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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America

9 Plaintiff,

10 v.

11 Alejandro Preciado-Ibarra,

12 Defendant.

MAGISTRATE NO. 07-8104M

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

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

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

20 2. Due to the high number of cases and limited resources, particularly in the areas of pretrial
21 detention space and availability of judicial officers to accommodate the numerous hearings
22 required in a normal criminal case, the United States Attorney has developed an early disposition
23 program for immigration cases authorized by the Attorney General pursuant to the PROTECT
24 ACT of 2003 which is designed to:

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

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

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

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

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

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

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

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1 Accordingly, the United States does not oppose Defendant's Motion to Extend Time in
2 Which to Indict as it is in the interests of justice.

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Respectfully submitted this 26th day of June 2007.

DANIEL G. KNAUSS
United States Attorney
District of Arizona

s/ Fredrick A. Cocio
Fredrick A. Cocio
Assistant U.S. Attorney

Certificate of Service

I hereby certify that on June 26, 2007, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Bruce Yancey
Attorney for Defendant

by: s/ Fredrick A. Cocio