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**MOTION FOR APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C. § 3006A**

ALICIO ALVES DA CRUZ
ALIEN No. 
PETITIONER, PRO SE
CUSTODY STATUS: DETAINED

Alicio Alves Da Cruz

Alien No. 

Nevada Southern Detention Center

2190 East Mesquite Avenue

Pahrump, Nevada 89060

2:25-cv-01340-JAD-EJY

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Alicio Alves Da Cruz,

-Petitioner, *Pro Se*,

v.

THE UNITED STATES OF AMERICA,

Michael BERNACKE, in his Official Capacity,
Field Office Director, Salt Lake City Field Office,
U.S. Immigration and Customs Enforcement,

Patrick J. LECHLEITNER, in his Official Capacity,
Acting Director, Immigration & Customs Enforcement,

Kerri Ann QUIHUIS, in her Official Capacity,
ICE Field Office Director, Detention and Removal,
Las Vegas, Nevada (ICE Local)

Kristi NOEM, in her Official Capacity,
Secretary of the Department of Homeland Security

Pamela J. BONDI, in her Official Capacity,
Attorney General, Department of Justice,

-Respondents.

) Case No.

) INS No. A 

)

) Custody Status: **DETAINED**

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) **Motion for Appointment of
Counsel Pursuant to
18 U.S.C. § 3006A**

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MOTION FOR APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C. § 3006A

Petitioner Mr. Alicio Alves Da Cruz respectfully moves this Court to appoint counsel to represent him on his petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging his prolonged immigration detention.

In this case, appointing counsel would serve the “interests of justice” because Mr. Alicio Alves Da Cruz has a meritorious claim but the legal issues involved are complex. *See* 18 U.S.C. § 3006A(a)(2)(B) (permitting district courts to appoint counsel in § 2241 matters where “the interests of justice so require”). Here, Petitioner Mr. Alicio Alves Da Cruz has been in immigration detention for over a year and challenges his prolonged detention. *See generally* Petition for Writ of Habeas Corpus, filed concurrently. Courts in this district have recognized that prolonged detention without a bond hearing may violate due process. *See, e.g., Archiga v. Archambeault*, No. 2:23-cv-CDS-VCF, 2023 WL 5207589 (D. Nev. Aug. 11, 2023).

Given “the absence of binding authority on this issue,” however, legal representation is critical to Petitioner’s ability to effectively present his claim. *Id.* at *4. *See, e.g., Perez-Cortez v. Bernacke et al*, No. 2:24-cv-01307-GMN-NJK (D. Nev. 2024) (finding the appropriateness of appointed counsel in immigration-related habeas matters raising substantial legal questions).

Federal courts in Nevada and elsewhere have recognized that appointment of counsel under 18 U.S.C. § 3006A(a)(2)(B) or the court’s inherent equitable powers is appropriate where the petitioner faces detention, language barriers, limited legal knowledge, and the risk of irreparable harm. *See Agyeman v. INS*, 296 F.3d 871, 877–78 (9th Cir. 2002) (holding appointment of counsel may be warranted in immigration habeas cases where due process concerns or complex issues arise); *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009)

1 (emphasizing the district court's discretion to appoint counsel in civil cases where the interests
2 of justice so require).

3 Courts have often examined three elements in determining whether appointment of
4 counsel is necessary: (1) the likelihood of success on the merits; (2) the complexity of the legal
5 issues involved in the case; and (3) the ability of the Petitioner to present the case in light of
6 its complexity. *See, e.g., Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); *Saldina v.*
7 *Thornburgh*, 755 F. Supp. 507, 511 (D. Conn. 1991). The rules governing habeas corpus
8 proceedings require the appointment of counsel in certain circumstances.¹ Under Rule 6(a), 28
9 U.S.C. foll. § 2254, a Judge *must* appoint counsel for Petitioner if it is “necessary for effective
10 utilization of discovery procedures.” This Court should appoint counsel.

11 Generally, under the authority of Rule 8(c), 28 U.S.C. foll. § 2254, the court is required
12 to appoint counsel in a habeas corpus proceeding if an evidentiary hearing is needed. Here,
13 Petitioner cordially asks this Court to appoint counsel in the event that an evidentiary hearing
14 or motions hearing is held. Notably, Petitioner's Writ of Habeas Corpus may be opposed by
15 the government (“Respondents”) and therefore, a motions hearing will most likely be necessary
16 in this case. This calls for the need of assistance of counsel. under 8 U.S.C. § 1362, an alien
17 must have a full record preserved in order to prevent abuse.

