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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ARIA TADAYYONI MOGHADDAM,

Petitioner,

v.

CHRISTOPHER LAROSE, Senior Warden, Otay Mesa Detention Center; *et al.*,

Respondents.

Case No.: 26-cv-02018-BAS-MSB

RETURN TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner requests that the Court order his release from Immigration and Customs Enforcement (ICE) custody. However, as an applicant for admission to the United States found to have a credible fear of persecution, Petitioner's detention is mandated by 8 U.S.C. § 1225(b)(1)(B)(ii) until the conclusion of his removal proceedings. Accordingly, the Court should deny Petitioner's request for relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Iran, who entered the United States without inspection near San Diego, California, on March 25, 2025. *See* Exhibit 1 (Record of Deportable/Inadmissible Alien).[1] Petitioner did not then have any valid entry documents to enter the United States. He was determined to be inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), placed in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1), and taken into Immigration and Customs Enforcement (ICE) custody pursuant to 8 U.S.C. § 1225(b)(1)(B). Exhibit 2 (Notice and Order of Expedited Removal). Petitioner was then interviewed by an asylum officer, pursuant to 8 U.S.C. § 1225(b)(1)(B). After receiving a positive credible fear determination, Petitioner was issued a Notice to Appear (NTA) on June 4, 2025. Exhibit 3 (Notice to Appear). The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. Petitioner's initial merits hearing was scheduled on June 16, 2025. *See* Exhibits 4 (Immigration Adjournment Proceedings) and 5.[2] Petitioner continued this hearing several times to prepare his case. *Id.* On August 15, 2025, Petitioner applied for Asylum relief under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and relief under the Convention Against Torture. *Id.* Petitioner's final merits hearing is scheduled for April 16, 2026. Exhibit 6. As a result, there is no administratively final order of removal at this time. Petitioner remains mandatorily detained under 8 U.S.C. § 1225(b)(1)(B).

III. STATUTORY BACKGROUND

Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1225, applies to an "applicant for admission," defined as an "alien present in the United States who has not been admitted" or "who arrives in the United States." 8 U.S.C. § 1225(a)(1). "[A]pplicants for admission fall into one of two categories, those

[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from Immigration and Customs Enforcement (ICE) counsel.

[2] Exhibit 5 contains Case and Adjournment Identification Codes.

1 covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*,
2 583 U.S. 281, 287 (2018).
3 Section 1225(b)(1) applies to arriving aliens and "certain other" aliens "initially
4 determined to be inadmissible due to fraud, misrepresentation, or lack of valid
5 document." *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). These aliens are generally subject
6 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if "the alien
7 indicates an intention to apply for asylum . . . or a fear of persecution," immigration
8 officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).
9 "If the officer determines at the time of the interview that [the] alien has a credible fear
10 of persecution . . . , the alien *shall be detained* for further consideration of the
11 application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). If the alien
12 does not indicate an intent to apply for asylum, does not express a fear of persecution,
13 or is "found not to have such a fear," they "shall be detained . . . until removed" from
14 the United States. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).
15 **IV. ARGUMENT**
16 **A. Petitioner is Lawfully Detained Under the INA and the Constitution.**
17 Petitioner's detention is statutorily mandated under 8 U.S.C. § 1225(b)(1)(B)(ii)
18 and has not been unconstitutionally prolonged. Accordingly, the Court must deny his
19 habeas petition.
20 **1. Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(1).**
21 Petitioner's claim fails because he is subject to mandatory detention under 8
22 U.S.C. § 1225(b)(1). Under 8 U.S.C. § 1225(a)(1), an "applicant for admission" is
23 defined as an "alien present in the United States who has not been admitted or who
24 arrives in the United States." As explained above, applicants for admission "fall into
25 one of two categories, those covered by § 1225(b)(1) and those covered by §
26 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(1) – the provision relevant
27 here – applies because Petitioner was found in the United States without proper
28 documents authorizing his presence. And that statute mandates detention when an

immigration officer determines that the alien has a credible fear of persecution. *See* 8 U.S.C. § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that [the] alien has a credible fear of persecution . . . , the alien *shall be detained* for further consideration of the application for asylum.") (emphasis added); *see also Matter of M-S*, 27 I. & N. Dec. 509, 519 (AG 2019) ("all aliens transferred from expedited to full [removal] proceedings after establishing a credible fear are ineligible for bond").

