**UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**

EDWIN SEBASTIAN GUANOQUIZA TOAQUIZA,

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 J. 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;

JOEL BROTT, in his official capacity as Sheriff of Sherburne County,

Respondents.

Case No. 26-4344

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

## INTRODUCTION

1. Petitioner Edwin Sebastian Guanoquiza Toaquiza is in the physical custody of Respondents at the Sherburne County Jail in Elk River, Minnesota. This is the second time in less than a year that the Government has seized Mr. Guanoquiza Toaquiza. The first time, on January 15, 2026, U.S. Immigration and Customs Enforcement ("ICE") officers arrested him at a routine check-in appointment and subsequently transferred him

to and detained him in Texas. Mr. Guanoquiza Toaquiza filed a petition for a writ of habeas corpus in the United States District Court for the Southern District of Texas and, in an order signed on April 7, 2026 and entered on April 8, 2026, that court granted the petition, holding that his detention violated the Due Process Clause of the Fifth Amendment because he was not afforded "an individualized assessment of his flight risk and dangerousness and an opportunity to respond *prior to* detention by ICE" and ordering that he be released "immediately, under reasonable conditions of release." Order, *Guanoquiza Toaquiza v. Alba*, No. 26-cv-376, ECF 19 (S.D. Tex. Apr. 8, 2026) (the "Prior Habeas Order"), attached as Exhibit A ("Ex. A"), at 9 (emphasis added).

2. Recognizing the risk that the Government would simply re-arrest Mr. Guanoquiza Toaquiza, that court paired his "immediate release from custody" with "additional safeguards against redetention," including the express command that "[i]f Petitioner is redetained, all applicable regulations and procedures must be followed, including that Petitioner be afforded an individualized assessment of Petitioner's flight risk and dangerousness as guaranteed under the Due Process Clause of the Fifth Amendment." *Id.* at 9-10.

3. The Government released Mr. Guanoquiza Toaquiza on April 8, 2026 on a new Order of Release on Recognizance issued under 8 U.S.C. § 1226. Order of Release on Recognizance (Apr. 8, 2026) (the "April 2026 Release on Recognizance"), attached as Exhibit B ("Ex. B"), at 1. Under binding federal regulations, such an order may be revoked only by the exercise of discretion of a person holding one of several specified positions. 8 C.F.R. § 236.1(c)(9). Federal regulations also require the issuance of an arrest warrant

before a noncitizen is detained within the United States for a suspected immigration offense, except in limited cases such as probable cause to believe the noncitizen "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii).

4. Less than six months after the Prior Habeas Order and Mr. Guanoquiza Toaquiza's release on recognizance, the Government re-detained him in a manner that was unlawful thrice over. Specifically, on Wednesday, September 30, 2026, ICE arrested Mr. Guanoquiza Toaquiza as he was released from local law enforcement custody on pending charges in Anoka County. There is no indication that, prior to doing so, ICE employed the procedures that its own regulations require in order to revoke his release on recognizance. Nor did ICE serve Mr. Guanoquiza Toaquiza with an immigration arrest warrant at the time—indeed, as of the date of this filing, he still has not received one. Nor did ICE afford him the pre-detention individualized assessment of flight risk and dangerousness that the Southern District of Texas ordered as a condition of any future detention.

5. Each of these failures independently renders Mr. Guanoquiza Toaquiza's detention unlawful, and each independently requires his immediate release from the detention that is depriving him of his liberty and separating him from his partner and young son.

