IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MARWAN MOHAMMED AHMED MAROUF,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondent.

Civil Action No. 1:25-CV-00212-H

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his recent detention by Immigration and Customs Enforcement (ICE). He alleges that he cannot be subject to mandatory immigration detention but rather must be given an individualized bond hearing in connection with his pending removal proceeding. As explained herein, though, Petitioner is an arriving alien and subject to mandatory detention, therefore his is not entitled to any relief on his petition.

II. Background

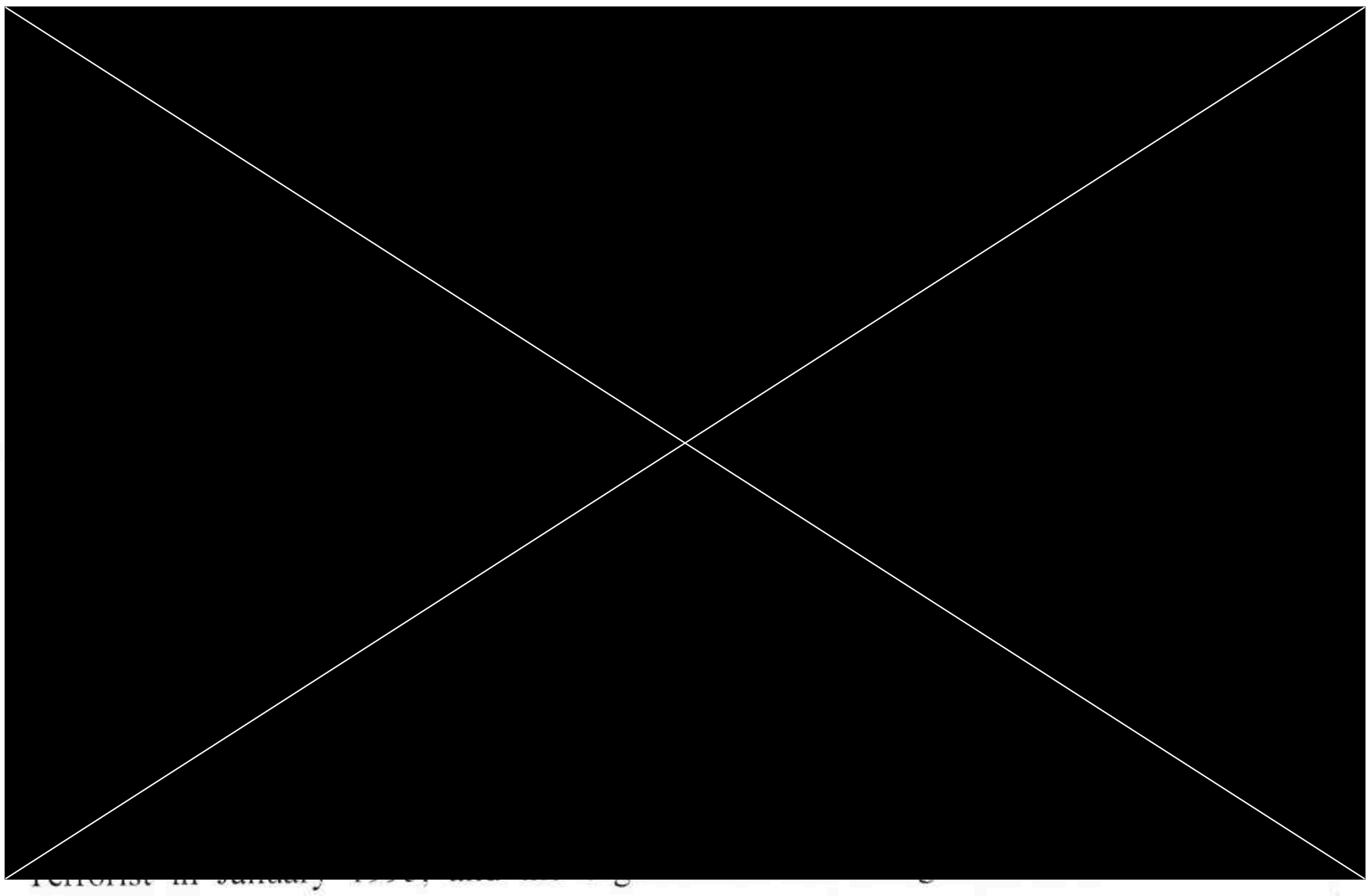
Petitioner's Immigration History

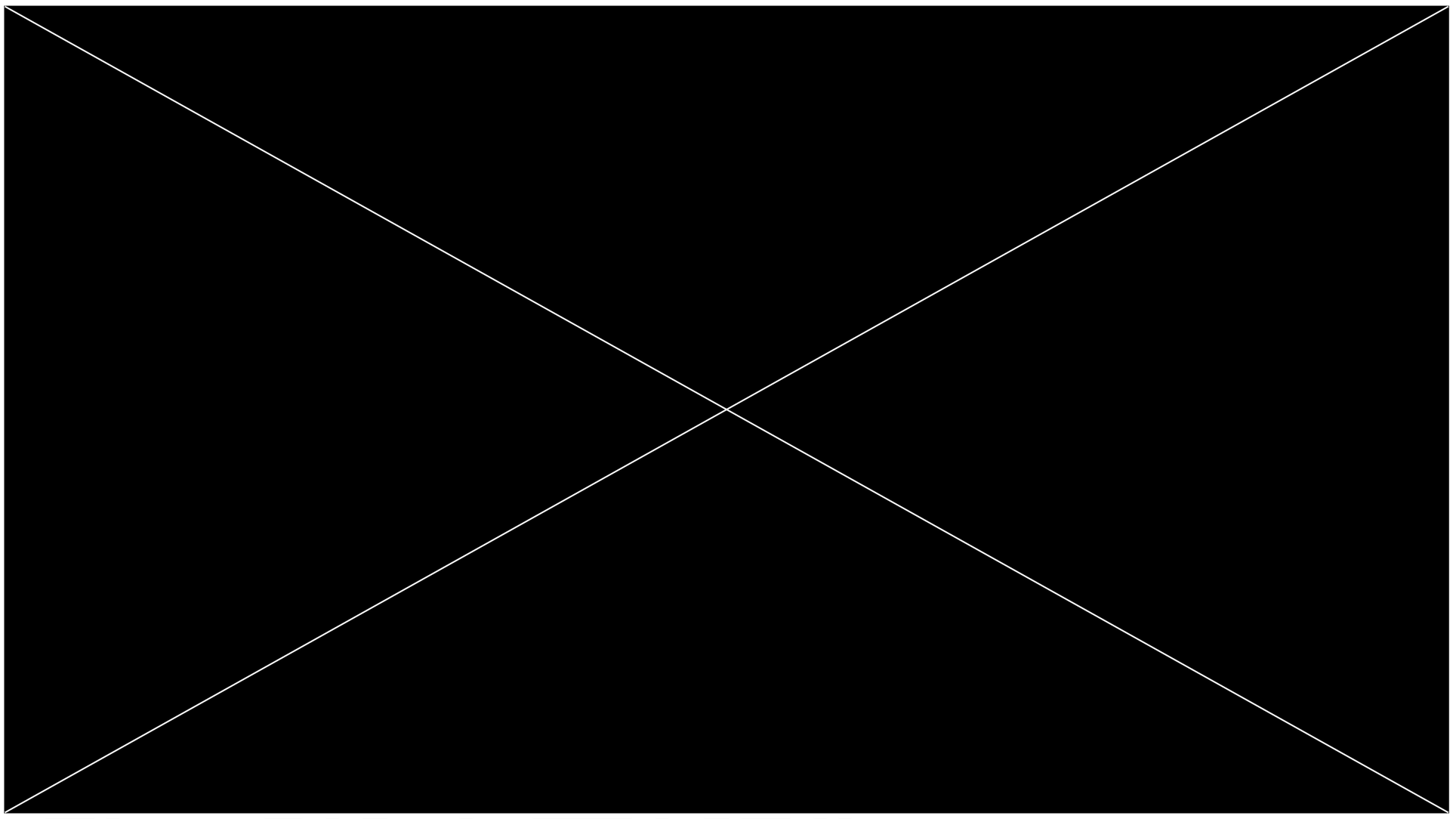
Petitioner, Marwan Marouf, is a native of Kuwait and a citizen of Jordan. App. p. 6. Petitioner entered the United States on an F-1 visa on or about August 3, 1991. App. p. 13. He was subsequently admitted to the United States on an H-1B nonimmigrant visa on

