UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Hector Omar MENDOZA LOPEZ

Petitioner,

v.

David EASTERWOOD, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; **Markwayne MULLIN**, in his official capacity as Secretary of the U.S. Department of Homeland Security; **David J. VENTURELLA**, in his official capacity as acting director of U.S. Immigration and Customs Enforcement; **Todd BLANCHE**, in his official capacity as Attorney General of the United States; **Eric Tollefson**, Kandiyohi County Sheriff.

Respondents.

Case No. 0:26-cv-4313

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Hector Omar Mendoza Lopez ("Mr. Mendoza Lopez" or "Petitioner") is a citizen of El Salvador who entered the United States as a minor child with his mother without inspection around July 28, 2018.
2. Mr. Mendoza Lopez and his mother were then discretionarily released into the United States. Mr. Mendoza Lopez's mother timely filed an I-589 seeking asylum and protection under the Convention Against Torture (CAT), listing Mr. Mendoza Lopez as a derivative.
3. Mr. Mendoza Lopez's USC step-father subsequently filed an I-130, Petition for Alien Relative, on or about January 27, 2023. That application remains pending.
4. Prior to being detained, Mr. Mendoza Lopez resided peacefully in the United States with his family. He completed a background check and received an C08 EAD pursuant to the pending I-589 application, which was renewed and valid through July 11, 2027.
5. On or about September 2, 2026, Mr. Mendoza Lopez was detained while attending his ICE Check-in.
6. There is no evidence that Mr. Mendoza Lopez was arrested for any violation of his discretionary release or any reason other than his immigration status.

7. Mr. Mendoza Lopez was transported to the Kandiyohi County Jail, where he remains unlawfully detained.

PARTIES

5. Mr. Mendoza Lopez is a citizen of El Salvador who was entered into the United States without inspection on or around July 28, 2018.

8. He has committed no crimes that would subject him to mandatory detention. Regardless, Petitioner was detained by ICE on or about September 2, 2026, and was transferred to the Kandiyohi County Jail.

9. Respondent David Easterwood is the Director of the MSP Field Office of ICE's Enforcement and Removal Operations Division. As such, David Easterwood is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

10. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

11. Respondent Todd Blanche is the Attorney General of the United States and the senior official of the U.S. Department of Justice. He has the authority to adjudicate removal cases and to oversee EOIR, which administers the immigration courts and the Board of Immigration

Appeals (BIA). Mr. Blanche has ultimate custodial authority over Petitioner and is sued in his official capacity.

12. Respondent David J. Venturella is the acting director of Immigration and Customs Enforcement. He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Mr. Venturella has ultimate custodial authority over Petitioner and is sued in his official capacity

13. Respondent Eric Tollefson is the Sheriff of Kandiyohi County, where Petitioner is detained. Kandiyohi County Jail is operated by the Sheriff's department of Kandiyohi County. He has immediate physical custody of Petitioner. He is sued in his official capacity.

JURISDICTION

14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Kandiyohi County Jail in Willmar, Minnesota, since on or about September 18, 2026.

15. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); and 5 U.S.C. § 702 (waiver of sovereign immunity).

16. This Court may grant relief pursuant to 28 U.S.C. § 2201 (Declaratory Judgment Act), and 28 U.S.C. § 1651 (All Writs Act).

17. Federal question jurisdiction exists because Petitioner seeks to challenge this custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

18. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security ("DHS"). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

VENUE

19. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the District of Minnesota, the judicial district in which Petitioner currently is detained.

20. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Minnesota.

REQUIREMENTS OF 28 U.S.C. § 2243

21. Habeas corpus is "perhaps the most important writ known to[ ]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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

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

FACTS

23. Mr. Mendoza Lopez is a citizen of El Salvador who arrived as a minor with his mother at the United States border and entered without inspection on or about July 28, 2018.

24. Mr. Mendoza Lopez and his mother were then discretionarily released into the United States.

25. Mr. Mendoza Lopez is a derivative on his mother's timely filed I-589 application for asylum, withholding of removal, and CAT.

26. Mr. Mendoza Lopez's USC stepfather subsequently filed an I-130, Petition for Alien Relative, on or about January 27, 2023. That application remains pending.

27. Pursuant to his I-589 application, Mr. Mendoza Lopez was approved for a C08 EAD, authorized through July 11, 2027.

28. On or about September 2, 2026, Mr. Mendoza Lopez was arrested while attending his scheduled ICE Check-in. Mr. Mendoza Lopez had not committed any crimes that would subject him to mandatory detention.

29. Mr. Mendoza Lopez was transferred into the custody of Kandiyohi County Jail. Mr. Mendoza Lopez remains detained.

LEGAL FRAMEWORK

DUE PROCESS CLAUSE

30. No person shall be "deprived of life, liberty, or property without due process of law[.]" U.S. Const. amend. V. The Due Process Clause of the Fifth Amendment is the foundational pillar protecting individuals from unlawful government restraint and provides Mr. Mendoza Lopez with important protections regarding their detention. As the Supreme Court has explained, "[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 v. Davis*, 533 U.S. 678,690 (2001).

