

Theodora E. Adoghe, Esq., CASBN358199
Law Offices Of Mariana L. Hanna
402 West Broadway, Suite 1730
Phone: 619-234-3635
Email: theodoraadoghe@gmail.com

Attorney for the Petitioner

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CARLOS MENDOZA ESQUIVEL,
Petitioner,
v.

PAMELA BONDI,
Respondent

CASE NO. 2:25-cv-02745-DGE

**PETITIONER'S MOTION FOR RELIEF
FROM DISMISSAL AND FOR LEAVE
TO FILE AMENDED PETITION**

1 ¹Petitioner, by and through undersigned counsel, respectfully moves the Court to set aside
2 the dismissal of this immigration habeas action and to grant leave to file an amended petition
3 pursuant to Federal Rules of Civil Procedure 60(b) and 15(a), and Rule 12 of the Rules
4 Governing Section 2254 Cases, as applicable to proceedings under 28 U.S.C. § 2241. This
5 motion is supported by the following.

6 **I. PROCEDURAL BACKGROUND**

7 On December 12, 2025, Petitioner filed an emergency motion for interim relief in the
8 United States Court of Appeals for the Ninth Circuit pursuant to the All Writs Act, 28 U.S.C. §
9 1651, seeking relief from ongoing civil immigration detention. In the alternative, Petitioner
10 requested that the matter be transferred to the appropriate district court for adjudication as a
11 petition for writ of habeas corpus under 28 U.S.C. § 2241.

12 On December 29, 2025, the Ninth Circuit transferred the matter to this Court for lack of
13 original jurisdiction over the habeas petition.

14 On December 31, 2025, this Court issued a Notice of Filing Deficiency directing
15 Petitioner to cure certain procedural defects in the petition, including identification of the proper
16 respondent. The notice provided Petitioner until January 19, 2026, to respond.

17 The Court mailed a copy of the Notice of Filing Deficiency. Undersigned counsel has not
18 received the mailed notice.

19 At the time the Notice of Filing Deficiency issued, undersigned counsel had not yet been
20 admitted pro hac vice and had not formally appeared in this matter. Undersigned counsel

21
22 ¹Although this action arises under 28 U.S.C. § 2241, Rule 12 of the Rules Governing
23 Section 2254 Cases permits application of the Federal Rules of Civil Procedure, including Rules
60(b) and 15(a), where, as here, their use is not inconsistent with the governing habeas statutes or
rules.

1 submitted an application for admission pro hac vice on January 8, 2026. That application was
2 rejected on January 12, 2026. Undersigned counsel was subsequently admitted pro hac vice on
3 January 13, 2026.

4 Because counsel was not admitted at the time the notice issued, and because the mailed
5 notice was not received, counsel was unaware of the Court's directive and unable to respond
6 before the deadline. The petition was thereafter dismissed for failure to respond to the Notice of
7 Filing Deficiency.

8 **II. GROUNDS FOR RELIEF FROM DISMISSAL**

9 Relief from the dismissal is warranted under Federal Rule of Civil Procedure 60(b). Rule
10 60(b) authorizes a court to relieve a party from a final order or judgment for specified reasons,
11 including "mistake, inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1).

12 A. Excusable Neglect and Lack of Notice to Counsel

13 Relief is appropriate under Rule 60(b)(1) because Petitioner's failure to respond to the
14 Court's Notice of Filing Deficiency resulted from excusable neglect and mistake, not willful
15 noncompliance.

16 The Notice of Filing Deficiency was issued on December 31, 2025, before undersigned
17 counsel was admitted pro hac vice or able to receive electronic notice in this matter. Although the
18 Court mailed a copy of the notice, undersigned counsel has not received it. Counsel applied for
19 admission pro hac vice on January 8, 2026, but the application was rejected on January 12, 2026.
20 Counsel was not admitted until January 13, 2026, only days before the response deadline.

21 Because of the timing of the transfer from the Ninth Circuit, the issuance of the notice
22 before counsel's admission, and the failure of the mailed notice to reach counsel, Petitioner did
23 not have a meaningful opportunity to comply with the Court's directive. The resulting failure to

1 respond was unintentional and arose from circumstances outside Petitioner's control. These facts
2 satisfy the standard for excusable neglect or mistake under Rule 60(b)(1).

3 B. Good Cause Exists for the Initial Procedural Defect

4 Rule 60(b) relief is also warranted because the procedural defect identified by the Court
5 was the product of the case's posture and was readily curable. Courts routinely grant relief from
6 dismissal where a defect results from transfer or confusion over proper habeas procedure, rather
7 than from bad faith or delay.

8 The Court identified the failure to name the proper respondent as a deficiency in the
9 original filing. In immigration detention cases brought under 28 U.S.C. § 2241, the proper
10 respondent is the petitioner's immediate physical custodian. That requirement presupposes that
11 the matter is filed in the appropriate district court in the first instance.

