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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TITO LANTANO,
Plaintiff,
v.
ALEJANDRO MAYORKAS, et al.,
Defendants.

Case No. 13-cv-05771-KAW
ORDER REQUIRING SUPPLEMENTAL
BRIEFING; ORDER VACATING
JULY 3, 2014 HEARING
Dkt. No. 17

Upon review of the moving papers, the Court orders the parties to submit supplemental briefing on whether the two year filing period, promulgated in 8 C.F.R. 208.21(d), is subject to equitable tolling, independent of any extension that may be granted for humanitarian reasons.

In addition, the Government should specifically address congressional intent, and whether 8 U.S.C. § 1158(b)(3)(A) was designed “to protect the rights of unsophisticated claimants... [such that] agencies (and reviewing courts) may best honor congressional intent by presuming that statutory deadlines [] are subject to equitable tolling, just as courts presume comparable judicial deadlines under such statutes may be tolled.” *Sebelius v. Auburn Reg'l Med. Ctr.*, 133 S. Ct. 817, 830 (2013) (Sotomayor, J., concurring). The Government should also address the previous versions of this statute that were in effect at the time Plaintiff applied for asylum in 1994 versus the statute that was in effect when asylum was granted in 2003.

The Government’s brief is due on or before July 16, 2014. Plaintiff’s brief is due on or before July 30, 2014. The briefs shall not exceed ten pages. There will be no reply.

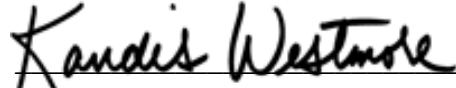
Upon review of the parties’ submissions, the Court will determine whether a hearing is necessary or if the motion may be decided without further briefing or oral argument pursuant to Civil Local Rule 7-1(b).

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The July 3, 2014 hearing on Defendants' motion to dismiss is VACATED.

IT IS SO ORDERED.

Dated: July 2, 2014


KANDIS A. WESTMORE
United States Magistrate Judge