. July 16, 2026) (collecting cases); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *10 (W.D. Tex. Oct. 2, 2025) ("A core benefit of DACA is that it allows recipients to live, study, and work in the United States without fear of arrest or deportation.").

52. Courts have also concluded that "[w]here an individual is protected from removal through deferred action, their detention serves no valid purpose." *Santiago*, 2025 WL 2792588, at *10 (citing *Sepulveda Ayala v. Bondi*, No. 25-cv-1063, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025)); *see also Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025).

Detention Authority Does Not Eliminate Congress's Separate Arrest Requirements

53. A statute governing detention does not necessarily answer the antecedent question whether immigration officers possessed authority to effect the arrest through which custody was obtained. *Arizona* recognizes distinct statutory mechanisms governing immigration arrest and detention. 567 U.S. at 407–08. Giving independent effect to § 1357(a)(2) therefore requires determining whether its conditions were satisfied when ICE proceeded without preexisting warrant authority.

54. That distinction would remain relevant even if Respondents invoked § 1225 rather than § 1226. **Petitioner entered the United States on a visa and is not an "applicant for admission."** *See* 8 U.S.C. § 1225(a)(1). And *Avila v. Bondi*, 170 F.4th 1128, 1138 (8th Cir. 2026), which held that a noncitizen present without admission is subject to detention under § 1225(b)(2)(A), addressed the authority to detain. It did not address the authority to arrest. *See id.* at 1133 n.3.

55. In *Francisco M.A. v. Blanche*, the court concluded that even if the petitioner was an applicant for admission subject to § 1225(b)(2), "it does not follow that Petitioner can be arrested and detained pursuant to § 1225(b)(2) without first complying with 8 U.S.C. § 1357(a)." No. 26-cv-2032 (JRT/EMB), Doc. 10 at 5–6 (D. Minn. May 5, 2026).

Post-Arrest Procedures Do Not Enlarge Antecedent Arrest Authority

56. DHS regulations separately prescribe what occurs after an officer has exercised warrantless-arrest authority. Section 287.3(a) expressly applies to a person "arrested without a warrant of arrest under the authority contained in section 287(a)(2) of the Act," that is, § 1357(a)(2). 8 C.F.R. § 287.3(a). Section 287.3(d) then requires DHS, ordinarily within forty-eight hours, to determine "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).

57. The regulation therefore presupposes an antecedent arrest made "under the authority" of § 1357(a)(2). It does not replace the statutory requirements necessary

to exercise that authority. *Santos Gomez* likewise describes §§ 287.8(c)(2) and 287.3 as a sequential process: officers must first satisfy the requirements governing warrantless arrest and, "[f]inally, after a warrantless arrest is made," comply with § 287.3's examination, charging, and custody procedures. Slip op. at 5.

58. A recent decision in this District illustrates the distinction. In *Fernando C.C. v. Bondi*, the court concluded that § 287.3(d) permits DHS to issue a post-arrest warrant capable of supporting subsequent detention but expressly did not decide whether the warrantless arrest preceding that warrant complied with § 1357(a)(2). No. 26-cv-1235 (LMP/JFD), 2026 WL 446408, at *5–7 (D. Minn. Feb. 17, 2026). The court observed that the unresolved § 1357(a)(2) question "may very well change the outcome" when properly presented. *Id.* Thus, § 287.3(d) may govern the consequences following a lawful warrantless arrest, but it does not eliminate the antecedent requirement that the arrest itself fall within § 1357(a)(2).

Habeas Relief Where Present Detention Lacks a Lawful Predicate

59. Where ICE obtains custody through a warrantless arrest that does not satisfy § 1357(a)(2), courts have held that the resulting detention lacks the statutory predicate necessary for continued confinement. *See Santos Gomez*, slip op. at 10–11; *Choglo Chafla v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025); *Alves v. Stamper*, No. 2:26-cv-00318-SDN, 2026 WL 1802817, at *3 (D. Me. June 23, 2026); *Adriano L.V. v. Noem*, No. 26-cv-269 (MJD/DJF), 2026 WL 184570, at *3 (D. Minn. Jan. 18, 2026), *report and recommendation adopted*, 2026 WL 194401 (D. Minn. Jan. 23, 2026).

