UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

AUDI ROMELIO GUEVARA-RAMOS

Petitioner,

v.

Todd BLANCHE, in his official capacity as Attorney General of the United States;

Markwayne MULLIN, in his official capacity as Secretary of the Department of Homeland Security;

David VENTURELLA, in his official capacity as Acting Director of United States Immigration and Customs Enforcement;

David EASTERWOOD, in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;

RYAN SHEA, in his official capacity as Sheriff of Freeborn County; and

MIKE STASKO, in his official capacity as Jail Administrator of the Freeborn County Adult Detention Center,

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. This case seeks the immediate release of Audi Romelio Guevara-Ramos ("Petitioner" or "Mr. Guevara-Ramos") from unlawful immigration detention by the Department of Homeland Security's ("DHS") U.S. Immigration and Customs Enforcement ("ICE"). Petitioner was arrested on August 11, 2026 and ICE has been detaining Petitioner since at least August 13, 2026. He is currently being detained at the Adult Detention Center located at 411 Broadway S, Albert Lea, MN in Freeborn County.

2. Mr. Guevara-Ramos is from Guatemala. He entered the United States on or around September 18, 2021, and has been residing in Chicago, IL with his wife and two daughters, one of whom is a United States citizen. Mr. Guevara-Ramos fled Guatemala due to significant fears for his safety and threats made to his life due to his prior work as a narcotics officer in his home country.

3. ICE took custody of Mr. Guevara-Ramos at the Hardin County Jail in Eldora, Iowa. Mr. Guevara-Ramos was detained by local police in Iowa on August 11, 2026 following a traffic stop at which Mr. Guevara-Ramos was a passenger. Mr. Guevara-Ramos was detained without probable cause and handed over to ICE without issuance or service of a warrant.

4. ICE failed to display or serve Mr. Guevara-Ramos with any administrative warrant or provide him with any arrest or custody paperwork until he had already been in detention for several weeks.

5. Mr. Guevara-Ramos is currently being held at the Adult Detention Center located at 411 Broadway S, Albert Lea, MN in Freeborn County (the "Freeborn Detention Center").

6. As set forth herein, Mr. Guevara-Ramos's detention violates the Fourth and Fifth Amendments to the United States Constitution and further violates both 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.3(d), and this Court should order Petitioner's immediate, outright release.

7. Since August 11, 2026, Mr. Guevara-Ramos has been deprived of his liberty. Petitioner's detention is unlawful for several reasons.

8. *First*, the government has no legitimate interest in detaining Mr. Guevara-Ramos when he is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention. On the contrary, Mr. Guevara-Ramos has not been charged with any crimes aside from minor traffic violations since arriving in the United States. In his five years here, Mr. Guevera has raised a family, including a child who is a United States citizen. His deep ties and community roots preclude any determination that he is a flight risk. Accordingly, Mr. Guevara-Ramos's present detention violates his substantive due process rights, requiring his immediate release.

9. *Second*, procedural due process requires the opportunity to be heard at a meaningful time and in a meaningful manner when the government imposes constraints on a person's liberty. Procedural due process applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or

permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Thus, Mr. Guevara-Ramos's detention without any pre-deprivation process violates his procedural due process rights and this alone warrants his immediate release. *See, e.g.*, *Kevin J.R.M. v. Blanche*, No. 0:26-cv-03122, ECF No. 13, at 15 (D. Minn. July 17, 2026), *report and recommendation adopte*d, *Kavin J.R.M. v. Blanche*, No. 26-CV-3122 (KMM/JFD), 2026 WL 2227793, at *1 (D. Minn. Aug. 3, 2026). Absent outright release, the Due Process Clause requires, at minimum, that this Court order an immigration bond hearing at which the government bears the burden of proof to justify Mr. Guevara-Ramos's detention.

10. *Third*, Mr. Guevara-Ramos's warrantless arrest violates his Fourth Amendment rights, as well as statute and regulation, similarly mandating his release. Upon information and belief, the I-200 form served on Mr. Guevara-Ramos was not provided to him until weeks after being detained. The warrant itself purports to have been served on Petitioner on August 13, 2026 in Des Moines, IA, though the I-213 form generated by DHS acknowledges that ICE took custody of Petitioner at the Hardin County Jail in Eldora, Iowa, approximately 75 miles from Des Moines. There can be no dispute, then, that whenever Petitioner was first provided a copy of the I-200 warrant, it was not until after he was detained. There was moreover no determination that Petitioner posed either a danger or a flight risk. This requires Petitioner's release. *See Manuel P.N. v Easterwood,* 26-CV-3799 (ECT/DJF), 2026 WL 2823650, at *2 (D Minn Sept. 21, 2026) ("Because [Petitioner] was not served with a valid warrant at the time of his arrest, and because I conclude that

Respondents have not shown that his arrest complied with § 1357(a)(2), . . . [Petitioner] will be ordered released.")

