

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

<p>ALEXANDER IVAKIIN,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>WARDEN/FACILITY ADMINISTRATOR OF IRWIN COUNTY DETENTION CENTER, in official capacity, KRISTEN SULLIVAN, Field Office Director, Atlanta Field Office, Enforcement and Removal Operations, Immigration and Customs Enforcement, TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, TODD BLANCHE, Acting U.S. Attorney General, DAREN MARGOLIN, Director, Executive Office for Immigration Review,</p> <p style="text-align: center;">Respondents.</p>	<p>Case No. _____</p>
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**PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Alexander Ivakhin, a citizen of Russia, brings this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 challenging his unlawful detention by U.S. Immigration and Customs Enforcement (“ICE”) at the Irwin County Detention Center in Ocilla, Georgia

2. Mr. Ivakhin presented for inspection at a port of entry on January 24, 2023, through the CBP One application, and was paroled into the United States pursuant to INA § 212(d)(5), 8 U.S.C. § 1182(d)(5). He presented together with his wife, Kseniia Ivakhina, and their daughter V.I. The family has resided in the United States continuously for over three years, filed applications for asylum with U.S. Citizenship and Immigration Services (“USCIS”), complied with all conditions of parole, and reported for ICE check-ins as required. Mr. Ivakhin was detained during a routine ICE check-in on May 12, 2026.

3. Respondents are detaining Mr. Ivakhin without providing him an individualized bond hearing. ICE has denied a bond payment request, stating that “there is no Bond Order issued by Judge” and that a “Bond Order must be issued first by Judge after court appearance.” To counsel’s knowledge as of the filing of this Petition, no Notice to Appear (“NTA”) has been issued, no removal proceedings have been initiated, and no immigration court hearing has been scheduled. Mr. Ivakhin is thus detained in a procedural vacuum: ICE will not release him on bond, no judge has been given the opportunity to set bond, and no proceedings exist through which a judge could do so.

4. The Eleventh Circuit’s recent decision in *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, Nos. 25-14065 & 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026), is dispositive. In a comprehensive, published opinion, the Eleventh Circuit held that 8 U.S.C. § 1226(a), not §

1225(b)(2)(A), governs the detention of noncitizens apprehended in the interior of the United States. That binding authority compels the conclusion that Mr. Ivakhin is entitled to release or an individualized bond hearing.

5. Mr. Ivakhin respectfully requests that this Court order Respondents to release him or provide him with an individualized bond hearing before an Immigration Judge within seven days, at which the government bears the burden of justifying continued detention by clear and convincing evidence, and to enjoin Respondents from transferring Mr. Ivakhin from this judicial district pending resolution of this Petition.

### **JURISDICTION**

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3), which authorizes federal courts to grant writs of habeas corpus to persons “in custody under or by color of the authority of the United States” or “in custody in violation of the Constitution or laws or treaties of the United States.”

7. Mr. Ivakhin is currently detained by ICE at the Irwin County Detention Center, located in Ocilla, Georgia, within the territorial jurisdiction of this Court.

8. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 2201 (Declaratory Judgment Act).

### **VENUE**

9. Venue is proper in this District because Mr. Ivakhin is detained at the Irwin County Detention Center, 132 Cotton Drive, Ocilla, Georgia 31774, which is within the Valdosta Division of the Middle District of Georgia. See 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (Kennedy, J., concurring) (“[T]he proper party in a habeas challenge to present physical confinement is the warden of the facility where the petitioner is held.”).


### REQUIREMENTS OF 28 U.S.C. § 2243

10. Mr. Ivakhin is currently in Respondents' custody, detained at the Irwin County Detention Center.

11. The illegality of Mr. Ivakhin's detention appears from the face of this Petition and the applicable law. Respondents are detaining Mr. Ivakhin without providing him an individualized bond hearing as required by 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment.

12. Mr. Ivakhin has no adequate remedy at law. To counsel's knowledge, he has not been issued a Notice to Appear, has not been placed in removal proceedings, and has no forum in which to seek a bond hearing. ICF has affirmatively denied his bond payment request. Exhaustion of administrative remedies is not required for habeas petitions under 28 U.S.C. § 2241 challenging the legality of detention. See *Gutierrez-Chavez v. INS*, 298 F.3d 824, 829 (9th Cir. 2002); *Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629, 634 (2d Cir. 2001).

