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(*pro hac vice petition forthcoming*)

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Carlos Erik RODRIGUEZ MENDOZA,

Petitioner,

v.

Jason STREEVAL, Warden of Stewart
Detention Center, in his official capacity;
George STERLING, Deputy Field Office
Director of the Atlanta Field Office, U.S.
Immigration and Customs Enforcement; Todd
LYONS, in his official capacity as acting
Director of U.S. Immigration and Customs
Enforcement, Kristi NOEM, in her official
capacity as Secretary of the U.S. Department
of Homeland Security, and Pamela BONDI, in
her official capacity as U.S. Attorney General;
Daren MARGOLIN, Director for Executive
Office for Immigration Review,

Respondents.

Case No.:

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

INTRODUCTION

1. Petitioner Carlos Erik Rodriguez Mendoza (A ) is a native and citizen of Mexico who has resided in the United States for more than 15 years after entering without

inspection. He is the father of four U.S. citizens, ages XXXXXXXXXX years old. His only criminal history consists of a 12-year-old misdemeanor paraphernalia conviction and another dismissed charge from the same date in 2013. In October 2025, U.S. Immigration and Customs Enforcement (“ICE”) detained Petitioner and later transferred him to the Stewart Detention Center in Georgia.

2. Upon information and belief, DHS has determined that Petitioner is detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), pursuant to a July 2025 policy and the Board of Immigration Appeals’ decision adopting that policy in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under this policy, DHS reinterpreted decades of settled law concerning mandatory and discretionary immigration detention. The policy strips Immigration Judges of jurisdiction to conduct custody redeterminations, and individuals like Petitioner are categorically denied bond hearings despite decades of contrary agency and judicial practice.

3. ICE has unlawfully detained Petitioner under 8 U.S.C. § 1225(b)(2)(A).

4. Petitioner is not an alien “seeking admission” to the United States, and therefore he is eligible for a bond hearing and release under 8 U.S.C. § 1226(a), and he is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See J.A.M. v. Streeval*, No. 25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) (Land, J.) (granting habeas petitions to the extent the Court ordered Respondents to provide each petitioner with a bond hearing in 15 consolidated cases). In *J.A.M.*, the district court recently held in a nearly identical habeas case that 8 U.S.C. § 1226(a) governs detention in the custody of ICE, not 8 U.S.C. § 1225(b)(2)(A), where the petitioner does not qualify as an arriving alien or an alien “seeking admission.” *See J.A.M.*, 2025 WL 3050094, at *4-5.

5. Petitioner’s detention under 8 U.S.C. § 1225(b)(2)(A) violates the text and structure of the INA and its implementing regulations. *See J.A.M.*, 2025 WL 3050094; *see also Aguirre*

Villa v. Warden Tony Normand, et al., No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025) (Cheesbro, M.J.), *report and recommendation adopted by Aguirre Villa v. Warden Tony Normand*, ECF No. 84 (S.D. Ga. Nov. 14, 2025) (Wood, D.J.) (adopting report and recommendation in 16 consolidated cases). That provision applies only to individuals apprehended while “seeking admission” at the border or immediately upon arrival. For decades, noncitizens long present in the interior like Petitioner, have been detained—if at all—under INA § 236(a), 8 U.S.C. § 1226(a), which expressly provides for conditional release on bond.

6. Federal courts across the country—including in this district in *J.A.M.*—have rejected DHS’s new interpretation of § 1225(b)(2) and have held that detention of long-time residents apprehended in the interior is governed by § 1226(a). These courts recognize that applying § 1225(b)(2) to people who have lived in the United States for years misreads the statute and produces absurd results.

7. Respondents’ new interpretation is arbitrary and capricious under the Administrative Procedure Act, because it abandons decades of consistent practice without explanation and was not adopted through required rulemaking procedures. Further, Petitioner’s civil detention without access to a bond hearing violates the Due Process Clause of the Fifth Amendment.

