

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
SCRANTON DIVISION**

LUCAS OLOGBENLA ,

Petitioner,

v.

CRAIG LOWE, *in his official capacity as
Warden of Pike County Correctional Center,*

BRIAN MCSHANE, *in his official capacity as
Pennsylvania ICE Field Office Director,*

KRISTI NOEM, *in her official capacity as
Secretary of the Department of Homeland
Security,*

PAM BONDI, *in her official capacity of United
States Attorney General*

Respondents.

Case No. 3:25-cv-01351-JKM-MP

**PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR TEMPORARY RESTRAINING ORDER
OR PRELIMINARY INJUNCTION, IMMEDIATE RELEASE
PURSUANT TO *LUCAS V. HADDEN*, AND/OR ORDER TO SHOW CAUSE**

PRELIMINARY STATEMENT

Lucas Ologbenla (“Mr. Ologbenla” or “Petitioner”) is a forty-three-year-old citizen of Nigeria who has lived in the United States as a Lawful Permanent Resident for more than twelve years and has been detained in Immigration and Customs Enforcement (“ICE”) custody for nearly two years. *See* Petition for a Writ of Habeas Corpus (“Petition”), at ¶ 1 (simultaneously filed with the present Motion). On or about December 13, 2012, Mr. Ologbenla became a Lawful Permanent Resident after entering the United States with an immigrant visa obtained through the Diversity Visa Program. *Id.*, at ¶ 13. In June 2022, Mr. Ologbenla entered into a plea agreement and was convicted of one count of conspiracy to commit wire fraud pursuant to 18 U.S.C. § 1349. *Id.*, at ¶ 14. On March 26, 2025, an immigration judge (“IJ”) found that Mr. Ologbenla had met the requirements for deferral of removal under the Convention Against Torture (“CAT”). *Id.*, at ¶ 15. ICE continues to detain Mr. Ologbenla despite the IJ granting him legal protection against removal.

ICE’s decision to continue detaining Mr. Ologbenla not only violates Mr. Ologbenla’s constitutional rights, but also directly conflicts with ICE’s longstanding policy of releasing individuals granted fear-based relief, including during the pendency of an agency appeal. His continued detention places Mr. Ologbenla in imminent danger of irreparable mental and physical harm based on the dangerous and neglectful conditions he faces at Pike County Correctional Facility (“Pike”). The threats to Mr. Ologbenla’s physical health, mental health, and well-being demand immediate action.

ARGUMENT

Because of the immediate threat to Mr. Ologbenla’s health and safety, as well as his irreparable constitutional harm, this Court must act expeditiously to issue a temporary restraining order or preliminary injunction requiring Respondents to release Mr. Ologbenla and enjoining

them from re-arresting him during the pendency of his habeas petition. Such emergent relief is proper because Mr. Ologbenla is likely to succeed on the merits of his underlying claims for habeas relief, he faces irreparable physical injury and ongoing constitutional harm, and the balance of interests weighs in favor of temporary restraints.

Alternatively, this Court should exercise its inherent authority under *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986) to immediately release Mr. Ologbenla from custody. The Court's invocation of this power is appropriate because Mr. Ologbenla has presented a "clear case for habeas relief" in his underlying petition, and the "exceptional circumstances" in his case warrant special treatment. *Id.* at 367.

Finally, the Court should order Respondents to show cause why Ologbenla's Petition should not be granted within three days. Mr. Ologbenla, who has been confined for a constitutionally unreasonable period in Respondent's custody, suffers an ongoing deprivation of his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution. ICE's actions are all the more unreasonable because its policies direct that he should be released, as someone who has been granted fear-based relief against deportation and poses no danger to the community, no threat to national security, and no flight risk.

Providing a swift remedy to such unlawful government conduct is precisely the function of the Great Writ. Unreasonable delays vitiate that purpose. Consistent with Congress's intent, as expressed in 28 U.S.C. 2243, that district courts expeditiously resolve habeas petitions, this Court should take steps to ensure a prompt disposition of Mr. Ologbenla's petition.

I. The Court Should Grant Preliminary Relief Requiring Respondents to Immediately Release Mr. Ologbenla and Not Re-Detain Him During the Pendency of This Petition.

