

**JUDGE KATHLEEN CARDONE**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

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BY  DEPUTY

**Efrén Contreras-Ruiz**  
Petitioner

v.

**Mary De Anda-Ybarra,**  
Field Office Director (ICE ERO El Paso  
Field Office)

&

**Warden-ICE Facility Administrator,**  
Camp East Montana Detention Center

Case no.:

WRIT OF HABEAS CORPUS

**EP 26 CV 0042**

**PETITION FOR A WRIT OF HABEAS CORPUS**

**TO THE HONORABLE COURT:**

**COMES NOW** Efrén Contreras-Ruiz, through the undersigned counsel, and most respectfully **STATES AND PRAYS** as follows:

**I. INTRODUCTION**

“Every statute has limits which are capable of being exceeded thus even under statutes granting an official the broadest discretion there will be some I’ll be at fewer cases capable of arising under the statute which will present issues to which the court will have to apply the law.” Abdelhamid v. Ilchert, 774 F 2d 1447, 1449 (CA9 1985) This court has the authority to ensure that the Executive Office for Immigration Review and the Board of Immigration Appeals, both federal agencies, do not act beyond the legislative intent of their enabling statute.

“Any hearing held by the agency must be fair, there must be no error of law, there must be evidence to support the findings of fact. If one of the elements mentioned is lacking the proceeding is void and must be set aside.” (Internal quotations omitted.) Kessler v. Strecker, 307 US 22, 34, 59 S. Ct. 694, 83 L. Ed. 1082 (1939).

This is a petition for a writ of Habeas Corpus challenging the illegal detention of petitioner Efen Contreras-Ruiz<sup>1</sup> by Immigration and Customs Enforcement (ICE) under 28 USC §2241. He is currently being held at the ERO El Paso Camp East Montana Detention Facility, located at 6920 Digital Road, El Paso, Texas 79936. His A# is .

## II. JURISDICTION AND VENUE

The district court has subject matter jurisdiction under 28 U.S.C. § 2241, AND under 28 U.S.C. § 1331 (federal question). The court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651 and Article I § 9, cl. 2 of the U.S. Constitution (Suspension Clause). See INS v. Cyr, 533 US 289 (2001) and Guerrero-Lasprilla v. Barr, 589 US 221, 140 S. Ct. 1062, 1067-73, 206 L. Ed. 2d 271.

This action arises under the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

Jurisdiction is proper as Petitioner is detained and the proceedings challenged took place within the jurisdiction of the court. Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) Venue is proper under 18 USC §1391 (e) as he is currently detained within the jurisdiction of the court by the officers and agencies of the United States identified as defendants.

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<sup>1</sup> Throughout the immigration court filings petitioner's name is erroneously spelled *Efrin*, not Efen; we are adhering to the correct spelling of his name as Efen.

This is a challenge to “detention simpliciter” under § 2241—so the jurisdiction-stripping provisions of 8 USC § 1252 don’t bar review of the immigration detention conditions and duration.

### III. PARTIES

Mary De Anda-Ybarra is the Field Office Director (ICE ERO El Paso Field Office), located at 11541 Montana Ave, Suite E, El Paso, TX 79936. She has responsibility over the detention facility or contract governing the detention facility where Petitioner is held.

John/Jane Doe, is the Unknown person that holds the position of Warden at the ERO El Paso Camp East Montana Detention Facility, located at 6920 Digital Road, El Paso, Texas 79936 where Petitioner is being held. He/She is the person who makes custodial decisions regarding non-citizens detained in immigration custody. This is “the largest federal detention center in history.”<sup>2</sup> It is a detention facility that sits inside Fort Bliss, El Paso, Texas.

See Rumsfeld v. Padilla, 542 US 426, 439 (2004); 28 U.S.C. § 2242 and § 2243.

### IV. AGENCY FINAL DECISION

The immigration court issued an order on September 30, 2025 denying Mr. Contreras-Ruiz request for bond for lack of jurisdiction. Prior to that, on September 5, 2025 the Immigration Judge had granted bond but DHS-ICE requested a reconsideration of the order, filed its intent to appeal and the IJ then issued an order denying bond for lack of jurisdiction. See Exhibit 1 and Exhibit 2.