8. Petitioner respectfully requests that this Court adopt the rationale and holding in the cases consolidated in *J.A.M.* because it involves identical legal issues and a similarly situated petitioner. This Court should: (a) declare that Petitioner’s detention is governed by § 1226(a) and that he is therefore eligible for bond; (b) order Respondents to provide him with an immediate bond hearing before an Immigration Judge applying § 1226(a); and (c) if Respondents fail to

provide such a hearing within three days of this Court's order, order him released from custody under appropriate conditions of supervision.

JURISDICTION AND VENUE

9. Petitioner is currently in the physical custody of Respondents at the Stewart Detention Center in Lumpkin, Georgia.

10. This Court has jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (*federal question*), 28 U.S.C. § 1651 (*All Writs Act*), 28 U.S.C. §§ 2201–2202 (*Declaratory Judgment Act*), 5 U.S.C. § 702 (*APA*), and Article I, Section 9, Clause 2 of the United States Constitution (*Suspension Clause*). Petitioner is presently in custody under color of the authority of the United States and challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

11. Federal district courts have jurisdiction under § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has repeatedly upheld such jurisdiction, most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

12. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Stewart Detention Center.

PARTIES

13. Petitioner Carlos Erik Rodriguez Mendoza is a native and citizen of Mexico unlawfully detained at the Stewart Detention Center in Lumpkin, Georgia. ICE has held him in custody since October 2025. He is not subject to a final order of removal. Under DHS's July 2025 policy and the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, Immigration

Judges no longer have jurisdiction to redetermine custody for individuals like Petitioner. As a result, he has been categorically denied access to a bond hearing.

14. Respondent Jason Streeval is the warden of the Stewart Detention Center and controls the detention center where Petitioner is confined under the authority of ICE. Mr. Streeval has direct physical custody of Petitioner and is his immediate custodian. Mr. Streeval is sued in his official capacity.

15. Respondent George Sterling is the Acting Director of ICE's Atlanta Field Office, which has jurisdiction over ICE detention facilities in Georgia, including the Stewart Detention Center. He exercises authority over Petitioner's detention and is sued in his official capacity.

16. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for the overall administration of ICE and for the implementation and enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS is responsible for the administration of ICE, a component agency, and for the implementation and enforcement of the immigration laws. As such, Secretary Noem is a legal custodian of Petitioner. She is sued in her official capacity.

18. Respondent Pamela Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals (BIA) and the Immigration Courts. The Attorney General shares responsibility for the implementation and enforcement of the immigration laws with Respondents Lyons and Noem. Attorney General Bondi is a legal custodian of Petitioner and is sued in her official capacity.

19. Respondent Daren Margolin is the Director of the Executive Office for Immigration

Review (EOIR). He has ultimate responsibility for overseeing the operation of the immigration courts and the BIA, including the conduct of bond hearings. Director Margolin is sued in his official capacity.

FACTS

20. Petitioner is a native and citizen of Mexico who entered the United States without inspection more than 15 years ago. Since that time, he has made his life in this country. He is the father of four U.S. citizen children and a loving husband. Petitioner and his wife jointly own a business together thereby contributing to the productivity of their family and community.

21. On or about October 2025, ICE officers detained Petitioner without a warrant and he was subsequently transferred to the Stewart Detention Center in Lumpkin, Georgia, where he has remained in custody since that date.

22. Petitioner has no criminal history beyond a misdemeanor paraphernalia conviction from 2013 and a dismissed possession charge from that same date. He has never been convicted of any crime that would subject him to mandatory detention under INA § 236(c). He is not subject to a final order of removal.

23. Historically, individuals like Petitioner—long-time residents apprehended in the interior of the United States and charged as inadmissible for entering without inspection—were detained under INA § 236(a), 8 U.S.C. § 1226(a), which provides for release on bond or conditional parole.

24. In July 2025, however, the Department of Homeland Security (DHS) adopted a new policy instructing that all noncitizens inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) are to be detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and deemed ineligible for bond.

25. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS's position and holding that noncitizens present in the United States without inspection are "applicants for admission" subject to mandatory detention under § 235(b)(2)(A).