6. Courts in this District have repeatedly concluded that ICE has violated the law by arresting noncitizens without a valid warrant or the required probable cause and ordered petitioners' immediate release. *See, e.g.*, *Ivan F.M. v. Blanche*, No. 26-cv-4012, 2026 WL 2935475, at *3 (D. Minn. Sept. 30, 2026); *Angel C. v. Blanche*, No. 26-cv-4098,

2026 WL 2905583, at *4 (D. Minn. Sept. 28, 2026); *Sorelys C.R.O. v. Blanche*, No. 26-cv-3859, 2026 WL 2665657, at *3 (D. Minn. Sept. 10, 2026); *Venancio P.J. v. Blanche*, No. 26-cv-2740, 2026 WL 1862252, at *3 (D. Minn. June 29, 2026); *Jorge Anibal P.P. v. Blanche*, No. 26-cv-3125, 2026 WL 2017765, at *4 (D. Minn. July 13, 2026); *Sergio F.M. v. Blanche*, No. 26-cv-2749, 2026 WL 1971992, at *2 (D. Minn. July 8, 2026); *Jose R.M.B. v. Kandiyohi Jail Adm'r*, No. 26-cv-3079, 2026 WL 1894373, at *2 (D. Minn. July 1, 2026); *Pedro D.C. v. Blanche*, No. 26-cv-2450, 2026 WL 1759444, at *2 (D. Minn. June 18, 2026); *Jesus F.D. v. Mullin*, No. 26-cv-2486, ECF 10 at 9 (D. Minn. June 10, 2026). This Court should do the same.

7. Mr. Guanoquiza Toaquiza also respectfully asks the Court to enjoin Respondents from transferring him outside of this District for the duration of this proceeding—a prospect especially troubling here because ICE has already transferred Mr. Guanoquiza Toaquiza to Texas once, during his prior detention.

**JURISDICTION**

8. Petitioner is in the physical custody of Respondents and detained at the Sherburne County Jail in Elk River, Minnesota.

9. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and Article I, section 9, clause 2 of the United States Constitution ("Suspension Clause").

10. 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.

11. 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 Mr. Guanoquiza Toaquiza 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.

12. Mr. Guanoquiza Toaquiza brings this petition solely to challenge his unlawful arrest and detention. He does not, in this proceeding, challenge any aspect of his removal proceedings, which remain pending before the Immigration Court.

**VENUE**

13. Venue lies in this District because it is the judicial district in which Mr. Guanoquiza Toaquiza is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

14. Venue is also proper in this District under 28 U.S.C. § 1391(e) because most of the Respondents are employees or officers of the United States, because one or more Respondents reside in this District, and because a substantial part of the events or omissions giving rise to the claims occurred in this District, including Mr. Guanoquiza Toaquiza's unlawful re-detention.

**REQUIREMENTS OF 28 U.S.C. § 2243**

15. 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.*

16. 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).

**PARTIES**

17. Petitioner Edwin Sebastian Guanoquiza Toaquiza is a citizen of Ecuador who has resided in the United States since approximately December 29, 2024. He resides in Minneapolis, Minnesota with his partner and their young son. He is currently detained at the Sherburne County Jail. Mr. Guanoquiza Toaquiza is in the direct control of Respondents.

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

19. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. As head of the U.S. Department of Homeland Security ("DHS"), the federal agency tasked with enforcing immigration laws, Secretary Mullin is Mr. Guanoquiza Toaquiza's ultimate legal custodian.

20. 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 Mr. Guanoquiza Toaquiza.

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

22. Respondent Joel Brott is sued in his official capacity as Sheriff of Sherburne County. As Sheriff of Sherburne County, Respondent Brott oversees the Sherburne County Jail, the facility where Mr. Guanoquiza Toaquiza is presently detained, and is therefore one of his legal custodians.

## FACTUAL BACKGROUND

### A. Mr. Guanoquiza Toaquiza's December 2024 Entry and Release on Recognizance

23. Mr. Guanoquiza Toaquiza entered the United States without inspection near Lukeville, Arizona on December 29, 2024 and has lived in this country since then. He supports himself, his partner, and their young son, who also live in Minnesota.

24. On December 29, 2024, the day he arrived, Mr. Guanoquiza Toaquiza was arrested and taken into custody. On December 30, 2024, the Government issued him a Notice to Appear, charging him as inadmissible for having entered the United States without inspection, 8 U.S.C. § 1182(a)(6)(A)(i). That same day, Mr. Guanoquiza Toaquiza

received an Order of Release on Recognizance, expressly releasing him "[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations."

