IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Kou Lor, Petitioner, v. **Markwayne Mullin**, Secretary, Department of Homeland Security; **Todd Blanche**, Attorney General; **David Venturella**, Acting Director, Immigration and Customs Enforcement; and **David Easterwood**, Acting Director, St. Paul Field Office Immigration and Customs Enforcement; Respondents.	Civil No.: 0:26-cv-04286 **PETITION FOR WRIT OF HABEAS CORPUS** **8 U.S.C. § 1231** **28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Kou Lor, 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 operate 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 Kou Lor lives in the State of Minnesota. Petitioner is a native of Laos and member of the Hmong ethnic minority. He has an administratively final order of removal, issued in 1996. He was arrested by federal agents on August 7, 2026, at a routine check-in with ICE. He is currently detained at the Kandiyohi County Jail in Willmar, Minnesota.

8. 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 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.

9. 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.

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

PETITIONER'S IMMIGRATION HISTORY AND STATUS

12. Petitioner Kou Lor is a 54-year-old native of Laos. He came to the United States in 1979 at the age of seven, [redacted] the same period. Petitioner's family fled Laos when he was just a toddler; he has no memories of his homeland. His family spent five years in refugee camps in Thailand before coming to America.

13. Petitioner became a lawful permanent resident, retroactive to his date of entry. However, he was ordered removed in 1996, following a series of criminal convictions.

14. Petitioner has a criminal record. In 1992, he was convicted of felony 2nd degree criminal sexual conduct and misdemeanor theft. *Minnesota v. Lor*, No. 62-K6-92-000022 (Minn. Dist. Ct. Mar. 26, 1992); *Minnesota v. Lor*, No. 62-KX-92-600218 (Minn. Dist. Ct. Aug. 10, 1992). In 1993, he was convicted of felony counts of 2nd degree burglary and 3rd degree burglary. *Minnesota v. Lor*, No. 27-CR-93-008098 (Minn. Dist. Ct. Apr. 16, 1992); *Minnesota v. Lor*, No. 73-K6-92-001471 (Minn. Dist. Ct. Aug. 16, 1993). In

1997, he was convicted of 1st degree criminal sexual conduct and 3rd degree criminal sexual conduct. *Minnesota v. Lor*, No. 73-K7-96-004615 (Minn. Dist. Ct. Nov. 17, 1997); *Minnesota v. Lor*, No. 73-K6-97-000050 (Minn. Dist. Ct. June 30, 1997). In 2001, he was convicted of 2nd degree criminal sexual conduct. *Minnesota v. Lor*, No. 73-K7-01-000919 (Minn. Dist. Ct. Sept. 10, 2001). Petitioner has not been convicted of any crime in the last 25 years.

15. Petitioner was ordered removed by an immigration judge on August 16, 1996. But there are often major legal barriers to deporting Hmong nationals. For decades after the end of the Vietnam and Secret Wars, Laos rarely accepted deportees and even more rarely Hmong deportees.

16. Hmong refugees who were ordered deported, but not accepted by Laos, whether because of legal protections or Laos' refusal to accept them, were almost universally released on orders of supervision, with required annual check-ins with INS and then ICE. Similarly, the U.S. Government has been unable to execute Petitioner's removal order. Petitioner served 10 months of immigration detention across 2003 and 2004, after ICE detained him for removal purposes following a state prison sentence. In July 2004, ICE made a determination that there was not a significant likelihood of Petitioner's removal in the foreseeable future and released him on an order of supervision. Petitioner has been under an order of supervision at all times since and, on information and belief, he has been compliant with that order of supervision during the 22 years since his release.

PETITIONER'S FIRST HABEAS PROCEEDING

17. On January 5, 2026, ICE arrested Petitioner "without a warrant following his

appearance at a supervised release check-in." *Kou L. v. Schilling*, No. 26-CV-1672 (ECT/DLM), 2026 WL 765419, at *2 (D. Minn. Mar. 13, 2026), *R. &. R. adopted*, 2026 WL 770585 (D. Minn. Mar. 18, 2026). ICE did not actually revoke his supervised release until four days after his arrest. *Id.* On or around January 18, 2026, "the country of Laos issued a travel document for" Petitioner. *Id.*

18. On February 27, 2026, Petitioner filed his first petition for a writ of habeas corpus. Petition, *Kou L. v. Schilling*, No. 26-CV-1672 (ECT/DLM) (D. Minn. Feb. 27, 2026) (Dkt. 1).