Petitioner requests that the Court order his release from ICE custody. But the Supreme Court has rejected such contention, explaining: "Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded. . . . Nothing in the statutory text imposes any limit on the length of detention. And neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings." *Jennings*, 583 U.S. at 297. Except for temporary parole granted at the discretion of the Attorney General "for urgent humanitarian reasons or significant public benefit" under 8 U.S.C. § 1182(d)(5), "there are no *other* circumstances under which aliens detained under § 1225(b) may be released." *Id.* at 300 (emphasis in original).

As Petitioner's removal proceedings are pending, and he has not been granted temporary parole, section 1225(b)(1)(B) mandates his detention until the proceedings have concluded. *Jennings*, 583 U.S. at 297 ("Once those proceedings end, detention under § 1225(b) must end as well."). Since Petitioner is lawfully detained under section 1225(b)(1)(B) and the statute does not entitle him to release at this time, his petition must be denied. *See, e.g.*, *Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to find that the petitioner had no right to release or a bond hearing).

2. Petitioner's detention is not unconstitutionally prolonged.

In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C. § 1225(b). The Supreme Court stated that, "[r]ead most naturally, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain

1 proceedings have concluded." *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)
2 nor § 1225(b)(2) "impose[] any limit on the length of detention" and "neither
3 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings." *Id.* The
4 Supreme Court added that the sole means of release for noncitizens detained pursuant
5 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary
6 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300
7 ("That express exception to detention implies that there are no *other* circumstances
8 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.") (emphasis
9 in original). "In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens
10 throughout the completion of applicable proceedings[.]" *Id.* at 302.

11 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
12 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
13 detention without a hearing violated his constitutional rights. The Supreme Court
14 rejected the petition, concluding that the noncitizen's continued detention did not
15 deprive him of any due process rights, stating: "[A]n alien on the threshold of initial
16 entry stands on a different footing: 'Whatever the procedure authorized by Congress
17 is, it is due process as far as an alien denied entry is concerned.'" *Id.* at 212 (citation
18 omitted).

19 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
20 (2020), the Supreme Court once again addressed the due process rights of inadmissible
21 arriving noncitizens seeking initial entry into the United States. The Supreme Court
22 stated that such individuals have no due process rights "other than those afforded by
23 statute." *Id.* at 107; *see also id.* at 140 ("[A]n alien in respondent's position has only
24 those rights regarding admission that Congress has provided by statute."). The
25 Supreme Court noted that its determination was supported by "more than a century of
26 precedent." *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660
27 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.
28 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only due process

Petitioner is afforded falls under section 1225(b), the Court must reject his claim that his detention violates the Fifth Amendment's Due Process Clause and deny his requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) ("The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'") (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4 ("Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond hearing.").

Since the Supreme Court's decision in *Thuraissigiam*, numerous published decisions have acknowledged *Thuraissigiam*'s impact on the precise Fifth Amendment Due Process Clause that Petitioner might have raised in this petition: Does an alien detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond hearing after being detained for a certain period of time? The answer is no. *See Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, *2 (S.D. Cal. June 10, 2024) ("[T]he Court finds that Petitioner has no Fifth Amendment right to a bond hearing pending his removal proceedings."); *Zelaya-Gonzalez*, 2023 WL 3103811. *3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*, 535 F. Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

Even if the Court infers a constitutional right against prolonged mandatory detention, Petitioner's claim still fails. "In general, as detention continues past a year, courts become extremely wary of permitting continued custody absent a bond hearing." *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal. April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-

1 BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half
2 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL
3 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,
4 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at *2 (S.D. Cal. March 29, 2019) (two
5 years). Petitioner's detention falls short of the length courts have found to raise due
6 process concerns.

7 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,
8 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g.*, *Sanchez-Rivera*, 2023 WL 139801,
9 at *5 ("[W]hile the *Mathews* [*v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-
10 suited to determining whether due process requires a second bond hearing, they are not
11 particularly dispositive of whether prolonged mandatory detention has become
12 unreasonable in a particular case."); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-
13 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding
14 "the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of
15 the possible constitutional implications of Petitioner's ongoing detention without
16 process.").

17 Under *Lopez*, to determine whether continued mandatory detention has become
18 unreasonable, "the Court will look to the total length of detention to date, the likely
19 duration of future detention, and the delays in the removal proceedings caused by the
20 petitioner and the government." 631 F. Supp. 3d at 879.

