UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Giny FRANCOIS, Hector Moises DAVILA ZURITA, Jean Carlos PINTO BAUTISTA, Petitioners, v. Cammilla WAMSLEY, et al., Respondents.	Case No. 2:25-cv-2122 **EX PARTE MOTION TO ISSUE ORDER TO SHOW CAUSE AND ISSUE EXPEDITED BRIEFING SCHEDULE** Note on Motion Calendar: October 28, 2025

INTRODUCTION

Petitioners Giny Francois, Hector Moises Davila Zurita, and Jean Carlos Pinto Bautista are noncitizens who were respectively rearrested by Immigration and Customs Enforcement (ICE) on May 28, 2025; September 17, 2025; and October 12, 2025.

Mr. Francois initially entered the United States on August 7, 2024 and was granted release on humanitarian parole that same day. Concurrently, he was issued an I-94 and a Notice to Appear in the Seattle Immigration Court on May 28, 2025. He filed his asylum application in January of 2025 and flew to Washington State in May of 2025 in order to be present for his removal proceedings. On May 28, 2025, Mr. Francois attended his first hearing before an

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immigration judge (IJ) in Seattle. At that hearing, and acting on a motion from DHS, the IJ dismissed Mr. Francois's immigration court case over his objections. Mr. Francois was then arrested by DHS in the hallway immediately outside the immigration courtroom and transported to the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He is now detained pending further immigration proceedings.

Mr. Davila Zurita entered the United States on September 7, 2023, passed a CFI, and was released on his own recognizance on October 17, 2023. His first hearing was scheduled for April 29, 2027 in the Seattle Immigration Court. He filed his asylum application on May 12, 2024. Mr. Davila Zurita diligently complied with the requirements of his release until he was unexpectedly re-arrested during an ICE check-in appointment on September 17, 2025. He is now detained at the NWIPC and facing removal proceedings before the immigration court in Tacoma, Washington.

Mr. Pinto Bautista entered the United States following his family's CBP One appointment on August 24, 2024. He was granted humanitarian parole and released with his wife and daughter. Mr. Pinto Bautista submitted an asylum application in February 2025 and attended his family's first court hearing in the Seattle Immigration Court on July 2, 2025. Mr. Pinto Bautista and his family retained an attorney and presented themselves at the Seattle courthouse for their second hearing on October 10, 2025. On that morning, the court issued a notice informing Mr. Pinto Bautista and his family that their court hearing had been placed with a different judge and changed to October 29, 2025. The family accordingly left the courthouse. Despite the rescheduled hearing, on October 12, 2025, Mr. Pinto Bautista was stopped by ICE officers while driving and placed under arrest for allegedly failing to attend court. He is now detained at the NWIPC and has been dismissed from his family's removal proceedings. As a

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result, he no longer has representation and is scheduled to go forward alone at his first hearing in the Tacoma Immigration Court on October 29, 2025.

The law makes clear that Petitioners should not be detained. In fact, individuals released on parole or other forms of conditional release have a "continued liberty" interest. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). As this Court has repeatedly held, due process requires that for people like Mr. Francois, Mr. Davila Zurita, and Mr. Pinto Bautistia—individuals who have lived in the United States without incident after DHS first released them, submitted applications for protection from removal, and otherwise complied with the terms of their release—prior to re-detention, Respondents must afford a hearing before a neutral decisionmaker where ICE is required to justify the revocation of release and show that Petitioners now constitutes a flight risk or danger to the community. *See E.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. No such process was provided here, and thus Petitioners' immediate release is warranted.

Accordingly, Petitioners respectfully request that the Court immediately issue an order to show cause that ensures prompt resolution of this matter. Notably, the Court has issued similar orders to show cause in recent weeks. *See, e.g.*, Order, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 1, 2025), Dkt. 5 (requiring return to petition within six days); Order, *Scott v. Wamsley*, No. 2:25-cv-01819-TMC-BAT (W.D. Wash. Sept. 22, 2025), Dkt. 9 (requiring

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return to petition within ten days); Order, *Guzman Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to petition within seven days); Order, *Toktosunov v. Wamsley*, No. 2:25-cv-01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (requiring return to petition within ten days). It should do the same here.

ARGUMENT

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

Congress's intent to provide an expeditious remedy is reflected in 28 U.S.C. § 2243. Under that statute, "[a] court, justice or judge entertaining an application for 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." 28 U.S.C. § 2243. The custodian must file a return "within three days [of the OSC] unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added). Consistent with these expeditious procedures, the statute further requires a hearing "not more than five days after the return," unless good cause is established. *Id.*

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These requirements ensure that courts "summarily hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

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

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Petitioners also respectfully submit that Congress did not intend for the § 2254 Rules to supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by definition, such cases have already received extensive oversight by state or federal judges. That is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a "government enforcement agent" who has made any decision about the propriety of detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a neutral decisionmaker that due process typically requires, *see, e.g.*, *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) ("Whatever else neutrality and detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."); *see also Gerstein v. Pugh*, 420 U.S. 103, 112–13 (1975) (similar). This backdrop is important to understanding the need for an expedited order to show cause. Such expeditious treatment of habeas petitions reflects what Congress intended in § 2243, and is consistent with the Supreme Court's and Ninth Circuit's repeated affirmances that cases like this one should receive timely determinations.

CONCLUSION

In light of Petitioners' strong claims for release, the statutory requirements for habeas proceedings, and the caselaw cited above, Petitioners respectfully request that the Court issue an order to show cause which orders a return from Respondents and sets the following briefing schedule:

- Respondents' return, including any arguments for dismissal: due seven days from issuance of the order to show cause;

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- Petitioners' traverse and response: due four days from the filing of the return;
- Petitioners also request that the Court order Respondents not to transfer any of them from this district while it considers this petition, so as to not impede their access to counsel while pursuing their claims.

Respectfully submitted this 28th day of October, 2025.

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WORD COUNT CERTIFICATION

I, Amanda Ng, certify that this motion contains 1,762 words, in compliance with the Local Civil Rules.

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