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8 **UNITED STATES DISTRICT COURT FOR THE**
9 **DISTRICT OF ARIZONA**

10 Kevin Manrique Peralta Ramos,

Case No.:

11 *Petitioner,*

12
13 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

14 Kristi Noem, *Secretary of Homeland Security*;
15 Todd Lyons, *Acting Director, U.S. Immigration*
16 *and Customs Enforcement*; Christopher
17 McGregor, *Field Office Director, Phoenix Field*
18 *Office, Immigration and Customs Enforcement*;
19 Pamela Bondi, *Attorney General*; Warden,
20 *Florence Correctional Center,*

Respondents.

21 **INTRODUCTION**

22
23 1. Petitioner Kevin Manrique Peralta Ramos (A ) is a citizen
24 of Honduras who entered the United States without inspection in 2011 and has not
25 left since. He had no encounters with U.S. immigration authorities until he was
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1 abruptly detained by Immigration and Customs Enforcement (“ICE”)
2 approximately fourteen years after his initial entry, in December 2025.

3
4 2. Petitioner is now detained by ICE under facts and circumstances that
5 place him squarely within ICE’s discretionary detention authority, 8 U.S.C. §
6 1226(a). Under that statute, Petitioner is eligible to seek release on bond from an
7 Immigration Judge (“IJ”). However, due to a new policy announced by ICE in July
8 2025, and now a recent Board of Immigration Appeals (BIA) decision that overturns
9 decades of settled law, Respondents contend that Petitioner is actually detained
10 under 8 U.S.C. § 1225(b)(2). While § 1225(b)(2) requires mandatory detention and
11 does not allow for release on bond, it only applies to noncitizens apprehended at the
12 border who are “seeking admission” to the U.S. Petitioner therefore brings this
13 action seeking a declaratory judgment from this Court that he is properly detained
14 (if at all) only pursuant to 8 U.S.C. § 1226(a) and an order that Respondents
15 schedule him for a discretionary bond hearing pursuant to § 1226(a) before an
16 Immigration Judge within 15 days.

21 JURISDICTION AND VENUE

22 3. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241;
23 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal
24 Question Jurisdiction. In addition, the individual Respondents are United States
25 officials. 28 U.S.C. § 1346(a)(2).
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1 4. This Court also has federal question jurisdiction, through the APA, to
2 “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse
3 of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA
4 review of a final agency action may proceed, absent a special statutory review
5 proceeding, by “any applicable form of legal action, including actions for
6 declaratory judgments or writs of prohibitory or mandatory injunction or habeas
7 corpus, in a court of competent jurisdiction.” 5 U.S.C. § 703.

10 5. Venue lies in this District because Petitioner is currently detained at
11 the Florence Correctional Center, within this judicial district; and each Respondent
12 is an agency or officer of the United States sued in his or her official capacity. 28
13 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Christopher McGregor, the
14 Field Office Director for the Phoenix ICE Field Office, maintains his principal place
15 of business in Phoenix, Arizona.

18 THE PARTIES

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20 6. Petitioner Kevin Manrique Peralta Ramos is a native of and citizen of
21 Honduras. He is currently detained by Respondents in Florence, Arizona.

22 7. Respondent Kristi Noem is the Secretary of the Department of
23 Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all
24 immigration enforcement in the United States.
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1 8. Respondent Todd Lyons is the Acting Director of U.S. Immigration
2 and Customs Enforcement (“ICE”). He is the head of the federal agency responsible
3 for all immigration enforcement in the United States.
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5 9. Respondent Christopher McGregor, the Field Office Director of the
6 U.S. Immigration and Customs Enforcement (“ICE”) Phoenix Field Office, is
7 responsible for overseeing ICE operations pertaining to noncitizens within its
8 territorial jurisdiction, such as Petitioner, including detentions, enforcement, and
9 removal operations. His regular place of business is in Phoenix, Arizona. He is the
10 immediate legal custodian of Petitioner for purposes of a federal habeas petition.
11

