

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Kelly Recker
5 Assistant Federal Public Defender
6 California State Bar No. 348952
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Kelly_Recker@fd.org

11 *Attorney for Petitioner Salah Hassan

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Salah Hassan,

15 Petitioner,

16 v.

17 Pamela Bondi, *et al.*,

18 Respondents.

Case No. 2:26-cv-00411-JAD-MDC

**Petitioner's Response to Federal
Respondents' Motion for
Retroactive Extension of Time to
File a Response to Petitioner's
Amended Petition for Writ of
Habeas Corpus**

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20 Petitioner Salah Hassan responds to and opposes Respondents' untimely
21 motion for "retroactive" extension. ECF No. 12. Respondents have not met the
22 standard for excusable neglect. Counsel's abandonment of this case—wherein
23 Petitioner argues every moment is an unconstitutional deprivation of his liberty—
24 for over two weeks, due to pre-scheduled time out of the office, without making any
25 arrangements for coverage in an office staffed with many other attorneys, is
26 inexcusable. The Court should therefore deny the motion, grant the amended
27 petition, and order Mr. Hassan's immediate release under *Zadvydas v. Davis*, 533
U.S. 678 (2001).

I. Relevant Facts

This Court appointed counsel for Mr. Hassan on February 18. ECF No. 3. In that same order, the Court issued a briefing schedule that provided for an amended petition deadline of 14 days after counsel for Mr. Hassan entered a notice of appearance. ECF No. 3 at 2. Respondents were then ordered to file a response within seven days of service of the amended petition. ECF No. 3 at 3.

On March 11, Mr. Hassan timely filed and served the amended petition, ECF No. 8, making the response due March 18. On March 19, Mr. Hassan notified the Court that Respondents failed to file a response and asked this Court to treat that failure as consent to the granting of the petition. ECF No. 9. On March 23, five days after their original deadline, Respondents filed a motion seeking to retroactively extend the time to file their response. ECF No. 12 at 1. Respondents requested a new deadline of April 2, over two weeks beyond the original deadline. *Id.*

Prior to filing the belated extension request, Respondents' counsel emailed undersigned counsel asking for petitioner's position on an extension, indicating "AUSA Ruiz has been out of the office since March 17 for training and will not return until the end of the month." When undersigned counsel replied that petitioner opposes given the significant length of time requested, counsel received an out of office message from AUSA Ruiz stating "I will be away from the office to participate in an intensive seminar from March 17 through March 26 and on pre-approved annual leave from March 27 through March 30."

II. Argument

Habeas corpus "is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 290–91 (1969). "Special solicitude is required because the writ is intended to be a swift and imperative remedy in all cases of illegal restraint or confinement." *Yong v.*

1 *I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal quotation marks omitted).
 2 When a petitioner remains in civil immigration detention, delay itself constitutes
 3 prejudice. Each additional day without adjudication is another day of confinement
 4 without meaningful judicial review. That concern is particularly acute here because
 5 Mr. Hassan is in immigration detention even though ICE cannot remove him to
 6 Sudan. *See* ECF No. 8 at 4. He is being illegally and unconstitutionally detained
 7 with no end in sight. Respondents do not have authority to justify his detention, and
 8 their belated request for additional time means Mr. Hassan will remain in custody
 9 even longer, further violating his constitutional rights.

10 Federal Rule of Civil Procedure 6(b)(1)(B) grants the Court the discretion to,
 11 “for good cause,” extend a Court-imposed deadline “on motion made after the time
 12 has expired if the party failed to act because of excusable neglect.” Whether neglect
 13 is excusable depends on four factors: “(1) the danger of prejudice to the opposing
 14 party; (2) the length of the delay and its potential impact on the proceedings; (3) the
 15 reason for the delay; and (4) whether the movant acted in good faith.” *In re Veritas*
 16 *Software Corp. Sec. Litig.*, 496 F.3d 962, 973 (9th Cir. 2007). “[T]he determination is
 17 at bottom an equitable one.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*
 18 *P’ship*, 507 U.S. 380, 395 (1993). Here, both the equities and the four factors favor
 19 denying Respondents’ request for a lengthy, retroactive extension of time.

20 **A. The requested extension would substantially prejudice Mr.**
 21 **Hassan.**

22 Although this is Respondents’ first extension request, that fact does not
 23 outweigh the liberty interests at stake or excuse the requested delay. Mr. Hassan is
 24 prejudiced by each moment he is unlawfully detained. “[U]nlawful detention
 25 certainly constitutes extreme or very serious” injury that “is not compensable in
 26 damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (cleaned up).
 27 Accordingly, this Court should reject Respondents’ summary assertion that Mr.

1 Hassan is not prejudiced because “any alleged harm to Petitioner by an additional
2 delay ‘is essentially inherent in detention.’” ECF No. 12 at 3 (quoting *Lopez Reyes v.*
3 *Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *10 (N.D. Cal. Dec. 24, 2018)).
4 As this Court has indicated, that argument does not “make[] any sense.” *Partovi v.*
5 *Bondi*, No. 2:25-CV-02283-JAD-DJA, 2026 WL 93124, at *5 (D. Nev. Jan. 13, 2026).
6 “[T]he harm of *unlawful* detention is not ‘essentially inherent’ in detention.” *Id.* Mr.
7 Hassan’s prolonged detention is unlawful because he cannot be removed to Sudan,
8 he has no meaningful ties to any other country, and the government is no closer to
9 removing him than it was when he was released from ICE custody in 2021. ECF No.
10 8 at 7. Every additional day he awaits review on that issue is prejudicial.

