

1 consideration of his petition for a writ of habeas corpus. He also requests that the Court order
2 Respondents to provide him at least 48 hours' notice (or 72 hours' notice if the period will
3 include a weekend or holiday) prior to any action to move or transfer him from the Northwest
4 Immigration and Customs Enforcement (ICE) Processing Center (NWIPC) or to remove him
5 from the United States.

6 **ARGUMENT**

7 This case concerns Respondents' efforts to undertake Mr. Kumar's removal not to the
8 place he was born or where he is a citizen, and not to any other place he has a connection, but
9 instead to some other, third country: Uganda. Pursuant to Respondents' current policy governing
10 third country removals, Respondents do not even have to ask if Mr. Kumar fears removal to
11 Uganda, let alone inform him of the process for applying for protection. Even where
12 Respondents do provide notice of removal to a third country,² and where a person does express
13 fear, Respondents' policy provides that an interview will occur within 24 hours, without notice to
14 counsel, and without any opportunity to prepare for the interview. No further review by an
15 immigration judge, much less from a federal court, is available. Nor does that process evaluate
16 whether the third country will engage in "chain refoulement"—the removal of a person via a
17 third country to the country from which they have fled. Moreover, Respondents' own policies
18 instruct that they may act at any time to immediately remove Mr. Kumar, and without providing
19 any meaningful process for him to present claims for protection.³

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21 ² Under Respondents' policy, they are not required to provide *any* notice of removal to a third
22 country if they have received generic diplomatic assurances from the country that persons
23 removed there will not be persecuted or tortured.

24 ³ Should Respondents attempt to remove Petitioner while this case is pending, Petitioner will
25 immediately file a motion for a temporary restraining order (TRO). Petitioner files this motion
26 for an order to show cause to avoid the repetitive briefing and strain on the Court's resources that
27 such TRO motions present, but which are the result of Respondents' actions in unlawfully
detaining noncitizens or removing noncitizens to third countries in recent months. However, as
noted, to ensure that Mr. Kumar is not unlawfully removed while this case is pending and to
allow him to seek any necessary emergency relief, he requests that the Court order Respondents
to provide notice of actions to transfer him or undertake removal, as stated in this motion and in
the proposed order.

1 As the Ninth Circuit has repeatedly explained, and as this Court has also held, this
2 process plainly violates due process. *See, e.g., See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th
3 Cir. 1999) (“Failing to notify individuals who are subject to deportation that they have the right
4 to apply for . . . withholding of deportation to the country to which they will be deported violates
5 both INS regulations and the constitutional right to due process.”); *Ibarra-Perez v. United States*,
6 --- F.4th ----, No. 24-631, 2025 WL 2461663, at *5 (9th Cir. Aug. 27, 2025) (affirming “there are
7 restrictions on DHS’s removal authority” and DHS “violates [noncitizens’] constitutional right to
8 due process” where it fails to notify them of their right to apply for withholding of removal to the
9 country of removal); *see also Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *18
10 (W.D. Wash. Aug. 21, 2025) (listing cases). Indeed, as the Supreme Court recently explained
11 “no person shall be removed from the United States without opportunity, at some time, to be
12 heard.” *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (per curiam).

13 Accordingly, expeditious resolution of this habeas petition is warranted to ensure that
14 Respondents do not violate Mr. Kumar’s statutory and constitutional rights. Notably, this case is
15 one that presents a recurring issue and is one in which this Court and others have recognized that
16 Respondents’ policies violate the Immigration and Nationality Act and due process. *See Nguyen*,
17 2025 WL 2419288, at *18–19. Consistent with this fact, and as this Court has ordered in several
18 other recent habeas petitions, the Court should require an expeditious return from Respondents to
19 the habeas petition and timely proceed to issue final relief.

