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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12

13 BERTIN MONGE GOMEZ,
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15 Petitioner,
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17 vs.
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19 WARDEN, GOLDEN STATE ANNEX
20 DETENTION FACILITY, ET AL.,
21 Respondents
22

Case No.: 1:25-cv-01724- DJC-SCR

MOTION TO AMEND REPLY AND MEMO
IN SUPPORT OF MOTION

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27 MOTION TO AMEND REPLY AND MEMO IN SUPPORT OF MOTION

28 MOTION TO AMEND REPLY AND MEMO IN SUPPORT OF MOTION - 1
CASE NO. 1:25-CV-1724

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2 Bertin Monge Gomez (Petitioner), pursuant to 28 U.S.C. section 2243, by and
3 through counsel, respectfully seeks leave from the Court to amend Petitioner's Reply
4 submitted in this matter on Jan. 19, 2026. Petitioner respectfully requests 7 days in
5 which to submit its amended Reply. Petitioner believes good cause exists to grant such
6 motion, based on the following:
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- 8 1. Petitioner has been in detention since June 2025 at the Golden State
9 Annex Detention Facility. Petitioner filed his petition for writ of habeas
10 corpus on Dec. 3, 2025 without assistance from counsel.
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- 12 2. Counsel for Petitioner was appointed by the Court on Dec. 30, 2025. ECF
13 No. 11.
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- 15 3. Petitioner's counsel promptly registered for an account in the U.S.
16 Immigration and Customs Enforcement EOR efile system in order to be
17 able to have confidential communications with Petitioner. Legal counsel
18 must use that system to schedule phone calls and virtual meetings with
19 detainees.
20
- 21 4. Petitioner's legal counsel was not able to arrange for a phone call with
22 Petitioner through the EOR efile system until Jan. 28, 2026.
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24 28 U.S.C. section 2241 sets out the procedure for the issuance of a writ of
25 habeas corpus. After a petition is filed, the writ, or an order to show cause for why the
26 writ should not be granted, is to be issued to the person having custody of the petitioner.
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1 28 U.S.C. section 2243. The return is to be made within 3 days, unless good cause
2 exists for additional time, not to exceed 20 days. Furthermore, according to the statute:

3
4 The applicant or the person detained may, under oath, deny any of
5 the facts set forth in the return or allege any other material facts.

6 The return and all suggestions made against it may be amended,
7 by leave of court, before or after being filed.

8 Id. (Emphasis added.)

9 The governing statute, therefore, provides express authority to grant the
10 Petitioner's request.

11 In addition, the motion should be granted in the interest of justice. Petitioner's
12 inability to effectively and timely communicate with legal counsel was due to
13 circumstances beyond its control, but within the control of Respondent ICE. Petitioner's
14 counsel made consistent and reasonable efforts to overcome the obstacles to
15 communicating with Petitioner, by emails, phone calls, and through outreach directly to
16 the detention facility through intermediaries, all as evidenced by the affidavit submitted
17 in support. See Affidavit of Kevin Milne, dated February 2, 2026. The delay throughout
18 has caused Petitioner not to be able to assemble and consider complete information to
19 assist Petitioner in proving his case. For example, Petitioner's wife provided incomplete
20 information about alcohol abuse education classes he attended. Information such as
21 that, though, is relevant to whether the IJ bond decision was legally sufficient.

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24 Allowing Petitioner an additional 7 days to provide information bearing directly
25 and substantially on Petitioner's claims and Respondents' Answer to the petition will not
26 prejudice Respondents and will promote the integrity of the adjudication of his claims.

1 Petitioner acknowledges that the Court has already expended time and
2 resources in developing recommendations for the disposition of the petition. The
3 Petitioner respectfully believes, however, that the request nevertheless should be
4 granted. Petitioner has now been deprived of liberty for almost 8 months, which is a
5 significant amount of time, and his detention should not continue unless the Court has
6 determined that the Government has clearly met its burden to do so.
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9 Date: Feb. 2, 2026
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12 Respectfully submitted,
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14 /s/ Kevin Milne
15 Kevin Milne
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