UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Erick Alexander Funes Castillo, Petitioner, v. Todd Blanche, Attorney General, Markwayne Mullin, Secretary, U.S. Department of Homeland Security, David Venturella, Acting Director of Immigration and Customs Enforcement, David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement, and Joel Brott, Sherburne County Jail. Respondents.	Case No: 26-CV-4333 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** Expedited Handling Requested

INTRODUCTION

1. Petitioner, Mr. Erick Alexander Funes Castillo, ("Erick" or "Petitioner"), by and through the undersigned attorney, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to immediately release Erick from ICE detention and to enjoin Petitioner's transfer to a facility outside of Minnesota.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

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

4. 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).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Erick was detained within the District of Minnesota.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Erick Alexander Funes Castillo is a resident of Little Canada, Minnesota, who is currently being held at the Sherburne County Jail located in Elk River, Minnesota by Immigration and Customs Enforcement. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Todd Blanche is being sued in his official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Mullin. Attorney General Blanche is a legal custodian of Erick.

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

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

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

responsible for detaining Petitioner. The address for the Fort Snelling Field Office is 1 Federal Drive, Ste. 1601 Fort Snelling, Minnesota 55111.

12. Respondent Joel Brott is being sued in his official capacity as the Sheriff responsible for the Sherburne County Jail located at 13880 Business Ctr Dr. NW Elk River, MN 55330. Because Petitioner is detained in the Sherburne County Jail, Joel Brott has immediate day-to-day control over Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Erick is originally from Honduras. and came to the United States in 2021.

14. Erick was apprehended by Immigration authorities and placed in removal proceedings on November 30, 2021. He was released from DHS custody in 2021.

15. Due to administrative delay, Erick has not yet attended his first Immigration Court Hearing.

16. Erick is currently scheduled for his first preliminary Master Calendar Hearing on December 30, 2026.

17. Petitioner is a resident of Little Canada, Minnesota and has been a resident of Minnesota for nearly five years.

18. Petitioner lives with his partner and their two children who are two and six years old.

19. Petitioner has no criminal history in the United States or anywhere else.

20. Erick works as a subcontractor doing siding work, professionally.

21. On October 7, 2026, Erick went to a siding job located in Red Wing, Minnesota, arriving at the job site at about 8:30 a.m.

22. Erick was accompanied to the job by a co-worker, another Latino gentleman named Johan as well as the general contractor for the job, a Caucasian individual. The general contractor was only at the job site very briefly. The General Contractor just told Erick and Johan where to set up for the day and then left.

23. Erick climbed on top of the work van and started removing equipment for the day's work.

24. Approximately 10 minutes after the men arrived at work, six unmarked vehicles pulled up abruptly and several men jumped out of the vehicles. Some of the men were already brandishing firearms when they exited the vehicles.

25. It wasn't immediately clear to Erick and Johan whether these were law enforcement officers or someone else. They were wearing bullet-proof vests but civilian-type clothing.

26. Erick jumped off of the work van. Then men soon realized they were surrounded.

27. Almost immediately, Johan, who speaks English, asked the armed men what they were doing and who they were looking for. He also asked them if they had a warrant he could look at showing who they were looking for, in English.

28. The armed men refused to provide a warrant or say the name of the person they were looking for even though Johan asked many times.

29. Erick and Johan were not shown documentation or identification of any kind during the encounter.

30. Johan was alarmed because he could see that the officer he was talking to was wearing a body camera but that there was no light glowing on the body camera. He wondered if there was a reason the camera wasn't on and if something bad was going to happen.

31. The officers asked Erick and Johan repeatedly, where the "other one" was. Johan tried to explain that there was no one else working with them. He also volunteered that the general contractor for the job had been there a few minutes earlier but he had driven away before they arrived. Johan described what the General contractor looked like and the type of car he drove to see if that is who the officers were referring to. The Officers denied seeing the general contractor and kept insisting they "knew he was lying" and they knew that there was a "third one."

