

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

ALEKSEI MOROZOV,

Petitioner-Appellee,

vs.

WARDEN, LAWRENCE COUNTY JAIL,

Respondent,

FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; UNITED
STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA,

Respondents-Appellants.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA, No. 5:26-CV-05030-RAL
BEFORE THE HONORABLE ROBERTO A. LANGE, CHIEF DISTRICT JUDGE**

**BRIEF OF *AMICUS CURIAE* STATE OF MINNESOTA
IN SUPPORT OF PETITIONER-APPELLEE**

KEITH ELLISON
Attorney General
State of Minnesota

Paul Dimick
Assistant Attorney General
Atty. Reg. No. 0401245
Rebecca Stillman
Assistant Attorney General

Atty. Reg. No. 0398550
445 Minnesota Street, Suite 600
St. Paul, Minnesota 55101-2125
(651) 300-7877 (Voice)
(651) 282-5832 (Fax)
paul.dimick@ag.state.mn.us
rebecca.stillman@ag.state.mn.us

ATTORNEYS FOR THE
STATE OF MINNESOTA

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IDENTITY AND INTERESTS OF AMICUS CURIAE

As the Supreme Court has repeatedly recognized, “the 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). It is equally settled that “[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

To ensure civil detention comports with due process, the Supreme Court has consistently required “strong procedural protections” and a “sufficiently strong special justification” whenever the government seeks to deprive someone of the fundamental right to liberty. *Zadvydas*, 533 U.S. at 690-91. In this appeal, the federal government seeks to eliminate these critical due process protections for noncitizens detained under 8 U.S.C. § 1225(b)(2)(A), arguing that Petitioner-Appellee, Aleksei Morozov, can be detained without any inquiry into whether his detention is necessary to prevent a risk of flight or danger to the community. *See, e.g.*, Appellant’s Br. at 21 (arguing that whether a noncitizen presents “a flight risk or is dangerous is irrelevant”).

Under Federal Rule of Appellate Procedure 29(a)(2), the State of Minnesota (“State”) submits this amicus curiae brief in support of Mr. Morozov. The State has a profound interest in safeguarding the constitutional rights and well-being of all its

residents, regardless of their immigration status, and immigrants are integral to the Minnesota community. Minnesota is proud to be home to a significant and growing immigrant population. Approximately 482,400 immigrants live in the State¹—more than the population of Minneapolis, the State’s largest city.² In communities across the State, noncitizens make invaluable contributions to the workforce, economy, education, and all areas of civic life.

The detention of noncitizens who pose no risk of flight or danger to the community deprives the State of their important contributions. Unlawful detention under 8 U.S.C. § 1225(b)(2)(A) separates families, disrupts workplaces, and hinders the provision of effective education. Noncitizens frequently live with spouses, children, or other relatives who are United States citizens. Many are the sole or primary breadwinners in their households. Others provide critical support and care for infant, elderly, or ailing family members. The State has a strong interest in protecting the health, safety, education, and constitutional rights of all its residents, including the noncitizens who contribute so greatly to communities throughout Minnesota.

¹ Am. Immigr. Council, *Immigrants in Minnesota* (2026), <https://map.americanimmigrationcouncil.org/locations/minnesota/>.

² World Population Review, *Minnesota Cities by Population* (2026), <https://worldpopulationreview.com/us-cities/minnesota>.

This Court should thus affirm the district court’s finding that the federal government violated Mr. Morozov’s due process rights by detaining him without a bond hearing. *See Aleksei M. v. Warden, Lawrence Cnty. Jail*, 5:26-CV-05030-RAL, 2026 WL 1133615, at *6 (D.S.D. Apr. 27, 2026). The State supports all of Mr. Morozov’s arguments but focuses here on three main points. First, the unnecessary detention of noncitizens who pose no risk of flight or danger to the community has detrimental societal effects and harms the State’s workforce, economy, and education system. Second, the State’s experience with civil commitment and pretrial criminal detention shows that affording due process protections, including individualized bond hearings where appropriate, is compatible with ensuring public safety and preventing flight. And third, recent cases from the District of Minnesota demonstrate the importance of preserving due process protections for noncitizens detained under 8 U.S.C. § 1225(b)(2)(A), because they often have strong family and community ties, pending applications for relief from removal, and no criminal history.

ARGUMENT

I. UNNECESSARY DETENTION UNDER 8 U.S.C. § 1225(B)(2)(A) HARMS THE STATE’S WORKFORCE, ECONOMY, AND EDUCATION.

“Any amount of actual jail time is significant” and imposes “exceptionally severe consequences for the incarcerated individual and for society which bears the direct and indirect costs of incarceration.” *Rosales-Mireles v. United States*, 585 U.S.

129, 139 (2018). Whenever the federal government unnecessarily detains noncitizens who present no risk of flight or danger to the community, it rips them away from their families, jobs, and schools. Unlawful detention not only severely harms Minnesota residents, families, and communities, it also deprives the State of the significant contributions these individuals make to the workforce, economy, and education.

