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

Y. M. M.,

Petitioner,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-2075

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

Note on Motion Calendar:
October 23, 2025

INTRODUCTION

Petitioner Y.M.M. is a noncitizen from Venezuela who was rearrested by Immigration and Customs Enforcement (ICE) on August 8, 2025. She initially entered the United States in late 2023, and was then released on her own recognizance while she applied for asylum and went through removal proceedings. A hearing was scheduled in those proceedings for May 6, 2026 in the immigration court in Seattle, Washington.

But nine months before that scheduled hearing, when Y.M.M. was meeting a friend to go see an apartment for rent, Department of Homeland Security (DHS) officials re-arrested her while on an operation to arrest someone else. She is now facing removal proceedings before the

1 immigration court in Tacoma, Washington while she is detained at the Northwest ICE Processing
2 Center (NWIPC).

3 The law, however, makes clear that she should not be detained. As this Court has
4 repeatedly held, due process requires that for people like Y.M.M.—those who have developed
5 significant ties to this country—prior to re-detention, Respondents must afford a hearing before a
6 neutral decisionmaker where ICE is required to justify the revocation of release and show that
7 Y.M.M. now constitutes a flight risk or danger to the community. *See E.A. T.-B. v. Wamsley*, ---
8 F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025);
9 *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
10 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-
11 BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); *Ledesma Gonzalez v. Bostock*,
12 No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); Report
13 & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct.
14 15, 2025), Dkt. 13. No such process was provided here, and thus Y.M.M.’s immediate release is
15 warranted.

16 Accordingly, Y.M.M. respectfully requests that the Court immediately issue an order to
17 show cause that ensures prompt resolution of this matter. Notably, the Court has issued similar
18 orders to show cause in recent weeks. *See, e.g., Order, Kumar v. Wamsley*, No. 2:25-cv-2055-
19 KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7 (requiring return to petition within eight days); Order,
20 *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 1, 2025), Dkt. 5 (requiring return
21 to petition within six days); Order, *Scott v. Wamsley*, No. 2:25-cv-01819-TMC-BAT (W.D.
22 Wash. Sept. 22, 2025), Dkt. 9 (requiring return to petition within ten days); Order, *Guzman*
23 *Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 (same); Order,

1 *Toktosunov v. Wamsley*, No. 2:25-cv-01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (same). It should
2 do the same here.

3 **ARGUMENT**

4 This case is a habeas petition challenging executive detention under 28 U.S.C. § 2241. As
5 the Supreme Court has explained, the habeas statute provides “a swift and imperative remedy in
6 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963), *overruled*
7 *on other grounds*, *Wainwright v. Sykes*, 433 U.S. 72 (1977). Given its purpose, “[t]he application
8 for the writ usurps the attention and displaces the calendar of the judge or justice who entertains
9 it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,
10 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also, e.g., Van Buskirk v. Wilkinson*,
11 216 F.2d 735, 737–38 (9th Cir. 1954) (“[R]emedy by petition for writ of habeas corpus . . . is a
12 speedy remedy, entitled by statute to special, preferential consideration to insure expeditious
13 hearing and determination.”).

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

1 In the Court's orders on similar requests, it has noted that the "Rules Governing Section
2 2254 Cases in the United States District Courts" supersede 28 U.S.C. § 2243, and that those rules
3 allow for "a response [that] is due within the period of time fixed by the court." *Guzman Alfaro*,
4 No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified). But even if
5 that is so, as the Court has recognized in these orders, expeditious processing of a petition for
6 writ of habeas corpus is still warranted. In a typical § 2241 habeas petition, the Court issues an
7 OSC several days or even weeks after the petition is filed. That OSC normally requires a return
8 within thirty days, rather than the three days presumptively established by statute. Then, at the
9 time the return is filed, the government files a return and motion to dismiss, which is noted for
10 twenty-eight days later, as required by LCR 7(d)(4). Once briefing on the motion is complete, the
11 petitions are first considered by a magistrate judge, who issues a report and recommendation
12 (R&R) and provides another fourteen days for objections, and another fourteen days for
13 responses to those objections. As a result, even assuming that an OSC is issued the same day a
14 petition is filed (which does not typically happen) and a magistrate judge issues an R&R the
15 same day as the noting date on the government's motion to dismiss, it takes *at least* three months
16 for a district judge to first consider a petitioner's habeas petition. It is precisely this type of
17 "comparatively cumbersome and time consuming procedure of reference, report, and hearing
18 upon [a] report" that the Supreme Court has criticized as a means to decide habeas petitions,
19 emphasizing the "more expeditious method . . . prescribed by the statute." *Holiday v. Johnston*,
20 313 U.S. 342, 353 (1941).

