

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GILBERTO PEREIRA BRITO, FLORENTIN)
 AVILA LUCAS, JACKY CELICOURT,)
)
 Petitioners,)
)
 v.)
)
 WILLIAM P. BARR, U.S. Attorney General, et al,)
)
 Respondents.)

C.A. No. 1:19-CV-11314-PBS

**MOTION TO EXTEND RESPONDENTS’ DEADLINE TO COMPLY WITH THE
COURT’S ORDER AND FILE A CERTIFICATION OF COMPLIANCE**

Respondents request a 14-day extension of their deadline to comply with part of the Court’s November 27, 2019 order (November 27 Order) and with their deadline to file a notice of compliance. Petitioners oppose to this extension request. Respondents make this request in good faith and not for the purpose of delay as set forth herein:

1. On November 27, 2019, the Court granted Petitioners’ motion for summary judgment and motion to modify the class definitions. ECF No. 88 at 22. In that order, the Court granted both declaratory and injunctive relief. Respondents now request a 14-day extension of the compliance deadlines in the following three paragraphs.

2. First, the Court declared that aliens detained pursuant to 8 U.S.C. § 1226(a) are entitled to receive bond hearings at which the Government must prove the alien is either dangerous by clear and convincing evidence or a risk of flight by a preponderance of the evidence and that no condition or combination of conditions will reasonably assure the alien’s future appearance and the safety of the community. *Id.* At the bond hearing, the immigration judge (“IJ”) must evaluate the alien’s ability to pay in setting bond above \$1,500 and must

consider alternative conditions of release, such as GPS monitoring, that reasonably assure the safety of the community and the alien's future appearances. *Id.*

3. Second, the Court issued a permanent injunction ordering the Government to provide the Court's declaratory judgment and permanent injunction to all aliens of both classes by December 13, 2019. *Id.* at 23. Further, the Court applied this same order to all new members of the Pre-Hearing Class after the U.S. Department of Homeland Security ("DHS") makes the initial determination to detain them pursuant to 8 U.S.C. § 1226(a). *Id.*

4. Third, the Court ordered that Respondents file a certification that DHS complied with the order in ¶3 by December 16, 2019. *Id.*

5. Respondents are seeking a 14-day extension on the Court orders in the three preceding paragraphs. Good cause exists in this case because the November 27 Order provided only 17 days for the Government to significantly modify immigration bond operations. Compliance would require training of all relevant immigration judges and ICE counsel and would further result in docket complications, because compliant bond hearings could not be resolved at initial master calendar hearings.

6. Additionally, good cause exists in this case because a 14-day extension would allow the Government to continue seeking authorization from the Office of the Solicitor General ("OSG") to appeal the November 27 Order. *See* 28 C.F.R. § 0.20(b); *see also* Justice Manual § 2-2.121 (appeals "must be authorized by the Solicitor General.").

7. Respondents' undersigned counsel contacted counsel for Petitioners about this motion, who indicated their opposition.

8. Accordingly, Respondents ask the Court to grant their request for a 14-day extension on the above-referenced deadlines to comply with the Court's injunctive relief.

DATE: December 13, 2019

Respectfully submitted,

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Attorneys for Respondents

CERTIFICATE OF SERVICE

Civil No. 1:19-cv-11314-PBS

I hereby certify that this document will be filed through the electronic filing system of the Court, which system will serve counsel for all parties.

Dated: December 13, 2019

/s/ Huy M. Le
By: HUY M. LE
Trial Attorney

CERTIFICATE OF RULE 7.1 CONFERENCE

I hereby certify that, in accordance with Local Rule 7.1, Respondents discussed this motion with counsel for Petitioners on December 13, 2019, and they indicated that they intend to oppose the motion.

Dated: December 13, 2019

/s/ Huy M. Le
By: HUY M. LE
Trial Attorney