A. Impact on the Labor Force.

Noncitizens are a critical part of the United States' workforce. In 2025, foreign-born individuals accounted for 19.1% of the U.S. civilian labor force.³ In particular, foreign-born men participated in the labor force at a considerably higher rate than men born in the United States—76.9% vs. 65.8%, respectively.⁴ Across the country, immigrant workers are necessary to offset “a decline in labor force participation due to slowing demand for workers and the rising average age of the population.”⁵

This decline in labor force participation “is now recognized as one of Minnesota’s most significant barriers to sustained economic growth.”⁶ Immigration

³ U.S. Bureau of Lab. Stat., *Foreign-Born Workers: Labor Force Characteristics - 2025* (May 19, 2026), <https://www.bls.gov/news.release/pdf/forbrn.pdf>.

⁴ *Id.*

⁵ Congressional Budget Off., *The Budget and Economic Outlook: 2024 to 2034*, 13, (Feb. 2024), <https://www.cbo.gov/system/files/2024-02/59710-Outlook-2024.pdf>.

⁶ Minnesota Dep’t of Emp. and Econ. Dev., *The Importance of Immigration in Minnesota* (Aug. 2023), 082223_immigration_MN_tcm1045-591108.pdf.

is key to Minnesota’s continued development.⁷ The ability of immigrants and other foreign-born workers to participate in Minnesota’s workforce “has helped sustain [Minnesota’s] population and labor force growth . . . in the first quarter of the century,” with Minnesota’s foreign-born labor force growing by 41% since 2010.⁸ Employers throughout Minnesota depend on immigrants and other foreign-born workers for their workforce needs and business success.⁹

For instance, noncitizens are a critical part of Minnesota’s food and agricultural workforce: approximately one in five employees in Minnesota’s food manufacturing industry is an immigrant.¹⁰ Nationally, immigrants comprise more than 30% of the most physically demanding jobs, including farm laborers, crop production, and meat processing.¹¹ Shortages in labor lead to high production costs,

⁷ *Id.*

⁸ Minnesota Chamber Foundation, *2026 Business Benchmarks Report* (Nov. 2025) <https://d15k2d11r6t6rl.cloudfront.net/pub/bfra/la2h29b2/kdd/ct3/4l0/2026%20Business%20Benchmarks%20report.pdf>.

⁹ *Supra*, at n.6.

¹⁰ Minnesota Senate Media Services, *Press Conference: Impact of ICE Activity on Agriculture and Rural Communities*, at 9:00 (Jan. 14, 2026), <https://www.youtube.com/watch?v=mKyT1OAupv8>. Food and agriculture generate over \$105 billion in sales for Minnesota annually. *Id.*; see also Joint Econ. Comm., *Immigrants Are Vital to the U.S. Economy*, 2, (Apr. 26, 2021), https://www.jec.senate.gov/public/_cache/files/6750b0f0-c851-4fee-9619-295582fd44e8/immigrants-are-vital-to-the-us-economy-final.pdf (“Foreign-born workers account for more than 1-in-5 of all workers spread across the U.S. food supply chain—growing crops, harvesting fruits and vegetables, processing meat, transporting products and materials, and engaging in wholesale and retail sales.”).

¹¹ Joint Econ. Comm., *supra* at n.10.

which will result in increased food prices for consumers.¹² Immigrants are also critical to Minnesota's healthcare system. Immigrants are overrepresented in in-person healthcare services, including nurses and medical assistants.¹³ Notably, approximately 26% of physicians in Minnesota are immigrants.¹⁴

Austin, Minnesota provides an example of how immigrants help the State succeed. Between 1960 and 1990, Austin's population decreased from 28,000 to 21,900.¹⁵ In the 1990s, however, refugees and immigrants moved to Austin to work in the local meat processing industry. The incoming immigrant population halted the city's population decline and steadied its economy. Austin's initiatives to welcome immigrants, such as the Austin Area Minority Business Project, have helped create jobs and generate tax revenue for the city.

Cities like Austin exemplify how immigrants are essential to the economy. While the full negative economic impact of unlawful immigration enforcement and

¹² Minnesota Senate Media Services, *supra* at n.10, at 10:13.

¹³ Joint Econ. Comm., *supra* at n.10, at 3.

¹⁴ U.S. Census Bureau, [https://data.census.gov/app/mdat/ACSPUMS1Y2024/table?cv=CIT&rv=SOCP\(291210\)&nv=NAICSP,ucgid&wt=PWGTP&g=AwFm-BVBlAmB2IA](https://data.census.gov/app/mdat/ACSPUMS1Y2024/table?cv=CIT&rv=SOCP(291210)&nv=NAICSP,ucgid&wt=PWGTP&g=AwFm-BVBlAmB2IA) (last visited Feb. 3, 2026).

¹⁵ Unidos US, Immigration: Helping Revitalize Mid-Sized Cities (Aug. 28, 2024), <https://unidosus.org/blog/2024/08/28/immigration-helping-revitalize-mid-sized-cities/>. See generally Molly Hilligoss, *Welcoming Refugees in Rural Communities*, Welcoming America (Mar. 10, 2021) https://welcomingamerica.org/wp-content/uploads/2021/01/RuralToolkit_FINAL_web.pdf.

expanded mandatory detention cannot yet be calculated, research reveals the inevitability of economic harms if these policies persist. According to the non-partisan National Foundation for American Policy, “the Trump administration’s policies on illegal and legal immigration would reduce the projected number of workers in the United States by 6.8 million by 2028 and by 15.7 million by 2035 and lower the annual rate of economic growth by almost one-third, harming U.S. living standards.”¹⁶

In short, mandatory detention not only threatens the liberty of those detained, it also threatens to undermine the State’s labor force.