31. "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)).

32. Due Process requires that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (*quoting Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil immigration detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690 (referencing the Government's analysis of the statute); *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

33. In defense of the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for confinement "outweighs the individual's constitutionally

protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

34. "The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). To determine what process Petitioner is due, this Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

DETENTION

35. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens already in the United States and in standard removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been

arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

37. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other noncitizens who are "applicants for admission" as referred to under § 1225(b)(2). The phrase "applicant for admission" in turn "refers to a person attempting or intending to gain lawful entry into the United States.'" *Eliseo A.A. v. Olson*, No. CV 25-3381 (JWB/DJF), 811 F.Supp.3d 1021, 1028 (D. Minn. O2025) (*citing Francisco T. v. Bondi*, Civ. No. 25-3219, Doc. No. 20 at 12–13 (D. Minn. Sept. 5, 2025)); *see also Lopez-Campos v. Raycraft*, Civ. No. 2:25-CV-12486, 797 F.Supp.3d 771, 781 (E.D. Mich. 2025). Expedited removal in turn applies to noncitizens who arrive in, attempt to enter, or have entered the United States without being admitted or paroled following inspection at a port of entry, and who have not been present in the United States for a continuous period of two years. 8 C.F.R. § 235.3(b)(ii). If an applicant for admission is determined to be inadmissible, the immigration officer "shall order the alien removed from the United States without further hearing or review unless the alien indicates . . . an intention to apply for asylum." 8 U.S.C. § 1225(b)(1)(A)(i).

38. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

39. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

40. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

41. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

42. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them

ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

43. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

44. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

45. On September 05, 2025, the Board of Immigration Appeals (BIA) adopted this same position in the case *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered

applicants for admission and are ineligible for immigration judge bond hearings.

46. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 804 F.Supp.3d 265, 276-277 (D. Mass. 2025) (granting habeas petition based on same conclusion).

47. The Eighth Circuit held in *Avila v. Bondi* that all applicants for admission present in the interior can be subject to detention under § 1225. *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). Petitioner intends to preserve arguments regarding the proper reading of §§1226 and 1225, and thus, the vast majority of federal district courts finding ICE's interpretation incorrect remain relevant for analysis.

48. "The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission

into the country,' is consonant with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 792 F.Supp.3d 211, 222 (D. Mass. 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)).

49. DHS and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

50. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

51. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez v. Bostock,* 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

52. Section 1226(a) "arrest" authority is a practical necessity to facilitate the authority to "detain" a non-citizen present in the interior. *See* 8 U.S.C. § 1226(a).

53. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

54. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 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 v. Noem*, 810 F.Supp.3d 1209, 1216 (D. Colo. 2025) (appeal filed, *Ramirez Ovando, et al v. Noem, et al*, 10th Cir., January 26, 2026). Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

55. "Congress has put in place a system in which state officers may not make warrantless arrests of aliens based on possible removability except in specific, limited circumstances." *Arizona v. United States*, 567 U.S. 387, 410 (2012).

56. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

CONDITIONAL PAROLE

57. "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States[...] [T]he Attorney General [...] may release the alien on[...] conditional parole." 8 U.S.C.A. § 1226 (a)(2)(B) (West).

58. Where Federal Respondents release a non-citizen under §1226 and purport to arrest a non-citizen under §1226, they are bound by that representation and cannot subject the petitioner to §1225(b)(2) detention. *Souleimane C. v. Blanche*, No. 26-CV-2215 (LMP/JFD), 2026 WL 1180075, at *2-4 (D. Minn. Apr. 30, 2026) (Hon. Provinzino)

(Collecting Cases). A non-citizen conditionally released under §1226 is entitled to a bond hearing by the government's own regulations. Id.; *see also Silva v. Warden, Lincoln Cnty. Det. Ctr.*, No. 8:26-CV-131, 2026 WL 926725, at *2 (D. Neb. Apr. 6, 2026).

59. Proper revocation of conditional parole under 8 C.F.R. § 236.1(c)(9) requires an I-220A or accompanying declaration signed by an authorized official stating the reason why revocation was proper. *Bryan A.Q.C. v. Lyons*, No. CV 26-3165 (JRT/EMB), 2026 WL 1998719, at *2-3 (D. Minn. July 10, 2026) (Hon. Tunheim). Absent proper revocation, the Order of Release remains operative and the non-citizen is entitled to remain released on that Order. *Id.* at *3.

60. An I-200, standing alone, is insufficient to revoke an Order of Release. *Yandri Joeselito F.W. v. Blanche*, No. 26-CV-3835 (LMP/DTS), 2026 WL 2676764, at *2 (D. Minn. Sept. 11, 2026) (Hon. Provinzino) (Collecting Cases).

