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6
7 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

8 Yolanda Mabel Guardado De Argueta,

9 Petitioner,

10 v.

11 John Cantu, Field Office Director of
12 Enforcement and Removal Operations, Phoenix
Field Office, Immigration and Customs
13 Enforcement; Kristi Noem, Secretary, U.S.
Department of Homeland Security; U.S.
14 Department of Homeland Security; Todd
Lyons, Acting Director of U.S. Immigration and
15 Customs Enforcement; Pamela Bondi, U.S.
Attorney General; Executive Office for
16 Immigration Review; David Rivas, Warden of
San Luis Regional Detention Center,

17 Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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1 INTRODUCTION

2 1. Petitioner Yolanda Mabel GUARDADO DE ARGUETA brings this petition for a
3 writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class
4 certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).
5 Petitioner is in the physical custody of Respondents at the San Luis Regional Detention Center in
6 San Luis, Arizona. She now faces unlawful detention because the Department of Homeland
7 Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide
8 by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v.*
9 *Santacruz*.

10 2. On September 5, 2025 the Board of Immigration Appeals (“Board” or “BIA”)
11 issued a precedent decision, binding on all immigration judges, holding that an immigration
12 judge has no authority to consider bond requests for any person who entered the United States
13 without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board
14 determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
15 therefore ineligible to be released on bond.

16 3. Petitioner’s detention on this basis violates the plain language of the Immigration
17 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
18 previously entered and are now residing in the United States. Instead, such individuals are
19 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
20 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
21 having entered the United States without inspection.

22 4. On November 20, 2025, the district court granted partial summary judgment on
23 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
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1 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
2 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
3 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
4 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
5 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
6 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
7 Motion for Partial Summary Judgment).

8 5. The declaratory judgment held that the Bond Denial Class members are detained
9 under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
10 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

11 6. On December 18, 2025, the Court entered Final Judgment, declaring that Bond
12 Eligible Class Members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory
13 detention under 8 U.S.C. § 1225(b)(2), and are entitled to custody redetermination hearings
14 before an immigration judge. The Judgment also vacated the Department of Homeland
15 Security's July 8, 2025 policy "Interim Guidance Regarding Detention Authority for Applicants
16 for Admission," and holding that "the core holding of *Yajure Hurtado* cannot be squared with the
17 [Court's] Order . . . *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the
18 decision is no longer tenable." Order , at *6.

19 7. Nonetheless, the Executive Office for Immigration Review and its subagency the
20 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
21 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
22 opportunity to be released on bond.

1 8. Petitioner Yolanda Guardado de Argueta is a member of the Bond Eligible Class,
2 as she:

- 3 a. does not have lawful status in the United States and is currently detained at the
4 San Luis Regional Detention Center in San Luis, Arizona. She was apprehended
5 by immigration authorities on October 25, 2025;
6 b. entered the United States without inspection over 22 years ago and was not
7 apprehended upon arrival, *cf. id.*; and
8 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

9 9. After apprehending Petitioner on October 25, 2025 the DHS placed her in
10 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being
11 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States
12 without inspection.

13 10. The Court should expeditiously grant this petition.

14 11. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
15 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
16 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
17 detention despite her clear entitlement to consideration for release on bond as a Bond Eligible
18 Class member.

19 12. On December 5, 2025, the Immigration Judge held a bond hearing for the
20 Petitioner. The Immigration Judge determined that the Order in *Maldonado Bautista* is not
21 controlling, even with respect to class members, and that instead IJs remain bound to follow the
22 agency’s prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

23 13. The IJ found, in the alternative, that in the event the IJ was determined to have
24 jurisdiction, she would have set a \$1,500 bond; that would be the minimum bond amount
allowed under 8 U.S.C. § 1226(a)(2)(A).

1 14. Because Respondents are detaining Petitioner in violation of the declaratory
2 judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day,
3 Respondent DHS must release Petitioner.

4 15. Alternatively, the Court should order Petitioner's release upon payment of a
5 \$1,500 bond in accordance with the IJ's alternative order within three days, or else release the
6 Petitioner.

7 16. Alternatively, the Court should order Petitioner's release unless Respondents
8 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

9 **JURISDICTION**

10 17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
11 San Luis Regional Detention Center in San Luis, Arizona.

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

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

17 **VENUE**

18 20. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
19 500 (1973), venue lies in the United States District Court for the District of Arizona, the judicial
20 district in which Petitioner currently is detained.

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

3 **REQUIREMENTS OF 28 U.S.C. § 2243**

4 22. The Court should grant the petition for writ of habeas corpus “forthwith,” as the
5 legal issues have already been resolved for class members in *Maldonado Bautista*.