B. Impact to Tax Revenue and Spending Power.

Minnesota earns substantial tax revenue from noncitizens, including documented immigrants, undocumented immigrants, and other foreign-born workers.¹⁷ According to the Institute on Taxation and Economic Policy,

¹⁶ Nat’l Found. for Am. Pol’y, *The Economic Impact of the Trump Administration’s Immigration Policies*, 5 (Oct. 2025), <https://nfap.com/wp-content/uploads/2025/10/Economic-Impact-of-The-Trump-Administration-Immigration-Policies.NFAP-Policy-Brief.2025-1.pdf>.

¹⁷ Immigrants paid \$6.2 billion in Minnesota 2023. Am. Immigr. Council, *Map the Impact*, <https://data.americanimmigrationcouncil.org/map-the-impact/> (last visited Sept. 16, 2026). The amount immigrants contribute in taxes in Minnesota is increasing—in 2019, immigrants in Minnesota paid \$4.5 billion in taxes. Minnesota Chamber Found., *The Economic Contributions of Immigrants in Minnesota*, 6 (Mar. 2021), <https://www.mnchamber.com/sites/default/files/The%20Economic%20Contributions%20of%20Immigrants%20in%20Minnesota%203.23.21.pdf>.

undocumented immigrants contributed approximately \$221,700,000 in taxes to Minnesota in 2022.¹⁸ The tax dollars paid by immigrants and foreign-born workers support public education, healthcare, safety programs, and other essential services that benefit the entire Minnesota population.¹⁹ The unnecessary detention of noncitizens like Mr. Morozov puts this revenue at risk.

Immigrants also play a critical role in driving economic growth. In Minnesota alone, immigrants have approximately \$17 billion in spending power.²⁰ That spending supports existing businesses and promotes the development of new businesses within the State.²¹ Studies repeatedly show that the revenue and spending brought in by immigrants and other foreign-born workers is good for the U.S. economy: A non-partisan analysis by the Hamilton Project concluded that “in 2023 immigrants contributed \$48 billion to overall personal income and \$46 billion to consumer spending”²²; an analysis conducted by former Council of Economic

¹⁸ Carl Davis, Marco Guzman & Emma Sifre, *Tax Payments by Undocumented Immigrants*, Inst. On Tax’n & Econ. Pol’y (Jul. 30, 2024), <https://itep.org/undocumented-immigrants-taxes-2024/>.

¹⁹ Minnesota Chamber Found., *supra* n.17, at 9.

²⁰ Am. Immigr. Council, *supra* n.17. In 2021, immigrants had approximately \$12.4 billion in spending power in Minnesota. Minnesota Chamber Found., *supra* n.17, at 6.

²¹ Minnesota Chamber Found., *supra* n.17, at 7.

²² U.S. Congress Joint Econ. Comm., *Mass Deportations Would Deliver a Catastrophic Blow to the U.S. Economy*, 3 (Dec. 2024), <https://www.congress.gov/119/meeting/house/117980/documents/HHRG-119-GO00-20250305-SD020.pdf>.

Advisers chief economist Ernie Tedeschi showed “that immigration is responsible for at least a fifth of the 8.2% growth in real GDP since the end of 2019”²³; and the non-partisan Congressional Budget Office “estimated that the recent increase in immigration could add \$8.9 trillion to GDP over the next decade while reducing the deficit by \$900 billion.”²⁴ Mandatory detention of noncitizens without need or individual analysis will unnecessarily harm Minnesota’s economy.

C. Impact on Education.

Immigrants also contribute to education in Minnesota, and the unlawful and unnecessary detention of noncitizens who do not pose a risk of flight or danger to the community stymies educational and professional gains for both foreign-born and U.S.-born students. According to U.S. Census data, approximately 8.2% of Minnesota’s foreign-born population, or approximately 40,000 people, are between the ages of 5 and 17. Research shows the presence of immigrant youth in classrooms positively affects the academic achievement of native-born students.²⁵ Other studies have also found that diversity in classrooms benefits all students: “An inclusive classroom . . . provides global academic benefits, such as improved critical thinking and higher overall achievement levels for both majority and minority group

²³ *Id.*

²⁴ *Id.*

²⁵ David Figlio, et al., *Diversity in Schools: Immigrants and the Education Performance of U.S.-Born Students*, 91 The Review of Econ. Studies 972 (Apr. 21, 2023), <https://academic.oup.com/restud/article-abstract/91/2/972/7135701>.

members. In addition, when students have positive diversity experiences, their interest in improving the lives of people in their communities increases.”²⁶

These benefits also extend to post-secondary education. When U.S.-born students learn alongside immigrants, students are “exposed to different products, technologies, ideas, or ways of thinking about and solving technical problems.”²⁷ Exposure to new ideas and ways of thinking results in increased innovation. For example, one study found that immigrants not only account for a disproportionate share of patented inventions in the United States, but their collaboration with U.S.-born inventors also drives significant increases in patenting by nonimmigrants.²⁸

Detention of immigrants without a permissible government purpose therefore harms students by putting higher education out of the reach of a much broader section of the community. Making post-secondary education less accessible harms Minnesota, which benefits from an educated populace. Minnesota law recognizes that the State’s investment in higher education “promote[s] democratic values and enhance[s] Minnesota’s qualify of life” and “enhance[s] the economy by assisting

²⁶ Mary E. Kite and Patricia Clark, *The Benefits of Diversity Education*, Am. Psychological Assoc. (Sept. 8, 2022), <https://www.apa.org/ed/precollege/psychology-teacher-network/introductory-psychology/benefits-of-diversity>.

