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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Santiago ORTIZ MARTINEZ, et al.,

Petitioners,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-1822

**EX PARTE MOTION TO ISSUE
ORDER TO SHOW CAUSE AND
EXPEDITED BRIEFING
SCHEDULE**

Note on Motion Calendar:
September 19, 2025

INTRODUCTION

Petitioners are five noncitizens who have lived in the United States for years, and in most cases, for decades. They are being held at the Northwest Immigration and Customs Enforcement (ICE) Processing Center (NWIPC) without bond, pursuant to a draconian and punitive policy that considers all persons who entered the United States without admission or parole—regardless of how long they have lived here—to be “applicants for admission” who are “seeking admission” under 8 U.S.C. § 1225(b)(2). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). As Petitioners explain in the memorandum that accompanies this motion and their petition for a writ of habeas corpus, that policy is plainly unlawful. It runs directly counter to the Immigration and

1 Nationality Act's text, the statute's structure, and its long history of application. Notably, this
2 Court has already recognized that this policy is likely unlawful in pending class action litigation
3 before this Court. *See Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

4 This case presents a pure legal question, and one that has a straightforward answer.
5 Indeed, the issue presented has already been exhaustively litigated before this Court, and in cases
6 across the country in which courts have repeatedly and expeditiously issued writs granting relief.
7 Critically, Respondents' policy is resulting in the detention of people who have lived here for
8 decades, are plainly not flight risks or dangers, and are separated from their families.

9 Accordingly, Petitioners respectfully request that the Court immediately issue an order to
10 show cause that ensures prompt resolution of this matter. Notably, the Court has issued similar
11 orders to show cause in recent weeks. *See, e.g., Order, Toktosunov v. Wamsley*, No. 2:25-cv-
12 01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (requiring return to petition within ten days); *Order,*
13 *Guzman Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to
14 petition within seven days in case that presents the exact same claim as the one in *Rodriguez*
15 *Vazquez* and here). It should do the same here.¹

16 ARGUMENT

17 This case is a habeas petition challenging executive detention under 28 U.S.C. § 2241. As
18 the Supreme Court has explained, this habeas statute provides "a swift and imperative remedy in
19 all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled*

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22 ¹ The undersigned counsel are also class counsel in *Rodriguez Vazquez*. A motion for summary
23 judgment on the issue raised here is pending in *Rodriguez Vazquez*. However, because of the
24 limitations on classwide injunctive relief in 8 U.S.C. § 1252(f)(1), Petitioners file this action to
seek relief while that decision remains pending, or to seek the benefit of any classwide
declaratory relief that issues on behalf of the class there, should the government fail to abide by
the Court's final judgment.

1 on other grounds, *Wainwright v. Sykes*, 433 U.S. 72 (1977). Given its purpose, “[t]he application
2 for the writ usurps the attention and displaces the calendar of the judge or justice who entertains
3 it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,
4 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); see also, e.g., *Van Buskirk v. Wilkinson*,
5 216 F.2d 735, 737–38 (9th Cir. 1954) (“[R]emedy by petition for writ of habeas corpus . . . is a
6 speedy remedy, entitled by statute to special, preferential consideration to insure expeditious
7 hearing and determination.”).

8 Congress’s intent to provide an expeditious remedy is reflected in 28 U.S.C. § 2243.
9 Under that statute, “[a] court, justice or judge entertaining an application for a writ of habeas
10 corpus shall forthwith award the writ or issue an order directing the respondent to show cause
11 why the writ should not be granted.” 28 U.S.C. § 2243. The custodian must file a return “*within*
12 *three days* [of the OSC] unless for good cause additional time, not exceeding twenty days, is
13 allowed.” *Id.* (emphasis added). Consistent with these expeditious procedures, the statute further
14 requires a hearing “not more than five days after the return,” unless good cause is established. *Id.*
15 These requirements ensure that courts “summarily hear and determine the facts, and dispose of
16 the matter as law and justice require.” *Id.*

17 In the Court’s orders on similar requests, it has noted that the “Rules Governing Section
18 2254 Cases in the United States District Courts” supersede 28 U.S.C. § 2243, and that those rules
19 allow for “a response [that] is due within the period of time fixed by the court.” *Guzman Alfaro*
20 *v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified).