19. On March 13, 2026, the Honorable Magistrate Judge Douglas L. Micko issued a Report and Recommendation recommending Petitioner's release from custody on grounds "his detainment prior to the issuance of the Notice [revoking his supervised release] violated 8 C.F.R. § 241.13" and the eventual notice failed to comply with regulations because it contained only "boilerplate legal conclusions that mimic 8 C.F.R. § 241.13's language but fall short of its substantive requirements." *Kou L.*, 2026 WL 765419, at *4. The R&R also found that, despite *post hoc* developments, the notice of revocation was invalid because it "failed to demonstrate the changed circumstances that existed *upon revocation*." *Id.* at *5.

20. The Government did not object to the R&R and, on March 18, 2026, the court ordered Petitioner's release. *Kou L.*, 2026 WL 770585, at *1.

RESPONDENTS' ARREST OF PETITIONER

21. After being released on his order of supervision, Petitioner resumed his life as best he could. While he had previously held an Employment Authorization document,

commonly called a "work permit," for decades, changes in federal policy meant he could no longer legally work to support his family. Instead, Petitioner spent his ensuing five months of freedom with his community and family, including his wife and five children (all U.S. citizens).

22. However, that freedom came to an end on August 7, 2026, when ICE agents arrested Petitioner at a routine check-in with ICE pursuant to his order of supervision. Petitioner voluntarily appeared at ICE's demand shortly after 1:00 P.M. complying with the requirements of his supervised release as he has for over two decades. And just like in January ICE arrested him without a valid warrant, notice of revocation of supervised release, or any other paperwork justifying his arrest.

23. Most gallingly, despite the court's clear ruling in March, ICE agents made no attempt whatsoever to secure a valid warrant or notice of revocation before arresting Petitioner. After Petitioner's arrest, an ICE officer filled out a notice of revocation right in front of him, on a laptop. The notice was allegedly issued by Assistant Field Officer Director Richard Price, although Petitioner does not recall AFOD Price appearing before Petitioner and it appeared that AFOD Price's signature was pre-filled on the digital template for the notice of revocation. The processing officer than printed the form out and served it on Petitioner around 3:00 P.M., about two hours after he was arrested.

24. Moreover, ICE only presented Petitioner with a Form I-200 administrative warrant of arrest. As an individual subject to a final order of removal, Petitioner could only be arrested pursuant to a Form I-205 warrant of removal. 8 C.F.R. §§ 241.2, 241.3.

25. Upon information and belief, Respondents lacked probable cause to justify

Petitioner's warrantless detention. Petitioner has complied with ICE's requirements for supervised release for over 22 years. He even voluntarily appeared at this August check-in despite being arrested at such a check-in seven months earlier. He knew a travel document had previously been issued to Laos, recognized that he faced the specter of removal, understood that he might quickly be torn from his family and the country that has been his home for 47 years, and dutifully appeared anyway. This extended period of compliance, and compliance after an unlawful arrest at a prior check-in, shows that it was extremely likely that Petitioner would comply with other directives from ICE, including any order to re-appear once a proper warrant had been obtained for his arrest. Moreover, Petitioner's order of supervision also requires him to keep ICE apprised of his current address and update them in short order if that address changes. Petitioner has complied with those requirements. Where Petitioner was cooperative with ICE's requirements and where ICE had ready access to his address, ICE had no reason to believe that Petitioner could not be found and arrested once officers obtained a valid Form I-205 warrant of removal.

26. Moreover, Petitioner has extensive community ties, having lived in Minnesota for almost 50 years, worked to support his family for decades until his work permit was pulled by Respondents, and having a wife and five children at home. This further shows that Petitioner could well be found once a proper warrant was found.

27. After Petitioner was arrested, ICE stated that it had a valid travel document to Laos for Petitioner and that he would go out on the next flight to Laos, within one to three weeks from his arrest.

28. However, it has been almost two months since Petitioner's arrest and he has

not been removed. Multiple deportation flights to Laos have departed since his arrest, at least three his counsel is aware of and likely more, but Petitioner has remained in the United States despite ICE's claims about his removability.