12 10. Respondent Pamela Bondi is the Attorney General of the United
13 States. The Immigration Judges who decide removal cases and application for relief
14 from removal do so as her designees.
15

16 11. Respondent Warden of the Florence Correctional Center in Florence,
17 Arizona is the immediate custodian holding Petitioner in physical custody.
18

19 12. All government Respondents are sued in their official capacities.
20

21 **LEGAL BACKGROUND**

22 **A. Immigration Detention Legal Framework**

23 13. When a noncitizen is alleged to have violated immigration laws, they
24 are generally placed into traditional removal proceedings, during which an
25 immigration judge will determine whether they are removable and then whether
26 they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.
27
28

1 14. Detention is authorized for “certain aliens already in the country
2 pending the outcome of removal proceedings under § 1226(a) and 1126(c).” *See*
3 *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an
4 individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a)
5 generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been
6 arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has
7 been described as the “default” provision for immigration detention for those
8 subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), “[e]xcept
9 as provided in subsection (c) of this section,’ the Attorney General ‘may release’ an
10 alien detained under § 1226(a) ‘on ...bond’ or ‘conditional parole.’” *Id.*

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14 15. Alternatively, mandatory detention is authorized for “certain aliens
15 seeking admission into the country under §§ 1225(b)(1) and 1225(b)(2),” [emphasis
16 added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and
17 determined to be “applicants for admission” may be subject to mandatory detention
18 under two separate subsections. Applicants for admission include someone:
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21 “present in the United States who has not been admitted or who arrives
22 in the United States (whether or not at a designated port of arrival and
23 including an alien who is brought to the United States after having been
24 interdicted in international or United States waters) shall be deemed for the
purposes of this chapter to be an applicant for admission.”

25 § 1225(a)(1).

26 16. The first subset of noncitizens, under 8 U.S.C. § 1225(b)(1), may be
27 subject to expedited removal and mandatory detention if they are determined to be
28 an “arriving alien,” and if they have not been physically present in the United States

1 continuously for a two-year period immediately prior to their apprehension. The
2 regulations define an “arriving alien” as:

3
4 “an applicant for admission coming or attempting to come into the United
5 States at a port-of-entry, or an alien seeking transit through the United States
6 at a port-of-entry, or an alien interdicted in international or United States
7 waters and brought into the United States by any means, whether or not to a
8 designated port-of-entry, and regardless of the means of transport.”

9 8 C.F.R. §

10 17. Otherwise, 8 U.S.C. § 1225(b)(2)(A) provides for the detention of an
11 “applicant for admission” specifically when “the examining immigration officer
12 determines that an alien seeking admission is not clearly and beyond a doubt entitled
13 to be admitted, the alien shall be detained for a proceeding under section 1229a of
14 this title,” *i.e.* for traditional removal proceedings [emphasis added].

15 18. An “arriving alien” or an applicant for admission “seeking admission”
16 may only be released from detention on parole (which is a form of release on
17 recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no
18 bond available to an arriving alien or applicant for admission seeking admission.
19 *Id.* There is no such thing as a “parole bond” – a release must be either parole under
20 § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

21
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23 19. For a noncitizen subject to discretionary detention under 8 U.S.C. §
24 1226(a), ICE makes an initial custody determination to either set a bond or hold the
25 individual at no bond. The noncitizen may then seek a review of ICE’s initial
26 custody determination before the IJ (a “custody review hearing”), who has the
27 authority to modify ICE’s custody determination and set bond in a case in which
28

1 ICE has designated no bond, lower bond when ICE has set a cash bond amount, or
2 deny bond completely. 8 C.F.R. § 1003.19.

