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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENNEDY PEREZ SANDOVAL,

Petitioner,

v.

PAUL ARTETA, in his official capacity as Sheriff of Orange County, New York and Warden of the Orange County Correctional Facility; JUDITH ALMODOVAR, in her official capacity as Acting New York Field Office Director, U.S. Immigration & Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; TODD M. LYONS; in his official capacity as Acting Director of Immigration & Customs Enforcement; PAMELA BONDI, in her official capacity as Attorney General, U.S. Department of Justice

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner KENNEDY PEREZ SANDOVAL is detained at the Orange County Correctional Facility in Goshen, New York. His continued detention rests on a newly adopted and fundamentally erroneous interpretation of the Immigration and Nationality Act ("INA") under which the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have begun treating all noncitizens who entered without inspection at any time in the past as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Under this reinterpretation, such individuals are categorically barred from release on bond and immigration judges lack jurisdiction to review custody. The Board of Immigration Appeals ("BIA") endorsed this reinterpretation in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

2. Petitioner's detention is unlawful. Petitioner first arrived in the United States more than 4 years ago as an unaccompanied alien child and processed under the Trafficking Victims Protection Reauthorization Act ("TVPRA"). Two days ago, more than 4 years after his arrival, Petitioner was detained by DHS and placed into removal proceedings.

3. Petitioner is charged correctly with entering the United States without inspection under 8 U.S.C. § 1182(a)(6)(A)(i). For decades, individuals in Petitioner's circumstances have been detained under 8 U.S.C. § 1226(a), which authorizes release on bond and provides for custody redetermination by an immigration judge. Conversely, section 1225(b)(2)(A) applies only to individuals encountered at the border and undergoing contemporaneous inspection. The Supreme Court has consistently described § 1225 as governing inspection and detention "at the Nation's borders and ports of entry," not long-settled residents apprehended in the interior. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

4. Courts across the country, including within this District, have rejected DHS's new interpretation as contrary to the plain language and structure of the INA, the statute's legislative history, and three decades of consistent agency practice.

5. Petitioner seeks a writ of habeas corpus requiring his immediate release, or in the alternative, requiring Respondents to provide a custody redetermination hearing under § 1226(a) within seven days.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the ORANGE COUNTY CORRECTIONAL FACILITY, in Goshen, New York. *See* Ex. A, ICE Detainee Locator Information.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of New York, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner KENNEDY PEREZ SANDOVAL is alleged to be a citizen of Guatemala who has been in immigration detention since November 24, 2025. After arresting Petitioner in or near Brewster, New York, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025).

14. Respondent PAUL ARTETA is the Sheriff of Orange County, New York and oversees the Orange County Correctional Facility, where Petitioner is detained. He has immediate physical custody of Petitioner and is sued in his official capacity.

15. Respondent JUDITH ALMODOVAR is the Acting New York Field Office Director, United States Immigration and Customs Enforcement. As such, Judith Almodovar is

Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

16. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent TODD M. LYONS is the Acting Director of ICE. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Lyons has ultimate custodial authority over Petitioner and is sued in his official capacity.

18. Respondent PAMELA BONDI is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

LEGAL FRAMEWORK

19. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

20. The first is 8 U.S.C. § 1226, which governs the detention of individuals who are already physically present in the United States and are placed into standard removal proceedings before an immigration judge under 8 U.S.C. § 1229a. Section 1226(a) authorizes arrest and detention and expressly permits release on bond or conditional parole unless the individual is subject to mandatory detention under § 1226(c), which applies only to those arrested, charged with, or convicted of certain enumerated offenses.

21. The second detention framework is found in 8 U.S.C. § 1225(b), which governs the detention of individuals who are apprehended at or near the border and are seeking admission to the United States. Section 1225 provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." Individuals detained under § 1225(b) are subject to mandatory detention pending the outcome of their proceedings.

22. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

23. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

25. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained 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).

26. For nearly three decades following those regulations, DHS, EOIR, and federal courts uniformly applied § 1226(a) to noncitizens who entered without inspection and were later apprehended in the interior of the United States. Individuals in this category routinely received

bond hearings before immigration judges because their detention arises from interior enforcement under § 1226(a), not from border inspection under § 1225(b). This uniform practice reflects the INA's structure and the distinction Congress drew between individuals seeking admission and those who have long since entered the United States. Nothing in the statutory text, legislative history, administrative interpretation, or case law suggested that individuals in Petitioner's circumstances were to be treated as mandatory detainees under § 1225(b)(2)(A).