### V. STATEMENT OF FACTS

Efren Contreras-Ruiz, , is a citizen and national of Mexico. He entered the United States on or about September 22, 2023 without admission or inspection. He has not

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<sup>2</sup> “El Paso’s Fort Bliss to become largest immigration detention facility in US”; Jeff Abbott, El Paso Times, Aug. 8, 2025.

left the United States since his entry. He had never been detained by DHS-ICE before his August 10, 2025 warrant of arrest and notice to appear.

He is the father of a US citizen son, [REDACTED] born in Bradenton, Florida, and a US citizen daughter, [REDACTED] both with surnames Contreras-Vazquez, the later also born in Florida.

He was arrested on August 5, 2025 in Polk County, Florida for the moving traffic violation of driving a motor vehicle upon a highway in Florida without a valid driver's license, under Florida Statute § 322.03(1), a criminal offense, not a civil infraction. The first conviction is classified as a 2nd-degree misdemeanor. He has never been convicted for this violation. He has no NCIC records of any kind.

He was transferred to ICE (Immigration and Customs Enforcement) and was issued a Notice to Appear charging him under the Immigration and Naturalization Act (INA) and placed in immigration court, or EOIR (Executive Office for Immigration Review) court proceedings in August 2025.

He has been continuously detained, as of today, January 6, 2026, for a total of 151 days since his arrest on August 8, 2025 from the date of the traffic violation and for a total of 149 days in ICE detention.

## VI. CLAIMS FOR RELIEF

We ask the court to order the immediate release of petitioner from detention and:

1. Find that the IJ incorrectly determined he lacked jurisdiction to conduct bond redetermination hearings after initially exercising jurisdiction and granting bond for Petitioner.
2. Find that Petitioner's *prolonged detention* without a bond hearing after withdrawing the initial bond order constitutes a violation of due process and of immigration statutes that establish a

respondent's right to have a detention hearing and a judge's determination under INA §236, 8 USC §1226.

## VII. APPLICABLE LAW

Habeas review depends upon the circumstances of the case, including the thoroughness of procedures provided during the underlying administrative proceedings. Boumediene v. Bush, 553 US 723, 781, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008)

In **Exhibit 1**, the immigration judge, IJ, determined he lacked jurisdiction for a bond redetermination hearing under the BIA precedential decision in *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) . Petitioner's detention is under INA § 236, 8 USC §1226, as he was apprehended inside the United States after more than three (3) years of residence inside the country.

This is a refusal to exercise bond jurisdiction because of the BIA's *Matter of Yajure Hurtado*, supra, which stripped the immigration courts from jurisdiction to conduct bond redetermination hearings during the pendency of immigration proceedings. See *Id.*, pp. 218–20, 225, 228–29. That decision addresses detention under §236, §1226, and found that the IJ “did not have authority over the bond request because aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings”. *Id.*, p. 20. This §235, 8 USC §1225, is the mandatory detention statute, whereas §236 is the discretionary detention statute, and they are applied to distinct groups of respondents in immigration proceedings. See Jennings v. Rodriguez, 583 U.S. 281, 288–89 (2018). Petitioner belongs to the category of aliens already present in the United States and who *may* be detained pending removal proceedings, with certain exceptions for certain criminal offenses

and terrorism. *Id.* at p. 303. Even the BIA, as recently as June 30, 2025, in *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), had stated that a noncitizen present in the U.S. without inspection or admission was in custody pursuant to § 236(a), not § 235. *Matter of Hurtado* changed that.

The order cites a lack of jurisdiction to conduct such a redetermination following *Matter of Hurtado* and is an order which has been repeatedly found to be contrary to the black letter of the immigration law in this Western District of Texas and in the Southern District as well.<sup>3</sup> Some of these recent decisions and opinions concretely say that *Hurtado* is not binding after *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391-392 (2024) and that it is not persuasive, and thus § 1226(a) controls.<sup>4</sup> The decision in this district in *Cardona-Lozano v. Noem*, case no.1:25-cv-01784-RP (Pitman, J.), opinion date: Nov. 14, 2025 states: “[w]hile the BIA’s interpretation of the INA is not entitled to any deference by this court under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), *Matter of Yajure Hurtado*’s inconsistency with prior pronouncements reduces even its ‘power to persuade. But none of these cases enter into a system-wide injunction against this EOIR practice in the district.” (Internal quotations and citations omitted.) We understand this is the sentiment of almost the entirety of courts dealing with writs of habeas corpus in this same scenario of arrests of longtime residents arrested inside the country.