3
4 20. Custody review hearings are separate from hearings in the underlying
5 removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the
6 IJ, she must still appear in immigration court for the IJ to determine her removability
7 and hear any claim for relief from removal. At a custody review hearing, once
8 jurisdiction over bond is established, the IJ's inquiry is limited to whether the
9 detainee is a danger to the community or a flight risk, and bond may only be granted
10 when an IJ has determined that the detainee meets her burden of proof to show that
11 she is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

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13
14 21. For decades, it has been Respondents' practice to afford § 1226(a)
15 discretionary bond hearings and custody review hearings to those individuals who
16 have been encountered neither at a point of entry nor while seeking admission to
17 the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB),
18 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation*
19 *adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR
20 (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed
21 application of § 1226 is also belied by the Department of Homeland Security's
22 'longstanding practice' of treating noncitizens taken into custody while living in the
23 United States, including those detained and found inadmissible upon inspection and
24 then released into the United States with the government's acquiescence, who have
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1 committed no crime after release, as detained under § 1226(a).” citing *Loper Bright*
2 *Enters. v. Raimondo*, 603 U.S. 369, 386 (2024)).

3
4 **B. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)**

5 22. On July 8, 2025, Respondent ICE issued new interim guidance that
6 announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE
7 memorandum “Interim Guidance Regarding Detention Authority for Applications
8 for Admission.”¹ This memo concerns the detention of “applicants for admission”
9 as defined by § 1225(a)(1). “Effective immediately, it is the position of DHS that
10 such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and
11 may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. §
12 1182(d)(5)].” *Id.* DHS is explicit that this new policy is a marked deviation from
13 prior interpretation and treatment of affected noncitizens. *Id.* (“For custody
14 purposes, these aliens are now treated in the same manner that “arriving aliens”
15 have historically been treated.”)

16
17 23. In addition to the announcement re-interpreting § 1225(b)(2), the
18 memo further clarifies that “[t]he only aliens eligible for a custody determination
19 and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C.
20 § 1226(a)] during removal proceedings are aliens admitted to the United States and
21 chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the
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¹ Available at <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>

1 exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. §
2 1226(c)].” *Id.*

3
4 24. Moreover, ICE maintains that “DHS does not take the position that
5 prior releases of applicants for admission pursuant to INA § 236(a) were releases
6 on parole under INA § 212(d)(5) based on this change in legal position.” *Id.* ICE
7 fails to clarify under what legal authority, then, those prior releases were
8 effectuated. Rather, ICE signals the resulting lack of “correct” paperwork is
9 nonetheless permissible. *Id.* (“Accordingly, ERO and HIS are not required to
10 ‘correct’ the release paperwork by issuing INA § 212(d)(5) parole paperwork.”)

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13 25. Nationwide implementation of the ICE § 1225(b)(2) mass detention
14 policy ensued.

15
16 **C. Recent BIA decision in *Matter of Yajure Hurtado***

17 26. On September 5, 2025, the Board of Immigration Appeals (BIA),
18 which oversees all appeals of IJ decisions including custody redeterminations,
19 upheld ICE’s re-interpretation of § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N
20 Dec. 216 (BIA 2025).

21
22 27. The BIA held that the respondent in that case was an “applicant for
23 admission” within the scope of § 1225(b), and therefore subject to mandatory
24 detention.

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26 28. The BIA characterized the issue before it as “one of statutory
27 construction: Does the INA require that all applicants for admission, even those like
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1 the respondent who have entered without admission or inspection and have been
2 residing in the United States for years without lawful status, be subject to mandatory
3 detention for the duration of their immigration proceedings, and thus the
4 Immigration Judge lacks authority over a bond request filed by an alien in this
5 category?" [emphasis added]. *Id.* at 220.
6

7
8 29. The BIA reasoned that individuals "who surreptitiously cross into the
9 United States remain applicants for admission until and unless they are lawfully
10 inspected and admitted by an immigration officer." *Id.* at 228.
11

12 30. The BIA acknowledged the decades of precedent preceding its
13 decision that authorized release of individuals present without having been
14 inspected and admitted or paroled under § 1226(a). *Id.* at 225, FN6 ("We
15 acknowledge that for years Immigration Judges have conducted bond hearings for
16 aliens who entered the United States without inspection. However, we do not recall
17 either DHS or its predecessor, the Immigration and Naturalization Service,
18 previously raising the current issue that is before us. In fact, the supplemental
19 information for the 1997 Interim Rule titled 'Inspection and Expedited Removal of
20 Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
21 Asylum Procedures,' 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997), reflects that the
22 Immigration and Naturalization Service took the position at that time that '[d]espite
23 being applicants for admission, aliens who are present without having been
24 admitted or paroled (formerly referred to as aliens who entered without inspection)
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1 will be eligible for bond and bond redetermination.”)