February 3, 1999. *Id.* On April 25, 2007, Petitioner's employer filed a Form I-140, Immigrant Petition for Alien Worker, on his behalf. This I-140 was approved on May 2, 2007. *Id.* On March 10, 2010, a new I-140 was filed on Petitioner's behalf by his former employer's successor. This new I-140 was approved on May 18, 2010. *Id.* Thereafter, Petitioner filed a Form I-485, Application to Register Permanent Resident status or to Adjust Status on August 18, 2010. *Id.* Petitioner's H-1B visa expired on February 2, 2011. Petitioner was granted advanced paroled based upon his pending adjustment application, and he paroled into the United States on August 7, 2012. *Id.* USCIS conducted an adjustment of status interview of Petitioner on June 17, 2013. *Id.* USCIS denied the I-485 on October 1, 2014. App. p. 3. The basis for the denial was that Petitioner solicited funds for and provided material support to a Tier III terrorist organization, in violation of INA § 212(a)(3)(B)(iv)(IV)(cc) and (VI)(dd). *Id.*

On March 10, 2020, Petitioner's son filed a Form I-130, Petition for Alien Relative, on his behalf. USCIS approved the I-130 on August 6, 2021. Petitioner again filed an I-485 on June 25, 2020, seeking to use the I-130 filed by his son as the underlying petition. Petitioner was not interviewed in connection with this I-485. App. p. 27. USCIS denied this I-485 on September 22, 2025, for the same reasons as the previous I-485. App. p. 29. Petitioner was taken into ICE custody the same day. App. p. 3. ERO issued an NTA to Petitioner, charging him under INA 212(a)(7)(A)(i)(I) as an alien who was not in possession of a valid entry document at the time of their application for admission. ERO then filed the NTA with the immigration court. App. p. 6. On October 6, 2025, an immigration judge conducted a custody redetermination hearing. However, the

immigration judge found he lacked authority to conduct the hearing based upon Petitioner's status as both an arriving alien and an applicant for admission. ECF 1, p. 12. On October 16, 2025, ERO filed additional charges of inadmissibility against Petitioner. The additional charges are: 1) Section 212(a)(3)(B)(i)(I) of the Immigration and Nationality Act, as amended, as an alien who has engaged in terrorist activity, to wit: by soliciting funds or other things of value for a terrorist organization, as described in section 212(a)(3)(B)(iv)(IV)(cc) of the Act; and 2) Section 212(a)(3)(B)(i)(I) of the Immigration and Nationality Act, as amended, as an alien who has engaged in terrorist activity, to wit: by committing acts that the actor knew or reasonably should have known afforded material support to a terrorist organization, as described in section 212(a)(3)(B)(iv)(VI)(dd) of the Act. App. pp. 32-33.





p. 24. Based on this information, USCIS denied Petitioner's application to adjust status.

III. Argument and Authorities

A. Petitioner is an arriving alien who is subject to mandatory detention under 8 U.S.C. § 1225 without any requirement for a bond hearing.

Section 1225 provides an alien who "arrives in the United States," or "is present" in this country but "has not been admitted," is treated as "an applicant for admission." 8 U.S.C. § 1225(a)(1). The Supreme Court has explained that arriving aliens must "be inspected by immigration officers" to ensure that they may be admitted into the country consistent with U.S. immigration law." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1225(a)(3)). Arriving aliens fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2). Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. *See* § 1225(b)(1)(A)(i) (citing §§ 1182(a)(6)(C), (a)(7)). Section

1225(b)(1) also applies to certain other aliens designated by the Attorney General in his discretion. *See* § 225(b)(1)(A)(iii). Section 1225(b)(2) is broader. It serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here). *See* §§ 1225(b)(2)(A), (B). Under § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained*" "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1225(b)(2)(A)). Hence, "noncitizens detained under Section 1225(b)(2) must remain in custody for the duration of their removal proceedings." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025).

