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9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 Kevin Ariel SALGUERO Y SALGUERO, and  
12 Juan Manuel GARCIA-HERNANDEZ

**Case No.: 2:25-cv-02328-RFB-NJK**

13 Petitioners,

**PETITIONER’S OPPOSITION TO  
14 FEDERAL RESPONDENTS’ MOTION  
15 FOR EXTENSION OF TIME TO FILE  
16 A RESPONSE TO THE ORDER TO  
17 SHOW CAUSE (ECF NO. 9)**

18 vs.

19 Kristi NOEM, Secretary, U.S. Department of  
20 Homeland Security, in her official capacity; U.S.  
21 DEPARTMENT OF HOMELAND SECURITY, et  
22 al.

23 Respondents.

24  
25 Petitioners respectfully submit this Reply opposing Federal Respondents’ request for an  
26 extension of time to respond to the Order to Show Cause (ECF 3).

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28 Federal Respondents claim they need additional time because they require more time to  
gather the information and are handling multiple parallel cases (ECF 9 at 2:15–28; 3:1–2).

These are not valid reasons to prolong an individual’s incarceration. They are predictable  
consequences of the government’s own nationwide policy change, one that has already been  
declared unlawful by federal courts. This Court has already rejected DHS’s legal theory in  
*Escobar-Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL 2990988 (D. Nev. Nov. 17,  
2025), and a federal court has issued a nationwide class-wide injunction against the same

1 interpretation in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025  
2 WL 2670875 (C.D. Cal. Nov. 25, 2025).

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4 Every day of delay is a day Mr. Salguero y Salguero and Mr. Garcia-Hernandez remain  
5 wrongfully detained under an invalid legal theory. The government has not shown good cause,  
6 and the Court should deny the requested extension.

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8 **I. The Court Has Already Weighed Urgency**

9 In granting the expedition, the Court recognized that prompt resolution is necessary given  
10 the nature of Petitioner’s claims and the ongoing harm. Moving the deadline back a week would  
11 undo that judgment call and signal that routine scheduling requests can override an order crafted  
12 to protect urgent liberty interests.

13 **II. The Government’s Claimed Reasons for Delay Are Not Good Cause—They Are**  
14 **Self-Created**

15 The Government asserts three bases for delay:

- 16
- 17 • They are still in the process of reviewing and gathering information, and
  - 18 • They are responding to four other habeas corpus immigration cases due the same  
19 week. (ECF 9 at 2:15–28; 3:1–2).

20 None of this constitutes good cause. These are simply the foreseeable consequences of  
21 DHS and DOJ’s own decision to upend decades of practice by reclassifying long-term interior  
22 residents as § 1225(b)(2)(A) “applicants for admission.” The government created this litigation  
23 surge when it launched a nationwide reinterpretation that federal courts have already found  
24 unlawful.  
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1 Plaintiff is also working under severe constraints—end-of-year holiday closures, staffing  
2 shortages, and continued fallout from the recent government shutdown—yet counsel has filed  
3 promptly and continues to do so, because the client is incarcerated and suffering irreparable harm  
4 every single day.

5  
6 The Government’s workload problem cannot justify prolonging Mr. Salguero y  
7 Salguero’s and Mr. Garcia Hernandez’s detention.

8 **III. This Court Has Already Rejected DHS’s Theory in *Escobar*, Eliminating Any**  
9 **Need for Additional Time.**

10 The merits of these issues are no longer open questions in this District. In *Escobar*, this  
11 court rejected the government’s new interpretation of § 1225(b)(2)(A) as applied to long-term  
12 interior residents:

- 14 • The new interpretation is “contrary to decades of agency practice and robust due process  
15 protections.” (*Escobar*, p. 2).
- 16 • It is inconsistent with the statutory text, legislative history, and longstanding practice.
- 17 • Stretching “applicant for admission” across years or decades “would push the statutory  
18 text beyond its breaking point.” (*Escobar*, p. 24).
- 19 • Section 1226, not § 1225(b)(2)(A), governs the detention of long-term residents arrested  
20 inside the United States. (*Escobar*, pp. 20–22).

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22 25-cv-01872 ECF 25 11.17.25

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24 Thus, holding that the government’s policy is unlawful under the INA and  
25 unconstitutional under the Due Process Clause.

26 The government offers no new argument that could change this outcome. Instead, its  
27 motion merely seeks more time to re-brief losing theories the Court has already rejected.  
28



1 The Government has had the petitioner's filings since the date they were served. It has  
2 litigated the same issues repeatedly across multiple cases. The U.S. Attorney General's office  
3 has substantial institutional resources and does not face the same material constraints that the  
4 Petitioner's face in representing detained clients.

5  
6 If undersigned counsel can meet the deadlines despite holiday disruptions and the fallout  
7 from the shutdown, the federal government can as well.

