

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STANLEY BRIAN PEREIRA,

Petitioner,

v.

Case No.

KRISTI NOEM, in her capacity as
Secretary of U.S. Department of
Homeland Security, TODD LYONS, in
his capacity as Acting Director and Senior
Official Performing the Duties of the
Director of U.S. Immigration and Customs
Enforcement, PAMELA BONDI, in her
capacity as Attorney General of the United
States, BRET BRADFORD, in his
capacity as Field Office Director of the
U.S. Immigration and Customs
Enforcement Houston Field Office,
MARTIN L. FRINK, in his capacity as
Warden of the CoreCivic Houston
Processing Center,

Respondents.

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND REQUEST FOR ORDER TO SHOW CAUSE**

Petitioner Stanley Brian Pereira petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to compel his release from custody, as his current civil immigration detention violates the Due Process Clause of the United States Constitution. Petitioner also asks this Court to issue an order requiring Respondents to show cause within three days, providing their reasons, if any, why his detention is lawful.

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
2. This court has subject matter jurisdiction under 28 U.S.C. §§ 2241 and 1331, and Article I, section 9, clause 2 of the United States Constitution.
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the INA, 8 U.S.C. § 1252(e)(2). This Court also has remedial authority under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*
4. Venue is proper in the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1391(e)(1), because at least one Respondent is in this District and Division, Petitioner is currently detained in this Division, and Petitioner’s immediate physical custodian is in this District and Division.

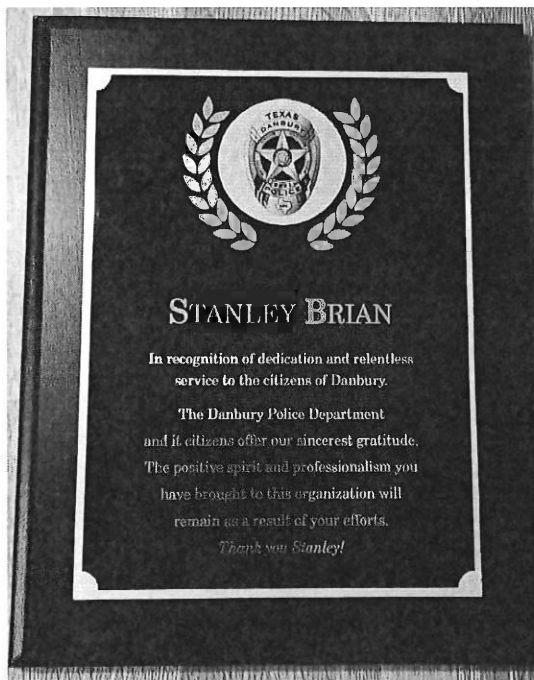
PARTIES AND BACKGROUND

5. **Petitioner Stanley Brian Pereira** was born in India and is a Portuguese citizen. He first entered the United States in June 2006 on a C-1 visa with an expiration of July 16, 2006. He overstayed the visa and left the United States around January 21, 2008. Petitioner returned to the United States on October 31, 2008 on a C-1 visa with an expiration date of November 29, 2008. Petitioner again overstayed and departed around October 9, 2009. Years later, Petitioner submitted a DS-160, while failing to disclose his overstay, and his visa to the United States was denied due to misrepresentations.

6. On or about August 1, 2014, Petitioner entered the United States without inspection. He has remained in the United States since then. He applied for a U visa in 2017 because he was the victim of aggravated robbery with a deadly weapon; Petitioner cooperated with law enforcement in that investigation. Petitioner received a bona fide determination on his U visa application in July 2022.

7. On or about November 18, 2025, Petitioner was apprehended by ICE at his workplace. USCIS then denied his U visa application because his prior immigration history was not disclosed. Petitioner filed an I-290B appeal, which remains pending.

8. Petitioner has no criminal history in his nearly twelve years in the United States. He has been recognized by local law enforcement for his positive role in the community. He also regularly volunteers for outreach programs and food drives, and tithes to his Baptist church.



9. Petitioner is also a devoted husband and father; his wife and children reside with him here in Houston, Texas, whom he supports. Petitioner is a taxpayer. *See* IRS Account Transcript, attached as **Exhibit 1**.