**B. Mr. Guanoquiza Toaquiza's January 2026 Detention and April 2026 Grant of Habeas Relief and Release on Recognizance**

25. On January 15, 2026, Mr. Guanoquiza Toaquiza was re-arrested by ICE agents when he attended a routine check-in appointment. He was not given a warrant or any other paperwork explaining why he was being arrested. The sole basis ICE provided for his re-detention was that he had uploaded check-in photos late—yet his submissions were never more than a few hours late, and the app itself frequently malfunctioned. ICE then flew Mr. Guanoquiza Toaquiza to Texas, where it held him at the LaSalle County Regional Detention Center in Encinal, Texas and later at the South Texas ICE Processing Center in Pearsall, Texas. Ex. A at 1-2.

26. On March 12, 2026, Mr. Guanoquiza Toaquiza filed a Petition for Writ of Habeas Corpus in the United States District Court for the Southern District of Texas. *Guanoquiza Toaquiza v. Alba*, No. 26-cv-376, ECF 1 (S.D. Tex. Mar. 12, 2026). The petition argued, among other things, that his re-detention, effectuated without an administrative warrant or any individualized determination of changed circumstances, violated his procedural due process rights. *Id.*

27. In an order signed on April 7, 2026 and entered on April 8, 2026, the Southern District of Texas granted the petition. Ex. A. The court held that "because Petitioner is a noncitizen who previously entered the United States without inspection and

has established ties to the United States through his residency, the Due Process Clause of the Fifth Amendment guarantees Petitioner an individualized assessment of his flight risk and dangerousness and an opportunity to respond prior to detention by ICE." *Id.* at 8-9. The court further held that "the appropriate remedy is Petitioner's immediate release from custody with additional safeguards against redetention." *Id.* at 9.

28. The court accordingly ordered, in relevant part:

> 1. Respondents are ORDERED to RELEASE Petitioner from custody immediately, under reasonable conditions of release, and to submit a status report to the Court confirming Petitioner's release within 24 hours of the date of this Order.
>
> . . . .
>
> 3. If Petitioner is redetained, all applicable regulations and procedures must be followed, including that Petitioner be afforded an individualized assessment of Petitioner's flight risk and dangerousness as guaranteed under the Due Process Clause of the Fifth Amendment.

Ex. A at 9-10.

29. On April 8, 2026, pursuant to the Prior Habeas Order, the Government released Mr. Guanoquiza Toaquiza from custody.

30. Upon his release, Mr. Guanoquiza Toaquiza received the April 2026 Release on Recognizance, again expressly releasing him "[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations." Ex. B at 1.

31. Mr. Guanoquiza Toaquiza remains in pending removal proceedings, with a master calendar hearing scheduled for October 27, 2026.

### C. Mr. Guanoquiza Toaquiza's Warrantless Re-Detention on September 30, 2026

32. On or about September 26, 2026, Mr. Guanoquiza Toaquiza was arrested by local law enforcement in Anoka County, Minnesota.

33. On September 30, 2026, Anoka County authorities released Mr. Guanoquiza Toaquiza from local custody; gross misdemeanor charges remain pending.

34. As Mr. Guanoquiza Toaquiza was released from Anoka County custody, ICE officers who were waiting at the jail immediately detained him.

35. ICE did not serve Mr. Guanoquiza Toaquiza with an immigration arrest warrant prior to or at the time of his re-detention on September 30, 2026. Nor has ICE served him with any immigration arrest warrant since. On information and belief, no such warrant issued prior to Mr. Guanoquiza Toaquiza's detention.

36. ICE also did not provide Mr. Guanoquiza Toaquiza with any notice that the April 2026 Release on Recognizance had been revoked. On information and belief, none of the officials enumerated in 8 C.F.R. § 236.1(c)(9) have exercised discretion to revoke Mr. Guanoquiza Toaquiza's release.