61. Federal Respondents must provide some evidence the Officer purporting to revoke parole has the authority to revoke it, such as a directive delegating authority. *Id.* at *3; *see also Kevin J.R.M. v. Blanche*, No. 26-CV-3122 (KMM/JFD), 2026 WL 2230647, at *5 (D. Minn. July 17, 2026), report and recommendation adopted sub nom. *Kavin J.R.M. v.*

Blanche, No. 26-CV-3122 (KMM/JFD), 2026 WL 2227793 (D. Minn. Aug. 3, 2026) (Hon. Menendez).

62. The government's discretion in immigration detention is not unlimited. *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1158 (D. Minn. 2025) (Hon. Blackwell). The Board of Immigration Appeals has held that where a non-citizen is discretionarily released, they should not be re-detained "absent a change of circumstance" as to a noncitizen's flight risk or dangerousness. *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981).

63. The logic of *Sugay* applies with respect to any discretionary release. *Islomov v. Arnott*, No. 6:26-CV-3115-MDH, 2026 WL 613473, at *2–3 (W.D. Mo. Mar. 4, 2026)

HUMANITARIAN PAROLE

64. "The Secretary of Homeland Security may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." INA § 212(d)(5)(A); 8 U.S.C. § 1182(d)(5)(A).

65. A non-citizen is vested with the rights granted by Congress when DHS decides to place the non-citizen in § 240 removal proceedings

instead of expedited removal. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at 9 (W.D.N.Y. July 16, 2025); *see also Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025). A non-citizen has a vested reliance interest when he pursues an application for asylum after being "invited" into the country through the grant of parole. *Petitioner, v. David Rivas, et al., Respondents.*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092 (D. Ariz. Oct. 10, 2025); *see also Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *16 (W.D.N.Y. July 16, 2025) (distinguishing from *Thuraissigiam* and *Mezei*).

66. Where a non-citizen is granted parole through an individualized determination, he has a right to an individualized determination as to the revocation or cancellation of that parole. *Mata Velasquez,* 794 F.Supp.3d at 146.

67. Renewal of parole at the time of expiration of the original grant is the "default option, absent additional findings by the Department" per the Department's own regulations. *Martinez Gamez v. Easterwood*, No. 4:26CV3009, 2026 WL 295400, at *4 (D. Neb. Feb. 4, 2026). Where the government continues to subject a non-citizen to conditions of parole, such as ICE Check-Ins, after an expiration of parole status, it serves as

indicia the government has either renewed parole or permitted the continued lawful presence of the non-citizen under another status. *Id.*

68. Detention is unlawful if it follows the unlawful termination of parole. *Y-Z-L-H*, 792 F.Supp.3d 1123, 1143-1144. Termination of parole for an asylum seeker is unlawful by virtue of being arbitrary and capricious where parole was granted to enable the pursuit of asylum and there is no formal determination that that "humanitarian" purpose has been satisfied or exhausted. *Y-Z-L-H*, 792 F.Supp.3d at 1145-1147; *see also Noori v. Larose*, 807 F.Supp.3d 1146, 1167-1168 (S.D. Ca. 2025). Indeed, where an asylum seeker was paroled, the purpose of parole has not been satisfied when an asylum seeker had not completed the asylum process. *Orellana v. Francis*, 2025 WL 2402780, 5 (E.D.N.Y. Aug, 19, 2025) (unpub). In such an instance, stripping that person of parole and re-detaining him is a violation of the Administrative Procedure Act. *Id.*

EXHAUSTION

69. 8 U.S.C. 1252(d) allows the Court to review a *final order of removal* only if "the alien has exhausted all administrative remedies available to the alien as of right. "However, that subsection applies only to the review of a final order of removal." *Giron Reyes v. Lyons*, 801 F.Supp.3d 797, 802 (N.D. Iowa 2025).

70. "There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention." *J.O.E. v. Bondi*, 797 F.Supp.3d 957, 965 (D. Minn. 2025).

71. Awaiting exhaustion of administrative remedies would be futile. "Where the agency has already adopted a definitive position, exhaustion serves no purpose." *Eliseo A.A. v. Olson*, 811 F.Supp.3d 1021, 1032 (D. Minn. 2025) (*citing McCarthy v. Madigan*, 503 U.S. 140, 148 (1992)). Here, "administrative review would be futile in light of the BIA's recent decision in *Matter of Yajure Hurtado*" where the BIA "held that immigration judges 'lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.'" *Id.* Further, per *Matter of C-*, the BIA lacks jurisdiction to rule upon the Constitutionality of the act, making it futile for the Petitioner to raise Constitutional claims in those administrative proceedings. *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992).