In considering whether preliminary relief is appropriate, courts consider the following factors: (1) the likelihood of success on the merits, (2) whether a delay in adjudication is more likely than not to cause irreparable damage, (3) “the possibility of harm to other interested persons,” and (4) whether the “public interest” weigh in favor of preliminary relief. *Reilly v. City of Harrisburg*, 858 F.3d 173, 176, 179 (3d Cir. 2017) (quoting *Del. River Port Auth. v. Transamerican Trailer Transp., Inc.*, 501 F.2d 917, 919-20 (3d Cir. 1974)). Consideration of a request for a temporary restraining order weighs the same factors. *See, e.g., Am. Tel. and Tel. Co. v. Winback and Conserve Program, Inc.*, 42 F.3d 1421 (3d Cir. 1994); *Lozano v. City of Hazleton*, 459 F. Supp. 2d 332, 335 (M.D. Pa. 2006). Likelihood of success on the merits and risk of irreparable harm are threshold matters. *Reilly*, 858 F.3d at 179. Once they are proven, the court balances all four factors to determine whether to grant immediate relief. *Id.*

A. Mr. Ologbenla is Likely to Succeed on the Merits of His Petition for a Writ of Habeas Corpus.

A litigant seeking a temporary restraining order, or a preliminary injunction need not prove his case as a prerequisite nor show that his success is assured. *Oburn v. Shapp*, 521 F.2d 142, 148 (3d Cir. 1975). Instead, a party need only demonstrate a “[p]rima facie case showing a reasonable probability that it will prevail.” *Id.*; *see Reilly*, 858 F.3d at 179 (preliminary equitable relief requires a showing “significantly better than negligible” but not “more likely than not.”). Moreover, “where factors of irreparable harm, interests of third parties and public considerations strongly favor the moving party, an injunction might be appropriate ‘even though plaintiffs did not demonstrate as strong a likelihood of ultimate success as would generally be required.’” *In re Arthur Treacher’s Franchisee Litigation*, 689 F.2d 1137, 1147 (3d Cir. 1982) (quoting *Constr.*

Ass'n of W. Pa. v. Kreps, 573 F.2d 811, 815 (3d Cir. 1978)); see *Reilly*, 858 F.3d at 179 (“[T]he more net harm an injunction can prevent, the weaker the plaintiff’s claim on the merits can be while still supporting some preliminary relief.”) (quoting *Hoosier Energy Rural Elec. Coop., Inc. v. John Hancock Life Ins. Co.*, 582 F.3d 721, 725 (7th Cir. 2009)). This is so because the adjudicating court’s goal is “to minimize the probable harm to legally protected interests” during the pendency of litigation. *Kreps*, 573 F.2d at 815. Here, the strong merits of Mr. Ologbenla’s claims meet the requisite standard.

1. Mr. Ologbenla has a Reasonable Likelihood of Success in Demonstrating that his Twenty-Three-Month Long Confinement--Which is Likely to Continue for Many More Months, if Not Years--Without an Individualized Bond Hearing is Unconstitutionally Prolonged.

As an individual detained under § 1226(c), Mr. Ologbenla has a due process right to a bond hearing when his detention becomes unreasonably prolonged. The Third Circuit has long held that the Fifth Amendment’s Due Process Clause limits prolonged immigration detention without bond. See *Diop v. ICE*, 656 F.3d 221, 233 (3d Cir. 2011); *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 469, 475-78 (3d Cir. 2015). Following the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), which declined to read 8 U.S.C. § 1226(c) as automatically requiring bond hearings for all noncitizens after six months of detention, the Third Circuit in *German Santos* reaffirmed the reasoning in *Diop* and *Chavez-Alvarez* and held that when detention becomes unreasonably prolonged, due process requires a bond hearing where the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community. *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d at 210, 213-214 (3d Cir. 2020). Under the framework articulated in *German Santos*, Mr. Ologbenla’s detention has become unjustifiably prolonged and therefore he is entitled

to a hearing at which the Government bears the burden of proving that continued detention is necessary to fulfill the non-punitive purposes of the detention statute. *See id.* at 206-208.

In *German Santos*, which, as here, involved mandatory detention under 8 U.S.C. § 1226(c), the Third Circuit articulated a four-factor, non-exhaustive, case-by-case balancing test for determining whether a noncitizen's mandatory detention has become unreasonably prolonged. 965 F.3d at 211. The four factors, which borrow from *Diop* and *Chavez-Alvarez*, *see Diop*, 656 F.3d at 234; *Chavez-Alvarez*, 783 F.3d at 474, are (1) the “duration of detention[;]” (2) “whether the [noncitizen]’s detention is likely to continue[;]” (3) “the reasons for the delay,” particularly “whether either party made careless or bad-faith errors in the proceedings that caused unnecessary delay[;]” and (4) “whether the [noncitizen]’s conditions of confinement are meaningfully different from criminal punishment.” *Id.* at 211 (internal quotation marks, citations, and alterations omitted).