10. Petitioner seeks release from detention to continue his stable employment in the United States, support and care for his family, tend to his personal health following a heart attack, and to remain engaged with his community and church. *See* Cardiologist Letter, attached as **Exhibit 2**.

11. Petitioner is currently being held in ICE detention at the CoreCivic Houston Processing within this District and Division. Thus, Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because Petitioner is arrested and detained by Respondents.

12. On March 13, 2026, Petitioner applied for asylum before the immigration court in Conroe, Texas, premised on [REDACTED]. *See* Asylum Petition, attached as **Exhibit 3**.

13. On November 18, 2025, the United States Department of Homeland Security (“DHS”) issued a notice to appear (“NTA”) for Petitioner. *See* NTA, attached as **Exhibit 4**. On February 2, 2026, DHS issued a Form 261 with additional charges in lieu of those in the NTA. *See* Form 261, attached as **Exhibit 5**. On that same date, Petitioner had a bond hearing before an immigration judge (“IJ”).

14. The IJ denied Petitioner’s request for a bond, finding it lacked jurisdiction under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), wherein the

Board of Immigration Appeals (“BIA”) held on September 5, 2025 that noncitizens present in the United States without admission are “seeking admission” under 8 U.S.C. § 1225(b)(2)(A) and must be detained. Specifically, the IJ found:

No jurisdiction. Respondent last entered the United States on August 1, 2014, without lawful admission. Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

See Order Denying Bond, attached as **Exhibit 6**.

15. **Respondent Kristi Noem** is the Secretary of the United States Department of Homeland Security (“DHS”). DHS is the federal agency that has authority over the actions of ICE. As Secretary of DHS, Respondent Noem has authority over its actions, including Petitioner’s detention. She is sued in her official capacity.

16. **Respondent Pamela Bondi** is the Attorney General of the United States and the senior official of the U.S. Department of Justice. She is sued in her official capacity. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Bondi is responsible for decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Therefore, she is also Petitioner’s legal custodian.

17. **Respondent Todd Lyons** is Acting Director, United States Immigration and Customs Enforcement (“ICE”). ICE is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States,

including the arrest, detention, and custody status of non-citizens. As Acting Director of ICE, Respondent Lyons has authority over its actions, including Petitioner's detention. He is sued in his official capacity.

18. **Respondent Bret Bradford** is the Field Office Director of ICE's Houston Field Office. He is sued in his official capacity.

19. **Respondent Martin L. Frink** is the Warden of the CoreCivic Houston Processing Center, where Petitioner is being held. Respondent Frink is a legal custodian of Petitioner and he is sued in his official capacity.

LEGAL FRAMEWORK

20. District courts have the power to grant writs of habeas corpus. 28 U.S.C. § 2241(a). The Constitution guarantees that the writ of habeas corpus is available to every individual detained within the United States. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const. Art. I, § 9, cl. 2); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and ... the traditional function of the writ is to secure release from illegal custody.").

21. A district court's power includes jurisdiction to hear habeas challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Indeed, noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

22. The immigration court concluded, based on the government's arguments at the bond hearing, that Petitioner must be mandatorily detained under the INA as set

forth in *Matter of Yajure Hurtado*, in which the BIA concluded ICE could treat undocumented immigrants already present in the United States as arriving aliens subject to mandatory detention under 8 U.S.C. § 1225.

23. The IJ's reliance on *Hurtado* would make Petitioner ineligible for bond based on his arrival without inspection in 2014. In *Hurtado*, the BIA concluded that noncitizens "who have been residing in the United States for years without lawful status" are considered "applicants for admission" and are thus subject to the mandatory detention provision in INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A) "for the duration of the immigration proceedings[.]" *Hurtado*, 29 I&N Dec. at 220.

24. But section 1225(b)(2) does not apply to Petitioner as he is not a recent arrival nor is he seeking admission. His continued detention under section 1225(b)(2) is therefore unlawful. Instead, as a noncitizen who previously entered the United States, section 1226(a) governs his detention.

