

Rene L. Valladares  
Federal Public Defender  
Nevada State Bar No. 11479  
\*Kelly Recker  
Assistant Federal Public Defender  
California State Bar No. 348952  
411 E. Bonneville Ave., Ste. 250  
Las Vegas, Nevada 89101  
(702) 388-6577  
Kelly\_Recker@fd.org

\*Attorney for Petitioner Salah Hassan

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Salah Hassan,  
  
Petitioner,  
  
v.  
Todd Blanche, *et al.*,  
  
Respondents.

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

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

Petitioner Salah Hassan responds to and opposes the Federal Respondents' untimely second motion for "retroactive" extension of time. ECF No. 16. The Federal Respondents again have not met the standard for excusable neglect. When this Court previously granted Respondents additional time to file their response, it noted "this is the last time that attorney staffing issues or preplanned leave will be an acceptable justification for further extensions of time for the respondents in this case." ECF No. 14. And yet, the Federal Respondents again failed to file a response by the extended deadline, and in their belated motion for an additional extension of time, Respondents simply proffer that the lead attorney is out of the office. ECF No. 16 at 1. Although the Federal Respondents have now had nearly a month to respond to the amended petition—which raises arguments similar to those that Federal

1 Respondents have seen in numerous other immigration habeas petitions—they  
2 nevertheless seek to further prolong Mr. Hassan’s unconstitutional confinement.

3 The Court should deny the motion, grant the amended petition, and order  
4 Mr. Hassan’s immediate release under *Zadvydas v. Davis*, 533 U.S. 678 (2001).  
5 Numerous other courts have found that the presumptively reasonable period of  
6 detention contemplated in *Zadvydas* expires six months after the issuance of the  
7 final order of removal; it “does not stop and re-start if the individual is released and  
8 later re-detained.” *Baythavong v. Noem*, No. 3:26-cv-01138-DMS-MSB, ECF No. 7 at  
9 2–3 (S.D. Cal. Apr. 6, 2026) (collecting cases). In Mr. Hassan’s case, his order of  
10 removal became final in early 2021, and the presumptively reasonable period of  
11 detention also expired that year. *See* ECF No. 8-2 at 14. Because he has been  
12 detained for several months beyond that in violation of his constitutional due  
13 process rights, and because Respondents have offered neither evidence nor  
14 argument to the contrary, Mr. Hassan respectfully requests that this Court grant  
the amended petition and order his immediate release from custody.

### 15 I. Relevant Facts

16 Respondents’ response to Mr. Hassan’s amended petition was initially due on  
17 March 18, 2026. ECF No. 3. On March 19, 2026, Mr. Hassan notified the Court that  
18 Respondents failed to file a response and asked this Court to treat that failure as  
19 consent to the granting of the petition. ECF No. 9. On March 23, five days after  
20 their original deadline, Respondents filed a motion seeking to retroactively extend  
21 the time to file their response until April 2, 2026. ECF No. 12 at 1. Mr. Hassan  
22 opposed the motion. ECF No. 13. The Court granted the motion and set April 2 as  
23 the deadline for a response to the amended petition, noting “this is the last time  
24 that attorney staffing issues or preplanned leave will be an acceptable justification  
25 for further extensions of time for the respondents in this case.” ECF No. 14. On  
26 April 3, 2026, Mr. Hassan again notified the Court that Respondents failed to file a  
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1 response. ECF No. 15. Later the same day, Respondents filed a “retroactive” request  
2 for an extension of time through April 10, 2026. ECF No. 16.

## 3 **II. Argument**

4 As Mr. Hassan argued in his opposition to the Federal Respondents’ first  
5 belated request for an extension of time, “[s]pecial solicitude is required” in cases  
6 such as his because the writ of habeas corpus “is intended to be a swift and  
7 imperative remedy in all cases of illegal restraint or confinement.” *Yong v. I.N.S.*,  
8 208 F.3d 1116, 1120 (9th Cir. 2000) (internal quotation marks omitted). Each  
9 additional day Mr. Hassan sits in custody without adjudication is another day of  
10 confinement without meaningful judicial review, further violating his constitutional  
11 rights.

