

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

WILIAN MIRANDA GUILLEN,

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Petitioner/Plaintiff,

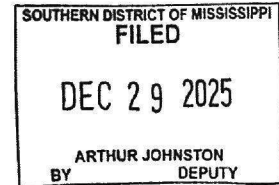
v.

RAFAEL VERGARA, Warden,
Adams County Correctional Center,
TODD LYONS, Acting Director, Immigration
and Customs Enforcement,
MELISSA HARPER,
Immigration and Customs Enforcement,
New Orleans Field Office Director,
PAMELA BONDI, United States Attorney General,

Respondents/Defendants

Civil Action No. 5:25-cv-170-DCB-BWR

PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241 AND COMPLAINT



Pursuant to 28 U.S.C. § 2241, petitioner Wilian Miranda-Guillen (“Miranda-Guillen”) asks the Court to issue a Writ of Habeas Corpus requiring Respondents to release him, or, in the alternative, provide petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.

Respondents have recently reversed their decades-long practice of providing bond hearings to people in petitioner’s situation. To justify that reversal, they have adopted an indefensible interpretation of immigration statutes. Implementing their new interpretation, they have seized petitioner Mr. Miranda-Guillen and are detaining him without the possibility of release on bond, even though he has resided in the United States for more than 9 years and has an approved I-360 visa application. Petitioner asks that this Court declare the Respondents’ interpretation of the governing statute wrong, and that it orders either his release or that he receives a bond hearing within seven days.

INTRODUCTION

1. Petitioner Wilian Miranda-Guillen is in the physical custody of Respondents at the Adams County Correctional Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded he is subject to mandatory detention. As such, his detention violates 8 U.S.C. § 1226(a) and the Fifth Amendment of the United States Constitution.

2. Mr. Miranda-Guillen is presently charged with, *inter alia*, being present in the United States without being admitted or paroled.¹ See 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Mr. Miranda-Guillen's removal proceedings, DHS will categorically deny him release from immigration custody, as it purports is required by a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. That action by DHS has also recently been incorporated by the Board of Immigration Appeals (BIA). The BIA, on September 5, 2025, issued a precedential decision, which binds all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission or inspection. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board, deviating from decades of established precedent, decided that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

¹ See Exhibit 1, Notice to Appear dated December 10, 2025.

5. However, because ICE arrested Mr. Miranda-Guillen within the interior of the United States, 8 U.S.C. § 1226(a) provides the statutory basis for his detention. Section 1226(a) allows for release on bond and conditions during the pendency of immigration proceedings. As such, his continued detention without a hearing violates 8 U.S.C. § 1226(a)

6. Mr. Miranda-Guillen requested a custody redetermination by an Immigration Judge pursuant to 8 C.F.R. 1003.19.

7. 8 C.F.R. 1003.19 provides that “[c]ustody and bond determinations made by the service pursuant to 8 C.F.R. part 1236 may be reviewed by an Immigration Judge pursuant to 8 C.F.R. part 1236.” Section 1003.19 confers authority on an immigration court to reconsider Mr. Miranda-Guillen’s initial custody determination.

8. On December 18, 2025, an immigration judge denied Mr. Miranda-Guillen’s request based on a lack of jurisdiction citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216. (BIA 2025).²

9. Respondents’ new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Mr. Miranda-Guillen and violates his procedural due process right to be heard concerning whether the government should continue to deprive him of his liberty.

10. Accordingly, Mr. Miranda-Guillen seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing which recognizes the jurisdiction of the immigration judge under § 1226(a) within seven days, or that this Court itself order his release on bond.

JURISDICTION

² See Exhibit 2, Order of the Immigration Judge dated December 18, 2025.

11. This case arises under the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 *et seq.*, and the Fifth Amendment of the United States Constitution.

12. Mr. Miranda-Guillen is in the physical custody of Respondents, being detained at the Adams County Correctional Center in Oakdale, LA in this Court’s jurisdiction. *Rumsfield v. Padilla*, 542 U.S. 426 (2004). If Mr. Miranda-Guillen were moved from this District, this Court would retain jurisdiction. *Ex parte Endo*, 323 U.S. 283, 305-06 (1944).

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

14. 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

15. This case arises under the Immigration and Nationality Act (“INA”), 8 U.S.C. §§ 1101 *et seq.*, and the Fifth Amendment of the United States Constitution.

16. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 2241, *et seq.* (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); and Art. 1, § 9, cl. 2 of the United States Constitution (Suspension Clause).

17. Venue is proper in this Court because Mr. Miranda-Guillen is detained at Adams County Correctional Center (ACCC), which is located in this district and because Respondent Vergara, his immediate custodian, is located in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

18. 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).

19. Pursuant to 28 U.S.C. § 2243, 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. *Id.* After issuance of an order to show cause, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* Upon filing of the return, the Court sets a hearing “not more than five days after the return unless for good cause additional time is allowed.” *Id.* Finally, “[t]he court shall summarily hear and determine the facts and dispose of the matter as law and justice require.” *Id.*

PARTIES

20. Petitioner Wilian Miranda-Guillen has been detained by ICE since September 14, 2025. ICE detained him at ADCC. Mr. Miranda-Guillen has continuously resided in the United States for more than 9 years. After arresting Mr. Miranda-Guillen in Jefferson Parish, Louisiana, ICE did not set bond. Mr. Miranda-Guillen, who is charged with being present in the United States without being admitted or paroled has requested review of ICE’s decision but is unable to obtain meaningful review because by an immigration judge because of the to the Board’s erroneous decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21. Respondent Rafael Vergara in his official capacity as Warden of Adams County Correctional Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is named in his official capacity.

22. Respondent Melissa Harper is the Director of the New Orleans Field Office of ICE’s Enforcement and Removal Operations division. As such, Ms. Harper is Petitioner’s

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

23. Respondent Todd Lyons is Acting Director of Immigration and Customs Enforcement. He is responsible for the administration and enforcement of the immigration laws and as such is a custodian of Mr. Mirada-Guillen. He is named in his official capacity.

24. Respondent Pamela Bondi is the Attorney General of the United States and head of DOJ. The Executive Office of Immigration Review is a component of DOJ and is comprised of the Board of Immigration Appeals ("BIA") and the Immigration Court. The Immigration Court is depriving Mr. Mirada-Guillen of a bond hearing. She is named in her official capacity.

LEGAL FRAMEWORK

25. The Government may not "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V. 11. As such, "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

26. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 678 (2001). The Due Process Clause protects citizens and noncitizens alike against arbitrary and unreasonable government detention. *Id.* at 693.

27. For decades, the immigration system has implemented this balance through a network of three mutually exclusive detention statutes.

28. First, under 8 U.S.C. § 1231(a)(1)(A), ICE must detain a noncitizen for the first ninety days after a removal order becomes final. *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018). This statute is not at issue in this case.

29. Second, the INA provides for mandatory detention of two groups of noncitizens regardless of any criminal record. The first group consists of those who are subject to expedited removal (a) for being apprehended upon arrival at or near the border lacking any valid entry document or (b) for being apprehended at any location and unable to show that they have been physically present in the United States for more than two years. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). The second group consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining officer determines . . . is not clearly and beyond a doubt entitled to be admitted,” *e.g.*, someone who presents valid entry documents at a port of entry but is inadmissible for some reason. 8 U.S.C. § 1225(b)(2). This section mandates detention and “applied primarily to aliens seeking entry into the United States” who claim fear of return to their home country at a United States border. *Id.* at 297.

30. Third, detention of noncitizens in removal proceedings not apprehended on the border has traditionally been governed by 8 U.S.C. § 1226. *Id.* at 285. That statute grants the Attorney General discretion to determine whether a noncitizen, except those with certain criminal histories, may be released on bond. 8 U.S.C. § 1226(a). Noncitizens detained under 8 U.S.C. § 1226(a) are entitled to individualized determinations concerning their eligibility for release for the pendency of removal proceedings. *See Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025).

31. Section 1226 “applies to aliens already present in the United States.” *See Kostak v Trump*, 25-cv-1093 (W.D.La. 08/27/25) quoting *Jennings v Rodriguez*, 583 U.S. 281, 303, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018). “Section 1226(a) creates a default rule for those aliens by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those

aliens on bond, ‘except as provided in subsection (c) of this section.’” *Id.* “Federal regulations provide that aliens detained under §1226(a) receive bond hearings at the outset of detention.” *Id.*

32. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

33. This system—in which noncitizens arrested within the United States are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226). Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

34. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who had entered the country without inspection were considered detained under Section 1226(a), not under Section 1225. *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).

