

VICTORIA E. GALAN, ESQ.
Castellon, Laurent & Schlesinger, LLC
2100 Ponce De Leon Blvd Suite 1110
Coral Gables, FL, 33134
Tel: (786) 540-0808
Associatel@clsmiamilaw.com
Lead Attorney for Petitioner

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ELEVENTH DIVISION**

MICHAEL HERRERA NUNEZ

Petitioner,

V.

Kristi Noem, Secretary, U.S. Department
of Homeland Security;

Todd M. Lyons,
Acting Director,
Immigration and Customs Enforcement
(ICE)

Warden,
Florida South Side Detention Center,

Respondents.

Case No. 2:26-cv-651-JES-DNF

MOTION TO GRANT PETITION BASED ON RESPONDENTS' FAILURE TO COMPLY WITH COURT ORDER

Petitioner Michael Herrera Nunez, through undersigned counsel, respectfully moves this Court to grant his petition for writ of habeas corpus considering Respondents' failure to comply with this Court's April 2, 2026 Order requiring supplemental briefing, and states as follows:

I. BACKGROUND

On April 2, 2026, this Court ordered Respondents to file a supplemental response addressing specific legal deficiencies in their position, including whether Petitioner's prior

convictions render him an “arriving alien” under 8 U.S.C. § 1101(a)(13)(C) and subject to mandatory detention. (*Doc. 10*).

The Court required Respondents to file this supplemental response within ten (10) days. (*Id.*).

To date, Respondents have failed to comply. The deadline has long since passed, and no supplemental filing has been made. Nor have Respondents sought an extension of time or otherwise attempted to comply with the Court’s Order.

II. RESPONDENTS’ FAILURE WARRANTS RELIEF

While habeas proceedings do not automatically entitle a petitioner to default judgment, courts retain broad authority to grant relief where the government fails to justify continued detention.

Here, the Court identified a dispositive legal issue and afforded Respondents a clear opportunity to meet their burden. Respondents did not do so.

This failure is particularly significant. The Court specifically questioned whether Respondents’ reliance on Petitioner’s prior convictions was legally sufficient and expressly directed Respondents to address that issue. Respondents’ failure to file the ordered supplemental briefing leaves that question unresolved and leaves the record devoid of any analysis supporting Petitioner’s classification as an arriving alien.

Because Respondents bear the burden of justifying Petitioner’s continued detention, their failure to comply with the Court’s Order is dispositive. On the current record, Respondents have not established a lawful basis for Petitioner’s mandatory detention.

III. RELIEF IS WARRANTED

Given Respondents' failure to comply with the Court's Order and their failure to justify Petitioner's continued detention, the Court should grant the habeas petition.

Accordingly, the Court should grant the petition for writ of habeas corpus and order Petitioner's immediate release. In the alternative, the Court should order that Petitioner be provided with an individualized bond hearing before an immigration judge within a fixed and prompt timeframe.

IV. CONCLUSION

Respondents were given a clear directive and a full opportunity to justify Petitioner's detention. They failed to do so.

Petitioner respectfully requests that this Court grant his habeas petition and order appropriate relief.

Accordingly, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner's immediate release, or alternatively, a prompt individualized bond hearing; and
3. Grant any further relief this Court deems just and proper.

Respectfully submitted this 28th day of April 2026,



Victoria E. Galan, Esq,
Castellon, Laurent & Schlesinger, LLC
2100 Ponce de Leon Blvd. Ste 1110
Coral Gables, FL 3134
Office: 305-239-0229
Email: associate1@clsmiamlaw.com
Lead Counsel for the Petitioner