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

12 **PARTIES**

13 24. Petitioner Yolanda Guardad de Argueta is a citizen of El Salvador who has been
14 in immigration detention since October 25, 2025. On that date, Petitioner was taken into
15 DHS/ICE custody at the San Luis Munoz Marin International Airport, San Juan, Puerto Rico,
16 and later transferred to San Luis Regional Detention and Support Center in San Luis, Arizona.
17 After Petitioner was arrested, ICE did not set bond, and Petitioner requested review of her
18 custody by an Immigration Judge. On December 5, 2025 Petitioner was denied bond by an IJ at
19 the Imperial Immigration Court because she was deemed an “applicant for admission.” Petitioner
20 has resided in the United States since approximately 2003.

21 25. Respondent John E. Cantu is the Director of the Phoenix Field Office of ICE’s
22 Enforcement and Removal Operations division. As such, John E. Cantu is Petitioner’s immediate
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1 custodian and is responsible for Petitioner's detention and removal. He is named in his official
2 capacity.

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

7 27. Respondent Department of Homeland Security (DHS) is the federal agency
8 responsible for implementing and enforcing the INA, including the detention and removal of
9 noncitizens.

10 28. Respondent Todd Lyons is named in his official capacity as Acting Director of
11 ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of
12 certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner.

13 29. Respondent Pamela Bondi is the Attorney General of the United States. She is
14 responsible for the Department of Justice, of which the Executive Office for Immigration Review
15 and the immigration court system it operates is a component agency. She is sued in her official
16 capacity.

17 30. Respondent Executive Office for Immigration Review (EOIR) is the federal
18 agency responsible for implementing and enforcing the INA in removal proceedings, including
19 for custody redeterminations in bond hearings.

20 31. Respondent David Rivas is employed as Warden of the San Luis Regional
21 Detention Center where Petitioner is detained. He has immediate physical custody of Petitioner.
22 He is sued in his official capacity.

1 **LEGAL FRAMEWORK**

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

4 33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
5 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
6 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
7 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
8 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

9 34. Second, the INA provides for mandatory detention of noncitizens subject to
10 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
11 referred to under § 1225(b)(2).

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

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

15 37. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
16 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
17 104--208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
18 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
19 139 Stat. 3 (2025).

20 38. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
21 that, in general, people who entered the country without inspection were not considered detained
22 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
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1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
2 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3 39. Thus, in the decades that followed, most people who entered without inspection
4 and were placed in standard removal proceedings received bond hearings, unless their criminal
5 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
6 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
7 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
8 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
9 “restates” the detention authority previously found at § 1252(a)).

10 40. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
11 rejected well-established understanding of the statutory framework and reversed decades of
12 practice.

13 41. The new policy, entitled “Interim Guidance Regarding Detention Authority for
14 Applicants for Admission,”¹ claims that all persons who entered the United States without
15 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
16 policy applies regardless of when a person is apprehended, and affects those who have resided in
17 the United States for months, years, and even decades.

18 42. On September 5, 2025, the BIA adopted this same position in a published
19 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
20 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
21 ineligible for IJ bond hearings.

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¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 43. Since Respondents adopted their new policies, dozens of federal courts have
2 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
3 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

4 44. Subsequently, court after court has adopted the same reading of the INA's
5 detention authorities and rejected ICE and EOIR's new interpretation. *Echevarria v. Bondi, et*
6 *al.*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *see also*
7 *Quinapanta v. Bondi*, 2025 WL 3157867, *6 (W.D. Wisc. 2025) (“[M]ore than 45 district courts
8 have now rejected similar arguments made by respondents here and ordered bond hearings for
9 noncitizens who, like petitioner, were apprehended within the United States years after entering
10 without admission or inspection unless implicated by any criminal activity covered by § 1226(c).
11 These decisions, along with a growing number of others now including this court have concluded
12 that the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for
13 the past three decades support its application to noncitizens in petitioner's position.”).

14 45. The overwhelming majority of courts have rejected DHS's and EOIR's new
15 interpretation because it defies the INA. The plain text of the statutory provisions demonstrates
16 that § 1226(a), not § 1225(b), applies to people like Petitioner.

17 46. Section 1226(a) applies by default to all persons “pending a decision on whether
18 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
19 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

20 47. The text of § 1226 also explicitly applies to people charged as being inadmissible,
21 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
22 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
23 hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people
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1 51. As a Bond Eligible Class Member, Petitioner is detained under 8 U.S.C. §
2 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A).
3 *Maldonado Bautista*, 2025 WL 3289861, at *11.

4 **FACTS**

5 52. Petitioner has resided in the United States since approximately 2003 and lives in
6 Columbus, Ohio.

7 53. On October 25, 2025 Petitioner was arrested San Luis Munoz Marin International
8 Airport, San Juan, Puerto Rico. Petitioner is now detained at the San Luis Regional Detention
9 Center in San Luis, Arizona.

