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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF NEVADA**

8 HUGO GIL CANDIDO-BOLANOS,

9 Petitioner,

10 v.

11 John MATTOS, in his official capacity as
12 Warden of Nevada Southern Detention
13 Center, Todd M. LYONS, in his official
14 capacity as Acting Director, U.S. Immigration
15 and Customs Enforcement, Kristi NOEM, in
16 her official capacity as Secretary for the U.S.
17 Department of Homeland, and the U.S.
18 DEPARTMENT OF HOMELAND
19 SECURITY.

20 Respondents.

Case No. 2:25-cv-1359-RFB-EJY

**Petitioner's Motion for Leave to File an
Amended Habeas Petition and Complaint
Pursuant to Rules 15(a)(2) and 21 of the
Federal Rules of Civil Procedure.**

21 Petitioner Hugo Gil Candido-Bolanos, by and through undersigned counsel, respectfully
22 moves this Court for leave to file an Amended Habeas Petition pursuant to Rules 15(a)(2) and 21
23 of the Federal Rules of Civil Procedure.

24 **I. Motion to Amend Pursuant to Rule 15(a)(2).**

**a. Legal Standard Governing a Motion to Amend Under Rule 15(a)(2) of the
Federal Rules of Civil Procedure.**

Pursuant to Rule 15, a party may amend its pleading once as a matter of course within
twenty-one (21) days after serving it, or "if the pleading is one to which a responsive pleading is

1 required, twenty-one (21) days after service of a responsive pleading.” Fed. R. Civ. P. 15(a)(1).
2 “In all other cases, a party may amend its pleading only with the opposing party’s written consent
3 or the court’s leave.” Fed. R. Civ. P. 15(a)(2). *See Mayle v. Felix*, 545 U.S. 644, 655 (2005) (noting
4 Federal Rule of Civil Procedure 15 is applicable to habeas proceedings). Although courts may
5 decline to grant leave to amend, they should do so only “if there is strong evidence of undue delay,
6 bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by
7 amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of
8 the amendment, [or] futility of amendment, etc.” *Sonoma Cty. Ass’n of Retired Employees v.*
9 *Sonoma Cty.*, 708 F.3d 1109, 1117 (9th Cir. 2013) (internal quotations omitted). Absent such
10 circumstances, leave to amend “shall be freely given when justice so requires.” Fed. R. Civ. P.
11 15(a)(2). *See Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (1990) (explaining
12 how the policy governing Rule 15(a) should “be applied with extreme liberality.”).

13 **b. Good Cause Exists for Petitioner to be Afforded Leave to Because the**
14 **Government Now Seeks to Remove Petitioner to a Newly-Designated**
Third Country Absent Due Process.

15 In the instant matter, good cause underscores the need for Petitioner to be afforded leave
16 to file his Amended Habeas Petition and Complaint. Fed. R. Civ. P. 15(a)(2); *Morongo Band of*
17 *Mission Indians*, 893 F.2d at 1079. As this Court is aware, the government sought to remove
18 Petitioner to a third country after Petitioner filed his Original Habeas Petition. ECF 20. The
19 government’s actions constitute a new and crucial factual development that directly implicates the
20 question outlined in Count I of Petitioner’s Original Habeas Petition: whether Petitioner’s
21 detention and potential removal is in violation of the Due Process Clause of the Fifth Amendment
22 and 28 U.S.C. § 2241. *See* ECF 1 at 13. Indeed, the Ninth Circuit has acknowledged that “[i]n the
23 context of country of removal designations, last minute orders of removal to a country may violate
24

1 due process if an immigrant was not provided an opportunity to address his fear of persecution in
2 that country.” *Najjar v. Lynch*, 630 Fed. App’x. 724 (9th Cir. 2016).

3 Affording Petitioner leave to file his Amended Habeas Petition and Complaint would
4 ensure Petitioner’s liberty interests are adjudicated on the merits, in their entirety. Such an
5 adjudication would also ensure judicial efficiency is exercised by avoiding a potential, successive
6 habeas petition and complaint. *See Goodrum v. Busby*, 824 F.3d 1188, 1194 (9th Cir. 2016)
7 (reversing the district court’s finding that petitioner’s amendment to his habeas petition constituted
8 a second, successive petition, and remanding to the district court to determine whether the
9 petitioner’s proposed amendment to his habeas petition satisfied the Rule 15(a)(2) standard).

