**Oral Motion Opposing Dismissal**

First, the IJ must weigh Respondent’s arguments; granting dismissal without that analysis would constitute reversible error¹.

Here, dismissal would severely prejudice Respondent(s) by depriving them of the statutory and regulatory right to apply for relief and receive a merits hearing² and by foreclosing that adjudication through rapid deportation, leading to harm the BIA found absent in ordinary dismissal scenarios³. [*Explain harm depending on relief sought*]

Having issued and filed a Notice to Appear against the respondent(s), DHS elected the full INA § 240 process and lacks statutory authority to withdraw this case into expedited removal; the INA provides no mechanism to reverse that choice⁴. Moreover, applying DHS’s January 24 2025 expedited-removal expansion to a respondent already in proceedings would be impermissibly retroactive⁵.

The motion also fails 8 C.F.R. § 239.2(a)(7) because DHS identifies no changed circumstances specific to this case, cannot show dismissal is in the government’s best interest when it will duplicate litigation, and did not confer with opposing counsel as required by the Practice Manual⁶. The BIA has rejected any notion that DHS enjoys veto power over Immigration Court calendars; the Court retains the duty to decide the case on the merits⁷.

Because DHS’s request is unauthorized, prejudicial, procedurally defective, and contrary to the Court’s independent responsibility, Respondent respectfully urges that the motion to dismiss be denied so the merits hearing may proceed.

Your Honor, we respectfully request the **opportunity to submit written briefing** on this issue. Given that it presents a disputed legal question, written briefing would be appropriate and consistent with standard practice.

**Citations:**

1.      *Matter of G-N-C-*, 22 I&N Dec. 281, 284–85 (BIA 1998); *Matter of H.N. Ferreira*, 28 I&N Dec. 765, 768–70 (BIA 2023).

2.      INA § 240(b)(4)(B); 8 C.F.R. §§ 1240.10(a)(4), 1240.11(a)(2).

3.      *Matter of W-Y-U-*, 27 I&N Dec. 17, 19 (BIA 2017); *Matter of Andrade Jaso & Carbajal Ayala*, 27 I&N Dec. 557, 559 (BIA 2019).

4.      *Jennings v. Rodriguez*, 583 U.S. 281, 287–88 (2018); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011).

5.      *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988).

6.      Immigration Court Practice Manual ch. 5.2(b).

7.      *Matter of Avetisyan*, 25 I&N Dec. 688, 693 (BIA 2012).