

District Judge Richard A. Jones
Magistrate Judge Theresa L. Fricke

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DABONA TANG,

Petitioner,

v.

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary of
Homeland Security; DREW BOSTOCK, Seattle
Field Office Director; WARDEN of
Immigration Detention Facility; and UNITED
STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Case No. 2:25-cv-01473-RAJ-TLF

FEDERAL RESPONDENTS'
RESPONSE TO THE ORDER TO
SHOW CAUSE

Federal Respondents¹ notify the Court they will respond to Petitioner Dabona Tang's habeas corpus petition by August 25, 2025, as ordered. *See* Dkt. 8.

This Court originally ordered a return by September 8, 2025. Dkt. 6 at 1. Although the Local Civil Rules have abolished motions to shorten time, Petitioner filed a motion asking the Court to shorten Federal Respondents' response time and to forbid a reply. *See* LCR 6(b); Dkt. 7. The Court shortened the Federal Respondents' time before allowing a response. Dkt. 8.

¹ The warden of the Northwest ICE Processing Center is not a Federal Respondent.

1 Federal Respondents acknowledge the Court has discretion to set any schedule it would
2 like. They wish to clarify briefly, however, that the shortened time Petitioner sought is not legally
3 required. Petitioner based his request for a shortened response time on the language in 28 U.S.C.
4 § 2243 stating that a habeas corpus return shall be provided “within three days unless for good
5 cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243. However, the
6 Ninth Circuit has held that district courts have discretion to set appropriate deadlines for responses
7 to habeas petitions. *Clutchette v. Rushen*, 770 F.2d 1469, 1474–75 (9th Cir. 1985). Indeed, “[i]t
8 is long-established law that Habeas Rule 4 supersedes and overrides the prior enactment in § 2243
9 with regard to the time allowed for a response in § 2254 and § 2241 habeas proceedings.” *Peters*
10 *v. Wofford*, 2025 WL 1307796, at *1 (E.D. Cal. May 6, 2025) (collecting cases); *see* Rule 4, Rules
11 Governing Section 2254 Cases in the United States District Courts, at 5, *available at*
12 [https://www.uscourts.gov/sites/default/files/rules_governing_section_2254_and_2255_cases_in](https://www.uscourts.gov/sites/default/files/rules_governing_section_2254_and_2255_cases_in_the_u.s._district_courts_-_dec_1_2019.pdf)
13 [the_u.s._district_courts_-_dec_1_2019.pdf](https://www.uscourts.gov/sites/default/files/rules_governing_section_2254_and_2255_cases_in_the_u.s._district_courts_-_dec_1_2019.pdf). The Court is not cabined by the language in Section
14 2243 and may follow the typical practice in this District, as it did originally. *See* Dkt. 6.

15 Petitioner also asked this Court to forbid Federal Respondents from filing a reply brief.
16 Dkt. 7 at 3. Petitioner argued that Section 2243 does not authorize the filing of a reply—though
17 it does not expressly prohibit it either. Petitioner’s strict interpretation of Section 2243 is
18 misplaced. Under a strict reading, the statute would not allow a written response from Petitioner
19 either. Instead, the statute contemplates live testimony. It states that after the return is submitted,
20 “a day shall be set for hearing,” at which time “the person detained may, under oath, deny any of
21 the facts set forth in the return or allege any other material facts,” “[u]nless the application for the
22 writ and the return present only issues of law.” 28 U.S.C. § 2243.

23 However, Federal Respondents would not argue that Petitioner is prohibited from filing a
24 written response because Section 2243 yields to Habeas Rule 4, which applies to Section 2241

1 petitions and does not restrict the types of filings allowed. *See Wofford*, 2025 WL 1307796, at *1.
2 The Rule states that unless the petition is dismissed on preliminary review, “the judge must order
3 the respondent to file an answer, motion, or other response within a fixed time, or to take other
4 action the judge may order.” Rules Governing Section 2254 Cases, at 5. The Rule expressly
5 allows district courts to order any type of filing, which could include reply briefs. *See id.* The law
6 allows the Court to freely exercise its discretion to permit replies, and it should continue to do so.

7 The Court’s order to show cause does not change the Court’s earlier order allowing
8 Federal Respondents to file a reply brief. *See* Dkts. 6, 8. Therefore, as to the availability of a reply
9 brief, Federal Respondents will operate under the earlier order unless the Court instructs
10 otherwise.

11 Dated August 20, 2025.

12 Respectfully submitted,

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14 Acting United States Attorney

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I certify this memorandum contains 603 words,
in compliance with the Local Civil Rules.