

ALEC S. BRACKEN (USB 17178)
CONTIGO LAW
PO BOX 249
Midvale, Utah 84047
Phone: 801-980-9430
Email: alec@contigo.law
Attorney for Petitioner

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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MOTION FOR LEAVE TO FILE AMENDED PETITION AND COMPLAINT

Petitioner, Antonio Alejandro Garcia Morao, by and through counsel, hereby moves this Court for an order granting leave to file an Amended Petition for Writ of Mandamus and Complaint for Declaratory Relief. This motion is brought pursuant to Federal Rule of Civil Procedure 15(a)(2) and Local Rule LR 15-1. As required by LR 15-1, a complete copy of the proposed Amended Petition for Writ of Mandamus and Complaint for Declaratory Relief is attached hereto as **Exhibit A**.

1. PROCEDURAL HISTORY.

Petitioner filed the initial Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 on December 23, 2025, challenging his continued detention and the government's refusal to adjudicate his pending adjustment of status. On January 28, 2026, this Court denied the habeas petition but noted that the appropriate vehicle for the requested relief, compelling agency action, would be a mandamus and declaratory judgment action. Petitioner now seeks to amend the pleadings to conform to the Court's guidance and the jurisdictional requirements of the Mandamus Act and the Administrative Procedure Act (APA).

2. LEGAL STANDARD.

Under Federal Rule of Civil Procedure 15(a), a district court "shall grant leave to amend freely 'when justice so requires.'" *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc). The Ninth Circuit has repeatedly emphasized that "this policy is to be applied with extreme liberality." *Morong Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). Furthermore, the Court must draw all inferences "in favor of granting the motion." *Griggs v. Pace Am. Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999).

1 In determining whether leave to amend is appropriate, the district court considers "the presence
2 of any of four factors: bad faith, undue delay, prejudice to the opposing party, and/or futility."
3
4 Griggs, 170 F.3d at 880.

5 **I. ARGUMENT**

6 **A. The Four Factors Favor Amendment**

- 7
- 8 1. No Bad Faith: Petitioner seeks this amendment in direct response to the Court's legal
9 analysis. There is no evidence of a "dilatory motive."
 - 10 2. No Undue Delay: This motion is filed promptly following the Court's order. No
11 discovery has occurred, and no trial date has been set.
 - 12 3. No Prejudice to Respondents: Respondents will not be prejudiced by an amendment that
13 clarifies the legal framework of the case. They remain in possession of all relevant
14 administrative records.
 - 15 4. No Futility: The amendment is not futile. Petitioner is a Venezuelan national paroled
16 into the U.S. (an "arriving alien"). Under 8 C.F.R. § 1245.2(a)(1), the Immigration Judge
17 lacks jurisdiction to adjudicate his I-485. Thus, a Mandamus action is the sole remaining
18 legal remedy to compel USCIS to perform its non-discretionary duty to adjudicate the
19 application.
20
21
22

23 **B. Compliance with Local Rules**

24 Petitioner has complied with LR 15-1 by attaching the proposed Amended Petition as Exhibit

25 A. The Amended Petition corrects the jurisdictional defects identified by the Court and adds necessary
26 parties (USCIS/DHS officials) to ensure complete relief can be granted.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Court grant this Motion for Leave to File an Amended Petition and Complaint.

DATED: 29 January 2026

Respectfully submitted,

/S/ ALEC S. BRACKEN
Alec S. Bracken (UT SBN 17178)
Contigo Law
P.O. Box 249
Midvale, UT 84047
Tel. (801) 676-6548
Email: alec@contigo.law