First, Mr. Ologbenla has been detained by ICE since August 29, 2023. This amounts to nearly twenty-three months of civil confinement. The length of his confinement goes well beyond the timeframe set forth in *German Santos* and longer than a multitude of habeas petitioners to whom this Court has granted relief. The Third Circuit has held that mandatory detention without bond “becom[es] unreasonable sometime between six months and one year.” *German Santos*, 965 F.3d at 211 (citing *Chavez-Alvarez*, 783 F.3d at 478); *see also Diop*, 656 F.3d at 234 (holding that mandatory detention “becomes more and more suspect” after five months); *Gayle v. Warden Monmouth Cty. Corr. Inst.*, 12 F.4th 321, 332 (3d Cir. 2021) (explaining that an “unreasonably long” detention under § 1226(c) “may be six months”). Applying Third Circuit law, the Middle District of Pennsylvania has repeatedly found detention periods between twelve and nineteen months to be unreasonably prolonged. *See, e.g., Baptista v. Lowe*, No. 1:23-cv-1666, 2024 WL

3410600, at *3 (M.D. Pa. Apr. 30, 2024) (nineteen months); *Malede v. Lowe*, No. 1:22-cv-01031, 2022 WL 3084304, at *5 (M.D. Pa. Aug. 3, 2022) (eighteen months); *Davydov*, 2020 WL 969618, at *8 (fourteen months); *Kleinauskaite v. Doll*, No. 4:17-cv-02176, 2019 WL 3302236, at *6 (M.D. Pa. July 23, 2019) (twelve months); *Bah v. Doll*, No. 3:18-cv-1409, 2018 WL 6733959, at *7 (M.D. Pa. Oct. 16, 2018) (fourteen months); *report and recommendation adopted*, 2018 WL 5829668 (M.D. Pa. Nov. 7, 2018); *Sassmannshausen v. Doll*, No. 3:17-cv-1244, 2017 WL 4324836, at *1, *3 (M.D. Pa. Aug. 10, 2017) (thirteen months), *report and recommendation adopted*, No. 3:17-cv-1244, 2017 WL 4310177 (M.D. Pa. Sept. 28, 2017).

Second, Mr. Ologbenla's detention will inevitably continue, as ICE filed notice of its intent to appeal the IJ's decision granting Mr. Ologbenla CAT protection to the Board of Immigration Appeals ("BIA") on April 1, 2025. *See* Petition at ¶ 16. Mr. Ologbenla has already been granted protection from removal and it is likely that the BIA will either affirm this decision or remand the case back to the IJ for further analysis. If, on a potential remand, the IJ affirms their grant of CAT protection, DHS may choose to appeal once again, meaning Mr. Ologbenla's detention will be even further extended. The government's decision to contest the IJ's findings will indefinitely prolong Mr. Ologbenla's detention unless this Court acts to order a bond hearing.

Third, Mr. Ologbenla did not cause any delay in his proceedings that would justify his prolonged detention. Mr. Ologbenla has expeditiously pursued his claim for relief and has not requested any continuances. He was granted relief from deportation by an IJ, and the only reason his proceedings remain pending is because of the government's decision to appeal that grant.

Fourth, Mr. Ologbenla can definitively establish that the conditions of his confinement mirror the punitive conditions one would experience in criminal confinement. *See* Petition at ¶¶ 18-20. Specifically, Mr. Ologbenla is detained in a correctional facility which severely restricts

opportunities for movement or interaction outside his cell. *Id.* Mr. Ologbenla is housed alongside criminal inmates, creating an environment that is punitive in nature and inconsistent with the principles of civil detention. *Id.* Outdoor access is also severely restricted, limited to only two times per week for a duration of 30 to 60 minutes, depriving Mr. Ologbenla of regular exposure to fresh air and sunlight. *Id.* Additionally, there is no access to gym facilities or other recreational opportunities, further exacerbating the physical and psychological toll of these conditions. *Id.* Mr. Ologbenla has also been deprived of adequate medical care at Pike. *Id.* Mr. Ologbenla's experiences affirm what this and other Courts have repeatedly held: the conditions at Pike are not meaningfully different than those in criminal confinement. *See, German Santos*, 965 F.3d at 211; *Malede v. Lowe*, No. 1:22-cv-01031, 2022 WL 3084304, at *7.

