



“The filing of a request for an extension on the final day of the time period does not act as an automatic stay of the deadline, nor does it provide good cause for an extension of the deadline. To the contrary, it is evidence of being remiss in one's duties.” *Bruce v. County of Rensselaer*, No. 02-CV-0847, 2003 WL 22436281, \*2 (N.D.N.Y. Oct. 20, 2003). For this reason, waiting until “the proverbial eleventh hour” to seek an extension of a filing deadline is “always risky business.” *Id.*

In its phonemail message, the Government stated that it would seek the postponement by “close of business” today “basically because of the logistical burdens involved and also because there’s the hearing on Monday with all of the cases before Judge Green.” But the Government has known since August 6, nearly three weeks ago, that its Return is due today. And it has known since Tuesday of this week, three days ago, of the hearing before Judge Green next Monday.

All this Court’s Show Cause Order requires is that the Government provide its justification for imprisoning Petitioners. Nothing that Judge Green may do on Monday can relieve the Government of its statutory obligation to “make a return certifying the true cause of [Petitioners’] detention.” 28 U.S.C. § 2243, ¶ 3. Postponement will thus serve only to delay the “swift and imperative” adjudication to which these habeas petitioners are entitled. *See Braden v. 30th Jud. Cir.*, 410 U.S. 484, 490 (1973).

### **CONCLUSION**

There is no legitimate reason for granting the Government a postponement, and certainly no reason to allow the Government to obtain a de facto postponement by presenting the Court and Petitioners with a *fait accompli*. To protect its prerogative to give effect to its own rulings, and, just as fundamentally important, to protect the habeas rights of Petitioners, this

Court should require the Government either to file the Return today or release Petitioners from imprisonment forthwith.

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Respectfully submitted,

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