21 Y.M.M. also respectfully submits that Congress did not intend for the § 2254 Rules to
22 supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ
23 dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already
24

1 proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and
2 Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by
3 definition, such cases have already received extensive oversight by state or federal judges. That
4 is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a
5 “government enforcement agent” who has made any decision about the propriety of detention,
6 *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a
7 neutral decisionmaker that due process typically requires, *see, e.g., Shadwick v. City of Tampa*,
8 407 U.S. 345, 350 (1972) (“Whatever else neutrality and detachment might entail, it is clear that
9 they require severance and disengagement from activities of law enforcement.”); *see also*
10 *Gerstein v. Pugh*, 420 U.S. 103, 112–13 (1975) (similar). This backdrop—and counsel’s
11 experience with the Court waiting to issue orders to show cause and the lengthy process that
12 follows—is important to understanding why Y.M.M. respectfully submits that the Court should
13 immediately issue an order to show cause, and why it should do so on a schedule that aligns
14 closely to the one reflected in § 2243. Such expeditious treatment of habeas petitions reflects
15 what Congress intended in § 2243, and is consistent with the Supreme Court’s and Ninth
16 Circuit’s repeated affirmances that cases like this one should receive timely determinations.

17 CONCLUSION

18 In light of Y.M.M.’s strong claim for release, the statutory requirements for habeas
19 proceedings, and the caselaw cited above, she respectfully requests that the Court issue an order
20 to show cause that orders a return from Respondents and sets the following briefing schedule:

- 21 • Respondents’ return, including any arguments for dismissal: due **seven** days from
issuance of the order to show cause;
- 22 • Petitioner’s traverse and response: due **four** days from the filing of the return

23 She also requests that the Court order Respondents not to transfer her from this district
24

1 while it considers this petition, so as to not impede her access to counsel while she pursues her
2 claims. *Cf. Kumar*, No. 2:25-cv-2055-KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7, at 2 (ordering
3 government to provide advance notice “prior to any action to move or transfer [Petitioner] from
4 the Northwest Immigration and Customs Enforcement Processing Center” in order to preserve
5 the status quo while the court determines its subject-matter jurisdiction).

6 Respectfully submitted this 23rd day of October, 2025.

7 s/ Matt Adams
8 Matt Adams, WSBA No. 28287
matt@nwirp.org

s/ Leila Kang
Leila Kang, WSBA No. 48048
leila@nwirp.org

9 s/ Glenda M. Aldana Madrid
10 Glenda M. Aldana Madrid,
WSBA No. 46987
11 glenda@nwirp.org

s/ Aaron Korthuis
Aaron Korthuis, WSBA No. 53974
aaron@nwirp.org

12 NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Suite 400
13 Seattle, WA 98104
(206) 957-8611

14 *Attorneys for Y.M.M.*

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16 **WORD COUNT CERTIFICATION**

17 I, Glenda M. Aldana Madrid, certify that this motion contains 1,472 words, in compliance
18 with the Local Civil Rules.

19
20 s/ Glenda M. Aldana Madrid
Glenda M. Aldana Madrid, WSBA No. 46987
Northwest Immigrant Rights Project
21 615 Second Ave., Ste 400
Seattle, WA 98104
22 (206) 957-8646
glenda@nwirp.org
23
24