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6 UNITED STATES DISTRICT COURT FOR THE
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 LUIS CALDERON,

10 Petitioner,

11 v.

12 KRISTI NOEM, *et al.*,

13 Respondents.

Case No. 2:25-cv-2136

FEDERAL RESPONDENTS'¹
RESPONSE TO PETITIONER'S
MOTION FOR ORDER TO SHOW
CAUSE

Noting Date: October 29, 2025

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15 Federal Respondents submit this response to Petitioner's motion for an order to show cause
16 that seeks to have the respondents file a return to the habeas petition by Saturday, November 1, 2025.
17 Dkt. No. 2. Federal Respondents do not object to Petitioner's request for this Court to issue an order
18 pursuant to 28 U.S.C. § 2243 directing Respondents to show cause why the habeas petition should not
19 be granted, if this Court should determine that a return is required. But Federal Respondents do object
20 to Petitioner's request to require "Respondents to show cause within three days why the writ of habeas
21 corpus should not be granted." *Id.*, at 3. Federal Respondents will be unable to obtain the necessary

22
23 ¹ Respondent Bruce Scott is not a Federal Respondent.

1 records or confer with the necessary agencies during such a short time frame. In the motion, Petitioner
2 fails to allege any facts requiring the requested expedited schedule – which would provide Federal
3 Respondents with one extra non-business day (a Saturday) to file a return on the merits of this habeas
4 claims. *Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012) (“loss of liberty” is
5 “common to all [noncitizens] seeking review of their custody or bond determinations”). And from a
6 brief review of the petition, it appears that Petitioner’s immigration history dates back to 2008,
7 meaning that he may have extensive immigration records that will need to be reviewed. Federal
8 Respondents ask this Court, in its discretion, to utilize the usual practice in this District to provide
9 Respondents with 30 days from the date of the Order to file the return. This will allow Federal
10 Respondents to obtain the necessary documents and information necessary to prepare a return.

11 Petitioner bases his request for a three-day response time based on the language in 28 U.S.C.
12 2243 stating that the return shall be provided “within three days unless good cause additional time, not
13 exceeding twenty days, is allowed.” 28 U.S.C. § 2243. But “[i]t is long-established law that Habeas
14 Rule 4 supersedes and overrides the prior enactment in § 2243 with regard to the time allowed for a
15 response in § 2254 and § 2241 habeas proceedings.” *Peters v. Wofford*, No. 1:25-cv-00497, 2025 WL
16 1307796, at *1 (E.D. Cal. May 6, 2025) (collecting cases). “[T]he Ninth Circuit has held there is no
17 fixed time requirement for responding to a habeas petition, and district courts have discretion to set
18 appropriate deadlines for responses to habeas petitions.” *Hernandez Velasquez v. McAleenan*, No. 19-
19 cv-1887, 2019 WL 8017813, at *1 (C.D. Cal. Oct. 31, 2019) (collecting cases).

20 Federal Respondents respectfully request that this Court utilize its discretion and follow they
21 typical practice in this District of allowing Federal Respondents 30 days from the date of its order, if
22 issued, to file a return. *See Wofford*, 2025 WL 1307796, at *1 (requiring return to be filed within 45
23 days).

1 DATED this 30th day of October, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
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13 I certify that this memorandum contains 472 words, in
14 compliance with the Local Civil Rules.