29. Petitioner has not purposefully or intentionally acted to prevent his removal.

30. On information and belief, ICE does not currently have a plan to remove Petitioner to Laos or any other country. Petitioner does not have a Laotian passport and is not a Laotian citizen.[1] The initial travel document issued for Petitioner has expired. And, on information and belief, Petitioner's continued presence in America suggests that Laos has declined to accept Petitioner's removal at this time.

31. While ICE has been able to remove some Hmong individuals to their home country, there is no indication that it can or will execute the removal of Petitioner in the reasonably foreseeable future. ICE has proven incapable of removing many Laotian nationals detained in Minnesota.

32. Indeed, on information and belief, ICE cannot remove Petitioner to Laos. Further, the regulatory procedure for revocation of Petitioner's order of supervision was not followed, and there were less restrictive alternatives to initiate the removal process And Respondents failed to observe the constitutional, statutory, and regulatory requirements for arresting Petitioner pursuant to a valid administrative warrant, resulting in an invalid warrantless arrest. As a result, Respondents' detention of Petitioner is unlawful and violates agency regulations, enabling statutes, and the Fourth Amendment to the U.S. Constitution.

[1] In 2004, "Laos implemented a new law that stripped Laotian citizenship from any national who had left the country for more than seven years." *Kou L.*, 2026 WL 765419, at *1.

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.

34. To remedy this unlawful detention, Petitioner seeks relief in the form of immediate release from detention on the conditions of the order of supervision in place before his arrest.

LEGAL FRAMEWORK

HABEAS PETITIONS

35. 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). "The Great Writ is 'a vital instrument' to protect individual liberties, and is an essential check on abuses of government power," particularly against "'arbitrary imprisonments,' which 'have been, in all ages, the favorite and most formidable instruments of tyranny.'" *Tou V. v. Bondi*, No. 26-CV-1831 (JMG/DLM), 2026 WL 458195, at *1 (D. Minn. Feb. 18, 2026) (quoting *Boumediene v. Bush*, 553 U.S. 723, 743–45 (2008)).

36. 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).

8 U.S.C. § 1231 AND ZADVYDAS

37. The Due Process Clause of the Fifth Amendment to the Constitution prohibits the United States government from depriving any person of their liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. 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.").

39. *Zadvydas v. Davis* is the landmark Supreme Court case on post-removal detention under 8 U.S.C. § 1231. In that case, the Supreme Court ruled that 8 U.S.C. § 1231 provides a "presumptively reasonable period of detention" of six months to effect a noncitizen's deportation. *Zadvydas*, 533 U.S. at 701.

40. Importantly, while *Zadvydas* has been read to permit 180 days of detention under § 1231 and any additional "period reasonably necessary to bring about that alien's removal from the United States," *id.* at 689–90, it does not permit the Government to arbitrarily arrest a person subject to § 1231 whenever it can, simply because it can. Such detention under this section is permissible only with the intent and ability to actually execute a noncitizen's removal.

41. Even then, when a person is on an order of supervision with ICE, the preliminary steps toward removal can be accomplished without confinement. In the past, it has been common to call an individual into an ICE office to apply for a travel document and again when it is time for removal. *Zadvydas* also requires active, diligent efforts to carry out removal. It does not authorize the Government to detain a person for an extended period of time and *then* start the process.

SUPERVISED RELEASE UNDER 8 C.F.R. § 241.13

42. Agency regulations also "control the federal government's ability to detain, release, and revoke the release of noncitizens subject to orders of removal." *Garrison G. v. Bondi*, 825 F. Supp. 3d 853, 856 (D. Minn. Jan. 17, 2026).

43. Government agencies must follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 779, 788 (D. Minn. 2025) (citing *Accardi* in the context of a habeas petition and ordering a petitioner's release for failure to comply with 8 C.F.R. § 241.13).

44. "DHS implemented the requirements of *Zadvydas* through regulations governing post-removal order custody determinations. *See* 8 C.F.R. §§ 241.4, 241.13. . . . These limits are not discretionary." *Mong C. v. Noem*, No. 26-CV-1541 (JWB/DLM), slip op. at 4 (D. Minn. Feb. 24, 2026).

