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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF GEORGIA
6 ATLANTA DIVISION

7 J. LUZ SANCHEZ LUNA



8
9 Petitioner,

Case No.

10 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

11 WARDEN, Federal Correction Institute
12 (FCI); MARKWAYNE MULLIN
13 Secretary, U.S. Department of Homeland
14 Security.

Respondents.

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2 **INTRODUCTION**

3 1. Petitioner, J. Luz Sanchez Luna respectfully petitions this Court for a
4 writ of habeas corpus to challenge his unlawful detention by the Department of
5 Homeland Security.

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7 2. Petitioner has been detained since March 13, 2026, at Federal
8 Correction Institute (FCI) in Atlanta, GA. DHS has refused to provide him any bond
9 hearing based on a recently adopted legal interpretation asserting that individuals
10 who entered the United States without inspection must be detained under 8 U.S.C. §
11 1225(b)(2) and are therefore categorically ineligible for release on bond.

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13 3. That interpretation is contrary to the text of the Immigration and
14 Nationality Act, decades of agency practice, and recent federal court decisions—
15 including decisions of this Court—holding that individuals apprehended inside the
16 United States years after entry are detained under 8 U.S.C. § 1226(a) and are entitled
17 to individualized custody determinations.

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19 4. Because immigration judges are refusing to exercise jurisdiction over
20 custody determinations based on the Board of Immigration Appeals' decision in
21 *Matter of Yajure Hurtado*, Petitioner has no administrative avenue to challenge his
22 detention.

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24 5. Habeas corpus therefore provides the only meaningful mechanism to
vindicate Petitioner's statutory and constitutional rights. Petitioner respectfully

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2 requests that this Court order his immediate release, or in the alternative, set a
3 reasonable bond, or at minimum, order a constitutionally compliant bond hearing.

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5 **JURISDICTION**

6 6. Petitioner is in the physical custody of Respondents. Petitioner is
7 detained at the Federal Correction Institute (FCI) located in Atlanta, Georgia.

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

11 8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
12 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
13 § 1651.

14
15 **VENUE**

16 9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
17 484, 493- 500 (1973), venue lies in the United States District Court for the Southern
18 District of Georgia, the judicial district in which Petitioner currently is detained.

19 10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
20 because Respondent is employee, officer, and agency of the United States, and
21 because a substantial part of the events or omissions giving rise to the claims
22 occurred in the Southern District of Georgia.
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2 **REQUIREMENTS OF 28 U.S.C. § 2243**

3 11. The Court must grant the petition for writ of habeas corpus or order
4 Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief.
5 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return
6 “within three days unless for good cause additional time, not exceeding twenty days,
7 is allowed.” *Id.*

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9 12. Habeas corpus is “perhaps the most important writ known to the
10 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
11 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
12 added). “The application for the writ usurps the attention and displaces the calendar
13 of the judge or justice who entertains it and receives prompt action from him within
14 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
15 2000) (citation omitted).

16
17 **PARTIES**

18 13. Petitioner, J. Luz Sanchez Luna is native and citizen of Mexico who
19 has been in immigration detention since March 2026. After arresting Petitioner, ICE
20 did not set bond and Petitioner is unable to obtain review of his custody by an IJ,
21 pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
22 (BIA 2025).

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2 14. Respondent, the Warden of the Federal Correction Institute (FCI), is
3 employed by Core Civic Group. He has immediate physical custody of Petitioner.
4 He is sued in his official capacity.

5 15. Respondent Markwayne Mullin is the Secretary of the Department of
6 Homeland Security. She is responsible for the implementation and enforcement of
7 the Immigration and Nationality Act (INA), and oversees ICE, which is responsible
8 for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner
9 and is sued in her official capacity.
10

11 **LEGAL FRAMEWORK**

12 16. The Immigration and Nationality Act ("INA") establishes several
13 detention schemes for noncitizens in removal proceedings.
14

15 17. First, 8 U.S.C. § 1226 governs the detention of individuals placed in
16 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)
17 are generally entitled to a custody redetermination before an Immigration Judge
18 unless they fall into the narrow mandatory-detention categories of § 1226(c).

19 18. Second, 8 U.S.C. § 1225(b)(1)-(2) provides for mandatory detention of
20 certain individuals seeking admission who are inspected at the border and
21 determined not "clearly and beyond a doubt entitled to be admitted." This detention
22 framework is tied to the process of arrival inspection performed by an examining
23 immigration officer.
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2 19. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
3 to final orders of removal.