27. In July 2025, however, DHS abruptly adopted a new interpretation. ICE issued "Interim Guidance Regarding Detention Authority for Applicants for Admission," asserting that any individual who is present in the United States without admission—regardless of residence, circumstances of arrest, or time since entry—is subject to mandatory detention under § 1225(b)(2)(A). This interpretation effectively eliminates the statutory distinction between § 1225 and § 1226 and asserts that immigration judges lack authority to hear custody redetermination requests from anyone who entered the country unlawfully, without inspection. The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

28. ICE's policy is supported by two decisions issued by the Board of Immigration Appeals, *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Q. Li*, the BIA held that an "applicant for admission who is arrested and detained without a warrant while arriving in the United States," and later placed into removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b). 29 I. & N. Dec. at 69. In *Yajure Hurtado,* the Board expanded its holding in *Q. Li* to require mandatory detention for all noncitizens who are present in the United States without admission, regardless of manner of entry. 29 I. & N. Dec. at 216.

29. With these decisions the BIA stripped immigration courts of the authority to hold bond hearings for any noncitizen who is present in the United States without having been admitted or paroled, subjecting these individuals to mandatory detention under § 1225(b)(2)(A).

30. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado* and *Matter of Q. Li*, which adopt the same reading of the statute as ICE.

31. Subsequently, courts of this District and around the country have rejected this reinterpretation as contrary to the INA. These courts have concluded that § 1225(b)(2)(A) does not apply to individuals like Petitioner, who entered the United States long ago and were apprehended in the interior. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFM), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La.

Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

32. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As this court held in *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025), and countless others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

33. These decisions rest on consistent reasoning grounded in the statutory text, structure, and the Supreme Court's description of § 1225(b) as a regime governing "arriving aliens" who are stopped at the border and are seeking admission. The Supreme Court has explained that § 1225(b) is designed to govern processing "at the Nation's borders and ports of entry." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). This statutory framework presupposes

a contemporaneous inspection at the time the individual seeks admission, which does not apply to individuals residing in the interior who are later apprehended.

34. The statutory structure confirms this interpretation. Section 1225 is titled "Inspection by immigration officers" and repeatedly refers to determinations made by the examining officer at the time an individual seeks admission. *See* 8 U.S.C. § 1225(a)(3), (b)(1)(A), (b)(2)(A). In contrast, § 1226 applies to arrests made "on a warrant issued by the Attorney General" after a person is already present in the United States. Congress thus created two separate detention schemes—one for individuals at the border undergoing contemporaneous inspection, and one for individuals arrested in the interior. Petitioner plainly falls within the latter scheme.

35. Consequently, the new DHS and EOIR interpretation collapses the statutory distinction between border processing and interior arrest, undermines the express structure Congress enacted, and unlawfully eliminates bond hearings for a broad class of individuals whom Congress intended to be eligible for individualized custody determinations.

FACTS

36. Petitioner, a 22-year-old native of Guatemala, entered the United States without inspection on or about March 2, 2021. At the time of his entry, because he was 17 years old, he was designated as an unaccompanied minor and placed under the care of the Office of Refugee Resettlement in a shelter for migrant youth. On March 6, 2021, Petitioner was issued a Notice to Appear by DHS. *See* Ex. B, Notice to Appear. Upon information and belief, the Notice to Appear was not filed with the Immigration Court, which is required to initiate removal proceedings under 8 C.F.R. § 1239.1(a), until November 26, 2025. *See* Ex. C, Automated Case Information System (noting a "Docket Date" of November 26, 2025).

37. Since arriving in the United States, Petitioner has resided in Dover Plains, New York, together with his mother and his United States citizen stepfather. On July 21, 2025, Petitioner became the beneficiary of an approved immediate relative immigrant visa petition filed by his stepfather. In 2024, he graduated from Dover High School, in Dover Plains, New York. Petitioner has established his life, home, and community here.

38. On November 24, 2025, at or near Brewster, New York, while picking up his friend from work Petitioner was detained by ICE. He was subsequently transferred to the Orange County Correctional Facility, where he remains detained. Ex. A.

39. By their aforementioned policies, ICE and EOIR have taken the position that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) and is therefore ineligible for bond. As a result, Petitioner has not been afforded any opportunity to appear before an immigration judge to request release, nor has he been evaluated under the traditional § 1226(a) flight risk or danger assessment. And, accordingly, requesting a bond hearing before an immigration judge would be futile.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

40. Petitioner incorporates all preceding paragraphs.

41. The application of 8 U.S.C. § 1225(b)(2)(A) to Petitioner is contrary to the text, structure, and purpose of the INA.

42. Petitioner is not an "arriving alien" encountered at or near the border who is seeking admission at the time of inspection. He is a noncitizen who has resided in the interior of the United States for more than four years.

43. Under longstanding agency practice and consistent judicial interpretation, individuals in these circumstances are detained under § 1226(a). Respondents' application of § 1225(b)(2)(A) to Petitioner is therefore unlawful, and his continued detention without access to a bond hearing violates the INA.

