

No. _____

IN THE UNITED STATES SUPREME COURT

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ALMA ROSA SANCHEZ,

Applicant,

vs.

UNITED STATES OF AMERICA,

Respondent.

=====

**ON APPLICATION TO THE HONORABLE ELENA KAGAN,
JUSTICE OF THE UNITED STATES SUPREME COURT,
FOR BAIL/RELEASE PENDING TRIAL**

Stephen R. Hormel
Hormel Law Office LLC
17722 E. Sprague Avenue
Spokane Valley, WA 99016
Telephone: (509) 926-5177

Attorney for Applicant
Alma Rosa Sanchez

Table of Contents

I.	<u>APPLICATION</u>	1
II.	<u>INTRODUCTION</u>	2
III.	<u>STATEMENT OF THE CASE</u>	4
	A. Proceedings in the lower courts	4
	B. The bail hearings	5
	1. <u>The government’s proffer</u>	5
	2. <u>The magistrate’s order of detention</u>	9
	3. <u>The district court’s order affirming the magistrate</u>	11
	4. <u>The Ninth Circuit’s order affirming the district court</u>	15
IV.	<u>REASONS FOR GRANTING THIS APPLICATION FOR RELEASED</u>	16
	A. The legal framework	16
	1. <u>Previous ties to Mexico and husband’s “alienage” should not justify release</u>	18
	2. <u>An undue emphasis on the government’s view on the weight of the evidence should not justify detention</u>	21
	3. <u>The magsitrate and district court’s failure to make an individualized assessment under § 3242(g)(4) to determine if Alma Sanchez would pose a danger to any other person or the community if released from jail pending trial runs contrary to the Bail Reform Act and the Court’s decision in <i>United States v. Salerno</i>, 481 U.S. 739 (1987)</u>	24
V.	<u>CONCLUSION</u>	28

Table of Authorities

Case Authority

<i>Direct Sales v. United States</i> , 319 U.S. 703 (1943)	22
<i>Harris v. United States</i> , 404 U.S. 1232 (1971) (Douglas, J., in chambers)	17
<i>Ingram v. United States</i> , 360 U.S. 672 (1959)	22
<i>Reynolds v. United States</i> , 80 S. Ct. 30, 32 (1959) (Douglas, J., in chambers)	17
<i>Sellers v. United States</i> , 89 S. Ct. 36, 38 (1968) (Black, J., in chambers)	17
<i>Truong Dinh Hung v. United States</i> , 439 U.S. 1326 (1978) (Brennan J., in chambers)	15,17,19,20,21
<i>United States v. Diaz-Hernandez</i> , 943 F.3d 1196 (9th Cir. 2019)	19
<i>United States v. Duran</i> , 189 F.3d 1071 (9th Cir. 1999)	22
<i>United States v. Gebro</i> , 948 F.2d 1118 (9th Cir. 1991)	16,23
<i>United States v. Gypsum, Co.</i> , 438 U.S. 422 (1978).	22
<i>United States v. Herrera-Gonzalez</i> , 263 F.3d 1092 (9th Cir. 2001).	23
<i>United States v. Hir</i> , 517 F.3d 1081 (9th Cir. 2008).	15,25,28
<i>United States v. Motamedi</i> , 767 F.2d 1403 (9th Cir. 1985)	15,19,20,23,24
<i>United States v. Salerno</i> , 481 U.S. 739 (1987).	16,18,24,25
<i>United States v. Sanchez</i> , DC No. 4:26-cr-6013-MKD-6.	1
<i>United States v. Santos-Flores</i> , 794 F.3d 1088 (9th Cir. 2015)	19
<i>United States v. Townsend</i> , 897 F.2d 989 (9th Cir. (1990).	19
<i>United States v. Winsor</i> , 785 F.2d 755 (9th Cir. 1986).	23

Statutory Authority

8 U.S.C. § 1448..... 14

18 U.S.C. § 922..... 4

18 U.S.C. § 3142..... *passim*

21 U.S.C. § 841..... 4,7

21 U.S.C. § 846..... 4

Court Rule

Supreme Court Rule 22..... 1

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I. APPLICATION

Pursuant to Supreme Court Rule 22, ALMA ROSA SANCHEZ (“Alma Sanchez”), makes application to the Honorable Elena Kagan, Circuit Justice, to review the Ninth Circuit’s Order entered on June 22, 2026, affirming the district court’s order of detention. Appendix (App. 1-2). Alma Sanchez requests Circuit Justice Kagan enter an order requiring the district court to place Alma Sanchez on conditions of release pending trial in the United States District Court for the Eastern District of Washington, *United States v. Sanchez*, DC No. 4:26-cr-6013-MKD-6.¹ Appendix (App.) 1-2.

¹ Applicant’s first and last name, Alma Sanchez, will be used throughout this application since other family members named in this application have the same last name. Each of their first and last names will be used in this application for ease of review.

II. INTRODUCTION.

Alma Sanchez is a 48 year old, naturalized citizen of the United States.² App. 97-98 (under seal). She was born in 1977 in Mexico. App. 97 (under seal).

In 1979, at the age of two, she and 11 of her siblings immigrated with her parents to the United States, settling in the Tri-Cities region in south-central Washington State.³ App. 98 (under seal). Six of Alma Sanchez's sibling live in the Tri-Cities, two live in California and one sibling still resides in Mexico.⁴ *Id.* Alma Sanchez's current home is located in Pasco, Washington, where she has resided for ten years. *Id.*

Alma Sanchez is the mother of five children, four children were born from her union with Damian Barajas.⁵ *Id.* Her youngest child, G.G., age 8, was born from a relationship with Francisco Garcia. Sons Jose, Julio, Arturo, A.B. and G.G., reside with Alma Sanchez and her husband in Pasco, Washington. Her son, Luis, lives nearby in Kennewick, Washington. *Id.*

Alma Sanchez's father is deceased, however, her aging mother, Maria Guadalupe, resides with her. App. 97-98 (under seal). Alma Sanchez is employed by the State of Washington as a caregiver for her mother. App. 99 (under seal). She is also employed as a caregiver for her son, Jose, who has a mental disability, and another individual. *Id.*

² The facts from the introduction are largely taken from the Pretrial Services Report, filed under seal in the Ninth Circuit in DktEntry 13.2 and 15. A copy of the report will be filed with the appendix to this application under seal. App. 97-101 (under seal).