4 20. This case turns on the proper application of § 1226(a) versus §
5 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
6 States years ago, resided here, and was apprehended within the interior, not at a port
7 of entry.

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9 21. Historically, individuals who entered without inspection and were later
10 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
11 1225. EOIR regulations following IIRIRA confirm that such individuals were not
12 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed. Reg.
13 10312, 10323 (Mar. 6, 1997).

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15 22. For decades, consistent with this regulatory framework and prior
16 immigration law, noncitizens who entered without inspection and were apprehended
17 inside the United States received custody redeterminations unless subject to §
18 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
19 (1996).

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21 **The Government’s Recent Policy Shift**

22 23. On July 8, 2025, ICE— “in coordination with” DOJ—issued guidance
23 declaring that all individuals who entered without inspection must now be detained
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2 and stabilizing presence in his children's lives and has provided consistent financial,
3 emotional, and parental support.

4 28. During his time in the United States, Petitioner has worked consistently
5 across a variety of industries, demonstrating adaptability, reliability, and a strong
6 work ethic. Most recently, Petitioner was employed at a poultry farm, where he was
7 responsible for the care and maintenance of chickens, ensuring proper feeding,
8 monitoring their health, and maintaining clean and safe conditions. Throughout his
9 time in the United States, Petitioner has held multiple jobs of different types,
10 consistently supporting himself through honest labor. His steady employment
11 history reflects responsibility, diligence, and an ongoing commitment to contributing
12 positively to his community while providing for himself and his family.
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15 29. Petitioner has had limited contact with the criminal justice system. His
16 record reflects a single DUI offense from 2003, for which he fully complied with all
17 court-ordered requirements, demonstrating accountability and respect for the law.
18 Notably, more than two decades have passed since that incident without any further
19 similar conduct. More recently, in 2023, Petitioner was stopped due to a
20 malfunctioning vehicle light, during which it was discovered that he was driving
21 with an expired driver's license. This was a minor, non-violent traffic-related matter
22 that did not involve any allegations of harmful or dangerous conduct.
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2 These isolated incidents, occurring many years apart, clearly demonstrate
3 rehabilitation and do not reflect a pattern of criminal behavior. To the contrary, the
4 significant passage of time without further offenses strongly supports that Petitioner
5 poses no danger to the community and has demonstrated a sustained commitment to
6 lawful conduct.

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8 30. Petitioner poses no flight risk and no danger to the community. His
9 years of residence in the United States, provider of U.S. citizen children and
10 consistent tax compliance, overwhelmingly demonstrate that he is an appropriate
11 candidate for release on bond under INA § 236(a).

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13 31. Petitioner's continued detention violates due process because it is based
14 on an unlawful application of INA § 235 to an individual who was apprehended
15 inside the United States long after entry and who is not seeking admission. Petitioner
16 therefore falls squarely within the discretionary detention framework of INA §
17 236(a), which entitles him to an individualized bond hearing.

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19 32. By continuing to detain Petitioner without bond while his immigration
20 case remains pending—despite his extensive equities, serious family hardship, and
21 lack of any disqualifying factors—Respondents are subjecting him to prolonged and
22 arbitrary imprisonment in violation of the Fifth Amendment's Due Process Clause,
23 thereby necessitating habeas relief.

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2 33. Petitioner's continued detention also violates due process because it is
3 based on an unlawful statutory interpretation. Section 1225(b)(2) applies only when
4 a noncitizen is "seeking admission" in the context of an arrival inspection by an
5 examining immigration officer. Petitioner, however, was apprehended inside the
6 United States years after his entry and therefore falls squarely within the detention
7 framework of § 1226(a), which entitles him to a bond hearing.
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9 34. Because Petitioner is a long-term resident of the United States with
10 more than twenty- seven years of continuous presence, deep family and community
11 ties, his continued and prolonged detention without any opportunity for
12 individualized custody review violates the fundamental requirements of due process
13 and underscores the urgent necessity of habeas relief
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15 CLAIMS FOR RELIEF

16 COUNT I 17 Violation of the INA

18 35. Petitioner incorporates by reference the allegations of fact set forth in
19 the preceding paragraphs.

20 36. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
21 apply to all noncitizens residing in the United States who are subject to the grounds
22 of inadmissibility. As relevant here, it does not apply to those who previously
23 entered the country and have been residing in the United States prior to being
24 apprehended and placed in removal proceedings by Respondents. Such noncitizens

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2 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
3 § 1231.

4 37. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
5 continued detention and violates the INA.

