

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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Erick Omar Garcia,

Petitioner

v.

Case No. 25-cv-5685-JJM-PAS

Patricia Hyde, et. al.,

Respondents

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PETITIONER'S OBJECTION TO MOTION TO EXTEND TIME TO RESPOND.

Petitioner objects to the Government's request to delay its response to the Habeas Petition. Petitioner has been in Immigration Customs Enforcement ("ICE") custody since August 14, 2025. ICE alleges that he has been a nonimmigrant visa overstay since May 29, 2014. United States Citizenship and Immigration Service ("USCIS") has scheduled an interview for November 20, 2025 for Petitioner and his United States citizen wife at its offices in Hartford, CT to adjudicate her pending petition to accord him legal permanent resident status (the "I-130"). In addition, he has filed an application to adjust status to permanent residence which USCIS or the Immigration Court should be able to adjudicate immediately in the event USCIS approves the I-130. In connection with that application for adjustment of status, his wife has filed an affidavit of support as required. Upon information and belief, so long as USCIS exercises its discretion in accordance with applicable law, regulations and long-term history, USCIS should grant Petitioner permanent residence. Alternatively, Petitioner has filed with the Immigration Court an application for cancellation of removal for non permanent residents based on the hardship his wife would suffer if he were to be removed, and in order for him to prepare this case it would serve him better to have unfettered access to his attorney and potential witnesses.

Inasmuch as (i) Petitioner is suffering irreparable harm as a result of his detention; (ii) Petitioner is not a flight risk since he must cooperate personally with USCIS and/or the Immigration Court to obtain the immigration relief he voluntarily seeks; (iii) Petitioner does not pose a danger to the public given he has no criminal history other than an alleged investigation regarding bigamy in Guatemala which ICE admits in its I-213 (ICE Record of Deportable Alien) is pending; and (iv) the government's apparent policy underlying his detention, Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) has been rejected by many district courts including in this jurisdiction, this Court should require the Government to respond to the Petition as previously order and/or order Petitioner's release from custody.

November 13, 2025,

Petitioner by his attorneys

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CERTIFICATION

On this 13th day of November 2025, the above was filed in the ECF system and served on all parties of record.

/s/ Sonja L. Deyoe
Sonja L. Deyoe