2 31. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction
3 under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.*
4 at 229.

5 32. The BIA decision is binding on all immigration judges nationwide.

6
7
8 **D. Class Action in *Maldonado Bautista***

9 33. In the U.S. District Court for the Central District of California, a class
10 challenged the July 2025 policy of applying § 1225(b)(2) to individuals who
11 previously entered the U.S. without inspection. *Maldonado Bautista v. Santacruz*, -
12 -- F.Supp.3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20 2025). On November 20,
13 2025, summary judgment was partially granted in favor of the putative class in
14 *Maldonado Bautista*, holding that ICE’s July 2025 policy was unlawful. *Id.* at *10
15 (“Thus, Respondents’ expansive interpretation of ‘applicants for admission’ would
16 effectively nullify a portion of the INA through the DHS’s legislative or interpretive
17 exercise of power. Neither is appropriate under the separation of powers.”). The
18 court held that § 1226(a) applies to the putative class. *Id.* at 11. The court declined
19 to issue a final judgment under Fed. R. Civ. Pro. 54(b), as the motion for class
20 certification was still pending. *Id.*

21 34. On November 25, 2025, the court certified “Bond Eligible Class” of:

22 “All noncitizens in the United States without lawful status who (1)
23 have entered or will enter the United States without inspection; (2) were not
24 or will not be apprehended upon arrival; and (3) are not or will not be subject
25 to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the

1 Department of Homeland Security makes an initial custody determination.”
2 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at
3 *9 (C.D. Cal. Nov. 25, 2025). The *Maldonado Bautista* court then set a status
4 conference for early 2026. *Id.*

5
6 35. On December 18, 2025, the court granted the motion to reconsider, in
7 light of the fact that immigration judges nationwide were refusing to follow the
8 court’s prior summary judgment decision, and granted a final
9 judgment. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, 2025 WL
10 3678485 (C.D. Cal. Dec. 18, 2025). Following continued noncompliance by
11 EOIR, the court granted Petitioner’s motion to execute the judgment and expressly
12 vacated *Yahure Hurtado. Maldonado Bautista v. Santacruz*, ---F.Supp.3d---, No.
13 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal. Feb. 18,
14 2026). The court also required the government to provide written notice to all
15 potential class members. *Id.* The government appealed the decision to the Ninth
16 Circuit, who then granted a temporary administrative stay of the district court’s
17 order. Order, *Maldonado Bautista v. U.S. Dep’t of Homeland Security*, No. 26-
18 1044, Dkt. No. 5.1 (9th Cir. Mar. 6, 2026).

23 FACTS

24
25 36. Petitioner Kevin Manrique Peralta Ramos is a 33-year-old citizen of
26 Honduras. He entered the U.S. without inspection in 2011 and has not left since.

27 37. On December 10, 2025, Petitioner was abruptly arrested and detained
28 by ICE on his way to work. Petitioner is currently detained at the Florence

Correctional Center, in Florence, Arizona. *See* ICE Detainee Locator information, (available at <https://locator.ice.gov/> (last visited March 23, 2026)):



38. On February 18, 2026, Petitioner's application for cancellation of removal for non-lawful permanent residents was denied by the IJ. Ex. 1, IJ Order. Petitioner timely appealed that decision, and he currently has a pending appeal before the BIA. He is therefore not subject to a final order of removal. Ex. 2, Filing Receipt for Appeal.