72. As Immigration Judges are holding that they are bound by *Yajure Hurtado*, it would be futile for Petitioner to pursue a bond hearing. Appealing that hypothetical bond hearing and awaiting a BIA determination on Petitioner's appeal guarantees irreparable harm. In-custody BIA appeals can take hundreds of days, sometimes over a year, to resolve. "In 2024, EOIR data showed an average processing time of

204 days for bond appeals. EOIR data also showed that 200 bond appeal cases "took a year or longer to resolve." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1248 (W.D. Wash. 2025) (internal citations omitted).

CLAIMS FOR RELIEF

COUNT I

Violation of Procedural Due Process

73. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

74. The government may not deprive a person of life, liberty, or property 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 the Clause protects." *Zadvydas*, 533 U.S. at 690, 121 S.Ct. at 150 (2001). Habeas corpus is a "critical check on the Executive, ensuring that it does not detain individuals except in accordance with the law." *Hamdi v. Rumsfeld*, 542 U.S. 507, 535 (2004).

75. The government's detention of Petitioner is unjustified. Respondents deprived the Petitioner of the opportunity to demonstrate he need not be detained. *See Zadvydas*, 533 U.S. at 690 (finding under the Government's analysis of it's own statute, immigration detention

must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). The Supreme Court has been very clear civil detention is only authorized for "narrow" and "non-punitive" purposes. *Id.* Petitioner cannot present facts demonstrating that he can be safely released back to his community when the Respondents illegally deprive any IJ of jurisdiction to hear his case.

76. Respondents' continued immigration detention of the Petitioner is disconnected from a "reasonable relationship" to any legitimate nonpunitive purpose. *Zadvydas*, 533 U.S. at 690. Petitioner has a fundamental interest in liberty and being free from official restraint. Unlike some legal rules, due process "is not a technical conception with a fixed content unrelated to time, place and circumstances"; instead, it is a critical liberty interest which must be considered in factual context. *Cafeteria & Rest. Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (*quoting Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 162-163 (1951) (Frankfurter, J. concurring)).

77. Post-*Avila*, a Court in this Circuit found that detention without bond provided independent Constitutional grounds for immediate release where the Petitioner was also subject to an unlawful arrest. *Vladimir G. v. Easterwood,* No. 26-CV-2971 (JMB/ECW), 2026

WL 1786418, at *4 n.3 (D. Minn. June 22, 2026) (Hon. Bryan). The Court specifically found that the *Mathews v. Eldridge* test favored the Petitioner as the government had minimal interest in mass incarceration of individuals who posed little or no risk of flight or danger to the community. *Id.*

78. Another Court in this Circuit granted immediate release post-*Avila* to cure the violation of the Petitioner's "most elemental of liberty interests" in being free from physical imprisonment. *Aureliano M.S. v. Bondi*, No. CV 26-1974 (JRT/DJF), 2026 WL 992445 (D. Minn. Apr. 13, 2026) (Hon. Tunheim). Other Courts in this circuit granted immediate release to cure the Due Process violation on the grounds that a post-deprivation hearing would be inadequate to cure "the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Abbas v. Schneider*, No. 4:26-CV-00132, 2026 WL 1079292, at *8 (S.D. Iowa Apr. 17, 2026) (citing to *Bonilla Chicas v. Warden*, No. 5:26-CV-00131, 2026 WL 539475, at *12 (S.D. Tex. Feb. 20, 2026)); *see also Aleksei M. v. Warden, Lawrence County Jail*, No. 5:26-CV-05030-RAL, 2026 WL 1133615, at *7 (D.S.D. Apr. 27, 2026).

79. Other Courts in this Circuit have also determined the Petitioner's due process rights were violated by detention without a bond hearing. *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358,

at *4 (D. Minn. May 7, 2026) (Hon. Nelson); *Axel J.M.C. v. Stanski*, No. CV 26-2281 (JRT/EMB), 2026 WL 1171344, at *4 (D. Minn. Apr. 29, 2026) (Hon. Tunheim). The Courts noted the "extent and velocity" of the Federal Respondents operations created an unacceptably high risk of erroneous deprivation. *Id.* In *Manuel G.*, the Court distinguished the case from *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1, noting that there, the Petitioner had a prior criminal proceeding at which he was afforded at least some opportunity to contest the basis for his detention. *Manuel G. v. Blanche*, at *4. A Court in this Circuit similarly granted a post-*Avila* Petitioner a bond hearing to cure his due process violation and balance his fundamental liberty interest in freedom of restraint and any government interest in detaining him. *Pedro A.D.L.O.O. v. Bondi*, No. CV 26 1959 (DWF/DJF), 2026 WL 948970, at *3 (D. Minn. Apr. 8, 2026) (Hon. Frank).

80. The government's detention of Mr. Mendoza Lopez without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process. No legitimate government interest is served absent some determination his detention protects against such a danger or flight risk. *Mathews* factors weigh heavily in favor of immediate release where the weighty liberty interest

of the Petitioner is balanced against the government's non-interest in unlawful detention.