### PARTIES

13. **Petitioner Alexander Ivakhin** is a citizen of Russia with Alien Registration Number A# . He was born in 1989. His full date of birth is on file with counsel. He is currently detained at the Irwin County Detention Center, 132 Cotton Drive, Ocilla, Georgia 31774.

14. **Respondent Warden/Facility Administrator of the Irwin County Detention Center** is the official responsible for Mr. Ivakhin's present physical custody. This Respondent is Mr. Ivakhin's immediate custodian and is sued in official capacity. See *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).

15. **Respondent Kristen Sullivan** is the Field Office Director of the Atlanta Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, with jurisdiction over Georgia, North Carolina, and South Carolina. He is sued in his official capacity.

16. **Respondent Todd Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

17. **Respondent Markwayne Mullin** is the Secretary of the U.S. Department of Homeland Security. He is sued in his official capacity.

19. **Respondent Todd Blanche** is the Acting Attorney General of the United States. He is sued in his official capacity as the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review.

20. **Respondent Daren Margolin** is the Director of the Executive Office for Immigration Review (“EOIR”), a component of the U.S. Department of Justice that adjudicates immigration cases, including bond hearings. He is sued in his official capacity.

### LEGAL FRAMEWORK

21. The Immigration and Nationality Act (“INA”) establishes distinct statutory frameworks governing the detention of noncitizens depending on their immigration posture.

22. *Section 1225(b)* governs the inspection and treatment of “applicants for admission” who are “arriving” at the border or ports of entry. Under § 1225(b)(2)(A), noncitizens who are “applicants for admission” and are “not clearly and beyond a doubt entitled to be admitted” “shall be detained” pending removal proceedings. This provision applies to persons who are in the process of seeking entry into the United States.

23. *Section 1226(a)* governs the arrest, detention, and release of noncitizens who are already present in the United States. Under § 1226(a), the Secretary of Homeland Security “may”

detain a noncitizen pending a decision on removal, and the noncitizen “may be released on bond” or “conditional parole.” 8 U.S.C. § 1226(a)(1)–(2). Immigration judges have authority to set bond conditions under 8 C.F.R. §§ 236.1(d), 1236.1(d), and 1003.19.

24. The critical distinction turns on whether a noncitizen is an “arriving alien” or is instead a person who is already “present in the United States.” The Eleventh Circuit has now definitively resolved this question. In *Hernandez Alvarez v. Warden*, Nos. 25-14065 & 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026), the court held in a comprehensive, published opinion that § 1225(b)(2)(A) does not apply to noncitizens who are “simply present” in the interior of the United States. Rather, § 1226(a) governs the detention of such individuals, and they are entitled to individualized bond hearings.

25. The Second Circuit has reached the same conclusion. In *Cunha v. Freden*, No. 25-3141, 2026 WL 1146044 (2d Cir. Apr. 28, 2026), the court held that § 1226(a), not § 1225(b)(2)(A), governs the detention of a noncitizen present in the United States after entry and not apprehended at or near the border. Several circuits have now divided on this question. Compare *Hernandez Alvarez*, 2026 WL 1243395, and *Cunha*, 2026 WL 1146044, with *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), and *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). This Court is bound by the Eleventh Circuit’s holding in *Hernandez Alvarez*.

26. District courts have applied these principles to the specific context of parolees whose parole has expired. In *Espinoza Estrada v. Mullin*, No. 1:26-cv-859 (E.D. Va. Apr. 20, 2026) (order on file with counsel), the court granted habeas relief to a parolee detained after the expiration of his parole, holding that upon termination of parole, the noncitizen “returned to the Government’s ‘custody’ under Section 1226 as an individual ‘already present in the United States,’” rather than reverting to an “applicant for admission” subject to § 1225(b)(2)’s mandatory detention. See also

Rezacc v. Bondi, No. 1:26-cv-277 (E.D. Va. Mar. 20, 2026) (same reasoning; order on file with counsel). While not binding on this Court, these decisions are consistent with and reinforce the Eleventh Circuit’s analysis in Hernandez Alvarez. This Court has also held in two recent decisions that a bond hearing is appropriate in this scenario. *See IAAM v. Warden et al*, 7:26-cv-068-WLS-CHW, Dkt 9, (MDGA May 13, 2026) and *BAMA v. Warden et al*, 7:26-cv-95-WLS-CHW, Dkt 9, (MDGA May 13, 2026).