³ The Tri-Cities consists of Pasco, Kennewick and Richland, Washington.

⁴ Three of her siblings have passed away.

⁵ This includes Jose Maria Barajas, age, 30, Julio Barajas, age 28, Luis Barajas, age 27 and A.B., age 14.

Alma Sanchez's only significant tie to Mexico is one sibling. App. 98 (under seal). She has traveled to Mexico with a valid passport for extended vacations. The last time she traveled to Mexico was for a six month period in 2011 to 2012. Her passport has since expired. *Id.*

Alma Sanchez is currently married to Martin Gomez Gonzalez who is an undocumented non-citizen. *Id.* During the pretrial services investigation by the United States Probation Office, Mr. Gomez voluntarily and truthfully disclosed his illegal status. *Id.* Pretrial services did not report any significant ties he had with Mexico, nor was there any information that Alma Sanchez traveled with her current husband to Mexico. *Id.* The pretrial services officer conducted a records' check "which did not reveal any concerns" with Mr. Gomez. *Id.*

Except for the current charges, Alma Sanchez has never been in trouble with the law. App. 99 (under seal). She is devoted to her family. (DktEntry 14.2 at 63, 65 and 101-02)⁶ (Support Letters). She is an active member of her church. She participates in church activities each week, every Monday and Wednesdays, and attends Sunday services. She also serves the church "in the cleaning department" for church events. (DktEntry 14.2 at 64) (Pastor Samuel Nunez).

Alma Sanchez was "compliant" when she was arrested. App. 100 (under seal). The pretrial services report concluded "[t]here are no factors indicating the defendant poses a risk of nonappearance." App. _ (under seal). The report concluded that the only factor weighing in favor of detention on danger to the community was the "nature of instant offense." *Id.* Nonetheless, the investigating officer concluded that "conditions of release can be fashioned by the [district court]

⁶ There were three supplements filed with the Rule 9(a) Memorandum in the Ninth Circuit Docket at DktEntry 14. These supplements will be referenced in this application as DktEntry 14.1, 14.2 and 14.3, and include the page numbers.

that would reasonably assure future court appearances and address the danger to other persons or the community.” *Id.* Thus, the pretrial services officer “recommended that [Alma Sanchez] be released from detention under [13] standard and special conditions.” App. 100-01 (under seal).

III. STATEMENT OF THE CASE.

A. Proceedings in the lower courts.

On March 18, 2026, a grand jury returned an indictment charging Alma Sanchez and five others with conspiracy to distribute controlled substances between July 2025 through March 3, 2026. App. 79-80. Count 1 alleges that the conspiracy involved 500 grams or more of methamphetamine and 400 grams or more of fentanyl, in violation of 21 U.S.C. §§ 841(a)(1) and 846. *Id.* Count 1 alleges that her brothers Amador Sanchez and Sergio Sanchez are members of the conspiracy. *Id.*⁷ Due to the quantity of drugs alleged, the potential punishment is a mandatory minimum of ten years in prison, with a maximum penalty of up to life in prison. 21 U.S.C. § 841(b)(1) (A)(vi) and (viii).

At arraignment, the government moved for detention. *See*, Supplement to 9(a) Memorandum (DktEntry 14.2 at 36-39). The government invoked the rebuttable presumption in the Bail Reform Act pursuant to 18 U.S.C. 3142(e)(3)(A) since the conspiracy alleged in Count 1

⁷ The indictment alleges the commission of five substantive offenses. Alma Sanchez is not charged in any of the substantive offenses. Her brother, Amador Sanchez, and defendant Cassandra Pollard are charged in Count 2 with distributing 500 grams or more of methamphetamine on February 9, 2026. Count 3 alleges that Amador Sanchez distributed 500 grams or more of methamphetamine. Count 4 alleges that Amador Sanchez, her brother Sergio Sanchez, and Cassandra Pollard, possessed with intent to distribute 400 grams or more of fentanyl and 500 grams or more of methamphetamine. Count 5 alleges that Amador Sanchez, who was prohibited from possessing firearms as a convicted felon, unlawfully possessed firearms in violation of 18 U.S.C. § 922(g)(1). Count 6 alleges that codefendants, Eliodoro Tapia and Nika Salazar, who were prohibited from possessing firearms as convicted felons, unlawfully possessed firearms in violation of § 922(g)(1). App. 81-83.

has a maximum potential penalty of 10 years or more in prison.⁸ (DktEntry 14.2 at 38). The magistrate held a bail hearing. App. 57-78.

B. The bail hearings.

Factors courts must consider in determining whether a person should be released pending trial are as follows:

(g) Factors to be considered.--The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning--

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including--

(A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

⁸ Subsection (e)(3)(A) of § 3142 states, “[s]ubject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed ... an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.)....” 18 U.S.C. 3142(e)(3)(A); App. 92.

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release....

18 U.S.C. § 3142(g); App 94-95.

1. The government's proffer.

The magistrate and the district court received the government's proffer supporting the motion for detention. The government's proffer is set out in the following summary:⁹

- * Alma Sanchez is the sister of the lead defendant in this case, Amador Sanchez. App. 59. She resides at what was confirmed to be a stash house for the drug trafficking organization in this case. App. 59-60.
- * “[O]n numerous occasions, Amador Sanchez would regularly go to Alma Sanchez’s house at all hours and times of the day immediately before drug transactions, and he would leave holding black WinCo cloth bags” that law enforcement determined contained large amounts of controlled substances. *Id.* at 60.
- * Amador Sanchez “would then travel to various locations, including one of the identified residences where he resided with another codefendant, and he would complete large drug transactions....” *Id.*
- * “During the execution of the search warrant at the defendant's home, inside a bedroom in her basement investigators located approximately 200 pounds of

⁹ This summary is a combination of the proffer presented to the magistrate at the detention hearing before the magistrate and to the district court on Alma Sanchez’s motion for review of the magistrates order of detention.

methamphetamine, 150 pounds of fentanyl, over \$2 million, and 16 firearms. Another firearm was located in the basement laundry room.” *Id.*¹⁰ The bedroom containing the drugs, cash and firearms “was locked at the time of the execution of the warrant” and there were locked safes within that room. “[T]hat room was represented by Alma Sanchez to be a room that was rented by her brother, Amador Sanchez.” *Id.* at 45. App. 61.

