U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd floor
New York, New York 10007

March 14, 2025

BY ECF
The Honorable Jesse M. Furman
Thurgood Marshall Courthouse
40 Centre Street, Room 2202
New York, New York 10007

Re: *Khalil v. Joyce, et al., 25 Civ. 1935 (JMF)*

Dear Judge Furman:

Pursuant to the Court's Order (ECF. No. 29), the parties submit this joint letter to propose next steps, including an expedited schedule for additional motion practice. The parties were unable to agree on a schedule, accordingly each parties' proposed schedule is set forth below.

Petitioner presently intends to file two additional motions: a motion for bail seeking his immediate release pursuant to *Mapp v. Reno*, 241 F.3d 221 (2d Cir 2001), and a motion for preliminary injunctive relief. As discussed at the March 12 hearing and as this Court's order reflects, there is a need for "an expedited schedule" in light of the extraordinary circumstances presented in this case and the ongoing irreparable harm Petitioner is experiencing. ECF 29; *see also* Hearing Tr. 15:10-21. Accordingly, Petitioner respectfully proposes the following reasonable schedules:

Petitioner's bail motion pursuant to Mapp v. Reno

1. Petitioner files Friday 3/14 by 11:59pm
2. Respondents file any opposition Monday 3/17 by 5pm
3. Petitioner files reply Tuesday 3/18 by 11:59pm

Petitioner's motion for a preliminary injunction

1. Petitioner files Monday 3/17 by 5pm
2. Respondents file any opposition the following Monday 3/24 by 12pm

3. Petitioner files reply Friday 3/28 by 12pm

An expedited briefing schedule on Petitioner's *Mapp* motion is necessary due to extraordinary circumstances that require Mr. Khalil's release in order to make the writ of habeas corpus effective. If he continues to be detained, he will face severe harm by possibly missing the birth of his first child and starting immigration proceedings far from his attorneys in an immigration court in Louisiana due to Respondents' unlawful conduct which Petitioner is challenging in this matter. Petitioner disagrees with Respondents' position that they should not have to address the *Mapp* claim until after this Court's decision on Respondents' pending Motion to Dismiss or Transfer. *Mapp* is confined to truly extraordinary circumstances and this Court has inherent authority to grant bail pending the adjudication of a habeas claim. *S.N.C. v. Sessions*, No. 18-CV-7680, 2018 WL 6175902, at *7 (S.D.N.Y. Nov. 26, 2018) (holding the court need not resolve jurisdictional arguments raised pursuant to *Padilla* before resolving a *Mapp* motion). Respondents have been aware of Petitioner's *Mapp* claims since the filing of the original petition and should be able to move in an expedited manner on this matter.

Similarly, there is no basis for the two weeks the government is requesting to respond to Petitioner's motion for preliminary injunctive relief. Despite this Court's order requesting "an expedited schedule," the government has proposed a schedule permitting them the maximum time allowed by the local rules, *see* Local Civil Rule 6.1. To the extent Petitioner is released prior to the government's filing in response to the preliminary injunction, he is willing to amend the schedule.

Respondents' Proposed Schedule

Mapp v. Reno Motion

Petitioner intends to file a motion under *Mapp v. Reno*. Respondents submit that briefing on that motion should await the Court's decision on Respondents' pending Motion to Dismiss or Transfer. The pending motion will be fully submitted on Monday, March 17, and may obviate the need for this Court to a decide the *Mapp* motion or, to the extent this action is transferred to another court, then that court can consider the *Mapp* motion. Accordingly, Respondents propose the following schedule:

1. Petitioner files Friday 3/14 by 11:59pm

2. Respondents file any opposition by 11:59 p.m. two business days after the Court rules on Respondents' Motion to Dismiss or Transfer or by 11:59pm on Friday, March 21, whichever is sooner

3. Petitioner files reply by 11:59pm one business day after Respondents file their opposition.

Preliminary Injunction Motion

Petitioner has filed a thirty-three page Amended Petition raising four separate claims for relief, including constitutional claims and a claim under the Administrative

Procedure Act. The Government requires time to research the legal issues presented, prepare its opposition to the motion for a preliminary injunction, and obtain review of its papers through several layers at the Department of Justice. Accordingly, we propose the following briefing schedule for the PI:

1. Petitioner files Monday 3/17 by 5pm

2. Respondents file any opposition Monday 3/31 by 5pm

3. Petitioner files reply Friday 4/4 by 5pm

We thank the Court for its attention to this matter.

Respectfully,

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**Application for admission* pro hac vice *forthcoming*

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The Court hereby adopts Petitioner's proposed briefing schedule for the motion for a preliminary injunction. Petitioner shall file his motion for bail by tonight at 11:59 p.m. Respondents shall file any opposition to that motion by 11:59 p.m. one business day after the Court rules on Respondents' Motion to Dismiss or Transfer or by 11:59 p.m. on Wednesday, March 19, 2025, whichever is sooner. Petitioner shall file any reply by 11:59 p.m. one business day after Respondents file their opposition.

SO ORDERED.

March 14, 2025