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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Heriberto Herrera Torralba,
Gaudencio Dominguez Castillo

Petitioners,

v.

Jason Knight, Acting Las Vegas/Salt Lake
City Field Office Director, Enforcement
and Removal Operations, United States
Immigration and Customs Enforcement
(ICE); John Mattos, Warden, Nevada
Southern Detention Center; Kristi NOEM,
Secretary, United States Department of
Homeland Security; Pamela BONDI,
Attorney General of the United States;
Executive Office for Immigration Review
Respondents.

**OPPOSITION TO RESPONDENT'S
MOTION TO EXTEND TIME
TO ANSWER THE AMENDED HABEAS**

Case No. 2:25-CV-0155-RFB-DJA

While counsel is sympathetic to opposing counsel's medical leave, there must be someone else in the U.S. Attorney's office that can assist with the preparation of the answer. Under normal circumstances, Petitioners would not object to a continuance. However, these circumstances are anything but normal given the allegations of unlawful detention based on new policy, so Petitioners must object to any extension of time to respond because good cause for the motion has not been established and for the following reasons.

The government moves for an extension of time largely due to its assertion that it must ascertain the facts of the added case from ICE. However, the facts are not at issue here, instead at issue are strictly legal arguments that the U.S. attorney's office is fully capable of handling without consultation with ICE and based on the number of similar cases pending that other U.S. Attorneys are handling. Counsel for petitioners, as an officer of the court has accurately stated the facts of each case in the habeas petition. Also, the government has already had a week to consult with ICE on the new case because counsel for Petitioners filed the amended habeas on the 13th, a day before it was due to give the government extra time to respond.

The petitioners have now been detained unlawfully since early July, for more than a month, based on a new policy and novel arguments of the Department of Homeland Security (DHS), that they are subject to mandatory detention.

This new practice has been challenged around the country, and more challenges are happening weekly, so the government has been on notice of these arguments since May of this year.

Federal courts have so far rejected the government's interpretation as contrary to law. For example, after Immigration Judges in the Tacoma, Washington immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 236, not §235(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). This case is now pending in a nationwide class action.

Other federal courts have drawn the same conclusion. 1:25-cv-05937-DEH *Lopez Benitez v. Francis et al* Dale E. Ho, presiding. On July 28, 2025, in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM (C.D. Cal. July 28, 2025), Judge Sykes issued a TRO on behalf of four individuals detained at Adelanto who have been denied bond, even though they have been present in the U.S. for years, after Immigration Judges deemed them to be "aliens seeking admission" since they are present without admission. A class action complaint in this case is now also pending.

Finally, the BIA issued a published decision in *Matter of Akhmedov* 29 I&N 29 I&N Dec. 166 (BIA 2025). While this issue is not the main holding in the case, the Board clearly noted in its analysis of bond eligibility that the respondent's custody determination is governed by the provisions of section 236(a) of the INA even though he entered unlawfully. *Id.* This is the exact issue in this Habeas.

These cases show that the government respondents have been on notice about these arguments since at least May of this year and that it has sufficient resources, given the exorbitant recent funding of ICE to receive the answers needed to respond to the Habeas petition.

Should the court conclude that an extension is warranted despite the arguments above, the petitioners would request that no more than 3 days be granted. Any delay at this point serves only to punish the petitioners by extending their detention.

RESPECTFULLY SUBMITTED this 20th day of August, 2025.

PERRETTA LAW OFFICE

/s/ Leonor Perretta
Attorney for Petitioners