

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

MOHAMMED JIHAD BAHRM RASHID, )  
)  
*Petitioner,* )  
)  
v. )

Case No. 2:25-cv-732

GREG HALE, Superintendent, Northwest State )  
Correctional Facility – Saint Albans; )  
DONALD J. TRUMP, in his official capacity as )  
President of the United States; PATRICIA HYDE, )  
in her official capacity as Acting Boston Field )  
Office Director, Immigration and Customs )  
Enforcement, Enforcement and Removal )  
Operations; VERMONT SUB-OFFICE )  
DIRECTOR OF IMMIGRATION AND )  
CUSTOMS ENFORCEMENT, ENFORCEMENT )  
AND REMOVAL OPERATIONS; TODD M. )  
LYONS, in his official capacity as Acting Director, )  
U.S. Immigration and Customs Enforcement; )  
PETE R. FLORES, in his official capacity as )  
Acting Commissioner for U.S. Customs and )  
Border Protections; KRISTI NOEM, in her official )  
capacity as Secretary of the United States )  
Department of Homeland Security; MARCO )  
RUBIO, in his official capacity as Secretary )  
of State; PAMELA BONDI, in her official )  
capacity as U.S. Attorney General; )  
)  
*Respondents.* )

**FEDERAL RESPONDENTS' OPPOSITION TO MOTION FOR LEAVE TO FILE  
AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND  
MOTION FOR SUPPLEMENTAL BRIEFING**

**ARGUMENT**

In his original habeas petition, Mr. Rashid—an asylum applicant who arrived in the United States as a stowaway—claimed that his detention pending final adjudication of his asylum claim or removal proceedings violates the Constitution due to “the Government’s failure to articulate a clear and lawful basis for the continued detention.” Pet. ¶¶ 4, 27-36. Federal Respondents explained in opposition that the detention is both lawful and mandatory under the system Congress created. ECF No. 5 (citing 8 U.S.C. § 1225(b)(1)(B); 8 C.F.R. § 241.11(d)(1); *Jennings v. Rodriguez*, 538 U.S. 281 (2018)).

The Court held a hearing on September 5, 2025, at which Petitioner’s theory appeared to shift. Rather than basing the alleged constitutional violations on a supposed “failure to articulate a clear and lawful basis” for detention, Petitioner claimed that his detention was prolonged in violation of the Fifth Amendment. The Court ordered supplemental briefing, which Petitioner submitted on September 15 and Federal Respondents submitted on September 25. ECF Nos. 8, 9.

Now, Petitioner seeks even more briefing, ostensibly to address a Board of Immigration Appeals decision that has no bearing on the substance of Petitioner’s claims. Worse, that decision issued 10 days before Petitioner’s first supplemental briefing deadline and was fully available for Petitioner to discuss there, had he chosen to do so.

Petitioner also seeks to file an amended habeas petition to add an Eighth Amendment claim that would not provide an independent source of relief. And in the motion, Petitioner improperly asks for ultimate substantive relief that is not even available if he prevails on the merits: an order of immediate release, a bond hearing in this Court, or a grant of bail pending resolution of the petition. ECF No. 10, at 4.

The Court should deny the motion, deny the petition, and dissolve the TRO.

**I. No additional briefing is necessary.**

Petitioner seeks additional briefing to discuss *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), but that decision simply recognized what the Supreme Court in *Jennings* made clear: for individuals who are detained under 8 U.S.C. § 1225(b), that detention is mandatory. And because detention is mandatory, immigration judges lack jurisdiction to grant bond. The BIA's decision has no effect on the basis for Petitioner's detention and no effect on his due-process, prolonged-detention claim. Nor does the immigration judge's denial of Petitioner's bond application. Federal Respondents did not make an administrative-exhaustion argument, so that factual development is immaterial to the Court's resolution of the constitutional claims. That is reason enough to deny his request for additional briefing.

Aside from the substance, *Hurtado* issued on September 5, 2025, and Petitioner therefore could have discussed it in the supplemental brief he filed ten days later. That he failed to do so is not good cause to require Federal Respondents and the Court to expend additional resources on yet more supplemental briefing. The Court should not reward Petitioner's delinquency.

**II. Petitioner's proposed amendments are futile.**

The proposed amended petition adds legal argument concerning *Hurtado*, which the Court may disregard entirely. *See, e.g., Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.”).

Beyond that, Petitioner seeks to add an Eighth Amendment claim, apparently under both excessive bail and cruel and unusual punishment theories. ECF No. 10-1, ¶¶ 45-47. But an excessive bail claim is not an independent source of the relief Petitioner seeks. He offers “no convincing reason to think that the Excessive Bail Clause would require a bond hearing when the Due Process

Clause does not.” *Reid v. Donelan*, 17 F.4th 1, 9 (1st Cir. 2021). Second, the proposed amended petition pleads no facts that could support a conditions of confinement claim.

In short, Petitioner’s proposed amendments are futile, so the Court should deny leave to amend. *See, e.g., Ellis v. Chao*, 336 F.3d 114, 127 (2d Cir. 2003) (“[I]t is well established that leave to amend a complaint need not be granted when amendment would be futile.”).

**III. Additional delay is unwarranted.**

Petitioner’s motion is a delay tactic, as evidenced by Petitioner’s request for an “extension of the TRO if supplemental briefing and courtroom proceedings were to continue past October 31, 2025.” ECF No. 10-1, ¶ 11. As Federal Respondents argued at the hearing and in their supplemental brief, extending the TRO beyond 28 days was improper under Federal Rule of Civil Procedure 65(b). Any additional extension would be unjustified and prohibited by the rules. What is more, further delaying adjudication of the merits would be inconsistent with the emergency relief Petitioner sought when he filed the petition on September 2 and the prompt resolution contemplated by 28 U.S.C. § 2243.

**CONCLUSION**

The Court should deny the motion, deny the petition for a writ of habeas corpus, and dissolve the temporary restraining order.

Dated: October 14, 2025

Respectfully submitted,

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Acting United States Attorney

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