26. As a result of this policy and decision, Immigration Judges lack jurisdiction to conduct custody redeterminations for individuals like Petitioner. He has been categorically denied the opportunity to seek bond, despite his long residence in the United States, his strong family and business ties to his community, and his minor criminal record.

27. Federal district courts across the country have rejected DHS's new interpretation of § 235(b)(2), finding instead that detention of long-time residents like Petitioner must proceed under § 236(a). Nonetheless, ICE continues to hold him without access to a bond hearing.

LEGAL FRAMEWORK

28. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded under 8 U.S.C. § 1226(c).

29. By contrast, 8 U.S.C. § 1225(b) applies to noncitizens encountered at the border or immediately upon arrival. Section 1225(b)(1) governs certain individuals subject to expedited removal, while § 1225(b)(2) applies to those "seeking admission" at a port of entry or just after entry.

30. Following enactment of these statutes, the Executive Office for Immigration Review issued regulations clarifying that individuals who entered the country without inspection but who were apprehended in the interior were not detained under § 1225, but instead under

§ 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled...will be eligible for bond and bond redetermination.”). For nearly three decades, this was the consistent practice.

31. In July 2025, DHS abruptly adopted a new interpretation requiring detention under § 1225(b)(2)(A) for all noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS’s view and holding that noncitizens present in the United States without admission are “applicants for admission” subject to mandatory detention under § 1225(b)(2)(A). As a result, individuals like Petitioner, who have lived in the United States for many years, are categorically denied bond hearings.

32. Over 120 federal district courts across the country have rejected this interpretation, holding that detention of long-term residents apprehended in the interior is governed by § 1226(a), not § 1225(b)(2). *See, e.g., Diaz v. Hyde*, Civ. No. 25-11613, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025), *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-

3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d --, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe v. Moniz*, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK, 2025 WL 2607925 (D. Mass Sept. 9, 2024); *Garcia Cortes v. Noem*, Civ. No. 1:25-cv-02677, 2025 WL 2652990 (D. Colo. Sept. 16, 2026); *Jimenez v. Warden*, Civ. No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Cuevas Guzman v. Andrews*, Civ. No. 1:25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Velasquez Salazar v. Dedos*, Civ. No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept., 17, 2025); *Hasan v. Crawford*, Civ. No. 1:25-cv-1408, 2025 WL 2682255 (E.D. Va., Sept. 19, 2025); *Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219 (W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Chogollo Chafra v. Scott*, 2025 WL 2688541, (D.Me., Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, Civ. No. 2:25-cv-00479 (D.Me., Sept. 19, 2025).

33. One of the only courts that ruled to the contrary, *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025), concerned a different issue as to the effect of an approved family petition and is therefore not relevant to the instant case, as a different judge from that same district

recognized. *Romero*, --- F. Supp. 3d ----, 2025 WL 2403827, at *1 n.1. The only other case that appears to support Respondents' position, *Chavez v. Noem*, No. 3:25-cv-02324, 2025 WL 2730228 (S.D. Cal., Sept. 24, 2025), essentially regurgitates the Board of Immigration Appeals' opinion in *Yajure Hurtado*, which this Court owes no deference. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). Further, other courts have rejected the decision in *Chavez* and its inability to grapple with the issues in that case. See *Cordero Pelico v. Kaiser*, No. 25-cv-07286, 2025 WL 2822876 (N.D. Cal., Oct. 3, 2025).

34. The government's interpretation defies the INA's text and structure. Section 1226(a) explicitly applies to individuals charged as inadmissible after entry without inspection. Congress reinforced this point in 2025 by amending § 1226(c) through the Laken Riley Act to exclude from bond eligibility certain noncitizens who entered without inspection and committed crimes. If Congress had intended all such individuals to be subject to mandatory detention under § 1225(b)(2)(A), it would not have needed to create these specific carve-outs. Construing § 1225(b)(2)(A) as the government suggests renders § 1226(c)(1)(E) superfluous, in violation of the canon against surplusage. See *Corley v. United States*, 556 U.S. 303 (2009).