10 54. DHS placed Petitioner in removal proceedings before the Imperial Immigration
11 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
12 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
13 without inspection.

14 55. Petitioner has two children: Carlos Edmundo Argueta Guardado, a United States
15 citizen born on [REDACTED] 2005, and Iliana Patricia Argueta Guardado, a Deferred Action for
16 Childhood Arrivals (DACA) recipient born on [REDACTED] 1995. Respondent is also the caregiver
17 of her granddaughter, U.S. citizen Kaylanie Argueta, who lives with Respondent and is present
18 in her daily life. She has maintained employment throughout her time in the United States as a
19 restaurant manager. She no criminal history, no record of immigration absences or failures to
20 appear, and no history that would suggest she is either a flight risk or a danger to the community.

21 56. Following Petitioner's arrest and transfer to the San Luis Detention Center, ICE
22 issued a custody determination to continue Petitioner's detention without an opportunity to post
23 bond or be released on other conditions.

1 57. Petitioner subsequently requested a bond redetermination hearing before an IJ.

2 58. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
3 Petitioner's bond request. In the alternative, the IJ found that Petitioner did not pose a flight risk
4 or danger, and stated she would have released Petitioner on bond of \$1,500 but for the lack of
5 jurisdiction.

6 59. As a result, Petitioner remains in detention. Without relief from this court, she
7 faces the prospect of months, or even years, in immigration custody, separated from her family
8 and community.

9 **CLAIMS FOR RELIEF**

10 **COUNT 1**

11 **Violation of the INA:**

12 **Request for Relief Pursuant to *Maldonado Bautista***

13 60. Petitioner repeats, re-alleges, and incorporates by reference each and every
14 allegation in the preceding paragraphs as if fully set forth herein.

15 61. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for
16 release on bond under 8 U.S.C. § 1226(a).

17 62. The order granting partial summary judgment in *Maldonado Bautista* holds that
18 Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
19 members.

20 63. The order granting class certification in *Maldonado Bautista* further orders that
21 "[w]hen considering this determination with the MSJ Order, the Court extends the same
22 declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

23 64. Respondents are parties to *Maldonado Bautista* and bound by the Court's
24 declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C.
§ 2201(a).

1 65. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is
2 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory
3 rights under the INA and the Court's judgment in *Maldonado Bautista*.

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5 **COUNT II**
Violation of the INA

6 66. Petitioner incorporates by reference the allegations of fact set forth in the
7 preceding paragraphs.

8 67. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
9 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
10 relevant here, it does not apply to those who previously entered the country and have been
11 residing in the United States prior to being apprehended and placed in removal proceedings by
12 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
13 § 1225(b)(1), § 1226(c), or § 1231.

14 68. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
15 detention and violates the INA.

15 **COUNT III**
Violation of the Bond Regulations

16 69. Petitioner incorporates by reference the allegations of fact set forth in preceding
17 paragraphs.

18 70. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
19 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
20 Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the
21 agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present
22 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
23 without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323
(emphasis added). The agencies thus made clear that individuals who had entered without
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1 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
2 1226 and its implementing regulations.

3 71. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
4 practice of applying § 1225(b)(2) to individual like Petitioner.

5 72. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
6 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

7 **COUNT IV**
8 **Violation of Due Process**

9 73. Petitioner repeats, re-alleges, and incorporates by reference each and every
10 allegation in the preceding paragraphs as if fully set forth herein.

11 74. The government may not deprive a person of life, liberty, or property without due
12 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
13 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
14 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

15 75. Petitioner has a fundamental interest in liberty and being free from official
16 restraint.

17 76. The government’s detention of Petitioner without a bond redetermination hearing
18 to determine whether he is a flight risk or danger to others her right to due process.

19 **PRAYER FOR RELIEF**

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

- 21 a. Assume jurisdiction over this matter;
- 22 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
23 Petitioner;
- 24 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
Petitioner upon payment of a \$1,500 bond in accordance with the IJ’s alternative
order within three days;

- 1 d. Alternatively, issue a writ of habeas corpus requiring Respondents to release
2 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
3 seven days;
- 4 e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
5 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
6 law; and
- 7 f. Grant any other and further relief that this Court deems just and proper.
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10 DATED this 22nd day of December, 2025.

11 s/ David L. Dawson
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16 Phone: 614-695-4605
17 Email: dawson@simakovskylaw.com

18 *Attorney for Petitioner*

19 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

20 I represent Petitioner, Yolanda Mabel Guardado De Argueta, and submit this verification
21 on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ
22 of Habeas Corpus are true and correct to the best of my knowledge.

23 Dated this 22nd day of December, 2025.

24 s/ David L. Dawson
David L. Dawson, Esq.