

1 SIGAL CHATTAH  
Acting United States Attorney  
2 District of Nevada  
Nevada Bar No. 8462  
3 CHRISTIAN R. RUIZ  
Assistant United States Attorney  
4 501 Las Vegas Blvd. So., Suite 1100  
Las Vegas, Nevada 89101  
5 Phone: (702) 388-6336  
Fax: (702) 388-6336  
6 [Christian.Ruiz@usdoj.gov](mailto:Christian.Ruiz@usdoj.gov)

7 *Attorneys for the Federal Respondents*

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 Daniel PEREZ GONZALEZ,

11 Petitioner,

12 v.

13 Jason KNIGHT, Field Office Director of  
Enforcement and Removal Operations, Salt  
Lake City Field Office, Immigration and  
14 Customs Enforcement; Michael  
BERNACKE, Acting Director of the Las  
15 Vegas U.S. Immigration and Customs  
Enforcement Field Sub-Office; Kristi NOEM,  
16 Secretary, U.S. Department of Homeland  
Security; Pamela BONDI, U.S. Attorney  
17 General; John MATTOS, Warden of the  
Nevada Southern Detention Center,

18 Respondents.  
19

Case No. 2:25-cv-02137-RFB-DJA

**Federal Respondents' Motion to  
Reconsider or Extend Time for  
Document Production**

20 The Federal Respondents respectfully submit this Motion to Reconsider or Extend  
21 Time for Document Production to address the document production requirements  
22 contained in the Court's Amended Order to Show Cause (ECF No. 6). The Federal  
23 Respondents respectfully request that the Court reconsider its order requiring The Federal  
24 Respondents to produce Petitioner's immigration documents and instead require Petitioner  
25 to obtain these readily available materials through established administrative channels  
26 before this Court expends further resources on this matter. In the alternative, if the Court  
27 declines to reconsider, The Federal Respondents request a nine-day extension to November  
28 19, 2025, to allow adequate time for inter-agency coordination and document retrieval.

1 **I. Introduction**

2 The Court's Amended Order directs The Federal Respondents to file with their  
3 return "any arrest warrant, Notice to Appear, Form-286, and/or Form I-213 relevant to  
4 Petitioner's detention" within three days. While The Federal Respondents will comply with  
5 any final order of this Court, this directive presents both legal and practical difficulties that  
6 warrant reconsideration. The order effectively requires the government to produce the  
7 evidentiary foundation for Petitioner's own habeas claims, inverting the fundamental  
8 principle that petitioners bear the burden of establishing unlawful detention with evidence.  
9 Moreover, Petitioner is represented by experienced immigration counsel who have ready  
10 access to these standard immigration documents through multiple administrative channels,  
11 yet the Petition contains no indication that counsel made any effort to obtain them before  
12 filing.

13 **II. Argument**

14 **A. Petitioner Bears the Burden of Proof in Immigration Habeas Proceedings**

15 In immigration habeas corpus proceedings brought under 28 U.S.C. § 2241, the  
16 petitioner must present evidence establishing the factual predicates for his claims. Habeas  
17 corpus is an extraordinary remedy, and petitioners seeking such relief cannot proceed on  
18 unsupported allegations alone. A recent decision directly on point illustrates this principle.  
19 In *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the  
20 court denied an immigration habeas petition where the petitioner argued he should be  
21 detained under § 1226 rather than § 1225 but failed to provide any documentary evidence  
22 supporting his claim. *Id.* at \*6. The court held this evidentiary failure was fatal to the  
23 petition, emphasizing that petitioners must come forward with proof to support their  
24 statutory arguments.

25 The *Vargas Lopez* court explained that even where the legal question is disputed and  
26 potentially meritorious, the petitioner must establish the factual predicates necessary to  
27 resolve that dispute. Without evidence, the petition must be denied regardless of the  
28 theoretical merits of the petitioner's legal theory. This principle recognizes that courts

1 cannot grant extraordinary relief based on speculation or attorney argument divorced from  
2 factual support.

3 **B. The Court's Order Improperly Shifts the Burden to the Federal Respondents**

4 The Court's Order directing the Federal Respondents to produce Petitioner's Notice  
5 to Appear, Form I-286, Form I-213, and any arrest warrant effectively requires the  
6 government to build Petitioner's evidentiary case for him. This inverts the proper allocation  
7 of burdens in habeas proceedings and creates a framework whereby The Federal  
8 Respondents must supply the factual foundation that Petitioner should have established  
9 before filing.