- * Alma Sanchez “had at least two juveniles residing at the residence as well as an adult son whom she described as having mental health issues. He was actually residing in the basement in close proximity to the room where all of the prior items were located. He was also in close proximity to the unsecured firearm in the laundry room.” App. 60.
- * Alma Sanchez’s husband does not have “lawful status” in the United States. *Id.* at 70. As a result, she “may find that to be a worthy alternative to leave this country for a period of time and then come back when she is no longer in the circumstances she is currently in.” *Id.* at 71.
- * When the agents confronted Alma Sanchez during her arrest about Amador Sanchez’s “short stay[] traffic ... with those specific WinCo bags that were

¹⁰ Alma Sanchez is not charged with conspiracy charging possession with intent to distribute those large quantities of drugs, cash and firearms seized in the basement during execution of the search warrant. App. 80. She is charged is a conspiracy to distribute drugs in violation of § 841(a)(1). *See*, 21 U.S.C. § 841(a)(1) (distinguishing unlawful distribution of a controlled substance from unlawful possession with intent to distribute a controlled substance). Only codefendants Amador Sanchez, Sergio Sanchez and Cassandra Pollard are charged in Court 4 with possession with intent to distribute the drugs seized during execution of the search warrant.

ultimately found in the home to be stuffed full of controlled substances, she did not provide any response; she put her head down and did not answer the agent's questions." *Id.*¹¹

- * The government informed the district court, to "be clear,[]" "there is no evidence that [Alma Sanchez] was actively distributing drugs ... [and] [w]e don't have any evidence that she was actively handling firearms, or anything of that nature." App. 45.

Since Amador Sanchez recently finished a 15-year federal sentence for similar drug trafficking, the government argued, "to say ... [Alma Sanchez] ... had no idea as to her brother's prior activities or activities ... is simply without merit." App. 61. The government maintained that the large quantities of drugs involved in her brother's activities gave Alma Sanchez the incentive to flee because of "the significant consequences she will face if convicted at trial, which is at least 10 years of imprisonment." *Id.* In the government's view, Alma Sanchez's family ties to Mexico "is a very powerful and significant incentive to flee...." *Id.*

In assessing risk of danger to other persons or the community, the government said, "we believe that the evidence here is incredibly strong, we believe that it's weighty, and we believe that it weighs in favor of the continued detention of the defendant...." *Id.* at 62. The prosecutor further argued, that Alma Sanchez demonstrated a different identity than that portrayed in the support letters, stating, "the idea that the type of conduct that is at issue here will somehow be

¹¹ In response to Alma Sanchez's motion to the district court for review of the magistrate's order of detention, the government proffered that Alma Sanchez "avoided answering" law enforcement's question" about Amador Sanchez's activities at her home and "eventually claim[ed] she did not know." (DktEntry 14.2 at 106-07).

prevented in the future or can otherwise be effectively monitored when .. it is clear that [Alma Sanchez] maintained a certain persona and a certain forward-facing identity to the community while literally her basement contained the largest drug seizure that has happened in the Eastern District of Washington; with her brother, with a prior drug trafficking conviction where he served 15 years, was entering and exiting at all times of the day; and there was the firearm that [was] [] show[n] to th[e] court readily and easily available to anyone in that home, to include her two minor children and her son with mental health issues.” *Id.*

The government presented a photograph of the firearm located in the laundry room in the basement of Alma Sanchez's home. App. 64-65. That photograph is contained in the United States Brief Re: Review of Detention Order. (DktEntry 14.2 at 106).

Defense counsel questioned whether the photograph of the firearm was in the location where it was actually found or whether law enforcement placed the firearm in public view “so that they could get a really nice picture of it.” App. 70. The prosecutor clarified that the firearm was “not visible to a ready observer.” App. 71. At the hearing on the motion to review the order of detention, the prosecutor reiterated that the firearm in the laundry room was “not visible with the naked eye unless you knew where to look.” *Id.* “It was uncovered during the search.” *Id.*

2. The magistrate’s order of detention. App. 12-22, 74-76.

The magistrate granted the government’s motion, concluding that “there’s no condition or combination of conditions that could adequately protect the community against the danger that is posed by this behavior and, more importantly, no condition that protects against nonappearance.” App. 76. In a written order that followed, the magistrate concluded that Alma Sanchez “has

overcome the presumption of detention....” App. 19.¹² Nonetheless, the magistrate concluded that the United States met its burden of establishing that no condition or combination of conditions could reasonably assure her appearance by a preponderance of evidence nor could reasonably assure the safety of any other person or the community if Alma Sanchez is released. *Id.*

The magistrate ordered Alma Sanchez detained based on the following:

- * “This is the largest seizure of drugs and money in the Tri-Cities.” App. 74. The “nature and circumstances of the offense ... is profoundly serious.” *Id.* Allegations that in involve 200 pounds of methamphetamine, 150 pounds of fentanyl, \$2.2 million dollars and firearms, “making it profoundly dangerous to the community.” *Id.* The allegation involve “higher level distribution.” App. 75; *see also* App. 15-16.
- * The magistrate concluded that the weight of the evidence favored detention based on the volume of drugs, money and guns found in the locked basement room, stating “too much dope; too much money; too may guns.” App. 75. Because of the volume involved, the magistrate did “not accept [] even a little bit” that Alma Sanchez did not know about her brothers activities. *Id.*; *see also*, App. 17. (“The idea that Defendant would have had no idea of her brother’s actions inside her home, despite both the quantity of drugs, money, and firearms in her home, as well as her brothers behavior in and out of the home, is absurd.”).
- * Alma Sanchez’s “time in the community, contacts, [lack of] criminal history, in general augur in her favor[,] [but] if you have a family member who doesn’t have

¹² The government has not challenged this conclusion.

status and may need to live elsewhere, that's a pull ... to another area." App. 75-76.