81. Petitioner has a fundamental interest in liberty and being free from official restraint.

82. Petitioner has inhered liberty interests as a long-term resident of the United States and should not be deprived of that liberty without due process.

83. The Court should thus issue a writ of habeas corpus directing Respondents to release Petitioner to safeguard his Fifth Amendment liberties.

COUNT II

Violation of Substantive Due Process

84. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

85. Former parolees invited into the United States develop a protected liberty interest in remaining at liberty during the pendency of the removal proceedings. *E.V. v. Raycraft*, No. 4:25-CV-2069, 2025 WL 3122837, at *9-10 (N.D. Ohio Nov. 7, 2025) (collecting cases).

86. Former parolees in the United States have a protected liberty interest in remaining in their homes, and to maintain community

ties. *Wang v. Lyons*, No. 25-CV-10794-WHO, 2026 WL 147703, at *7-8 (N.D. Cal. Jan. 20, 2026).

87. Separation from family is a burden on a substantial private interest. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 795 F.Supp.3d 1134, 1148 (D. Minn. 2025); *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 784 F.Supp.3d 1175, 1187 (D. Minn. 2025).

88. Petitioner has a protected liberty interest in remaining free from detention to enjoy the fruits of his former liberty, including to be with his parents, pursue lawful status, and participate in his community. Arbitrary detention interferes with this protected liberty interest in being free from restraint and associated rights and violates the Petitioner's Fifth Amendment Rights. Arbitrary detention interferes with the pursuit of his applications for asylum and to pursue adjustment of status with the unimpeded assistance of counsel, and does not comport with the prior government determination he merited release.

89. Courts use the three-factor *Mathews v. Eldrige* 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.

90. The first *Mathews* factor weighs in Mr. Mendoza Lopez's favor because Mr. Mendoza Lopez has built a community, family, and work ties in the United States. Mr. Mendoza Lopez has a weighty interest due to his separation from his parents, loss of livelihood, and the fear of potentially returning to a place he and his mother did not originally feel safe.

91. The second *Mathews* factor also weighs in Petitioner's favor. Petitititioner was not given notice, a showing of cause, or a meaningful opportunity to respond to his detention. All these factors create a massive risk for erroneous deprivation of liberty. His detention is the direct result of insufficient safeguards and lack of procedure.

92. The third factor favors Mr. Mendoza Lopez as well. Mr. Mendoza Lopez's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing Mr. Mendoza Lopez and requiring the government to provide a pre-deprivation hearing before re-detaining him stands to save the government money and effort wasted on erroneous detention. Unlawful detention and violation of noncitizens' constitutional rights also does a disservice to the public interest.

93. Arbitrary detention interferes with this protected liberty interest in being free from restraint and associated rights and violates the Petitioner's Fifth Amendment Rights.

94. Avila does not foreclose Petitioner's independent, as-applied Fifth Amendment challenge to detention without an individualized custody determination. *Avila* resolves the statutory question whether an unadmitted noncitizen physically present in the United States may be detained under 8 U.S.C. § 1225(b)(2)(A); it did not decide what process the Constitution requires when the Government re-detains a formerly discretionarily released, noncriminal person who has established substantial ties to the United States. *Felipe S.P. v. Blanche*, No. 26-CV-2212 (NEB/DJF), 2026 WL 1911656, at *2–10 (D. Minn. July 2, 2026) (Hon. Blackwell); *Juan C.M.C. v. Blanche*, No. 26-2402 (JWB/ECW), 2026 WL 2117276 (D. Minn. July 22, 2026) (Hon. Bryan); *Mekonnen v. Stolzer*, No. 1:26-cv-00122-AGF, 2026 WL 2029972, at *4–17 (E.D. Mo. July 14, 2026).

95. The government's arbitrary detention of Mr. Mendoza Lopez violates his substantive due process rights by infringing on the liberty he enjoyed as a person present in the United States. The court should issue a writ of habeas corpus directing Respondents to release Petitioner and enjoining Respondents from re-detaining him absent a

constitutionally adequate pre-deprivation process to safeguard his Fifth Amendment liberties.

COUNT III

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19

Unlawful Denial of Release on Bond

96. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

97. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

98. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

99. Former parolees are not properly designated as "arriving" and are subject to §1226(a) procedures. *Millan v. Voorhies*, No. 4:25-CV-02779, 2026 WL 248376, at *11 (N.D. Ohio Jan. 30, 2026); *De Andrade v. Moniz*, 802 F. Supp. 3d 325, 332 (D. Mass. 2025).

100. "When Petitioner was paroled and released into the country without conditions, the government necessarily invoked 8 U.S.C. § 1226." *Nava Noriega v. Warden of Mccook Det. Ctr.*, No. 8:26CV271, 2026 WL 1972271, at *2 (D. Neb. July 8, 2026).

