

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 26-cv-00517-NYW

PEDRO ALEJANDRO VILA DIAZ,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR, Denver Field Office,

Respondent.

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**MOTION FOR CLARIFICATION OF DEADLINE TO  
RESPOND TO ORDER TO SHOW CAUSE (ECF No. 13)**

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Respondent moves for a clarification of its deadline to respond to the Revised Order to Show Cause (ECF No. 13), because that Order provided that Respondent should respond within seven days of service, but Respondent has not been served with the operative amended petition in this case and only became aware of the Court's Revised OSC on April 1, 2026. Respondent proposes that the Court enter an order setting April 8, 2026, as the deadline to respond.

Petitioner, proceeding *pro se*, filed a Petition for Habeas Corpus (Petition) on February 9, 2026. See ECF No. 1. Magistrate Judge Gurley ordered Petitioner to file an amended petition, which he did on March 6, 2026. See ECF No. 6 (Amended Petition). After the Amended Petition was filed, Magistrate Judge Gurley issued an Order to Show Cause on March 13, 2026, ordering Respondent to show cause within 30 days why the Amended Petition should not be granted. See ECF No. 13. The

response was thus due April 13, 2026. The Clerk of the Court then emailed the United States Attorney Office for the District of Colorado the Petition (not the operative Amended Petition) and Judge Gurley's March 13, 2026 OSC. See ECF No. 12 (acknowledgment of receipt by email of "APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC § 2241 filed on 2/9/2026"). The Clerk emailed those documents to the U.S. Attorney's Office on March 16, 2026, *see id.*, and the acknowledgement of service was entered on the docket on March 17, 2026, at ECF No. 12. Later the same day, this case was reassigned to Judge Wang, *see* ECF No. 10, and this Court vacated the March 13, 2026, OSC and instead ordered Respondent to show cause why the Amended Petition should not be granted "within seven days of service," ECF No. 13 at 3 (Revised OSC). The docket text reflects that the Revised OSC (ECF No. 13) was mailed to the Petitioner, but it was not served on the U.S. Attorney's Office.

Respondent has not been served with the operative Amended Petition nor with the Revised OSC. See ECF No. 12.

Undersigned counsel became aware of the Revised OSC, and its deadline, when he was assigned the case and entered his notice of appearance, and reviewed the docket on April 1, 2026.

Respondent needs time to investigate the allegations of the Amended Petition. This appears to differ from many habeas petitions filed in this district and across the country alleging improper detention under 8 U.S.C. § 1225(b), because Petitioner already received a bond hearing on December 30 2025, according to an order he

attaches to the Amended Petition. See ECF No. 6 at 11. The order states that the immigration judge denied bond because Petitioner did not establish that he was not a flight risk. *Id.* These particular facts will require Respondent to investigate the facts of the case and obtain a declaration from a Deportation Officer, to ensure that Respondent presents the Court with the information relevant to the Amended Petition. Petitioner also makes allegations regarding why he was detained. See ECF No. 6 at 2. Those allegations will also need to be investigated and addressed in Respondent's response.

Therefore, because Respondent was not served with the Amended Petition or the Court's Revised OSC (ECF No. 13), the Amended Petition raises unusual issues, and the Amended Petition raises factual issues that must be investigated, Respondent moves for clarification of its OSC response deadline. Respondent proposes the Court order that the response is due within seven days, that is, by April 8, 2026. This is consistent with the seven-day timeframe contemplated by the Revised OSC (ECF No. 13) because Respondent became aware of the Amended Petition and Revised OSC today, April 1. And it affords Respondent sufficient time to investigate the allegations in the Amended Petition and prepare a response.

Respondent did not confer with Petitioner because he is pro se and detained. See D.C.COLO.LCivR 7.1(b).

Respondent has not previously sought any extensions of time in this case.

Respondent will serve this motion on a representative of ICE as indicated in the certificate of service.

Dated: April 1, 2026.

Respectfully submitted,

PETER MCNEILLY  
United States Attorney

s/ Timothy Bart Jafek

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Counsel for Respondents

#### CERTIFICATE OF SERVICE

I certify that on April 1, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the all persons who have registered for such notifications.

I also certify that on the same date I am causing the foregoing to be delivered to the following non-CM/ECF participants in the manner (mail, email, hand delivery, etc.) indicated by the nonparticipant's name:

Pedro Aleiandro Vila Diaz (by mail)

  
ICE Aurora Contract Detention Facility  
3130 North Oakland Street  
Aurora, CO 80010

C. Kasperson, ICE counsel (by email)

s/ *Timothy Bart Jafek*

Timothy Bart Jafek