

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Elvis Joel T.E. and C.R.T.V., *a minor child*
by and through her parent and guardian
Elvis Joel T.E.,

Petitioners,

v.

Pamela Bondi, Attorney General,
U.S. Department of Justice,

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

Todd M. Lyons, Acting Director of
Immigration and Customs
Enforcement, and

David Easterwood, Acting Director,
St. Paul Field Office Immigration and
Customs Enforcement,

Respondents.

Case No. 26-cv-561 (KMM/JFD)

**PETITIONER'S UNOPPOSED
MOTION AND MEMORANDUM TO
VOLUNTARILY DISMISS HABEAS
PETITION WITHOUT PREJUDICE**

Petitioner Elvis Joel T.E., by his undersigned counsel, respectfully moves this Court for leave to voluntarily dismiss his petition for habeas corpus without prejudice under Federal Rule of Civil Procedure 41(a)(2). Respondents do not oppose this motion.

Federal Rule of Civil Procedure 41(a)(2), which governs voluntary dismissals, applies to federal habeas proceedings. *See Estes v. Werlich*, No. 16-cv-141, 2021 WL 11586243, at *2 (D. Colo. Aug. 4, 2021); *Williams v. Caruso*, No. 07-CV-11291, 2008

WL 544954, at *1 (E.D. Mich. Feb. 25, 2008); *Doster v. Jones*, 60 F. Supp. 1258, 1259 (M.D. Ala. 1999). Dismissal under Rule 41(a)(2) is within the sound discretion of the court. *See Clark v. Tansy*, 13 F.3d 1407, 1411 (10th Cir. 1993). “Absent ‘legal prejudice’ to the defendant, the district court normally should grant such a dismissal.” *Ohlander v. Larson*, 114 F.3d 1531, 1537 (10th Cir. 1997).

Mr. T.E. is entitled to voluntary dismissal without prejudice because this request was made before the Court rendered any decision on the merits, there is no indication of bad faith, and Respondents will not suffer prejudice as a result of dismissal, other than the mere possibility of a future habeas petition. *See Fisher v. Puerto Rico Marine Mgmt., Inc.*, 940 F.2d 1502, 1502-03 (11th Cir. 1991) (holding that “in most cases a voluntary dismissal should be allowed unless the defendant will suffer some plain prejudice other than the mere prospect of a second lawsuit”). Mr. T.E. is exhausted after enduring prolonged detention under extremely difficult conditions, including living in constant fear, being held in facilities without a bed to sleep on, and being transferred out of state and back. After careful consideration of his circumstances, he has authorized undersigned counsel to file this motion.

For these reasons, Mr. T.E. respectfully requests that the Court grant his unopposed motion to voluntarily dismiss his petition for habeas corpus without prejudice.

Dated: January 26, 2026

Respectfully submitted,

/s/ Kira Kelley
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Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE

I, Kira Kelley, certify that Petitioners' Motion and Memorandum to Voluntarily Dismiss conforms to the requirements of LR 7.1. This reply memorandum was prepared in 13-point font using Google Docs, whose word count function has been applied specifically to count all text aside from the case caption and signature block, and includes headings, footnotes, and quotations. The total count is 325 words.

Dated: January 26, 2026

/s/ Kira Kelley
Kira Kelley