11. For these reasons, as further explained herein, Mr. Guevara-Ramos respectfully asks this Court to declare that his detention is unlawful, order his immediate release, and enjoin Defendants from re-detaining him without meaningful pre-detention process, and otherwise violating their rights in the future. *See Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention," for which "[t]he typical remedy is, of course, release.").

12. Alternatively, absent outright release, the Due Process Clause requires, at a minimum, that this Court order an individualized review of Mr. Guevara-Ramos's detention at an immigration bond hearing where the government bears the burden of justifying Petitioner's detention. *See Pedro O. v. Garland*, 543 F. Supp. 3d 733, 744 (D. Minn. 2021) (concluding that, where a petitioner's detention violates due process, as per *Mathews* the petitioner "is entitled to a bond hearing in immigration court at which the Government must justify [the] detention[] … show[ing] by clear and convincing evidence that Pedro poses either a risk of flight or a risk of danger to the community"); *see also*, *e.g.*, *Matamoros Rodriguez v. Woodbury County Jail*, No. C26-4041-LTS-MAR, 2026 WL 1735035, at *4 (N.D. Iowa June 16, 2026) (ordering bond hearing in which the government bears the burden of proof of showing dangerousness or flight risk by clear and convincing evidence).

FACTUAL ALLEGATIONS

13. Petitioner is a citizen and national of Guatemala residing in the state of Illiois. He has resided in the United States since September 2021.

14. Petitioner entered the country on or about September 18, 2021, at which time he presented himself to United States immigration officials. He has lived in the United States for over five years now, and is married with two young daughters, one of which is a United States citizen. Mr. Guevara-Ramos has not been charged with any crimes since entering the United States, except for minor driving infractions. Attached hereto as **Exhibit A** are a true and correct copy of the results of a search for criminal and civil court records involving Mr. Guevara-Ramos, in the states of Minnesota, Illinois and Iowa, which were retrieved from publicly-available online databases on October 1, 2026.

15. On August 11, 2026, Mr. Guevara-Ramos was one of two passengers in a car being driven by a third person in or around Clarke County, Iowa when the car was pulled over by an Iowa State Patrol Trooper. Although he was not driving, Mr. Guevara-Ramos was subjected to questioning by the officer, who demanded to see Petitioner's identification. Petitioner complied and provided the officer with his Guatemala passport. When the officer further questioned Petitioner about his immigration status, Mr. Guevara-Ramos declined to answer.

16. Despite initially stating that Petitioner was not being arrested, the officer ultimately detained Mr. Guevara-Ramos and brought him to the Hardin County Jail in Eldora, Iowa. Upon information and belief, the officer contacted ICE to inquire about

Petitioner's immigration status, and it is for this reason he was detained. Mr. Guevara-Ramos was cited for not wearing a seatbelt and, purportedly, for an open container used by the other passenger being present in the vehicle. However, upon information and belief, none of the other vehicle occupants, including the driver, were detained by the Iowa State Trooper.

17. Mr. Guevara-Ramos was taken into custody by ICE on or about August 13, 2026. Upon information and belief, Petitioner was first taken to facilities in Des Moines, Iowa and Nebraska before ultimately being transferred to the Freeborn Detention Center, where he has been detained since and is currently being detained.

18. Petitioner has been placed in removal proceedings in Immigration Court at Fort Snelling and has already appeared for several master hearings. His next master hearing date is October 7, 2026 before Judge Jared L. Grimmer.

19. Upon information and belief, ICE did not provide Mr. Guevara-Ramos with any warrant regarding his arrest or detention on August 11, 2026. Indeed, during prior hearings before an Immigration Judge ("IJ"), Petitioner was asked for copies of any papers served upon him, which Petitioner did not have. At a hearing on September 16, 2026, the Court had to request that DHS provide a copy of any applicable I-200 form to Petitioner because none had been provided to Petitioner or the Immigration Court. Attached hereto as **Exhibit B** is a copy of that judicial request. Notably, this request was made after Petitioner had been detained for more than a month.

20. After the foregoing request by the Immigration Court, Petitioner was provided with a copy of an I-200 form (the "I-200 Warrant") and an I-213 form (the "I-213 Form"). Copies of the I-200 Warrant and I-213 Form that were provided to Petitioner are annexed hereto as **Exhibit C** and **Exhibit D**, respectively.