**There was an initial bond order withdrawn after Yajure Hurtado**

<sup>3</sup> See for example *See Fuentes v. Lyons*, 5:25-cv-00153, Dkt. No. 15 (S.D. Tex. Oct. 16, 2025); *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at \*3 & \*3 n.3, \*4 (S.D. Tex. Oct. 7, 2025); and *Espinoza Andres v. Noem*, No. H-25-5128, slip op. at 8–11 (S.D. Tex. Dec. 2, 2025).

<sup>4</sup> See *Buenrostro v. Bondi*, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron-Cobarubias v. Vergara*, 2025 WL 2950097 (S.D. Tex. Oct. 8, 2025);

In this case the IJ initially granted bond for Petitioner but later, after DHS-ICE filed a notice of appeal, “withdrew” the first order and issues an order on the basis of lack of jurisdiction under the *Yajure Hurtado* precedent.

This in itself twists the procedures before the immigration court as established in its practice manual and interpretive case law on its head. Why? Because the bond order precedes *Yajure Hurtado*, and there was no intervening precedent at the time that justified changing the order to a lack of jurisdiction under *Hurtado*. This BIA “precedential decision” was issued on September 5, 2025. The bond for Mr. Contreras-Ruiz was granted on September 5, 2025, the same day of the publication. That same day DHS appealed the order, Exhibit 2. But it was not until September 30, 2025 that the IJ “denied” bond for lack of jurisdiction.

The decision on *Matter of Yajure Hurtado* was issued on September 5, 2025, and it was binding on Immigration Judges as of that issuance date because there is no “waiting period” until it is later circulated or noticed. The EOIR’s Policy Manual states that a BIA order “is effective as of its issuance date, unless the order provides otherwise,” and that published BIA decisions “constitute precedent that binds ... the immigration courts.” See EOIR Policy Manual, Chapter 1, §1.4 (a)(4). The EOIR’s Immigration Court Practice Manual, Chapter 9, §9.3(f) explains that if DHS appeals, the bond decision generally remains in effect unless the BIA issues an emergency stay or an automatic stay applies by regulation.<sup>5</sup> No appeal was filed, just a Notice of Intent to Appeal, but DHS did file a motion for reconsideration of the order granting bond on 9/11/2025 on the basis of lack of jurisdiction under *Matter of Yajure Hurtado*.

**Maldonado-Bautista v. Ernesto Santacruz, Jr.**

\*2025 WL 3288403, at 9 and \*2025 WL 3289861, at 9–11 (C.D. Cal. Nov. 25, 2025)

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<sup>5</sup> “...the Immigration Judge’s bond decision remains in effect while the reconsideration is pending unless the Board issues an emergency stay or the decision is automatically stayed by regulation. See 8 C.F.R. §§ 1003.6(c), 1003.19(i).”

Maldonado-Bautista issued a partial summary judgment in the first case number referenced declaring the reliance on 8 USC §1225 for long-term respondents who entered without inspection unlawful and confirming that §1226 governs bond eligibility, declining any deference to *Hurtado* under Loper Bright, ante. The later number referenced above issued a nationwide class-wide declaratory judgment for the “Bond Eligible Class”, and the Executive Office for Immigration Review, EOIR, is a named defendant bound by that declaration.<sup>6</sup>

The EOIR courts continue to apply *Yajure Hurtado*, as in Exhibit 1, despite all the rulings but one in the federal district courts in Texas ordering that bond motions be held or release petitioners.<sup>7</sup>

Under the explicit terms of Exhibit 1, it is clear that §1226 (a) applies to Mr. Contreras-Ruiz, that he belongs *prima facie* to the class identified in Maldonado-Bautista, and that his detention without a bond hearing is unlawful.