²⁷ Exequiel Hernandez, *The Economic Benefits of Immigration*, 3 (2025), <https://impact.wharton.upenn.edu/wp-content/uploads/2025/08/The-Economic-Benefits-of-Immigration.pdf>.

²⁸ *Id.*

the state in being competitive in the world market, and to prepare a highly skilled and adaptable workforce that meets Minnesota's opportunities and needs." Minn. Stat. § 135A.011. Respondents' actions impair Minnesota's ability to achieve these goals.

Interfering with educational opportunity also harms Minnesota because it denies the State the additional tax revenue and lowered cost of public services programs associated with higher levels of education and greater personal incomes.²⁹ Attaining higher educational rates decreases unemployment rates and increases earnings,³⁰ which benefits Minnesota residents, their families, and the State. Ensuring post-secondary education is accessible is all the more important given shortages in essential skilled workers, such as heavy-duty repair technicians,³¹

²⁹ Minnesota Dep't of Revenue, *Income Rates and Brackets*, <https://www.revenue.state.mn.us/minnesota-income-tax-rates-and-brackets#:~:text=You%20pay%20a%20lower%20rate%20on%20the%20first,rates%20and%20brackets%20are%20set%20by%20state%20law> (last visited Sept. 16, 2026).

³⁰ U.S. Bureau of Lab. Stat., *Education Pays, 2024* (May 2025), <https://www.bls.gov/careeroutlook/2025/data-on-display/education-pays.htm>.

³¹ Trucknews.com, *Technician shortage, rising labor rates dominate Fullbay repair industry report* (Mar. 18, 2026), <https://www.trucknews.com/equipment/technician-shortage-rising-labor-rates-dominate-fullbay-repair-industry-report/1003211352/>; Assoc. Equipment Distributors, *The Equipment Industry Technician Shortage: Causes, Impacts and Policy Recommendations* (2020), https://aednet.org/wp-content/uploads/2020/06/AEDFResearchReport_FINAL.pdf.

nurses,³² the automotive sector,³³ and teachers.³⁴ As noted by the Minnesota Office of Higher Education, increasing post-secondary enrollment at state colleges and universities “serve[s] as an economic driver for Minnesota by educating qualified workers who are much needed to fill vacancies in the state’s labor force” and “help[s] stabilize enrollment at Minnesota public institutions of higher education.”³⁵ By inhibiting Minnesota’s ability to further the education of all its residents, unlawful and unnecessary detention not only interferes with the ability of the State to provide quality education, but also results in economic harm.

³² Minnesota Dep’t of Health, *Minnesota’s Health Care Workforce: Pandemic-Provoked Workforce Exits, Burnout, and Shortages* (2022), <https://www.health.state.mn.us/data/workforce/docs/2022workforcebrief.pdf>.

³³ Anne-Marie Kovacs, *The Crisis Under the Hood: America’s Skilled Labor Shortage*, *Forbes* (June 24, 2024, at 7:30 a.m. EDT), <https://www.forbes.com/councils/forbesbusinesscouncil/2024/06/24/the-crisis-under-the-hood-americas-skilled-labor-shortage/>.

³⁴ Minnesota Professional Educator Licensing and Standards Board, *The 2025 Supply & Demand of Teachers in Minnesota*, 39-43 (2025), https://mn.gov/pelsb/assets/2025%20Supply%20and%20Demand%20Report.post2_tcm1113-713735.pdf. Minnesota State colleges and universities offer programs in all of these areas, in addition to many other areas of study. Minnesota State Education Search, <https://www.minnstate.edu/campusesprograms/index.html> (last visited Sept. 15, 2026).

³⁵ Minnesota Dep’t of Ed., General NSP Presentation for College Access Partners, General NSP Presentation For College Access Partners.pptx (last visited Sept. 16, 2026).

II. THE STATE’S EXPERIENCE WITH CIVIL DETENTION SHOWS THAT AFFORDING DUE PROCESS PROTECTIONS IS COMPATIBLE WITH PREVENTING FLIGHT AND PROTECTING PUBLIC SAFETY.

Because civil detention imposes severe consequences on both the incarcerated individual and society, confinement “for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979). Accordingly, whenever the government seeks to deprive an individual of their liberty, due process requires that it provide both a “special justification” and “adequate procedural protections” to guarantee such detention is necessary to serve a permissible purpose. *Zadvydas*, 533 U.S. at 690.