21. Though, upon information and belief, Petitioner was not provided a copy of the I-200 Warrant until weeks after he arrived at the Freeborn Detention Center, the I-200 Warrant itself confirms that it was not served until after ICE had already detained Mr. Guevara-Ramos. The I-200 Warrant purports to have been served by a deportation officer in Des Moines, Iowa on August 13, 2026. The I-213 Form states that on that date "Clarke County turned GUEVARA over to ERO" and "GUEVERA [sic] was transported to the ICE Office in Des Moines, Iowa." If Petitioner was indeed served with the I-200 Warrant in De Moines (which Petitioner disputes), he had already been in detention since August 11, 2026 and was already in ICE custody before being served with anything.

22. The I-213 Form further asserts that a Notice to Appear was issued on August 13, 2026, indicating that no Notice to Appear had been issued prior to Petitioner's arrest or detention.

23. Neither the I-200 Warrant nor the I-213 Form suggest that Petitioner had any criminal history in Guatemala or in the United States, provide any basis for determining that he is a flight risk, or identify any probable cause for his arrest and detention by Iowa police in the first place. The I-213 Form acknowledges that Petitioner has a wife and two

children living with him in the United States, including one child who is a United States Citizen.

24. Moreover, Petitioner informed DHS officials and the Iowa State Trooper that he fled Guatemala out of fear for his life. Mr. Guevara-Ramos worked as a narcotics officer in Guatemala before coming to the United States and his work to stop dangerous drug-trafficking criminals has put his life danger. The I-213 Form notes that "GUEVARA claims fear of harm/persecution if returned to his country of citizenship."

JURISDICTION & VENUE

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

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

27. Federal district courts have jurisdiction to hear habeas claims 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."). Because Petitioner seeks to challenge his custody as a violation of the U.S. Constitution, laws, or treaties of the United States, jurisdiction is proper in this Court.

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

PARTIES

29. Petitioner has lived in the United States for over five years, since September 2021. Prior to his detention on or about August 11, 2026, Petitioner was residing in the State of Illinois. Petitioner is currently detained at the Freeborn Detention Center. Petitioner is in the direct control of Respondents.

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

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

32. Respondent David J. Venturella is sued in his official capacity as Acting Director of ICE. As ICE's Acting Director, Respondent Venturella is a legal custodian of Petitioner.

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

34. Respondent Ryan Shea is sued in his official capacity as Sheriff of Freeborn County. As Sheriff of Freeborn County, Ryan Shea oversees the Freeborn Adult Detention Center, where Petitioner is presently detained, and is therefore one of his legal custodians.

35. Respondent Mike Stasko is sued in his official capacity as Jail Administrator of the Freeborn Adult Detention Center, where Petitioner is presently detained, and is therefore one of his legal custodians.

REQUIREMENTS OF 28 U.S.C. § 2243

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

37. Habeas corpus is "perhaps the most important writ known to the constitutional law ... affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (citation omitted). "The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the

trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

38. Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

EXHAUSTION OF LEGAL REMEDIES

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

40. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the Board of Immigration Appeals ("BIA")'s decision holding that anyone who has entered the United States without inspection is now considered an "application for admission" who is "seeking admission" and therefore subject to the INA's mandatory detention provision under 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025); *see also Eliseo A.A.*, 2025 WL 2886729, at *7 ("[F]urther administrative review would be futile in light of the BIA's recent decision in

Matter of Yajure Hurtado .... Where the agency has already adopted a definitive position, exhaustion serves no purpose." (citation omitted)).

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

LEGAL FRAMEWORK

I. Detention Authority Under the Immigration and Nationality Act.

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

48. *First*, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings under 8 U.S.C. § 1229a who are "already in the country." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of [a noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Id.* at 288 (quoting § 1226(a)). "To detain a noncitizen under § 1226(a), a warrant is required." *Martha C.G.P. v. Blanche*, No. 26-cv-2308, 2026 WL 1329557, at *3 (D. Minn. May 13, 2026) (citing *Ahmed M. v. Bondi*, No. 25-cv-4711, 2026 WL 25627, at *3) (D. Minn. Jan.

5, 2026) (collecting cases)). It thus follows that, absent a warrant, a noncitizen may not be arrested and detained pursuant to this section. *Id.*

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

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

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

52. Given the Eighth Circuit's recent holding in support of the government's statutory re-interpretation, this case concerns Respondents' detention authority under 8