B. Mr. Ologbenla's Prolonged and Unlawful Detention Creates a Clear Risk of Irreparable Harm, Including the Ongoing Violation of His Constitutional Rights and Ongoing Harm to His Physical Health.

"Irreparable injury" sufficient to justify emergent relief requires a showing of "significant risk that he or she will experience harm that cannot adequately be compensated." *Adams v. Freedom Forge Corp.*, 204 F.3d 475, 484-85 (3d Cir. 2000). The central question is whether the threatened harm is such that it "cannot be redressed by a legal or an equitable remedy following a trial." *Instant Air Freight Co. v. C.F. Air Freight, Inc.*, 882 F.2d 797, 801 (3d Cir. 1989). An ongoing constitutional violation is a per se form of irreparable harm. *Susquehanna Valley All. v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 245 (3d Cir. 1980) ("[P]laintiffs' . . . allegation of irreparable harm to their constitutional right to 'life and liberty' meets the irreparable harm standard."). Indeed, where the movant establishes a prima facie constitutional claim, it is very likely "the other requirements for a preliminary injunction are satisfied." *Stilp v. Contino*, 613 F.3d 405, 409 (3d Cir. 2010). Courts in this circuit have applied this principle in preliminarily enjoining constitutional violations. *See GJJM Enterprises, LLC, v. City of Atlantic City*, 293 F.

Supp. 3d 509, 520-21 (D.N.J. 2017). Unlawful incarceration has been determined to constitute “a harm which cannot be redressed following a trial” and thus satisfies the irreparable-harm requirement. *Forchion v. Intensive Supervised Parole*, 240 F. Supp. 2d 302, 310 (D.N.J. 2003).

Under this circuit’s precedent, Mr. Ologbenla has established a prima facie violation of his constitutional rights to due process and liberty, rising to irreparable harm. *See, e.g., German Santos*, 965 F.3d at 206-08 (providing a framework for analyzing such challenges that includes duration of detention, “whether the detention is likely to continue,” “reasons for the delay,” and whether the noncitizen’s “conditions of confinement are ‘meaningfully different’ from criminal punishment.”). Here, Mr. Ologbenla is suffering from an ongoing denial of his procedural due process rights because of his unreasonably prolonged detention without an individualized bond hearing. He has been detained by Respondents for nearly twenty-three months without a bond hearing. He has spent the majority of his time in ICE detention at Pike, where he is currently detained. Mr. Ologbenla has been subject to abysmal, punitive conditions throughout the duration of his ICE detention, and at Pike, the conditions of his detention are wholly indistinguishable from criminal confinement. Pike is a criminal correctional facility, and Mr. Ologbenla is housed in a mixed population of criminal detainees and individuals detained by ICE. *See* Petition at ¶ 18. The guards at Pike do not treat the ICE detainees differently than they treat individuals detained on criminal charges. *Id.* at ¶ 19. The guards and facility staff at Pike also utilize draconian disciplinary procedures, including frequent write-ups for minor disciplinary infractions, and utilizing threats of solitary confinement or an increased term of detention. *Id.* Even though Mr. Ologbenla has no disciplinary history at Pike, he has the justifiable fear of being subject to the guards arbitrarily punishing him with a term of solitary confinement. *Id.*

While in custody, Mr. Ologbenla has developed several serious medical conditions that threaten his health and well-being, and for which he is not receiving adequate medical treatment. Mr. Ologbenla has developed severe acid reflux, which causes significant discomfort, disrupts his sleep, and impairs his capacity to communicate orally. *See* Petition at ¶ 22. He has undergone multiple tests and tried numerous medications, but these efforts have been unsuccessful at managing his symptoms. *Id.* Mr. Ologbenla has also developed high blood pressure, which he believes is attributable to the highly processed and high-sodium diet he receives in custody. *Id.* His high blood pressure became so severe that emergency medical services were called to transport him to the ER for treatment. *Id.*

Although he has received some medical services within the facility, the continued decline in his health makes clear that such care has not been adequate. His acid reflux has worsened to the point that it interferes with his basic daily life functions. This is not only a serious physical health issue, but also a growing mental health concern. His inability to communicate has affected his capacity to advocate for himself, engage with legal counsel, and maintain meaningful contact with loved ones. Inflicting further indefinite detention on Mr. Ologbenla under the injurious conditions of detention he faces at Pike places him at continued risk of further physical and psychological harm.

C. The Risk of Harm to Other Interested Parties if Mr. Ologbenla is Immediately Released is Minimal Compared to the Risk of Harm Should His Detention Drag on Indefinitely.

