IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-04891-CNS

RAMON QUINTERO ALVAREZ

Petitioner,

v.

JUAN BALTAZAR, et al.

Respondents.

BRIEF OF AMICUS CURIAE

STATEMENT OF INTEREST

Amici Curiae are a nonprofit organization and a law professor who submit this brief pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure: the American Civil Liberties Union of Colorado ("ACLU"), and Professor Elizabeth Jordan. The ACLU has sought to protect the civil liberties of all people in the United States since 1920, and the ACLU of Colorado is a state affiliate of the ACLU.

All amici are located in the Tenth Circuit and focus their legal representation and advocacy work on cases arising in the Tenth Circuit and in Colorado specifically.

The **ACLU** is a nationwide, non-partisan, non-profit organization with almost 2 million members, dedicated to safeguarding the principles of civil liberties enshrined in the federal and state constitutions for all Americans. The ACLU of Colorado, with over 40,000 members and supporters, is a state affiliate of the ACLU and was founded in 1952. The ACLU of Colorado has long advocated for the constitutional and civil rights of immigrants, both as direct counsel and amicus, including as class counsel for immigrants seeking to stop ICE's practice of unlawful warrantless arrests. *See Ramirez Ovando v. Noem*, No. 25-cv-03183-RBJ (certified class action to enjoin ICE from conducting illegal warrantless arrests in Colorado); *see also Mendoza Gutierrez v. Baltasar*, No. 25-cv-027200-RMR (certified class action in federal court seeking to declare that ICE and DHS's new practice of denying release on bond to groups of noncitizens violates federal law); *D.B.U. v. Trump*, No. 2025-cv-1163 (D. Colo. filed April 12, 2025) (certified class action challenging the removal of Coloradans under the Alien Enemies Act); *Nash v. Mikesell*, 507 P.3d 94 (Colo. App. 2024) (lawsuit challenging the prolonged detention of incarcerated people who are otherwise eligible for release from jail at the request of ICE); *Smith v. Immigration and Customs Enforcement*, 429 F.Supp.3d 742 (D. Colo. 2019) (challenging ICE's refusal to disclose documents).

Professor Elizabeth Jordan is an assistant professor of law at the University of Denver Sturm College of Law who has practiced immigration law for more than ten years.[1] Her scholarship focuses on the law of immigration detention, including the history, doctrine, and practice of habeas corpus cases for noncitizens in civil immigration custody. Her current research agenda includes identifying and analyzing habeas corpus trends for the past two years, including consistent observation of and research on both the immigration court and federal court dockets. Her scholarship has appeared or is forthcoming in law reviews at Northwestern, Harvard, and Yale law schools. Through her clinic, Professor Jordan and her students have and continue to represent petitioners for writs of habeas corpus detained in ICE custody in Aurora.

Amici thus have a direct interest in the outcome of this action.

INTRODUCTION

On October 27, 2026, ICE agents gathered a group of men detained at the ICE detention center operated by the GEO Group in Aurora. A federal judge had ordered each of them released and ICE told them they were being released. This was a lie. Instead, additional ICE officers were waiting for them, handcuffed them, and drove them to Centennial, then back to GEO. There, ICE officers swarmed them and told them they were under arrest. ICE has repeated this same cruel sham many more times in the last ten days with groups of noncitizens judges of this Court ordered released, including on October 28, October 29, October 30, October 31,November 1, and November 3, 2026. *See* American Friends Service Committee et al, *Press Release: ICE continues to hold people in detention after federal courts granted freedom* (Nov. 2, 2026), available at https://solidaritywarriors.org/ice/ (last visited Nov. 6, 2026) (documenting dates where observers witnessed ICE engaging in bait-and-switch continued detention).

[1] Institution listed for identification purposes only.

