

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SERGIO CRUZ CRUZ,

Petitioner,

v.

PAMELA BONDI, Attorney General of the United States, KRISTI NOEM, Secretary, United States Department of Homeland Security, TODD LYONS, Acting Director for New England, U.S. Immigration and Customs Enforcement, and WARDEN, Wyatt Detention Center, Central Falls, RI,

Respondents.

Civil Action No. 25-cv-262-JJM-PAS

**OPPOSITION TO PETITIONER'S MOTION TO COMPEL
PRODUCTION OF HIS COMPLETE IMMIGRATION FILE**

Respondents—none of which is the agency to which Petitioner directed his Freedom of Information Act (“FOIA”) request for his “immigration file”—ask the Court to summarily deny Petitioner’s motion asking entirely different persons and entities to produce that file for any one of the following reasons.

First, the entity that possesses documents that the Petitioner seeks is the U.S. Citizenship and Immigration Services (“USCIS”), which is not a party to this habeas proceeding. Even if the Court had jurisdiction to consider Petitioner’s motion, which it does not (see below), the party in possession of the contested records is not a party to this case.

Second, and relatedly, FOIA invests a federal court with jurisdiction to enjoin an agency from withholding documents only after the filing of a “complaint . . . in the district in which the complainant resides . . .” 5 U.S.C. § 552(a)(4)(B). The statute does not enable mere “movants,” such as Petitioner,

to simply inject complaints about FOIA-request processing into an ongoing case related to utterly distinct issues.

Third, such a complaint would, in any case, be premature as it is clear that the Petitioner has failed to exhaust both informal and formal administrative remedies. Nothing in Petitioner's motion suggests that, in the 27 days since USCIS responded to Petitioner's FOIA request, that the Petitioner either has contacted a USCIS FOIA Public Liaison "to discuss [the agency's] response before filing an appeal to attempt to resolve your dispute without going through the appeals process. . . ." or filed an administrative appeal ECF 26, Ex. A at 2 (Letter from J. Panter, Acting Chief FOIA Officer, FOIA & Privacy Unit, USCIS, to W. Hahn (Oct. 28, 2025)).

Finally, even if the Court were to grant Petitioner's motion and order USCIS, a non-party to this litigation, to produce the asylum affidavit sought by Petitioner and any other unidentified documents in his immigration file, these documents would have no bearing on his pending habeas petition. Petitioner is not entitled to contest his removal order or its reinstatement. *See* 8 U.S.C. § 1231(a)(5). Petitioner's habeas petition under § 2241 in this court is a challenge to the constitutionality of his detention, but it cannot be a vehicle to challenge the validity of his order of removal. *See* 8 U.S.C. § 1252; *Gicharu v. Carr*, 983 F.3d 13, 16 (1st Cir. 2020); *Busill v. I.N.S.*, No. Civ. A-6-63-S, 2006 WL 1495579, at *2 (D.R.I. May 25, 2006).

It is the Petitioner's burden to establish the Court's subject-matter jurisdiction. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). And courts "presume they lack jurisdiction unless the contrary appears affirmatively from the record." *Renne v. Geary*, 501 U.S. 312, 316 (1992) (cleaned up). By failing to show that the Petitioner filed an administrative appeal with USCIS, he has failed to exhaust administrative remedies and deprived this Court of

jurisdiction under Federal Rules of Civil Procedure 12(b)(1) and (6). *See, e.g., Taylor v. Appleton*, 30 F.3d 1365, 1367-68 (11th Cir. 1994) (affirming dismissal of FOIA claim for lack of subject-matter jurisdiction) (“FOIA clearly requires a party to exhaust all administrative remedies before seeking redress in the federal courts. This exhaustion requirement is a condition precedent to filing suit intended to allow a federal agency to exercise its discretion and authority, as well as create a descriptive factual record for the district court to review if necessary.”) (citing cases from the D.C., Fifth, Eighth, and Ninth Circuits); *cf. Wilbur v. Cent. Intel. Agency*, 355 F.3d 675, 676 (D.C. Cir. 2004) (per curiam) (affirming summary judgment for agency on claimant’s FOIA claim) (“Exhaustion of administrative remedies is generally required before seeking judicial review ‘so that the agency has an opportunity to exercise its discretion and expertise on the matter and to make a factual record to support its decision.’”) (quoting *Oglesby v. U.S. Dep’t of the Army*, 920 F.2d 57, 61 (D.C. Cir. 1990)); *Almy v. U.S. Dep’t of Justice*, No. 96-1207, 1997 WL 267884, at *3 (9th Cir. May 7, 1997) (affirming summary judgment for agency on claimant’s FOIA claim) (“FOIA requires exhaustion of administrative remedies before the filing of a lawsuit.”) (citing cases from the D.C., Fifth, and Eighth Circuits); *id.* (“[I]f the plaintiff does not allege that he has exhausted his remedies under the FOIA, the plaintiff has failed to state a claim”); *Strahan v. National Oceanic and Atmospheric Administration, Administrator*, 18-cv-752-LM, 2020 WL 2042966, at *3-4 (D.N.H. Apr. 28, 2020) (recognizing that exhaustion was a “mandatory prerequisite” to a FOIA lawsuit).

Finally, even if Petitioner could overcome the preceding, insuperable hurdles *and* if his motion were construed as a complaint (although it cannot be), it still lacks sufficient allegations to survive dismissal. Federal Rule of Civil Procedure 12(b)(6) compels dismissal of complaints that fail to allege a plausible legal

and factual basis for the relief requested. *See, e.g., Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 561-562 (2007); *id.* at 557 (pleadings containing only “naked as-
sertion[s]” without “further factual enhancement” are deficient). And, under
Federal Rule of Civil Procedure 8(a)(2), the First Circuit demands that “the
complaint should at least set forth minimal facts as to who did what to whom,
when, where, and why.” *Educadores.Puertorriquenos en Accion v. Hernandez*,
367 F.3d 61, 68 (1st Cir. 2004).

Petitioner’s motion omits all sorts of information necessary to establish
any grounds for relief—including what, exactly, his FOIA request stated or why
USCIS’s decisions to withhold certain documents were improper. *See, e.g., Kis-
singer v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 150 (1980)
 (“Under 5 U.S.C. § 552(a)(4)(B) federal jurisdiction is dependent upon a showing
that an agency has (1) ‘improperly’; (2) ‘withheld’; (3) ‘agency records.’”).

The Petitioner’s motion is meritless substantively and procedurally, and
thus should be denied.

Respectfully submitted,

SARA M. BLOOM
Acting United States Attorney

By: /s/ Sandra R. Hebert
SANDRA R. HEBERT
Assistant U.S. Attorney
One Financial Plaza, 17th Floor
Providence, Rhode Island 02903
(401) 709-5053
(401) 709-5001 (Fax)
Sandra.hebert@usdoj.gov

CERTIFICATION OF SERVICE

I hereby certify that, on November 21, 2025, I caused the foregoing document to be filed by means of this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Local Rules Gen 304.

/s/ Sandra R. Hebert
Sandra R. Hebert
Assistant United States Attorney