101. "Put simply, the Government is not allowed to change horses midstream. It is stuck with the horse on which it rode into court." *Id.* (*citing to Souleimane C. v. Blanche*, No. 26-CV-2215 (LMP/JFD), 2026 WL 1180075, at *3 (D. Minn. Apr. 30, 2026); *and* Silva v. Warden, Lincoln Cnty. Det. Ctr., No. 8:26-CV-131, 2026 WL 926725, at *1 (D. Neb. Apr. 6, 2026)).

102. Having been discretionarily released pursuant to conditional or humanitarian parole, the government cannot "change horses" and subject discretionarily released non-citizens to mandatory detention.

103. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

104. The application of § 1225(b)(2) to Mr. Mendoza Lopez unlawfully deprives the IJ of jurisdiction and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV

Violation of 8 U.S.C. § 1226(a)

Non-Compliance with the Warrant Requirement

105. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

106. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a) or 8 U.S.C. § 1357.

107. "When Petitioner was paroled and released into the country without conditions, the government necessarily invoked 8 U.S.C. § 1226." *Nava Noriega v. Warden of Mccook Det. Ctr.*, No. 8:26CV271, 2026 WL 1972271, at *2 (D. Neb. July 8, 2026).

108. The § 1226(a) statute requires the arrest be made pursuant to "a warrant issued by the Attorney general." 8 U.S.C. § 1226(a).

109. Numerous courts have found that an individual properly detained under § 1226(a) whose arrest was not authorized by a contemporaneous warrant is entitled to immediate release. *Jorge H. M. O. v. Bondi*, No. CV 26-00609 (MJD/DLM), 2026 WL 323634, at *1 (D. Minn. Feb. 6, 2026) (Hon. Davis); *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328, at *8 (E.D. Cal. Oct. 27, 2025) ("To put it simply, Petitioner's detention is improper because there is no evidence in the record that he was arrested pursuant to a warrant.") (cleaned up); *Chiliquinga Yumbillo v. Stamper,* No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025); *Vedat C. v. Bondi*, No. 25-cv-4642 (JWB/DTS) (D. Minn. Dec. 19, 2025) (Hon. Bryan) [Dkt. No. 9] ("[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond

hearing would treat the absence of statutory power as a mere procedural irregularity rather than a substantive defect."); *Lauro M. v. Bondi*, No. 26-CV-134 (SRN/DJF), 2026 WL 115022, at *3 (D. Minn. Jan. 15, 2026) (Hon. Nelson) ("But § 1226(a) requires, in the first instance, that Petitioner's arrest and detention are authorized by the issuance of a warrant"); *Anibal A. A. v. Bondi*, No. 26-00111 (MJD/LIB), 2026 WL 194041 (D. Minn. Jan. 23, 2026) (Hon. Davis) (collecting cases); *Miguel B. v. Bondi,* No. CV 26-630(DSD/DLM), 2026 WL 243997 (D. Minn. Jan. 29, 2026) (Hon. Doty) ("Petitioner must be immediately released from detention under 8 U.S.C. § 1226(a), as he was arrested without a warrant and is not alleged to have committed any crime").

110. Respondents produced no contemporaneous warrant to demonstrate that the Petitioner's detention was authorized by the statutorily required warrant.

111. Respondents had no § 1226(a) warrant prior to arrest and lacked a lawful predicate for arrest under that statute.

COUNT V

Violation of § 1357(a)(2)

112. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

113. "The federal statutory structure instructs when it is appropriate to arrest an alien during the removal process." *Arizona v. United States*, 567 U.S. 387, 407–08 (2012).

114. Petitioner may be arrested under the authority of § 1357(a)(2) provided the arresting officer has 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." *Arizona v. United States*, 567 U.S. 387, 407–08 (2012). Per ICE's own internal guidance, a non-citizen is only a flight risk when they lack means to serve the individual a warrant at "*another clearly identifiable location once an administrative warrant is obtained.*" *Jorge Anibal P. P. v. Blanche*, No. 26-CV-3125 (LMP/LIB), 2026 WL 2017765, at *3 (D. Minn. July 13, 2026) (Hon. Provinzino) (emphasis in original). The text in 8 U.S.C.A. § 1357(d) recognizes that another law enforcement agency may detain a non-citizen arrested by another law enforcement agency pursuant to a controlled substance offense, without DHS having initial arrest authority. 8 U.S.C.A. § 1357 (d). A vesting officer is considered by the courts as "Any officer or employee of the Service authorized under regulations." *Id.* There is no evidence the Petitioner was arrested pursuant to a controlled substance offense or under any statutory

authority. There is no evidence the Petitioner was arrested by a "vesting officer."