**Immigration law grants the right to bond hearings**

Immigration judges have the authority to make findings of fact and law in proceedings under their jurisdiction, Immigration judges have the authority under 8 C.F.R. § 1003.10(b) and the Immigration Court Practice Manual, ICPM, in bond proceedings, to engage with legal arguments, apply statutes, and interpret case law—including recent district-court decisions. See ICPM Part II, Ch. 1.1(c), “[n]othing in this manual shall limit the discretion of Immigration Judges to act in accordance with law and regulation” and Part I, Ch. 1.1, “[n]othing in this manual shall limit the discretion or authority of EOIR’s adjudicators to act in accordance with

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<sup>6</sup> See Exhibit 2, fn 2: “Garland v. Aleman Gonzalez, the Supreme Court interpreted 8 U.S.C. § 1252(f)(1) to prohibit class wide injunctive relief regarding certain immigration detention statutes like the ones at issue here. 596 U.S. 543 (2022). However, § 1252(f)(1) does not bar other forms of relief, like class wide declaratory relief. See, e.g., Al Otro Lado v. Exec. Off. for Immigr. Rev., 138 F.4th 1102, 1123–24 (9th Cir. 2025).”



the law, including applicable statutes, regulations, and precedents.” However, the same practice manual and regulations also state that BIA (Board of Immigration Appeals) precedents are binding unless “controlling federal court” overrule them, as set out in 8 C.F.R. § 1003.1(g) and EOIR Policy Manual Appendix I, § (1)(B)(i) states that “[p]recedent decisions by the BIA are binding on the immigration courts, unless modified or overruled by the Attorney General or a federal court.” Under these controlling regulations, the IJ had no limitations upon his legal decision-making even if *Yajure Hurtado* was issued the same day as his own decision granting bond to Petitioner.

Most importantly, there have been multiple opinions and orders in this Western District of Texas, as in the Southern District, where the courts have ordered bond hearings or the release of the petitioners under the same set of circumstances as here.<sup>8</sup> Recently, in Rodriguez Lara v. Lyons, No. 5:25-cv-01581-XR (W.D. Tex. Dec. 16, 2025, Judge Xavier Rodriguez) (Order on Petition for Writ of Habeas Corpus), the court explains that because the petitioner is present in the U.S. and did not lawfully enter after inspection and authorization, “he is an ‘applicant for admission’ but, nevertheless, grants habeas relief—holding that although the petitioner fits the “applicant for admission” definition, he was not “seeking admission” at the time of ICE’s interior detention, so § 1225(b)(2) does not apply in that posture. Relatedly, several of the W.D. Tex. Decisions in Footnote 5 also explicitly note they are rejecting the government’s broad

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<sup>8</sup> *Rojas Vargas v. (DHS officials)*, No. 1:25-cv-01699-DAE (Ezra, Nov. 5, 2025)  
*Ortega Munoz v. (DHS officials)*, No. 1:25-cv-01753-RP (Pitman, Nov. 7, 2025)  
*Cardona-Lozano v. (DHS officials)*, No. 1:25-cv-01784-RP (Pitman, Nov. 14, 2025)  
*Rodríguez Cortina v. De Anda-Ybarra*, No. 3:25-cv-00523-DB (Briones, Nov. 18, 2025)  
*Cruz Zafra v. Noem*, No. 3:25-cv-00541-DB (Briones, Nov. 20, 2025)  
*Escobar-Arauz v. (DHS/ERO officials)*, No. 3:25-cv-00619-DB (Briones, Dec. 10, 2025)  
*Vásquez Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB (Briones, Dec. 16, 2025)

interpretation that § 1225(b)(2) applies to all noncitizens already inside the U.S. who entered without inspection.

#### HABEAS CORPUS RELIEF IS AVAILABLE

Petitioner falls squarely into the “bond eligibility class” identified in Maldonado-Batista. In the alternative and he is not precluded from filing this habeas petition that asserts that he has been unlawfully detained because Defendants denied him his statutory right to a bond hearing.