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

### 22 **A. The requested extension would substantially prejudice Mr. Hassan.**

23 This is the Federal Respondents’ second belated request for an extension of  
24 time, and their total requested extension is now 23 days past their original  
25 deadline. Mr. Hassan is prejudiced by each moment he is unlawfully detained.  
26 “[U]nlawful detention certainly constitutes extreme or very serious” injury that “is  
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1 not compensable in damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir.  
2 2017) (cleaned up). Accordingly, this Court should reject Respondents’ summary  
3 assertion that Mr. Hassan is not “majorly prejudiced” because “any alleged harm to  
4 Petitioner by an additional delay ‘is essentially inherent in detention.’” ECF No. 16  
5 at 3 (quoting *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at \*10  
6 (N.D. Cal. Dec. 24, 2018)). As this Court has indicated, that argument does not  
7 “make[] any sense.” *Partovi v. Bondi*, No. 2:25-CV-02283-JAD-DJA, 2026 WL 93124,  
8 at \*5 (D. Nev. Jan. 13, 2026). “[T]he harm of *unlawful* detention is not ‘essentially  
9 inherent’ in detention.” *Id.* Mr. Hassan’s prolonged detention is unlawful because he  
10 cannot be removed to Sudan, he has no meaningful ties to any other country, and  
11 the government is no closer to removing him than it was when he was released from  
12 ICE custody in 2021. ECF No. 8 at 7. Every additional day he awaits review on that  
13 issue is prejudicial.

14 **B. The length of the delay weighs in favor of denying the**  
15 **extension.**

16 Respondents assert “the impact on the proceedings because of the delay  
17 should be negligible because there are no calendared hearings or conferences which  
18 will be affected by this extension.” ECF No. 16 at 3. This argument is also  
19 nonsensical. The proceeding here is the amended petition, which requests release as  
20 the remedy for the ongoing violation of Mr. Hassan’s constitutional rights.  
21 Respondents’ failure to file a response completely stymies that proceeding. Had  
22 Respondents timely filed their response on March 18, this case would have been  
23 fully briefed and ready for adjudication weeks ago. Instead, under Respondents’  
24 proposed timeline—which pushes back the time for filing Petitioner’s reply—Mr.  
25 Hassan will have sat in prolonged, unlawful detention for an additional month  
26 before he can hope to have any review of his claims.  
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**C. Respondents have provided insufficient reasons to support their extension request.**

Respondents proffer “the reason for the delay was a calendaring conflict which caused the deadline to be overlooked,” and explain that they need additional time to respond because the lead AUSA “is out of the office until further notice.” ECF No. 16 at 1, 3.

This is Respondents’ second calendar management failure in this case. Previously, Respondents were aware that the lead AUSA was going to be out of the office on pre-planned leave, but nevertheless failed to seek an extension until several days after Mr. Hassan’s notice of non-opposition alerted them to the missed deadline. The Respondents requested through April 2 to file a response, and the Court granted that request. Now, Respondents proffer that they again missed the deadline—that they selected—due to calendaring issues, and will need additional time to prepare a response. This lack of diligence fails to meet the excusable neglect standard. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (explaining that even under the more lenient good cause standard for pre-deadline extension requests, where diligence has not been shown, “the inquiry should end”). The Federal Respondents offer no information on the progress of a response, nor any reason to think that, after two missed deadlines, their response will in fact be filed by their next proposed deadline.

Second, the Respondents do not justify why a prolonged extension is necessary. A response to Mr. Hassan’s petition should not take long, as the government has already litigated many cases in this Court involving similarly situated petitioners and the arguments should be familiar. To the extent that Respondents argue they require additional time due to that office’s habeas caseload, that does not establish excusable neglect. Respondents cannot invoke the number of immigration habeas cases as a basis for delaying review where they have

1 affirmatively chosen to initiate and pursue these detention proceedings. Having  
2 exercised their discretion to arrest and detain Mr. Hassan, Respondents bear the  
3 corresponding obligation to litigate challenges to that custody promptly.<sup>1</sup>

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

5 Respondents have not met their burden to demonstrate good faith.  
6 Respondents assert the “oversight by AUSA Ruiz was accidental, and AUSA Botros  
7 acted promptly upon realizing the deadline issue.” ECF No. 16 at 3. But repeatedly  
8 flouting this Court’s deadlines due to eminently avoidable issues like staff being out  
9 of the office is not characteristic of good faith. Mr. Hassan has been forced to wait  
10 several more weeks for adjudication of his claims, first because of counsel’s planned,  
11 predictable time out of the office, and now due to calendaring issues. The fact that  
12 Respondents missed a second deadline that they themselves proposed, with no  
13 explanation other than a “calendaring conflict” is insufficient to meet their burden  
14 of establishing good faith.

15 **III. Conclusion**

16 Respondents have failed to meet their burden to show excusable neglect.  
17 Because the request for extension of time further prolongs Mr. Hassan’s unlawful  
18 detention without good cause, this Court should deny Respondents’ request. Mr.  
19 Hassan’s amended petition sets forth the factual and legal basis necessary for this  
20 Court to grant his requested relief. ECF No. 8. Because the Respondents have  
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24 <sup>1</sup> 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 repeatedly failed to offer any argument or evidence to the contrary, this Court  
2 should grant Mr. Hassan's petition and order that he be released.

3 Dated April 7, 2026.

4 Respectfully submitted,

5 Rene L. Valladares  
6 Federal Public Defender

7 /s/ Kelly Recker

8 Kelly Recker  
9 Assistant Federal Public Defender  
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