115. At time of his arrest, Mr. Mendoza Lopez had voluntarily appeared at his ICE Check-in. Mr. Mendoza Lopez had also submitted to extensive biometric screening and background checks, including verification of his home address. There could have been no valid determination Mr. Mendoza Lopezs could not have been served at this "clearly identifiable location."

116. No authority to "arrest" a non-citizen is enumerated at 8 U.S.C. §§ 1225(b)(1) nor (b)(2). A non-citizen may be detained pursuant to § 1225(b)(2) pursuant to *Avila v. Bondi*, but the arrest preceding detention must still have a lawful basis. Where ICE may detain a person transferred into their custody who was initially arrested by an authorized law enforcement agency, ICE must rely on some statutory authority to conduct an initial arrest themselves. Absent some statutory authority for the initial arrest, the subsequent detention lacks lawful predicate. There is no evidence of any statute authorizing arrest of the Petitioner.

117. There is no evidence Respondents made the pre-arrest flight risk determination required by § 1357(a)(2) for a warrantless arrest. Respondents also failed to comply with the post-arrest regulatory

procedures governing those arrests. Respondents' initial arrest must be set aside as unlawful where it fails to comply with enabling regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) ("If Petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

118. Where there is no lawful predicate for arrest, the Petitioner must be immediately released. *Jorge H. M. O. v. Bondi*, No. CV 26-00609 (MJD/DLM), 2026 WL 323634, at *1 (D. Minn. Feb. 6, 2026) (Hon. Davis).

119. As there was no valid statutory authority for the initial arrest of Petitioner, his detention is unlawful and he must be immediately released.

COUNT VI

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

120. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

121. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. §

706(2)(A), (B). The APA also requires a court to set aside and hold unlawful agency action that is "without observance of procedure required by law." *Id.* § 706(2)(D).

122. The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

123. An agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

124. Per the *Accardi* Doctrine, government agencies are bound to make decisions in accordance with their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 74 S. Ct. 499, 98 L. Ed. 681 (1954).

125. As Petitioner had a fixed address, Federal Respondents had a means to serve him at a clearly identifiable location. Thus, Federal Respondents could not have arrested him pursuant to a § 1357(a) flight risk determination.

126. Therefore, Federal Respondents putative arrest pursuant to § 1357(a) was not in compliance with it's own regulations, and Petitioner's detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5

U.S.C. § 706(2)(A); (2) contrary to the agency's constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT VII

Violation of the *Accardi* Doctrine

127. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

128. Under the *Accardi* doctrine, Petitioner has a right to ask the Court to set aside agency action that violates 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 agency failed to follow its rules in a hearing] he should receive a new hearing").

129. Under *Accardi*, Respondents' actions should be set aside for violating agency procedures, rules, or instructions.

COUNT VIII

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

130. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

131. As the record is unclear as to whether Petitioner was granted conditional parole, and no evidence in the record supports that an authorized officially validly rescinded that parole the Petitioner hereby preserves the argument he had not had his conditional parole revoked pursuant to an individualized determination per relevant procedural requirements, per the dictates of the regulation, and therefore revocation of his parole was unlawfully arbitrary and capricious and in violation of the APA.

132. Accordingly, because ICE failed to comply with its own regulations, Mr. Mendoza Lopez's detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency's constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT IX

Unlawful Revocation of Conditional Parole

133. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

134. As the record is unclear as to whether Petitioner was granted conditional parole, and no evidence in the record supports that an authorized officially validly rescinded that parole the Petitioner hereby preserves the argument he had not had his conditional parole revoked

135. Proper revocation of conditional parole under 8 C.F.R. § 236.1(c)(9) requires an I-220A or accompanying declaration signed by an authorized official stating the reason why revocation was proper. *Bryan A.Q.C. v. Lyons*, No. CV 26-3165 (JRT/EMB), 2026 WL 1998719, at *2-3 (D. Minn. July 10, 2026) (Absent proper revocation, the Order of Release remains operative and the non-citizen is entitled to remain released on that Order.) *Id.* at *3.

136. Under *Accardi,* Petitioner's unlawful arrest should be set aside and he should be released pursuant to his reinstated conditional parole.

COUNT X

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B), & (D)

137. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

138. As the record is unclear as to whether Petitioner was granted humanitarian parole, and whether that parole expired and was re-

extended, or was unexpired and revoked, the Petitioner hereby preserves the argument he had not had his humanitarian parole revoked pursuant to an individualized determination that the purposes of parole had been served, per the dictates of the regulation, revocation of his parole was unlawfully arbitrary and capricious and in violation of the APA.

139. Absent evidence Petitioner violated any conditions of his parole and the purposes of his parole could not have been satisfied, it is not possible for DHS to have made a valid individualized determination to revoke his parole.

140. Accordingly, because ICE failed to comply with its own regulations, Mr. Mendoza Lopez's detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency's constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT XI

Unlawful Revocation of Humanitarian Parole

141. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

142. Under 8 U.S.C. 1182(d)(5)(A), humanitarian parole may be revoked "when the purposes of such parole shall [...] have been served."