27. Moreover, in 1997, after Congress enacted IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule confirming that individuals who entered without inspection “will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). The government’s current position, that all such individuals are subject to mandatory detention under § 1225(b)(2), contradicts its own post-IIRIRA regulatory interpretation.

28. To the extent Respondents rely on Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), or Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), those agency decisions cannot displace binding Eleventh Circuit authority. The Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), eliminated Chevron deference to agency statutory interpretations, and Hernandez Alvarez controls the detention-authority question in this Court.

## **FACTS**

### **A. Background**

29. Mr. Ivakhin is a citizen of Russia.

30. On January 24, 2023, Mr. Ivakhin presented for inspection at a port of entry through the CBP One application. He was inspected by U.S. Customs and Border Protection (“CBP”) and paroled into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A).

31. Mr. Ivakhin's parole was granted for a period of one year, with an expiration date of January 23, 2024. See Ex. F.

32. During his time in the United States, Mr. Ivakhin has resided continuously in the community, complied with all conditions of his parole, and reported for ICE check-ins as required.

33. Mr. Ivakhin filed an application for asylum (Form I-589) with USCIS. His wife, Kseniia Ivakhina, and their daughter have also filed for asylum. The family was paroled into the United States together and has been pursuing protection from persecution in Russia.

34. Mr. Ivakhin's wife, Kseniia Ivakhina, and their daughter, V.I., reside in the United States. The family was paroled together through the CBP One process on January 24, 2023, and has been residing together in the community. Mr. Ivakhin's wife and daughter are also asylum applicants.

35. Mr. Ivakhin has no criminal history in the United States.

#### **B. Parole Expiration and Continued Presence**

36. Mr. Ivakhin's CBP One parole expired on January 23, 2024. No formal termination notice was issued. The expiration of parole did not convert his later ICE check-in into a border inspection, did not make him an "arriving alien," and did not make him an alien "seeking admission" for purposes of 8 U.S.C. § 1225(b)(2)(A). At the time of his detention on May 12, 2026, he had been physically present in the interior of the United States for more than three years, and his parole had been expired for more than two years.

37. After his parole expired, Mr. Ivakhin continued to reside in the United States, continued to comply with reporting requirements, and continued to pursue his asylum claim before USCIS.

#### **C. Detention and Denial of Bond**

38. On or about May 12, 2026, Mr. Ivakhin reported for a routine ICE check-in as required. He was taken into custody by ICE at the check in and has been detained at the Irwin County Detention Center, 132 Cotton Drive, Ocilla, Georgia 31774, since that date. See Ex. A.

39. On May 13, 2026, a bond payment request was submitted through the ICE CoBONDS system on Mr. Ivakhin's behalf. See Ex. B.

40. On May 14, 2026, ICE denied the bond payment request. The denial stated: "At this time, there is no Bond Order issued by Judge. Bond Order must be issued first by Judge after court appearance." The denial reason was listed as "Other." See Ex. C.

41. As of the date of this filing, counsel is aware of no Notice to Appear issued to Mr. Ivakhin, no removal proceedings initiated, and no immigration court hearing scheduled. Mr. Ivakhin has had no meaningful opportunity to appear before an Immigration Judge or to request a bond hearing.

42. Mr. Ivakhin is thus trapped in a procedural vacuum: ICE refuses to release him on bond, no Immigration Judge has been given jurisdiction to consider bond, and no proceedings exist through which Mr. Ivakhin could seek a bond determination. This is precisely the type of unchecked executive detention that the writ of habeas corpus is designed to remedy.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of 8 U.S.C. § 1226(a)**

43. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

44. Mr. Ivakhin is a noncitizen who has been physically present in the interior of the United States since January 24, 2023, a period of more than three years. He presented for inspection at a

port of entry through CBP One and was paroled into the United States. His parole expired naturally. Even if he remains a statutory “applicant for admission” because parole is not an admission, he was not “seeking admission” when ICE re-detained him at a routine interior check-in, and § 1225(b)(2)(A) therefore does not govern his detention.