8 **VI. Mr. Salguero y Salguero Faces Compressed Immigration Court Deadlines and**  
9 **Massive New Filing Fees While Detained.**

10 In Mr. Salguero y Salguero's own removal case, the Immigration Judge set an  
11 extraordinarily compressed schedule. When counsel appeared on November 17, 2025, the IJ  
12 allowed only *two weeks* to identify, prepare, and file applications for relief. One such form of  
13 relief—Cancellation of Removal for Certain Nonpermanent Residents (Form EOIR-42B)—has  
14 seen its filing fee increased more than tenfold, from approximately \$145 to \$1,600. For Mr.  
15 Salguero y Salguero, as for each of the petitioners in *Escobar* and *Bautista*, that relief is not  
16 theoretical; it is a principal avenue to lawful status and family unity.  
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19 These costs fall not on some abstract litigant but on his family, at the very moment their  
20 sole financial provider is in immigration custody. They must somehow raise thousands of dollars  
21 in filing fees while also arranging representation, gathering evidence, and responding to the  
22 Immigration Court's accelerated schedule. Under current EOIR practices, any inability to meet  
23 those deadlines—whether because counsel cannot prepare filings in time or because the family  
24 cannot assemble the funds quickly enough—risks the finding of abandonment or noncompliance,  
25 which in turn becomes a basis for automatic removal.  
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1 In other words, the Immigration Court affords Mr. Salguero y Salguero virtually no  
2 leeway: he must meet condensed deadlines under threat of deportation. Federal Respondents, by  
3 contrast, now ask this Court for additional time because they claim they are overextended in  
4 handling multiple parallel cases and require more coordination time. (ECF No. 9 at 2:15–28,  
5 3:1–2). The asymmetry is stark: the party whose liberty is at stake is denied extensions in  
6 Immigration Court, while the party that created and is enforcing the unlawful policy seeks  
7 extensions in federal court so it can continue defending that policy as Mr. Salguero y Salguero  
8 remains in custody.  
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11 **VII. Mr. Garcia-Hernandez Remains Detained Despite a Prima Facie Case for Lawful**  
12 **Permanent Residency.**

13 The asymmetry in how time is allocated is further illustrated by the case of Juan Garcia-  
14 Hernandez. His removal case is currently set for a master hearing on December 9, 2025.

15 Consistent with this Immigration Judge’s pattern and practice in similar cases, it appeared  
16 at the last hearing that she was inclined to entertain termination of proceedings so that Mr.  
17 Garcia-Hernandez could pursue adjustment of status with USCIS on the basis of a pending I-  
18 130. It is the *pending* status of the I-130 that cannot be expedited by counsel, and only by the  
19 government. Thus, it is unlikely it will be approved before the conclusion of an in-custody merits  
20 hearing, which is why bond is essential in this case.  
21

22 That tentative willingness, however, was effectively chilled when DHS counsel advised  
23 that, if the IJ terminated, the government would simply re-lodge a new NTA, thereby keeping  
24 Mr. Garcia-Hernandez detained. The clear message was that even if the IJ exercised her  
25 discretion to terminate in line with her usual practice, DHS would immediately undo that relief  
26 and restore the very custody the Court was considering ending. In practical terms, the only reason  
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1 Mr. Garcia-Hernandez has even a small window of time is that his path to lawful status is so  
2 strong that denying it would be difficult to justify; yet the government still maintains the threat  
3 of starting over to retain leverage and prolong his detention. Some additional time was secured  
4 solely because, upon release, Mr. Garcia-Hernandez would be immediately eligible to seek  
5 adjustment of status and full termination of his removal case.  
6

7         Nonetheless, on December 9, counsel must report to the Immigration Court on: (1)  
8 custody status, (2) the specific forms of relief to be pursued, and (3) the status of the now-pending  
9 I-130 petition. These are substantial tasks that must be completed on a tight schedule, while Mr.  
10 Garcia-Hernandez and his family simultaneously navigate detention, fees, and evidence  
11 gathering.  
12

13         Against that backdrop, the Federal Respondents request that this Court grant them  
14 additional time, claiming they are overextended and are currently dealing with parallel cases.  
15 Their request stands in sharp contrast to what respondents like Mr. Garcia-Hernandez and Mr.  
16 Salguero y Salguero face every day in Immigration Court: compressed deadlines, explicit threats  
17 of re-lodged NTAs if the IJ exercises her discretion, and little to no tolerance for delay. The party  
18 that controls detention and has created and defended this unlawful policy should not be rewarded  
19 with extensions in federal court when the detained individuals challenging that policy are  
20 afforded almost none.  
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1 **VIII. Conclusion**

2 For all these reasons, Plaintiff respectfully requests that the Court **DENY** Federal  
3 Respondents' Motion to Extend Time (ECF No. 9) and maintain the current schedule so that Mr.  
4 Salguero y Salguero and Mr. Garcia-Hernandez may obtain the prompt federal review to which  
5 they are entitled.  
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7 DATED this 28<sup>th</sup> day of November, 2025.

8  
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