45. When a noncitizen is detained pursuant to § 1231 and there is no significant likelihood of removal in the reasonably foreseeable future, they are released pursuant to 8 C.F.R. § 241.13(g). There are two grounds to revoke this supervised release: violation of the terms and conditions of release or changed circumstances. 8 C.F.R. § 241.13(i)–(ii).

46. "Noncitizens released pursuant to 8 C.F.R. § 241.13 under conditions of supervision maintain a protected liberty interest in their continued release." *Ge Y. v. Noem*, No. 26-CV-1700 (KMM/LIB), 2026 WL 800005, at *4 (D. Minn. Mar. 17, 2026) (collecting cases), *R. & R. adopted*, 2026 WL 803129 (D. Minn. Mar. 23, 2026). "Accordingly, any attempt to redetain an individual who has been released under § 241.13 necessarily implicates the individual's constitutionally protected liberty interests." *Id.* "These limits are not discretionary. The government is bound to follow the regulations it has promulgated." *Mong C.*, No. 26-CV-1541, slip op. at 4 (citing *Accardi*, 347 U.S. at 268).

47. Thus, when ICE intends to revoke the release of a noncitizen "the government must strictly follow the procedures outlined in §§ 241.13 and 241.4." *Tou V.*, 2026 WL 458195, at *4. It must notify an individual in writing before revoking their supervised release. *Id.* at 5. That communication must "notify the noncitizen 'of the reasons for revocation of his or her release.'" *Garrison G.*, 825 F. Supp. 3d at 857 (quoting 8 C.F.R. § 241.13(i)(3)). "Conclusory or post-hoc notices do not satisfy the regulation." *Mong C.*, No. 26-CV-1541, slip op. at 5. ICE must then "conduct an initial informal interview promptly after the noncitizen's return to custody to afford the noncitizen an opportunity to respond to the reasons for revocation stated in the notification." *Garrison G.*, 825 F. Supp. 3d at 857. The interview must be held after the service of the notice revoking the noncitizens release. *Sunee T. v. Noem*, No. 26-CV-1638 (LMP/DTS), slip op. at 6 (D. Minn. Mar. 11, 2026).

48. Re-detention based on changed circumstances can occur when ICE

"determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). ICE must "consider[ ] factors probative of the [noncitizen's] future removal . . . . including the [noncitizen's] history of compliance efforts, ICE's history in removing [noncitizens] to the country in question or third countries, and the State Department's views on the prospects of removal of [noncitizens] to those countries." *Sarail A.*, 803 F. Supp. 3d at 785 (citations omitted).

49. "Section 241.13 places the burden on ICE to establish that 'changed circumstances' justified the revocation of release." *Garrison G.*, 825 F. Supp. 3d at 857. ICE must provide "individualized explanation or confirmation of sufficient changed circumstances to justify re-detention." *Chong W.V. v. Noem*, No. 26-CV-1622 (JWB/DTS), slip op. at 7 (D. Minn. Mar. 9, 2026). "[V]ague, conclusory statements" are "insufficient to demonstrate that ICE's revocation of [an individual's] supervised release was justified." *Bounkieng S. v. Noem*, No. 26-CV-1830 (JRT/EMB), 2026 WL 776926 at *2 (D. Minn. Mar. 19, 2026).

THE FOURTH AMENDMENT

50. 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.*

51. The Fourth Amendment applies to noncitizens. *See United States v.*

Quintana, 623 F.3d 1237, 1239 (8th Cir. 2010).

52. 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.").

53. Even to the extent a noncitizen present in the country could be detained under other statutory authority, "it does not follow that [such a noncitizen] can be arrested and detained . . . 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 (JRT/ECW), 2026 WL 1229623, at *2 (D. Minn. May 5, 2026) (discussing detention under 8 U.S.C. § 1225(b)(2)); *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).

54. There are two regulatory schemes for administrative warrants issued by DHS and ICE. First, there are warrants of arrest, which are authorized by 8 U.S.C. § 1226 and implemented via regulation at 8 C.F.R. § 236.1(b). These administrative warrants of arrest are used to "arrest[] and detain[] pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). These warrants are issued on ICE "Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1). Second, there are warrants of removal, which are authorized by 8 U.S.C. § 1231 and implemented via regulation at 8 C.F.R. §§ 241.2, 241.3. This brand of administrative warrant is issued on "Form I-205, Warrant of

Removal," *id.* at § 241.2(a), and is used to arrest and detain noncitizens with a final order for removal pending their actual removal from the United States.

