1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 ESTEBAN HERNANDEZ, No. 1:15-cv-01829-DAD-SKO HC 11 **ORDER DENYING PETITIONER'S** Petitioner, MOTIONS FOR RECONSIDERATION 12 OF EXTENSION OF TIME 13 DHS/ICE AND LORETTA LYNCH. Attorney General, 14 (Docs. 33, 35, and 36) Respondents. 15 16 Petitioner, a federal prisoner proceeding pro se with a petition for writ of habeas corpus 17 pursuant to 28 U.S.C. § 2241, moves for reconsideration of the Court's April 19, 2016, order 18 granting Respondent's ex parte motion for a sixty-day extension of time in which to file the 19 response to the habeas petition. Petitioner contends that in seeking the extension of time, 20 Respondents misrepresented the procedural status of the underlying immigration case, and 21 suggests that the Court erred in failing to provide him with an opportunity to oppose the motion 22 for extension of time. The Court declines to grant reconsideration. 23 According to the Local Rules: 24 The Court may, in its discretion, grant an initial extension ex parte 25 upon the affidavit of counsel that a stipulation extending time cannot reasonably be obtained, explaining the reasons why such a 26 stipulation cannot be obtained and the reasons why an extension is Except for one such initial extension, ex parte 27 applications for extension of time are not ordinarily granted. 28 Local R. 144(c).

Upon an apparent showing of good cause, initial motions for extensions of time in which to answer a petition are given to respondents in habeas cases as an ordinary practice since prisoners are generally not available to execute stipulations for time extensions.

The time for response is not statutory but is set by the Court in its discretion. R. 5(e), Rules Governing Section 2254 Cases in United States District Courts. Particularly with an initial request for extension of time, the Court is generally indulgent to both respondents or petitioners who can articulate a reasonable basis for their need for additional time to complete and file a pleading. In the case of respondents in habeas cases, limited budgets and personnel, as well as the need to secure necessary information regarding the underlying case, weigh in favor extending time to allow a complete and accurate response to the habeas petition.

Requests for extensions of time do not lend themselves to resolution of substantive and procedural disputes regarding the underlying case. The Court declines to resolve the parties' disagreements on the procedural status of the underlying immigration case until briefing in the habeas case has been completed, and the record has been lodged with the Court.

Petitioner's motion for reconsideration of the Court's extension of time for Respondents to file a response to the petition is hereby DENIED.

IT IS SO ORDERED.

/s/ Sheila K. Oberto Dated: **May 9, 2016** UNITED STATES MAGISTRATE JUDGE

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