U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, NY 11201

BY ECF

January 27, 2026

Honorable Nina R. Morrison
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *E.R.D. v. Secretary of Homeland Security Kristi Noem, et al.*, No. 26-cv-85 (NRM)

Dear Judge Morrison:

This Office represents Respondents in this habeas action filed January 7, 2026. Petitioner's habeas action alleges that his 2024 Order of Supervision (OSUP) was revoked earlier this month and he had been detained. On January 9, 2026, Respondents respectfully informed the Court that Petitioner had been released by Immigration and Customs Enforcement (ICE) and that the habeas action was moot, and sought to file a status report by January 15, 2025 while Petitioner considered whether to dismiss the action. ECF 4. The Court directed the parties to file that status report.

As the Court is aware, the parties filed that status report on January 15, respectfully jointly informing the Court that Respondents' position was that the action was moot as Petitioner had been released and was being placed on OSUP, and that Petitioner maintained the action was not moot, because Respondents did not disclaim the intent to re-detain Petitioner and/or impose additional restrictions on his liberty. ECF 5. The parties further respectfully jointly advised that they were continuing to discuss matters, and respectfully proposed a further status report on January 27, 2026. ECF 5. The Court so directed. This letter contains the parties' joint status report and proposal.

The parties now jointly respectfully inform the Court that, since the last status report, on January 16, 2026, ICE issued Petitioner an OSUP that contained the same conditions as the OSUP that had been revoked.

Respondents understand that Petitioner prefers not to dismiss the action, and instead prefers to amend Petitioner's pleading.

Respondents, without waiving any defenses that Respondents may have, consent to amendment, provided that Respondents are given 60 days from the date of service of such pleading to answer, move, or otherwise respond. Petitioner consents to that time frame, and propose filing the amended pleading by February 17, 2026.

Therefore, the parties jointly respectfully propose that Petitioner shall file an amended pleading by February 17, 2026, and that Respondents shall have 60 days from the date of service of such pleading to answer, move, or otherwise respond.

Thank you for the Court's time and attention to this submission and proposal.

Respectfully submitted,

JOSEPH NOCELLA, JR.
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