25. Under section 1225(b)(2), "in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2) (emphasis added). By contrast, a noncitizen arrested on a warrant issued by the Attorney General "*may*" be detained but is also eligible for release on bond. 8 U.S.C. § 1226(a) (emphasis supplied). "Courts have repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of 'aliens already in the country.'" *Palma v. Trump*, 2025 WL 2624385, at *2 (D. Neb. Sept. 11, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018)). As the Court in *Palma* noted,

“[t]he BIA’s decision in *Hurtado* represents a stark departure from that approach.”

Palma, 2025 WL 2624385, at *2.

Buenrostro Does Not Foreclose Petitioner’s Due Process Claim

26. While Respondents will point to *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) to conclude that section 1225 should apply to Petitioner, that decision does not change the outcome here because it does not decide or dispose of Petitioner’s due process claim: the panel decision contains no mention of due process, other than a passing mention that the Supreme Court’s decision in *Zadvydas* does not apply to individuals in pending removal proceedings, but rather to individuals who already have a final order of removal.

27. After *Buenrostro*, several judges in Texas federal courts have granted habeas petitions strictly on a due process cause of action. As Judge Cardone explained:

The Court’s conclusion is not changed by the Fifth Circuit’s recent decision in *Buenrostro-Mendez v. Bondi*. Marceau argues that her detention without an opportunity for a meaningful individualized custody determination is unlawful on both statutory grounds, as well as constitutional due process grounds. . . . [T]he *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation. And the case was remanded to the district court, not for dismissal, but “for further proceedings consistent with this opinion.” Presumably, those further proceedings will entail consideration of *Buenrostro-Mendez*’s due process claim, which the district court declined to reach in the first instance. Indeed, the Government’s counsel stated it bluntly during oral argument: “We have one issue before the Court now: the statutory question. . . . There’s not, in other words, a due process claim here.” In sum, *Buenrostro-Mendez* has no bearing on this Court’s determination of whether Marceau is being detained in violation of her constitutional right to procedural due process.

Marceau v. Noem, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026) (internal citations omitted).

28. Judge Cardone went on to grant the habeas petition on procedural due process grounds. *Id.* Courts in this District have done the same. *Bonilla Chicas v. Warden*, 2026 WL 539475, at *5 (S.D. Tex. Feb. 20, 2026) (“As Petitioner accurately claims, *Buenrostro-Mendez* did not address the Due Process Clause of the Fifth Amendment.”); *see id.* (granting release on due process grounds); *see also Cobarrubias Lopez v. Rio Grande Processing Center*, 2026 WL 571210, at *2 (S.D. Tex. Mar. 2, 2026) (granting release on due process grounds following *Buenrostro*) (collecting cases on viability of due process claims following *Buenrostro*).

Petitioner Should Not Await Further Determination by the BIA

29. Because Petitioner is detained subject to section 1226(a), not section 1225(b)(2), the Court should, in the event it is raised by Respondents, find that exhaustion is not required here. Because BIA has adopted a policy that deprives Petitioner of jurisdiction to seek a bond from immigration detention, further review of the IJ’s decision invoking *Hurtado* will be futile. *Vazquez v. Feeley*, 2025 WL 2676082, at *10 (D. Nev. Sept. 17, 2025) (“Because, as discussed below, this Court finds the BIA has adopted a policy [in *Hurtado*] that likely violates federal law, awaiting the BIA’s decision regarding Petitioner is futile.”).

The Court Maintains Jurisdiction to Hear Petitioner’s Due Process Claim

30. Neither 8 U.S.C. § 1252(g) or § 1252(b)(9) bar review of Petitioner’s unlawful detention claim. The Fifth Circuit has “long recognized” that section 1252(g) is designed to protect discretionary decisions concerning removal. *Duarte v. Mayorkas*, 27 F.4th 1044, 1055 (5th Cir. 2022) (citing *Alvidres-Reyes v. Reno*, 180 F.3d 199, 201

(5th Cir. 1999)).

31. The Supreme Court has cautioned against reading § 1252(g) broadly, instead reaffirming that “[w]e did not interpret [§ 1252(g)] to sweep in any claim that can technically be said to ‘arise from’ the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves.” *Jennings v. Rodriguez*, 583 U.S. 281, 294, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018) (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999)). Moreover, the Fifth Circuit has held “[s]ection 1252(g) does not bar courts from reviewing an alien detention order, because such an order, ‘while intimately related to efforts to deport, is not itself a decision to ‘execute removal orders’ and thus does not implicate section 1252(g).” *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000) (citation omitted). Thus, 8 U.S.C. § 1252(g) cannot bar review of Petitioner’s detention claim.