60. In *Santos Gomez*, the Government argued that the petitioner was lawfully detained under § 1226 and, "at most," entitled to a bond hearing. Slip op. at 4. The court rejected that position. After concluding that the warrantless arrest violated § 1357(a)(2) and § 287.8(c)(2), it held that noncompliance with those requirements required immediate release because the petitioner could not lawfully remain detained under § 1226(a) where the statutory requirements for taking him into custody had not been satisfied. *Id.* at 10–11.

61. Decisions in this District have reached the same result. *See Adriano L.V.*, 2026 WL 184570, at *3; *Venancio P.J. v. Blanche*, No. 26-cv-2740 (ECT/JFD), 2026 WL 1862252, at *3 (D. Minn. June 29, 2026). The pendency of removal proceedings does not bar the claim. "The weight of persuasive authority from this District supports that a habeas petitioner in removal proceedings may challenge an unlawful arrest." *Sorelys C.R.O. v. Blanche*, No. 26-cv-3859 (ECT/LIB), 2026 WL 2665657, at *2 (D. Minn. Sept. 10, 2026). This relief follows the traditional office of habeas corpus: where executive detention lacks lawful authority, "the typical remedy" is release. *Munaf*, 553 U.S. at 693.

62. The relevant inquiry is therefore not whether subsequent removal proceedings, a Notice to Appear, a later-issued Form I-200, or a custody determination may have legal significance for other purposes. It is whether Respondents can establish lawful statutory authority for the physical custody they continue to exercise over Petitioner where that custody originated in the challenged arrest. *See Pablo F. v. Blanche*, No. 26-cv-3889 (JMB/SGE), Doc. 11 at 7 (D. Minn. Sept. 9, 2026) ("Respondents may

not rely upon post-arrest proceedings or post hoc justifications to establish statutory detention authority that did not exist when Petitioner was taken into custody.").

63. Petitioner does not contend that the challenged arrest invalidates his removal proceedings or immunizes him from future immigration enforcement undertaken pursuant to independently lawful authority. The question is whether any subsequent proceeding or post-arrest administrative action supplied an independent lawful basis for the same uninterrupted physical custody Respondents obtained through the challenged arrest.

64. Habeas relief may address the custody found unlawful without conferring immunity from future lawful immigration enforcement. Section 2243 directs the habeas court to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. Accordingly, where necessary to effectuate the writ, the Court may fashion relief that terminates the unlawful custody while preserving Respondents' ability to exercise new and independently lawful arrest or detention authority consistent with statutory, regulatory, and constitutional requirements.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

65. Petitioner is a native and citizen of Tanzania. He was born in 1996 and entered the United States on a visa in 1999, when he was three years old. He has lived in the United States ever since.

66. Petitioner's parents are lawful permanent residents, and his sister is a United States citizen. His parents, sister, and uncles live in the United States.

67. Petitioner is a DACA recipient. USCIS first granted him deferred action in or around 2015 and has renewed the grant since. Upon information and belief, Petitioner's current grant is valid through 2028. He holds employment authorization and was working at Amazon before his detention.

68. Upon information and belief, Petitioner has received no Notice of Intent to Terminate his DACA grant and no notice that it has been terminated.

69. Upon information and belief, Petitioner had never been placed in removal proceedings before his arrest, and no Notice to Appear had been issued to him.

70. On or about September 22, 2026, ICE officers arrested Petitioner upon his release from Dakota County Jail.

71. No administrative warrant was presented to or served upon Petitioner when ICE arrested him. Upon information and belief, Petitioner was not served with a Notice to Appear at that time.

72. After the arrest, officers told Petitioner that he had to choose quickly between two options. Either he could depart voluntarily and be able to return in the future, or he could go to court and never be able to return. Petitioner did not have a lawyer when the officers presented that choice.

73. Petitioner did not flee, attempt to flee, resist arrest, or conceal his identity. He was at a jail. He has lived in the United States since he was three years old, his family is here, and DHS has known of his presence through his DACA grant for about eleven years.

74. ICE thereafter transported Petitioner to the Sherburne County Jail in Elk River, Minnesota, where he remains detained in Respondents' custody.