10 The show cause language in 28 U.S.C. § 2243 establishes a procedural framework for  
11 expedited responses to habeas petitions, but it does not alter the fundamental principle that  
12 petitioners must support their factual allegations with evidence. The statute requires  
13 respondents to certify the true cause of detention and make a return, but this procedural  
14 obligation to respond does not eliminate the petitioner's burden of establishing unlawful  
15 detention with documentary or testimonial evidence.

16 Each of the documents specified in the Court's Order are required for Petitioner to  
17 support his Petition. The Notice to Appear is the charging document in removal  
18 proceedings. It includes information regarding charges of inadmissibility or deportability,  
19 when removal proceedings commenced, what court has jurisdiction, and when Petitioner's  
20 initial hearing was scheduled.

21 The Form I-286 (Notice of Custody Determination) notifies an alien of the statutory  
22 authority under which he is being detained. It informs the alien whether he is eligible for a  
23 bond hearing and whether he can request one. Petitioner's entire legal theory rests on the  
24 claim that he is being improperly detained under § 1225(b)(2) when he should be detained  
25 under § 1226(a) with eligibility for bond. Yet Petitioner has not produced this document or  
26 explained its absence.

27 The Form I-213 (Record of Deportable/Inadmissible Alien) documents Petitioner's  
28 complete immigration history as known to DHS. It includes information about entries into

1 the United States, any prior grants of immigration status, any revocations of status, criminal  
2 history, prior removal proceedings, prior removals, and the factual basis for current removal  
3 charges. This document is essential to evaluating whether Petitioner's characterization of his  
4 immigration history is accurate and complete. Petitioner alleges he entered without  
5 inspection in 2004 and has resided in the United States continuously since then. But the  
6 Form I-213 would reveal whether Petitioner ever sought or obtained any immigration status  
7 during those years, whether he departed and reentered the United States, whether he was  
8 previously in removal proceedings, and whether there are other aspects of his immigration  
9 history relevant to determining which detention statute applies.

10 The requested documents are precisely the documents Petitioner needs to establish  
11 the factual predicates for his legal claims. Petitioner argues that he is improperly detained  
12 under § 1225(b)(2) because that provision applies only to arriving aliens and recent entrants,  
13 not to individuals who entered years ago and have been residing in the United States. To  
14 establish this claim, Petitioner must prove his case, and each of the alleged factual elements  
15 in his case requires documentary support, yet Petitioner has provided none.

16 **C. Petitioner Has Ready Access to These Documents Through Existing  
17 Administrative Channels**

18 Petitioner has made no effort to obtain these documents before filing his Petition and  
19 has offered no explanation for why he cannot obtain them through established  
20 administrative channels. Immigration attorneys routinely obtain their clients' immigration  
21 files through Freedom of Information Act requests submitted to ICE and USCIS.  
22 Immigration attorneys also obtain documents through Privacy Act requests, which provide  
23 access to agency records about specific individuals. There are established procedures and  
24 regulations to access the relevant agency records, including A-files. See e.g. 8 C.F.R. §  
25 103.42 (rules relating to FOIA and the Privacy Act).

26 Petitioner's counsel is experienced in immigration law. It is inconceivable that  
27 counsel does not know that the documents specified in the Court's order are standard  
28 materials that must be obtained to properly evaluate and litigate habeas claims. Yet the

1 Petition contains no representation that counsel attempted to obtain any of these materials  
2 before filing. The Petition does not state that counsel submitted a FOIA request and is  
3 awaiting a response. It does not state that counsel requested documents from ICE counsel  
4 and was refused. It does not state that counsel requested the A-file under applicable  
5 regulations and encountered obstacles. The Petition is entirely silent regarding any efforts to  
6 secure documentary support for Petitioner's allegations.

7 This silence suggests that Petitioner filed this habeas petition without undertaking  
8 even basic efforts to obtain the documentary evidence necessary to support his claims.  
9 Petitioner appears to have assumed that the burden would shift to the Federal Respondents  
10 to produce all relevant materials once a petition was filed, regardless of whether Petitioner  
11 made any threshold evidentiary showing. This assumption is fundamentally at odds with  
12 habeas corpus principles and the allocation of burdens. The party seeking relief bears the  
13 burden of establishing entitlement to that relief, which necessarily includes the burden of  
14 producing evidence supporting factual allegations.