In the immigration context, the Supreme Court has recognized two permissible purposes of detention—a noncitizen’s risk of flight or danger to the community. *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). The Court has also consistently found that an individualized hearing, before a neutral decisionmaker, is typically required to ensure that civil detention serves a lawful purpose. *See, e.g., United States v. Salerno*, 481 U.S. 739, 751-52 (1987). The State’s experience with other forms of civil detention, including civil commitment and pretrial criminal detention, demonstrates that due process protections in the form of individualized bond hearings are compatible with these goals.

For example, when the State seeks to involuntarily confine a person beyond a brief period of time for psychiatric treatment, it must demonstrate at a judicial

hearing that, among other issues, the individual presents a risk of harm to themselves or others. *See* Minn. Stat. § 253B.07-.09. A judicial hearing is also required whenever the State seeks to confine a sexually dangerous person or a person with a sexual psychopathic personality. Minn. Stat. § 253D.07, subd. 2. Likewise, the federal government must make an evidentiary showing at a judicial hearing before a sexually dangerous person may be civilly committed. *See* 18 U.S.C. §§ 4247-8; *Vitek v. Jones*, 445 U.S. 480, 491-96 (1980); *United States v. Bean*, 373 F.3d 877, 880 (8th Cir. 2004).

Every criminal defendant in a Minnesota state prosecution is eligible for release while their case is pending. *See State v. Brooks*, 604 N.W.2d 345, 351 (Minn. 2000) (“[F]ollowing the abolishment of capital punishment in Minnesota, all crimes are bailable.”). If a criminal defendant is arrested and remains detained, they generally receive a hearing “not more than 36 hours after the[ir] arrest,” *see* Minn. R. Crim. P. 4.02, subd. 5, at which conditions on release may be imposed if the judge determines “that release will endanger the public safety or will not reasonably assure the defendant’s appearance,” Minn. R. Crim. P. 6.02. Similarly, the Bail Reform Act only permits the federal government to hold a criminal defendant without bond if it proves “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the

community.” 18 U.S.C. § 3142(e)(1); *see also United States v. Salerno*, 481 U.S. 739, 751-52 (1987).

As these state and federal examples demonstrate, individualized hearings are generally a standard and essential requirement of due process. While the State is sensitive to the federal government’s interests in preventing flight and danger to the community, individualized bond hearings are well-suited for determining whether or not detention is necessary in any particular case. Indeed, as other courts have noted, providing bond hearings to noncitizens does “nothing to undercut” the federal government’s legitimate interests, as the hearing would specifically “assess on an individualized basis whether the noncitizen presents a flight risk or danger to the community.” *See Black v. Decker*, 103 F.4th 133, 153-54 (2d Cir. 2024). And here, where the federal government previously found Mr. Morozov not to present a flight risk or danger, does not argue that circumstances have changed, and the district court determined circumstances have not changed, no additional hearing was necessary. *See Aleksei M.*, 2026 WL 1133615, at *6.

Providing these protections to noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) will not impose a significant burden on the federal government. Immigration judges routinely afford due process protections to other noncitizens, including individualized bond hearings. *See* 8 U.S.C. § 1226(a). And any increased burden is worth it, as studies repeatedly show that noncitizens are far less likely to

be arrested or imprisoned for committing a crime than those born in the United States.³⁶ Respondents also identify no data suggesting that the noncitizen population detained under 8 U.S.C. § 1225(b)(2)(A) presents any particular risk of absconding from their immigration proceedings. For all of these reasons, affording due process protections, including individualized bond hearings where appropriate, to noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) will often properly balance the federal government’s interest in pursuing a permissible purpose of detention against the risk of unnecessarily depriving someone of their liberty.

III. THE DISTRICT OF MINNESOTA’S RECENT EXPERIENCE SHOWS WHY DUE PROCESS PROTECTIONS ARE NECESSARY.

The District of Minnesota’s recent experience confirms that providing due process protections to noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) is critically important.³⁷ As the following examples show, noncitizens detained under

³⁶ Krysten Crawford, *The Mythical Tie Between Immigration and Crime*, Stanford Institute for Economic Policy Research, (July 21, 2023), <https://siepr.stanford.edu/news/mythical-tie-between-immigration-and-crime>; Stephanie Kulke, *Immigrants are Significantly Less Likely to Commit Crimes than the U.S. Born*, Northwestern Now (Mar. 12, 2024), <https://news.northwestern.edu/stories/2024/03/immigrants-are-significantly-less-likely-to-commit-crimes-than-the-us-born>; Nat’l Inst. of Just., U.S. Dep’t of Just., *Undocumented Immigrant Offending Rate Lower Than U.S.-Born Citizen Rate* (Sept. 12, 2024), <https://docs.house.gov/meetings/JU/JU01/20250122/117827/HHRG-119-JU01-20250122-SD004.pdf>.

³⁷ Some of the decisions discussed below were issued before this Court’s decision in *Avila v. Bondi*, which held that the statutory phrases “applicant for admission” and “seeking admission” are equivalent, meaning 8 U.S.C. § 1225(b)(2)(A) applies to all

the statute have often lived in the United States for years, building their families, careers, and lives. They may also have applications or meritorious claims for relief from removal pending. Many have no criminal history whatsoever. Without adequate process, noncitizens who do not present a risk of flight or danger to the community will be unnecessarily detained, needlessly depriving their families, communities, and the State of their important contributions.

