

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

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**SAMARA PEREIRA TREGA**

*Petitioner,*

v.

PAMELA BONDI, *in his official capacity as  
Attorney General Of The United States;*

KRISTI NOEM, *in her official capacity as  
Secretary of the Department of Homeland  
Security;*

TODD M. LYONS, *in his official capacity as  
Senior Official Performing the Duties of the  
Director, U.S. Immigration and Customs  
Enforcement;*

WARDEN OF THE CUMBERLAND  
COUNTY JAIL, Portland, Maine


*Respondents.*

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Case No.: To be determined.

**PETITION FOR WRIT OF HABEAS  
CORPUS PURSUANT TO 28 U.S.C. §  
2241 AND EMERGENCY MOTION  
FOR STAY OF TRANSFER**

**I. INTRODUCTION**

1. This petition for a writ of habeas corpus challenges the unlawful detention and transfer of Petitioner Samara Pereira Trega, A# , a native and citizen of Brazil, who is currently confined at the Cumberland County Jail in Portland, Maine, within the jurisdiction of this Court. Petitioner entered the United States without inspection in 2019 and thereafter established a stable residence in Peabody, Massachusetts, where she lived with and cared for her two minor children, including a two-year-old United States citizen daughter, for whom she is the sole caregiver. Petitioner has a meritorious asylum application pending before the Chelmsford Immigration Court and has consistently complied with all immigration and court-related

obligations. Despite these substantial equities, Petitioner was arrested by Immigration and Customs Enforcement (“ICE”) inside a Massachusetts courthouse and transferred to detention in Maine—far from her home, family, retained counsel, and the Immigration Court adjudicating her asylum claim.

2. Petitioner is a member of the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*. Her continued detention without an individualized bond hearing violates INA § 236(a) and the Due Process Clause of the Fifth Amendment, as applied by courts within the First Circuit. Most recently, the United States District Court for the District of Massachusetts held in *Guerrero Orellana v. Moniz* that noncitizens arrested in the interior of the United States after entering without inspection are not subject to mandatory detention under INA § 235(b)(2)(A) and instead fall within the government’s discretionary detention authority under INA § 236(a), which requires access to bond hearings. ICE’s continued detention of Petitioner without a bond hearing directly conflicts with that holding.

3. Petitioner was transferred from Massachusetts to Maine, where she is currently detained. That transfer has substantially interfered with her access to retained counsel, disrupted her ongoing asylum proceedings in Chelmsford, and threatens to undermine this Court’s habeas jurisdiction. Any further transfer outside this District would exacerbate these harms and has already imposed severe and irreparable hardship on Petitioner’s minor children, who depend entirely on her for daily care, stability, and parental support.

4. Any additional transfer of Petitioner from the District of Maine to another detention facility would be arbitrary, punitive, and constitutionally infirm, as it would further impair attorney-client communication, interfere with pending removal proceedings, and exacerbate the harm to her U.S. citizen child and family. This Court has both the authority and the obligation

under 28 U.S.C. § 2241 to preserve its habeas jurisdiction, prevent irreparable constitutional injury, and safeguard the integrity of the judicial process.

## II. JURISDICTION AND VENUE

5. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241, which authorizes federal district courts to review the legality of federal custody. Petitioner is currently detained by immigration authorities and challenges the statutory and constitutional basis for her continued detention.

6. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, preserves this Court's authority to review the legality of Petitioner's detention through habeas corpus.

7. Venue is proper in this District under 28 U.S.C. §§ 2241(a) and 1391(e) because Petitioner is physically confined at the Cumberland County Jail in Portland, Maine, within this Court's territorial jurisdiction, and her immediate custodian is located in this District.

8. This petition is not barred by 8 U.S.C. §§ 1252(b)(9), 1252(g), or 1252(e) because Petitioner does not seek review of a removal order or discretionary enforcement decisions. Instead, she challenges the lawfulness of her detention without an individualized bond hearing, a claim that is collateral to removal proceedings and properly reviewed under § 2241.

### III. PARTIES

9. Petitioner Samara Pereira Trega is a native and citizen of Brazil who is currently detained by Immigration and Customs Enforcement at the Cumberland County Jail in Portland, Maine.

10. Respondent Warden of the Cumberland County Jail is Petitioner's immediate custodian and is sued in his or her official capacity.

11. Respondent Todd M. Lyons is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and has nationwide authority over immigration detention policies, custody determinations, and transfers. He is sued in his official capacity.