37. Mr. Guanoquiza Toaquiza has not received an individualized assessment of his flight risk and dangerousness, a custody determination, or a prompt judicial probable cause determination since his re-detention, nor has a hearing on any such issues been scheduled in the week-plus he has been in ICE custody.

## EXHAUSTION OF REMEDIES

38. No statutory requirement of administrative exhaustion applies to Mr. Guanoquiza Toaquiza's case. Moreover, the judicially-created "general rule that parties

exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Mr. Guanoquiza Toaquiza's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144-45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

39. Immigration Judges ("IJs") and the Board of Immigration Appeals ("BIA") generally lack authority to rule on a petitioner's constitutional claims. *See Mayamu K. v. Bondi*, No. 25-3035, 2025 WL 3641819, at *6 (D. Minn. Oct. 20, 2025) ("Neither the immigration judge nor the Board of Immigration Appeals may decide constitutional issues, and the Board of Immigration Appeals would not develop a factual record on such claims."); *Geach v. Chertoff*, 444 F.3d 940, 945 (8th Cir. 2006) ("We agree with the circuits that have considered this issue and hold that we have subject-matter jurisdiction over [noncitizen's] unexhausted constitutional claims ...."); *see also Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow), *abrogated on other grounds by Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021).

40. Mr. Guanoquiza Toaquiza's constitutional claims are therefore ripe for judicial review. *See Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025) ("A district court's power includes jurisdiction to hear habeas challenges to immigration-related detention." (citing *Zadvydas*, 533 U.S. at 687)); *David J.C.P. v. Blanche*, No. 26-2181, 2026 WL 1102725, at *1 (D. Minn. Apr. 23, 2026) (similar).

41. Further administrative exhaustion is also unnecessary for Mr. Guanoquiza Toaquiza's statutory and regulatory claims because there is no realistic possibility that the agency would release Mr. Guanoquiza Toaquiza due to failure to comply with agency regulations or the Immigration and Nationality Act ("INA").

## LEGAL ARGUMENT

42. Mr. Guanoquiza Toaquiza's re-detention is unlawful for three independent reasons, each of which requires his immediate release: The Government bypassed the regulatory process required for revoking a release on recognizance, *see infra* Section I; took Mr. Guanoquiza Toaquiza into custody without an immigration arrest warrant, *see infra* Section II; and wholly disregarded the conditions the Prior Habeas Order placed on any future detention, *see infra* Section III. For any or all of these reasons, Mr. Guanoquiza Toaquiza is entitled to immediate release.

### I. Mr. Guanoquiza Toaquiza's Arrest Violated the Requirements of 8 C.F.R. § 236.1(c)(9).

43. Under the *Accardi* doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267-68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). The *Accardi* doctrine is particularly important "[w]here the rights of individuals are affected," and it gives rise to a claim against an agency "even where the internal procedures are possibly more rigorous than otherwise would be required" by statute. *Morton*, 415 U.S. at 235. Thus, *Accardi* applies with full force in immigration

proceedings—indeed, *Accardi* itself was an immigration case—and is enforceable through habeas corpus where regulatory violations result in detention.

44. Under 8 U.S.C. § 1226(a)(2)(B), a noncitizen "may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States." But "pending such decision, the Attorney General ... may release the [noncitizen] on ... conditional parole." Although the "Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the [noncitizen] under the original warrant, and detain the [noncitizen]," 8 U.S.C. § 1226(b), such revocation is governed by binding DHS regulation:

> When a[] [noncitizen] who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign), in which event the [noncitizen] may be taken into physical custody and detained.