35. Section 1225(b), on the other hand, is limited to those arriving at ports of entry or apprehended immediately upon entry. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board explained that § 235(b) applies to individuals arrested without a warrant "while arriving in the United States." The Board distinguished between those apprehended "just inside the southern border" on the same day they crossed, who fall under § 235(b), and those "already present in the United States" who are detained by warrant, who fall under § 236(a). *Id.* at 69–70. Petitioner—detained in Georgia more than 15 years after his entry—is plainly in the latter category.

36. This approach is consistent with Eleventh Circuit precedent. In *Ortiz-Bouchet v.*

U.S. Att’y General, 714 F.3d 1353 (11th Cir. 2013), the court held that noncitizens already present in the United States seeking to adjust status were not “applicants for admission.” The Supreme Court has likewise recognized that mandatory detention under § 1225(b) applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

37. Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Petitioner, who entered the United States over 15 years ago and was apprehended hundreds of miles from the border. He is detained under § 1226(a) and is eligible for a bond hearing.

CLAIMS FOR RELIEF

COUNT 1

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

38. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

39. The mandatory detention provision of § 1225(b)(2) does not apply to noncitizens like Petitioner who have been residing in the United States for 15 years, were never apprehended at the border, and are not subject to other statutory grounds of inadmissibility. Such individuals are detained under § 1226(a) and are eligible for release on bond.

40. Respondents’ decision to detain Petitioner under § 1225(b)(2)(A) unlawfully denies his access to a bond hearing in violation of the INA.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19

41. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

42. For decades, both Congress and the agencies charged with implementing the INA have recognized that individuals who entered without inspection are detained under § 1226(a) and eligible for bond, as reflected in implementing regulations at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

43. Despite this clear regulatory framework, Respondents have unlawfully detained Petitioner by misapplying § 1225(b)(2).

44. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires, including access to a bond hearing, his continued detention violates the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

COUNT III

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

45. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

46. Mandatory detention under § 1225(b)(2) does not apply to long-time residents apprehended in the interior of the United States. Such noncitizens, including Petitioner, are detained under § 1226(a) and eligible for release on bond.

47. Respondents' application of § 1225(b)(2) to Petitioner contradicts the statutory scheme and departs from decades of consistent agency interpretation. This policy is arbitrary, capricious, and not in accordance with law, in violation of the APA, 5 U.S.C. § 706(2)(A).

COUNT IV

**Violation of the Administrative Procedure Act
Failure to Observe Required Procedures**

48. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

49. Under the APA, a reviewing court must set aside agency action “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). The APA requires agencies to engage in public notice-and-comment rulemaking before promulgating new rules or amending existing ones. 5 U.S.C. § 553(b), (c).

50. Respondents failed to comply with the APA by adopting and enforcing a new policy that reclassified individuals like Petitioner as subject to mandatory detention under § 1225(b)(2), without any rulemaking, notice, or opportunity to comment. This unlawful departure from prior regulations violates the APA.

COUNT V

**Violation of the Fifth Amendment
Due Process**

51. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

52. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

53. Respondents' detention of Petitioner under § 1225(b)(2), without the possibility of release on bond or a meaningful custody redetermination, violates his right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Carlos Erik Rodriguez Mendoza prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within **three days**, pursuant to 28 U.S.C. § 2243;
3. Grant a writ of habeas corpus declaring that Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), and ordering Respondents to provide him with an immediate bond hearing before an Immigration Judge applying § 236(a);
4. In the alternative, order Petitioner's immediate release from custody under reasonable conditions of supervision if Respondents fail to provide such a bond hearing within a reasonable period of time;
5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
6. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
7. Declare that Petitioner's detention violates the INA;
8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
9. Declare that Petitioner's detention is arbitrary, capricious, and in violation of the

Administrative Procedure Act;

10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5

U.S.C. § 504 and 28 U.S.C. § 2412; and

11. Grant such further relief as this Court deems just and proper.

Dated: November 14, 2025

Respectfully submitted,

/s/ Lindsay M. Vick

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(pro hac vice petition forthcoming)

CERTIFICATE OF SERVICE

I hereby certify that, on November 14, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and all counsel of record were served.

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