When a fundamental right like Mr. Ologbenla's interest in his liberty is at stake, it weighs heavily against any harm posited by the opposing party. *See, e.g., Reilly v. City of Harrisburg*, 336 F.3d 451, 472 (M.D. Pa. 2018), *aff'd*, 790 F. App'x. 468 (3d Cir. 2019), *cert requested* ("It goes without saying, however, that a deprivation of a constitutional right is contrary to the public

interest and the harm to others ..., although substantial, does not outweigh such a denial.”). This is particularly so where, as here, the burden on other interested parties is merely administrative. *See United States v. Berks County, Pa.*, 250 F. Supp. 2d 525, 541 (E.D. Pa. 2003) (finding that minimal administrative expenses were “far outweighed by the fundamental right at issue.”). ICE could simply release Mr. Ologbenla with an Order of Supervision, as it routinely does, and could re-detain him if the habeas petition is ultimately denied or he is ultimately ordered removed, both of which are highly unlikely. As such, the harm to the government in releasing Mr. Ologbenla during the pendency of the habeas petition is minimal, if existent at all. Here, the balance clearly tips in favor of Mr. Ologbenla, whose life, health, safety and liberty exponentially outweigh any potential burden on Respondents.

D. The Balance of Equities and Public Interest Favor Mr. Ologbenla’s Release.

“If a plaintiff proves ‘both’ a likelihood of success on the merits and irreparable injury, it ‘almost always will be the case’ that the public interest favors preliminary relief.” *Issa v. School Dist. of Lancaster*, 847 F.3d 121, 143 (3d Cir. 2017) (quoting *Winback & Conserve Program, Inc.*, 42 F.3d at 1427 n.8). Here, Mr. Ologbenla has made a clear showing that he is likely to succeed on the merits of his habeas petition, and that he will suffer irreparable harm absent the issuance of injunctive relief. Moreover, “[i]n the absence of legitimate, countervailing concerns, the public interest clearly favors the protection of constitutional rights.” *Council of Alternative Pol. Parties v. Hooks*, 121 F.3d 876, 883-84 (3d Cir. 1997). No public interest is served by permitting the government to detain individuals like Mr. Ologbenla, who has a single, non-violent criminal conviction, has mental and physical health concerns, and who has protection against removal under CAT. Mr. Ologbenla’s argument for release is made even stronger by his history of successfully complying with bail conditions. *See* Petition Ex. A at 10 (Mr. Ologbenla was on bail for three-and-

a-half years, during which time he obeyed all conditions and attended all court dates; there were no alleged violations of his bail conditions. After his guilty plea, the court allowed Mr. Ologbenla an additional six months of recognizance to arrange his personal affairs, following which he surrendered myself without incident to commence his custodial sentence). The public interest thus lies in preventing Respondents from further violating Mr. Ologbenla's due process rights. *See Osorio-Martinez v. Att'y Gen.*, 893 F.3d 153, 179 (3d Cir. 2018) ("[I]t is squarely in the public interest to enable individuals to partake of statutory and constitutional rights and meaningful judicial review[.]"). The public has an interest in preserving the right to petition for habeas review to remedy unlawful executive action as long as there is no detriment to the public. *See Kanivets v. Riley*, 268 F. Supp. 2d 460, 469 (E.D. Pa. Oct. 3, 2003) (citing *INS v. St. Cyr*, 533 U.S. 289 (2001)).

II. This Court May Also Grant Mr. Ologbenla Release Pursuant to *Lucas v. Hadden* Because His Petition Presents a Clear Case for Habeas Relief and the Harm to His Health and Safety Are Exceptional Circumstances.

This Court has the inherent authority to order Mr. Ologbenla's immediate release during the pendency of his petition. *Lucas v. Hadden*, 790 F.2d 365 (3d Cir. 1986); *see also Ahad v. Lowe*, 235 F. Supp. 3d 676, 688-89 (M.D. Pa. 2017); *Leslie v. Holder*, 865 F. Supp. 2d 627, 634-35 (M.D. Pa. 2012) (applying federal courts' authority to order release in the context of immigration habeas). Under the standard developed by various circuit courts and adopted by the Third Circuit in *Lucas*, admission to bail pending resolution of a habeas petition is appropriate where the "habeas petitioner (1) make[s] out a clear case for habeas relief on the law and facts, or (2) establish[es] that exceptional circumstances exist warranting special treatment, or both." 790 F.2d at 367. The archetypical "exceptional circumstances" in bail applications pending habeas

adjudication are failing health and significant medical needs. *See Leslie*, 865 F. Supp. 2d at 636, 639; *Lucas*, 790 F.2d at 367; *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992).

