

1 **DAVID E. WALTERS**  
2 **STATE OF NEVADA BAR NO.: 7203**  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

9 **YAKY HOWARD MEJIA SOTO,**  
10  
11                   Petitioner,

Case No.: 25-2281

11 vs.

**PETITIONER'S MOTION FOR  
SUMMARY JUDGMENT AND  
ENTRY OF WRIT DUE TO  
RESPONDENTS' FAILURE TO  
TIMELY RESPOND**

12  
13 **REGGIE RADER, Police Chief,**  
14 **Henderson Detention Center;**  
15 **MICHAEL BERNACKE, Field Office**  
16 **Director, U.S. Immigration and Customs**  
17 **Enforcement,**  
18 **SUMMER JOHNSON, US District**  
19 **Attorney for the District of Nevada,**  
20 **PAMELA BONDI, Attorney General of**  
21 **the United States; and**  
22 **KRISTI NOEM, Secretary of Homeland**  
23 **Security, in their official capacities,**

**(ORAL ARGUMENT NOT  
REQUESTED)**

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Respondents

**PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND ENTRY OF  
WRIT DUE TO RESPONDENTS' FAILURE TO TIMELY RESPOND**

          Petitioner, Yaky Howard Mejia Soto, through undersigned counsel,  
respectfully moves this Court for Summary Judgment pursuant to Federal Rule of

1 Civil Procedure 56<sup>1</sup>. This Court has already determined that Petitioner established a  
2 *prima facie* case for relief. The Court ordered Respondents to show cause and file a  
3 return by November 25, 2025. Respondents failed to do so. Instead, they filed a  
4 motion requesting an extension to December 3, 2025.

5 Respondents have now failed to meet even their own proposed deadline. As  
6 of the filing of this Motion, Respondents have filed no return, no justification for  
7 detention, and no response to the Order to Show Cause. By failing to respond,  
8 Respondents have waived their arguments, and the factual allegations in the Petition  
9 must be deemed admitted. As a matter of law, Petitioner is entitled to the Writ.  
10

### 11 STATEMENT OF UNDISPUTED FACTS

- 12 1. **The Petition:** On November 18, 2025, Petitioner filed a Writ of Habeas  
13 Corpus challenging his detention without bond under INA §236(a). Petitioner  
14 has lived here for over 30 years. He was detained on October 17, 2025.
- 15 2. **The Screening Order:** On November 21, 2025, this Court issued a Screening  
16 Order finding that Petitioner established a *prima facie* case for relief. The  
17 Court noted that Petitioner's circumstances warrant the same relief ordered in  
18 *Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL 3205356  
(D. Nev. Nov. 17, 2025).
- 19 3. **The Deadline:** The Court ordered Respondents to file a "return certifying the  
20 true cause of detention" on or before November 25, 2025.
- 21 4. **Respondents' Failure to Comply:** Respondents did not file a return by  
22 November 25, 2025.
- 23 5. **Respondents' Request for Extension:** Late on the due date, Respondents  
24 filed a "Motion for Extension of Time," requesting an extension "to and  
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27 <sup>1</sup> 28 USC App Fed R Civ P Rule 56

1 including December 3, 2025". They argued this extension was necessary due  
2 to the Thanksgiving holiday and other caseloads.

3 **6. Current Status:** The date of December 3, 2025, has passed. Respondents  
4 have not filed a return, nor have they filed any further request for time.

### 5 ARGUMENT

#### 6 **A. RESPONDENTS FAILED TO RESPOND TO THEIR OWN 7 PROPOSED DEADLINE, WAIVING ALL ARGUMENTS.**

8 Respondents are in default of this Court's Order. The Court explicitly ordered  
9 a return by November 25, 2025. While Respondents moved for an extension,  
10 requesting until December 3, 2025, they failed to file their response by that date.

11 The failure to respond to a habeas petition within the time allowed by the  
12 court—even the extended time requested by the government itself—results in the  
13 allegations of the petition being deemed admitted. Under 28 U.S.C. § 2248, "The  
14 allegations of a return to the writ of habeas corpus or of an answer to an order to  
15 show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true  
16 except to the extent that the judge finds from the evidence that they are not true."  
17 Conversely, where the Government fails to traverse the allegations of the Petition by  
18 failing to file a return, the factual allegations in the Petition stand unrefuted.