A. Noncitizens Detained Under 8 U.S.C. § 1225(b)(2)(A) Often Have Strong Family and Community Ties.

As numerous cases from the District of Minnesota demonstrate, noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) often have strong family and community ties to the United States, including children, spouses, or other family members who are United States citizens.

For example, Antonia Aguilar Maldonado, a resident of Lake Elmo, Minnesota, was detained by the Department of Homeland Security (“DHS”) on July 17, 2025. *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1140 (D. Minn. 2025). After entering the United States in 2016 at age 16, Ms. Aguilar Maldonado worked hard

unadmitted noncitizens arrested in the interior of the United States, often after living here for years. 170 F.4th 1128, 1134-38 (8th Cir. 2026). While these pre-*Avila* district court decisions held that such individuals were subject to discretionary detention under 8 U.S.C. § 1226(a), the cases continue to offer illustrative examples of the types of noncitizens now subject to mandatory detention without opportunity for bond following *Avila*, and the federal government argued in every case that 8 U.S.C. § 1225(b)(2)(A) provided the source of its detention authority.

and built a life for herself in Minnesota. *See id.* at 1139. She is now married and has two minor children, both of whom are United States citizens. *Id.* at 1140. At the time of her arrest, one of Ms. Aguilar Maldonado’s children was “a nursing child who depend[ed] upon his mother for nourishment.” *Id.* at 1148. Despite these strong family and community ties, DHS detained Ms. Aguilar Maldonado as she left her home for work, “separating her indefinitely from her small children, from whom she ha[d] never been separated for any appreciable length of time.” *Id.* at 1141.

Like Ms. Aguilar Maldonado, many noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) have extensive family and community ties in the United States, and Ms. Aguilar Maldonado’s case is not the only time that detention under the statute has led to harmful family separation. For instance, DHS detained a resident of Albert Lea, Minnesota, who had “been in the United States for nearly four years” and “had just dropped off her one-year-old child at daycare when ICE agents stopped her car.” *Yolanda B.A. v. Bondi*, Civil No. 26-1884 (DWF/DTS), 2026 WL 800634, at *1 (D. Minn. Mar. 23, 2026). Another noncitizen who lived in the United States for “more than 20 years,” had “no known criminal history,” and “act[ed] as a caregiver for his elderly mother” was detained in Red Wing, Minnesota, while on his way to work. *Jose V.P.R. v. Sheriff of Freeborn Cnty.*, Case No. 26-CV-3047 (NEB/DLM), 2026 WL 2546265, at *1 (D. Minn. Aug. 28, 2026); *see also Bryan A.G.D. v. Blanche*, Civ. No. 26-2366 (JWB/EMB), 2026 WL 2163098, at *1 (D. Minn. July 27, 2026)

(noting noncitizen detained by DHS spent his “time working, attending church, and caring for his family”). And a Minneapolis resident detained in April 2026 was “married, ha[d] a three-year-old-daughter, and he and his wife [we]re expecting a baby in May.” *David J.C.P. v. Blanche*, Civil No. 26-2181 (DWF/ECW), 2026 WL 1102725, at *1 (D. Minn. Apr. 23, 2026).

As each case demonstrates, providing due process protections is necessary to ensure that a noncitizen’s detention under 8 U.S.C. § 1225(b)(2)(A) serves a permissible purpose, as the extent of an individual’s family and community ties bears directly on whether they present any risk of flight. *See, e.g., Matter of Siniauskas*, 27 I. & N. Dec. 207, 209 (BIA 2018) (noting that “family and community ties” are “significant to whether the noncitizen is a flight risk”). Without strong procedural protections, noncitizens with significant family and community ties, including family members who are United States citizens, will be unnecessarily detained. Such detention not only unlawfully deprives the noncitizen of their liberty, but also harms their family members and the Minnesota communities that depend on them.

B. Many Noncitizens Detained Under 8 U.S.C. § 1225(b)(2)(A) Have No Criminal History.

Decisions from the District of Minnesota also show that individuals detained under 8 U.S.C. § 1225(b)(2)(A) frequently lack any criminal history, including many

noncitizens who have lived law abiding lives in Minnesota for multiple years or decades.

For instance, one individual detained under 8 U.S.C. § 1225(b)(2)(A) had “lived in this country continuously for 27 years” and had “no criminal history.” *Hector G.P.R. v. Warden of Freeborn Cnty. Adult Det. Center*, Civ. No. 26-cv-3048 (NEB/DLM) 2026 WL 2390280, at *1 (D. Minn. Aug. 7, 2026), *report and recommendation adopted*, 2026 WL 2392887 (D. Minn. Aug. 17, 2026). Another noncitizen with “no criminal convictions, pending criminal charges, or history of violence” was detained in Minnesota after spending “almost twenty years of his life living in the United States.” *Felipe S.P. v. Blanche*, Case No. 26-CV-2212 (NEB/DJF), 2026 WL 1911656, at *9 (D. Minn. July 2, 2026). DHS also detained a resident of Saint Paul, Minnesota, who had no criminal history and had “lived in the United States since October 2003.” *Pedro A.D.L.O.O. v. Bondi*, Civil No. 26-1959 (DWF/DJF), 2026 WL 948970, at *1 (D. Minn. Apr. 8, 2026).