12 Here, the initial filing was not a district court habeas petition. Petitioner invoked the All
13 Writs Act, 28 U.S.C. § 1651, in the Court of Appeals to seek emergency interim relief from
14 ongoing civil immigration detention, with an alternative request that the matter be transferred for
15 habeas adjudication under 28 U.S.C. § 2241. Once the Ninth Circuit transferred the matter for
16 lack of original habeas jurisdiction, the case necessarily required conforming amendments to
17 satisfy district court habeas requirements, including identification of the immediate physical
18 custodian.

19 The failure to name the proper respondent therefore stemmed directly from the procedural
20 transition between courts, not from neglect or disregard of the rules. Petitioner intended to cure
21 the defect upon transfer, and seeks leave to do so now. These circumstances constitute good
22 cause for relief from dismissal under Rule 60(b).

23 C. Setting Aside the Dismissal Will Not Prejudice Respondent

1 Relief under Rule 60(b) is further warranted because setting aside the dismissal and
2 permitting amendment will not prejudice Respondent.

3 No respondent has appeared in this action, and no answer, motion, or other filing
4 addressing the merits of Petitioner's detention has been submitted. The dismissal occurred at a
5 preliminary stage based solely on a curable procedural issue, before any substantive proceedings
6 took place.

7 Allowing this case to proceed will not require Respondent to relitigate any issue or undo
8 any completed litigation steps. At most, Respondent will be required to respond to the amended
9 petition in the ordinary course. Under these circumstances, there is no cognizable prejudice
10 associated with reopening the case.

11 Courts routinely find the absence of prejudice where, as here, a dismissal is set aside early
12 in the proceedings and before any merits determination. This factor strongly favors granting relief
13 from dismissal.

14 D. The Strong Policy Favoring Resolution on the Merits Supports Relief

15 Relief from dismissal is further supported by the strong policy favoring resolution of
16 cases on their merits, particularly in habeas proceedings challenging ongoing civil detention.

17 Habeas corpus is a fundamental mechanism for testing the lawfulness of custody. Where
18 a petitioner alleges unlawful immigration detention, dismissal based on a curable procedural
19 defect frustrates the purpose of habeas review and risks insulating detention from judicial
20 scrutiny. Courts therefore disfavor dismissals that prevent merits review when the deficiency can
21 be readily corrected and did not result from bad faith or dilatory conduct.

22 Here, the dismissal resulted from the timing of the case transfer, the issuance of the
23 Court's notice before counsel's admission, and a procedural defect that Petitioner intended to

1 cure upon transfer. Granting relief will permit the Court to address the legality of Petitioner's
2 continued detention without rewarding delay or imposing unfair burdens on Respondent.

3 Under these circumstances, the interest in resolving immigration detention challenges on
4 their merits weighs strongly in favor of setting aside the dismissal and permitting amendment.

5 **III. LEAVE TO AMEND IS PROPER**

6 Leave to amend should be freely granted when justice so requires. Fed. R. Civ. P.
7 15(a)(2). In habeas proceedings, courts apply Rule 15 pursuant to Rule 12 of the Rules
8 Governing Section 2254 Cases, which permits use of the Federal Rules of Civil Procedure in §
9 2241 actions to the extent they are not inconsistent with habeas practice.

10 Petitioner seeks leave to amend for limited and appropriate purposes. Specifically,
11 Petitioner seeks to identify the proper respondent, namely Petitioner's current immigration
12 custodian, and to conform the petition to this Court's procedural requirements for habeas
13 petitions challenging immigration detention under 28 U.S.C. § 2241.

14 The proposed amendment is made in good faith, is prompt, and follows directly from the
15 procedural posture of the case, including the transfer from the Ninth Circuit and counsel's
16 subsequent admission. The amendment will not unduly delay these proceedings or prejudice
17 Respondent.

18 Under these circumstances, granting leave to amend serves the interests of justice and
19 will permit proper adjudication of Petitioner's claims on the merits.

20 **IV. CONCLUSION**

21 For the foregoing reasons, Petitioner respectfully requests that the Court:

- 22 1. Set aside the order dismissing this action;
- 23 2. Grant Petitioner leave to file an amended petition;

- 1 3. Permit Petitioner to file the amended petition within a time set by the Court; and
- 2 4. Grant such other and further relief as the Court deems just and proper.

3 Dated: January 26, 2026

Respectfully Submitted,

5 /s/ Theodora E. Adoghe

Theodora E. Adoghe, Esq., CASBN358199

6 Law Offices Of Mariana L. Hanna

7 402 West Broadway, Suite 1730

8 Phone: 619-234-3635

9 Email: theodoraadoghe@gmail.com

CERTIFICATE OF SERVICE

I certify that on January 26, 2026, I electronically filed the foregoing Petitioner's Motion for Relief From Dismissal and for Leave to File Amended Petition with the Clerk of the Court using the CM ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all counsel of record.

/s/ Theodora E. Adoghe

Theodora E. Adoghe, Esq., CASBN358199
Law Offices Of Mariana L. Hanna
402 West Broadway, Suite 1730
Phone: 619-234-3635
Email: theodoraadoghe@gmail.com