21 But even if that is so, as the Court has recognized in these orders, expeditious processing of a
22 petition for writ of habeas corpus is still warranted. In a typical § 2241 habeas petition, the Court
23 issues an OSC within several days, or even weeks, after the petition is filed. That OSC normally
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1 requires a return within thirty days, rather than the three days presumptively established by
2 statute. Then, at the time the return is filed, the government files a return and motion to dismiss,
3 which is noted for twenty-eight days later, as required by LCR 7(d)(4). Once briefing on the
4 motion is complete, the petitions are first considered by a magistrate judge, who issues a report
5 and recommendation (R&R) and provides another fourteen days for objections, and another
6 fourteen days for responses to those objections. As a result, even assuming that an OSC is issued
7 the same day a petition is filed (which does not typically happen) and a magistrate judge issues
8 an R&R the same day as the noting date on the government's motion to dismiss, it takes *at least*
9 three months for a district judge to first consider a petitioner's habeas petition. It is precisely this
10 type of "comparatively cumbersome and time consuming procedure of reference, report, and
11 hearing upon [a] report" that the Supreme Court has criticized as a means to decide habeas
12 petitions, emphasizing the "more expeditious method . . . prescribed by the statute." *Holiday v.*
13 *Johnston*, 313 U.S. 342, 353 (1941).

14 Petitioners also respectfully submit that Congress did not intend for the § 2254 Rules to
15 supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ
16 dramatically from those filed under § 2241. In § 2254 and § 2255, a person has already
17 proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and
18 Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by
19 definition, such cases have already received extensive oversight by state or federal judges. That
20 is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a
21 "government enforcement agent" who has made any decision about the propriety of detention,
22 *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a
23 neutral decisionmaker that due process typically requires, *see, e.g., Shadwick v. City of Tampa*,

1 407 U.S. 345, 350 (1972) (“Whatever else neutrality and detachment might entail, it is clear that
2 they require severance and disengagement from activities of law enforcement.”); *see also*
3 *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). This backdrop—and counsel’s experience
4 with the Court waiting to issue orders to show cause—is important to understanding why
5 Petitioners respectfully submit that the Court should immediately issue an order to show cause,
6 and why it should do so on a schedule that aligns closely to the one reflected in § 2243.

7 Notably, many other district courts decide habeas petitions involving challenges to
8 immigration detention in a matter of days or weeks. *See, e.g., Lopez Benitez v. Francis*, --- F.
9 Supp. 3d ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (granting habeas petition filed on July
10 18, 2025, by noncitizen challenging application of mandatory detention statute); *Diaz Martinez*
11 *v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025) (granting habeas
12 petition filed on June 3, 2025, involving similar claims); *Salad v. Dep’t of Corr.*, 769 F.Supp.3d
13 913, 918 (D. Alaska 2025) (habeas petition filed Feb. 7, 2025, writ granted Mar. 7, 2025, in case
14 involving detention of Temporary Protected Status (TPS) applicant); *Sanchez v. Puentes*, No.
15 1:25-cv-00509-LMB-LRV (E.D. Va. Mar. 28, 2025) (granting habeas petition of TPS applicants
16 filed on Mar. 21, 2025); *Cordon-Salguero v. Noem*, No. 1:25-cv-01626-GLR (D. Md. June 18,
17 2025) (granting in part habeas petition filed on May 20, 2025, involving re-detention of person
18 with final removal order); *Tadros v. Noem*, No. 2:25-cv-04108-EP (D.N.J. June 17, 2025)
19 (granting habeas petition filed on May 10, 2025, involving similar claims). This expeditious
20 treatment of habeas petitions reflects what Congress intended in § 2243, and is consistent with
21 the Supreme Court’s and Ninth Circuit’s repeated affirmances that cases like this one should
22 receive timely determinations.

1 **CONCLUSION**

2 In light of the statutory requirements for habeas proceedings, the caselaw cited above,
3 and Petitioners' plainly unlawful detention, Petitioners respectfully request that the Court issue
4 an order to show cause that effectuates service on Respondents and which issues the following
5 briefing schedule:

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 - Respondents' return: due five days from issuance of the order to show cause
 - Petitioners' traverse and response: due three days from the filing of the return

7 Respectfully submitted this 19th day of September, 2025.

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I certify this motion contains 1,546 words in
compliance with the Local Civil Rules.

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