19 Respondents explicitly represented to this Court that they needed until  
20 December 3, 2025, to "gather and review the information". Having let that date pass  
21 without filing a return, Respondents have waived their right to contest the facts or  
22 legal arguments presented by Petitioner. Any argument Respondents might now  
23 attempt to raise is untimely and deemed waived. *See* Local Rule 7-2(d) (failure of  
24 an opposing party to file points and authorities constitutes a consent to the granting  
25 of the motion).  
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1 **B. SUMMARY JUDGMENT IS APPROPRIATE BECAUSE THERE ARE**  
2 **NO GENUINE DISPUTES OF MATERIAL FACT.**

3 Under Fed. R. Civ. P. 56(c), the court shall grant summary judgment if the movant  
4 shows that there is no genuine dispute as to any material fact and the movant is  
5 entitled to judgment as a matter of law.

6 1. **The Facts are undisputed:** Due to Respondents' failure to file a return,  
7 the facts alleged in the Petition are undisputed. Specifically:

- 8 a. Petitioner is a long-term resident of Nevada;  
9 b. Petitioner was arrested in the interior of the United States, not at the  
10 border;  
11 c. Petitioner is being detained without a bond hearing based on an  
12 erroneous legal interpretation of *Matter of Yajure Hurtado*, 29 I&N  
13 Dec. 216 (BIA 2025).

14 2. **Petitioner is entitled to judgment as a matter of law:** This Court has  
15 already conducted a preliminary screening and found that Petitioner "can  
16 likely demonstrate that his circumstances warrant the same relief" as in  
17 *Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL  
18 3205356 (D. Nev. Nov. 17, 2025).

- 19 a. Respondents' failure to justify the detention leaves the Court with  
20 only one conclusion: the detention is unlawful under the INA and  
21 the Due Process Clause.

22 **C. The Government's Non-Compliance warrants immediate relief.**

23 Respondents argued in their Motion for Extension that they were acting with "due  
24 diligence." The failure to meet the very deadline they requested demonstrates a lack  
25 of diligence. Prolonged detention implicates fundamental liberty interests. *Zadvydas*  
26 *v. Davis*, 533 U.S. 678 (2001). Every day the Government fails to respond is another  
27 day Petitioner remains detained in violation of his Due Process rights.

1 The Court warned that "ordering Respondents to produce documents... is  
2 necessary for the Court to 'dispose of the matter as law and justice require'". By  
3 failing to produce these documents or file a return by November 25, 2025 then  
4 December 3, 2025 as requested, Respondents have conceded that no valid legal basis  
5 exists to oppose the Writ.

### 6 CONCLUSION

7 Respondents failed to comply with the Court's initial deadline of November  
8 25, 2025. They subsequently failed to comply with their own requested deadline of  
9 December 3, 2025. Accordingly, Respondents have waived their opposition. There  
10 are no genuine disputes of material fact, and the unrefuted Petition establishes that  
11 Petitioner is being held unlawfully.

12  
13 Petitioner respectfully requests that this Court:

- 14 1. Grant Summary Judgment in favor of Petitioner;
  - 15 2. Deem all arguments by Respondents waived due to untimeliness; and
  - 16 3. Issue the Writ of Habeas Corpus ordering Petitioner's immediate release.
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18 Respectfully submitted,

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20 Date: December 4, 2025

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22 David E. Walters  
23 Attorney for Petitioner

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

11 **YAKY HOWARD MEJIA SOTO,**  
12  
13 **Plaintiff,**

Case No.: 25-2281

14 vs.

**CERTIFICATE OF SERVICE**

15 **REGGIE RADER, Police Chief,**  
16 **Henderson Detention Center;**  
17 **MICHAEL BERNACKE, Field Office**  
18 **Director, U.S. Immigration and Customs**  
19 **Enforcement,**  
20 **SUMMER JOHNSON, US District**  
21 **Attorney for the District of Nevada,**  
22 **PAMELA BONDI, Attorney General of**  
23 **the United States; and**  
24 **KRISTI NOEM, Secretary of Homeland**  
25 **Security, in their official capacities,**

26 **Defendant**

27 I, Juan Carrillo, employee for Attorney David E. Walters, hereby certify that  
28 I served a copy of the **Motion for Summary Judgment** was made this day by  
depositing a copy of the same in the United States Mail in Las Vegas, Nevada, postage  
prepaid for first-class courier, addressed to:

1 Henderson Police Department  
2 Chief of Police Reggie Rader  
3 Represented by:  
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2 Attorney General of the United States  
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17 Summer Johnson

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19 Represented by:

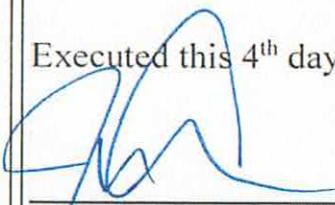
20 Christian Ramses Ruiz

21 (See above for address)

22 Virginia Tomova

23 (See above for address)

24 Executed this 4<sup>th</sup> day of December, 2025, at Las Vegas, Nevada:

25   
26 \_\_\_\_\_  
27 **J. Carrillo**

28 **Senior Paralegal**