32. Likewise, the Supreme Court has similarly indicated that where a Petitioner is not “asking for review of an order of removal,” “challenging the decision to detain them in the first place or to seek removal,” or “challenging any part of the process by which their removability will be determined,” § 1252(b)(9) is not a jurisdictional bar. *Nielsen v. Preap*, 586 U.S. 392, 402, 139 S.Ct. 954, 203 L.Ed.2d 333 (2019); see also *Duarte*, 27 F.4th at 1056–57; see also *Texas v. United States*, 809 F.3d 134, 163 (5th Cir. 2015). Here, Petitioner does not challenge the decision to detain him in the first place, but rather whether mandatory detention without any individualized determination under 8 U.S.C. § 1252(b)(2) has been unconstitutionally applied to him as a noncitizen who has

been living in the United States. *See Vieira v. De Anda-Ybarra*, 806 F.Supp.3d 690, 697 (W.D. Tex. 2025) (“Petitioner is not asking for a review of an order of removal, challenging the decision to detain him in the first place or to seek removal, and not even challenging any part of the process by which his removability will be addressed. Instead, Petitioner is challenging whether certain INA provisions require his detention without a bond hearing, and whether they are being unconstitutionally applied to him.” (internal citations omitted)); *Duarte*, 27 F.4th at 1056 (“where review of any agency determination involves neither a determination as to the validity of [a noncitizen’s] deportation orders or the review of any question of law or fact arising from their deportation proceedings, ... (b)(9) should not operate as a bar to the district court’s review.”).

33. Finally, *Thuraissigiam* does not bar the relief sought herein. Indeed, district courts within the Fifth Circuit have already rejected such arguments, explaining that the principle set forth in that decision (1) only limits noncitizens’ due process rights regarding *deportability*, not *detention*, and (2) does not apply to noncitizens who have significant presence in this country, like Petitioner. *See, e.g., Santiago v. Noem*, 2025 WL 2792588, at *7–10 (W.D. Tex. Oct. 2, 2025); *Vieira v. De Anda-Ybarra*, 806 F. Supp. 3d 690, 698–700 (W.D. Tex. 2025); *Bonilla Chicas*, 2026 WL 539475. Petitioner seeks relief based on unlawful *detention*, not his deportability, and he has lived in this country for more than a decade. His due process rights are not diminished or barred by the Supreme Court’s decision in *Thuraissigiam*.

COUNT I
Violation of Fifth Amendment – Procedural Due Process
(against all Respondents)

34. Petitioner re-incorporates and re-alleges paragraphs 1-33 above as if fully set forth herein.

35. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. While certain constitutional protections do not extend outside the “geographic borders” of the United States, “legal circumstances change” as soon as a noncitizen “enters the country.” *Id.*; *see also A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (“[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”) (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per curiam)).

36. To determine whether civil detention violates a detainee’s due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts consider (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *See id.* at 335.

37. Here, all three factors favor Petitioner.

38. First, he has a significant private interest at stake. *Hamdi v. Rumsfeld*,

542 U.S. 507, 529 (2004) (freedom from physical detention is “the most elemental of liberty interests”); *see also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Petitioner is experiencing all the deprivations that come with physical detention, including separation from his wife and children, church, community, and cardiologist who can monitor his heart condition.

39. As various district courts have recognized, “a person may obtain a liberty interest through their presence in the country, particularly where that presence is with the express permission of the Government.” *Marceau v. Noem*, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026) (citing *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685–86 (W.D. Tex. 2025)); *see also Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178, at *5 (W.D. Tex. Dec. 16, 2025) (finding that a petitioner who had lived in the “United States for over four years and attends his local church” possessed “a strong liberty interest in his freedom from detention because he has established a life here”); *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *9 (W.D. Tex. Oct. 21, 2025) (“Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention.”). It is undisputed that Petitioner was granted employment authorization and deferred action pending his U visa application. Moreover, Petitioner has established a life here in Texas; his family, job, and church are all here.

