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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Jorge Javier Rodriguez Cabrera,

Petitioner,

v.

John Mattos, Warden, Nevada Southern
Detention Center, et al.,

Respondents.

Case Number: 2:25-cv-01551

**PETITIONER'S APPLICATION FOR
ORDER TO SHOW CAUSE**

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court
“forthwith” issue an order directing Respondents to show cause why the petition for a writ of
habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.

1 2. Petitioner raises a facial and as-applied challenge to Immigration and Customs
2 Enforcement's invocation of the "automatic stay" regulation, at 8 C.F.R. § 1003.19(i)(2). *See*
3 Petition for Writ of Habeas Corpus, ECF No. 1. Petitioner is being detained pursuant to that
4 regulation, and ICE's filing of a boilerplate, one-page, fill-in-the-blank *notice* of intent to file an
5 appeal, despite an Immigration Judge's determination that Petitioner should be released upon the
6 posting of a \$2,500 bond (and any other reasonable "alternative to detention" conditions, such as
7 reporting requirements, that ICE may impose).

9 3. The federal habeas corpus statute provides that "[a] court, justice or judge entering
10 a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to
11 show cause why the writ should not be granted, unless it appears from the application that the
12 applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

14 4. Section 2243 further provides that the writ or order to show cause "shall be returned
15 within three days unless for good cause additional time, not exceeding twenty days, is allowed."

16 5. Section 2243 further provides that the court shall hold a hearing on the writ or order
17 to show cause "not more than five days after the return unless for good cause additional time is
18 allowed."

20 6. In addition, Section 2243 states that the court "shall summarily hear and determine
21 the facts, and dispose of the matter as law and justice require."

22 7. Pursuant to Section 2243, Petitioner requests that the Court immediately issue an
23 Order to Show Cause directing Respondents to file a return within three days of the Court's order,
24 showing cause, if any, why the writ of habeas corpus should not be granted, and to provide
25 Petitioner an opportunity to file a reply/traverse within 48 hours after Respondents file the return.
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1 8. Giving Respondents additional time to respond is inappropriate in this case because
2 Petitioner faces irreparable harm. Granting the Government extra time would directly undercut the
3 very purpose of habeas corpus: to provide a swift and imperative remedy against unlawful
4 detention. Mr. Rodriguez has already been found by an Immigration Judge to pose no danger and
5 no flight risk, and his family stands ready to post the \$2,500 bond immediately.
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7 9. The only reason he remains in custody is ICE's invocation of an ultra vires
8 regulation through a perfunctory, fill-in-the-blank notice. Every additional day of delay continues
9 an unlawful deprivation of liberty in violation of both statute and the Constitution. Congress
10 required returns to be filed within three days absent truly extraordinary circumstances, precisely
11 to prevent the Government from dragging its feet while an individual languishes in unlawful
12 detention. Indeed, at least two district courts have recently ruled that the automatic-stay regulation
13 violates due process. *See Mohammed H. v. Trump*, No. 25- 1576 (JWB/DTS), 2025 U.S. Dist.
14 LEXIS 117197, at *15 (D. Minn. June 17, 2025); *Günaydin v. Trump*, No. 25-CV-01151
15 (JMB/DLM), 2025 U.S. Dist. LEXIS 99237 (D. Minn. May 21, 2025).
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17 10. Here, there is no good cause for delay. The Government has alternative legal
18 mechanisms—such as requesting an emergency stay from the Board of Immigration Appeals—
19 that ensure its interests are fully protected without prolonging Mr. Rodriguez's confinement. By
20 contrast, Mr. Rodriguez's liberty interest and the well-being of his two lawful permanent resident
21 children suffer irreparable harm with each passing day. To extend the Government's response time
22 would effectively reward ICE's abuse of the automatic-stay regulation and invert habeas'
23 fundamental principle: that liberty cannot be held hostage to bureaucratic delay.
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1 **WHEREFORE**, Petitioner respectfully prays that the Court order Respondents to show
2 cause by August 25, 2025 why the petition for a writ of habeas corpus should not issue, and allow
3 Respondent 48 hours thereafter to file any reply/traverse.
4

5 Dated: August 20, 2025

Respectfully submitted,

6 /s/ Anthony D. Guenther
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