8 C.F.R. § 236.1(c)(9); *see also* 8 C.F.R. § 1236.1(c)(9).

45. Thus, while 8 C.F.R. § 236.1(c)(9) gives the government "discretion" to revoke a noncitizen's conditional parole, that discretion "is cabined by two conditions." *Richard M.G. v. Blanche*, No. 26-cv-3727, ECF 15 at 2-3 (D. Minn. Sept. 21, 2026) (citations omitted). "First, an official must actually exercise discretion to revoke the [conditional parole]—that is, an official must be aware of the [conditional parole] and make the decision to revoke it. Second, that official must be one of the six enumerated officials listed in 8 C.F.R. § 236.1(c)(9)." *Id.*; *see also A.N. v. Blanche*, No. 26-cv-3470, 2026 WL

2334034, at *2 (D. Minn. Aug. 12, 2026) ("Although § 236.1(c)(9) affords the government significant discretion to revoke release, 'that discretion must be exercised by *someone*.'" (citation omitted)); *Yandri Joselito F.E. v. Blanche*, No. 26-cv-3835, 2026 WL 2676764, at *2 (D. Minn. Sept. 11, 2026) ("revocation ... requires the exercise of 'discretion' by an immigration officer, and naturally, an officer cannot exercise discretion over a matter of which they are unaware").

46. Here, Mr. Guanoquiza Toaquiza was released under the April 2026 Release on Recognizance, a Form I-220A Order of Release on Recognizance. Ex. B. His release is therefore a conditional parole under § 1226(a) governed by 8 C.F.R. § 236.1(c)(9). *See A.N.*, 2026 WL 2334034, at *2; *Bryan A.Q.C. v. Lyons*, No. 26-cv-3165, 2026 WL 1998719, at *2 (D. Minn. July 10, 2026).

47. On information and belief, neither of the above conditions are satisfied in Mr. Guanoquiza Toaquiza's case. There is no indication that the April 2026 Release on Recognizance was revoked at all. When ICE officers arrested and detained him on September 30, 2026, they provided no documentation indicating that the April 2026 Release on Recognizance had been revoked, nor has ICE done so since.[1]

48. There is also no indication that any "revocation" of the April 2026 Release on Recognizance—to the degree it occurred at all—was the decision of a "district director,

[1]Nor could any Form I-200 administrative arrest warrant, even if issued prior to arrest, act as evidence of the proper revocation of the April 2026 Release on Recognizance, as courts "have consistently held that administrative warrants are not evidence of OREC revocation where neither the form nor the associated declaration mention an intention to revoke the parole." *Richard M.G.*, No. 26-cv-3727, ECF 15 at 3 n.1 (D. Minn. Sept. 21, 2026) (collecting cases); *Yandri Joselito F.E.*, 2026 WL 2676764, at *2 (collecting cases).

acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge," as 8 C.F.R. § 236.1(c)(9) requires. *See Israel G.M. v. Venturella*, No. 26-cv-3643, 2026 WL 3000948, at *6 (D. Minn. Oct. 6, 2026) ("Respondents point to nothing in the record indicating that an appropriate officer identified under the implementing regulation—8 C.F.R. § 236.1(c)(9)—exercised their discretion to revoke Mr. GM's bond."). Indeed, even if such an official had authorized Mr. Guanoquiza Toaquiza's re-detention, there is no indication "that such official was aware of the Order of Release on Recognizance, let alone that such official actually exercised discretion to revoke parole." *A.N.*, 2026 WL 2334034, at *2.

49. Mr. Guanoquiza Toaquiza's re-detention therefore constitutes revocation of a prior custody determination by government officials not authorized by law to make this determination, in violation of the *Accardi* doctrine's requirement that agencies comply with their own regulations.