12. Respondent Pamela Bondi is the Attorney General of the United States. She oversees the immigration court system, which is housed within the Executive Office of Immigration Review (EOIR) and includes all IJs and the Board of Immigration Appeals (BIA). She is sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

### IV. FACTUAL BACKGROUND

14. Petitioner Samara Pereira Trega is a native and citizen of Brazil who entered the United States without inspection in 2019. She thereafter established residence in Peabody,

Massachusetts, where she lived with and cared for her two minor children, including a United States citizen child.

15. Petitioner has a pending application for asylum before the Immigration Court in Chelmsford, Massachusetts. Throughout her time in the United States, she has appeared as required and complied with all immigration and court-related obligations.

16. On or about November 4, 2025, Petitioner was taken into custody by Immigration and Customs Enforcement inside a Massachusetts courthouse while voluntarily appearing for a scheduled hearing. She was subsequently transferred to immigration detention at the Cumberland County Jail in Portland, Maine.

17. Since her transfer to Maine, Petitioner has remained in immigration detention and has not received an individualized custody determination or a bond hearing before an Immigration Judge. Petitioner's detention in Maine has resulted in her separation from her children, family members, and retained counsel in Massachusetts and has affected her ability to prepare for and participate in her ongoing immigration proceedings. **Petitioner is represented in this matter on a pro bono basis, further underscoring the importance of maintaining her access to counsel and the courts.** Petitioner remains detained at the Cumberland County Jail in Portland, Maine, pending further action by this Court.

## V. LEGAL ARGUMENT

### A. Governing Framework Established by *Guerrero Orellana v. Moniz*

18. This case is governed by the statutory interpretation adopted in *Guerrero Orellana v. Moniz*, in which the United States District Court for the District of Massachusetts held that noncitizens who entered the United States without inspection but were arrested in the interior of the country are not subject to mandatory detention under INA § 235(b)(2)(A). Instead, such

individuals fall within the government's discretionary detention authority under INA § 236(a) and are therefore entitled to individualized bond hearings before an Immigration Judge.

19. In *Guerrero Orellana*, the court rejected the government's attempt to extend § 235(b)(2) beyond its statutory limits, explaining that the provision applies only to noncitizens who are seeking admission at or near the border and are detained in connection with that process. The court emphasized that applying § 235(b)(2) to individuals apprehended years after entry, while residing in the community, is inconsistent with the structure, text, and history of the Immigration and Nationality Act. For interior arrestees, § 236(a) governs detention, and that provision requires an individualized custody determination.

20. Petitioner's detention fits squarely within the framework addressed in *Guerrero Orellana*. She was not apprehended at the border or a port of entry, was not placed in expedited removal proceedings, and was not detained continuously upon arrival. Rather, she was **arrested inside the United States**, long after her entry, while appearing for a scheduled court proceeding. As such, the government lacks statutory authority to subject her to mandatory detention without a bond hearing.

21. The holding of *Guerrero Orellana* also confirms Petitioner's status as a member of the nationwide **Bond Eligible Class** certified in *Maldonado Bautista v. Santacruz*, which encompasses noncitizens detained under **INA § 236(a)** who have been denied individualized bond hearings based on the government's erroneous interpretation of the detention statutes. Petitioner's continued detention without a bond hearing is precisely the harm those decisions were intended to remedy.

22. Against this backdrop, the Court should evaluate Petitioner's claims concerning unlawful detention, unconstitutional transfer practices, and the need for immediate injunctive

relief. As demonstrated below, Respondents' actions violate the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and governing precedent, and warrant habeas and injunctive relief.

**B. ICE's Courthouse Arrest in Massachusetts Raises Serious Due Process and Access-to-Courts Concerns**

23. Petitioner's apprehension by Immigration and Customs Enforcement inside and in direct connection with a Massachusetts courthouse raises serious constitutional and due-process concerns that independently support habeas relief. Immigration arrests are civil, not criminal, in nature, and courts have long recognized a common-law privilege against civil arrests in courthouses or while individuals are traveling to or from court, grounded in the need to protect the administration of justice and ensure unimpeded access to judicial proceedings. See *Stewart v. Ramsay*, 242 U.S. 128, 129–30 (1916); *Lamb v. Schmitt*, 285 U.S. 222, 225 (1932).

24. Courthouse civil arrests interfere with the orderly functioning of courts and deter litigants from appearing for scheduled proceedings, thereby undermining the right of access to the courts and fundamental principles of due process. Federal courts have recognized that immigration enforcement actions conducted in or around courthouses may exceed statutory authority and violate constitutional norms when they impair court functions or interfere with protected interests. See *State of New York v. U.S. Immigration & Customs Enf't*, 408 F. Supp. 3d 334 (S.D.N.Y. 2019) (enjoining ICE courthouse arrests as disruptive of judicial administration); *Ryan v. U.S. Immigration & Customs Enf't*, 974 F.3d 9, 18–19 (1st Cir. 2020) (recognizing limits on ICE authority where enforcement interferes with protected legal interests).