* The "potential criminal ramifications" and facing a mandatory minimum 10 years in prison, "one may decide that being elsewhere is preferable." App. 76; *see also* App. 18 ("the term of imprisonment Defendant is faced with, and her husband's lack of legal status, Defendant has great incentive to flee the country to avoid prosecution.").

* The large quantity of drugs and money involved "belongs to somebody." "They're not happy ... [t]hat's also an incentive to just be somewhere else." App. 76; *see also* App. 18 ("Given that Defendant is not in a position to cover this loss, there is an incentive if released for Defendant to be absent when owner's representative come calling.").

* Alma Sanchez's response to questioning, *i.e.*, remaining silent, "is telling." App. RTD 76; *see also* App. 17 ("reaction when questioned by law enforcement about her brother's behavior is telling.").

3. The district court's order affirming the magistrate. App. 3-11, 49-54.

Following bail proceedings before the magistrate, Alma Sanchez filed a motion for review of the magistrate's order of detention before the district court. The district court held a hearing. App. 23-55. The district court affirmed the magistrate's order of detention concluding no condition or combination of conditions would reasonably assure Alma Sanchez's appearance and safety of the community if she is released. App. 10, 53-54. In sum, the district stated the following both orally and in writing:

- * “The nature and circumstances of the offense ... don’t come any more serious than this with respect to drug offenses.” App. 49; App. 5-7. This includes the quantity of drugs, the number of firearms, and the amount of cash. All of those factors are indicative of dangerousness. App. 49-50; App. 6.
- * The weight of the evidence established by the grand jury is that Alma Sanchez’s “role is very different.” “[T]he grand jury determined in some capacity, is allowing her home to be used to operate this massive operation.” App. 50. Defendant’s role is less significant than her brother, but the weight of evidence is strong, given the items alleged to have been seized from her home.” App. 7. This factor “weighs in favor of detention.” *Id.*
- * The district court included information about Amador Sanchez’s violation behavior while on supervised release for his prior federal drug trafficking conviction. App. 51. He is “reporting to the Probation Office he’s living in the home of one sister[,]” Bertha Sanchez, and that sister, “despite the fact the Probation Office can never find [] Amador [Sanchez] there, that sister is saying ... he lives there.” *Id.*¹³ “She is also one of the sisters who ... cars were registered in her name that were being used in the course of these drug transactions. “[T]hat sister wrote a letter on behalf of the defendant ... [and] not a letter [the district

¹³ There was no evidence presented to the district court that Alma Sanchez knew that her sister Bertha was covering for Amador Sanchez, nor was there any evidence that Alma Sanchez knew that her brother was borrowing her sisters’ cars to traffic drugs.

court trust[ed] at all.” *Id.*; App. 8-9¹⁴ The district court further found that there is another sister, Maria Sanchez, who drafted a letter, and that sister also had a car registered in her name that this conspiracy was using to deliver drug transactions.”¹⁵ App. 9; App. 50.

* There is another brother, Sergio Sanchez, who is charged in this case. “[T]his gives the Court very little reason to trust the family members who are making representations to the Court ... in terms of their support for Ms. Sanchez's release.” App. 51-52.

* Amador Sanchez “had ... nine prior convictions related to drug activity, four of which were related to trafficking-related ability (sic); possession with intent to distribute, delivery, and then most recently a federal conviction for which he served 15 years.” App. 52. “The fact that she was renting a room to him for [Amador Sanchez] to lock, come and go all hours of the day and night, and --

¹⁴ Bertha Sanchez’s letter only contained an offer to allow Alma Sanchez to reside at her residence in Pasco. DktEntry 14.2 at 66. Alma Sanchez was not seeking release to Bertha Sanchez’s residence. She was seeking release to her residence.

¹⁵ This finding was the subject of a motion to correct the record on appeal before the Ninth Circuit. (DktEntry 12.1). This finding was based on misinformation provided by the prosecutor. The prosecutor proffered, [m]y understanding is that Maria Sanchez -- and I'm referring to ECF 86 -- she ... provided a letter of support. We believe that of the three vehicles that were utilized and -- by Amador and for which we obtained trackers for, one was registered to Maria Sanchez....” App. 43-44.

The letter referenced in ECF No. 86 is actually a letter from Alma Sanchez’s niece, Maria G. Sanchez. (DktEntry 10.1 at 6); (DktEntry 14.2 at 63). Even though the government agreed that the district court relied on misinformation provided by the prosecutor, it objected to the correction (DktEntry 12.1 at 4); and the Ninth Circuit denied the motion to correct the record on appeal. App. 2. It is requested that Justice Kagan rely on the correct facts and not on the incorrect facts relied on by the district court.

gives the Court concern about what that means as to her efforts to subvert the Probation Office's ability to monitor him.” *Id.* “[H]e was supposed to be living with another sister who ... was ... giving questionable information to the Probation Office, but that’s where he is supposed to be.” *Id.* “[F]rom the Court's perspective, that is helping him subvert the eyes of law enforcement, the eyes of the Probation Office, and that gives me concern about somebody being released and their willingness to abide by court orders, when they're already showing a willingness to subvert” Probation’s supervision. *Id.* This gives “significant concerns about her willingness to abide by court orders, do what the Probation Office says, you know, all of those things, given those concerns.” *Id.*¹⁶

* “[T]he Court cannot overlook the fact that she was born in Mexico; nobody has indicated she's given up her Mexican citizenship, although she is a naturalized citizen.¹⁷ I do recognize that. Her spouse is a noncitizen who has no status in the country. She has traveled to Mexico and for lengthy periods of time. We’re not talking a weekend stay in Mexico. I think her last visit, although a while ago but was for six months.¹⁸ She has family in Mexico, including at least one sibling. And I think there are indications to believe that these drugs originated in Mexico

¹⁶ *See*, footnote 12, *supra*.

¹⁷ To become a naturalized citizen, the person must take an oath and “renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign ... state or sovereignty of whom or which the applicant was before a subject or citizen.” 8 U.S.C. § 1448(a)(2).

¹⁸ The travel was in 2011 and ended in 2012. App. 98 (under seal). Alma Sanchez’s passport has since expired. *Id.*

and there may be ties there.” App. 53.