A noncitizen’s criminal history is undeniably relevant to whether they pose a danger to the community. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (stating that noncitizen’s “criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses” is relevant to bond analysis). And failure to provide adequate procedural protections to individuals detained under the statute will result in the unnecessary detention of

noncitizens who pose no danger to the community, including those who lack any criminal history.

Notably, in certain cases where the federal government alleged that a noncitizen did possess a criminal history, the alleged convictions “appeared to belong to another individual” or were contradicted by other evidence. *See Juan C.M.C. v. Blanche*, Civ. No. 26-2402 (JWB/ECW), 2026 WL 2117276, at *4 (D. Minn. July 22, 2026); *R.M. v. Blanche*, Case No. 26-cv-2283 (LMP/DLM), 2026 WL 1506306, at *10 (D. Minn. May 29, 2026) (noting federal government’s “own exhibits” contradicted “unsupported claims” about noncitizen’s “purported criminal history”). And in other cases, DHS or a neutral decisionmaker had previously determined that the noncitizen did not present any risk of flight or danger to the community sufficient to justify detention. *See, e.g., David J.C.P. v. Blanche*, Civil No. 26-2181 (DWF/ECW), 2026 WL 1102725, at *2 (D. Minn. April 23, 2026) (noting DHS had removed ankle monitor and noncitizen was previously released on his own recognizance); *Bryan A.G.D. v. Blanche*, Civ. No. 26-2366 (JWB/EMB), 2026 WL 2163098, at *4 (D. Minn. July 27, 2026) (noting federal “Magistrate Judge saw fit to conditionally release” noncitizen who “appeared in federal court on his improper entry charge”). As these cases illustrate, the existence of adequate procedural protections is also necessary to allow noncitizens detained under 8 U.S.C.

§ 1225(b)(2)(A) to contest any errors or arbitrary decisions made by the federal government related to their detention.

C. Noncitizens Detained Under 8 U.S.C. § 1225(b)(2)(A) May Have Pending Applications or Claims to Relief from Removal.

District of Minnesota decisions involving noncitizens who are pursuing applications or other claims to relief from removal further illustrate the importance of affording due process protections to individuals detained under 8 U.S.C. § 1225(b)(2)(A). Whether a noncitizen has pending applications or claims to relief from removal may impact whether detention is necessary in a particular case. *See Matter of Andrade*, 19 I. & N. Dec. 488, 490 (BIA 1987) (explaining that noncitizens “with a greater likelihood of being granted relief from deportation ha[ve] a greater motivation to appear for a deportation hearing”). Ensuring individuals have adequate procedural protections available to challenge the necessity of their detention while they pursue relief from removal is thus essential to preventing unnecessary deprivations of liberty.

For example, Axel J.M.C., a resident of Adrian, Minnesota, was detained by DHS despite “lawfully and diligently pursu[ing] all potential forms of removal defense relief that he qualified for.” *Axel J.M.C. v. Stanski*, Civil No. 26-2281 (JRT/EMB), 2026 WL 1171344, at *2 (D. Minn. Apr. 29, 2026). Since entering the United States, Mr. J.M.C. had been granted Special Immigrant Juvenile Status (“SIJS”) by United States Citizenship and Immigration Services (“USCIS”), had a

pending application to adjust his status and become a lawful permanent resident, and had also applied for asylum. *Id.* at *2-*3. Despite his pending applications and “lack of criminal history, *id.* at *3, DHS arrested Mr. J.M.C. “without any notice or warning” in April 2026, *id.* at *2.

In fact, the existence of due process protections is especially important for noncitizens who are pursuing applications or claims to relief from removal, as such cases may take months or even years before removal proceedings are complete. According to recent estimates, there are nearly 3.1 million immigration cases currently pending, including a record high of more than 282,000 appeals before the Board of Immigration Appeals.³⁸ Providing due process protections to noncitizens with pending applications or other claims to relief from removal is critical to preventing their unnecessary detention as their cases proceed through the extensive immigration court backlog.

D. Noncitizens Detained Under 8 U.S.C. § 1225(b)(2)(A) Frequently Comply With Immigration Supervision Requirements.

As cases from the District of Minnesota also show, many noncitizens detained by DHS under 8 U.S.C. § 1225(b)(2)(A) have long histories of complying with immigration check-ins or other supervision requirements.

³⁸ Transactional Records Access Clearinghouse, *Immigration Court Quick Facts* (Aug. 2026), <https://tracreports.org/immigration/quickfacts/eoir.html>; Executive Off. for Immigr. Review, U.S. Dep’t of Just., *Adjudication Statistics* (July 24, 2026), <https://www.justice.gov/eoir/media/1344986/dl?inline>.