20 Expeditious resolution is consistent with the purpose of habeas petitions. Habeas “is a
21 swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372
22 U.S. 391, 400 (1963), *overruled on other grounds by Wainwright v. Sykes*, 433 U.S. 72 (1977).
23 The requirement for an expeditious remedy is codified by statute: once the court entertains an
24 application, it “*shall forthwith award the writ or issue an order directing the respondent to show*
25 *cause*,” set a prompt return, and hold a hearing no more than five days after the return. 28 U.S.C.
26 § 2243 (emphasis added). These requirements ensure that courts “summarily hear and determine
27 the facts, and dispose of the matter as law and justice require.” *Id.* Indeed, the Supreme Court has

1 criticized the use of “comparatively cumbersome and time consuming procedure[s]” to decide
2 habeas petitions, emphasizing the “more expeditious method . . . prescribed by the statute.”
3 *Holiday v. Johnston*, 313 U.S. 342, 353 (1941).

4 Expeditious consideration is particularly appropriate here because the Court and many
5 others have already addressed the legality of Respondents’ policies with respect to third country
6 removals, finding that these policies likely violate or violate due process. *See, e.g., Nguyen*, 2025
7 WL 2419288, at *18–19. This case presents similar considerations and is thus one that the Court
8 can address on an expedited basis. Moreover, as noted above, Respondents’ policies envision
9 removal at any time. Expeditious consideration of this habeas petition is thus warranted to ensure
10 that Respondents honor Mr. Kumar’s statutory and constitutional rights prior to any removal.

11 Consistent with this Court’s longstanding practice and to facilitate expedited relief,
12 Petitioner also respectfully requests that the Court effectuate service of the petition on
13 Respondents.⁴ Upon service, the Court should order that Respondents must file their return to the
14 habeas petition within seven days, and further order that Petitioner may file any reply within five
15 days of Respondents’ return. *See* 28 U.S.C. § 2243 (setting “three days” as the default for
16 Respondents’ return deadline). In addition, the Court should direct Respondents to file any
17 arguments in support of dismissal of the petition with their return and instruct that they may not
18 file a separate motion to dismiss. *See, e.g., Browder v. Dir., Dep’t of Corr. of Illinois*, 434 U.S.
19 257, 269 n.14 (1978) (explaining that the “view. . . that a Rule 12(b)(6) motion is an appropriate
20 motion in a habeas corpus proceeding . . . is erroneous,” as “[t]he custodian’s response to a
21 habeas corpus petition is not like a motion to dismiss,” and instead, the “procedure for
22 responding to the application for a writ of habeas corpus, unlike the procedure for seeking

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24 ⁴ Service by the Court is also consistent with the practice in habeas proceedings under 28
25 U.S.C. §§ 2254 and 2255. *See* U.S. Courts, Rules Governing Section 2254 Cases and Section
26 2255 Proceedings (Dec. 1, 2019), at 3 (“In every case, the clerk must serve a copy of the petition
27 and any order on the respondent”); *id.* at 9 (“The clerk must then deliver or serve a copy of
the motion on the United States attorney in that district, together with a notice of its filing.”).
Furthermore, Federal Rule of Civil Procedure 4(c)(3) permits a plaintiff proceeding in forma
pauperis to request service of a complaint and summons by a person appointed by the Court.

1 correction of a judgment, is set forth in the habeas corpus statutes and, under Rule 81(a)(2)"); *see*
2 *also O'Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990) (citation modified) (similar).

3 **CONCLUSION**

4 For the reasons above, the Court should order a return from Respondents within
5 seven days and any response from Petitioner within five days of the filing of Respondents'
6 return. Should Respondents decide to remove Mr. Kumar to Uganda while this case is pending,
7 Petitioner will immediately seek an emergency temporary restraining order. Accordingly,
8 Petitioner further requests that the Order to Show Cause require Respondents to provide at least
9 48 hours' notice (or 72 hours' notice if the period extends into the weekend) prior to any action
10 to move or transfer him from the NWIPC or to remove him from the United States.

11 Respectfully submitted this 21st day of October, 2025.

12
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I certify this motion contains 1,568 words in
compliance with the Local Civil Rules.

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