75. Petitioner has not received a bond hearing. No neutral decisionmaker has made an individualized determination whether his detention is justified by a risk of flight or danger to the community.

76. Petitioner has remained continuously in immigration custody since on or about September 22, 2026. His present physical confinement arises from the custody ICE obtained when it arrested him on that date.

CAUSES OF ACTION

COUNT I
Unlawful Detention
28 U.S.C. § 2241; 8 U.S.C. §§ 1226(a), 1357(a)(2)

77. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

78. Congress prescribed the circumstances in which immigration officers may exercise arrest authority. Section 1226(a) authorizes arrest "[o]n a warrant issued by the Attorney General." Where ICE effects an immigration arrest without valid preexisting warrant authority, § 1357(a)(2) permits a warrantless arrest only where the officer has reason to believe both that the individual is present in violation of immigration law and that the individual "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2).

79. Those requirements limit the authority Congress delegated to immigration officers. *See FEC v. Cruz*, 596 U.S. 289, 301 (2022); *Arizona v. United States*, 567 U.S. 387, 408 (2012).

80. Petitioner's confinement in local criminal custody did not authorize Respondents to take him into federal civil immigration custody. Once the basis for his criminal custody ended, Respondents needed an independent statutory basis to arrest and detain him. An immigration detainer is not a warrant of arrest and does not supply that basis. *See* 8 C.F.R. §§ 236.1(b)(1), 287.7.

81. On or about September 22, 2026, ICE officers arrested Petitioner at a county jail. No administrative warrant was presented to Petitioner before or when they did so.

82. To the extent Respondents rely upon a Form I-200, they must establish that it was validly issued before the arrest. A Form I-200 may issue "[a]t the time of issuance of the notice to appear, or at any time thereafter." 8 C.F.R. § 236.1(b)(1). Upon information and belief, no Notice to Appear had been issued when ICE took him into custody. A Form I-200 issued before a Notice to Appear does not comply with the regulation and does not establish that the arrest occurred "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a); *see Wilfredo C.M.*, Doc. 9 at 5–6; *Giordan M.G.*, Doc. 19 at 5; *Pedro D.C.*, Doc. 11 at 3–4.

83. Nor did the circumstances satisfy § 1357(a)(2)'s likelihood-of-escape requirement. Petitioner was arrested at a jail. He has lived in the United States since he was three years old, his family lives here, and DHS has known of his presence through his DACA grant for about eleven years. Those facts are inconsistent with any

reasonable belief that Petitioner was likely to escape before a warrant could be obtained. *See Jesus D.*, Doc. 10 at 6 n.4; *Ruben D.A.G.*, Doc. 9 at 8; *Orellana*, 230 F. Supp. 3d at 945–46; *Santos Gomez*, slip op. at 9–10; *S. v. Blanche*, 2026 WL 1998718, at *6.

84. ICE therefore lacked statutory authority to arrest Petitioner. Post-arrest procedures governing charging and continued custody do not eliminate the requirement that the antecedent arrest itself fall within the authority Congress conferred. *See* 8 C.F.R. § 287.3(a), (d); *Santos Gomez*, slip op. at 5, 9–11.

85. Petitioner has remained continuously in immigration custody since that arrest. Because Respondents continue to physically confine Petitioner based upon custody obtained without satisfying the statutory requirements governing his arrest, his present detention is not authorized by law. *See Santos Gomez*, slip op. at 10–11; *Pedro D.C.*, No. 26-cv-2450 (KMM/DLM), Doc. 11 at 3–5; *Carlos L.V.B.*, No. 26-cv-1898 (JWB/DJF), Doc. 7 at 7–8.

86. Petitioner is therefore "in custody in violation of the Constitution or laws or treaties of the United States" and is entitled to habeas relief under 28 U.S.C. § 2241(c)(3).

COUNT II
Deprivation of Liberty Without Due Process of Law
U.S. Const. amend. V; 28 U.S.C. § 2241

87. Petitioner re-alleges and incorporates by reference the preceding paragraphs.

88. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Its protections extend

to noncitizens physically present in the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

89. Freedom from physical detention lies at the core of the liberty protected by the Due Process Clause. Civil immigration detention therefore requires lawful governmental authority and constitutionally adequate process. *See Zadvydas*, 533 U.S. at 690.