32. The officers explained to Johan that they had seen he, Erick, and a third man driving in the neighborhood and that was why they had followed them to the house. They denied seeing the general contractor Johan described and kept insisting there was a "third one" that they were hiding.

33. Johan kept insisting they must have the wrong people because there wasn't a third person.

34. The officers put Erick in handcuffs and put him in the back of one of the vehicles. They asked Erick where his ID was. Erick told them where his wallet was

located. The armed men went and retrieved Erick's wallet and phone but didn't seem to look at them at the job site.

35. The officers then asked Johan about his immigration status. He refused to answer any questions without a warrant, at first. However, Johan eventually told them because they threatened to arrest him too if he didn't tell them.

36. The officers didn't believe Johan about his Immigration Status, at first. However, they eventually let him go.

37. One of the men left Johan with a warning. They said they knew who he was, they had taken his picture, and they would be back to deport him once he lost his case.

38. The officers drove away with Erick and never explained why they were taking him even though Johan asked many times why they were taking Erick.

39. The officers were at the job site for less than fifteen minutes before they drove away with Erick.

40. Erick was taken to Fort Snelling without explanation for why he was being arrested. After he was arrested, Erick was shown some paperwork at Fort Snelling but refused to sign it. He was then transferred to Sherburne County Jail.

STANDARD OF LAW

41. A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3), which should be granted if the petitioner meets their burden of proof–a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

42. Detained immigrants petitioning under 28 U.S.C. § 2241 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, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68.

43. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant's habeas corpus petition under similar circumstances–to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

44. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

45. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals ("BIA") articulated in a subsequent ruling. *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claimed that individuals who entered the United States without inspection and have been residing within the United States–sometimes for decades–are "seeking admission" and therefore subject to detention without bond pursuant to 8 U.S.C. § 1225(b)(2).

46. This Court and others around the country ruled that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those whose detention is discretionary and governed by 8 U.S.C. § 1226(a). E.g. *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025).

47. The Eighth Circuit has now ruled that noncitizens residing in the United States who entered without inspection are "seeking admission" and thus subject to mandatory detention under 8 U.S.C. §1225(b)(2). *See Avila v. Bondi,* 170 F.4th 1128 (8th Cir. 2026).

48. Based on current DHS practice, Respondents will likely wrongly assert 8 U.S.C. §1225(b)(2) is the basis for detaining Erick without a hearing.

49. While the Petitioner acknowledges this Court is bound by *Avila v. Bondi,* this does not end the inquiry into the lawfulness of his detention. Apart from 8 U.S.C. §1225(b)(2), the Respondents must still comply with other regulatory and statutory provisions and the Constitution of the United States.

50. Petitioner is arguing that his detention is unlawful pursuant to 8 U.S.C. § 1357(a)(2) and the Fourth Amendment, Procedural Due Process, and Substantive Due Process.

51. No bond redetermination motion has been filed at the EOIR because such an attempt would be futile. Like the Department of Homeland Security, the Executive Office of Immigration Review in Fort Snelling, Minnesota has continuously and

consistently taken the legal position that 8 U.S.C. §1225(b)(2) removes jurisdiction of the Immigration Judges to conduct bond proceedings for aliens like Erick.

52. Additionally, bond is not the appropriate remedy for Erick. The DHS lacked authority to detain Erick at all. Therefore, immediate release is the appropriate remedy for him.

CLAIMS FOR RELIEF

COUNT ONE
8 U.S.C. § 1357(a)(2) and the Fourth Amendment

53. The INA addresses the circumstances under which immigration officers may conduct warrantless arrests. See 8 U.S.C. § 1357.

54. This provision permits immigration officials to arrest a noncitizen without a warrant only where the officer has "reason to believe" that, 1) "the alien . . . is in the United States in violation of any such law or regulation," and 2) "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2).