21 Petitioner's detention just recently lapsed 12 months. Courts in this district have
22 found detention for much longer periods to be unreasonably prolonged. *See Durand v.*
23 *Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at *5 (S.D. Cal. Feb. 21,
24 2024) (32 months); *Sibomana*, 2023 WL 3028093, at *4 (19 months); *Sanchez-Rivera*,
25 2023 WL 139801 at *6 (three years); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D.
26 Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at *1 (42 months). The length of
27 detention "is the most important factor." *Sanchez-Rivera*, 2023 WL 139801, at *6
28 (citation omitted). Petitioner's current detention does not fall within the range those

courts have found to be unreasonable. Moreover, the length of Petitioner's detention, by itself, does not favor granting habeas relief. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12, 2025) ("The Court agrees with Respondents that the length of Petitioner's detention to date—almost 12 months—does not by itself, without more, establish prolonged detention in violation of due process."). Not only does the length of Petitioner's detention fall comparatively short of the length courts in this district have found to warrant habeas relief, but the other *Lopez* factors do not favor habeas relief either. To begin, Petitioner claims neither he "nor his attorney ever asked for any unreasonable extensions." ECF No. 7 at 3. However, Petitioner's assertion is contradicted by the record. According to Petitioner's immigration adjournment history, Petitioner delayed the merits hearing at least four times during his detention. *See* Exhibits 4 and 5. An IJ's unexpected illness accounts for another continued hearing. *Id.* Moreover, Petitioner did not file an application for relief until August 2025. *Id.* Petitioner's final merits hearing is only *three* days away, on April 16, 2026. Exhibit 6. As such, there is no administratively final decision on Petitioner's case.

Balancing the above factors, the record does not support a finding that "detention has become so unreasonable as to require an initial bond hearing," *Sanchez-Rivera*, 2023 WL 139801, at *6, or an order requiring Petitioner's release.

Accordingly, Petitioner is subject to mandatory detention, which does not violate due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL 92069 (S.D. Cal. Jan. 13, 2026) ("Petitioner's length of detention, without more, does not render his detention unreasonable."); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No. 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No. 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at *6-8.

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1 **B. Petitioner Improperly Argues Immigration Judges' Neutrality is**
2 **Compromised.**

3 Respondents wholly reject Petitioner's claim that local Immigration Judges
4 ("IJs") are compromised such that this Court should grant immediate release or
5 micromanage the custody redetermination process. This level of district court
6 involvement, in addition to being unwarranted and unnecessary, severely undermines
7 administrative exhaustion principles. Petitioner has administrative remedies available if
8 he disagrees with the IJ's bond ruling. The proper avenue for any grievance in the event
9 of bond denial is to utilize the administrative scheme and appeal his bond denial to the
10 Board of Immigration Appeals (BIA).

11 The BIA is an appellate body within the Executive Office for Immigration
12 Review and possesses delegated authority from the Attorney General. 8 C.F.R.
13 §§ 1003.1(a)(1), (d)(1). The BIA is "charged with the review of those administrative
14 adjudications under the [Immigration and Nationality Act (INA)] that the Attorney
15 General may by regulation assign to it," including immigration judge custody
16 determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves
17 particular disputes before it, but is also directed to, "through precedent decisions, . . .
18 provide clear and uniform guidance to [the Department of Homeland Security], the
19 immigration judges, and the general public on the proper interpretation and
20 administration of the [INA] and its implementing regulations." 8 C.F.R. § 1003.1(d)(1).
21 Decisions rendered by the BIA are final, except for those reviewed by the Attorney
22 General. 8 C.F.R. § 1003.1(d)(7).

23 "District Courts are authorized by 28 U.S.C § 2241 to consider petitions for
24 habeas corpus." *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated*
25 *on other grounds by Hernandez–Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth
26 Circuit "require[s], as a prudential matter, that habeas petitioners exhaust available
27 judicial and administrative remedies before seeking relief under § 2241." *Id.*
28 Specifically, "courts may require prudential exhaustion if (1) agency expertise makes

1 agency consideration necessary to generate a proper record and reach a proper decision;
2 (2) relaxation of the requirement would encourage the deliberate bypass of the
3 administrative scheme; and (3) administrative review is likely to allow the agency to
4 correct its own mistakes and to preclude the need for judicial review." *Puga v. Chertoff*,
5 488 F.3d 812, 815 (9th Cir. 2007) (cleaned up).