- * Alma Sanchez “has family support ... [and] individuals that she cares for” but these factors do not “overcome [] concerns about the risk of danger and the risk of nonappearance, particularly that this is a presumption case, particularly in a presumption that this is a presumption case and I am relying on.” App 53-54.

4. The Ninth Circuit’s order affirming the district court. App. 1-2

The Ninth Circuit concluded that “[t]he district court did not clearly error in finding, by a preponderance of evidence, that the appellant possess a risk of flight and the ‘no condition or combination of conditions will reasonably assure the [defendant’s] appearance.’” App. 1 (citing 18 U.S.C. § 3142(e); *United States v. Motamedi*, 767 F.2d 1403, 1407 (9th Cir. 1985)). The Ninth Circuit also concluded that the district court “did not clearly error in finding, by clear and convincing evidence, that appellant poses a danger to the community and that ‘no condition or combination of conditions will reasonably assure ... the safety of ... the community.’” App. 1-2 (citing 18 U.S.C. 3142(e)(1), (f)(2)).

The Ninth Circuit’s order deviates from the court’s responsibility and its own case law when on review of the district court’s order affirming the magistrate’s order of detention. Under its authority, the appellate court “must ensure not only that the factual finding support the conclusion reached, but also the person’s constitutional and statutory rights have been respected.” *Motamedi*, 767 F.2d at 1405 (citing *Truong Dinh Hung v. United States*, 439 U.S. 1326, 1328-29 (1978) (Brennan J., in chambers)). Thus, “the question of whether the district court’s factual determinations justify the pretrial detention is reviewed *de novo*.” *United States v. Hir*, 517 F.3d 1081, 1086-87 (9th Cir. 2008) (citations omitted).

The Ninth Circuit applied a “clearly erroneous” standard to affirm the district court’s legal conclusion that there is no condition nor combination of conditions that will reasonably assure Alma Sanchez’s appearance for court proceedings if she was released pending trial. The Ninth Circuit also applied a “clearly erroneous” standard to affirm the district court’s legal conclusion that the facts established that no condition nor combination of conditions would reasonably assure safety of the community if Alma Sanchez was released pending trial. App. 1-2; *see*, 18 U.S.C. § 3142(g) (listing facts to consider in reaching the relevant legal conclusions).

The Ninth Circuit’s order does not reflect that an independent *de novo* review to determine if the facts relied on by the magistrate and the district court supported the conclusions that no condition or combination of conditions could reasonably assure Alma Sanchez’s appearance at future court proceedings and the future safety of any other person or the community if released. *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir. 1991) (the court conducts “an independent review of the facts, the findings, and the record to determine whether the order may be upheld.”). Therefore, Alma Sanchez applies to Justice Kagan for relief and requests issuance of an order requiring the district court to release her pending trial on the conditions recommended by the United States Probation Office. App. 100-01 (under seal).

IV. REASONS FOR GRANTING THIS APPLICATION FOR RELEASE

A. The legal framework.

The Bail Reform Act in 18 U.S.C. § 3142 requires release of an accused pending trial, except in limited situations. *United States v. Salerno*, 481 U.S. 739, 755 (1987) (“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”); 18 U.S.C. § 3142. The history, background and characteristics of Alma Sanchez

override those factors that may weigh in favor of detention under § 3142(g) and support her release from her current custody in the Benton County Jail, Kennewick, Washington.

This application is guided by former decisions of Circuit Justices of the Court that set out the standards for reviewing applications for bail. First, the district court and the Ninth Circuit's judgements are afforded "great deference." *Truong Dinh Hung*, 439 U.S. at 1328 (quoting *Harris v. United States*, 404 U.S. 1232 (1971) (Douglas, J., in chambers) ("Both the District Court and Court of Appeals [having denied bail] is entitled to great deference"). However, "where the reasons for action below clearly appear, a Circuit Justice has a nondelegable responsibility to make an independent determination on the merits of the application." *Truong Dinh Hung*, 439 U.S. at 1328 (quoting *Reynolds v. United States*, 80 S. Ct. 30, 32 (1959) (Douglas, J., in chambers)). And, "[t]he command of the Eighth Amendment that '[e]xcessive bail shall not be required ...' at the very least obligates judges passing upon the right to bail to deny such relief only for the strongest of reasons." *Truong Dinh Hung*, 439 U.S. at 1329 (quoting *Sellers v. United States*, 89 S. Ct. 36, 38 (1968) (Black, J., in chambers) (emphasis in original) (quotations in original)).

Truong Dinh Hung, *Harris*, *Reynolds*, and *Sellers* all involve applications for bail pending appeal after convictions for various federal offenses. *Truong Dinh Hung*, 439 U.S. at 1326; *Harris*, 404 U.S. at 1232; *Reynolds*, 80 S. Ct. at 31-32; and *Sellers*, 89 S. Ct. at 37. This case involves pretrial detention before trial in which the government has the burden of proving guilt beyond a reasonable doubt. *See*, 18 U.S.C. § 3142(j) ("Nothing in the Bail Reform Act shall be construed as modifying or limiting the presumption of innocence."); App. 96

The magistrate and district court's orders holding Alma Sanchez in jail while she awaits

trial are problematic under the Act for at least three reasons: (1) in assessing flight risk, both the magistrate and the district court speculate on the impact of her past ties to Mexico and the impact of her husband's undocumented status ("alienage"); (2) the magistrate and the district court placed undue emphasis on the government's view on the weight of evidence to justify detention; and (3) the magistrate and district court failed to make an individualized assessment under § 3142(g)(4) to determine if Alma Sanchez would pose a danger if she was released from jail pending trial, contrary to the Bail Reform Act and the Court's decision in *United States v. Salerno*, 481 U.S. 739 (1987). 18 U.S.C. § 3142(g)(4).

1. Previous ties to Mexico and the husband's "alienage" should not justify detention.

The magistrate concluded that Alma Sanchez husband's lack of "legal status" is one of the "characteristics" that favor detention. App. 18. The magistrate concluded that, when faced with a lengthy term of imprisonment "and her husband's lack of legal status," Alma Sanchez "has great incentive to to flee the country to avoid prosecution." *Id.*

Similarly, the district court concluded that Alma Sanchez's "history and characteristics on balance weigh in favor of detention." App. 7. The district court wrote:

her ties to Mexico concern the Court. She was born in Mexico. She is a naturalized United States citizen. She has family in Mexico and has visited Mexico, including for extended stays (for example, for 6 months in 2011). Her husband does not have legal status in the United States.

