

1 DANIEL G. KNAUSS
United States Attorney
District of Arizona

2 RAYMOND K. WOO
3 Assistant U.S. Attorney
Two Renaissance Square, Suite 1200
4 40 North Central Avenue
Phoenix, Arizona 85004-4408
Arizona State Bar No. 023050
5 Telephone (602) 514-7500
raymond.woo@usdoj.gov

6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America

9 Plaintiff,

10 v.

11 Felipe Baltazar-Suarez,
a.k.a. Felipe Suarez-Baltazar,
12 a.k.a. Felipe Baltazar,

13 Defendant.

MAGISTRATE NO. 07-6290M

**GOVERNMENT'S RESPONSE TO
MOTION TO EXTEND TIME IN
WHICH TO INDICT**

14 The United States of America, by and through undersigned counsel, hereby responds to
15 defendant's Motion to Extend Time in Which to Indict. For the reasons set forth below, the
16 government believes the extension of time for 30 days is in the interests of justice.

17 1. Public records on file with the Administrative Office for the United States Courts reveal
18 that, for each of the last four years, immigration case filings have exceeded 2,000 defendants in
19 the District of Arizona.^{1/} During each of those time periods, the immigration filings in Arizona
20 were the highest in the entire Ninth Circuit.

21 2. Due to the high number of cases and limited resources, particularly in the areas of pretrial
22 detention space and availability of judicial officers to accommodate the numerous hearings required in
23 a normal criminal case, the United States Attorney has developed an early disposition program for
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27 ^{1/} For the twelve month period ending March 31, 2003, the Administrative Office
28 reports 2,496 defendants were charged. For the same period ending March 31, 2004, the number
increased to 2,554 defendants charged. The numbers decreased slightly for the periods ending
March 31, 2005 (2,422 defendants charged) and March 31, 2006 (2,292 defendants charged).

1 immigration cases authorized by the Attorney General pursuant to the PROTECT ACT of 2003 which
2 is designed to:

3 a. Reduce the number of hearings required in order to dispose of a criminal case.

4 b. Avoid having more cases than the judicial system can effectively handle added to the District
5 Court trial calendar, while still discharging our duty to prosecute federal crimes.

6 c. Ameliorate the pre-trial detention space shortage by reducing the amount of time between
7 complaint and sentencing.

8 d. Avoid having to empanel additional grand juries to seek indictments in immigration cases,
9 and thus avoid those additional costs to the Court.

10 3. To accomplish these goals, the United States Attorney provides discovery at the outset of the
11 case to defendants charged with violations of 8 U.S.C. § 1326. An early plea agreement is offered
12 pursuant to U.S.S.G. §5K3.1 that substantially departs below the sentencing guidelines if defendant
13 enters a guilty plea and agrees to waive a number of hearings. However, in order to waive these
14 hearings, it has often been necessary in the short term for defendants to seek extensions of the time
15 limits imposed by the Federal Rules of Criminal Procedure. This is necessary for defendants to have
16 sufficient time to investigate the case and make an informed decision prior to waiving any rights.

17 4. These extensions of time are particularly necessary in immigration cases as most defendants
18 charged with immigration crimes require the assistance of an interpreter when speaking to defense
19 counsel. Additionally, defendants are detained at CCA which is at least a one hour drive from Phoenix.
20 It can often take several days or weeks to arrange for defense counsel and an interpreter to meet with
21 the defendant. Due to the distance involved and the need for interpretation, an extension of time to
22 indict is needed to allow defense counsel to review the discovery material with the defendant and
23 investigate any possible defenses.

24 5. Although it may appear contradictory to an early disposition program to allow a defendant
25 an extension of time to investigate the case, the United States Attorney has found that these extensions
26 granted for the defendant's benefit actually result in the case being resolved earlier, with fewer filings
27 and fewer hearings.

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