6 Here, agency expertise is required to determine immigration bond decisions.
7 "[T]he BIA is the subject-matter expert in immigration bond decisions[.]" *Aden v.*
8 *Nielsen*, No. C18-1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *see*
9 *also Delgado v. Sessions*, No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D.
10 Wash. Sept. 15, 2017) (noting a denial of bond to an immigration detainee was "a
11 question well suited for agency expertise"). Allowing a skip-the-BIA-and-go-straight-
12 to-federal-court strategy would needlessly increase the burden on district courts. *See*
13 *Bd. of Tr. of the Constr. Laborers' Pension Trust for S. Cal.. v. M.M. Sundt Constr. Co.*,
14 37 F.3d 1419, 1420 (9th Cir. 1994) ("Judicial economy is an important purpose of
15 exhaustion requirements.") (citation omitted); *Santos-Zacaria*, 598 U.S. at 418 (noting
16 "exhaustion promotes efficiency"). As this Court noted, if the immigration judge errs,
17 the district court should allow the administrative process to correct itself. *See Sharma*
18 *v. Archambrault*, 2026 WL 381611, at *2 (S.D. Cal. February 11, 2026) ("Exhaustion
19 would protect administrative authority and promote judicial efficiency. Release on bond
20 falls within the agency's discretionary power and falls within its special expertise.").

21 Moreover, as stated above, the government vigorously disputes Petitioner's
22 contention that Immigration Judges in this district are biased or compromised.
23 Petitioner's "trend evidence" lacks foundation and relevance and is replete with
24 inadmissible opinions and hearsay. It wholly fails to establish that government
25 procedures governing bond proceedings violate due process. *Rodriguez Diaz*, 53 F.4th
26 at 1189, 1213 (quoting *Ching v. Mayorkas*, 725 F.3d 1149, 1156 (9th Cir. 2013) ("It is
27 process that the procedural due process right protects, not the outcome.").

28 Significantly, despite Petitioner's assertion that all IJs are compromised by fear

of termination, counsel cites no habeas case from this district where the Court found a local IJ deliberately flouted a court order to hold a bona fide bond hearing or where DHS failed to comply with an immigration judge's order granting bond following a district court order. To the contrary, numerous habeas cases in this district confirm that IJs have complied in good faith with this court's orders, conducted individualized bond hearings, and granted bond in many cases, often on a very quick turnaround. *See, e.g., Ramirez Ceja v. Divver*, No. 26-cv-00254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2025) (Joint Status Report reflecting immigration judge granted bond at Otay Mesa Immigration Court); *Prabhpreet v. LaRose*, No. 26-cv-00393-JES-SBC, ECF No. 10 (S.D. Cal. Feb. 19, 2026) (same); *I.E. v. Casey,* No. 25-cv-03227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec. 16, 2025) (same for Imperial Regional Detention Facility); *Gautam v. Correctional Corp. of Am.,* No. 25-cv-03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice of Compliance); *Alemanji v. Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D. Cal. Dec. 23, 2025) (Notice Confirming Bond Hearing); *Xie v. LaRose*, No. 26-cv-00529-RBM-DDL (Notice of Compliance; bond granted)(S.D. Cal. March 4, 2026) *Ding v. LaRose*, 26-cv-01117-TWR-JLB (bond granted)(S.D. Cal. March 4, 2026); *Jacinto Rodriguez v. LaRose*, 26-cv-00693-BAS-DEB (S.D. Cal. Feb. 24, 2026) (bond granted); and *Lorenzo v. LaRose*, 26cv1041-LL (S.D. Cal. March 2, 2026) (bond granted); 26 CV 1338 JO VET.) (bond granted); *Luis Alberto Corado-Serrano v. Bondi*, 26-CV-1338-JO VET (S.D. Cal. March 27, 2026) (bond granted); *Paniagua-Padilla v. Bondi*, 26-cv-01332-JO-VET (S.D. Cal. April 1, 2026) (bond granted); and *Fawaz Ali v. Mullin*, 26-cv-1565 JES-JLB (S.D. Cal. April 10, 2026) (Notice of Compliance; bond granted). Based on this record, there is no reason for the Court to take any action beyond the merits of the underlying habeas petition.

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V. CONCLUSION

2 For the reasons stated herein, Respondents respectfully request that the Court
3 deny Petitioner's request for relief.
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5 Dated: April 13, 2026

Respectfully submitted,

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7
s/ Camille Savedra
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