

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

JOSE MONTES ESPARZA ,

Petitioner,

v.

WARDEN, FOLKSTON ICE
PROCESSING CENTER, in their official
capacity; KRISTI NOEM, in her official
capacity as Secretary of Department of
Homeland Security; TODD LYONS in his
official capacity as Acting Director of
Immigration and Customs Enforcement;
GEORGE STERLING in his official
capacity as Deputy Field Office Director of
the Atlanta Field Office, Immigration and
Customs Enforcement.

Respondents.

Civil Action No.: 2:25-cv-00113-LGW-BWC

**APPLICATION FOR ISSUANCE OF
ORDER TO SHOW CAUSE**

Pursuant to 28 U.S.C. § 2243, Petitioner Jose Montes Esparza respectfully requests that this Court “forthwith” issue an order directing Respondents, Warden of Folkston ICE Processing Center, Kristi Noem, Secretary of Department of Homeland Security, Todd Lyons, Acting Director of Immigration and Customs Enforcement (ICE), and George Sterling, Deputy Field Officer Director Atlanta Field Office for ICE, (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 the constitutionality of his detention and seeks a writ of habeas corpus. *See* Habeas Petition, ECF No. 1. Respondents continue to detain Petitioner after an

immigration judge granted him release on bond. Petitioner's detention violates, 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act.

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 been detained since June 10, 2025. On July 11, 2025, an immigration judge granted his release on bond pursuant to 8 U.S.C. § 1226(a). In light of the immigration judge's findings that Petitioner is not a danger to the community of a flight risk, his continued detention is a significant deprivation of his fundamental right to freedom. Petitioner remains separated from his wife and five U.S. citizen children and cannot provide for

his family. Absent an order to show cause, Respondents' unlawful detention will persist and Petitioner will continue to face irreparable harm.

Date: September 12, 2025

Respectfully Submitted,

/s/ Alexis Ruiz

Alexis Ruiz (GA 419757)

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