

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ROBERTO CHAVEZ BARRIOS,)
Petitioner-Plaintiff,)
v.)
GARRETT J. RIPA, in his official capacity as)
Director of Miami Field Office, U.S. Immigration)
and Customs Enforcement; TODD LYONS,) Case No. 1:25-cv-22644-DPG
in his official capacity as Acting Director of)
U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, in her official capacity as)
Secretary of the U.S. Department of Homeland)
Security; U.S. DEPARTMENT OF)
HOMELAND SECURITY; and U.S.)
IMMIGRATION AND)
CUSTOMS ENFORCEMENT,)
Respondents-Defendants.)

PETITIONER-PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE

Petitioner-Plaintiff, Roberto Chavez Barrios, a civil detainee in the custody of Respondents-Defendants who has petitioned this Court for a writ of habeas corpus under 28 U.S.C. § 2241, hereby moves the Court, by and through undersigned counsel, to enter an order to show cause pursuant to 28 U.S.C. § 2243.

LEGAL FRAMEWORK

28 U.S.C. § 2243 provides that “[a] court, justice or judge entering 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, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. “The person to whom the writ or order

is directed shall make a return certifying the true cause of the detention.” *Id.* Typically, “[t]he writ, or order to show cause . . . shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243. In response, a petitioner may “traverse[]” “[t]he allegation of a return to the writ of habeas corpus or of an answer to an order to show cause,” § 2248, and may “deny any of the facts set forth in the return or allege any other material facts” and file “suggestions made against” the return, § 2243.

The federal habeas statutes call for this process to be “swift, flexible, and summary.” *Preiser v. Rodriguez*, 411 U.S. 475, 495 (1973) (citing 28 U.S.C. § 2243); *see also Walker v. Johnston*, 312 U.S. 275, 283-84 (1941) (“The court or judge ‘shall proceed in a summary way to determine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the party as law and justice require.’”) (citation omitted). At every stage in the proceedings, courts should issue the writ “with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969). Indeed, given the summary nature of habeas proceedings, 28 U.S.C. § 1657(a) provides that “court[s] shall expedite the consideration of any action brought under chapter 153 . . . of this title.”

ARGUMENT

The Court should immediately order Respondents-Defendants to show cause within three days, with leave for the petitioner to file a traverse within three days. This expedited treatment is fully consistent with the nature of habeas proceedings and is particularly warranted here. Indeed, Mr. Chavez Barrios previously spent more than thirty months in Respondents-Defendants’ custody without justification and Respondents-Defendants’ equally had no justification to re-detain him today in violation of their own procedures and the Fifth Amendment’s due process

guarantees, and in blatant regard of the fact that detention would exacerbate Mr. Chavez Barrios' severe and debilitating Post-Traumatic Stress Disorder. *See* ECF No. 1 (Habeas Petition and Complaint); ECF No. 1-6 at 1, 9 (Psych. Eval.).

As explained in his habeas petition, Mr. Chavez Barrios was released from Respondents-Defendants' custody on an Order of Supervision ("OSUP") on April 21, 2023, after spending more than thirty months in detention despite having twice been granted deferral of removal from Mexico under the Convention Against Torture ("CAT"). Since then, Mr. Chavez Barrios has fully complied with the conditions of his OSUP, fully participated in his immigration proceedings (which remain pending), and has been granted CAT deferral for a third time. But today—with no notice, no justification, and no regard for his severe PTSD—Respondents-Defendants abruptly revoked Mr. Chavez Barrios' OSUP and re-detained him.

Respondents-Defendants' actions were contrary to their own procedures and arbitrary and capricious in violation of the Administrative Procedure Act. They equally contravene Mr. Chavez Barrios' procedural and substantive due process rights under the Fifth Amendment of the U.S. Constitution, as well as violate the Immigration and Nationality Act and the Rehabilitation Act. *See* ECF No. 1. Absent swift intervention from this Court, Respondents-Defendants will continue to violate Mr. Chavez Barrios' statutory and constitutional rights and seriously endanger his fragile health. Therefore, pursuant to 28 U.S.C. § 2243, Mr. Chavez Barrios respectfully requests that the Court immediately issue an order requiring Respondents-Defendants to show cause within five days as to why his Petition for a Writ of Habeas Corpus should not be granted, with leave for Mr. Chavez Barrios to file a traverse within five days, unless agreed otherwise by the parties.

RELIEF REQUESTED

Based upon the foregoing, Mr. Chavez Barrios requests that this Honorable Court enter an order to show cause pursuant to 28 U.S.C. § 2243, ordering that Respondents expeditiously file a return “show[ing] cause why the writ should not be granted” within five days, and allowing Mr. Chavez Barrios five days to file his traverse, unless agreed otherwise by the parties.

CERTIFICATE OF GOOD FAITH CONFERENCE

While a notice of appearance has not yet been filed on behalf of Respondents-Defendants, counsel for Mr. Chavez Barrios contacted the U.S. Attorney’s Office for the Southern District of Florida to confer regarding this case today at 5:42pm. As of the filing of this motion, counsel has not yet received a response from the Assistant U.S. Attorney assigned to this matter.

Dated: June 11, 2025

Respectfully submitted,

s/ Andrea Jacoski
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*Application for Admission
Pro Hac Vice pending

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