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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 Naveen KUMAR,

11 Petitioner,

12 v.

13 Cammilla WAMSLEY, et al.,

14 Respondents.

Case No. 2:25-cv-2055

**EX PARTE MOTION FOR ORDER
TO SHOW CAUSE**

Note on Motion Calendar:
October 21, 2025

15
16 **INTRODUCTION**

17 Petitioner Naveen Kumar is an Indian noncitizen who was granted withholding of
18 removal from removal to India because he is a gay man who has the human immunodeficiency
19 virus (HIV). Yet having proven that his “life or freedom would be threatened” in India, 8 U.S.C.
20 § 1231(b)(3)(A), Respondents now seek to remove Mr. Kumar to Uganda—a country to which
21 he has no connection at all, and which is widely known for its hostility and even violence
22 towards the LGTBQ+ community—without any meaningful notice or process for asserting his
23 statutory rights to protection.¹

24 Under Respondents’ policies governing third country removals, Mr. Kumar faces
25 removal to Uganda at any moment. Accordingly, he submits this motion to request speedy

26 ¹ After the conclusion of proceedings before the immigration court, DHS provided Mr. Kumar
27 a Notice of Removal, informing him that they now intend to remove him to Uganda. The notice
does not instruct him of his right to apply for protection of removal to Uganda.

consideration of his petition for a writ of habeas corpus. He also requests that the Court order Respondents to provide him at least 48 hours' notice (or 72 hours' notice if the period will include a weekend or holiday) prior to any action to move or transfer him from the Northwest Immigration and Customs Enforcement (ICE) Processing Center (NWIPC) or to remove him from the United States.

ARGUMENT

This case concerns Respondents' efforts to undertake Mr. Kumar's removal not to the place he was born or where he is a citizen, and not to any other place he has a connection, but instead to some other, third country: Uganda. Pursuant to Respondents' current policy governing third country removals, Respondents do not even have to ask if Mr. Kumar fears removal to Uganda, let alone inform him of the process for applying for protection. Even where Respondents do provide notice of removal to a third country,² and where a person does express fear, Respondents' policy provides that an interview will occur within 24 hours, without notice to counsel, and without any opportunity to prepare for the interview. No further review by an immigration judge, much less from a federal court, is available. Nor does that process evaluate whether the third country will engage in "chain refoulement"—the removal of a person via a third country to the country from which they have fled. Moreover, Respondents' own policies instruct that they may act at any time to immediately remove Mr. Kumar, and without providing any meaningful process for him to present claims for protection.³

² Under Respondents' policy, they are not required to provide *any* notice of removal to a third country if they have received generic diplomatic assurances from the country that persons removed there will not be persecuted or tortured.

³ Should Respondents attempt to remove Petitioner while this case is pending, Petitioner will immediately file a motion for a temporary restraining order (TRO). Petitioner files this motion for an order to show cause to avoid the repetitive briefing and strain on the Court's resources that such TRO motions present, but which are the result of Respondents' actions in unlawfully detaining noncitizens or removing noncitizens to third countries in recent months. However, as noted, to ensure that Mr. Kumar is not unlawfully removed while this case is pending and to allow him to seek any necessary emergency relief, he requests that the Court order Respondents to provide notice of actions to transfer him or undertake removal, as stated in this motion and in the proposed order.

As the Ninth Circuit has repeatedly explained, and as this Court has also held, this process plainly violates due process. *See, e.g., See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (“Failing to notify individuals who are subject to deportation that they have the right to apply for . . . withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.”); *Ibarra-Perez v. United States*, --- F.4th ---, No. 24-631, 2025 WL 2461663, at *5 (9th Cir. Aug. 27, 2025) (affirming “there are restrictions on DHS’s removal authority” and DHS “violates [noncitizens’] constitutional right to due process” where it fails to notify them of their right to apply for withholding of removal to the country of removal); *see also Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *18 (W.D. Wash. Aug. 21, 2025) (listing cases). Indeed, as the Supreme Court recently explained “no person shall be removed from the United States without opportunity, at some time, to be heard.” *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (per curiam).