25. These concerns are particularly acute in Massachusetts, where courts and civil-rights litigation have specifically recognized that ICE courthouse arrests raise due-process

and access-to-courts issues, especially when conducted without a judicial warrant and during active court proceedings. See *Commonwealth v. Perez*, 480 Mass. 562, 566–68 (2018) (discussing limits on ICE authority in courthouse contexts); *Moreno v. U.S. Dep't of Homeland Sec.*, 2019 WL 4751990, at \*6–7 (D. Mass. Sept. 30, 2019) (acknowledging constitutional concerns associated with courthouse immigration enforcement).

26. Here, Petitioner was apprehended while engaged in court-related activity, rendering ICE's conduct especially intrusive and constitutionally suspect. The arrest occurred in a setting traditionally protected to ensure that individuals may appear before courts without fear of civil arrest, and directly contravened principles designed to safeguard judicial access and procedural fairness.

27. This courthouse apprehension caused concrete and prejudicial harm. It disrupted Petitioner's ongoing legal proceedings, impaired her access to retained counsel, altered the forum and posture of her litigation by precipitating her transfer to out-of-state detention, and contributed to subsequent adverse immigration consequences, including continued detention without an individualized bond hearing. Viewed in context, ICE's enforcement actions formed part of a sequence of conduct that deprived Petitioner of meaningful access to the courts and undermined the fairness and integrity of the judicial process.

28. While ICE retains general authority to effect civil immigration arrests, the manner, timing, and location of Petitioner's courthouse apprehension rendered the enforcement action unreasonable and constitutionally problematic, violating due-process principles, common-law protections, and the right of access to courts. These defects further reinforce Petitioner's habeas claims and support injunctive relief to remedy the ongoing consequences of constitutionally defective enforcement actions.

**C. ICE Transfer Violates Constitutional Rights Under the Fifth Amendment**

29. The Due Process Clause of the Fifth Amendment guarantees noncitizens the right to meaningful access to counsel and the courts and prohibits detention practices that unreasonably interfere with the ability to defend against removal. These protections apply regardless of manner of entry and remain enforceable through habeas corpus. See *INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001).

30. Petitioner has retained counsel in Massachusetts, and her immigration proceedings are pending before the Chelmsford Immigration Court. Her transfer to detention in Maine has already separated her from counsel and the adjudicating court, impairing attorney-client communication and her ability to participate meaningfully in her case. Petitioner is represented in this matter on a pro bono basis, which further heightens the prejudice caused by detention and transfer practices that interfere with sustained access to counsel. Any further transfer outside the District of Maine would exacerbate these harms by placing her even farther from counsel and the forum responsible for adjudicating her claims.

31. Further transfer would also risk undermining this Court’s jurisdiction by disrupting judicial review and interfering with the orderly adjudication of this habeas petition. Federal courts possess the authority to preserve their jurisdiction and to prevent government action that would frustrate meaningful habeas review.

32. Accordingly, to protect Petitioner’s Fifth Amendment rights and to preserve this Court’s habeas jurisdiction, the Court should enjoin Respondents from transferring Petitioner out of the District of Maine while this action is pending.

**D. Petitioner Is Entitled to a Bond Hearing Under INA § 236(a)**

33. As set forth above, Petitioner's detention is governed by INA § 236(a), not § 235(b), because she was arrested in the interior of the United States long after entry and is not subject to expedited or mandatory detention.

34. Petitioner's detention mirrors the unlawful detention challenged in *Guerrero Orellana*. She was not apprehended at the border, was not placed in expedited removal proceedings, and is not subject to mandatory detention under INA § 236(c). Accordingly, ICE lacks statutory authority to detain her without providing an individualized custody determination and access to a bond hearing.

35. Under § 236(a), a noncitizen may be detained or released on bond or conditional parole pending removal proceedings, and the government bears the burden at a bond hearing to justify continued detention. ICE's failure to provide Petitioner with such a hearing is contrary to the plain text of the statute and governing precedent.

36. Because Respondents lack statutory authority to continue detaining Petitioner without a bond hearing, her detention is unlawful, and this Court should order Respondents to provide an immediate bond hearing or release Petitioner from custody.