U.S.C. § 1225(b)(2). *See Avila*, 170 F.4th at 1135–36.[1] While Respondents will likely maintain that this case concerns their detention authority under 8 U.S.C. § 1225(b)(2), because Respondents served an invalid I-200 arrest warrant pursuant to § 1226, such is the proper detention authority. *See, e.g.*, *Yonatan P. v. Blanche*, No. 26-CV-2949 (JMB/EMB), 2026 WL 1842652 (D. Minn. June 26, 2026) (granting habeas petition where Respondents arrested petitioner pursuant to a warrant under 1226—a statute of detention Respondents cannot switch after-the-fact); *Hector J.A.S. v. Blanche*, No. 26-cv-2242 (JRT/DLM), 2026 WL 1243500 (D. Minn. May 6, 2026) ("Respondents represented to Petitioner in the Form I-200 administrative warrant that he was being arrested and detained under 8 U.S.C. § 1226, which requires a warrant."); *Dos Santos Silva v. Warden*, No. 8:26-CV-131, 2026 WL 926725, at *1 (D. Neb. Apr. 6, 2026) (granting habeas petition "[b]ecause," despite entering the country without inspection, "the petitioner was granted conditional parole [release on recognizance] under § 1226 when he entered the United States in 2021," and, as such "the revocation of his parole is governed by that statute").

[1] Petitioner maintains, for preservation purposes only, that *Avila* was wrongly decided, and the interpretation adopted by the majority of circuit courts on this issue is instead correct. *See Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, 180 F.4th 1226, 1232 (10th Cir. 2026); *Cirrus Rojas v. Olson*, No. 25-3127, 2026 WL 2198315 (7th Cir. July 30, 2026); *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir. July 30, 2026); *Guerrero Orellana v. Moniz et al.*, No. 25-2152 (1st Cir Aug. 13, 2026).

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

53. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *accord Trump v. J.G.G.*, 605 U.S. 670, 673 (2025); *see also Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir. 2003) ("The Supreme Court has long recognized that deportable [noncitizens] are entitled to constitutional protections of due process." (citing *Yamataya v. Fisher*, 189 U.S. 89, 100–01 (1903)).

54. Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690. This fundamental due process protection applies to all noncitizens within the United States, including both deportable and inadmissible noncitizens. *See id.* at 693 (explaining procedural due process applies to all "persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent"); *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *see also, e.g.*, *Abdirashid H. M. v. Noem*, No. 25-4779 (JRT/EMB), 2026 WL 127698, at *4 (D. Minn. Jan. 9, 2026) (finding constitutionally protected liberty interest when petitioner had previously been "liv[ing] a productive life in the community"); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1148 (D. Minn. 2025) (finding a noncitizen had a significant constitutionally protected private interest in part based on separation from her children).

55. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risk of danger to the community and prevent

flight. *Zadvydas v. Davis*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of immigration detention must be reasonably related to these purposes. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Fernandez v. Lyons*, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (describing the standard for substantive due process violation).

56. Relatedly, even where detention is substantively justified, procedural due process protects noncitizens against deprivation of liberty without adequate notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 605 U.S. 91, 95-96 (2025); *J.G.G.*, 604 U.S. at 673. Prior to detaining a noncitizen in civil immigration detention, even for a legitimate purpose, the government must provide and follow sufficient procedural protections. *See Yrysbaev v. Arnott*, No. 6:26-cv-3047, 2026 WL 395897, at *3 (W.D. Mo. Feb. 12, 2026) ("In the immigration context, the Constitution requires the government to afford notice of any action against [a noncitizen] and requires the opportunity for the [noncitizen] to be heard. The opportunity to be heard must be meaningful, that is, an opportunity granted at a meaningful time and in a meaningful manner." (internal citations omitted)).

57. To evaluate whether civil immigration detention violates procedural due process, courts apply the three-part balancing test in *Mathews v. Eldridge*, weighing (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of

additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976); *see, e.g.*, *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *5 (D. Minn. May 7, 2026) (applying *Mathews*); *Orlando R.V.V. v. Blanche*, 0:26-cv-01903, Doc. 11, at 13-23 (D. Minn. Apr. 28, 2026) (same); *David J.C.P. v. Blanche*, No. CV 26-2181 (DWF/ECW), 2026 WL 1102725, at *2 (D. Minn. Apr. 23, 2026) (same); *Selvin Adonay E.M. v. Noem*, No. 25-cv-3975, 2026 WL 3157839, at *8 (D. Minn. Nov. 12, 2025) (same); *Abdirashid*, 2026 WL 127698, at *4 (same).

58. Importantly, even noncitizens subject to "mandatory immigration detention" are nevertheless "entitled to due process of law under the Fifth Amendment." *Mark O. v. Blanche*, No. 26-cv-02448, Doc. 7 at 5 (D. Minn. May 18, 2026); *see also id.* at 7 (holding that *Banyee*, *Demore*, and *Thuraissigiam* "are inapposite" to Petitioner's procedural due process claim); *Heriberto R.E. v. Blanche*, No. 26-cv-2227 (JWB/LIB), No. 12 at 6 (D. Minn. May 1, 2026) ("Due process does not turn on statutory classifications alone, such as treating a noncitizen as an applicant for admission. It depends on the nature of the deprivation and the circumstances in which it is imposed.").

