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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Antonio Alejandro Garcia Morao,

Petitioner

v.

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

TODD LYONS, in his official capacity as
Acting Director of Immigration and Customs
Enforcement,

MARCOS CHARLES, in his official capacity
as ICE Field Officer Director,

JOHN MATTOS, in his official capacity as the
warden of the Nevada Southern Detention
Facility,

PAMALA BONDI, in her official capacity as
the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs
Enforcement.

Respondents

Civil No.: **2:25-cv-02588-MMD-NJK**

**MOTION FOR LEAVE TO FILE
AMENDED PETITION AND
COMPLAINT**

1
2 **MOTION FOR RELIEF FROM JUDGMENT**

3 Petitioner Antonio Alejandro Garcia Morao, by and through counsel, respectfully moves this
4 Court pursuant to Federal Rules of Civil Procedure 59(e), 60(b)(1), and 15(a)(2) for relief from
5 judgment for the limited purpose of permitting Petitioner to file an Amended Petition and Complaint
6 asserting jurisdiction under the Mandamus Act, 28 U.S.C. § 1361, and the Administrative Procedure
7 Act, 5 U.S.C. §§ 555(b), 706(1). In support, Petitioner states as follows:
8
9

10 **I. INTRODUCTION**

11 This motion does not seek reconsideration of the Court's substantive legal analysis denying
12 habeas relief. Rather, Petitioner seeks limited relief to reopen the case so that the pleadings may be
13 amended to conform to the jurisdictional framework identified by the Court in its Order. The Court
14 expressly noted that the relief Petitioner seeks namely, compelling adjudication of a pending
15 adjustment application, falls more appropriately under the APA or mandamus rather than § 2241 habeas
16 jurisdiction.
17

18 Petitioner respectfully submits that amendment, rather than dismissal and refile, best serves
19 judicial economy and the liberal amendment policy embodied in Rule 15.
20

21 **II. PROCEDURAL BACKGROUND**

22 Petitioner filed a Verified Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. The
23 Petition's heading referenced mandamus and APA relief, and the prayer for relief requested an order
24 compelling agency adjudication within a reasonable time. However, the jurisdictional section did not
25 clearly plead Mandamus Act or APA jurisdiction as independent causes of action.
26

27 On January 27, 2026, the Court denied the habeas petition, explaining that the requested relief
28 was not properly cognizable under § 2241 and observing that a civil APA or mandamus action would
be the appropriate procedural vehicle.

1 The Court further noted that denial was without prejudice to bringing such an action. *Id.*

2 Petitioner now seeks leave to amend the pleadings in this action to reflect precisely the
3 jurisdictional pathway the Court identified.
4

5 **III. LEGAL STANDARD**

6 **A. Rules 59(e) and 60(b)**

7 A district court may alter or amend a judgment under Rule 59(e) or grant relief from judgment
8 under Rule 60(b)(1) to correct mistake, inadvertence, or to prevent manifest injustice. Relief is
9 appropriate where doing so promotes efficient resolution of the dispute and does not prejudice the
10 opposing party.
11

12 **B. Rule 15(a)(2)**

13 Federal Rule of Civil Procedure 15(a)(2) provides that courts “should freely give leave [to
14 amend] when justice so requires.” The Ninth Circuit applies this policy with “extreme liberality,”
15 particularly where amendment is sought early and no prejudice or bad faith is present. *Morongo Band
16 of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).
17
18

19 **IV. ARGUMENT**

20 **A. Relief from Judgment Is Appropriate**

21 Petitioner does not seek reconsideration of the Court’s substantive analysis or reversal of the
22 denial of habeas relief. Rather, Petitioner respectfully seeks limited relief from the judgment so that the
23 case may be reopened for procedural clarification consistent with the Court’s guidance. The Court
24 expressly recognized that the form of relief requested—compelling agency adjudication—falls outside
25 the scope of § 2241 habeas jurisdiction and is more appropriately pursued through a civil action under
26 the Mandamus Act or the Administrative Procedure Act. Petitioner’s request is therefore not an attempt
27
28

1 to relitigate the merits, but to align the procedural posture of the case with the jurisdictional framework
2 identified by the Court itself.

3
4 Granting limited relief from judgment serves the interests of fairness and efficiency. The
5 original petition referenced mandamus and APA-type relief in its heading and prayer, and the factual
6 allegations remain unchanged. Reopening the matter for the narrow purpose of correcting the
7 procedural vehicle avoids unnecessary duplication of filings, conserves judicial resources, and ensures
8 that the dispute may be addressed under the proper legal framework without prejudice to any party.

9
10 No party will be disadvantaged by this limited relief. The case remains at its earliest stage, no
11 discovery or scheduling orders have issued, and Respondents are already fully apprised of the operative
12 facts and legal theories. Relief from judgment in this context merely permits procedural regularization
13 rather than substantive expansion, and thus promotes orderly administration of the case without altering
14 the Court's prior conclusions regarding habeas jurisdiction.

15
16 **V. CONCLUSION**

17
18 For the foregoing reasons, Petitioner respectfully requests that the Court:

- 19 1. Grant relief from judgment for the limited purpose of reopening this matter; and
20 2. Grant such further relief as the Court deems just and proper.

21
22 DATED: 29 January 2026

23
24 Respectfully submitted,

25
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