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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

GARCIA GOMEZ, Hector,

Petitioner,

v.

LADEON FRANCIS, Field Office Director of
Enforcement and Removal Operations,
ATLANTA Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; Pamela BONDI, U.S. Attorney
General; Warden, D. Ray James FOLKSTON
ICE PROCESSING CENTER, *in their official
capacities*

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Agency number:



1 expressly applies to people who, like Petitioner, are charged as inadmissible for having entered
2 the U.S. without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory
4 framework and contrary to decades of agency practice applying § 1226(a) to people like
5 Petitioner.

6 7. Moreover, on November 20, 2025, the district court granted partial summary
7 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide
8 class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*,
9 No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov.
10 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado*
11 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at
12 *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond
13 Eligible Class, incorporating and extending declaratory judgment from Order Granting
14 Petitioners' Motion for Partial Summary Judgment).

15 8. The declaratory judgment held that the Bond Denial Class members are detained
16 under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under §
17 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. The court then issued a final
18 judgment in favor of the class on December 18, 2025.

19 9. Nonetheless, the EOIR and its subagency the Immigration Court and the DHS,
20 have blatantly refused to abide by the declaratory relief and have unlawfully ordered that class
21 members be denied the opportunity to be released on bond.

22 10. IJs have informed class members in bond hearings that they have been instructed
23 by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even
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1 with respect to class members, and that instead IJs remain bound to follow the agency’s prior
2 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

3 11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be
4 released unless Respondents provide a bond hearing under § 1226(a) within seven (7) days.

5 JURISDICTION

6 12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
7 Folkston D. Ray ICE Processing Center located in Folkston, Georgia.

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

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

13 VENUE

14 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
15 500 (1973), venue lies in the United States District Court for the Southern District of Georgia,
16 the judicial district in which Petitioner currently is detained.

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

20 REQUIREMENTS OF 28 U.S.C. § 2243

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

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

9 **PARTIES**

10 19. Petitioner Hector Garcia Gomez is a citizen of Guatemala who has been in
11 immigration detention since on or about December 2, 2025. Petitioner was detained and
12 subsequently turned over into ICE custody, who did not set bond, and Petitioner is unable to
13 obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure*
14 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15 20. Respondent Ladeon Francis is the Director of the Atlanta Field Office of ICE’s
16 EOIR division. As such, he is Petitioner’s immediate custodian and is responsible for Petitioner’s
17 detention and removal. He is named in his official capacity.

18 21. Respondent Kristi Noem is the Secretary of DHS. She is responsible for the
19 implementation and enforcement of the INA, and oversees ICE, which is responsible for
20 Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in
21 her official capacity.

1 22. Respondent Pamela Bondi is the Attorney General of the U.S. She is responsible
2 for the Department of Justice (“DOJ”), of which the EOIR and the immigration court system it
3 operates is a component agency. She is sued in her official capacity.

4 23. Respondent Warden is employed by the GEO Group, Inc., as Warden of
5 the Folkston D. Ray James ICE Processing Center where Petitioner is detained. He has
6 immediate physical custody of Petitioner. He is sued in his official capacity.

7 LEGAL FRAMEWORK

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

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

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

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

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

21 29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
22 Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No.
23 104--208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
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1 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
2 139 Stat. 3 (2025).

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

8 31. Thus, in the decades that followed, most people who entered without inspection
9 and were placed in standard removal proceedings received bond hearings, unless their criminal
10 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
11 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
12 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
13 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
14 “restates” the detention authority previously found at § 1252(a)).

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

18 33. The new policy, entitled “Interim Guidance Regarding Detention Authority for
19 Applicants for Admission,”¹ claims that all persons who entered the U.S. without inspection
20 shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
21 regardless of when a person is apprehended and affects those who have resided in the U.S. for
22 months, years, and even decades.

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

1 34. On September 5, 2025, the BIA adopted this same position in a published
2 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
3 U.S. without admission or parole are subject to detention under § 1225(b)(2)(A) and are
4 ineligible for IJ bond hearings.

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

8 36. Even before ICE or the BIA introduced these nationwide policies, IJs in the
9 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
10 entered the U.S. without inspection and who have since resided here. There, the United States
11 District Court in the Western District of Washington found that such a reading of the INA is
12 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
13 apprehended upon arrival to the U.S. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D.
14 Wash. 2025).

15 37. Subsequently, court after court has adopted the same reading of the INA's
16 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
17 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
18 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
19 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
20 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
21 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
22 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
23 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-

1 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
2 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
3 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
4 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
5 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
6 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
7 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
8 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
9 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
10 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
11 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
12 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
13 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
14 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
15 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
16 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
17 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

18 38. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
19 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
20 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
21 This District Court, in fact, has also rejected DHS’s and EOIR’s new interpretation, as well. *See,*
22 *e.g., Villa v. Normand*, 5:25-cv-89, consolidated cases.

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1 39. Section 1226(a) applies by default to all persons “pending a decision on whether
2 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
3 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

4 40. The text of § 1226 also explicitly applies to people charged as being inadmissible,
5 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
6 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
7 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
8 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
9 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
10 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025
11 WL 1869299, at *7.

12 41. Section 1226 therefore leaves no doubt that it applies to people who face charges
13 of being inadmissible to the U.S., including those who are present without admission or parole.

