

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 0:25-cv-61492-MD

JUAN DAVID PESTANA BUENDIA,

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; KRISTI NOEM, Secretary of
U.S. Department of Homeland Security;
TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement;
GARRETT RIPA, Assistant Field Office in
Charge of Miami Field Office for U.S.
Immigration and Customs Enforcement;
WARDEN of BROWARD
TRANSITIONAL CENTER,

Respondents.

APPLICATION FOR ISSUANCE OF ORDER TO SHOW CAUSE

Pursuant to 28 U.S.C. § 2243, Petitioner Juan David Pestana Buendia ("Petitioner") respectfully requests that this Court "forthwith" issue an order directing Respondents, U.S. Department of Homeland Security ("DHS"), Kristi Noem, Secretary of DHS, Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement (ICE), Garrett Ripa, Assistant Field Officer in Charge of Miami Field Office for ICE, and Warden of Broward Transitional Center (collectively "Respondents") to show cause why the petition for a writ of habeas corpus filed by Petitioner under 28 U.S.C. § 2241 should not be granted.

Petitioner challenges his unlawful detention and seeks a writ of habeas corpus. *See* Habeas Petition, ECF No. 1. Respondents arrested Petitioner without a warrant, failing to adhere to governing law or the principles of the Fourth Amendment. 8 U.S.C. § 1357. Petitioner remains detained without a meaningful opportunity to challenge his detention in violation of his constitutional right to due process.

The applicable statute 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 writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* Consistent with section 2243, the Court must hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed” and “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.*

Accordingly, Petitioner request that the Court immediately issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why Petitioner’s writ of habeas corpus should not be granted. Petitioner also requests that the Court grant leave for Petitioner to file a reply up to seven (7) days after Respondents file their return, if any.

Granting Respondents additional time to respond is inappropriate in this case because Petitioner faces irreparable harm. Petitioner has no criminal record, and yet he has been deprived of his physical liberty and remains separated from his U.S. citizen wife without being afforded any of the due process protections he is entitled to under 8 U.S.C. § 1226(a). Moreover, Petitioner has a pending application to adjust his status to lawful permanent resident that he is unable to pursue while detained. Absent an order to show cause, Respondents’ unlawful detention will continue and Petitioner continues to face irreparable harm.

Date: July 25, 2025

Respectfully Submitted,

/s/ Martin S. Rosenow
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(Pro Hac Vice forthcoming)

Attorneys for Petitioner