6
7 **COUNT II**

8 **Violation of the Bond Regulations**

9 38. Petitioner incorporates by reference the allegations of fact set forth in
10 preceding paragraphs.

11 39. In 1997, after Congress amended the INA through IIRIRA, EOIR and
12 the then-Immigration and Naturalization Service issued an interim rule to interpret
13 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
14 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
15 for admission, [noncitizens] who are present without having been admitted or
16 paroled (formerly referred to as [noncitizens] who entered without inspection) will
17 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
18 added). The agencies thus made clear that individuals who had entered without
19 inspection were eligible for consideration for bond and bond hearings before IJs
20 under 8 U.S.C. § 1226 and its implementing regulations.

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23 40. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy
24 and practice of applying § 1225(b)(2) to individual like Petitioner.

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

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5 **COUNT III**
Violation of Due Process

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

8 43. The government may not deprive a person of life, liberty, or property
9 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
10 from government custody, detention, or other forms of physical restraint—lies at the
11 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
12 (2001).

13
14 44. Petitioner has a fundamental interest in liberty and being free from
15 official restraint.

16 45. The government’s detention of Petitioner without a bond
17 redetermination hearing to determine whether he is a flight risk or danger to others
18 violates his right to due process.
19

20 **REMEDY**

21 46. The equitable and flexible nature of habeas corpus provides this Court
22 with broad authority to craft an appropriate remedy that fully addresses the statutory
23 and constitutional violations presented in this case. Habeas corpus is fundamentally
24 an equitable remedy, and courts exercising habeas jurisdiction possess significant

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2 discretion to fashion relief that effectively remedies unlawful detention. *See Velasco*
3 *Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *Schlup v. Delo*, 513 U.S. 298,
4 319 (1995).

5 47. The habeas statute further directs that courts shall “dispose of the matter
6 as law and justice require.” 28 U.S.C. § 2243. The Supreme Court has emphasized
7 that the statute does not limit the relief that may be granted in habeas proceedings
8 and that federal courts retain broad remedial authority when unlawful detention is
9 established. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968).

11 48. Given the statutory and constitutional violations presented here, the
12 Court should exercise its equitable authority to order relief that effectively remedies
13 Petitioner’s unlawful detention.

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15 **Immediate Release**

16 49. Release from unlawful custody is the traditional and most appropriate
17 remedy in habeas proceedings. The Supreme Court has long recognized that the
18 central function of the writ of habeas corpus is to secure release from illegal
19 detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

20 50. Federal courts across the country have repeatedly ordered immediate
21 release where immigration detention was imposed in violation of federal law or the
22 Constitution. Numerous courts have recognized that release is particularly
23 appropriate where detention rests on an unlawful statutory interpretation or where
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2 the detainee has been deprived of meaningful procedural safeguards. Courts ordering
3 release in similar immigration detention cases include *Munoz Materano v. Arteta*,
4 2025 WL 2630826 (S.D.N.Y. Sept. 12, 2025); *Chipantiza-Sisalema v. Francis*, 2025
5 WL 1927931 (S.D.N.Y. July 13, 2025); *Rueda Torres v. Francis*, 2025 WL 3168759
6 (S.D.N.Y. Nov. 13, 2025); *Cifuentes v. Soto*, 2025 WL 3771380 (D.N.J. Dec. 31,
7 2025); *Gonzalez Centeno v. Lowe*, 2026 WL 94642 (M.D. Pa. Jan. 13, 2026); *Feisal*
8 *O. v. Noem*, 2026 WL 92857 (D. Minn. Jan. 13, 2026); *Garcia Covarrubias v.*
9 *Holston*, 2026 WL 25970 (D. Nev. Jan. 5, 2026); and *Kenzhebaev v. Noem*, 2025
10 WL 3737975 (W.D. Mich. Dec. 29, 2025).

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12 51. Courts have further recognized that ordering a bond hearing may not
13 adequately remedy constitutional violations where the detainee has already been
14 deprived of liberty without due process. In *Qasemi v. Francis*, 2025 WL 3654098
15 (S.D.N.Y. Dec. 17, 2025), the court concluded that a bond hearing would not
16 sufficiently remedy the due process violation caused by detention without lawful
17 procedures. Similarly, in *Noyola v. Bondi*, 2026 WL 607266 (W.D. Tex. Mar. 4,
18 2026), the court determined that immediate release was the appropriate remedy for
19 unlawful immigration detention.
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22 52. Because Petitioner's detention rests on an unlawful interpretation of the
23 Immigration and Nationality Act and because he has been denied any meaningful
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2 opportunity to challenge his custody, immediate release is the most appropriate and
3 effective remedy.