In Maldonado-Bautista four (4) named individual requested injunctive and declaratory relief and certification of a nationwide class. The injunction order recognizes relief and enjoins the federal government from continuing to detain the four named petitioners unless they receive individualized bond hearings in 7 days and from transferring them out of the district. The order granting *Partial Summary Judgement in 2025 WL 3289861*, holds that the government’s “no-bond” policy (treating interior EWIs as § 1225(b)(2) “applicants for admission”) conflicts with the INA and that petitioners are properly detained under 8 U.S.C. § 1226(a), not §1225(b)(2) and invalidates the policy. Nothing in the order precludes a petitioner’s habeas corpus relief as a follow-on enforcement mechanism by individuals like Mr. Contreras-Ruiz to obtain bond hearings or be released by ICE.

Therefore, even if this court was to recognize that Petitioner is a member of the class of “bond eligible” respondents in EOIR detained proceedings identified in Maldonado-Bautista, it still retains full jurisdiction to determine whether Mr. Contreras-Ruiz should receive relief from the unlawful detention after the denial of his bond redetermination request by the IJ citing *Matter of Hurtado*.

#### VIII. ORDERING A FURTHER DETENTION HEARING IS FUTILE

*Matter of Cerda Reyes*, 26 I&N Dec. 528 (BIA 2015) holds that the filing rules for bonds in 8 C.F.R. § 1003.19(c) are about venue, not subject-matter jurisdiction, and confirms that the IJ's bond authority derives from INA § 236 via 8 C.F.R. § 1236.1(d)(1). This IJ had jurisdiction to consider the bond request.

However, the new BIA precedent *Matter of Hurtado*, *supra*, at p. 227-228, restricts the immigration courts' jurisdiction for those "present without admission". This means that even if the IJ was ordered to conduct a bond redetermination hearing the BIA precedent in would mean that the IJ would now have to deny the availability of a hearing based on lack of jurisdiction. This is exactly what the IJ did in **Exhibit 1**. That precedent is legally wrong because the Board holds that any noncitizen present in the U.S. "without admission" is an "applicant for admission" under § 235(a)(1) and therefore must be detained under § 235(b)(2)(A), not § 236(a). See 29 I&N Dec. 216, 223-25.

Therefore, because the immigration courts continue to uphold the lack of jurisdiction as binding, this Petitioner can show that the new precedent in *Matter of Yajure Hurtado* renders further referral for a bond hearing before an EOIR immigration judge futile because of the position taken by IJ's as seen in **Exhibits 1 and 2**.

#### IX. ARGUMENT FOR HABEAS RELIEF

The Petitioner meets all the requirements to receive habeas corpus relief under 28 USC §2242.

He has been detained by DHS-ICE at the ERO El Paso Camp East Montana Detention Facility, located at 6920 Digital Road, El Paso, Texas 79936, under §1225 after the IJ found he had no jurisdiction to hold a bond redetermination hearing. He has been detained for 148 days,

in a flagrant violation of his rights under the Immigration and Naturalization Act. The correct statutory classification for him is under 8 USC §1226, as a person detained inside the US. It is DHS stated policy to classify all persons inside the US as belonging to the class of immigrants that are not eligible for bond, “collapsing” §1226 into §1225, contrary to the text of the law. This is wrong.

The government’s reading would invert the statute and violate basic canons of construction. Section 1226(a) begins “[e]xcept as provided in subsection (c),” making clear that § 1226(c) is the exclusive exception to the discretionary bond regime for noncitizens already inside the country. Allowing § 1225(b)(2) to operate as an unstated, global bar to bond for any non-admitted alien—no matter how long resident, and no matter that he was taken into custody on a § 1226 warrant—would both nullify the “seeking admission” limitation in § 1225(b)(2) and render the careful structure of § 1226(a)/(c) pointless.

