**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TEXAS**
**EL PASO DIVISION**

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| Johan Jose Morales Vargas,<br><br>Petitioner,<br><br>v.<br><br>Mary De Anda-Ybarra, Field Office Director of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs Enforcement, *et al.*,<br><br>Respondents. | Civil Action No. 3:26-cv-02223-LS |

**ADVISORY TO THE COURT**

Federal Respondents[1] file this Advisory to alert the Court that **this petition is the third habeas filing by this Petitioner** and this petition raises no newly discovered evidence or new rule of constitutional law that was previously unavailable, as required by 28 USC § 2255(h).

On March 19, 2026, Petitioner, acting *pro se*, filed his first petition for habeas corpus before this very Court seeking release from immigration detention. *See Morales Vargas v. Estrada, et al.*, No. 3:26-cv-00781-LS, (W.D. Tex. Mar. 19, 2026). On July 2, 2026, Petitioner, again acting pro se, filed his second habeas petition. *See Morales Vargas v. Clerk of Court, et al.*, No. 3:26-cv-1794-LS (W.D. Tex. Jul. 2, 2026). Petitioner's second habeas petition is still pending. On August 27, 2026, Petitioner, still acting *pro se*, filed this third successive petition seeking the same relief (*i.e.*, release) before this Court. ECF No. 1.

Petitioner's basis for his current petition is that he was tentatively granted asylum on August 17, 2026. ECF No. 1 at ¶ 2; *see also* Exhibit (Exh.) A (Asylum Order). However,

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1 The U.S. Department of Justice only represents federal employees in this action.

Petitioner's Asylum Order is not yet final. The Department of Homeland Security reserved appeal, and has until September 17, 2026, to file such an appeal. Exh. A (Asylum Order) at 4. Since DHS's appeal period has not yet expired, the Asylum Order is not yet final. *See* 8 C.F.R. § 1003.39 ("Except when certified to the Board, the decision of the Immigration Judge becomes final upon waiver of appeal or upon expiration of the time to appeal if no appeal is taken whichever occurs first.").

Since the Asylum Order is not yet final, the three petitions essentially raise the same legal basis for release. *Compare* ECF No. 1 *and* petitions filed in 3:26-cv-00781 (ECF No. 1) and 3:26-cv-1794 (ECF No. 1). It appears that Petitioner is improperly using the Federal District Court's limited time and resources to file a successive petition for release, hoping for a different result. *See* ECF No. 1 at ¶ 15. The principal argument raised before this Court, namely, that continued detention violates the Due Process Clause, is the same argument this Court addressed in Case No. 3:26-cv-00781.

To the extent Petitioner has complaints about this Court's order denying his previous petition for a writ of habeas corpus, filing a successive petition is not the proper means to adjudicate those issues. Petitioner could have requested reconsideration of that opinion or filed an appeal with the Fifth Circuit. This petition constitutes an impermissible successive petition and should be dismissed. Should the Court disagree and decide to rule on this Petition, Respondents incorporate by reference the response filed in Petitioner's previous case. 1:26-cv-00781, ECF No. 4.

## CONCLUSION

For the foregoing reasons, Respondents respectfully request the Court dismiss Petitioner's current habeas petition (ECF No. 1).

Dated: September 8, 2026

Respectfully submitted,

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United States Attorney

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*Attorneys for Federal Respondents*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2026, I sent the attached Response to Petition to the following by Certified First Class Mail:

Johan Jose Morales Vargas
A# [redacted]
El Paso Service Processing Center
8915 Montana Ave
El Paso, TX 79925

*/s/ Gerald R. Krimbill*
Gerald R. Krimbill
Assistant United States Attorney