55. Because Petitioner is subject to a final order of removal, ICE was required to arrest him pursuant to a Form I-205 warrant of removal. 8 C.F.R. § 241.3(a); *Inti C.L. v. Blanche*, ___F. Supp. 3d. ___, 2026 WL 2474390, at *1 (D. Minn. 2026); *accord Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), 2026 WL 1847044, at *2 (D. Minn. June 26, 2026) ("As an initial matter, Mr. V. cannot be arrested pursuant to an I-200 warrant because he is subject to a final order of removal."). "A warrant of removal must be prepared in every case resulting in a final order of removal[.]" *United States v. Orozco-Acosta*, 607 F.3d 1156, 1163 (9th Cir. 2010). And a warrant of removal was required for Petitioner's arrest because a "removal order is not a surrogate for an arrest warrant." *United States v. Segura-Gomez*, No. 17-CR-65-FL-1, 2018 WL 6582823, at *8 (E.D.N.C. May 25, 2018), *R. & R. adopted*, 2018 WL 6259222 (E.N.D.C. Nov. 30, 2018); *accord Kong v. United States*, 62 F.4th 608, 619 (1st Cir. 2023) ("The concepts of a deportation order and a deportation warrant cannot be conflated. The deportation order authorizes removal from the country. The warrant authorizes an arrest to effect removal.").

56. A warrant of removal is not valid unless signed by an officer authorized to issue such a warrant. *Ger V.*, 2026 WL1847044, at *3; *see* 8 C.F.R. § 241.2(a)(1) (providing a list of 31 types of DHS officer authorized to issue a Form I-205 as well as permission to delegate the authority to issue Form I-205s to additional officer types).

57. Absent a valid warrant for removal, arrests of noncitizens with a final order for removal are held to the same statutory and regulatory standards for warrantless arrest

as for noncitizens being placed into removal proceedings. *Id.* at *4 n.7; *Inti C.-L.*, 2026 WL 2474390, at *2.

58. The Immigration and Naturalization Act 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 (MJD/DTS), slip op. at 9 (D. Minn. Apr. 10, 2026).

59. "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.

60. 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.

61. Courts have construed § 1357(a)(2) "to mean 'likely to evade detention by immigration officers.' And that analysis considers not just whether the noncitizen will be located at the scene of encounter with immigration enforcement but also whether immigration enforcement would be able to arrest the noncitizen at 'another clearly identifiable location.'" *Walther Ademir A.S. v. Blanche*, No. 26-CV-2804 (LMP/SGE), 2026 WL 1734906, at *3 (D. Minn. June 16, 2026) (citing and quoting cases)..

62. Warrantless arrest analysis under §1357(a)(2) is an individualized inquiry, judged by the actual knowledge and process of the ICE officers who arrested Petitioner. See *id.* at *4. "Accordingly, the relevant inquiry is not simply whether [Petitioner] was likely to leave [his immediate location] before ICE officers could obtain a warrant, but rather whether it was likely that ICE officers would be able to locate [Petitioner] after obtaining a warrant to arrest him." *Id.* at *3.

63. Further, "Courts have made the 'self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties.' *Id.* at *4 (citing *Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 31(D.D.C. 2025) (collecting cases)).

64. 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.

65. If Petitioner was arrested without a valid Form 1-205 and without the appropriate probable cause, he must be released. *Inti C.-L.*, 2026 WL 2474390, at *2 (granting release to a habeas petitioner where he was arrested without a valid I-205 warrant or probable cause to believe he was likely to escape); *Ger V.*, 2026 WL 1847044, at *4 & n.7 (same).

66. 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.

67. Retroactively served warrants cannot cure an otherwise unlawful detention. *See also Alberto C.M. v. Noem*, No. 26-CV-380 (DWF/SGE), 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.").

RELEASE IS THE PROPER REMEDY

68. "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).

