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11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 Mervin Tooy,
14 Petitioner,
15 v.
16 The United States of America, et al.,
17 Respondents.

Case No. 2:25-cv-02286-CDS-BNW
**Opposition to Respondents' Motion
for Extension of Time (ECF No. 14)**

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ARGUMENT**I. Respondents' last-minute motion for more time should be denied****A. The background of this litigation shows that Respondents have not exercised due diligence**

Merven Tooy has been in ICE detention at Nevada Southern Detention Center (NSDC) since May 5, 2025—over seven months now. His order of removal became final on February 13, 2025, when the BIA affirmed the immigration judge's order. On information and belief, there is no evidence showing that deportation to his home country of Suriname, or a third country, is reasonably foreseeable. His continuing indefinite detention is therefore unconstitutional.

On November 17, 2025, Tooy filed a habeas petition challenging his unlawful detention.¹ On November 25, 2025, this Court ordered Respondents to file their response by December 9, 2025.²

On December 9, 2025, Respondents filed a first motion for an extension of time, seeking an additional eight days to respond.³ Undersigned counsel told Respondents' counsel that he did not oppose the request. This Court granted it.⁴

Without meeting and conferring with undersigned counsel, Respondents filed a second motion for an extension of time at 11:50 p.m. on December 17, 2025, seeking an additional two days to respond.⁵ The good cause allegations in the motion were counsel's high caseload and counsel's delay in receiving documents from Respondents.⁶ This Court granted the request in a minute order, stating,

¹ ECF No. 1.

² ECF No. 3.

³ ECF No. 10.

⁴ ECF No. 11.

⁵ ECF No. 12.

⁶ *Id.* at 2-3.

1 “Although I find that counsel’s heavy caseload does not constitute good cause, I
2 nonetheless allow this brief extension of time.”⁷

3 Again without meeting and conferring with undersigned counsel,
4 Respondents filed a third motion for an extension of time at 11:59 p.m. on December
5 19, 2025.⁸ Although the prior request was for two days, this request is now for
6 eleven days, until December 30, 2025.⁹ In this motion, Respondents’ counsel no
7 longer asserts as a ground for good cause that they are waiting on documents from
8 Respondents.¹⁰ Instead, the basis of the request is that the Assistant United States
9 Attorney assigned to this case is going to be out of the office for two weeks on leave
10 and substitute counsel needs time to work on the response.¹¹

11 Tooy respectfully opposes this request because any further extension to
12 respond prolongs Tooy’s unconstitutional detention. In light of this, Respondents
13 have not shown good cause or diligence to justify a third extension for eleven
14 additional days. This Court should deny the request for an eleven-day extension.

15 **B. Because Respondents have not exercised due diligence, and**
16 **because of Tooy’s heightened liberty interests, the Court**
17 **should deny Respondents’ motion**

18 A request to extend unexpired deadlines may be granted upon a showing of
19 good cause by the moving party. Fed. R. Civ. P. 6(b)(1)(A). “The good cause analysis
20 turns on whether the subject deadlines cannot reasonably be met despite the
21 exercise of diligence.” *Williams v. James River Grp. Inc.*, 627 F. Supp. 3d 1172,
22 1177–78 (D. Nev. 2022) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d

23 ⁷ ECF No. 13.

24 ⁸ ECF No. 14.

25 ⁹ *Id.*

26 ¹⁰ *Id.* Although they do not assert this as a ground for good cause, they do
note that substitute counsel will need time to “obtain and review” records. *Id.* at 2.

27 ¹¹ *Id.*

1 604, 609 (9th Cir. 1992)). “Although the existence or degree of prejudice to the party
2 opposing the modification might supply additional reasons to deny a motion, the
3 focus of the inquiry is upon the moving party’s reasons for seeking
4 modification. . . . If that party was not diligent, the inquiry should end.” *Johnson*,
5 975 F.2d at 609.

6 Here, Respondents cannot meet the good cause standard and have not
7 demonstrated diligence. This case pertains to the liberty interests of Tooy, who has
8 been detained at NSDC since May 5, 2025, over seven months. It is unreasonable
9 for Respondents to seek any further time to respond. Respondents have held Tooy in
10 their custody for an extended period of time, and the answers to the matters raised
11 in the petition have always been in their possession and should be readily available
12 to them. Indeed, Respondents’ last two-day request made it appear that they were
13 close to filing a response. At that time, Respondents were also aware that the
14 Assistant United States Attorney assigned to this case would soon be on leave. It is
15 unseemly for Respondents to now seek an extended request for more time when
16 their prior request gave the clear message that they were nearly ready to answer
17 the petition.

18 Thus, an eleven-day extension is not warranted, as Respondents have not
19 made the requisite showing of diligence. To the contrary, to date, neither Tooy nor
20 his counsel have been provided with any evidence showing his deportation is
21 reasonably foreseeable. As a result, his continued detention violates his due process
22 rights under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), and it is appropriate for
23 his petition to be decided as expeditiously as possible.
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As a result, Petitioner respectfully asks that this Court deny the motion for an eleven-day extension of time.

Dated December 22, 2025.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jonathan M. Kirshbaum
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/s/ Shelly Richter
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