Here, exceptional circumstances justify Mr. Ologbenla's immediate release. As discussed, *supra*, Mr. Ologbenla is highly likely to succeed on the merits of his habeas case. Furthermore, he is detained under conditions that threaten his mental and physical wellbeing, given his isolation, ongoing chronic medical conditions, and constant stress. *See supra*; *see Johnson v. Wetzel*, 209 F. Supp. 3d 766, 781 (M.D. Pa. 2016) (finding irreparable harm where prisoner suffered "escalating symptoms of mental degradation."). Only immediate relief in the form of release will permit a habeas remedy to be effective in this case. *See Leslie*, 865 F. Supp. 2d at 639-40. Mr. Ologbenla is suffering ongoing medical distress, mental strain, and violation of his constitutional rights—these harms will continue if he remains indefinitely detained. As such, this Court should invoke its inherent power to order Mr. Ologbenla's immediate release from Respondents' custody.

III. To Prevent Irreparable Legal and Bodily Injury to Mr. Ologbenla, this Court Should Issue an Order to Show Cause Requiring Respondents to Answer This Claim on an Expedited Basis.

Considering the ongoing and imminent risk to Mr. Ologbenla's health and safety in Respondents' custody and the ongoing deprivation of his right to procedural and substantive due process, and statutory protections, this Court should follow the strict procedural deadlines of § 2243. *See Rules Governing § 2254 Cases*, Rule 1(b) (providing that district courts "may" apply Rule 4 to habeas petitions not arising under 28 U.S.C. § 2254). Accordingly, this Court should forthwith issue a writ of habeas corpus or an order to show cause and order Respondents to make a return within three days. *See* 28 U.S.C. § 2243; *A.L. v. Oddo*, No. 3:24-cv-302, Dkt. No. 10 (giving respondents three days to respond to petitioner's petition for writ). In the alternative, if this Court applies Rule 4, it should exercise the discretion conferred by the Rule and, in harmony with the congressional mandate for accelerated adjudication of habeas petitions, issue an order to

show cause and order Respondents to expeditiously file a return. *See Iremashvili v. Rodriguez*, No. 15-6320, 2017 WL 935441, at *3-4 (D.N.J. Mar. 9, 2017) (recognizing that Rule 4 provides “discretion to courts to establish their own time limits as appropriate.”).

An order to show cause, whether issued pursuant to § 2243 or Rule 4, is appropriate in this case because any other procedure will cause Mr. Ologbenla further irreparable legal and bodily injury. *See* L. Civ. R. 65.1(a) (providing that an order to show cause is appropriate where the movant makes “a clear and specific showing ... why a procedure other than by notice of motion is necessary”). Each additional day that Mr. Ologbenla spends detained compounds the ongoing infringement upon his due process rights, a singularly acute legal injury. *See Smith v. Bennett*, 365 U.S. 708, 712 (1961) (describing “personal liberty” as “man’s greatest right”); *Zadvydas*, 533 U.S. at 690. Worse still, Mr. Ologbenla’s ongoing physical conditions and constant pain, along with Respondents’ inability to provide safe detention conditions, endanger his bodily integrity and mental wellbeing. Swift judicial intervention to prevent such harms is the very reason that the writ of habeas corpus exists and enjoys such reverence in American jurisprudence. *See Fay v. Noia*, 372 U.S. 391, 399-400 (1963). Only issuance of an order to show cause will fulfill the Great Writ’s promise in this case.

CONCLUSION

For the foregoing reasons, Mr. Ologbenla respectfully moves this Court to:

- (1) Issue a temporary restraining order or preliminary injunction requiring Respondents to release Petitioner and enjoining them from continuing to detain Petitioner during the pendency of this petition; and/or
- (2) Order Petitioner released from Respondents’ custody pursuant to this Court’s inherent authority as described *Lucas v. Hadden*; and/or

- (3) Order Respondents to show cause why Petitioner's Petition should not be expeditiously granted; and/or
- (4) Grant Petitioner such other, further and additional relief as this Court deems just and appropriate.

Dated: July 24, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petitioner's Memorandum of Law in Support of Motion for Temporary Restraining Order or Preliminary Injunction, Immediate Release Pursuant to *Lucas v. Hadden*, and/or Order to Show Cause using the CM/ECF system. I will furthermore mail a copy to the following individuals:

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