

District Judge Jamal N. Whitehead

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABEL MARTINEZ ALEMAN a/k/a PEDRO RIVERA,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02346-JNW

FEDERAL RESPONDENTS'¹ MOTION FOR RELIEF FROM DEADLINE

Noted for Consideration:
January 29, 2026

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(B), Federal Respondents request additional time to file the return to the habeas petition. This Court granted the parties stipulated motion for a briefing schedule that required Federal Respondents to file the return by January 13, 2026, and a deadline for Petitioner's traverse to be January 20, 2026. Dkt. No. 18. As described in undersigned counsel's declaration, Federal Respondents' deadline was not properly calendared, and due to the high volume of habeas cases being handled by undersigned counsel, the return was not filed. Rule 6(b)(1)(B) provides that a court may, for good cause, extend a deadline "on motion

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 made after the time has expired if the party failed to act because of excusable neglect.” Fed. R.
2 Civ. P. 6(b)(1)(B). Federal Respondents intend to file a return setting forth the facts and law,
3 supported by documents from Petitioner’s alien file (“A-file”) by January 20, 2026. Federal
4 Respondents request that this Court permit the late filing of the return because this delay was the
5 result of excusable neglect. Undersigned counsel has conferred with Petitioner’s counsel
6 concerning this request. However, she cannot provide a position on this motion until she is able
7 to speak with Petitioner, which at the earliest will not be until January 17, 2026.

8 IL. FACTS

9 Pending before this Court is Petitioner Abel Martinez Aleman’s habeas petition. Dkt. No.

10 1. U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner, an El Salvadoran
11 citizen subject to a final order of removal, pursuant to 8 U.S.C. § 1231(a). The parties submitted
12 a proposed briefing schedule to address the habeas petition (Dkt. No. 17), which this Court granted
13 on January 8, 2026. Dkt. No. 18. Under this briefing schedule, the deadline for Federal
14 Respondents to file a return was January 13, 2026, and Petitioner’s traverse is due on January 20,
15 2026. Federal Respondents did not file a return by the deadline. This was a mistake.

16 On December 31, 2025, the parties negotiated and submitted the proposed briefing
17 schedule to the Court. Dkt. No. 17. When this Court granted the briefing schedule on January 8,
18 2026, undersigned counsel failed to properly calendar the deadline. Lambert Decl., ¶ 3.
19 Undersigned counsel realized that she had not filed a return after reviewing the docket on January
20 15, 2026, which she did because of this Court’s issuance of an order denying Petitioner’s motion
21 for a temporary restraining order and granting Petitioner’s motion to strike. Dkt. No. 19; Lambert
22 Decl., ¶ 5.

23 The failure of undersigned counsel to timely file a return was an unfortunate oversight and
24 was not done deliberately. Lambert Decl., ¶ 6. Between December 31, 2025, and today,

1 undersigned counsel has responded to approximately 15 habeas petitions and has numerous
2 petitions due in the upcoming weeks, in addition to other filings and case deadlines. Lambert
3 Decl., ¶ 6. While undersigned counsel routinely calendar's deadlines, this deadline was
4 accidentally not calendared. Lambert Decl., ¶ 2. Undersigned counsel relies on her calendar due
5 to the volume of deadlines in her practice and has, up until now, not missed a deadline using this
6 system. Lambert Decl., ¶ 2.

7 Federal Respondents will file a brief setting forth the facts and law by January 20, 2026.
8 The brief will be supported by records from Petitioner's A-File, which this Office received on
9 January 12, 2026, and is comprised of over 1,600 pages. Lambert Decl., ¶ 7. Federal Respondents
10 ask that this Court accept this late filing and allow Petitioner additional time to file his traverse.

11 III. ARGUMENT

12 Federal Rule of Civil Procedure 6(b) provides:

13 (1) In General. When an act may or must be done within a specified time, the court may,
14 for good cause, extend the time:

15 (A) with or without motion or notice if the court acts, or if a request is made, before the
16 original time or its extension expires; or

17 (B) on motion made after the time has expired if the party failed to act because of excusable
neglect.

18 This rule, like all the Federal Rules of Civil Procedure, “[is] to be liberally construed to effectuate
19 the general purpose of seeing that cases are tried on the merits.” *Ahanchian v. Xenon Pictures,*
20 *Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010) (quoting *Rodgers v. Watt*, 722 F.2d 456, 459 (9th Cir.
21 1983)).

22 In *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship.*, 507 U.S. 380 (1993), the
23 Supreme Court held, in the context of a bankruptcy case, that the term “neglect” contained in the
24 term “excusable neglect” incorporates inadvertence, mistake or carelessness. *Id.*, at 392. A court

1 applying the excusable neglect standard may not deny relief simply because the neglect is not due
2 to factors beyond the control of the moving party but must engage in an equitable weighing of
3 factors to determine if the neglect is excusable. *Id.*, at 395. The factors enumerated by the Supreme
4 Court are “(1) danger of prejudice to the non-movant; (2) length of delay and its potential impact
5 on judicial proceedings; (3) the reason for the delay, including [whether] it was within the
6 reasonable control of the movant; and (4) whether the movant acted in good faith.” *In re Rebel*
7 *Rents, Inc.*, 326 B.R. 791, 799 (C.D. Cal. 2005) (enumerating factors from *Pioneer*, 507 U.S. at
8 395). In *Committee for Idaho’s High Desert, Inc. v. Yost*, 92 F.3d 814 (9th Cir. 1996), the Ninth
9 Circuit held that the Supreme Court’s analysis of “excusable” neglect in *Pioneer* is applicable to
10 Rule 6(b).

