IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nicolasa Sebastian Matacua, Petitioner v. Peter B. Berg, Director of St. Paul Enforcement and Removal Operations, Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Todd Lyons,. Acting Director, U.S Immigration and Customs Enforcement; and Pamela Bondi, Attorney General of the United States, in their official capacities. Respondents.	REPLY TO GOVERNMENT'S REQUEST/ RESPONSE CASE No: 0:26-cv-00756

PETITIONER'S OBJECTION TO RESPONDENTS' REQUEST FOR EXTENSION AND REPLY IN SUPPORT OF PETITION

Petitioner Nicolasa Sebastian Matacua, through undersigned counsel, respectfully objects to Respondents' "Request for Extension of Response Deadline" (ECF No. 9) and replies in support of her Petition for Writ of Habeas Corpus. Ms. Sebastian Matacua is a female detainee, despite the reference to "he" throughout the Respondents' return.

I. RESPONDENTS HAVE NOT PROPERLY MOVED FOR AN EXTENSION AND HAVE FAILED TO SHOW GOOD CAUSE

Respondents did not file a motion for extension pursuant to Federal Rule of Civil Procedure 6(b) or Local Rule 7.1. Instead, they filed a unilateral "request" seeking

additional time. (ECF No. 9.) Rule 6(b)(1) permits extension of a court-ordered deadline only upon a showing of "good cause." Where a deadline has expired, the movant must additionally demonstrate excusable neglect. Fed. R. Civ. P. 6(b)(1)(B).

Respondents have shown neither diligence nor good cause. They state that additional time would permit them to gather documents such as the final order of removal, Form I-213, revocation notice, interview notes, and a declaration regarding likelihood of removal. (ECF No. 9 at 2.) Those materials are within the Government's possession and control. The Court should note there's no "December 2025" evidence that the Respondents could produce as she was re-detained in January 2026. The need to assemble routine agency records does not constitute good cause in a case involving ongoing civil detention. In addition, they should have gathered their documents before they unlawfully detained Ms. Sebastian Matacua.

Moreover, Respondents requested an extension until February 17, 2026. (ECF No. 9 at 2.) To date, no substantive response has been filed meeting that requested deadline. Continued delay in a habeas action, where physical liberty is at stake, is disfavored. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the "serious constitutional problem" posed by prolonged detention).

For these reasons alone, the Court may deny the request and adjudicate the petition on the existing record.

II. RESPONDENTS HAVE FAILED TO CARRY THEIR BURDEN UNDER § 1231 AND 8 C.F.R. § 241.13

Respondents assert that this case arises under 8 U.S.C. § 1231 and must be evaluated under the post-removal framework of *Zadvydas*. (ECF No. 9 at 1.) Petitioner agrees that § 1231 governs. That framework, however, places substantive limits on detention.

Under *Zadvydas*, once detention extends beyond six months, and the noncitizen provides good reason to believe that removal is not significantly likely in the reasonably foreseeable future, the burden shifts to the Government to rebut that showing with evidence. 533 U.S. at 701.

Additionally, where ICE revokes release under 8 C.F.R. § 241.13(i)(2), the Government bears the burden of demonstrating "changed circumstances" indicating that removal is now significantly likely in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2); *see also Roble v. Bondi*, 803 F. Supp. 3d 766, 772–73 (D. Minn. 2025).

This Court recently applied that standard in *Aleixi A.-H. v. Easterwood*, Case No. 26-cv-1155 (D. Minn. Feb. 17, 2026). There, the Court held that when the Government revokes an Order of Supervision pursuant to § 241.13(i), it must demonstrate changed circumstances showing that removal is significantly likely in the reasonably foreseeable future. *Id.*, slip op. at 2–3. The Court rejected the Government's reliance on the "bare fact" that ICE was seeking a travel document, finding that such evidence fell "woefully

short" of satisfying the regulatory burden. *Id.* at 2–3. Because the Government failed to meet its burden, the Court ordered immediate release. *Id.* at 3.

The same deficiency exists here, only more pronounced. Respondents have produced no declaration, no evidence of travel document issuance or the obtaining of the travel document, no information regarding diplomatic acceptance, no data regarding recent removals to Mexico under comparable circumstances, and no evidence of any concrete removal plan. Instead, they merely state that they intend to provide such materials if given more time. (ECF No. 9 at 2.) Intent to provide evidence is not evidence, and the time they requested is elapsed, yet Respondents are nowhere to be found with this "evidence".

Petitioner has demonstrated that removal is not reasonably foreseeable because DHS has not conducted the legally required fear screening and cannot lawfully effectuate removal absent that process. *See* 8 C.F.R. §§ 208.31, 241.8(e); see also *Zadvydas*, 533 U.S. at 690 (detention must remain reasonably related to removal). Where removal is legally or practically impossible in the near term, continued detention ceases to be authorized by § 1231(a)(6).

Respondents have not rebutted that showing.

III. RESPONDENTS' FILING REFLECTS A LACK OF INDIVIDUALIZED ASSESSMENT

Respondents' filing refers to Petitioner using incorrect pronouns and generic language. (ECF No. 9 at 1–2.) While this may reflect clerical error, it underscores the absence of individualized consideration in the revocation and redetention decision. Due process requires that civil detention be grounded in individualized findings and not in boilerplate recitations.

Petitioner previously complied with supervision for approximately two years without incident. Respondents have identified no change in circumstances, no danger, and no flight risk. In the absence of such findings, and absent evidence of reasonably foreseeable removal, continued detention is unlawful.

IV. IMMEDIATE RELEASE IS REQUIRED

When the Government fails to demonstrate that removal is significantly likely in the reasonably foreseeable future, release is mandatory. *Zadvydas*, 533 U.S. at 701; *Aleixi A.-H.*, slip op. at 3. Section 241.13 likewise requires release under supervision where the Government cannot meet its burden. 8 C.F.R. § 241.13(h).

Respondents have failed to satisfy procedural requirements for extension, failed to produce evidence supporting detention, and failed to demonstrate changed circumstances or a foreseeable removal plan.

Accordingly, Petitioner respectfully requests that the Court deny Respondents' Request for Extension (ECF No. 9), grant the Petition for Writ of Habeas Corpus, and order Petitioner's immediate release under reasonable supervision conditions with no possibility for redetention without a pre-deprivation hearing where the government bears the burden of proof.

DATED: February 19, 2026

Respectfully Submitted,

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Certificate of Service

I certify that on February 19, 2026, I electronically filed the foregoing document(s) and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: February 19, 2026.

Respectfully Submitted,

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