55. If immigration officers could automatically arrest all noncitizens they determine are not lawfully present under § 1225, the second requirement that a noncitizen is "likely to escape" before a warrant could be obtained would be entirely meaningless. *Jorge F.G.,* 26-CV-02360 at *16 (D. Minn. July 7, 2026 order). Immigration officials must still comply with these requirements in § 1357(a)(2) when making a warrantless arrest, regardless of whether the noncitizen will then be considered mandatorily detained pursuant to § 1225(b)(2). *Id.*

56. Section 1357 implicates the Fourth Amendment's protections. Specifically, the Fourth Amendment protects all individuals from, "unreasonable searches and seizures." U.S. Const. amend. IV. An arrest qualifies as a "seizure" and therefore must be supported by probable cause. *United States v. Miller*, 974 F.2d 953, 956 (8th Cir. 1992). The Fourth Amendment's protections apply to "seizures" of noncitizens. *See United States v. Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010). Because § 1357(a)(2) implicates seizures of noncitizens, the Eighth Circuit has also stated that the statute's use of the term "reason to believe" means "constitutionally required probable cause." Id. Probable cause exists when, based on the totality of the circumstances, the facts are "sufficient to lead a reasonable person to believe that the suspect has committed or is committing an offense." *Garang v. City of Ames*, 2 F.4th 1115, 1121 (8th Cir. 2021).

57. For the warrantless arrest of Petitioner, "to be valid under § 1357(a)(2), Respondents must have had probable cause to support that Petitioner was, 1) not lawfully present and 2) likely to escape before they could get a warrant based on the totality of the circumstances." *Jorge F.G.*, 26-CV-02360 at *16 (D. Minn. July 7, 2026 order).

58. The Respondents did not have a warrant for Erick's arrest, when they arrested him. As such, to comply with 8 U.S.C. § 1357(a)(2), they must show that they had probable cause that he was not lawfully present and he would likely escape before they could get a warrant based on a totality of circumstances.

59. The Respondents lacked probable cause for the warrantless arrest of Erick. They did not know who Erick was and only followed him to the house where he was

working because they saw him driving around the neighborhood with his co-worker Johan and a perceived third person.

60. Race appeared to be the only motivating factor for the arrest of Erick because the officers insisted Erick and Johan tell them where the "third one" of them was, yet, were certain that the Caucasian general contractor previously at the job site was not the third person they were looking for when described by Johan.

61. Upon arriving at the house, Erick was restrained from leaving immediately based on race alone when he was surrounded by armed men pointing weapons at him with no warning. Erick was placed in handcuffs and placed in the back of a vehicle before they ascertained his identity or Immigration status. Indeed, it is clear he was under arrest before this occurred as his co-worker was told he too would be arrested if he didn't provide his own immigration information.

62. There was no individualized suspicion whatsoever to determine that Erick entered the United States unlawfully prior to his arrest, much less probable cause required by 8 U.S.C. § 1357(a)(2).

63. Even if there was probable cause to believe Erick entered the country unlawfully, his warrantless arrest violated 8 U.S.C. S. 1357(a)(2) because the officers cannot establish, he was "likely to escape" before a warrant could be obtained. At the time of his arrest, Erick has just arrived at a job site first thing in the morning and was still in the process of unloading his equipment. If the officers had probable cause to suspect he entered the country unlawfully, there is no reason they could not have

obtained an administrative warrant for his arrest as he worked at his job site for the rest of the day.

64. For the above reasons, the Petitioner's detention is unlawful pursuant to 8 U.S.C. § 1357(a)(2).

COUNT TWO

Substantive Due Process

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

66. Erick has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

67. Federal courts use the three-part test in *Matthews v. Eldridge*, 424 U.S. 319 (1976). to determine whether civil detention violates a detainee's due process rights. The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

68. Here, all three *Matthews v. Elridge* factors favor the petitioner.

69. First, Erick has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also

Zadvydas, 533 U.S. at 690, 121 S.Ct. 2491 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.");("[N]oncitizens acquire a protectable liberty interest when they spend years establishing a life in the interior of the United States, regardless of their citizenship status."). *Lopez Miranda v. Flores*, No. 25-cv-584, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025).