Accordingly, expeditious resolution of this habeas petition is warranted to ensure that Respondents do not violate Mr. Kumar’s statutory and constitutional rights. Notably, this case is one that presents a recurring issue and is one in which this Court and others have recognized that Respondents’ policies violate the Immigration and Nationality Act and due process. *See Nguyen*, 2025 WL 2419288, at *18–19. Consistent with this fact, and as this Court has ordered in several other recent habeas petitions, the Court should require an expeditious return from Respondents to the habeas petition and timely proceed to issue final relief.

Expedition resolution is consistent with the purpose of habeas petitions. Habeas “is 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 by Wainwright v. Sykes*, 433 U.S. 72 (1977). The requirement for an expeditious remedy is codified by statute: once the court entertains an application, it “*shall forthwith award the writ or issue an order directing the respondent to show cause*,” set a prompt return, and hold a hearing no more than five days after the return. 28 U.S.C. § 2243 (emphasis added). These requirements ensure that courts “summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.* Indeed, the Supreme Court has

1 criticized the use of “comparatively cumbersome and time consuming procedure[s]” to decide
 2 habeas petitions, emphasizing the “more expeditious method . . . prescribed by the statute.”
 3 *Holiday v. Johnston*, 313 U.S. 342, 353 (1941).

4 Expeditious consideration is particularly appropriate here because the Court and many
 5 others have already addressed the legality of Respondents’ policies with respect to third country
 6 removals, finding that these policies likely violate or violate due process. *See, e.g., Nguyen*, 2025
 7 WL 2419288, at *18–19. This case presents similar considerations and is thus one that the Court
 8 can address on an expedited basis. Moreover, as noted above, Respondents’ policies envision
 9 removal at any time. Expeditious consideration of this habeas petition is thus warranted to ensure
 10 that Respondents honor Mr. Kumar’s statutory and constitutional rights prior to any removal.

11 Consistent with this Court’s longstanding practice and to facilitate expedited relief,
 12 Petitioner also respectfully requests that the Court effectuate service of the petition on
 13 Respondents.⁴ Upon service, the Court should order that Respondents must file their return to the
 14 habeas petition within seven days, and further order that Petitioner may file any reply within five
 15 days of Respondents’ return. *See* 28 U.S.C. § 2243 (setting “three days” as the default for
 16 Respondents’ return deadline). In addition, the Court should direct Respondents to file any
 17 arguments in support of dismissal of the petition with their return and instruct that they may not
 18 file a separate motion to dismiss. *See, e.g., Browder v. Dir., Dep’t of Corr. of Illinois*, 434 U.S.
 19 257, 269 n.14 (1978) (explaining that the “view. . . that a Rule 12(b)(6) motion is an appropriate
 20 motion in a habeas corpus proceeding . . . is erroneous,” as “[t]he custodian’s response to a
 21 habeas corpus petition is not like a motion to dismiss,” and instead, the “procedure for
 22 responding to the application for a writ of habeas corpus, unlike the procedure for seeking

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 24 ⁴ Service by the Court is also consistent with the practice in habeas proceedings under 28
 25 U.S.C. §§ 2254 and 2255. *See* U.S. Courts, Rules Governing Section 2254 Cases and Section
 26 2255 Proceedings (Dec. 1, 2019), at 3 (“In every case, the clerk must serve a copy of the petition
 27 and any order on the respondent”); *id.* at 9 (“The clerk must then deliver or serve a copy of
 the motion on the United States attorney in that district, together with a notice of its filing.”).
 Furthermore, Federal Rule of Civil Procedure 4(c)(3) permits a plaintiff proceeding in forma
 pauperis to request service of a complaint and summons by a person appointed by the Court.

correction of a judgment, is set forth in the habeas corpus statutes and, under Rule 81(a)(2)’’); *see also O’Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990) (citation modified) (similar).

CONCLUSION

For the reasons above, the Court should order a return from Respondents within seven days and any response from Petitioner within five days of the filing of Respondents’ return. Should Respondents decide to remove Mr. Kumar to Uganda while this case is pending, Petitioner will immediately seek an emergency temporary restraining order. Accordingly, Petitioner further requests that the Order to Show Cause require Respondents to provide at least 48 hours’ notice (or 72 hours’ notice if the period extends into the weekend) prior to any action to move or transfer him from the NWIPC or to remove him from the United States.

Respectfully submitted this 21st day of October, 2025.

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I certify this motion contains 1,568 words in compliance with the Local Civil Rules.

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