

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Case No. 2:25-cv-1819

**EX PARTE MOTION TO ISSUE
ORDER TO SHOW CAUSE AND
ISSUE EXPEDITED BRIEFING
SCHEDULE**

Note on Motion Calendar:
September 19, 2025

██████████
Plaintiffs,

v.

Cammilla WAMSLEY, et al.,

Defendants.

INTRODUCTION

Petitioner ██████████ is a lawful permanent resident of the United States who has been detained at the Northwest Immigration and Customs Enforcement (ICE) Processing Center (NWIPC) for over eighteen months. He is currently suffering from severe symptoms of Crohn's disease, which have flared up—and been left largely untreated—while in ICE custody. These daily symptoms include nausea, vomiting, diarrhea, and fatigue.

Mr. ██████████ is also entitled to release—and has been for months. As detailed in the memorandum that accompanies this filing, Mr. ██████████ was initially ordered removed for a conviction that has since been vacated. The new convictions to which he pleaded do not render

1 him removable, and as a result, his ongoing detention is unlawful. Mr. [REDACTED] has already
2 attempted to raise this claim to the agency, but it has refused to release him, even though a
3 straightforward reading of ICE’s detention authority and the Supreme Court precedent
4 interpreting that authority demonstrate the agency has no lawful basis to detain him.

5 Accordingly, Mr. [REDACTED] respectfully requests that the Court immediately issue an order to
6 show cause that ensures prompt resolution of this matter. Notably, the Court has issued similar
7 orders to show cause in recent weeks. *See, e.g.,* Order, *Toktosunov v. Wamsley*, No. 2:25-cv-
8 01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (requiring return to petition within ten days); Order,
9 *Guzman Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to
10 petition within seven days). It should do the same here.

11 ARGUMENT

12 This case is a habeas petition challenging executive detention under 28 U.S.C. § 2241. As
13 the Supreme Court has explained, this habeas statute provides “a swift and imperative remedy in
14 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled*
15 *on other grounds, Wainwright v. Sykes*, 433 U.S. 72 (1977). Given its purpose, “[t]he application
16 for the writ usurps the attention and displaces the calendar of the judge or justice who entertains
17 it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,
18 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also, e.g., Van Buskirk v. Wilkinson*,
19 216 F.2d 735, 737–38 (9th Cir. 1954) (“[R]emedy by petition for writ of habeas corpus . . . is a
20 speedy remedy, entitled by statute to special, preferential consideration to insure expeditious
21 hearing and determination.”).

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

8 In the Court’s orders on similar requests, it has noted that the “Rules Governing Section
9 2254 Cases in the United States District Courts” supersede 28 U.S.C. § 2243, and that those rules
10 allow for “a response [that] is due within the period of time fixed by the court.” *Guzman Alfaro*
11 *v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified).

12 But even if that is so, as the Court has recognized in these orders, expeditious processing of a
13 petition for writ of habeas corpus is still warranted. In a typical § 2241 habeas petition, the Court
14 issues an OSC several days or even weeks after the petition is filed. That OSC normally requires
15 a return within thirty days, rather than the three days presumptively established by statute. Then,
16 at the time the return is filed, the government files a return and motion to dismiss, which is noted
17 for twenty-eight days later, as required by LCR 7(d)(4). Once briefing on the motion is complete,
18 the petitions are first considered by a magistrate judge, who issues a report and recommendation
19 (R&R) and provides another fourteen days for objections, and another fourteen days for
20 responses to those objections. As a result, even assuming that an OSC is issued the same day a
21 petition is filed (which does not typically happen) and a magistrate judge issues an R&R the
22 same day as the noting date on the government’s motion to dismiss, it takes *at least* three months
23 for a district judge to first consider a petitioner’s habeas petition. It is precisely this type of
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1 “comparatively cumbersome and time consuming procedure of reference, report, and hearing
2 upon [a] report” that the Supreme Court has criticized as a means to decide habeas petitions,
3 emphasizing the “more expeditious method . . . prescribed by the statute.” *Holiday v. Johnston*,
4 313 U.S. 342, 353 (1941).

5 Mr. [REDACTED] also respectfully submit that Congress did not intend for the § 2254 Rules to
6 supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ
7 dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already
8 proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and
9 Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by
10 definition, such cases have already received extensive oversight by state or federal judges. That
11 is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a
12 “government enforcement agent” who has made any decision about the propriety of detention,
13 *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a
14 neutral decisionmaker that due process typically requires, *see, e.g., Shadwick v. City of Tampa*,
15 407 U.S. 345, 350 (1972) (“Whatever else neutrality and detachment might entail, it is clear that
16 they require severance and disengagement from activities of law enforcement.”); *see also*
17 *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). This backdrop—and counsel’s experience
18 with the Court waiting to issue orders to show cause and the lengthy process that follows—is
19 important to understanding why Mr. [REDACTED] respectfully submits that the Court should
20 immediately issue an order to show cause, and why it should do so on a schedule that aligns
21 closely to the one reflected in § 2243.

22 Notably, many other district courts decide habeas petitions involving challenges to
23 immigration detention in a matter of days or weeks. *See, e.g., Lopez Benitez v. Francis*, --- F.

Supp. 3d ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (granting habeas petition filed on July 18, 2025, by noncitizen challenging application of mandatory detention statute); *Diaz Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025) (granting habeas petition filed on June 3, 2025, involving similar claims); *Salad v. Dep't of Corr.*, 769 F.Supp.3d 913, 918 (D. Alaska 2025) (habeas petition filed Feb. 7, 2025, writ granted Mar. 7, 2025, in case involving detention of Temporary Protected Status (TPS) applicant); *Sanchez v. Puentes*, No. 1:25-cv-00509-LMB-LRV (E.D. Va. Mar. 28, 2025) (granting habeas petition of TPS applicants filed on Mar. 21, 2025); *Cordon-Salguero v. Noem*, No. 1:25-cv-01626-GLR (D. Md. June 18, 2025) (granting in part habeas petition filed on May 20, 2025, involving re-detention of person with final removal order); *Tadros v. Noem*, No. 2:25-cv-04108-EP (D.N.J. June 17, 2025) (granting habeas petition filed on May 10, 2025, involving similar claims). This 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. [REDACTED] neglected medical care, his ultimate entitlement to liberty, and the statutory requirements for habeas proceedings and the caselaw cited above, Mr. [REDACTED] respectfully requests that the Court issue an order to show cause that effectuates service on Respondents and which issues the following briefing schedule:

- Respondents' return: due five days from issuance of the order to show cause
- Petitioner's traverse and response: due three days from the filing of the return

Respectfully submitted this 19th day of September, 2025.

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** Application for admission pro hac vice
forthcoming*

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WORD COUNT CERTIFICATION

I, Leila Kang, certify that this motion contains 1,392 words, in compliance with the Local Civil Rules.

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