50. Immediate release is the appropriate remedy. "[F]ederal regulations like 8 C.F.R. § 236.1(c)(9) are the law, ... so [Petitioner's] arrest and detention in violation of federal regulations can fairly be described as 'unlawful executive detention.' And the remedy for unlawful detention 'is, of course, release.'" *Yandri Joselito F.E.*, 2026 WL 2676764, at *3 (citations omitted). Courts in this District consistently order release on this ground. *See, e.g.*, *Richard M.G.*, No. 26-cv-3727, ECF 15 at 4 ("Because ICE failed to comply with its own regulations, Petitioner's detention is unlawful, and immediate release is warranted."); *A.N.*, 2026 WL 2334034, at *3 ("As it has in similar cases, the Court will grant the petition for writ of habeas corpus and order that Petitioner be released from

custody."); *Bryan A.Q.C.*, 2026 WL 1998719, at *3 ("The Court concludes that ICE failed to provide a lawful basis for revoking Petitioner's conditional parole, that his parole remains intact, and that his present detention is therefore unlawful. Accordingly, the Court will order his immediate release."). A bond hearing is no substitute, because "a bond hearing cannot cure the fact that [Petitioner] is presently detained while 'the order releasing him on his own recognizance remains operative.'" *Bryan A.Q.C.*, 2026 WL 1998719, at *3 (citation omitted).

## II. The Warrantless Nature of Mr. Guanoquiza Toaquiza's Arrest Also Makes It Unlawful.

51. Independently, Mr. Guanoquiza Toaquiza's re-detention is unlawful because the Government failed to comply with constitutional, statutory, and regulatory warrant requirements.

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

53. As a general matter, the Fourth Amendment requires that all arrests entail a neutral determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). As a constitutional matter, that determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt probable cause determination

by a neutral judge or magistrate. *Id.* at 125. It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See County of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

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). 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.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (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 1329577, 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.*

55. The INA, moreover, sharply limits the circumstances in which immigration agents may conduct warrantless arrests for suspected immigration offenses within the United States. 8 U.S.C. § 1357(a)(2). Specifically, to conduct such an arrest, an officer must have probable cause to believe not only that the person is violating the immigration laws but also that the person "is likely to escape before a warrant can be obtained." *Id.*; *see also Ramirez Ovando v. Noem,* 810 F. Supp. 3d 1209, 1232 (D. Colo. 2025); *Jorge Anibal P. P.*, 2026 WL 2017765, at *2 ("The language 'reason to believe' in 8 U.S.C. § 1357(a)(2) 'means constitutionally required probable cause.'" (quoting *United States v.*

*Quintana*, 623 F.3d 1237, 1239 (8th Cir. 2010))). Federal regulations impose the same limitations on warrantless arrests, 8 C.F.R. § 287.8(c)(2)(ii), and set out procedures that must be followed after a warrantless arrest, 8 C.F.R. § 287.3. In other words, the Government's re-detention of Mr. Guanoquiza Toaquiza was lawful only if the Government either had a valid warrant at the time of the arrest or had the required probable cause to make a warrantless arrest and followed the required procedures. Neither is the case here.

56. First, on information and belief, ICE had no warrant at all. Mr. Guanoquiza Toaquiza has not been served with an immigration arrest warrant—not before, during, or after the time ICE re-detained him on September 30, 2026. Moreover, even if immigration agents had a Form I-200 administrative warrant, it is not valid if served "after [the individual] [is] taken into custody by ICE and in detention." *Hector J.A.S. v. Shea*, No. 26-cv-2242, 2026 WL 1243500, at *2 (D. Minn. May 6, 2026). To the extent Respondents produce a warrant after the fact, it cannot cure an arrest that was warrantless when made. *See id.*

57. Second, ICE had no legal grounds for a warrantless arrest because the officers did not have probable cause to believe Mr. Guanoquiza Toaquiza was "likely to escape before a warrant [could] be obtained." 8 U.S.C. § 1357(a)(2). The law requires an individualized determination of probable cause. "Indeed, it is ICE's burden to make a 'particularized assessment' into whether the noncitizen is likely to evade detention." *Winston N.P. v. Blanche*, No. 26-cv-3368, ECF 10 at 6-7 (D. Minn. Aug. 6, 2026) (citing *Orellana v. Nobles County*, 230 F. Supp. 3d 934, 946 (D. Minn. 2017)). And the mere fact

that "a noncitizen is unlawfully present in the United States does not mean that he or she is likely to escape." *Jefferson G.H.L. v. Blanche*, No. 26-cv-2344, 2026 WL 1229623, at *3 (D. Minn. May 5, 2026).