To date, ICE has knowingly defied orders by judges in this District in at least seventeen separate cases that amici know of, and possibly more. *See* Section I, *infra*. These cases are an appalling new take on existing gamesmanship strategies by ICE to terrify people and defy court orders. They are part of a pattern in this District and nationally of ICE's circumvention and violation of federal court orders, where cruelty seems to be the point. Without swift intervention, ICE will likely continue these brutal unlawful tactics in defiance of the Court, causing profound harm to this Court's authority and untold trauma to the unlawfully detained noncitizens.

ARGUMENT

I. ICE has Defied Court Orders in a Substantial Number of Noncitizens' Cases in this District by Subjecting them to Continued Detention.

In addition to the present action, Amici have identified at least sixteen other materially identical cases. *Garcia Torres v. Baltazar*, 26-cv-04242-DDD-NRN (D. Colo, filed Sept. 10, 2026); *Lebrun v. Mullin*, 26-cv-05294-GPG (D. Colo. filed Aug. 5, 2026); *Hurtado Hernandez v. Baltazar*, 26-cv-04681 (D. Colo. filed Sept. 22, 2026); *Diawarra v. Baltazar*, 26-cv-5199 (D. Colo. filed Oct. 13, 2026); *Zepeda Marroquin v. Baltazar*, 26-cv-05027-PAB (D. Colo. filed Oct. 7, 2026); *Infantes v. Baltazar*, 26-cv-5341-CNS (D. Colo. filed Oct. 19, 2026); *Gomez Valle v. Baltazar*, 26-cv-04643-NYW (D. Colo. filed Sept. 21, 2026); *Oyewole v. Baltazar*, 26-cv-05161-NYW (D. Colo. filed Oct. 12, 2026); *Urueta v. Baltazar*, 26-cv-04666-NYW (D. Colo. filed Sept. 21, 2026); *Portillo Martinez v. Warden*, 26-cv-05328-SKC (D. Colo. filed Oct. 19, 2026); *Perez Carrillo v. Baltazar*, 26-cv-05024-DDD (D. Colo. filed Oct. 7, 2026); *Garcia Vargas v. Baltazar*, 26-cv-5185-SKC (D. Colo. filed Oct. 13, 2026); *Rodriguez Hernandez v. Valdez*, 26-cv-05219-NYW (D. Colo. filed Oct. 14, 2026); *Yussuf Ali v. Mullin*, No. 26-cv-05317-DDD (D. Colo. filed Oct. 19, 2026); *Castaeda Aguirre v. Blanche*, No. 26-cv-04621-PAB, D. Colo., filed Sept. 18, 2026); *Vargas Manzanilla v. Baltazar*, No. 26-cv-05229-SKC (D. Colo., filed Oct. 14, 2026).

Three of these cases were **not** included in the list ICE presented on November 5, 2026, per this Court's order –*Hurtado Hernandez*, *Perez Carrillo*, and *Rodriguez Hernandez*. ECF No. 14. Amici are concerned that there are even more than the seventeen cases identified above because many noncitizens who remained detained in defiance of a court order were *pro se* before the federal court.

In each identified case, the same pattern occurred: petitioners submitted petitions for writs of habeas corpus challenging the legality of their detention. Respondents were ordered to show cause within seven days as to why the petition should not be granted; if respondents did not respond within the deadline, this Court ordered the petitioner released. Respondents failed to respond. The only variation is the exact manner in which Respondents then violated the court's order through continued custody: In some cases, petitioners were returned their belongings and marched a few feet through the facility gates into the waiting arms of other ICE officers; in others, petitioners were never even taken outside. No petitioner was free to leave. Many petitioners were served with putative warrants; all remained detained.