10 **c. Affording Petitioner Leave to File an Amended Habeas Petition Would**
11 **Not Be Futile.**

12 Moreover, any amendment to the Habeas Petition and Complaint would not be futile. Upon
13 designation of Mexico as a third country for removal, the United States Department of Homeland
14 Security (“DHS”) provided Petitioner with a brief “Third Country Screening Notice.” ECF 32.
15 And although the government may contend that Petitioner has been afforded an opportunity to file
16 a Motion to Reopen with the Immigration Court based on the designated third country for removal,
17 it is up to this Court to determine whether such “procedures” square with the Fifth Amendment’s
18 procedural due process requirement. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1010 (W.D. Wash.
19 2019) (“Giving petitioner an opportunity to file a motion to reopen – a motion which seeks
20 discretionary relief that may be denied without any sort of hearing – is not an adequate substitute
21 for the process that is due” before removing an individual to a newly designated third country).
22 And by allowing Petitioner leave to file an Amended Habeas Petition, this Court could provide an

1 answer as to what type of process Petitioner is due upon the government’s designation of a third
2 country for removal.

3 **d. Affording Petitioner Leave to File an Amended Habeas Petition Would**
4 **Not Prejudice Respondents.**

5 Nor would such amendment be prejudicial—particularly when the government’s actions
6 have led to the need for Petitioner to amend his pleadings. ECF 20. In the context of designated
7 third countries of removal, the Fifth Amendment mandates that DHS “provide a meaningful
8 opportunity for petitioner’s claim of fear” to such country be heard. *Aden*, 409 F. Supp. 3d at 1010
9 (citing *Torres-Aguilar v. INS*, 246 F.3d 1267, 1270 (9th Cir. 2001)). In addition, section 1231 of
10 the INA prohibits DHS from removing a noncitizen to a designated third country when the
11 government determines “that the [noncitizen’s] life or freedom would be threatened in that country
12 because of the [noncitizen’s] race, religion, nationality, membership in a particular social group,
13 or political opinion.” 8 U.S.C. § 1231(b)(3)(A). Thus, the government bears the burden to provide
14 and demonstrate that Petitioner received a meaningful opportunity to be heard on his claims—
15 regardless of whether the country of deportation is designated during or after the removal hearing.
16 8 U.S.C. § 1231(b)(3)(A); *Torres-Aguilar*, 246 F.3d at 1270.

17 **II. Motion to Amend Pursuant to Rule 21.**

18 Rule 21 of the Federal Rules of Civil Procedure permits the court to, “on motion or on its
19 own, . . . at any time.” Fed. R. Civ. P. R. 21. When considering whether to add a party, the
20 dispositive question is whether the addition will “prejudice . . . the non-moving party.” *Sable*
21 *Commc’ns of Cal. Inc. v. Pac. Tel. & Tel. Co.*, 890 F.2d 184, 191 n.13 (9th Cir. 1989).

22 Here, it is imperative that this Court afford Petitioner leave to add DHS to the named
23 Respondents pursuant to Rule 21. The claims raised in the instant habeas petition challenge
24 DHS’ authority to detain petitioner and carry-out certain policies and procedures at issue.

1 Moreover, adding DHS as a named party would not prejudice Respondents because the agency is
2 already aware of the action, as DHS Secretary Noem is a named Respondent. Because only DHS
3 has the authority to grant Petitioner's requested comprehensive relief, and Respondents would
4 not suffer prejudice as a result of adding a party, this Court should grant Petitioner's motion.

5 **III. Conclusion.**

6 Because good cause exists to permit Petitioner to amend his Habeas Petition and
7 Complaint, and Respondents would not suffer prejudice upon the addition of DHS, Petitioner
8 respectfully requests this Court afford Petitioner leave to file his Amended Habeas Petition and
9 Complaint.¹

10 Respectfully submitted on this 15th day of October, 2025.

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22 ¹ Because Petitioner's proposed amendment reflects factual developments that occurred *after* the
23 filing of his Habeas Petition, and because the Amended Habeas Petition contains the same core of
24 operative facts, there is no need for this Court to address the *Mayle* relation back doctrine. 545
U.S. 644. Moreover, Petitioner's Amended Habeas Petition should not be construed as a second
or successive petition under 28 U.S.C. § 2244(b) as Petitioner's initial Habeas Petition remains
pending. *See Goodrum*, 824 F.3d at 1194.

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

NAME & ADDRESS	Method of Delivery
Summer Johnson <i>Attorney for Respondent</i>	<input checked="" type="checkbox"/> CM/ECF System <input type="checkbox"/> Electronic Mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____

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