15 **D. The Proper Approach Requires Petitioner to Obtain Documents First**

16 The proper approach requires Petitioner to produce the documents identified in the  
17 Court's order as part of his initial evidentiary showing. If Petitioner cannot obtain these  
18 documents through established administrative channels despite reasonable efforts, Petitioner  
19 should explain those efforts and the obstacles encountered. The Court could then determine  
20 whether to order production by the Federal Respondents based on a showing that the  
21 documents are genuinely unavailable to Petitioner despite diligent efforts.

22 Requiring the Federal Respondents to produce these documents in the first instance,  
23 without any showing that Petitioner attempted to obtain them or cannot obtain them,  
24 improperly shifts the burden of proof and creates the framework for habeas litigation by  
25 ambush rather than by proper evidentiary development. This is particularly problematic  
26 here where Petitioner is represented by experienced counsel with full knowledge of how to  
27 obtain immigration files, yet made no effort to do so before filing.

28

1 **III. Practical Considerations If Production Is Required**

2 Notwithstanding the legal objections set forth above, if the Court declines to  
3 reconsider its document production order, the Federal Respondents respectfully request a  
4 nine-day extension to November 19, 2025, to allow adequate time for complete and  
5 accurate production.

6 **A. Administrative Complications Warrant Additional Time**

7 Retrieving, reviewing, and producing the requested documents requires coordination  
8 among federal agencies. Given that Petitioner was apprehended in Idaho but is detained in  
9 Nevada, records may be split between jurisdictions, requiring coordination across offices.

10 Additionally, the Federal Respondents must review any produced documents for  
11 Privacy Act restrictions and personally identifiable information requiring redaction, law  
12 enforcement sensitive information that may require protection, and accuracy and  
13 completeness to ensure the administrative record properly reflects Petitioner's immigration  
14 history. The United States has an obligation to ensure that any documents produced to the  
15 Court and to opposing counsel comply with applicable privacy laws and do not  
16 inadvertently disclose sensitive law enforcement information or third-party information  
17 protected by statute or regulation.

18 **B. The Three-Day Deadline is Impracticable**

19 The Court's order was entered on November 5, 2025, requiring The Federal  
20 Respondents' return by 5:00 p.m. on November 10, 2025, effectively providing only three  
21 business days (November 6, 7, and 10, 2025, accounting for the weekend). This abbreviated  
22 timeframe does not account for the fact that November 11, 2025 (Veterans Day) is a federal  
23 holiday, causing many United States agencies to be closed or operate with reduced staff  
24 during Monday, November 10, 2025, and Tuesday, November 11, 2025. Notwithstanding  
25 those difficulties, the deadline requires immediate coordination among agencies during a  
26 period of a nationwide government shutdown. The compressed timeline allows insufficient  
27 time for thorough legal review of complex detention and legal issues presented by this case.

1 Finally, it creates risk of incomplete or inaccurate document production that could prejudice  
2 both parties by providing an incomplete administrative record.

3 A nine-day extension to November 19, 2025, would allow adequate time to  
4 coordinate document retrieval, ensure complete and accurate production of all relevant  
5 materials, permit thorough legal analysis, provide Petitioner with adequate time to file a  
6 traverse before any hearing, and maintain the expedited nature of habeas proceedings while  
7 ensuring accuracy.

8 Such an extension is authorized under 28 U.S.C. § 2243, which permits additional  
9 time for good cause. The logistical complications described above, combined with the  
10 complexity of the legal issues and the need for inter-agency coordination, constitute good  
11 cause for the requested extension.

#### 12 **IV. Requested Relief**

13 For the foregoing reasons, The Federal Respondents respectfully request that the  
14 Court enter an order:

- 15 1. RECONSIDERING the requirement that The Federal Respondents produce  
16 Petitioner's Notice to Appear, Form I-286, Form I-213, and arrest warrant, and  
17 instead requiring Petitioner to obtain these readily available documents through  
18 established administrative channels (FOIA, Privacy Act requests, or direct requests  
19 to ICE counsel) and to file an amended petition supported by documentary evidence  
20 within thirty days;
- 21 2. In the alternative, if the Court declines to reconsider the document production  
22 requirement, GRANTING the Federal Respondents an extension of time until  
23 November 19, 2025, to produce all responsive documents and file their complete  
24 return; and
- 25 3. CLARIFYING that production of administrative documents pursuant to the Court's  
26 order does not shift the ultimate burden of proof from Petitioner to the Federal  
27 Respondents to establish unlawful detention by a preponderance of the evidence.

1 Respectfully submitted this 12th day of November 2025.

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3 SIGAL CHATTAH  
Acting United States Attorney

4  
5 /s/ Christian R. Ruiz  
CHRISTIAN R. RUIZ  
Assistant United States Attorney

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