

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOSE ARNULFO GUERRERO
ORELLANA,

Petitioner-Plaintiff,

v.

ANTONE MONIZ, Superintendent,
Plymouth Correctional Facility;

Respondents-Defendants.

Civil Action No. 1:25-cv-12664-PBS

**RESPONDENTS-DEFENDANTS' MOTION TO DISMISS COUNTS TWO THROUGH
FIVE OF THE PETITION**

Respondents-Defendants hereby move to dismiss Counts Two through Five of Petitioner-Plaintiff's Petition for Writ of Habeas Corpus and Class Action Complaint (ECF 10), which are the Counts that were not addressed in this Court's partial final judgment entered on December 19, 2025 (ECF 113). This motion is made pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and is based on the accompanying Memorandum of Law.

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General

DREW C. ENSIGN
Deputy Assistant Attorney General

AUGUST E. FLENTJE
Special Counsel

/s/ Katherine J. Shinners
KATHERINE J. SHINNERS
Senior Litigation Counsel
U.S. Department of Justice, Civil Division
Office of Immigration Litigation-GLA
P.O. Box 878, Ben Franklin Station
Washington, DC 20044
202-598-8259
katherine.j.shinners@usdoj.gov

MICHAEL D. ROSS
ANGEL FLEMING
LAURIE WIESNER
Trial Attorneys

CERTIFICATE UNDER LOCAL RULE 7.1(a)(2)

On Friday, January 16, 2026, counsel for the parties conferred by email and were unable to come to an agreement regarding the relief requested.

Dated: January 16, 2025

/s/ Katherine J. Shinners
KATHERINE J. SHINNERS
Senior Litigation Counsel
U.S. Department of Justice

CERTIFICATE OF SERVICE

I, Katherine J. Shinners, hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: January 16, 2025

/s/ Katherine J. Shinners
KATHERINE J. SHINNERS
Senior Litigation Counsel
U.S. Department of Justice

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**[PROPOSED] ORDER GRANTING RESPONDENTS-DEFENDANTS' MOTION TO
DISMISS COUNTS TWO THROUGH FIVE**

Having considered Respondents-Defendants' Motion to Dismiss, and all related submissions, it is hereby ORDERED that the Motion is GRANTED. Counts Two, Three, and Four of the First Amended Petition for Writ of Habeas Corpus and Class Action Complaint (ECF 10) are dismissed [without prejudice based on constitutional avoidance/with prejudice based on failure to state a claim]. Count Five of the First Amended Petition for Writ of Habeas Corpus and Class Action Complaint is dismissed with prejudice.

SO ORDERED:

Dated: _____

HON. PATTI B. SARIS
UNITED STATES DISTRICT JUDGE