11 Applying these factors in order, the granting of the instant motion for an extension to file
12 the return will result in minimal prejudice to Petitioner. Undersigned counsel contacted
13 Petitioner’s counsel immediately upon realizing her mistake. Lambert Decl., ¶ 5. This notification
14 occurred two days after the missed deadline and before Petitioner’s deadline to file a traverse. If
15 this motion is granted, Federal Respondents also request that Petitioner’s traverse deadline also be
16 extended to provide an opportunity to respond to the return. While Federal Respondents
17 acknowledge that Petitioner is currently in detention, this short extension will provide this Court
18 with factual information that Federal Respondents could not provide in their response to
19 Petitioner’s motion for a temporary restraining order before receiving the A-File. Undersigned
20 counsel now has access to Petitioner’s A-file, which should provide this Court with a more
21 complete record concerning Petitioner’s immigration history.

22 The length of delay, based on Federal Respondent’s intention to file the return on January
23 20, 2026, will be seven days. This deadline affords undersigned counsel a short period of time to
24 review Petitioner’s voluminous A-file and draft the return. Lambert Decl., ¶ 7. Specifically,

1 undersigned counsel will have five days (including the federal holiday on January 19, 2026) from
2 the date she learned of her calendaring error.

3 Turning to the reason for delay, the Court must evaluate Federal Respondents' claim that
4 they missed the deadline because of their attorney's calendaring error. In the Ninth Circuit, the
5 term excusable neglect unquestionably "covers cases of negligence, carelessness and inadvertent
6 mistake." *Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1224 (9th Cir. 2000). The key issue is
7 not the existence but the degree of counsel's negligence, carelessness, and inadvertence. There is
8 "no rigid legal rule against late filings attributable to any particular type of negligence." *Pitney v.*
9 *Andrews*, 389 F.3d 853, 860 (9th Cir. 2004) (affirming that a paralegal's calendaring error for
10 notice of appeal deadline was "excusable negligence").

11 In *Gunderson v. Corizon*, No. 17-cv-01791, 2019 WL 79008, at *3 (D. Ariz. 2019), the
12 Court granted an extension to an attorney who missed a dispositive motion cut-off date by three
13 months due to a calendaring error. The Court recognized that "people make mistakes—even the
14 most competent professionals are likely to make a simple clerical error at some point in their
15 careers." *Id.* at *3. Noting that there was no pattern of missed deadlines, the Court concluded that
16 the "simple calendaring error" did not constitute neglect that was "so egregious that it outweighed
17 the remaining factors." *Id.* (citing *M.D. by & through Doe v. Newport-Mesa Unified Sch. Dist.*,
18 840 F.3d 640, 643 (9th Cir. 2016)). Here, undersigned counsel's error was inadvertent and
19 unintentional. Furthermore, Federal Respondents have acted with expediency to address this error.

20 Moving to the final *Pioneer* factor, while mistaken about the deadline, defendants' counsel
21 acted in good faith. Undersigned counsel did not "purposely ignore" the deadline. See *Stock v.*
22 *Wisman*, No. 05-cv-1214, 2005 WL 2206901, at *2 (W.D. Wash., Sept. 12, 2005). Counsel is
23 handling a large caseload and had mistakenly not marked the deadline in her calendar.

1 Balancing the four *Pioneer* factors, Federal Respondents missed the filing deadline due to
2 their counsel's own neglect, but counsel's neglect is mitigated by the lack of prejudice to
3 Petitioner, the insignificance of the delay, and the fact that counsel committed the error in good
4 faith and as a consequence of an honest mistake. After weighing the equities, Federal Respondents
5 ask that the Court grant their motion for extension of time.

6 IV. CONCLUSION

7 For the foregoing reasons, Federal Respondents respectfully request that their motion be
8 granted and that the deadline for their return be extended to January 20, 2026. Additionally,
9 Federal Respondents request that Petitioner's deadline to file a traverse also be extended.

10 DATED this 15th day of January, 2026.

11 Respectfully submitted,

12 CHARLES NEIL FLOYD
13 United States Attorney

14 *s/ Michelle R. Lambert*
15 MICHELLE R. LAMBERT, NYS #4666657
16 Assistant United States Attorney
17 United States Attorney's Office
18 Western District of Washington
19 1201 Pacific Avenue, Suite 700
20 Tacoma, Washington 98402
21 Phone: (253) 428-3824
22 Email: michelle.lambert@usdoj.gov

23 *Attorneys for Federal Respondents*

24 *I certify that this memorandum contains 1,531
words, in compliance with the Local Civil
Rules.*