59. Accordingly, several courts in the Eighth Circuit have granted post-*Avila* habeas petitions filed by unadmitted noncitizens challenging various forms of mandatory detention on procedural due process grounds. *See, e.g.*, *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *3 (D. Minn. May 7, 2026) ("While *Avila*

addressed a noncitizen's statutory rights, it did not address his due process rights."); *Heriberto R.E. v. Blanche*, No. 26-cv-2227 (JWB/LIB), No. 12 at 8 (D. Minn. May 1, 2026); *Axel J.M.C.*, 2026 WL 1171344, at *4; *Aleksei v. Warden*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *1 (D.S.D. Apr. 27, 2026); *David J.C.P. v. Blanche*, No. 26-cv-2181 (DWF/ECW), 2026 WL 1102725, at *3 (D. Minn. Apr. 23, 2026); *Osman J.M.A. v. Blanche*, No. 26-cv-2123 (DWF/DJF), 2026 WL 1005056, at *3 (D. Minn. Apr. 14, 2026); *Nelson E.T.B. v. Venturella*, No. CV 26-3541 (JRT/DLM), 2026 WL 2364527, at *2 (D. Minn. Aug. 14, 2026); *Kurt D. v. Blanche*, No. CV 26-3320 (JWB/DJF), 2026 WL 2445470, at *1 (D. Minn. Aug. 20, 2026); *Ovidio D. v. Blanche*, No. 26-CV-3374 (KMM/SGE), 2026 WL 2333992, at *2 (D. Minn. Aug. 12, 2026).

CLAIMS FOR RELIEF

COUNT I
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Substantive Due Process

60. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

61. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

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

63. Immigration detention is civil detention and must "bear a reasonable relation to the purpose for which the individual was committed" so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264–69 (1984) (stating that detention must be a proportional—not excessive—response to a legitimate state objective); *see also Santillan Quiroz*, No. 26-6019, Doc. 91-1, at 44 (noting that immigration detention requires a "strong special justification") (citing *Zadvydas*, 533 U.S. at 690.

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

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

66. Neither purpose is served by Mr. Guevara-Ramos's detention. Respondents have not made any claim that Mr. Guevara-Ramos presents a flight risk or a danger to the community, nor could they. To the contrary, Mr. Guevara-Ramos has resided in the United States for over five years without incident. Since Mr. Guevara-Ramos first came to the

United States, his ties to this country have only grown stronger. He has built his entire life here, including his wife and two young daughters, one of whom is a United States Citizen. *See Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 173-75 (3d Cir. 2018). And he remains without any criminal record, as set forth above. *See* Ex. A.

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

COUNT II
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Procedural Due Process

68. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

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

70. The government's infringement on Mr. Guevara-Ramos's liberty interest triggers a right to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972). The essence of procedural due process is that a person risking a serious loss must have "an opportunity to be heard . . . at a meaningful time and in a meaningful manner." *Yrysbaev v. Arnott*, 2026 WL 395897, at *3 (citation omitted).

71. Some courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors assess: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

72. The first *Mathews* factor weighs heavily in Mr. Guevara-Ramos's favor. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690. "[I]t is axiomatic that "the interest in being free from physical detention" is "the most elemental of liberty interests." *Abdirashid H.M.*, 2026 WL 127698, at *4 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

73. Mr. Guevara-Ramos is a "person" within the meaning of the Due Process Clause, and all such persons have a strong, constitutionally protected interest in their liberty. Mr. Guevara-Ramos entered the United States over five years ago and has been residing here since then. During that time, he has established community ties, including raising a young family, creating a network of friends and community support and working to support himself financially. Mr. Guevara-Ramos's protected liberty interest "deserves great weight and gravity." *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026

WL 67200, at *4 (W.D. Tex. Jan. 8, 2026). Yet Mr. Guevara-Ramos is being held in "the same conditions as criminal inmates." *Jacinto*, 796 F. Supp. 3d at 590; *see also Selvin Adonay E.M.*, 2025 WL 3157839, at *9 (finding the first *Mathews* factor weighed in petitioner's favor when the conditions of confinement were "indistinguishable from criminal incarceration"). Indeed, the Freeborn Detention Center is a corrections facility used to house inmates.

74. This liberty interest stands regardless of whether Petitioner's detention under 8 U.S.C. § 1225(b)(2) is mandatory. *See Hurd*, 864 F.3d at 692–93 ("The Due Process Clause may itself confer a procedurally protected liberty interest on someone living openly in society for years after what, unbeknownst to him, was his premature release from prison."); *DeWitt*, 6 F.3d at 34–35; Johnson, 682 F.2d at 873 (noting that due process supports the notion that an inmate released on parole by mistake, because he was serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because the release was not his fault and he had appropriately adjusted to society, so it would be "inconsistent with fundamental principles of liberty and justice" to return him to prison) (cleaned up)).

