

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

VICTOR RUBIO ORTEGA

Petitioner

Case No. 1:25-cv-25506-DPG

Agency File 

V.

PAM BONDI, et.al.

Respondents

**PETITIONER'S MOTION TO GRANT HABEAS PETITION AS
UNOPPOSED, OR IN THE ALTERNATIVE, FOR DEFAULT JUDGMENT**

Petitioner, by and through undersigned counsel, respectfully moves this Court to grant the pending Petition for Writ of Habeas Corpus as unopposed, or in the alternative, to enter default judgment against Respondent, and states as follows:

1. On November 24, 2025, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.
2. On November 25, 2025, this Court issued an Order to Show Cause directing Respondent to file a return or other responsive pleading by three business days.
3. November 26, 2025, November 28, 2025, and December 1, 2025 constitute the days availed to the respondents for their response.
4. Respondents have failed to file any response within the time permitted by the Court's Order, nor have the respondents sought an extension of time.

5. Respondents' failure to comply with the Court's Order constitutes a waiver of any defenses or objections to the Petition and leaves the Petition unopposed.
6. Federal courts have recognized that when the government fails to respond to a habeas petition, the Court may treat the petition as unopposed and grant relief, or enter default judgment, particularly where liberty interests are at stake.
7. Petitioner remains in custody in violation of the Constitution and laws of the United States, and immediate relief is warranted.

WHEREFORE, Petitioner respectfully requests that this Court:

- (a) Grant the Petition for Writ of Habeas Corpus as unopposed;
- (b) In the alternative, enter default judgment against Respondent; and
- (c) Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/Bonnie Smerdon
Bonnie Smerdon
22966 Overseas Highway
Cudjoe Key, Florida 33042
(305) 680-9100 O
(954) 624-2622 M
(954) 416-6602 F
bsmerdon@lucelawpllc.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Bonnie Smerdon, certify that on December 2, 2025, I electronically filed the above PETITIONER'S MOTION TO GRANT HABEAS PETITION AS UNOPPOSED, OR IN THE ALTERNATIVE, FOR DEFAULT JUDGMENT with the Clerk of the Court of the Southern District of Florida using the CM-ECF system and copies of the foregoing document will be served on all counsel of record via transmission of a Notice of Filing generated by the CM/ECF system.

/s/ BONNIE SMERDON
Bonnie Smerdon, Esq.
954-624-2622 T
954-416-6602 F
bsmerdon@lucelawpllc.com