

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-03134-DDD-STV

EARLIN ORANDE AHINSHA RICHARDS,

Petitioner,

v.

JOHNNY CHOATE, in his official capacity as warden of the Aurora Contract Detention Facility owned and operated by GEO Group, Inc.;

JAMISON MATUSZEWSKI, in his official capacity as Interim Field Office Director, Denver, U.S. Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

**JOINT MOTION TO VACATE SCHEDULING CONFERENCE
AND DISCOVERY DEADLINES**

Petitioner Earlin Orande Ahinsha Richards and Respondents jointly move the Court to vacate the scheduling conference set for December 9, 2025, at 11:15 a.m., before Magistrate Judge Varholak, and other discovery deadlines set forth in the Court's order at Doc. 9. In this habeas proceeding under 28 U.S.C. § 2241, the parties have fully briefed the relevant legal issues, *see* Docs. 2, 13, & 14, and they are awaiting a decision whether the Court will set a preliminary-injunction hearing, request additional briefing, or decide the motion on the papers. *See* Doc. 6. Because the parties do not anticipate conducting discovery or needing a discovery schedule in this action, the parties jointly request that the Court vacate the scheduling conference and other discovery deadlines.

1. Petitioner Richards is a lawful permanent resident who was detained by the Department of Homeland Security in March 2025. Doc. 1 ¶¶ 1-2. On May 16, 2025, an immigration judge ordered Petitioner removed from the United States, and Petitioner’s appeal of that ruling is still pending. *Id.* ¶¶ 30-31. He filed this action under 28 U.S.C. § 2241, challenging his continued detention without an individualized bond hearing under the Fifth Amendment. *See id.* at 18-19. The same day he filed the habeas petition, he also filed a motion for a temporary restraining order. *See* Doc. 2. Both filings raise essentially the same issues.

2. The Court treated Petitioner’s motion for temporary restraining order as one seeking a preliminary injunction. *See* Doc. 6. That motion is now fully briefed. *See* Doc. 13 (response); Doc. 14 (reply). In general, the material facts of this case are not in dispute.

3. In the order setting the motion briefing schedule, the Court advised: “After reviewing the respondents’ responses and the petitioner’s replies, if any, the Court will determine whether to (a) hold a preliminary-injunction hearing, (b) request supplemental briefing from the parties on specific legal or factual questions, or (c) decide the motion on the papers submitted.” Doc. 6.

4. Magistrate Judge Varholak set this matter for a scheduling conference on December 9, 2025, at 11:15 a.m., with a deadline for filing a joint proposed scheduling order on December 2, 2025. Doc. 9 at 1-2. The order setting the scheduling conference also directed the parties to hold a Rule 26(f) conference and make mandatory disclosures under Fed. R. Civ. P. 26(a)(1). *See id.* at 2.

5. “A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled

to discovery as a matter of ordinary course.”¹ *Curtis v. Chester*, 626 F.3d 540, 549 (10th Cir. 2010) (quoting *Bracy v. Gramley*, 520 U.S. 899, 904 (1997)); *see also Pinson v. Berkebile*, 576 F. App’x 710, 714 (10th Cir. 2014) (quoting *Curtis* for this proposition in a § 2241 case). Rather, a Court may permit discovery “[i]f a petitioner has shown good cause for discovery—that is, has set forth good reason to believe he may be able to demonstrate that he is entitled to relief.” *Curtis*, 626 F.3d at 549.

6. Here, the parties have briefed the relevant legal issues and submitted declarations needed to adjudicate Petitioner’s claim in connection with the preliminary injunction motion. The issues raised in the motion are the same as those raised in the petition. At this time, the parties do not anticipate needing discovery or a discovery schedule, as the undisputed facts should enable the Court to adjudicate Petitioner’s claim. Vacating the scheduling conference and discovery deadlines would conserve judicial resources and those of the parties and advance the efficient, inexpensive determination of this matter.

WHEREFORE, the parties respectfully request that the Court vacate the scheduling order and other discovery deadlines set in Doc. 9, including the deadline to file the proposed scheduling order, the deadline to conduct the Rule 26(f) conference, and the order directing the parties to make initial disclosures under Rule 26(a)(1).

¹ The Rules Governing Section 2254 Cases in the United States District Courts do not expressly apply to Section 2241 actions, however, the rules permit district courts to “apply any or all of these rules to a habeas corpus petition” *not* under Section 2254. *See* Rule 1(b). Under those rules, leave of court is required to conduct discovery. *See* Rule 6(a).

Respectfully submitted on November 26, 2025.

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I hereby certify that the foregoing pleading complies with the type-volume limitation set forth in Judge Domenico's Practice Standard III(A)(1).

s/Thomas A. Isler
Thomas A. Isler

CERTIFICATE OF SERVICE

I certify that on November 26, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will serve all counsel of record, including:

Michael Z. Goldman, Esq.
Counsel for Petitioner

s/Thomas A. Isler
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