45. Under the binding authority of *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, Nos. 25-14065 & 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026), Mr. Ivakhin’s detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A). Section 1226(a) provides that a noncitizen “may be released on” bond or conditional parole. 8 U.S.C. § 1226(a)(1)–(2).

46. Respondents have violated § 1226(a) by detaining Mr. Ivakhin without providing him an individualized bond hearing at which a neutral adjudicator determines whether his continued detention is justified.

47. The Eleventh Circuit’s holding in *Hernandez Alvarez* is directly on point and binding on this Court. The court held that § 1225(b)(2)(A) reaches people seeking entry to the country, not noncitizens who are “simply present” in the interior. Mr. Ivakhin, who resided in the community for more than three years before his detention at an ICE check-in, is precisely the type of interior noncitizen whose detention is governed by § 1226(a). See also *Espinoza Estrada v. Mullin*, No. 1:26-cv-859 (E.D. Va. Apr. 20, 2026) (granting habeas and ordering release for expired parolee, holding that upon termination of parole, noncitizen returns to § 1226(a) custody as individual “already present in the United States”).

48. Respondents’ refusal to provide a bond hearing violates the statutory mandate of § 1226(a) and its implementing regulations, 8 C.F.R. §§ 236.1(d), 1236.1(d), and 1003.19.

## COUNT II

### Violation of the Bond Regulations

49. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

50. In 1997, after Congress amended the INA through IIRIRA, FOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added).

51. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.

52. In the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an Immigration Judge or other hearing officer.

53. Mr. Ivakhin’s case is even stronger than the EWI individuals contemplated by the 1997 interim rule because he presented through CBP One, was inspected at a port of entry, and was paroled into the United States before his parole expired naturally. If even persons who entered without inspection are eligible for bond under the government’s own post-IIRIRA regulatory interpretation, a fortiori a CBP One parolee who was later re-detained in the interior after natural parole expiration is eligible for bond under § 1226(a).

54. Respondents may assert, pursuant to Matter of Q. Li or Matter of Yajure Hurtado, that EOIR lacks authority to conduct a bond hearing for individuals like Mr. Ivakhin.

55. That position cannot control here. Hernandez Alvarez is binding in this Court and holds that § 1226(a) governs unadmitted noncitizens who are simply present in the United States and not seeking admission at the time of interior detention.

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

### **COUNT III**

#### **Violation of the Fifth Amendment Right to Due Process**

57. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

58. The Due Process Clause of the Fifth Amendment protects all persons within the United States, including noncitizens, from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment, from government custody, detention, or other forms of physical restraint, lies at the heart of the liberty protected by the Due Process Clause.”).

59. Mr. Ivakhin has been detained by ICE without any individualized determination that his detention is necessary. No Immigration Judge has assessed whether Mr. Ivakhin poses a danger to the community or a flight risk. No neutral adjudicator has weighed the evidence and determined that continued detention is justified.

60. The denial of a bond hearing is especially egregious in this case because, to counsel’s knowledge, Mr. Ivakhin has not even been placed in removal proceedings. He exists in a procedural limbo where he is detained by the executive branch without any judicial or quasi-

judicial oversight. The writ of habeas corpus exists precisely to challenge this type of unchecked executive detention.

61. Even if § 1225(b)(2)(A) were found to apply (which it does not under *Hernandez Alvarez*), the Due Process Clause independently requires an individualized bond hearing. The Supreme Court has held that civil detention without adequate procedural safeguards violates due process. See *Zadvydas*, 533 U.S. at 690; *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (“the most elemental of liberty interests”); *Clark v. Martinez*, 543 U.S. 371, 378–81 (2005) (extending *Zadvydas* to inadmissible aliens).