For instance, DHS arrested Juan C.M.C., a resident of Minneapolis, Minnesota, despite his documented history of “years of compliance with immigration supervision while living in the community,” including “maintain[ing] an updated address with ICE, and appear[ing] for his immigration proceedings as directed.” *Juan C.M.C. v. Blanche*, Civ. No. 26-2402 (JWB/ECW), 2026 WL 2117276, at *1, *4 (D. Minn. July 22, 2026). DHS also arrested multiple noncitizens who appeared for scheduled appointments or interviews with immigration officials. *See Felipe S.P.*, 2026 WL 1911656, at *1; *Luis C. v. Bondi*, No. 26-cv-0636 (SRN/SGE), 2026 WL 222332, at *1 (D. Minn. Jan. 28, 2026); *Victor M.A.P. v. Bondi*, Civil No. 26-1819 (DWF/DTS), 2026 WL 735087, at *1 (D. Minn. Mar. 16, 2026). And other individuals were taken into custody despite consistently complying with the requirement to notify immigration officials of any changes to their address. *E.g., Amadu S.S. v. Bondi*, Civ. No. 26-1637 (JWB/DJF), 2026 WL 1231249, at *1 (D. Minn. Mar. 3, 2026) (noting noncitizen had “kept his address updated” with USCIS and immigration court).

Affording due process protections that enable noncitizens to challenge the lawfulness of their detention is vitally important, because a noncitizen’s compliance with supervision requirements and appearance at immigration proceedings is directly relevant to whether detention is necessary in a given case. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (noting a noncitizen’s “record of

appearance in court” is relevant to bond analysis). Absent such protections, noncitizens who do not present any risk of flight or danger will be unnecessarily detained.

E. Noncitizens Detained Under 8 U.S.C. § 1225(b)(2)(A) Contribute to Minnesota’s Workforce and Economy.

Decisions from the District of Minnesota also demonstrate the societal importance of providing due process protections to noncitizens detained under 8 U.S.C. § 1225(b)(2)(A), as many noncitizens detained under the statute make important contributions to their families and communities across Minnesota, including significant contributions to the workforce and economy.

For instance, DHS detained Walter A.G.P., a resident of Moorhead, Minnesota, who had “been gainfully employed” for over five years, including owning and operating his own roofing company. *Walter A.G.P. v. Mullin*, Civ. No. 26-2891 (JWB/JFD), 2026 WL 2150525, at *3 (D. Minn. July 27, 2026). Another individual detained under 8 U.S.C. § 1225(b)(2)(A) was “the sole economic provider for his two young daughters” and was “on his way to work when ICE agents stopped him on the highway.” *Pedro A.D.L.O.O. v. Bondi*, Civil No. 26-1959 (DWF/DJF), 2026 WL 948970, at *1 (D. Minn. Apr. 8, 2026). Other noncitizens detained under the statute hold essential jobs, such as working as bus drivers. *Amadu S.S.*, 2026 WL 1231249, at *1.

A noncitizen's employment history is relevant to whether detention is necessary in a particular case, and the unlawful detention of noncitizens who do not present a risk of flight or danger to the community deprives the State of the important contributions they make to Minnesota's workforce and economy. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (stating "employment history" is relevant to bond analysis). It also harms the family members and community members who depend on them for support. And, most fundamentally, it unnecessarily and unlawfully deprives the individual of their right to liberty.

* * *

As the cases from the District of Minnesota demonstrate, many noncitizens detained under 8 U.S.C. § 1225(b)(2)(A) will not present any risk of flight or danger to the community. Without adequate process, such noncitizens will have no way to challenge the necessity of their detention, resulting in the unlawful and unnecessary deprivation of their liberty. Because this is exactly what happened to Mr. Morozov, this Court should affirm.

CONCLUSION

For all the reasons discussed above, the State urges this Court to affirm the decision below.

Dated: September 16, 2026

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

s/ Paul Dimick

Paul A. Dimick

Assistant Attorney General

Rebecca Stillman

Assistant Attorney General

445 Minnesota Street, Suite 600

St. Paul, Minnesota 55101-2125

(651) 300-7877 (Voice)

(651) 282-5832 (Fax)

paul.dimick@ag.state.mn.us

rebecca.stillman@ag.state.mn.us

Attorneys for the State Of Minnesota

CERTIFICATE OF COMPLIANCE WITH FRAP 29 & 32

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) because this brief contains 5,679 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

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/s/ Paul Dimick
PAUL A. Dimick
Assistant Attorney General
Atty. Reg. No. 0401245

CERTIFICATE OF COMPLIANCE WITH 8th Cir. R. 28A(h)(2)

The undersigned, on behalf of the party filing and serving this brief, certifies that the brief has been scanned for viruses and that the brief is virus-free.

/s/ Paul Dimick
PAUL A. Dimick
Assistant Attorney General
Atty. Reg. No. 0401245

***Aleksei Morozov v. Warden, Lawrence County Jail, Field Office Director; U.S. Immigration
and Customs Enforcement; United States Attorney for the District of South Dakota,
Eighth Circuit Court File No. 26-2113***

CERTIFICATE OF SUBMISSION

I certify that on September 16, 2026, I electronically submitted the Brief of *Amicus Curiae* State of Minnesota in Support of Petitioner-Appellee to the Clerk of Court for the United States Court of Appeals for the Eighth Circuit by using the NextGen CM/ECF system.

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Dated: September 16, 2026

KEITH ELLISON
Attorney General
State of Minnesota

s/ Paul Dimick

Paul A. Dimick
Assistant Attorney General
Attorney Reg. No. 0401245

445 Minnesota Street, Suite 600
St. Paul, Minnesota 55101
(651) 300-7877 (Voice)
(651) 282-5832 (Fax)
paul.dimick@ag.state.mn.us

Attorney for the State Of Minnesota