58. As courts in this District have explained, the phrase "likely to escape" means "likely to evade detention by immigration officers." *Walther Ademir A.S. v. Blanche*, No. 26-cv-2804, 2026 WL 1734906, at *3 (D. Minn. June 16, 2026); *see also Emily Andreina N.V. v. Blanche*, No. 26-cv-2570, 2026 WL 2209844, at *4-5 (D. Minn. July 31, 2026). "[T]he relevant inquiry is not simply whether [the Petitioner] was likely to leave the [scene] before ICE officers could obtain a warrant, but rather whether it was likely that ICE officers would be able to locate [the Petitioner] after obtaining a warrant to arrest him." *Walther Ademir A.S.*, 2026 WL 1734906, at *3.

59. No officer could have reasonably believed Mr. Guanoquiza Toaquiza was likely to evade detention. The Government arrested Mr. Guanoquiza Toaquiza upon his release from the Anoka County jail. Mr. Guanoquiza Toaquiza had been in local law enforcement custody for several days before his immigration arrest, giving the Government ample time to obtain an immigration arrest warrant. More still, the Government has known where to find Mr. Guanoquiza Toaquiza since his release: he was released under the April 2026 Release on Recognizance, which lists his Minneapolis residence, requires him to report to ICE, and conditions his release on enrollment in an Alternatives to Detention program with electronic monitoring. Ex. B at 1-2, 4. Indeed, ICE had every opportunity to obtain a warrant. It simply chose not to.

60. To the extent Respondents seek to argue that Mr. Guanoquiza Toaquiza is detainable under § 1225(b) rather than § 1226(a), that has no bearing on his warrantless arrest claim. Even where a noncitizen is "subject to mandatory detention ... , federal immigration officials must still comply with 8 U.S.C. § 1357(a)(2)." *Martha C.G.P.*, 2026 WL 1329577, at *3 (cleaned up); *see also, e.g.*, *Wilson L.L. v. Blanche*, No. 26-cv-2475, 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. The Government therefore improperly arrested and detained Petitioner under 8 U.S.C. § 1225(b)(2).").

61. Because the Government failed to establish probable cause for a 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 to 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). Mr. Guanoquiza Toaquiza has received no such custody determination, and no such "emergency or other extraordinary circumstance" is apparent.

62. "The remedy for a warrantless arrest is immediate release." *Martha C.G.P.*, 2026 WL 1329577, at *3; *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). Courts in this District have repeatedly concluded that ICE violated the law by arresting noncitizens without a valid warrant or the required probable cause and ordered

a petitioner's immediate release. *See, e.g.*, *Ivan F.M.*, 2026 WL 2935475, at *3; *Angel C.*, 2026 WL 2905583, at *4; *Sorelys C.R.O.*, 2026 WL 2665657, at *3; *Venancio P.J.*, 2026 WL 1862252, at *3; *Jorge Anibal P.P.*, 2026 WL 2017765, at *4; *Sergio F.M.*, 2026 WL 1971992, at *2; *Jose R.M.B.*, 2026 WL 1894373, at *2; *Pedro D.C.*, 2026 WL 1759444, at *2. This Court should do the same.

**III. Mr. Guanoquiza Toaquiza's Arrest Violated the Prior Habeas Order.**

63. Third, and independently, the September 30, 2026 arrest of Mr. Guanoquiza Toaquiza violated the Prior Habeas Order. That order conditioned any re-detention on two requirements, and the Government satisfied neither.

