

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

**PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' OPPOSED  
MOTION FOR EXTENSION OF TIME**

## **PRELIMINARY STATEMENT**

1. 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). Petitioner file his habeas corpus petition with this Court on August 7, 2025.
2. This Court recognized that purpose when on August 12, 2025, it entered an Order for an Answer requiring Respondents to respond by September 11, 2025. Dkt. 3. The Respondents did not file any response. On September 16, the Court ordered Petitioner to file an advisory directing how he wished to proceed. Dkt. 5. On September 19, Petitioner filed his advisory, asking the Court to grant relief, deem the Petitioner submitted on the papers, and order Respondents to produce the body and consider movant’s facts as undisputed. Dkt.6.
3. On September 30, 2025, Petitioner filed an ex parte motion for temporary restraining order and preliminary injunction. Dkt. 8. On October 1, 2025, this Court entered an Order directing the Clerk of Court to serve a copy of the Petition and the Order to Respond, dated August 12, on the United States of America by serving the United States Attorney for the Southern District of Texas, Nicholas J. Ganjei, via certified mail. Dkt. 10.
4. At issue now is the Respondents’ filing of today, October 2, 2025, opposed motion for extension of time to respond. Dkt. 12. In their motion, they assert that “[T]he United States Attorney’s Office for the Southern District of Texas (USAO) was unaware of the Petitioner’s Petition or the Court’s Order until Petitioner’s counsel provided a courtesy copy of his Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction (TRO/PI Motion), filed with the Court on September 30, 2025, to the USAO in Houston, Texas.” Dkt. 12. Respondents seek “two weeks, until October 14, 2025” to file

their response. The motion does not explain why Respondents were unaware of the law suit, nor of the inconsistency with the record which shows “Certified Mail Return Receipt, executed 08/25/25”, see Dkt. 4 (undersigned counsel is unable to view the actual receipt, as access to on pacer is “restricted to court users for privacy reasons.”)

5. Every day of postponement has prolonged, and still prolongs, Petitioner’s detention and undermines the central function of habeas review. Petitioner explains here why he believes the Court should deny the Respondents’ motion for extension of time, and should proceed as directed in his Advisory. (Dkt. 6).

#### **I. Factual and Procedural Background**

5. Petitioner assumes the parties’ and the Court’s familiarity with the facts and procedural background of this case, and incorporates them herein from his Petition (Dkt. 1), his Advisory (Dkt. 6), and his Ex Parte Motion for Temporary Restraining Order (Dkt. 8).

#### **II. Legal Standard**

10. Federal Rule of Civil Procedure 6(b)(1)(A) allows extensions for “good cause” if requested before the deadline expires.

11. To establish good cause under Rule 6(b)(1)(A), the movant must show that the deadline could not be met despite diligence. Mere inadvertence or lack of preparation is insufficient.

*See Midwest Employers Cas. Co. v. Williams*, 161 F.3d 877, 879 (5th Cir. 1998); *Geiserman v. MacDonald*, 893 F.2d 787, 791 (5th Cir. 1990).

#### **III. ARGUMENT**

13. Respondents had notice of this case well before the deadline. Respondents were served on August 25, 2025. Dkt. 4. Respondents’ statement in the motion for extension of time to respond that is was “unaware” of the law suit does not attempt to explain why, nor to

counter the record that Respondents received the law suit on August 25, 2025, which is well before the September 11 deadline to respond. (Dkt. 12 ¶ 3.)

14. Courts in this Circuit consistently reject inadvertence and delay as good cause. See *Stotter v. Univ. of Tex. at San Antonio*, 508 F.3d 812, 820 (5th Cir. 2007) (quoting *Midwest Employers Cas. Co. v. Williams*, 161 F.3d 877, 879 (5th Cir. 1998) (in turn quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993) ); internal quotation marks omitted).
15. As the Fifth Circuit has held, a court's determination as to excusable neglect is at bottom an equitable one, taking into account all of the relevant circumstances surrounding the party's omission. These include:
  - (1) danger of prejudice to government;
  - (2) length of delay;
  - (3) potential impact of delay on judicial proceedings;
  - (4) reason for delay, including whether such delay was within reasonable control of defendant; and
  - (5) whether defendant acted in good faith.Fed. R. App. Proc. 4(b).
16. The moving party here has not offered any reason for its delay, or its good faith, nor explained in any manner its failure to respond minus the simple assertion that they were “unaware.” (Dkt.12 ¶ 3.)
17. Petitioner has urged this Court to proceed to relief. He has shown this Court in his Motion for Temporary Restraining Order that he will suffer irreparable harm if he were to remain detained. Dkt. 8. Each day of delay prolongs his confinement without judicial review. Granting an extension undermines both the Court's intention to hear this case and the very purpose of habeas corpus.

**IV. CONCLUSION**

18. Respondents were ordered to answer by September 11, 2025. Dkt. 3. They had notice, time, and opportunity, but failed to act diligently.
19. They have not shown excusable neglect under Rule 6(b)(1)(B).
20. Because delay prolongs Petitioner's unlawful detention and frustrates habeas review, Petitioner respectfully asks the Court to deny Respondents' motion (Dkts. 12) and proceed to relief on the papers.

Respectfully submitted, this Second Day of October, 2025

s/ Stephen O'Connor

Stephen O'Connor  
Attorney for Petitioner  
TXSB # 24060351  
steve@oconnorimmigration.com  
O'Connor & Associates, PLLC  
7703 N. Lamar Blvd. Ste. 300  
Austin, Texas 78752

**CERTIFICATE OF SERVICE**

I hereby certify that on October 2, 2025, I electronically filed the foregoing PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' OPPOSED MOTION FOR EXTENSION OF TIME

with the Clerk of Court using the CM/ECF system.

Respectfully submitted,

s/ Stephen O'Connor

Stephen O'Connor  
Attorney for Petitioner  
TXSB # 24060351  
[steve@oconnorimmigration.com](mailto:steve@oconnorimmigration.com)  
O'Connor & Associates, PLLC  
7703 N. Lamar Blvd. Ste. 300  
Austin, Texas 78752