18 Interestingly, Petitioner must have a full record preserved. *Kwock Jan Fat v. White*, 25
19 U.S. 454 (1920). Proceedings at this time without the assistance of counsel would significantly
20 risk violating Petitioner's rights to a fair trial. Under these significant factors, this Court should
21 grant this present motion and appoint *pro bono* counsel in the interest of equity and fairness.

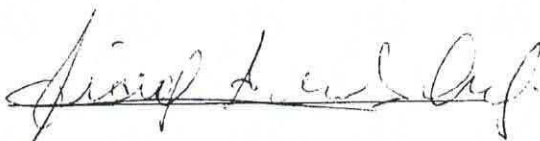
¹ The rules cited in this motion in Section 2 and 3 typically govern those habeas corpus cases brought under § 2254. However, these rules may be applied to habeas cases that do not fall under § 2254—such as those cases arising under § 2241—at the discretion of the Court. *See* Rule 1(b), 28 U.S.C. foll. § 2254.

1 Because Petitioner is proceeding *pro se*, this Court should construe these submissions
2 solicitously. *See Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474-75 (2d Cir. 2006).
3 Under these relevant factors, this Court should grant Petitioner's request for appointment of
4 counsel for this instant case. *See Jovel v. Holder*, 501 Fed. Appx. 708, 2012 U.S. App. LEXIS
5 26574 (9th Cir., Dec. 28, 2012). Taken as a whole, the appointment of counsel would benefit
6 this Court as to ensure a fair hearing because the interest of justice is so required in this instant
7 matter. Therefore, this Court should appoint counsel pursuant to 18 U.S.C. § 3006A.

8 Accordingly, the appointment of counsel is both necessary and appropriate to protect
9 Petitioner's due process rights, ensure effective advocacy, and avoid a fundamentally unequal
10 proceeding. Appointing counsel would also ensure parity between the parties.

11 Therefore, Petitioner, Mr. Alicito Alves Da Cruz respectfully requests that the Court grant
12 this motion and appoint counsel to represent him pursuant to 18 U.S.C. § 3006A and any other
13 relief this Court deems just and proper.

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15 **Respectfully submitted on this 17th day of July, 2025.**

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19 Petitioner, *Pro Se*

20 Alicito Alves Da Cruz

21 Alien No. 

22 Nevada Southern Detention Center

23 2190 East Mesquite Avenue

24 Pahrump, NV 89060

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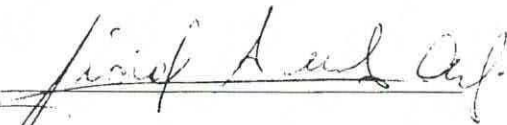
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5 **ACKNOWLEDGEMENT AND VERIFICATION**

6 Under penalty of perjury, the undersigned declares that he is the named Petitioner in the
7 foregoing petition. I have read the foregoing petition and its contents. The statements in the
8 petition are true and correct to the best of my knowledge, except as to any statements alleged
9 on information and belief, and as to those statements, I believe them to be true.

10
11 **DATED this 17th day of July, 2025.**

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14 

15 ~~P~~etitioner, *Pro Se*

16 Alicio Alves Da Cruz

17 Alien No. 

18 Nevada Southern Detention Center

19 2190 East Mesquite Avenue

20 Pahrump, NV 89060

CERTIFICATE OF SERVICE

I, Alicio Alves Da Cruz, hereby certify that the foregoing documents has been submitted on July 17, 2025. Further, I personally served a true, complete and correct copy of the foregoing documents by placing it in a pre-paid stamped envelope through the institutional internal legal mail system at Nevada Southern Detention Center and mailing it to the following individuals:

Michael Bernacke
Salt Lake City ICE Field Office Director
2975 Decker Lake Drive, Ste 100
West Valley City, UT 841179-6096

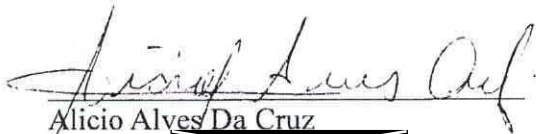
Patrick J. Lechleitner
ICE Deputy Director
500 12th St. SW
Washington, DC 20536

Kristi Noem
Secretary of the Department of
Homeland Security
2707 Martin Luther King Jr. Ave SE,
Washington, DC 20528

Kerri Ann Quihuis
DOJ-USAO
501 South Las Vegas Blvd., South
Ste # 1000
Las Vegas, NV 89101

Pamela J. Bondi
Attorney General of the United States
950 Pennsylvania Avenue, NW,
Washington, DC 20530-0001

Respectfully submitted on this 17th day of July, 2025.



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