75. The second *Mathews* factor also weighs heavily in Petitioner's favor. Respondents detained Mr. Guevara-Ramos without any notice or meaningful opportunity to respond. Respondents claim that they are statutorily obligated to detain him without any individualized review, despite no evidence demonstrating that Mr. Guevara-Ramos poses any risk of flight or danger. The lack of any mechanism to determine whether Mr. Guevara-

Ramos's detention serves a legitimate statutory purpose *before* re-detention makes the risk of erroneous deprivation of liberty not just high, but certain. His detention is the direct result of insufficient safeguards and lack of procedure. *See, e.g., Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1188 (D. Minn. 2025) (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Selvin Adonay E.M.*, 2025 WL 3157839, at *9 (finding the second factor weighed in a petitioner's favor when the government took the position detention was mandatory without individualized review); *Rodriguez Brizuela v. Noem*, No. 5:26-cv-0279-JKP, 2026 WL 752257, at *6 (W.D. Tex., Mar. 12, 2026) ("[A] substantial risk of erroneous deprivation of liberty exists when detention without bond of a noncitizen who was arrested within the United States and lacks any prior release by immigration authorities, but who has established a life here in the United States." (emphasis added) (citing *Martinez v. Noem*, No. 25-cv-430-KC, 2025 WL 2965859, at *4) (W.D. Tex. Oct. 21, 2025)). Under these circumstances, the second Mathews factor weighs heavily in Mr. Guevara-Ramos's favor.

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

detention); *see also Rodriguez Vega*, 2026 WL 482906, at *6 ("[L]imiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from [unnecessarily] expending substantial resources." (citation omitted)). Unnecessary detention also "imposes substantial societal costs," such as "reduced economic contributions and tax payments by detained immigrants," as well as the separation of individuals from their families and communities. *Rodriguez Vega*, 2026 WL 482906, at *6 (citation omitted). In any event, detention with *no* process is wholly unnecessary to allow Respondents to detain those who truly pose a legitimate risk of flight or danger. *Ochoa v. Vergara*, No. 1:26-cv-266, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026). Releasing Mr. Guevara-Ramos and requiring the government to provide a pre-deprivation hearing before detaining him stands to save the government money and effort wasted on erroneous detention.

77. Respondents violated procedural due process by detaining Mr. Guevara-Ramos without adequate procedural protections before deprivation of his liberty. *See, e.g.*, *Feisal O. v. Noem*, 2026 WL 92857, at *3 (concluding that the redetention of a person previously ordered released without any pre-redetention process violated the Due Process Clause); *Selvin Adonay E.M.*, 2025 WL 3157839, at *8-10 (similar); *Abdirashid H.M.*, 2026 WL 127698, at *4-5 (similar). Therefore, this Court should order Petitioner's release without any restraints on his liberty and prohibit any re-detention absent pre-deprivation process. *Feisal O.*, 2026 WL 92857, at *3 (ordering release on that basis); *see also Mahad S. v. Noem*, 2026 WL 177860, at *3; *Ochoa v. Vergara*, 2026 WL 482211, at *3 (collecting

cases finding mandatory detention violated procedural due process and ordering release as the appropriate remedy).

78. For these reasons, regardless of the statutory authority, mandatory detention as applied to Mr. Guevara-Ramos violates his procedural due process rights, rendering his ongoing detention unconstitutional. *See, e.g.*, *Selvin Adonay E.M.*, 2025 WL 3157839, at *8-10 (finding procedural due process violation was an independent basis for granting habeas petition challenging application of § 1225(b)(2) to person who had been residing in the United States); *Abdirashid H.M.*, 2026 WL 127698, at *4-5 (similar); *Ochoa v. Vergara*, 2026 WL 482211, at *3 (finding mandatory detention of inadmissible noncitizen who had been living in the United States for over a year violated procedural due process under *Mathews*, collecting cases reaching the same conclusion, and ordering release as the appropriate remedy).

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

79. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

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

deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

81. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a 'substantial probability; based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor,* 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

82. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person "is likely to escape before a warrant can be obtained," *i.e.*, is a flight risk *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

83. Even where a noncitizen is "subject to mandatory detention under 8 U.S.C. § 1225(b)(2), federal immigration officials must still comply with 8 U.S.C. § 1357(a)(2)." *Martha C.G.P. v. Blanche*, No. CV 26-2308 (DWF/JFD), 2026 WL 1329577, at *3 (D. Minn. May 13, 2026) (internal citations omitted); *see also, e.g.*, *Wilson L.L. v. Blanche*, No. CV 26-2475 (JRT/EMB), 2026 WL 1283186, at *2 (D. Minn. May 11, 2026) ("Because Respondents have not shown that Petitioner was likely to escape, they failed to comply with 8 U.S.C. § 1357—the requirement for arresting a noncitizen without a warrant. Respondents therefore improperly arrested and detained Petitioner under 8 U.S.C. § 1225(b)(2).").