1 39. Petitioner is a valued member of his family and community who has
2 been deeply missed while he has been in custody. He is the father of two young
3 U.S. citizen daughters, ages two and four, who share a strong bond with him.
4 Petitioner has additional family ties in the U.S., including to his longtime partner
5 and his lawful permanent resident sister, and he counts on the support of a large
6 circle of friends. He is also actively involved in his church community, where he
7 volunteers during services and assists others in need.
8

9
10 40. Since Petitioner's detention on December 10, 2025, his family has
11 experienced severe emotional distress and financial instability due to his sudden
12 absence. He is the principal provider for his two young children, and they have
13 struggled mightily in his absence.
14

15
16 41. All Respondents consider that Petitioner is detained pursuant to 8
17 U.S.C. § 1225(b)(2). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
18 2025). As a result, exhaustion of administrative remedies would be futile.
19

20 **FIRST CLAIM FOR RELIEF:**

21 **No-Bond Detention in Violation of 8 U.S.C. § 1226(a)**

22 42. Petitioner re-alleges and incorporates by reference the preceding
23 paragraphs 1-41.
24

25 43. Since Petitioner is not an applicant for admission "seeking admission"
26 or "an arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no
27 disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is
28

1 entitled to a bond redetermination hearing by an immigration judge pursuant to 8
2 U.S.C. § 1226(a).
3

4 44. Respondents' actions, as set forth herein, violate Petitioner's statutory
5 right to a bond redetermination hearing in front of an immigration judge.
6

7 **SECOND CLAIM FOR RELIEF:**

8 **Detention in Violation of Due Process**

9 45. Petitioner re-alleges and incorporates by reference the preceding
10 paragraphs 1-41.
11

12 46. Immigration detention is civil, not criminal, in nature. There are only
13 two permissible reasons for immigration detention: to avoid flight risk, and to avoid
14 danger to the community.
15

16 47. After entering the United States, Petitioner went on to develop ties to
17 the community over the course of approximately fifteen years. Petitioner is
18 therefore a "person" within the meaning of the Due Process Clause of the Fifth
19 Amendment to the U.S. Constitution, and he has a liberty interest in freedom from
20 physical restraint.
21

22 48. Respondents' actions in detaining Petitioner without a bond hearing
23 before a neutral and detached magistrate deprives him of his rights without due
24 process of law.
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26 **REQUEST FOR RELIEF**

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1 Petitioner prays for judgment against Respondents and respectfully requests that the
2 Court enters an order:

- 3
- 4 a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of
5 Petitioner's detention in fact and in law, forthwith;
- 6 b) Enjoin Respondents from holding Petitioner subject to detention under 8
7 U.S.C. § 1225(b)(2) and denying him a bond hearing on that basis;
- 8 c) Enjoin Petitioner's transfer outside of this judicial district pending this
9 litigation;
- 10 d) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);
- 11 e) Order Petitioner's immediate release from custody;
- 12 f) Order, in the alternative, Petitioner's immediate release and that Respondents
13 conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within
14 15 days;
- 15 g) Grant the writ of habeas corpus and order Respondents to release Petitioner
16 forthwith, upon payment of the bond as ordered by the Immigration Judge;
- 17 h) Award Petitioner his costs of suit; and
- 18 i) Grant any other relief that this Court deems just and proper.
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26 Respectfully submitted,

27
28 //s// Lauren Hodges
Lauren Hodges, Esq.

Dated: March 23, 2026

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CERTIFICATE OF SERVICE

I, Lauren Hodges, hereby certify that on this 23rd day of March 2026, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA**

Kevin Manrique Peralta Ramos,

Petitioner,

v.

Kristi Noem, *et al.* ,

Respondents.

Case No.:

INDEX OF EXHIBITS

Exhibit 1) IJ Order, Feb. 18, 2026

Exhibit 2) Filing Receipt for Appeal, March 16, 2026

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Exhibit 1: IJ Order, Feb. 18, 2026

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**Exhibit 2: Filing Receipt for Appeal,
March 16, 2026**

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