**E. Injunctive Relief is Warranted and Necessary to Prevent Constitutional Harm**

37. Courts within the First Circuit apply the four-factor test for preliminary injunctive relief articulated in *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Under this standard, the Court considers whether the movant has demonstrated (1) a likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities favors the movant, and (4) that the requested relief is in the public interest. Each factor weighs strongly in Petitioner's favor.

38. First, Petitioner is likely to succeed on the merits. The First Circuit has consistently recognized 28 U.S.C. § 2241 as the proper vehicle for challenging unlawful immigration detention and has held that detention under INA § 236(a) without a constitutionally adequate bond hearing violates due process. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33–35 (1st Cir. 2021); *Reid v. Donelan*, 819 F.3d 486, 494–95 (1st Cir. 2016). Petitioner’s continued detention without an individualized custody determination, coupled with the risk of further transfer away from counsel, contravenes these protections.

39. Second, Petitioner faces irreparable harm absent injunctive relief. The loss of liberty resulting from continued detention without a bond hearing constitutes irreparable injury. In addition, further transfer away from the District of Maine would substantially burden Petitioner’s access to retained counsel in Massachusetts and impair her ability to meaningfully litigate her pending immigration proceedings. These harms cannot be remedied through monetary damages.

40. Third, the balance of equities tips decisively in Petitioner’s favor. Requiring Respondents to provide an individualized bond hearing or to refrain from transferring Petitioner outside this District imposes minimal burden on the government. By contrast, Petitioner faces continued detention, separation from her children, and the risk of transfer that would further obstruct access to counsel and the courts.

41. Finally, the public interest supports the requested relief. Ensuring that immigration detention complies with constitutional and statutory requirements promotes the rule of law and preserves meaningful judicial oversight. Preventing unnecessary transfers that interfere with access to counsel and habeas review serves both individual rights and the integrity of the judicial process.

42. Because all four *Winter* factors weigh in Petitioner’s favor, injunctive relief requiring an individualized bond hearing, prohibiting transfer outside the District of Maine, or

ordering release under appropriate conditions is necessary to prevent ongoing and irreparable constitutional harm.

**F. This Court Should Exercise Independent Judicial Interpretation Under *Loper Bright* to Safeguard Petitioner's Rights**

43. In *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_, 144 S. Ct. 2244 (2024), the Supreme Court reaffirmed that questions of statutory interpretation are for courts to decide, and that federal courts may not defer to agency interpretations that lack a clear statutory basis. *Loper Bright* makes clear that when an agency's interpretation of a statute affects individual liberty, courts must exercise independent judgment to determine whether the agency's action is authorized by law.

44. Here, Respondents' continued detention of Petitioner without an individualized bond hearing rests on an interpretation of the detention statutes that expands the scope of mandatory detention beyond what Congress authorized. As courts within the First Circuit have recognized, noncitizens arrested in the interior of the United States are governed by INA § 236(a) and are entitled to individualized custody determinations, not categorical detention. The government's contrary position—often grounded in agency adjudications rather than statutory text—cannot withstand independent judicial review.

45. Under *Loper Bright*, this Court is not required to defer to agency interpretations that conflict with the plain language, structure, and historical application of the Immigration and Nationality Act, particularly where such interpretations result in prolonged detention without procedural safeguards. Instead, this Court must independently assess whether Respondents possess statutory authority to detain Petitioner without a bond hearing and to subject her to transfer practices that burden access to counsel and judicial review.

46. Independent judicial interpretation is especially critical in the habeas context, where courts serve as a constitutional backstop against unlawful executive detention. Exercising that role here, the Court should conclude that Respondents' actions exceed their statutory authority and violate Petitioner's constitutional rights, warranting immediate injunctive relief.

**G. Statutory Basis for Detention Confirms Petitioner Is Held Under INA § 236(a), Not INA § 235(b)**

47. The statutory framework governing immigration detention confirms that Petitioner is detained pursuant to INA § 236(a), 8 U.S.C. § 1226(a), rather than INA § 235(b), 8 U.S.C. § 1225(b). Section 235(b) applies only to noncitizens who are seeking admission at the border or a port of entry, or who are apprehended while arriving in the United States and detained continuously thereafter. By contrast, § 236(a) governs the detention of noncitizens arrested within the interior of the United States pending removal proceedings.

48. Petitioner was arrested inside a Massachusetts courthouse, years after her entry into the United States. She was not apprehended at the border, was not placed in expedited removal proceedings, and was not detained continuously upon arrival. She therefore does not fall within the scope of § 235(b).

49. Nor is Petitioner subject to any other mandatory detention provision. She is not detained under INA § 236(c), is not in expedited removal under § 235(b)(1), and is not detained pursuant to post-final-order authority under § 241. Her detention therefore rests solely on § 236(a), which requires an individualized custody determination and access to a bond hearing.

