

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D.C.

Matter of J-E-C-M-, A79-506-797/798/799/800)	ORDER NO. 2990-2008
Matter of Bangaly, A78-555-848)	ORDER NO. 2991-2008
Matter of Compean, A78-566-977)	ORDER NO. 2992-2008

**OBJECTION TO ATTORNEY GENERAL'S ORDERS AND ALTERNATIVE
MOTION FOR EXTENSION OF TIME TO FILE BRIEF OF AMICI CURIAE**

The American Immigration Law Foundation (AILF) and the Immigrants Rights Project of the American Civil Liberties Union (ACLU IRP) file this Objection to the Attorney General's Orders and, in the alternative, Motion for Extension of Time to file a response to the August 7, 2008 orders in the above-referenced cases.

**Reconsideration of the Long-Standing Principles of
Lozada and Assaad is not Necessary or Appropriate**

AILF and IRP ACLU respectfully object to the Attorney General's decision to reconsider long-standing Board of Immigration Appeals (BIA) precedent. The BIA reaffirmed *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988) in *Matter of Assaad*, 23 I&N Dec. 553 (BIA 2003), after extensive briefing and a long period of consideration of these very issues in 2001-2003. The Attorney General's August 8, 2008 orders did not cite any change in circumstances that warrants the sudden upsetting of this precedent.

In the Alternative, AILF and the ACLU IRP Request an Extension of Time to Respond to the Attorney General's Orders

If the Attorney General does not withdraw the orders in these three cases, AILF and the ACLU IRP submit that additional time is needed for them, for the parties, and for other interested entities to submit responsive briefs. The issues raised by the Attorney General's eight questions are complex and call for thorough, thoughtful consideration. Counsel for AILF and the ACLU IRP have many pre-existing commitments and urgent obligations, including briefing on time-sensitive matters to the U.S. Supreme Court and other federal courts. [xx add more?]

Also, the three individuals whose cases have been certified by the Attorney General all will be or have sought additional time to respond:

Matter of Bangaly, A078-555 848 (BIA Mar. 7, 2008), represented by Isuf Kola. As noted, the BIA issued this decision in March 2007, denying relief [provide some details] . [xxx maybe take the next sentence out as it can be misconstrued xxx] There is no apparent urgency for the Attorney General to reconsider the BIA's decision in the case.

Until August 25, 2008, Mr. Kola's telephone answering machine said that he was out of the country. Undersigned counsel spoke to Mr. Kola by telephone on August 25. He said this was his first day back in the office and that he was going to file a request for additional time to respond to the Attorney General's order.

Matter of Compean, A 078 566 077 (BIA, May 20, 2008) represented by Cyril Chukwurah. The BIA's May 20, 2008 decision denied Mr. Compean's motion to reopen. The BIA held that the respondent had not complied with the procedural steps required by

Lozada; had failed to prove prejudice as required by *Assaad*; and in fact had failed to show prior counsel was ineffective. [xxx maybe add sentence re no urgency]

Our information is that Mr. Chukwurah also will be requesting an extension of time to respond to the Attorney General's order.

Matter of J-E-C-M-, A 79 506 797 / 798 / 799 / 800 (BIA Oct. 19, 2007), represented by xxxxx Our understanding is that Mr. xxxx already has requested until November xxx to file a brief in response to the Attorney General's order.

We understand that other potential amici curiae also will be requesting additional time to respond to these important, complex questions.

In conclusion, we urge the Attorney General to withdraw the August 8 orders in these matters. Alternatively, we request an extension of time until and including November 15, 2008 to submit responses.