143. As noted above, it is unclear whether Petitioner was granted conditional parole or humanitarian parole. Petitioner hereby preserves the argument that if he was granted humanitarian parole to pursue his asylum claim, that application remains unresolved. "Therefore, the purpose of Petitioner's parole had not been served at the time of termination." *Noori v. LaRose*, ---F.Supp.3d---, 2025 WL 2800149, *13 (S.D. Cal. Oct. 01, 2025).

144. De facto revocation of the Petitioner's humanitarian parole pursuant to his unlawful detention revocation cannot have been lawful given the requirement of an individualized determination.

145. Under *Accardi*, Respondents' actions should be set aside for violating agency procedures, rules, or instructions.

COUNT XII

Violation of the Right to Freedom from Unreasonable Seizure

146. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

147. The Fourth Amendment guarantees "[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.

148. "Under the Fourth Amendment, the initial seizure of a person—even to effectuate detention under immigration law—must be reasonable." *Urquilla-Ramos v. Trump*, No. 2:26-CV-00066, 821 F.Supp.3d 603, 615 (S.D.W. Va. 2026).

149. "Therefore, "reasonableness" is the proper inquiry to consider the consistent masking of federal ICE agents. Fourth Amendment reasonableness considers the totality of the circumstances." *Id.* 627, (citing to *Barnes v. Felix,* 605 U.S. 73, 80, 145 S. Ct. 1353, 1358, 221 L. Ed. 2d 751 (2025)).

150. "The history of the Fourth Amendment confirms that the type of anonymized and indiscernible policing presented here is precisely what the Fourth Amendment was written to prevent. Proposed during the First Congress and ratified on December 15, 1791, the Fourth Amendment emerged directly from the Founding generation's experience with abusive search and seizure practices under British rule." *Id.* 620 (citing to *Carpenter v. United States*, 585 U.S. 296, 303 (2018)).

151. "The Fourth Amendment's enduring purpose of restraining arbitrary power governs searches, seizures, and identification demands across both criminal and civil contexts, including immigration enforcement." *Id.* at 621, (citing to *I.N.S. v. Delgado*, 466 U.S. 210, 216, 104 S. Ct. 1758, 1762, 80 L. Ed. 2d 247 (1984)).

152. "The rule is that a practice whose sole operational effect is the elimination of accountability, deployed as routine civil enforcement without warrant or articulable exigency, is unreasonable under the Fourth Amendment. In this case, masking combined with unmarked vehicles, absence of identification, **absence of any warrant, and no post-seizure mechanism for attribution** is that practice." *Id.* 629 (emphasis added).

153. Respondents arrested Petitioner without a warrant and no post-seizure mechanism for attribution of arrest to identifiable detention officers. We have no contemporaneous record of whether the officers involved were identifiable or disclosed their identities.

154. The government's arrest of Mr. Mendoza Lopez without warrant or other post-seizure mechanism to identify the arresting officers violates his right to freedom from unreasonable seizure. The court should issue a writ of habeas corpus directing Respondents to release Petitioner to safeguard his Fourth Amendment liberties.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

155. Assume jurisdiction over this matter;

156. Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings, or transport Petitioner back to Minnesota if he is moved out of state;

157. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner;

158. In the alternative, issue a writ of habeas corpus requiring Respondents provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

159. Enjoin Respondents from re-detaining the Petitioner unless they provide him a bond hearing pursuant to 8 U.S.C. § 1226(a);

160. Enjoin Respondents from re-arresting the Petitioner unless on an 8 U.S.C. § 1226(a) warrant and with a subsequent bond hearing or pursuant to the procedures of 8 U.S.C. § 1357, including a post-arrest judicial determination;

161. Require Respondents demonstrate Petitioner's parole was validly revoked or expired and was not extended under an individualized determination, or else reinstate Petitioner's prior parole until such a procedurally compliant individualized determination is made;

162. If the Court sees fit to order Petitioner's release, include conditions to ensure Petitioner's safety, including that release be: (a) Inside the State of Minnesota; (b) At a safe time and place communicated in

advance to counsel; and (c) With all of Petitioner's personal effects in Respondents' possession, such as driver's license, immigration papers, cell phone, and keys;

163. Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;

164. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

165. Grant any other and further relief that this Court deems just and proper.

DATED this 6th day of October 2026.

s/Solomon Daniel Steen_____
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Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

The undersigned counsel submits this verification on behalf of Petitioner. Undersigned Counsel has reviewed documents supporting this Petition for Habeas Corpus and, on the basis of those documents, verifies that the statements in the Petition are true and correct to the best of his knowledge and belief.

DATED: October 6th, 2026

Respectfully submitted,

/s/ Solomon Daniel Steen

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