Id. At the review hearing, the district court stated, "the Court cannot overlook the fact that she was born in Mexico; nobody has indicated she's given up her Mexican citizenship, although she is a naturalized citizen[;]¹⁹ [and] [h]er spouse in a noncitizen who has no status in this country."

¹⁹ See, footnote 15.

App. 53.

The Ninth Circuit has traditionally held that “alienage [of the accused] may be taken into account, but it is not dispositive.” *United States v. Santos-Flores*, 794 F.3d 1088, 1090 (9th Cir. 2015) (citing *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985)); *United States v. Diaz-Hernandez*, 943 F.3d 1196, 1198 (9th Cir. 2019) (same); and *United States v. Townsend*, 897 F.2d 989, 994 (9th Cir. (1990) (same). Here, the magistrate and the district court viewed Alma Sanchez’s husband’s undocumented status as a significant factor in the conclusion that she is a flight risk, presumably due to ties to Mexico.

Justice Brennan’s analysis of a noncitizen applicant’s flight risk in *Truong Dinh Hung* is compelling. There, the Court of Appeals relied on the following facts to conclude the applicant, a Vietnamese citizen, was a flight risk: (1) the “applicant maintained contact with the Vietnamese Ambassador in Paris;”(2) the applicant “ha[d] not established permanent residency in this country;” and (3) “should applicant flee to Vietnam, the United States would have no means to procure his return.”²⁰ *Truong Dinh Hung*, 439 U.S. at 1329.

Justice Brennan rejected these facts as reasons to deny bail pending appeal, stating “these considerations suggest opportunities for flight, they hardly establish any inclination on the part of applicant to flee.” *Id.* The applicant had been on pretrial release without incident, but also had lived in the United States for some time, had “extensive ties in the community,” and “produced numerous affidavits attesting to his character and reliability as a bail risk.” *Id.*

Similarly, the Ninth Circuit’s decision in *Motamedi* is helpful. In that case, the Ninth

²⁰ The district court also considered the fact that, should Alma Sanchez flee, “the ability to extradite people from Mexico for drug-related cases is very limited ... [s]o that does not provide a disincentive for anyone to flee to Mexico with pending drug charges....” App. 47.

Circuit concluded that the defendant, “a 27-year old Iranian citizen who ha[d] been admitted for permanent residence” in the United States, who lived in Los Angeles, California, for many years, “had applied for citizenship, who had about “eighty-five relatives in the Los Angeles area, many of whom are citizens,” and had “immediate family, including his wife, brothers, mother, and father, [who] all resided in the area,” who had no criminal record, and had no history of drug or alcohol abuse, was an appropriate candidate for release pending trial. *Motamedi*, 767 F.2s at 1407-08.²¹

Here, Alma Sanchez is a naturalized citizen of the United States. She has resided in the United States since two-years of age, after having migrated with her family from Mexico in 1979. She has extensive family members who reside in the Tri-Cities region in Washington State, including her husband, her five sons, and her mother. App. 97-98 (under seal). She is employed by Washington State as a caregiver. She has substantial ties to her church community, where she participates in church activities at least three days a week. (DktyEntry 14.2 at 64).

Furthermore, Alma Sanchez has no physical or mental condition, her caregiving employment involves her aging mother, her disabled son, and another individual, she has no past bad conduct, no criminal history, no history of drug or alcohol abuse and has no record of nonappearance in court. App. 97-99. Alma Sanchez was not under any kind of supervision at the time of her arrest. 18 U.S.C. § 3142(g)(3)(A) and (B). *Id.*

Finally, the pretrial services investigation did not uncover any concerning information

²¹ Like the applicant in *Truong Dinh Hung*, the defendant in *Motamedi* had a previous record of appearing in court when required. *Id.* at 1408. Without such track-record here, the relevant § 3142 factors weigh in favor of release. Alma Sanchez has no criminal history, never been arrested, was not on probation or parole when arrested, and was not on release for any criminal offenses when she was arrested. 18 U.S.C. § 3142(g)(3)(A) and (B).

about Alma Sanchez's husband after he voluntarily and honestly disclosed his undocumented status in the United States. App. 98 (under seal). The government did not present any information relating to the husband's travel to any country or any information that indicated that Alma Sanchez and her husband ever traveled to Mexico together. The government did not present any information establishing what ties the husband may have to Mexico other than having an Hispanic name.

The magistrate and the district court's concerns regarding Alma Sanchez's incentive to flee to Mexico or any other foreign country are based on speculation. Their conclusions that Alma Sanchez poses a risk of flight if released pending trial is not based on specific facts that establish any inclination on her part to flee. *Truong Dinh Hung*, 439 U.S. at 1329. Indeed, her background and characteristics provide ample motivation for her to remain at her residence to confront these allegations.

2. An undue emphasis on the government's view on the weight of evidence should not justify detention.

The government made it clear it had no evidence that Alma Sanchez participated in her brother's illegal activities with drugs and guns. App. 45. The magistrate indicated that Alma Sanchez had to have know what Amador Sanchez was doing. App. 17. The government claimed that the strength of the evidence rested on its belief that Alma Sanchez had to have know of her brother's illegal activities that were connected to her home. App. 61, 57. The case against her rests on circumstantial evidence and knowledge is not the only prerequisite for establishing participation in a conspiracy.

The government must also prove Alma Sanchez intended to agree to participate in a

conspiracy and had the intent to effectuate the object of the conspiracy. *United States v. Gypsum, Co.*, 438 U.S. 422, 443 n. 20 (1978) (“In a conspiracy, two different types of intent are generally required - the basic intent to agree ... and the more traditional intent to effectuate the object of the conspiracy.”); *see also*, *United States v. Duran*, 189 F.3d 1071, 1078 (9th Cir. 1999) (evidence must “show[] that the defendant had knowledge of and participated in the conspiracy.”). The Court has previously instructed,

Without the knowledge, the intent cannot exist.... Furthermore, to establish intent, the evidence of knowledge must be clear, not equivocal.... This is because charges of conspiracy are not to be made out by piling inferences upon inferences, thus fashioning a dragnet to draw in all substantive crimes.