90. Petitioner also holds a liberty interest that arises from Respondents' own grant. Respondents approved him for deferred action under DACA in or around 2015, renewed that grant, and, upon information and belief, most recently extended it through 2028. A person released to the community by the government's own decision may not be returned to custody without process. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 147–49 (1997); *see Santiago*, 2025 WL 2792588, at *10.

91. Petitioner has remained continuously deprived of his physical liberty since ICE arrested him on or about September 22, 2026. As alleged above, ICE did so without presenting an administrative warrant and under circumstances that did not satisfy the statutory requirements for a warrantless immigration arrest.

92. Respondents also detained Petitioner while his grant of deferred action remained in effect. Upon information and belief, they have not terminated that grant and have not issued a Notice of Intent to Terminate. *See* 8 C.F.R. § 236.23(d)(1).

93. Civil detention must bear a reasonable relation to its purpose. *Zadvydas*, 533 U.S. at 690. Detention of a person whom DHS has chosen to forbear from removing does not serve any purpose. *See Santiago*, 2025 WL 2792588, at *10.

94. No reasonable purpose supports Respondents' detention of Petitioner. Respondents could have placed him in removal proceedings without spending taxpayer dollars on detaining him and taking him out of the workforce and away from his family.

95. To the extent Respondents claim authority to continue Petitioner's physical confinement notwithstanding the absence of lawful authority for the arrest through which that continuous custody was obtained, Petitioner's detention deprives him of liberty without due process of law.

96. Petitioner's continued detention therefore violates the Due Process Clause of the Fifth Amendment and renders him "in custody in violation of the Constitution" within the meaning of 28 U.S.C. § 2241(c)(3).

COUNT III (IN THE ALTERNATIVE)
Detention Without an Individualized Custody Determination
U.S. Const. amend. V; 8 U.S.C. § 1226(a); 28 U.S.C. § 2241

97. Petitioner re-alleges and incorporates by reference the preceding paragraphs.

98. Petitioner pleads this Count in the alternative. A bond hearing does not supply arrest authority that was absent when ICE acquired custody, and release remains the appropriate remedy on Counts I and II. *See Riky A.M.L. v. Blanche*, No. 26-cv-1429 (JRT/JFD), Doc. 75 at 7 (D. Minn. Sept. 16, 2026) ("immediate release, not a bond hearing, is the proper remedy").

99. If the Court concludes that Respondents lawfully acquired custody of Petitioner, his continued confinement without any individualized custody determination independently violates the Due Process Clause. Under *Mathews v. Eldridge*, 424

U.S. 319, 335 (1976), the Court weighs the private interest affected, the risk of erroneous deprivation under the procedures used, and the Government's interest.

100. Each factor favors Petitioner. His interest in freedom from confinement is significant. He has lived in the United States for about twenty-seven years, his family is here, and he was working with DHS's authorization when he was detained. The risk of erroneous deprivation is high because no neutral decisionmaker has considered whether he presents a flight risk or a danger. And the burden on the Government of providing a bond hearing is low.

101. Courts in this District have held that due process requires an individualized bond hearing in these circumstances, including where Respondents assert mandatory detention under § 1225(b)(2)(A). *See Wilfredo C.M.*, Doc. 9 at 7–8 (citing *Axel J.M.C. v. Stanski*, No. 26-cv-2281, 2026 WL 1171344, at *3–4 (D. Minn. Apr. 29, 2026)); *Abdifatah M.A. v. Blanche*, No. 26-cv-3475 (LMP/DLM), Doc. 8 at 4–5 (D. Minn. Aug. 18, 2026) (citing *Jesus Alejandro G.A. v. Blanche*, No. 26-cv-1932 (LMP/ECW), 2026 WL 1383138, at *5–12 (D. Minn. May 18, 2026)).

102. In addition, to the extent Respondents arrested Petitioner on a Form I-200, they invoked the discretionary detention authority of § 1226(a), and Petitioner is entitled to the bond hearing that provision and its regulations afford. *See Wilfredo C.M.*, Doc. 9 at 6–7; *Jany W.G.C.*, 2026 WL 2364413, at *2.