Respondent's practice violates court orders granting petitioners' release.[2] Despite Respondents' assertions, petitioners were never released pursuant to their court order. As Judge Crews held in *Garcia Vargas v. Baltazar*,

> Petitioner has remained in custody since his original arrest. To rule otherwise would render any award of habeas relief meaningless and would reward Respondents' apparent gamesmanship. Petitioner was released from detention and immediately confronted and arrested by ICE officers before

[2] While this practice is *particularly* egregious in form, ICE similarly cannot circumvent habeas orders by actually relinquishing custody of petitioners, then rearresting them thereafter with no additional process. Due process requires, as courts in this district have found on several occasions, that noncitizens released pursuant to a writ of habeas corpus cannot be re-detained without a pre-deprivation hearing where the burden is on the government to demonstrate by clear and convincing evidence before a neutral arbiter that the noncitizen is a flight risk or a danger to the community. *See, e.g.*, *Berhe v. Baltazar*, No. 26-cv-1924-RMR (enjoining re-detention without a pre-deprivation hearing).

> even leaving the detention facility grounds. Once again, the cruelty appears to be the point. No person would have felt free to leave under these circumstances.

No. 26-cv-5185-SKC ECF No. 8 at 2; *see also Pablo F. v. Blanche*, No. 26-cv-3889 (JMB/SGE), 2026 WL 2874903, at *2 (D. Minn. Sept. 24, 2026) (quoting *Jones v. Cunningham*, 371 U.S. 236, 240 (1963) ("A habeas petitioner is in custody when he or she faces 'restraints not shared by the public generally").[3]

Amici share profound concern that ICE's illegal practice of retaining custody over habeas corpus petitioners ordered released will continue without immediate Court intervention. Assistant Field Office Director Nichole Black confirmed on the record in this case that the ICE Field Office Director Nathan Raspar has directly ordered ICE "to re-detain habeas releases that have criminality [sic]."[4]

II. ICE's Continued Detention of Habeas Petitioners Ordered Release Reflects a Broad Pattern of ICE's Intentional Defiance of Court Orders.

What happened to Petitioner – or, for that matter, the sixteen other identified, similarly situated petitioners – is not an isolated incident.

First, it is notable that in many of these cases where ICE defied the court's order of release, the petitioner alleged that they had been unlawfully arrested without a warrant. *See, e.g.*, *Garcia Vargas*, No. 26-cv-5185-SKC (D. Colo. filed Oct. 13, 2026) ECF No. 8 at 2 ("In his Application for a Writ of Habeas Corpus, Petitioner argued, among other things, that his original arrest violated

[3] This bait-and-switch pattern of false release is also present in Minnesota. This practice was reported on early last month by Minnesota-based media. Cait Kelley, *Catch Release, Catch: Inside ICE's new 'farce' tactic*, MPR NEWS (Oct. 5, 2026), *available at*: https://www.mprnews.org/story/2026/10/05/catch-release-catch-new-ice-farce-tactic.

[4] Michael Karlick, *'Mockery, contempt': Federal judge launches inquiry for ICE violations*, COLORADO POLITICS (Nov. 5, 2026), available at https://www.coloradopolitics.com/2026/11/05/mockery-contempt-federal-judge-launches-inquiry-for-ice-violations/.

his due process rights because he was never presented with a warrant"). ICE thus subjected these petitioners to their policy and practice of violating 8 U.S.C. § 1357(a)(2). *See Ramirez Ovando v. Noem*, 810 F.Supp.3d 1209, 1234–35 (D. Colo. 2025) (Judge Jackson finding that ICE has a policy, pattern, and practice of violating 8 U.S.C. § 1357(a)(2)). Under the circumstances, ICE's new practice of allegedly releasing someone while keeping them in custody is yet another example of ICE perpetuating its violation of 8 U.S.C. § 1357(a)(2) in the face of courts ordering it to stop.

Courts across the country, including in Colorado, have ordered ICE to end its policy, pattern, and practice of disregarding flight risk when making warrantless arrests, which violates § 1357(a)(2). *Ramirez Ovando*, 810 F.Supp.3d at1234–35; *see also Vasquez Perdomo v. Mullin*, ---F.Supp.3d---, 2026 WL 2751388, *15 (C.D. Cal. 2026); *M-J-M-A v. Hermosillo*, 822 F.Supp.3d 1147, 1178 (D. Or. 2026); *Escobar Molina v. U.S. Department of Homeland Security*, 832 F.Supp.3d 22, 30–31 (D.D.C. 2026); *United Farm Workers v. Noem*, 785 F.Supp.3d 672, 735 (E.D. Cal. 2025) remanded on other grounds, No. 25-4047, 2026 WL 2754794 (9th Cir. 2026); *Cf. Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828, 839 (7th Cir. 2026) (ICE not disputing its practice of issuing defective I-200s to "avoid its obligation under § 1357(a)(2)").