35. In the decades following the enactment of these statutory and regulatory provisions, most people who were detained after having entered without inspection were placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-

469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

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

37. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”³ claims that all persons who are detained after having entered the United States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225(a)(1), and therefore subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and it affects those who have resided in the United States for months, years, and even decades.

38. On September 5, 2025, the BIA classified noncitizens arrested in the United States that have not been admitted to the United States as “applicants for admission” pursuant to U.S.C. § 1225(b) and purporting to divest the Immigration Court of jurisdiction over their bond hearings. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025).

39. A multitude of district courts have found that these noncitizens are detained under 8 U.S.C. § 1226(a) rather than 8 U.S.C. § 1225(b) and ordered the Immigration Court to provide them individualized bond hearings. *See e.g. Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *4 (W.D. La. Aug. 27, 2025); *Lopez Santos*, 2025 WL 2642278, at *5. *See also Ventura Martinez v Trump*, 25-cv-01445 (W.D.La. 10/22/25) (respondent entered the US without inspection in 2013 but was apprehended in June of 2025 entitled to have post bond in accordance with IJ’s original determination that §1226 controls); *Erazo v. Hardin*, 2:25-cv-891-KCD-DNF

³ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

(M.D. Fla. 11/14/25)(respondent entered the US without inspection in 1999 but was apprehended in mid-2025 entitled to a bond hearing under §1226); *Luna-Sanchez v. Bondi*, 25-cv-18888-(E.D. Va. 11/14/25) (respondent who entered the US without inspection but had previously posted bond and was in removal proceedings was picked up by ICE to be held under §1225. The federal court ordered that he be released under the original bond noting that §1226(a) sets forth “the default rule” for detaining noncitizens “already present in the United States.”).

40. In so holding, the courts have found that *Yajure Hurtado* is not entitled to deference. See e.g. *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *7 (W.D. Tex. Sept. 22, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 n.3 (S.D. Tex. Oct. 7, 2025) (collecting cases).

41. A growing consensus of courts have remedied DOJ’s 8 U.S.C. § 1225(a)/ 8 U.S.C. § 1225(b) misclassification by “ordering a bond hearing, at which the Government bears the burden of justifying the immigration habeas petitioner’s continued detention by clear and convincing evidence.” *Lopez-Arevelo*, WL 2691828, at *13 (collecting cases).

FACTUAL ALLEGATIONS

42. Mr. Mirada-Guillen has resided in the United States since approximately 2015 and lives in Baton Rouge, Louisiana.. He has an approved I-360 visa and has no criminal history other than traffic violations.

43. Mr. Miranda-Guillen entered the United States as an unaccompanied minor and was released into the custody of his family. He was not designated as an arriving alien.

44. On September 14, 2025, Mr. Mirada-Guillen was detained by police in Jefferson Parish, Louisiana, for a matter that has only resulted in a traffic ticket. He is currently detained at Adams County Correctional Center in Natchez, MS.

45. On information and belief, Mr. Mirada-Guillen is detained for placement in removal proceedings and will be, or has been, charged again as an alien present without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i), and hence he is subject to the DHS-DOJ interpretation of Section 1225(b)(2)(A) requiring his mandatory detention without a bond hearing.

46. Thus, it appears that, according to the misapplication of law by DHS-DOJ, petitioner is not considered eligible for a bond hearing, though he has been living in the U.S., albeit with no lawful status, for more than 9 years with evidently no recent criminal history.

47. As a result, Mr. Mirada-Guillen without relief from this court, faces the prospect of months, or even years, in immigration custody, separated from his family and community.

48. The Immigration Court will not grant Mr. Mirada-Guillen a bond hearing pursuant to *Yajure Hurtado*. This has been the Immigration Court's uniform practice since the BIA issued *Yajure Hurtado* on September 5, 2025.

CLAIM FOR RELIEF

COUNT ONE VIOLATION OF 8 U.S.C. § 1226(a)

49. Mr. Mirada-Guillen realleges and incorporates by reference each and every allegation contained above.

50. Under § 1226(a) and its associated regulations, Mr. Mirada-Guillen is entitled to a bond hearing. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).

51. The mandatory detention provisions at 1225(b) does not apply to Mr. Mirada-Guillen because he was present and residing in the United States before ICE arrested him and placed him in removal proceedings. *See e.g. Kostak*, 2025 WL 2472136, at *4; *Lopez Santos*, 2025 WL 2642278, at *5.