11 **B. The length of the delay weighs in favor of denying the**
12 **extension.**

13 Respondents assert “the impact on the proceedings because of the delay
14 should be negligible as there are no scheduled hearings or conferences which could
15 be affected by the delay.” ECF No. 12 at 2–3. This argument is also nonsensical. The
16 proceeding here is the amended petition, which requests release as the remedy for
17 the ongoing violation of Mr. Hassan’s constitutional rights. Respondents’ failure to
18 file a response and belated request for extension of time directly impacts that
19 proceeding. If Respondents had timely filed their response on March 18, this case
20 would be fully briefed and ready for a decision *tomorrow*, March 25. *See* ECF No. 3
21 at 3 (noting Petitioner’s reply is due 7 days after a response). Instead, under
22 Respondents’ proposed timeline, Mr. Hassan will continue to sit in prolonged,
23 unlawful detention for over two additional weeks before he can hope to have any
24 review of his claims.
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1 **C. Respondents have provided insufficient reasons to support**
2 **their extension request.**

3 Respondents proffer “the reason for the delay was caused by the lead AUSA’s
4 absence from the office,” adding “there was a general intent to request an
5 extension.” ECF No. 12 at 2.

6 As an initial matter, training and pre-approved leave are not emergencies
7 arising out of the blue—they are scheduled and planned in advance. It is garden
8 variety calendar management to ensure coverage of deadlines while on leave. Here,
9 Respondents were aware of the deadline, aware of AUSA’s Ruiz’s planned leave,
10 and aware that they would have to either file their response early or seek an
11 extension of time in advance. Instead, Respondents sought an extension several
12 days after Mr. Hassan’s notice of non-opposition should have alerted them to the
13 missed deadline. This lack of diligence fails to meet the excusable neglect standard.
14 *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)
15 (explaining that even under the more lenient good cause standard for pre-deadline
16 extension requests, where diligence has not been shown, “the inquiry should end”).

17 Second, Respondents’ counsel is not a solo practitioner. The United States
18 Attorneys Office for the District of Nevada has several attorneys on staff.
19 Respondents do not explain why another attorney is unable to provide coverage
20 before April 2. To the extent that Respondents have not assigned this case to
21 another attorney due to that office’s habeas caseload, that does not establish
22 excusable neglect. Respondents cannot invoke the number of immigration habeas
23 cases as a basis for delaying review where they have affirmatively chosen to initiate
24 and pursue these detention proceedings. Having exercised their discretion to arrest
25 and detain Mr. Hassan, Respondents bear the corresponding obligation to litigate
26 challenges to that custody promptly. Resource allocation decisions within the
27 United States Attorney’s Office do not constitute good cause to prolong a petitioner’s

1 civil immigration confinement without timely judicial review. Thus, if Respondents
2 proffer they are unable to respond before April 2 due to caseload management
3 issues, that is not a sufficient reason to establish excusable neglect.¹

4 **D. The record here does not establish good faith.**

5 Respondents have not met their burden to demonstrate good faith.
6 Respondents assert they “discovered that no request for an extension had been
7 made only after the deadline had already passed.” ECF No. 12 at 1. But again,
8 Respondents do not explain why they waited four days after Mr. Hassan’s notice of
9 non-opposition was filed (alerting them to the missed deadline) to seek the
10 extension of time. Furthermore, Respondents do not explain why no other attorney
11 is available to file a response before April 2. Respondents’ “general intent” to file an
12 extension is insufficient when, after realizing the deadline had passed, Respondents
13 waited several more days before filing a response in which they offer no solution but
14 for the Court and petitioner to simply wait several more weeks as a consequence of
15 counsel’s planned, predictable time out of the office. The record therefore does not
16 establish good faith.

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24 ¹ See *Tran v. United States*, 2:25-cv-02397-APG-DJA, ECF No. 16, at 1 (D.
25 Nev. Jan. 25, 2026) (“While I am sympathetic to the problems this creates for the
26 respondents’ counsel, this court and the FPD are similarly laboring under increased
27 and expedited workloads due to the respondents’ recent increase in immigration
detentions. The respondents’ inability to support their counsel’s defense of the
respondents’ actions does not justify what appears to be the denial of Trans’ (and
others’) constitutional rights.”).

1 **III. Conclusion**

2 Respondents have failed to meet their burden to show excusable neglect.
3 Because the request for extension of time further prolongs Mr. Hassan's unlawful
4 detention without good cause, this Court should deny Respondents' request, grant
5 Mr. Hassan's petition, and order that he be released.

6 Dated March 24, 2026.

7 Respectfully submitted,

8 Rene L. Valladares
9 Federal Public Defender

10 /s/ Kelly Recker

11 Kelly Recker
12 Assistant Federal Public Defender
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