14 42. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
15 recently entered the U.S. The statute’s entire framework is premised on inspections at the border
16 of people who are “seeking admission” to the U.S. 8 U.S.C. § 1225(b)(2)(A). Indeed, the
17 Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s
18 borders and ports of entry, where the Government must determine whether a[] [noncitizen]
19 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

20 43. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
21 apply to people like Petitioner, who have already entered and were residing in the U.S. at the
22 time they were apprehended.

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

10 45. Despite this declaratory judgment holding that the Bond Denial Class members
11 are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on
12 bond under § 1225(b)(2)(A), class members are being blatantly refused bond hearings across the
13 country. *Maldonado Bautista*, 2025 WL 3289861, at *11.

14 **FACTS**

15 46. Petitioner Hector Garcia Gomez is a forty-eight (48) year old national of
16 Guatemala who has resided in the U.S. since he entered without inspection on or about 2000.

17 47. Petitioner has one (1) United States Citizen ("USC") child who is fifteen (15)
18 years old. He also has two (2) stepchildren in the U.S.

19 48. Petitioner has his own construction and line installation business and works
20 tirelessly to support his USC child, stepchildren, and family members.

21 49. Petitioner has regrettably received two (2) traffic tickets in the past for driving
22 without a license. Petitioner has no other criminal history.

1 50. On December 2, 2025, Petitioner was detained by law enforcement for operating a
2 commercial truck.

3 51. He was subsequently taken into ICE custody and transferred to the Folkston D.
4 Ray Processing Center in Folkston, Georgia, where he currently resides.

5 52. DHS initiated a Notice to Appear (“NTA”) on December 2, 2025, and
6 subsequently initiated removal proceedings before the Stewart Immigration Court. Thereafter,
7 proceedings were transferred to the Atlanta Immigration Court.

8 53. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. §
9 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I) as someone who entered the U.S. without inspection.

10 54. Petitioner has a pending Form 918, Supplement A, Petition for a Qualifying
11 Member of U-1 Recipient, which was granted bona fide determination on or about June 2024.

12 55. Petitioner plans to seek relief in the form of EOIR 42B, Application for
13 Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.

14 56. Petitioner’s next immigration court date, an Individual hearing, is scheduled for
15 March 20, 2026, at 1:00 p.m., with an IJ at the Atlanta Immigration Court.

16 57. Pursuant to *Matter of Yajure Hurtado*, the IJ is jurisdictionally barred from
17 granting Petitioner a bond during at the conclusion of a custody redetermination hearing.
18 Additionally, despite being a member of the certified nationwide class pursuant to *Maldonado*
19 *Bautista v. Santacruz*, the EOIR and its subagency the Immigration Court and the DHS have
20 blatantly refused to abide by the declaratory relief for class members similarly situated to this
21 petitioner before the Atlanta Immigration Court and other Immigration Courts across the
22 country.

1 58. As a result, Petitioner remains in detention. Without relief from this court, he
2 faces the prospect of months, or even years, in immigration custody, separated from his family
3 and community.

4 **CLAIMS FOR RELIEF**

5 **COUNT I**
6 **Violation of the INA**

7 59. Petitioner incorporates by reference the allegations of fact set forth in the
8 preceding paragraphs.

9 60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
10 noncitizens residing in the U.S. who are subject to the grounds of inadmissibility. As relevant
11 here, it does not apply to those who previously entered the country and have been residing in the
12 U.S. prior to being apprehended and placed in removal proceedings by Respondents. Such
13 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or §
14 1231.

15 61. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
16 detention and violates the INA.

17 **COUNT II**
18 **Violation of the Bond Regulations**

19 62. Petitioner incorporates by reference the allegations of fact set forth in preceding
20 paragraphs.

21 63. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
22 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
23 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
24 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present

1 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
2 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
3 (emphasis added). The agencies thus made clear that individuals who had entered without
4 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
5 1226 and its implementing regulations.

6 64. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
7 practice of applying § 1225(b)(2) to individuals like Petitioner.

8 65. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
9 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

10 **COUNT III**
11 **Violation of Due Process**

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

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

18 68. Petitioner has a fundamental interest in liberty and being free from official
19 restraint.

20 69. The government’s detention of Petitioner without a bond redetermination hearing
21 to determine whether he is a flight risk or danger to others violates his right to due process.
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1 **PRAYER FOR RELIEF**

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

- 3 a. Assume jurisdiction over this matter;
- 4 b. Order that Petitioner shall not be transferred outside the Southern District of
5 Georgia while this habeas petition is pending;
- 6 c. Issue an Order to Show Cause ordering Respondents to show cause why this
7 Petition should not be granted within three (3) days;
- 8 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
9 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
10 1226(a) within seven (7) days;
- 11 e. Declare that Petitioner's detention is unlawful;
- 12 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
13 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
14 law; and
- 15 g. Grant any other and further relief that this Court deems just and proper.

16
17 Dated: January 30, 2026

Respectfully submitted,

18
19 /s/ Matthew O. Boles

Matthew O. Boles

20 GA Bar No. 904287; LA Bar No. 37593

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23 *Counsel for Petitioner*

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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew O. Boles

Date: January 30, 2026