50. Because Respondents' continued detention of Petitioner is premised on an erroneous statutory classification, it is ultra vires and unlawful, providing an independent basis for habeas relief.

## **V. EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

51. Petitioner respectfully moves for a Temporary Restraining Order (“TRO”) pursuant to Federal Rule of Civil Procedure 65(b) to prevent Respondents from transferring her out of the District of Maine while this habeas petition is pending.

52. Immediate relief is necessary because Petitioner faces a substantial and imminent risk of further transfer to a detention facility farther removed from Massachusetts, where her retained counsel, family, and the Immigration Court adjudicating her case are located. Any such transfer would further impair Petitioner’s ability to communicate with counsel, participate meaningfully in her ongoing immigration proceedings, and pursue the relief sought in this action.

53. Petitioner satisfies the governing standard for temporary injunctive relief. As set forth in the accompanying petition, she is likely to succeed on the merits of her claims that her continued detention without an individualized bond hearing violates INA § 236(a) and the Fifth Amendment. Courts within the First Circuit have repeatedly recognized habeas corpus as the proper mechanism to challenge unlawful immigration detention and to remedy constitutionally deficient custody determinations.

54. Absent immediate relief, Petitioner will suffer irreparable harm. The loss of liberty, combined with further interference with attorney-client communication and access to the courts, constitutes irreparable injury for which no adequate remedy at law exists. A transfer outside this District would also risk frustrating this Court’s habeas jurisdiction and interfering with the orderly adjudication of this case.

55. The balance of equities strongly favors Petitioner. Maintaining her within the District of Maine during the pendency of this action imposes minimal burden on Respondents,

while denial of relief would expose Petitioner to ongoing constitutional injury and the risk of transfer that would undermine her ability to litigate her claims.

56. The public interest likewise favors temporary relief. Ensuring that immigration detention complies with constitutional and statutory requirements, and that courts retain meaningful oversight over executive detention, promotes the rule of law and the integrity of the judicial process.

57. For these reasons, Petitioner respectfully requests that the Court issue a Temporary Restraining Order prohibiting Respondents from transferring Petitioner out of the District of Maine pending resolution of this habeas petition or further order of the Court.

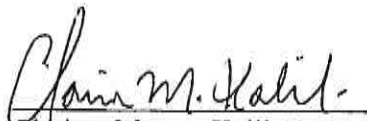
## **VI. PRAYER OF RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction** over this action pursuant to **28 U.S.C. § 2241**;
- b. Issue a writ of habeas corpus** directing Respondents to show cause why Petitioner's continued detention at the Cumberland County Jail in Portland, Maine, **without an individualized custody determination**, does not violate the Constitution and laws of the United States;
- c. Order Respondents to provide Petitioner with an individualized bond hearing** pursuant to **8 U.S.C. § 1226(a)**, consistent with the Due Process Clause and First Circuit precedent, within a reasonable time set by the Court, **with the government bearing the burden of justifying continued detention**;
- d. In the alternative, order Petitioner's release from custody** under reasonable conditions of supervision;

- e. **Enjoin Respondents from transferring Petitioner out of the District of Maine** while this habeas petition remains pending, in order to preserve Petitioner's access to counsel and this Court's habeas jurisdiction;
- f. **Provide expedited consideration** of this matter as the Court deems appropriate to prevent ongoing and irreparable harm; and
- g. **Grant such other and further relief as the Court deems just and proper.**

Respectfully submitted this 26th day of December, 2025.



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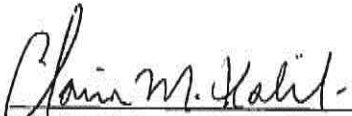
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner Samara Pereira Trega (A# 213-570-096), and I submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted this 26th day of December, 2025.



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**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and Emergency TRO and all attachments using the Court's CM/ECF system. I further certify that service has been effected through CM/ECF on all registered counsel of record.

In addition, a copy of the Petition and attachments has been served by U.S. Mail, Certified Priority Mail with Return Receipt Requested, upon the following individuals in their official capacities:

**PAMELA BONDI,**

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U.S. Department of Justice  
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**KRISTI NOEM,**

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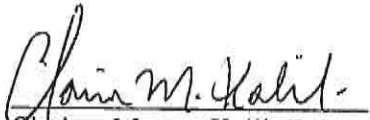
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**WARDEN OF THE CUMBERLAND COUNTY JAIL**

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Respectfully submitted this 26th day of December, 2025.



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