40. Second, “the lack of any notice, opportunity for Petitioner to challenge his detention, or individualized determination by DHS when he was detained under mandatory detention creates a very high risk of erroneous deprivation of liberty that

cannot be mitigated through a post-deprivation hearing.” *Bonilla Chicas*, 2026 WL 539475, at *11. There is a large risk of the erroneous deprivation of Petitioner’s liberty interest through the procedures used in the immigration court proceedings. There are also alternative procedures, such as a cash bond, and other measures that might mitigate against the risk of flight.

41. Third, to the extent there is any government interest in detention, it is minimal compared with Petitioner’s liberty interest. The interest is further diminished where “as here, the Petitioner has no criminal record, has attended all of his immigration court hearings, and has significant ties to the community—factors that bear directly on flight risk and dangerousness.” *Id.* Respondents have chosen to detain Petitioner in an arbitrary manner, not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process.

42. Because “as-applied due process challenges remain an available avenue to challenge mandatory detention provisions of the INA” following *Buenrostro*, *see id* at *6, the appropriate remedy here is Petitioner’s release. *See Cruz-Reyes v. Bondi*, 2026 WL 332315, at *7 (S.D. Tex. Feb. 3, 2026); *see also Clemente Ceballos v. Garite*, 2026 WL 446509, at *2 n.2 (W.D. Tex. Feb. 10, 2026) (holding *Buenrostro* does not change the procedural due process analysis and collecting cases).

43. Alternatively, Petitioner should be entitled to a bond hearing with a an individualized assessment of his flight risk and dangerousness and an opportunity to respond.

COUNT II
Violation of Fifth Amendment – Substantive Due Process
(against all Respondents)

44. Petitioner re-incorporates and re-alleges paragraphs 1-33 above as if fully set forth herein.

45. Petitioner is entitled to relief in the form of release because his detention violates the Fifth Amendment on substantive due process grounds.

46. Specifically, as set forth above, Petitioner has strong ties to the community and pathways to immigration relief, as well as no criminal history.

47. Accordingly, his detention serves no lawful purpose because they are neither a danger nor a flight risk. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (“[D]ue process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.”); *Zadvydas*, 533 U.S. at 690 (the only lawful purposes of immigration detention are to prevent flight risk and danger to the community); *see also Jacobo Ramirez v. Noem*, — F.Supp.3d — , 2025 WL 3270137, at *8–9 (D. Nev. Nov. 24, 2025) (finding petitioners who entered without inspection likely to prevail on substantive due process claim).

COUNT III
Violation of the Immigration and Nationality Act
(against all Respondents)

48. Petitioner re-incorporates and re-alleges paragraphs 1-33 above as if fully set forth herein.

49. Petitioner is entitled to relief in the form of release, or alternatively, a bond determination because his detention violates the INA and implementing regulations.

50. Petitioner is aware that the panel in *Buenrostro* reached the conclusion that detention of noncitizens in Petitioner's situation does not violate the INA; however, Petitioner raises this claim as alternative relief for purposes of preserving the argument for appeal or if *Buenrostro* is vacated through rehearing, en banc review, or review by the Supreme Court.

51. Specifically, as an alternative ground for relief, Petitioner's detention is unlawful because 8 U.S.C. section 1226(a), not 1225(b)(2), applies to Petitioner. His detention without the opportunity for release on bond violates the INA and its implementing regulations.

PRAYER FOR RELIEF

Petitioner Stanley Brian Pereira respectfully requests that the Court:

- a. Retain jurisdiction over this action;
- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days pursuant to 28 U.S.C. § 2243;
- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- d. Declare that Petitioner's detention violates the Immigration Nationality Act;
- e. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody or in the alternative provide a bond hearing under 8 U.S.C. § 1226(a);

- f. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;
- g. Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- h. Grant all other relief that the Court deems just and proper.

Dated: March 14, 2026

Respectfully submitted,

/s/ James M. Slater

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I submit this verification on behalf of Petitioner Stanley Brian Pereira because I am the Petitioner's attorney. I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 14, 2026

/s/ James M. Slater

James M. Slater