69. "Courts in this District have repeatedly found that the government's failure

to follow its own requirements under Section 241.13 warrants release, not a 're-do' of Section 241.13 procedures." *Por M. v. Noem*, No. 26-CV-1546 (PJS/DJF), 2026 WL 776865, at *5 (D. Minn. Mar. 9, 2026) (collecting cases), *R. & R. adopted*, 2026 WL 776864 (D. Minn. Mar. 19, 2026).

70. "The remedy for a warrantless arrest is immediate release." *Edison D.M.J. v. Bondi*, No. 26-CV-1588 (DWF/LIB), 2026 WL 559747 at *2 (D. Minn. Feb. 27, 2026). 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).

CAUSES OF ACTION

COUNT ONE: FOURTH AMENDMENT SEARCH AND SEIZURE

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

72. Respondents did not have Petitioner's consent to arrest him. On information and belief, Respondents did not present a valid administrative warrant to Petitioner when they detained him and it is unclear whether they have 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 served, it was an improper Form I-200 warrant and the warrant was served after the arrest.

73. Thus, Petitioner alleges that he was not arrested pursuant to a valid Form I-205 Warrant of Removal.

74. Absent a valid warrant, Respondents have exceeded their authority to make a warrantless arrest of Petitioner 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."

75. 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: VIOLATION OF *ACCARDI* DOCTRINE

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

77. 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).

78. On information and belief, Respondents' detention of Petitioner violates the law because ICE did not comply with its own regulations under 8 C.F.R. § 241.13 in revoking his supervised release.

79. By attempting to revoke Petitioner's supervised release subject to a notice of revocation signed by an officer not authorized to issue such a notice, Respondents violated

8 C.F.R. §§ 241.4 and 241.13.

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

81. All of 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

82. 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).

83. Petitioner anticipates that Respondents may contest various facts such as the date, time, and location that any warrant and/or notice to revocation were issued or served in this case, or ICE officers' authority to do so. Such issues could be dispositive. If the Court finds that material facts 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 these issues.

REQUEST FOR ORDER TO SHOW CAUSE

84. 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.

85. 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.

86. 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; (4) the name, title, training and qualifications of the agent who served the warrant upon Petitioner; (5) the time, place, and manner by which the warrant was served upon Petitioner; and (6) whether the warrant was created specifically in response to or in anticipation of this habeas petition.

87. Petitioner respectfully requests that an Order to Show Cause direct Respondents, should they offer a notice of revocation of release and alien informal interview statement, to provide sufficient details to establish the validity of these documents, such as: (1) the name, title, training, and qualifications of the officer who issued the notice of revocation; (2) the time and place at which the notice of revocation was issued; (3) the basis for revocation and the evidence the issuing officer relied upon in making his

determination that revocation was warranted; (4) the name, title, training and qualifications of the agent who served the notice of revocation upon Petitioner; (5) the time, place, and manner by which the notice of revocation was served upon Petitioner; (6) the name, title, training and qualifications of the agent who conducted any informal interview with Petitioner; (7) the time, place, and manner by which the informal interview was held; and (7) whether the documents in this case were created specifically in response to or in anticipation of this habeas petition.

88. 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 on his prior order of supervision;

3. Declare that Petitioner's current detention exceeded Respondents' authority and is 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, such as Petitioner's driver's license, immigration papers, identification documents including any passport or employment authorization document, cell phone, and keys;

6. Enjoin Respondents from implementing any additional conditions of release beyond those in Petitioner's current order of supervision;

7. 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

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

DATED: October 5, 2026

Respectfully submitted,

/s/ Daniel P. Suitor
Daniel P. Suitor (#0403979)
Attorney at Law
331 Second Avenue S
Ste. 400-3099
Minneapolis, MN 55401
(612) 234-2149
dan@danielsuitor.com

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 as well as my personal knowledge as an attorney filing over 65 habeas petitions for noncitizens detained during and after Operation Metro Surge. 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), 2026 WL 1893611, at *3 (D. Minn. July 1, 2026) (citations and quotations omitted).

DATED: October 5, 2026

Respectfully submitted,

/s/ Daniel P. Suitor

Daniel P. Suitor (#0403979)
Attorney at Law
331 Second Avenue S
Ste. 400-3099
Minneapolis, MN 55401
(612) 234-2149
dan@danielsuitor.com

Attorney for Petitioner