62. Mr. Ivakhin’s detention without a bond hearing violates the Due Process Clause of the Fifth Amendment.

#### COUNT IV

##### **Violation of Fifth Amendment Right to Due Process: Unlawful Re-Detention**

63. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

64. On January 24, 2023, the federal government made an affirmative, individualized determination that Mr. Ivakhin was suitable for release into the United States on parole. The government inspected him at a port of entry, processed his CBP One application, and granted him parole pursuant to INA § 212(d)(5).

65. Mr. Ivakhin resided in the community for over three years with his wife and daughter, complied with all conditions of his parole, reported for ICE check-ins as required, filed for asylum, and has no criminal history in the United States.

66. Respondents then re-detained Mr. Ivakhin at a routine ICE check-in, the very compliance mechanism the government itself had imposed. No pre-deprivation process was

afforded. Mr. Ivakhin received no notice that he would be detained, no opportunity to be heard, and no individualized assessment of changed circumstances before the government revoked his liberty.

67. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), due process requires consideration of: (1) the private interest at stake, (2) the risk of erroneous deprivation through existing procedures and the probable value of additional safeguards; and (3) the government's interest.

68. Here, all three factors weigh heavily in Mr. Ivakhin's favor. The private interest, physical liberty, is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Mr. Ivakhin's detention also separates him from his wife and daughter, who are themselves pursuing asylum claims. The risk of erroneous deprivation is high: without a hearing before a neutral adjudicator, there is no mechanism to assess whether changed circumstances justify re-detention of a person the government itself previously determined was safe to release. And the government's interest is minimal, as it had already determined Mr. Ivakhin was safe for release and he had complied with all known conditions for over three years.

69. Courts have recognized that the government's prior determination to release a noncitizen on parole constrains its ability to re-detain that person without process. In *Magana-Garcia v. Bondi*, No. 1:26-CV-51-ADA (W.D. Tex. Jan. 28, 2026) (R&R), the court recommended granting habeas where the government re-detained a parolee without providing notice or an individualized determination, reasoning that the government lacked authority to arrest and detain a person whose parole it had not properly revoked. While Mr. Ivakhin's parole expired by operation of its own terms rather than by affirmative revocation, the core principle is the same: the government's prior individualized determination that Mr. Ivakhin was suitable for release,

combined with his years of compliance, gave rise to a liberty interest that the government could not extinguish through a warrantless compliance-check-in arrest without any pre-deprivation process or individualized assessment of changed circumstances.

70 The re-detention of Mr. Ivakhin at a compliance check-in, without any pre-deprivation process and without any showing of changed circumstances, violates the Due Process Clause of the Fifth Amendment.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner Alexander Ivakhin respectfully requests that this Court:

- (1) Issue a writ of habeas corpus directing Respondents to release Mr. Ivakhin from custody or, in the alternative, to provide him with an individualized bond hearing before an Immigration Judge within seven (7) days of this Court's order, at which the government bears the burden of demonstrating by clear and convincing evidence that Mr. Ivakhin's continued detention is justified;
- (2) Declare that Mr. Ivakhin's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and that he is entitled to an individualized bond hearing;
- (3) Declare that Respondents' no-bond policy as applied to Mr. Ivakhin violates 8 U.S.C. § 1226(a), the implementing bond regulations at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, and the Due Process Clause of the Fifth Amendment;
- (4) Order Respondents not to transfer Mr. Ivakhin from this judicial district pending the resolution of this Petition without providing at least forty eight (48) hours' advance written notice to Petitioner's counsel and obtaining leave of this Court;
- (5) Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;

(6) Grant such other and further relief as this Court deems just and proper.

*Respectfully submitted,*

Dated: May 18, 2026

/s/ Rachel Efron Sharma

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**VERIFICATION**

I am local counsel for Petitioner in this matter. I have not yet had direct contact with Petitioner in order to verify this petition. The Petition for writ of habeas corpus is based on information provided by lead counsel and local counsel's review of all available records. Counsel will file a verification from Petitioner as soon as counsel receives it, or in the alternate, lead counsel will file a complete verification once admitted pro hac vice. Due to Petitioner being detained far from his counsel, it will take extra time to obtain verification from Petitioner directly, but because this is an urgent matter, counsel requests leave of the court to file the verification as soon as it is available.

Executed on May 18, 2026.

/s/ Rachel Effron Sharma

Rachel Effron Sharma