

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

GILBERTO PEREIRA BRITO, FLORENTIN  
AVILA LUCAS, and JACKY CELICOURT,  
individually and on behalf of all those similarly  
situated,

*Plaintiff-Petitioners,*

v.

WILLIAM BARR, et al.,

*Defendant-Respondents.*

Case No. 19-11314-PBS

**STATUS REPORT REGARDING**  
**PLAINTIFF-PETITIONER PEREIRA**  
**BRITO**

Undersigned counsel are providing this status report to supplement paragraph 21 of the Affidavit of Sidra Vitale, Esq. with Regard to Gilberto Pereira Brito (filed under seal).

On June 18, 2019, Mr. Pereira Brito's immigration counsel filed a second "changed circumstances" motion for a new bond hearing. That motion cited the recent dismissal of the 2009 charge against Mr. Pereira Brito (*see* Jun. 19, 2019 Status Report, D.E. 24), as well as the information presented in the first "changed circumstances" motion (*see* Vitale Aff't ¶20).

On June 20, 2019, the immigration court denied the second "changed circumstances" motion for lack of jurisdiction because Mr. Pereira Brito's appeal of the original bond denial is pending. *See* Ex. A (June 20, 2019 Order). The immigration court also ruled that it had lacked jurisdiction over the first "changed circumstances" motion for the same reason. *See id.*

Mr. Pereira Brito's immigration counsel is seeking reconsideration of the "no jurisdiction" decision under settled BIA precedent that the immigration court does, in fact, have jurisdiction to consider Mr. Pereira Brito's motions for a new bond hearing based on changed circumstances,

even while the original bond denial is on appeal. *See Matter of Valles-Perez*, 21 I&N Dec. 769, 772 (BIA 1997) (“[W]hen appropriate, an Immigration Judge may entertain a bond redetermination request, even when a previous bond redetermination decision by the Immigration Judge has been appealed to the Board.”); *see also* BIA Practice Manual § 7.2(a) (“Continuing jurisdiction – An alien may ask the Immigration Judge or DHS to change a bond decision . . . even if . . . the alien appealed a previous bond decision to the Board.”).

Mr. Pereira Brito remains detained at the Plymouth County Correctional Facility.

Respectfully submitted,

GILBERTO PEREIRA BRITO, FLORENTIN  
AVILA LUCAS, and JACKY CELICOURT,  
individually and on behalf of all those similarly  
situated,

By their attorneys,

/s/ Susan M. Finegan

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Dated: June 24, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on June 24, 2019, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Susan M. Finegan

Susan M. Finegan

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**EXHIBIT A**

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE OF IMMIGRATION REVIEW  
IMMIGRATION COURT  
BOSTON, MASSACHUSETTS

IN THE MATTER OF )  
 )  
PEREIRA BRITO, Gilberto )  
Respondent )

A# [REDACTED]  
IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Counsel's Motion for Bond Redetermination, it is hereby ordered that the motion be

GRANTED  DENIED because:

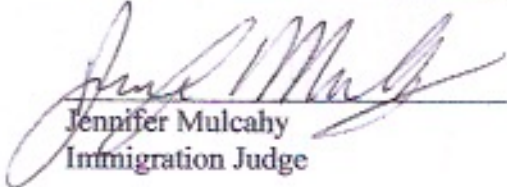
- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per \_\_\_\_\_.

Other: The court notes a bond appeal was filed on 5/6/19 the court lacks jurisdiction on the bond proceedings. Additionally, the court vacates its 6-10-19 order on the respondent's prior motion for bond redetermination filed on 5/30/19, as the court also lacked jurisdiction as the bond appeal was pending at that time.

Deadlines:

- The application(s) for relief must be filed by \_\_\_\_\_.
- The respondent must comply with DHS biometrics instructions by \_\_\_\_\_.

6/20/19  
DATE

  
Jennifer Mulcahy  
Immigration Judge

**CERTIFICATE OF SERVICE**

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