In Cardona-Lozano v. Noem, No. 1:25-cv-01784 (W.D. Tex. Nov. 14, 2025), a long-time EWI resident detained in the interior was classified by DHS as subject to “mandatory” § 1225 detention and denied bond. The Western District of Texas rejected that position, holding that § 1225(b)(2) applies to recent “applicants for admission” at the border and that extending it to interior, long-resident detainees would effectively erase § 1226’s role and render the specific mandatory-detention carve-out in § 1226(c) superfluous. The court ordered DHS to treat the detention as governed by § 1226(a) and to provide an individualized bond hearing. Similar results follow in countless cases across the US, all holding that DHS may not treat long-resident, interior arrestees as § 1225(b)(2) detainees to strip them of bond eligibility.<sup>9</sup>

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<sup>9</sup> See, among others, Cerritos Echevarria v. Bondi, No. CV-25-03252-PHX (D. Ariz. Oct. 3, 2025); Loja Lema v. FCI Berlin, Warden, 25NH127P (D.N.H. Nov. 4, 2025); Dos Santos v. Noem, No. 25-12052-JEK (D. Mass. Aug. 14, 2025); Buenrostro-Mendez v. Bondi, 2025 WL 2886346, at \*3 & \*3 n.3, \*4 (S.D. Tex. Oct. 7, 2025); and Espinoza Andres v. Noem, No. H-25-5128, slip op. at 8–11 (S.D. Tex. Dec. 2, 2025).and related cases.

Petitioner falls squarely within § 1226(a). He was (1) placed into full removal proceedings under 8 U.S.C. § 1229a, (2) after residing in the interior of the United States, and (3) was arrested and detained pursuant to an immigration warrant issued under § 1226, not held continuously since a border encounter. Once the government elected to proceed by warrant arrest under § 1226 and standard § 1229a immigration court proceedings, Petitioner's detention is governed by § 1226(a)'s discretionary framework, including access to a custody-redetermination (bond) hearing before an IJ. Nothing in the text of § 1225(b)(2) authorizes DHS to re-characterize an interior, warrant-based § 1226 detention as § 1225(b)(2) "mandatory" custody in order to avoid bond jurisdiction.

#### **X. CONCLUSION**

Because 8 USC §1226(a) applies, Petitioner's continued detention without a bond hearing is unlawful. This Honorable Court should GRANT this petition and order him released so that the immigration courts can do their proper job and consider the merits of any application for relief he may file under the law.

**WHEREFORE**, we most respectfully request this Honorable Court to:

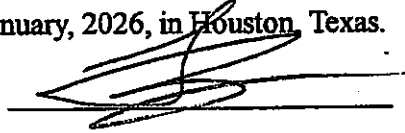
- ORDER that Respondents immediately release Mr. Contreras-Ruiz from custody, or in the alternative, provide him with a bond hearing under 8 U.S.C. § 1226(a) within five (5) days of the order of the court.
- If released, ORDER that Respondents must notify Mr. Contreras-Ruiz's counsel of the exact time and location of his release *no less than three hours prior* to releasing her.
- ORDER that Respondents provide the Court with a status update on the outcome of any bond hearing conducted pursuant to this Order.

- ORDER that if no bond hearing is held, advise the Court as to the status of Mr. Contreras-Ruiz's release from custody pursuant to this Order.
- ORDER that the parties should also notify the Court if the Government seeks a stay of any bond granted under 8 C.F.R. § 1003.19(i).

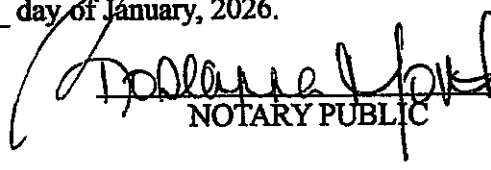
**VERIFIED PETITION**

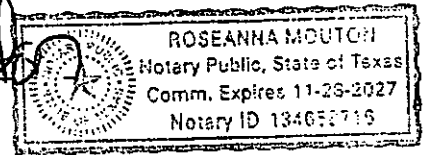
I hereby declare, under penalty of perjury, that the information contained in this petition is true and correct and that I have personally verified its contents before signing and submitting it.

Signed on this 6<sup>th</sup> day of January, 2026, in Houston, Texas.

  
Julie Soderlund, Attorney

Signed and Sworn before me by Julie Soderlund, whom I identify using her Texas driver's license, on this 6 day of January, 2026.

  
NOTARY PUBLIC



RESPECTFULLY SUBMITTED on this 6th day of January, 2026, by mail, in Houston,

FOR El Paso, Texas.

  
*Julie Soderlund*

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