UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Jose LOPEZ REYES, Plaintiffs, v. Cammilla WAMSLEY, et al., Defendants.	Case No. 2:25-cv-1868 **EX PARTE MOTION TO ISSUE ORDER TO SHOW CAUSE AND ISSUE EXPEDITED BRIEFING SCHEDULE** Note on Motion Calendar: September 26, 2025

INTRODUCTION

Petitioner Jose Lopez Reyes is a noncitizen from Cuba who was rearrested by Immigration and Customs Enforcement (ICE) on May 27, 2025. He initially entered the United States in early 2022, and was then released on recognizance while he applied for asylum and went through removal proceedings. A hearing was scheduled in those proceedings for May 27, 2025.

But when Mr. Lopez appeared before the immigration court in Miami, Florida, ICE moved to dismiss his removal proceedings, even though he had a pending asylum application. In an attempt to avoid allowing him to seek asylum, ICE then immediately initiated *expedited*

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
Tel. (206) 957-8611

removal proceedings against Mr. Lopez. These procedural shenanigans were flagrantly unlawful, as expedited removal can only be applied to persons who have lived in the United States for two years or less, yet Mr. Lopez had well over three years of residence here at that time.

Mr. Lopez subsequently passed a credible fear interview, which placed him back in standard removal proceedings. But he has been detained by ICE ever since and transferred to several different facilities. He is now facing removal proceedings before the immigration court in Tacoma, Washington while he is detained at the Northwest ICE Processing Center (NWIPC). The law, however, makes clear that he should not be detained. As this Court has repeatedly held, due process requires that for people like Mr. Lopez—those who have developed significant ties to this country—Respondents must afford a hearing prior to re-detention before a neutral decisionmaker where ICE is required to justify the revocation of release and show that Mr. Lopez now constitutes a flight risk or danger to the community. *See E.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025). No such process was provided here, and thus Mr. Lopez's immediate release is warranted.

Accordingly, Mr. Lopez respectfully requests that the Court immediately issue an order to show cause that ensures prompt resolution of this matter. Notably, the Court has issued similar orders to show cause in recent weeks. *See, e.g.*, Order, *Scott v. Wamsley*, No. 2:25-cv-01819-TMC-BAT (W.D. Wash. Sept. 22, 2025), Dkt. 9; Order, *Guzman Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to petition within seven days); Order,

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
Tel. (206) 957-8611

Toktosunov v. Wamsley, No. 2:25-cv-01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (requiring return to petition within ten days). It should do the same here.

ARGUMENT

This case is a habeas petition challenging executive detention under 28 U.S.C. § 2241. As the Supreme Court has explained, the habeas statute provides "a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled on other grounds, Wainwright v. Sykes*, 433 U.S. 72 (1977). Given its purpose, "[t]he application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also, e.g.*, *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) ("[R]emedy by petition for writ of habeas corpus . . . . is a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.").

Congress's intent to provide an expeditious remedy is reflected in 28 U.S.C. § 2243. Under that statute, "[a] court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted." 28 U.S.C. § 2243. The custodian must file a return "*within three days* [of the OSC] unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added). Consistent with these expeditious procedures, the statute further requires a hearing "not more than five days after the return," unless good cause is established. *Id.* These requirements ensure that courts "summarily hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
Tel. (206) 957-8611

In the Court's orders on similar requests, it has noted that the "Rules Governing Section 2254 Cases in the United States District Courts" supersede 28 U.S.C. § 2243, and that those rules allow for "a response [that] is due within the period of time fixed by the court." *Guzman Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified). But even if that is so, as the Court has recognized in these orders, expeditious processing of a petition for writ of habeas corpus is still warranted. In a typical § 2241 habeas petition, the Court issues an OSC several days or even weeks after the petition is filed. That OSC normally requires a return within thirty days, rather than the three days presumptively established by statute. Then, at the time the return is filed, the government files a return and motion to dismiss, which is noted for twenty-eight days later, as required by LCR 7(d)(4). Once briefing on the motion is complete, the petitions are first considered by a magistrate judge, who issues a report and recommendation (R&R) and provides another fourteen days for objections, and another fourteen days for responses to those objections. As a result, even assuming that an OSC is issued the same day a petition is filed (which does not typically happen) and a magistrate judge issues an R&R the same day as the noting date on the government's motion to dismiss, it takes *at least* three months for a district judge to first consider a petitioner's habeas petition. It is precisely this type of "comparatively cumbersome and time consuming procedure of reference, report, and hearing upon [a] report" that the Supreme Court has criticized as a means to decide habeas petitions, emphasizing the "more expeditious method . . . prescribed by the statute." *Holiday v. Johnston*, 313 U.S. 342, 353 (1941).

Mr. Lopez also respectfully submits that Congress did not intend for the § 2254 Rules to supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
Tel. (206) 957-8611

proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by definition, such cases have already received extensive oversight by state or federal judges. That is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a "government enforcement agent" who has made any decision about the propriety of detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a neutral decisionmaker that due process typically requires, *see, e.g.*, *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) ("Whatever else neutrality and detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."); *see also Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). This backdrop—and counsel's experience with the Court waiting to issue orders to show cause and the lengthy process that follows—is important to understanding why Mr. Lopez respectfully submits that the Court should immediately issue an order to show cause, and why it should do so on a schedule that aligns closely to the one reflected in § 2243. Such expeditious treatment of habeas petitions reflects what Congress intended in § 2243, and is consistent with the Supreme Court's and Ninth Circuit's repeated affirmances that cases like this one should receive timely determinations.

CONCLUSION

In light of Mr. Lopez's strong claim for release, the statutory requirements for habeas proceedings, and the caselaw cited above, Mr. Lopez respectfully requests that the Court issue an order to show cause that orders a return from Respondents and sets the following briefing schedule:

- Respondents' return, including any arguments for dismissal: due **seven** days from issuance of the order to show cause
- Petitioner's traverse and response: due **four** days from the filing of the return

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
Tel. (206) 957-8611

Respectfully submitted this 26th day of September, 2025.

s/ Matt Adams
Matt Adams, WSBA No. 28287
matt@nwirp.org

s/ Leila Kang
Leila Kang, WSBA No. 48048
leila@nwirp.org

s/ Glenda M. Aldana Madrid
Glenda M. Aldana Madrid,
WSBA No. 46987
glenda@nwirp.org

s/ Aaron Korthuis
Aaron Korthuis, WSBA No. 53974
aaron@nwirp.org

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Suite 400
Seattle, WA 98104
(206) 957-8611

Attorneys for Mr. Lopez

WORD COUNT CERTIFICATION

I, Leila Kang, certify that this motion contains 1,394 words, in compliance with the Local Civil Rules.

s/ Leila Kang
Leila Kang, WSBA No. 48048
Northwest Immigrant Rights Project
615 Second Ave., Ste 400
Seattle, WA 98104
(206) 816-3847
leila@nwirp.org