Ingram v. United States, 360 U.S. 672, 680 (1959) (quoting *Direct Sales v. United States*, 319 U.S. 703, 711 (1943)).

The government claims that Alma Sanchez had to know of her brother’s illegal activities due to the frequency of his comings and goings from her residence and because she likely knew of his 15-year federal prison sentence for drug trafficking where he was recently released from prison. App. 61; App. 15-16; App. 6-7. At the hearing, defense counsel proffered that the layout of Alma Sanchez’s home allowed for Amador Sanchez to come and go from the home without her knowledge. Defense counsel asked the district court, “what information do you have about her house that would lead you to believe that she knew ... her brother's every coming and going?” App. 31. “The Government certainly ... hasn’t offered that to you ... [a]nd the reason is because there is a way for him to get in and out of that house without anybody knowing what he’s doing.” *Id.* at 32.

The law on conspiracy in the Ninth Circuit is clear:

In a “mere presence” or “hanging around” case, the question is whether there is enough evidence to tie the defendant to the criminal activities. It is not a crime to be acquainted with criminals or to be physically present when they are committing crimes. Imprudent, certainly, because of the legal risk of being mistaken for a co-conspirator, but not criminal. Even living in the same house as the criminals, or living in a room where drugs are stored, is by itself insufficient evidence of conspiracy. Although once a conspiracy is established only a slight connection to the conspiracy is necessary to support a conviction, the term “slight connection” in this context does not mean that the government's burden of proving a connection is slight. *Innocent association, even if it is knowing, does not amount to a “slight connection.”*

United States v. Herrera-Gonzalez, 263 F.3d 1092, 1095 (9th Cir. 2001) (emphasis added).

Under the structure of the Bail Reform Act, the “weight of the evidence against the person” relates to “whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.” This factor is not properly used to prevent release based on a judicial officer’s assessment of guilt.²² 18 U.S.C. 3142(g)(2); *see, Gebro*, 948 F.2d at 1121; and *United States v. Stone*, 608 F.3d 939, 948 (6th Cir. 2010) (the weight of the evidence factor is “not the weight of the evidence of defendant’s guilt.”).

The Ninth Circuit holds that the weight of the evidence factor “is the least important” of the factors under § 3142(g). *Gebro*, 948 F.2d at 1121 (citing *United States v. Winsor*, 785 F.2d 755, 757 (9th Cir. 1986); and *Motamedi*, 767 F.3d at 1408). In this case, the government’s view on the strength of the evidence is countered by Alma Sanchez’s statement that she did not know of her brother’s activities. (DktEntry 14.2 at 107). She proffered that her brother could come and

²² For example, the magistrate concluded that “[t]he idea the Defendant would have no idea of her brother’s action inside her home, despite the quantity of drugs, money and firearms in her home, as well as her brother’s behavior in and out of the home, is absurd.” App. 17.

go from the locked basement room in her home without her knowledge. App. 32. The evidence before the magistrate and the district court established that Alma Sanchez had little or no time to pay attention to Amador Sanchez's activities. She spent her time caring for her aging mother, caring for her disabled son, caring for another individual, providing for her other three sons at home, and spending at least three days week participating in church activities. App. 97-99; (DktEntry 14.2 at 64).

The fact that Alma Sanchez allowed her brother to use a locked basement room in her home should not prevent her release. The government made it clear that she was not involved in her brother's illegal drug trafficking and firearm activities. App. 45. The weight of the evidence factor, when measured against Alma Sanchez's historically spotless background and characteristics, should "not tip the balance" in favor of detention. *Motamedi*, 767 F.2d at 1408.

3. The magistrate and district court's failure to make an individualized assessment under § 3242(g)(4) to determine if Alma Sanchez would pose a danger to any other person or the community if released from jail pending trial runs contrary to the Bail Reform Act and the Court's decision in *United States v. Salerno*, 481 U.S. 739 (1987).

The plain language in the Bail Reform Act requires an assessment of whether an accused would pose a danger to the safety of any other person or the community if release be based on facts particular to the individual. 18 U.S.C. § 3142(g)(4).²³ When the Court in *Salerno* upheld the constitutionality of allowing dangerousness to be used in bail determinations, the Court made clear that a determination of dangerousness be based on facts particular to the defendant. ("When the Government proves by clear and convincing evidence that the arrestee presents *an*

²³ Subparagraph (g)(4) requires courts to consider "the nature and seriousness of the danger to any person or the community that would be posed by *the person's release*." 18 U.S.C. § 3142(g)(4) (emphasis added).

identifiable and articulable threat to an individual or the community ... a court may disable the arrestee from executing that threat.”) (emphasis added).

Before *Salerno*, the Third Circuit held that the Bail Reform Act of 1984 “authorizes pretrial detention only upon proof of ... a danger of recidivism in one or more of the crimes actually specified by the bail statute.” *United States v. Himler*, 797 F.2d 156, 160 (3d Cir. 1986).²⁴ The First Circuit adopted *Himler*’s holding, stating “we interpret the [Bail Reform Act] in the same manner as the Third Circuit.” *United States v. Ploof*, 851 F.2d 7, 11 (1st Cir. 1988). “That is, where detention is based on dangerousness grounds, it can be ordered only in cases involving one of the circumstances set forth in § 3142(f)(1).” *Id.* The Third Circuit and First Circuit, therefore, require an individual assessment to determine if the defendant poses a risk to commit one of the crimes delineated in the Act, before dangerousness may be used for pretrial detention.