70. Erick is wrongfully confined, a direct attack on his liberty interests. An alien's liberty interest is even greater because he has previously been released on his own recognizance by Immigration Officials. *See Ana Lucia Parco Pinduisaca* v. *Andrew Schneider, et al.*, 26-cv-00080-PPW ARS at *7 (E.D. ND August 3, 2026 order). Since Erick has been released by Immigration officials for five years, he has a strong private liberty interest.

71. Second, the risk that the procedures used will result in an erroneous deprivation of the private interest is great in this case. Erick was previously released on his own recognizance pursuant to INA § 236. "Absent a pre-detention hearing to determine that his circumstances have changed such that he is now a danger or flight risk when Respondents previously determined he was neither, the risk of erroneous deprivation of Petitioner's liberty interest is obvious." *See Ana Lucia Parco Pinduisaca* v. *Andrew Schneider, et al.*, 26-cv-00080-PPW ARS, at *8 (E.D. ND August 3, 2026 order).

72. Lastly, the Government's only potential interest in detaining Erick without bond is to ensure he appears for removal hearings and does not pose a danger to the

community. However, where there has been no determination that Petitioner is a threat to the community or is unlikely to appear, the Respondents interest is low. *See Alvarez-Rico v. Noem,* 4:26-cv-00729, 2026 WL 522322, *at *3, 5-6 (*S.D. Tex. Feb. 25, 2026*).*

73. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner's constitutional rights to substantive due process guaranteed in the Fifth Amendment.

COUNT THREE
Procedural Due Process

74. Petitioner realleges and incorporates by reference each and every allegation contained above.

75. When an alien is detained under 8 U.S.C. §1226(a), an officer can release them in the officer's discretion pursuant to 8 C.F.R. § 1236.1(c)(8). However, before the alien can be released, "the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."

76. It would appear the Petitioner was placed in removal proceedings and released on his own recognizance in 2021 after being detained pursuant to 8 U.S.C. §1226(a) (as was the custom back in 2021). As such, the releasing officer must have determined Erick was not a flight risk or a danger before he was released pursuant to 8 C.F.R. § 1236.1(c)(8) in 2021.

77. The petitioner has now been re-detained without affording him any pre-deprivation process to establish that he is now either a flight risk or a danger.

78. This court has repeatedly found that procedural due process requires release or bond where no pre-deprivation process has occurred to re-detain an individual released pursuant to 8 C.F.R. § 1236.1(c)(8). See E.g. *Pedro A.D.L.O v. Bondi, No. CV 26-1959* (D. Minn. Apr. 8, 2026); *Axel J.M.C. v. Stanski, 26-cv-2281 (D. Minn. Apr. 8, 2026); Heriberto R.E. v. Blanche,* 26-cv02227 (D. Minn. May 1 2026).

79. For these reasons, the Petitioner's re-detention violates his procedural due process rights and his detention is unlawful.

REMEDY

80. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

81. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose; there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

82. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

REQUEST FOR ORDER TO SHOW CAUSE

83. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

84. The Undersigned Attorney Rachel Petersen on behalf of Petitioner, respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a response within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) 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;

(3) Order Respondents to show cause as to why Petitioner should not be released immediately, without conditions, or, in the alternative, afforded a bond hearing;

(4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

(5) 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, passport, cell phone, and keys;

(6) 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;

(7) 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

(8) Grant any other and further relief that this Court may deem just and proper.

Date: 10/7/2026

/s/Rachel Petersen

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Attorney for Petitioner

Verification by Someone Acting on

Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

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's family and friends, who are also acting on Petitioner's behalf and who I understand to have personal knowledge of the facts alleged herein. 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.

Date: 10/07/2026

/s/Rachel Petersen

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