Courts have found that ICE has ignored and violated those orders in Colorado and elsewhere. *Ramirez Ovando v. Mullin*, 1:25-cv-03183-RBJ, 2026 WL 2631058, *23 (D. Colo. May. 12, 2026) (finding that defendants "materially violated the Court's PI Order" by, *inter alia*, continuing to "make arrests . . . in violation of 8 U.S.C. § 1357(a)(2)"); *M-J-M-A- v. Lyons*, ---F.Supp.3d.---, 2026 WL 3301008, *20 (D. Or. Nov. 2, 2026) (fearing that the government's "violations of the law and the Court's preliminary injunction order" barring it from making unlawful warrantless arrests "is far reaching").

In May 2026, in response to a Motion to Enforce the preliminary injunction issued in November 2025 prohibiting unlawful warrantless arrests in Colorado, this Court (Judge Jackson) found that ICE "continued to effect warrantless arrests without making individualized probable cause determinations of the likelihood of escape in defiance of § 1357(a)(2) and the [preliminary injunction], and . . . entirely failed to document these arrests in the manner prescribed." *Ramirez Ovando*, 2026 WL 2641058, at *12. The Court again ordered compliance with the preliminary injunction, the statute, and ordered additional reporting, documentation, and training requirements for ICE. *Id*. at **14–23.

Despite the May 2026 enforcement order, ICE ***still*** failed to comply with Judge Jackson's order. In September 2026, the Court again acknowledged ICE's ongoing noncompliance with the statute and the preliminary injunction, noting the evidence indicated that ICE continued to arrest people in violation of § 1357(a)(2), sometimes violently. *Ramirez Ovando v. Mullin*, 1:25-cv-03183-RBJ, ECF 143, at *4–7 (D. Colo. Sept. 24, 2026). In response, the court recognized release as the appropriate remedy for those unlawfully arrested. *Id*.

It thus appears that ICE's sham releases giving rise to this proceeding were at least in part a response to courts in this district ordering release after Respondents failed to defend allegations that petitioners were arrested in a manner that violated § 1357(a)(2). The defiance at issue in this case – continued custody under the guise of releasing and rearresting Petitioner and those with him – is yet another example of ICE violating the statute and ignoring court orders to stop defying the requirements of 8 U.S.C. § 1357(a)(2).

Second, ICE's track record of defiance in this District is not limited to warrantless arrest issues. Within the last year, ICE has twice removed a petitioner despite a court order blocking such removal. *Chigozie Nwabuwa v. Warden*, No. 26-cv-01543-NYW (D. Colo. filed Apr. 10, 2026)

(Petitioner removed to Nigeria despite court order); *Rodriguez Hernandez v. Baltazar*, No. 26-cv-03504-DDD (D. Colo. filed Aug. 3, 2026) (Petitioner removed to Mexico despite temporary restraining order). ICE has repeatedly placed conditions on petitioners who have been granted release by this Court without any such conditions, including in the last two weeks. *See, e.g.*, *Faustin v. Baltazar et al.*, 26-cv-5352-NYW (D. Colo. filed Oct. 20, 2026) (Respondents imposed an ankle monitor and mandatory check-in requirements on petitioner ordered released without any conditions).