52. Such noncitizens may only be detained pursuant to § 1226(a), unless they are subject to mandatory detention under § 1226(c). Detention under § 1226(a) requires access to bond hearings.

53. DOJ has not provided and will not provide Mr. Mirada-Guillen with a bond hearing as required by § 1226(a). His continued detention without a bond hearing is therefore unlawful.

**COUNT TWO
VIOLATION FIFTH AMENDMENT
RIGHT TO PROCEDURAL DUE PROCESS**

54. Mr. Mirada-Guillen realleges and reincorporates by reference each and every allegation contained above.

55. The Fifth Amendment of the U.S. Constitution protects every person from being “deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “The Due Process Clause extends to all ‘persons’ regardless of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or permanently).” *Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).

56. Procedural due process requires a custody hearing before an independent and impartial adjudicator. *See Marcello v. Bonds*, 39 U.S. 302, 307 (1955). In determining how much process is due noncitizens challenging ICE custody, courts apply the following balancing test “1) the private interest affected by the government action; 2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and 3) the government's interest in maintaining the current procedures, including the function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail.” *Maniar v. Warden Pine Prairie Corr. Ctr.*, No. 6:18-CV-00544, 2018 WL 11544220, at *2 (W.D. La. July 11, 2018).

57. Mr. Mirada-Guillen's liberty interest is significant as "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Mr. Miranda-Guillen also has an interest in family integrity. See *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Mr. Mirada-Guillen, as a civil detainee, also has an interest in non-punitive conditions of confinement. *Peregrino Guevara v. Witte*, No. 6:20-CV-01200, 2020 WL 6940814, at *6 (W.D. La. Nov. 17, 2020), *report and recommendation adopted*, No. 6:20-CV-01200, 2020 WL 6929700 (W.D. La. Nov. 24, 2020). DOJ's refusal to provide Mr. Mirada-Guillen with a bond hearing is keeping him detained and away from his family in punitive conditions.

58. The risk of erroneous deprivation without a hearing is high. The purpose of immigration detention is to prevent dangerous noncitizens from harming members of the community and preventing flight during removal proceedings. *Zadvydas*, 533 U.S. at 690-91; *Demore v. Kim*, 538 U.S. 510, 527-28 (2003). Because "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," mandatory detention in situations other than those explicitly authorized by Congress "turns these well-established procedural principles on their heads and carries a significant risk of erroneous deprivation." *Martinez*, 2025 WL 2598379, at *3. Detention without a hearing means that noncitizens are not provided with "an opportunity to contest the existence, nature, or significance of" any violations or an individualized assessment from a neutral arbiter. *Lopez-Arevalo*, 2025 WL 2691828, at *11. The lack of these protections run an unacceptably high risk of depriving the liberty of non-dangerous individuals who present minimal flight risks. *Id.*

59. Additional safeguards would reduce the risk of erroneous deprivation as a bond hearing "will allow an immigration judge conducting a bond hearing to make a determination on

specific facts whether continued detention is necessary to ensure presence at removal hearings and safety for the community. *Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025). These safeguards have been in place in cases like Mr. Mirada-Guillen’s for over a century. *See* 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for release on bond, including for noncitizens alleged to have entered the United States without inspection). A bond hearing therefore would provide him “the opportunity to be heard and receive a meaningful assessment of whether he is dangerous or likely to abscond” and would therefore “greatly reduce the risk of an erroneous deprivation of his liberty.” *Lopez-Arevelo*, 2025 WL 2691828, at *11.

60. As such, ICE’s continued detention of Mr. Mirada-Guillen deprives him of liberty without procedural due process.

PRAYER FOR RELIEF

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

- a) Assume jurisdiction over this matter;
- b) Order Respondents to show cause why the writ should not be granted “within three days unless for good cause additional time, not exceeding twenty days, is allowed,” and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243;
- c) Grant this Writ and order Respondents to provide Mr. Mirada-Guillen with an individualized bond hearing at which ICE bears the burden of proving by clear and convincing evidence that he is a danger to the community or irredeemable flight risk;

d) Award Mr. Mirada-Guillen costs and reasonable attorneys' fees in this action under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified by law; and

e) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this the 22nd day of December, 2025.



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