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

85. Here, Petitioner's arrest was purportedly premised on the I-200 Warrant, which was not served on Mr. Guevara-Ramos until he had already been in detention for weeks and which, at any rate, was admittedly not served until after Petitioner was already being detained. Moreover, Petitioner's warrantless arrested occurred without probable cause that he was a flight risk. An individualized determination of probable cause is required—one's classification as a noncitizen present without admission does not, on its own, give reason to believe that they are "likely to escape before a warrant can be obtained[.]" 8 U.S.C. § 1357(a)(2); *see also Jefferson G.H.L. v. Blanche*, No. CV 26-2344

(JRT/ECW), 2026 WL 1229623, at *3 (D. Minn. May 5, 2026) ("Just because a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape."); *Ruben D.A.G.*, Civ. No. 26-2041, slip op. at 8 ("Anyone without a lawful presence does not immediately present a likelihood of escape merely by being a noncitizen."). In contrast, "[c]ourts have . . . made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. U.S. Dep't of Homeland Sec.*, No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Mr. Guevara-Ramos had been in the United States for nearly five years and built strong ties to his community. Moreover, despite being arrested by Iowa police for merely being a passenger in a car, he fully complied with both local police and ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that Mr. Guevara-Ramos was likely to escape before a warrant could be obtained.

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

87. Because Respondents failed to establish probable cause for Mr. Guevara-Ramos's warrantless arrest under 8 U.S.C. § 1357(a)(2), the regulations outlined in 8 C.F.R. § 287.3 are inapplicable. Even so, *arguendo*, these regulations require a noncitizen

arrested without a warrant receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Mr. Guevara-Ramos has received no such custody determination.

88. Respondents' warrantless arrest of Mr. Guevara-Ramos, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release, as no post-detention process can cure this violation. *See, e.g.*, *Wilson L.L. v. Blanche*, No. 26-cv-2475 (JRT/EMB), 2026 WL 1283186, at *2 (D. Minn. May 11, 2026) (ordering immediate release where the I-200 "was not served on Petitioner until after his arrest and detention") (citing Francisco M.A., 2026 WL 1229701, at *1–2).

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

89. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

90. Petitioner should not be subject to mandatory detention under § 1225(b)(2) if that statutory provision is correctly understood. Petitioner acknowledges that this

argument is presently foreclosed by *Avila*. 170 F.4th 1128. Petitioner nonetheless advances the argument to preserve it for appeal or in the event that *Avila* is vacated or abrogated by the Supreme Court.

91. Courts across the United States have overwhelmingly concluded that noncitizens like Petitioner who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are not detained under § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13-14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way). Likewise, three circuit courts have concluded the same. *See Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, No. 26-6019 (10th Cir. June 30, 2026).

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

93. Irrespective of the Eighth Circuit's decision in *Avila*, here, Respondents have apparently detained Petitioner pursuant to 8 U.S.C. § 1226. For one, Petitioner was released on recognizance in November 2023. Second, Respondents served an invalid I-200 arrest warrant days after detaining Mr. Guevara-Ramos. Thus, Petitioner's proper detention authority is under § 1226 and Petitioner is not properly subject to mandatory detention

under § 1225(b)(2). *See, e.g., Yonatan P. v. Blanche*, No. 26-CV-2949 (JMB/EMB), 2026 WL 1842652 (D. Minn. June 26, 2026) (granting habeas petition where Respondents arrested petitioner pursuant to a warrant under 1226—a statute of detention Respondents cannot switch after-the-fact); *Hector J.A.S. v. Blanche*, No. 26-cv-2242 (JRT/DLM), 2026 WL 1243500 (D. Minn. May 6, 2026) ("Respondents represented to Petitioner in the Form I-200 administrative warrant that he was being arrested and detained under 8 U.S.C. § 1226, which requires a warrant."); *Dos Santos Silva v. Warden*, No. 8:26-CV-131, 2026 WL 926725, at *1 (D. Neb. Apr. 6, 2026) (granting habeas petition "[b]ecause," despite entering the country without inspection, "the petitioner was granted conditional parole [release on recognizance] under § 1226 when he entered the United States in 2021," and, as such "the revocation of his parole is governed by that statute").