4 **Custody Determination by the Habeas Court**

5 53. If the Court declines to order immediate release, the Court possesses
6 authority to conduct its own custody determination within this habeas proceeding.
7 Federal courts exercising habeas jurisdiction have repeatedly recognized their
8 authority to determine whether continued detention is justified and to set appropriate
9 conditions of release. Courts have explained that conducting a custody determination
10 within the habeas proceeding may be more efficient and may better ensure
11 compliance with constitutional requirements than delegating the determination back
12 to the immigration court system. *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401
13 (E.D.N.Y. 2025); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 474 (D. Mass.
14 2010); and *Ramirez v. Watkins*, 2010 WL 6269226 (S.D. Tex. 2010).
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17 54. Under this approach, the Court may determine whether the government
18 can demonstrate that continued detention is justified based on danger to the
19 community or risk of flight. If the government cannot meet its burden, the Court may
20 order Petitioner released on recognizance or set a reasonable bond consistent with
21 Petitioner's financial circumstances.
22

23 **Ineffectiveness of Immigration Court Bond Hearings**

24 55. Although courts sometimes order immigration judges to conduct bond
hearings, recent litigation across the country demonstrates that such hearings

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2 frequently fail to remedy unlawful detention. Federal courts have repeatedly
3 documented systemic problems that undermine the effectiveness of such hearings.

4 One recurring problem arises when the Department of Homeland Security appeals
5 an immigration judge's bond grant and invokes the automatic stay regulation, which
6 prevents release even after a judge has determined that bond is appropriate.

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8 Numerous courts have concluded that this practice raises serious due process
9 concerns. See *Merchan-Pacheco v. Noem*, 2026 WL 88526 (D. Colo. Jan. 12, 2026);

10 *M.P.L. v. Arteta*, 2025 WL 3288354 (S.D.N.Y. Nov. 25, 2025); and *Garvey v. Noem*,
11 2026 WL 612302 (W.D. Mo. Mar. 4, 2026).

12
13 56. Courts have also documented cases in which immigration authorities
14 imposed electronic monitoring or other restrictive conditions of release that were
15 never ordered by any judge. Federal courts have repeatedly required such conditions
16 to be removed. See *Gonzalez Centeno v. Lowe*, 2026 WL 196513 (M.D. Pa. Jan. 26,
17 2026); *Diahn v. Lowe*, 2026 WL 84576 (M.D. Pa. Jan. 12, 2026); and *Montes*
18 *Aguillon v. Bondi*, 2026 WL 531899 (W.D. Tex. Feb. 25, 2026).

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20 57. Courts have additionally documented repeated failures to conduct
21 timely bond hearings after federal courts ordered them. In *Bautista v. Santacruz*, the
22 court observed that hundreds of detainees were forced to file individual habeas
23 petitions because the government failed to provide bond hearings ordered in prior
24 litigation. These enforcement problems illustrate why immediate release or a

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2 custody determination by the habeas court is often the most effective remedy for
3 unlawful immigration detention.

4 **Safeguards If a Bond Hearing Is Ordered**

5 58. If the Court determines that an immigration judge should conduct a
6 bond hearing, that hearing must include procedural safeguards sufficient to satisfy
7 due process. Courts have widely recognized that the government must bear the
8 burden of justifying continued detention in court-ordered bond hearings. See
9 Hernandez-Fernandez v. Lyons, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025);
10 Gomez v. Olson, 2025 WL 3768242 (N.D. Ill. Dec. 31, 2025).

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12 59. Courts have further required that the government demonstrate danger
13 or risk of flight by clear and convincing evidence, that the immigration judge
14 consider the detainee's ability to pay any bond amount, and that the government be
15 prohibited from invoking the automatic stay regulation if bond is granted. See
16 Lopez-Romero v. Lyons, 2026 WL 92873 (D.N.M. Jan. 13, 2026); Perez-Regalado
17 v. Feeley, 2026 WL 36112 (D. Nev. Jan. 6, 2026).

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19 60. These safeguards ensure that any custody determination meaningfully
20 protects the constitutional liberty interests at stake.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner prays that this Court grant the following relief:
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- 24 a. Assume jurisdiction over this matter;

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- b. Order that Petitioner shall not be transferred outside the Northern District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, set a reasonable bond or order a constitutionally compliant bond hearing
- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 7th day of April, 2026.

ZAMBRANO LAW,

/s/ Shirley C. Zambrano

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, J. Luz Sanchez Luna, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 7th day of April, 2026.

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