Third, ICE has defied court orders across the country. As described above, ICE also conducted sham releases in Minnesota. *Pablo F.*, 2026 WL 2874903, at *2 ("On September 9, 2026, Respondents permitted Pablo F. to exit the building where he was detained, but he was immediately swarmed by four ICE officers and handcuffed as soon as he stepped outside."). Indeed, it appears to be the result of a national policy.[5] Additional examples of the Department of Homeland Security ("DHS") and ICE defiance of court orders are readily identifiable. *See, e.g.*, *Abedi v. Carter*, -- F.4th --,, 2026 WL 3149141, at *9 (10th Cir. Oct. 21, 2026) (recognizing DHS's "demonstrated pattern of re-detaining" noncitizens who have won habeas relief); *J.G.G. v. Trump*, No. 1:25-cv-766, (D. D.C. Mar. 15, 2025), https://www.courtlistener.com/docket/69741724/1/jgg-v-trump/ (judicial order not to allow class members to deplane not followed); *L.G.M.L. v. Noem*, 1:25-cv-02942 (D.D.C.) https://www.courtlistener.com/docket/71240524/49/lgml-v-noem/ (government attempted the same conduct as in *J.G.G.*); *Juan T.R. v Noem*, 26-cv-0107 (PJS/DLM), 2026 WL 232015, at *1

[5] Cris Seda Chabrier, *ICE rapidly re-arresting immigrants released after winning court petitions*, THE GUARDIAN (Nov. 2, 2026), available at: https://www.theguardian.com/us-news/2026/nov/02/immigrants-released-after-court-petitions-ice-arrest (documenting at least 20 cases nationwide involving re-detention after a habeas petition).

(D. Minn. Jan. 28, 2026) (identifying 96 court orders ICE violated from Jan. 1, 2026 until Jan. 28, 2026 in Minnesota alone).

Amici respectfully urge the Court to impose a serious remedy consistent with the systemic nature of Respondents' defiance of court orders and the profound harm they are causing.

III. The Harms of Respondents' Defiance are Profound

In addition to the harms inherent to the Court's authority and the rule of law, Respondents' defiance works concrete harms on the noncitizen petitioners directly impacted by it and others similarly situated. Those harms, in turn, reverberate out through the community and back to courts in this District.

For example, the Petitioner in *Lebrun v. Baltazar* describes a terrifying interaction with officials when he was subjected to re-arrest. *See* No. 26-cv-05294-GPG (D. Colo. filed Oct. 15, 2026) ECF 8. He observed officials turn off body cameras when he asked for an explanation for what was happening to him, as well as received threats of criminal prosecution. *Id.* Similarly, someone subjected to ICE's defiance told organizers, "They are messing with my feelings and my family's feelings. I was so excited to get the opportunity to see my family. They processed me to be released, and then I didn't even make it onto the sidewalk." American Friends Service Committee et al, *Press Release: ICE continues to hold people in detention after federal courts granted freedom* (Nov. 2, 2026), *available at* https://solidaritywarriors.org/ice/ (last visited Nov. 6, 2026). It is not hard to imagine the despair that the petitioners' families felt when their loved one did not make it home as expected.

Finally, Respondents' conduct has worked further harm on courts in this District by demanding additional judicial resources. This Court is not the only one to devote resources to a direct inquiry into disobedience of the Court's orders. *Faustin v. Baltazar*, 1:26-cv-05352-NYW

(D. Colo.) ECF Nos. 5-6 (minute orders describing a hearing held on Respondents' conduct and ordering Respondents to file additional information based on testimony at that hearing). Moreover, other petitioners, observing the events of the last few weeks, have filed for additional relief in their cases, seeking to avoid the same fate. *Segovia Lara v. Mullin*, No. 26-cv-05493-RTG (D. Colo. filed Nov. 4, 2026) ECF No. 6 – Additional Request for Relief. These filings, while entirely reasonable under the circumstances, require additional resources to process and adjudicate.

* * * * *

Amici respectfully request the Court to take necessary steps to stop this practice and eliminate the profound harm that ICE's unlawful actions are causing.

Dated: November 7, 2026

Respectfully submitted,

/s/ Elizabeth Jordan

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