REMEDY

94. The appropriate remedy for Respondents' unlawful conduct is Mr. Guevara-Ramos's immediate release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

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

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

Wilson L.L., 2026 WL 1283186, at *3 (ordering immediate release on these grounds and citing multiple supporting cases from the District of Minnesota). Respondents must comply with 8 U.S.C. 1347 when effectuating all noncitizen arrests—even those subject to mandatory detention under 8 U.S.C. 1225(b)(2). *See, e.g., Martha C.G.P.*, 2026 WL 1329577, at *3; *Wilson L.L.*, 2026 WL 1283186, at *3; *Francisco M.A.*, 2026 WL 1229701, at *3. Thus, Petitioner's detention under this section is unlawful. Nor here would § 1226(a) have supported a lawful detention in the first instance. Detention under § 1226(a) would require a warrant issued by the Attorney General in a manner that complies with the INA and associated regulations. *See, e.g., Hector J.A.S.*, 2026 WL 1243500, at *2; *Joaquin Q. L. v. Bondi*, No. 26-cv-233 (LMP/DTS), 2026 WL 161333, at *2-3 (D. Minn. Jan. 21, 2026) (collecting cases); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 961 (D. Minn 2025). Upon information and belief, Respondents served no such warrant on Mr. Guevara-Ramos at the time of his arrest.

97. *Alternatively*, should this Court decline to order outright release, it should order Respondents to release Mr. Guevara-Ramos immediately unless they provide a bond hearing before a neutral adjudicator at which Respondents will bear the burden of justifying Mr. Guevara-Ramos's continued detention by clear and convincing evidence of dangerousness or flight risk. *See Pedro O. v. Garland,* 543 F. Supp. 3d 733, 744 (D. Minn. 2021) (concluding that, where a petitioner's detention violates due process, as per *Mathews* the petitioner "is entitled to a bond hearing in immigration court at which the Government must justify [the] detention[] … show[ing] by clear and convincing evidence that Pedro

poses either a risk of flight or a risk of danger to the community"); *Koffi D. v. Garland*, No. 23-CV-2421 (ECT/TNL), 2024 WL 1537801, at *2, n. 5 (D. Minn. Apr. 9, 2024)(explaining that where a habeas petition is granted following a "request[] for an initial bond hearing because petitioners were subject to mandatory detention" the "majority of courts [have] conclud[ed] that the Government must justify the ... confinement of a[] [noncitizen] ... by clear and convincing evidence"); *see also, e.g.*, *Matamoros Rodriguez v. Woodbury County Jail*, No. C26-4041-LTS-MAR, 2026 WL 1735035, at *4 (N.D. Iowa June 16, 2026) (ordering bond hearing in which the government bears the burden of proof of showing dangerousness or flight risk by clear and convincing evidence); *Lopez-Arevelo*, 801 F. Supp. 3d at 688 (describing "consensus" that "courts granting immigration detainees' habeas petitions" and opting to order bond hearings "have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk").

PRAYER FOR RELIEF

WHEREFORE, Petitioner that this Court:

1. Assume jurisdiction over this matter;
2. Immediately issue an Order to Show Cause:
   a. Enjoining Respondents and individuals acting in concert with Respondents from removing Petitioner or transferring Petitioner outside of this District pending adjudication of this petition;
   b. Requiring Respondents to show cause within **three days** as to why this petition should not be granted;
3. Issue a writ of habeas corpus declaring that Petitioner's detention is unlawful and ordering Respondents to release Petitioner from custody within 24 hours of this Court's order;
4. *In the alternative*, issue a writ of habeas corpus declaring the Petitioner's detention is unlawful and ordering Respondents to release Petitioner immediately unless they schedule a custody hearing before a neutral adjudicator within five days, to be held at least one week after the scheduling date to provide Petitioner preparation time, at which Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;
5. Enjoin Respondents and individuals acting in concert with Respondents from re-detaining Petitioner without a pre-deprivation hearing before a neutral adjudicator

where the government bears the burden of justifying Petitioner's re-detention by clear and convincing evidence;

6. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law; and
7. Grant Petitioner any further relief that this Court deems to be just and proper.

Respectfully submitted,

Dated: October 5, 2026

HUSCH BLACKWELL LLP

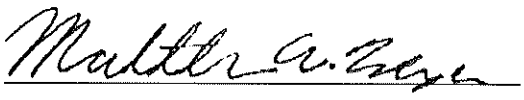
s/ Matthew A. Beyer

Matthew Beyer, #0402438
90 South 7th Street, Floor 14
Minneapolis, MN 55402
Tel: 612.852.2700
Matthew.Beyer@huschblackwell.com
Attorneys for Petitioner

VERIFICATION

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Executed this 5th day of October, 2026.



Matthew A. Beyer, Attorney at Law