Thus, according to the plain language of § 1225(b)(2)(A), arriving aliens in removal proceedings "*shall* be detained." *Id.* (emphasis added). And as the Supreme Court observed in *Jennings*, nothing in § 1225(b)(2) "says anything whatsoever about bond hearings." 583 U.S. at 297. Given that § 1225 is the applicable detention authority for arriving aliens and given that both "§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings," *Jennings*, 583 U.S. at 302, Petitioner has no grounds to complain that he is subject to mandatory detention and is not entitled to a bond hearing.

B. The Due Process Clause does not entitle Petitioner to any relief.

The Due Process Clause provides no relief to Petitioner. Instead, mandatory detention under § 1225(b)(2) is constitutionally permissible—particularly where, as here, Petitioner has been detained for a very short period of time. The Supreme Court has held

that detention during removal proceedings, even without access to a bond hearing, is constitutional. In *Demore v. Kim*, the Supreme Court upheld the constitutionality of § 1226(c), which mandates the detention of certain aliens during removal proceedings without access to bond hearings. 538 U.S. 510, 522 (2003). The Court "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," and also reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 523, 526. The Court further explained that "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528. With respect to due process concerns, the Court recognized that it "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Id.* at 522.

Here, Petitioner is being detained for the limited purpose of removal proceedings and determining his removability. Such detention is not punitive or done for other reasons than to address removability, which will occur in the removal proceedings. Whether framed as a substantive or procedural due process claim, the principles set forth in *Demore* govern this case. Substantive due process protects "only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997)). Any substantive due process claim therefore fails here because the federal government has "sovereign authority to set the terms governing the admission and

exclusion of noncitizens." *Id.* at 911, 912. Indeed, Congress in exercising this "broad power over naturalization and immigration . . . regularly makes rules that would be unacceptable if applied to citizens." *Demore*, 538 U.S. at 522 (internal quotation marks and citation omitted). Consistent with these principles, the Supreme Court has long recognized that "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526.

Petitioner's arguments about substantial connections to the United States do not save his substantive due process claim. The Supreme Court has long recognized that detention during removal proceedings is a constitutional permissible part of the process. *Wong Wing,* 163 U.S., at 235, 16 S.Ct. 977 ("We think it clear that detention, or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens would be valid"); *Carlson v. Landon,* 342 U.S. 524, 72 S.Ct. 525, 96 L.Ed. 547 (1952); *Reno v. Flores,* 507 U.S. 292, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993). And while aliens residing in the United States for a shorter or longer time, are entitled, so long as they are permitted to remain in the country, to the safeguards of the laws and the protections of the Due Process Clause, detention during the limited period of removal proceedings is lawful and does not violate the Due Process Clause.

Similarly, Petitioner cannot succeed on a procedural due process claim. Such a claim fails because where Congress has substantively mandated detention pending removal proceedings, an alien cannot displace that substantive choice with a procedural due process claim. As discussed, aliens are not entitled to bond hearings as a matter of substantive due process. *See Demore*, 538 U.S. at 523–29. Under *Demore*, Congress may reasonably

determine—as it did here—to subject aliens who were never inspected or admitted to this country to detention without bond while the government determines their removability. And "an alien in [that] position has only those rights regarding admission that Congress has provided by statute." *DHS v. Thuraissigiam*, 591 U.S. 104, 140 (2020). Congress has not created any procedural rights to a bond hearing for applicants for admission. *See Jennings*, 583 U.S. at 297. "Read most naturally," § 1225 "mandate[s] detention of applicants for admission until certain proceedings have concluded." *Id.* And the statute says nothing "whatsoever about bond hearings." *Id.* No procedural due process claim is available.

IV. Conclusion

The petition for writ of habeas corpus should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On November 3, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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