103. Petitioner entered the United States on a visa. He is not an "applicant for admission" under 8 U.S.C. § 1225(a)(1), and § 1226(a), not § 1225(b)(2)(A), governs his

detention. *Avila* addressed noncitizens present without admission and does not reach him. 170 F.4th at 1138.

EXPEDITED CONSIDERATION

104. Petitioner respectfully requests expedited consideration of this Petition pursuant to 28 U.S.C. § 1657(a). Congress directs federal courts to "expedite the consideration of any action brought under chapter 153" of Title 28. 28 U.S.C. § 1657(a). This Petition is brought under 28 U.S.C. § 2241, within Chapter 153, and therefore warrants priority consideration.

105. Expedition is particularly appropriate because Petitioner remains in physical custody and challenges the legal predicate for that confinement. "The traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Where detention is unlawful, each additional day of confinement prolongs the deprivation the writ is designed to remedy.

106. The issue presented is also discrete and capable of prompt resolution. Petitioner challenges Respondents' authority to arrest him and take him into civil immigration custody. Resolution of that question depends principally upon records within Respondents' possession.

107. Petitioner therefore respectfully requests that the Court expedite consideration of this Petition pursuant to § 1657(a), promptly order Respondents to show cause why the writ should not issue, and require Respondents to produce the documents and evidence upon which they rely to establish lawful authority for Petitioner's arrest and resulting detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Francis Alfred Koromo, respectfully requests that this Court:

1. Expedite consideration of this Petition pursuant to 28 U.S.C. § 1657(a), and:
    a. Issue an Order to Show Cause directing Respondents to state, within three (3) days, the legal and factual basis for Petitioner's present detention, including the authority upon which Respondents contend his arrest was lawfully effected;
    b. Direct Respondents to submit with their response any administrative warrant, immigration detainer, Notice to Appear, Form I-213, custody determination, any notice concerning his DACA grant, and other records upon which they rely to establish lawful authority for Petitioner's arrest and continued detention, including records showing the date and time each document was issued and served, and any evidence upon which they rely to establish that Petitioner was likely to escape before a warrant could be obtained;
    c. If this matter is referred to a magistrate judge, shorten the time for filing objections to any Report and Recommendation as the Court deems appropriate to effectuate the expedited consideration required by § 1657(a); and
    d. Direct prompt service of the Petition and any Order to Show Cause upon Respondents;

2. Pending resolution of this Petition, prohibit Respondents from transferring Petitioner outside the District of Minnesota without prior notice to the Court and Petitioner's counsel, or otherwise taking action that would impair this Court's jurisdiction or ability to effectuate habeas relief;
3. Grant the Petition for Writ of Habeas Corpus and determine that Respondents have not established lawful statutory authority for Petitioner's present physical detention;
4. Order Respondents to immediately release Petitioner from physical custody;
5. Order that Respondents return Petitioner's personal property in their possession or control without delaying his release for purposes of retrieving or processing that property;
6. To effectuate the writ and prevent circumvention of the Court's judgment, enjoin Respondents from re-arresting or re-detaining Petitioner during the pendency of his removal proceedings based upon the circumstances existing at the time of this Court's judgment unless:
    a. Respondents provide Petitioner and his counsel advance written notice identifying the factual and legal basis for the proposed re-arrest or re-detention; and
    b. Petitioner is afforded a meaningful opportunity, before re-detention, before a neutral decisionmaker, to challenge whether the proposed custody rests upon new and independently lawful authority rather than the custody adjudicated unlawful in this action, provided, however, that nothing in this Order shall prohibit Respondents from exercising

arrest or detention authority arising from materially changed circumstances or another new and independently lawful basis for custody, consistent with applicable statutory, regulatory, and constitutional requirements;

7. In the alternative, only if this Court does not order immediate release, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within seven (7) days, at which the parties may present evidence and argument concerning flight risk and danger to the community, and order Petitioner's immediate release if no such hearing is held or if bond is denied for lack of jurisdiction; and

8. Grant such other and further relief as the Court deems just and proper.

Date: October 4, 2026

RATKOWSKI LAW PLLC

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Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge and belief. I declare pursuant to 28 U.S.C. § 1746 and 28 U.S.C. § 2242 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Francis Alfred Koromo Dated: October 4, 2026
Francis Alfred Koromo