The Ninth Circuit’s decision in *Hir* is consistent with both *Himler* and *Ploof*. The Ninth Circuit held that the Bail Reform Act “enables the court to consider the nature of the crime with which the defendant is charged and the danger that if he were released he would commit similar crimes.” *Hir*, 517 F.3d at 1089. Even with the conduct alleged by the government, there is no evidence to leading to the conclusion that Alma Sanchez would “commit similar crimes” if she is

²⁴ The crimes listed in the Bail Reform Act are set out in subsections (e)(3), (f)(1) and (g)(1) under § 3142, including crimes of violence, a violation of 18 U.S.C. § 1591, a Federal crime of terrorism, or crimes that involves minors or a controlled substance, firearms, explosives, or destructive devices. App. 92-94. The Court has not addressed the question of whether the Bail Reform Act limits the dangerousness determination to a danger of recidivism of those crime listed in the Act, or whether the Act allows detention based on a finding that the accused would pose a danger to any person or the community to commit any offense, both listed and unlisted. Nonetheless, the Third Circuit is clear the this requires an individual assessment of the individual, not just an assessment of the nature and circumstances of the offense.

released pending trial. *Id.*

The magistrate and the district court ordered pretrial detention of Alma Sanchez for dangerousness based solely on the serious nature and circumstances of the charged offense. The government provide no additional information beyond the nature and circumstances of the offense charged that supported the district court's conclusion she would pose a danger if release.

In the order granting the government's motion for detention, the magistrate wrote:

As to the fourth factor—the nature and seriousness of the danger Defendant would pose to the community if released—the allegations are extremely serious. The sheer quantity of the controlled substances, cash, and firearms found inside Defendant's home create a profound risk of danger to the community. Therefore, this factor weights in favor of detention.

App. 19. The magistrates analysis did not include any individualized facts that supported a conclusion that Alma Sanchez would pose a danger if released pending trial. *Id.*; *see also*, App. 74 (“allegations of 200 pound of methamphetamine, 150 pounds of fentanyl, \$2.2 million in case and the firearms, making it profoundly dangerous to the community.”)

The district court explained her analysis at the hearing to review the magistrates order, stating: “And so the nature and circumstances of the offense very much consider the quantity of drugs, the consider the number of firearms, they consider the danger those things pose to the community.... All those things go to that issue.” App. 27. The district court then said:

I don't think the Government's position is ... she was running the show ... based on what they found.... They're saying the nature and circumstances of this overall offense is very, very serious by virtue of the quantity of the drugs, the risk that poses to the community, the amount of firearm that were present with that and the danger that poses, as well as the quantity of cash involved indicates ... what a significant operation this is ... the largest drug and gun seizure and money in the history of Eastern Washington.

.... that's the way that I am going to be analyzing it today.

App. 28.

The focus solely on the nature and circumstances of the offense charged, drove the district court's conclusion. The district court stated,

I have considered all the statutory factors in this case. As to the nature and circumstances of the offense, they don't come any more serious than this with respect to drug offenses. The quantity of narcotics at issue, the number of firearms, the amount – the amount of cash is indicative of a whole host of things. It's just, the massive scope of the conspiracy, the significant danger. The possession of this many firearms with drugs is – poses a really significant danger to the community.

And the quantity of cash, in addition to all the other factors, really indicates what a high-level operation this is because the fact that that much cash was entrusted to someone to maintain in a home, again, it's indicative of really how – the scope, size, and sort of level of this conspiracy.

So all of those factors are indicative of dangerousness.

App 49-50.

In the written order, the district court wrote:

Fourth, the nature and seriousness of the danger to any persons or the community that would be posed by Defendant's release weighs in favor of detention. The allegations in this case are very serious, and the quantity of controlled substances, cash, and firearms found inside Defendant Sanchez's (6) home creates a significant risk of danger to the community.

App. 9.

Both the district court and the government look retrospectively at the facts underlying the alleged offense to determine if Alma Sanchez would pose a danger if released. The Bail Reform Act, however, requires the court to “take into consideration ... the nature and seriousness of the

danger to any person or the community that would be posed by the person's release." 18 U.S.C. § 3142(g)(4) (emphasis added).

The plain language of § 3142(g)(4) requires courts to review the facts to determine dangerousness prospectively, future dangerousness of the defendant if release. In other words, § 3142(g)(4) is forward-looking and must be based on review of the individual defendant's conduct, history and background to determine if that person would pose a danger. *Hir*, 517 F.3d at 1991.

Here, the government concedes that Amador Sanchez and others were directly responsible for the illegal drug trafficking and firearm activities. As to Alma Sanchez, the government proffered that "there is no evidence that she was actively involved distributing drugs and the government was "clear about that." App. _ (2-ER-89). There is no "evidence that she was actively handling firearms, using firearms, or anything of that nature." *Id.*

The government's allegations do not establish Alma Sanchez would pose a danger to commit an offense involving a controlled substance or any other offense listed in the Bail Reform Act. Nor did the government proffer any information that Alma Sanchez would pose a danger of committing any crime against a person or one harmful to the community if released.

There is no evidence she had any connection to Amador Sanchez's source of supply of the drugs or guns. There is no evidence she would know how to obtain drugs or guns. Nothing establishes that Alma Sanchez would have the wherewithal or desire to commit any criminal offenses in the future. Indeed, her lack of criminal history, her extraordinary family ties and responsibilities, and her ties to the community demonstrate an absence of any risk of future criminal activity if she is released.

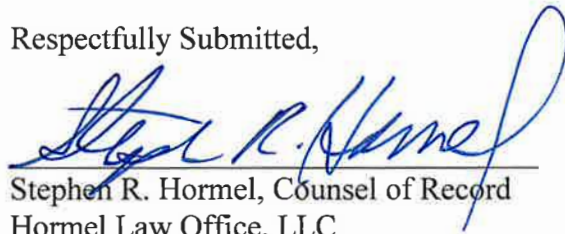
V. CONCLUSION

Under the structure of the Bail Reform Act, Alma Sanchez is an appropriate candidate for release pending trial. The government did not provide any information that established she would have any inclination to flee if she is released, and the facts do not establish that she would pose a danger of committing similar crimes or any crime, for that matter, if she is released pending trial.

It is, therefore, requested in this application to Circuit Justice Elena Kagan that an order issue requiring the district court to release Alma Sanchez on conditions pending trial, such as those conditions recommended by the United States Probation Office. App. 100-01 (under seal).

Dated this 1st day of July, 2026.

Respectfully Submitted,



Stephen R. Hormel, Counsel of Record
Hormel Law Office, LLC
17722 E. Sprague Ave.
Spokane Valley, WA 99016.
(509) 926-5177
Counsel for Applicant, Alma Sanchez