COUNT II
Violation of the Bond Regulations

44. Petitioner incorporates all preceding paragraphs.

45. The regulations governing immigration detention, promulgated following the 1996 amendments to the INA, expressly provide for bond eligibility and bond redetermination for individuals who entered without inspection. These regulations were binding when issued and remain binding today. Respondents' reliance on *Matter of Q. Li* and *Matter of Yajure Hurtado* to override these regulations is unlawful.

46. Respondents' application of § 1225(b)(2)(A) to Petitioner directly contradicts the regulatory scheme codified at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, each of which presupposes the availability of custody redetermination for individuals detained under § 1226(a). Respondents' refusal to afford Petitioner a bond hearing therefore violates the governing regulations.

COUNT III
Violation of Due Process

47. Petitioner incorporates all preceding paragraphs.

48. The Due Process Clause prohibits the government from depriving an individual of liberty without due process of law. Detention is a severe deprivation of liberty, and the Supreme Court has repeatedly recognized that freedom from physical restraint is at the core of the liberty protected by the Fifth Amendment. The government may not deprive a person of life, liberty, or

property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

49. Petitioner has a fundamental interest in liberty and being free from official restraint.

50. The government's refusal to provide Petitioner with an individualized custody determination, while holding him for a potentially prolonged period, violates substantive and procedural due process. The blanket denial of a bond hearing based on an erroneous statutory interpretation does not comport with the fundamental requirements of fairness and individualized decisionmaking that due process demands.

51. The Second Circuit has likewise held that due process requires a meaningful opportunity for an individualized determination of whether continued civil immigration detention is justified. *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020). Petitioner has been afforded no such process here.

52. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT IV

Violation of the Trafficking Victims Protection Reauthorization Act (TVPRA) and Improper Reclassification of a Former Unaccompanied Alien Child

53. Petitioner incorporates all preceding paragraphs.

54. Petitioner entered the United States on or about March 2, 2021, at age 17. He was determined by DHS to be an unaccompanied alien child ("UAC") and transferred to the custody of the Office of Refugee Resettlement ("ORR"), as required by 8 U.S.C. § 1232(b)(1). Under the TVPRA, a minor who has been determined to be a UAC "shall be considered" a UAC for the

purposes of the TVPRA and 6 U.S.C. § 279 "until the child is in the custody of a parent or legal guardian in the United States." 8 U.S.C. § 1232(h). Petitioner's UAC classification therefore remained legally operative until ORR formally reunified him with his mother while he was still 17. Ex. D, ORR Release.

55. ORR custody and reunification with a parent are part of a distinct statutory scheme that Congress created for unaccompanied minors, and they are legally and practically different from detention during inspection at the border under 8 U.S.C. § 1225(b). Federal courts have recognized that the government must give effect to the legal consequences of a prior UAC designation and may not simply disregard that status in later stages of an individual's immigration case. *See, e.g.*, *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *10 (S.D.N.Y. June 12, 2018) (holding that TVPRA protections extend to individuals who were in the legal, not physical, custody of HHS at the time they attained majority); and *Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017) (holding that youth who entered as UACs, were placed in ORR custody, and released to sponsors are entitled to procedures before ICE may re-detain them).

56. After Petitioner's release from ORR to his mother, he lived in the community for years, attended and graduated high school, and later became the beneficiary of an approved immediate-relative visa petition filed by his United States citizen stepfather. When ICE arrested him in or near Brewster, New York in November 2025, he was not "arriving" or "seeking admission" during an inspection at the border; he was a long-term resident of the interior whose prior UAC history had already been processed under the TVPRA. Any immigration detention arising from that interior arrest is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A).

57. Respondents' decision to classify Petitioner as subject to mandatory detention under § 1225(b)(2)(A) ignores the TVPRA framework under which he previously was processed, disregards the legal consequences of his UAC designation and ORR reunification, and collapses the distinct statutory schemes Congress created for border inspection and for the protection and placement of unaccompanied children. Their application of § 1225(b)(2)(A) to Petitioner therefore violates the TVPRA and is unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Expedite consideration of this Petition under 28 U.S.C § 1657 ("the court shall expedite the consideration of any action brought under chapter 153", which includes petitions for habeas corpus); and adjudicate this Petition promptly as required by 28 U.S.C. § 2243 (mandating a writ or order to show cause be returned within 3 days from filing, or 20 days for good cause shown);

c. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Petitioner's immediate release from ICE custody under appropriate conditions of supervision, or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

d. Enjoin Respondents from transferring Petitioner out of the jurisdiction of this Court during the pendency of these proceedings;

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

DATED November 27, 2025

/s/Jonathan Langer

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VERIFICATION BY SOMEONE ACTING ON PETITIONERS' BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 27, 2025

Respectfully submitted,

/s/Jonathan Langer

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