64. In granting Mr. Guanoquiza Toaquiza's prior habeas petition, the Southern District of Texas held that "the Due Process Clause of the Fifth Amendment guarantees Petitioner an individualized assessment of his flight risk and dangerousness and an opportunity to respond *prior to* detention by ICE." Ex. A at 8-9 (emphasis added). The court concluded that "the appropriate remedy is Petitioner's immediate release from custody with additional safeguards against redetention." *Id.* at 9. The court then embodied those safeguards in the operative language of its order:

> 3. If Petitioner is redetained, all applicable regulations and procedures must be followed, including that Petitioner be afforded an individualized assessment of Petitioner's flight risk and dangerousness as guaranteed under the Due Process Clause of the Fifth Amendment.

*Id.* at 10.

65. It is a "basic proposition that all orders and judgments of courts must be complied with promptly." *Maness v. Meyers*, 419 U.S. 449, 458 (1975). The Prior Habeas

Order conditioned any future detention of Mr. Guanoquiza Toaquiza on two requirements: (1) that "all applicable regulations and procedures must be followed," and (2) that he "be afforded an individualized assessment of [his] flight risk and dangerousness as guaranteed under the Due Process Clause of the Fifth Amendment." Ex. A at 10.

66. The re-detention here violated the first requirement, which requires no interpretation. As set forth in Sections I and II, *supra*, the Government did not follow the applicable regulations and procedures: it did not revoke the April 2026 Release on Recognizance through an enumerated official as required by 8 C.F.R. § 236.1(c)(9); it did not obtain or serve an immigration arrest warrant; it lacked any basis for a warrantless arrest under 8 U.S.C. § 1357(a)(2); and it did not provide a custody determination within 48 hours as required by 8 C.F.R. § 287.3(d). Each of those failures independently violated the Prior Habeas Order's command that "all applicable regulations and procedures must be followed" in connection with any re-detention. Ex. A at 10.

67. The re-detention here also violated the second requirement. The Prior Habeas Order requires that the individualized assessment precede re-detention. Paragraph 3 does not create a freestanding assessment; it requires the assessment "as guaranteed under the Due Process Clause," Ex. A at 10, and the same court defined that guarantee just one page earlier as an assessment and "an opportunity to respond *prior to* detention by ICE," *id.* at 9 (emphasis added). The court also described the conditions it imposed as "safeguards against redetention," *id.*—protections that operate before a person is taken back into custody, not just after.

68. The Government's disregard of the Prior Habeas Order is especially troubling because the order was entered precisely to prevent what has now occurred. The court recognized that Mr. Guanoquiza Toaquiza's January 2026 detention—effectuated without any individualized determination—violated his rights, and it ordered safeguards so that it would not happen again. Ex. A at 9-10. The September 2026 arrest contravened those safeguards

69. The remedy for that violation is the remedy the Southern District of Texas already ordered: immediate release. Ex. A at 9. Mr. Guanoquiza Toaquiza should be restored to the status quo that existed before his unlawful re-detention—release under the April 2026 Release on Recognizance. *See Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (ordering release where respondents re-detained a noncitizen previously released without "following any procedures prior to making [that] decision"); *Bonilla Chicas v. Warden*, 821 F. Supp. 3d 782, 800 (S. D. Tex. 2026) (post-deprivation process "cannot cure the core violation" that occurred upon unlawful re-detention).

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully asks 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 transferring Petitioner outside of this District pending adjudication of this petition; and

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, under the same conditions as existed prior to his re-detention, at a safe time and place communicated in advance to Petitioner's counsel; and

4. Grant Petitioner any further relief that this Court deems to be just and proper.

Dated: October 9, 2026

Respectfully submitted,

JONES DAY

By: */s/ Matthew J. Rubenstein*

Matthew J. Rubenstein
mrubenstein@jonesday.com
90 South Seventh Street
Suite 4950
Minneapolis, MN 55402
Telephone:612-217-8800
Facsimile: 844-345-3178

*Attorney for Petitioner Edwin Sebastian Guanoquiza Toaquiza*

**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 one of Petitioner's attorneys. I, or others working under my supervision, have discussed with Petitioner the events described in this Petition. 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 on October 9, 2026

*/s/ Matthew J. Rubenstein*
Matthew J. Rubenstein