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

9 MIGUEL ALFONSO SIRA-HURTADO,

10 Petitioner,

11 v.

12 Cammilla WAMSLEY, et al.,

13 Respondents.

Case No.: 2:25-cv-2173

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

Note on Motion Calendar:
November 3, 2025

14 **INTRODUCTION**

15 Petitioner Miguel Sira-Hurtado is a noncitizen who was rearrested by Immigration and
16 Customs Enforcement (ICE) on June 3, 2025, while attending his Master Calendar immigration
17 hearing. Mr. Sira-Hurtado has been in custody at the Northwest ICE Processing Center for 150
18 days.

19 Mr. Sira-Hurtado initially entered the United States on November 2, 2023, to seek
20 asylum. He was encountered by Border Patrol upon entry where he was arrested and advised of
21 his rights. A day later on November 3, 2023, Border Patrol provided Mr. Sira-Hurtado with a
22 notice to appear and released him upon his own recognizance.
23

1 Following his release and relocation to the Seattle, Washington area, Mr. Sira-Hurtado
2 did not receive any instruction regarding a credible fear interview. Thus, in order to preserve his
3 asylum claim, he filed his application with United States Citizenship and Immigration Services
4 (USCIS) in December 2024. Then, Mr. Sira-Hurtado applied work authorization through his
5 pending asylum application and waited for his interview to be scheduled, however, he was re-
6 arrested by ICE before his work authorization interview could be scheduled.

7 On June 3, 2025, Mr. Sira-Hurtado arrived at the Immigration Courthouse in Seattle,
8 Washington. Mr. Sira-Hurtado received a notice in the mail that he was ordered to appear for his
9 Master hearing, titled "Notice of In-Person Hearing." The notice informed Mr. Sira-Hurtado of
10 the time, date, and location of the hearing. The notice did not mention anything related to a
11 change in his custody status.

12 Mr. Sira-Hurtado then attended his hearing where the Department of Homeland Security
13 ("DHS") moved to dismiss his case. DHS noted that "circumstances of the respondent's case
14 have changed to such an extent that it was no longer in the Government's interest to continue the
15 proceedings." Mr. Sira-Hurtado noted his objection to the Government's motion to dismiss and
16 asked for more time to obtain an attorney. Mr. Sira-Hurtado also stated that he feared going back
17 to his country of Venezuela. DHS did not explain how the circumstances had changed. Nor did
18 DHS make any motion or argument regarding Mr. Sira-Hurtado's custody status. Instead,
19 masked DHS agents physically restrained and arrested him after the hearing concluded in the
20 hallways of the courtroom.

21 Mr. Sira-Hurtado has been detained at the Northwest ICE Processing Center (NWPIC) in
22 Tacoma, Washington since June 3, 2025 (150 days). Since his detention Mr. Sira-Hurtado has
23 been identified by DHS as a *Franco-Gonzalez v. Holder*, CV-10-02211 DMG DTBX, 2014 WL

1 5475097 (C.D. Cal. Oct. 29, 2014) class member after discovering that Mr. Sira-Hurtado suffers
2 from memory issues due to a traumatic brain injury. DHS filed a motion to re-open his case on
3 June 20, 2025, only 17 calendar days after dismissing his case. DHS has been in violation of the
4 *Franco* settlement since June 20th after failing to provide the Immigration Court and the Board of
5 Immigration Appeals with proper documentation of Mr. Sira-Hurtado's mental condition. While
6 in custody, Mr. Sira-Hurtado also suffered from severe dental pain which was largely ignored by
7 ICE until recently.

8 The law makes clear that Petitioner should not be detained. In fact, individuals released
9 on parole or other forms of conditional release have a "continued liberty" interest. *Morrissey v.*
10 *Brewer*, 408 U.S. 471, 482 (1972). This Court has repeatedly held that due process requires that
11 people like Mr. Sira-Hurtado—individuals living in the United States after DHS first released
12 them, submitted applications for protection from removal, and otherwise complied with the terms
13 of their release—be afforded a hearing before a neutral decisionmaker, where ICE is required to
14 justify the revocation of release and show that Petitioner now constitutes a flight risk or danger to
15 the community. See *E.A.T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL
16 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---,
17 No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2-4 (W.D. Wash. Sept. 12 2025); *Kumar*
18 *v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2-4 (W.D. Wash. Sept. 17,
19 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7-
20 9 (W.D. Wash. Oct. 7, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-
21 cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. Mr. Sira-Hurtado was provided no
22 process before his re-arrest and detention, and thus his immediate release is warranted.

1 Accordingly, Mr. Sira-Hurtado respectfully requests that the Court immediately issue an
2 order to show cause that ensures prompt resolution of this matter. Notably, the Court has issued
3 similar orders to show cause in recent weeks. *See, e.g.,* Order, *Kumar v. Wamsley*, No. 2:25-cv-
4 2055- KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7 (requiring return to petition within eight days);
5 Order, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 1, 2025), Dkt. 5 (requiring
6 return to petition within six days); Order, *Scott v. Wamsley*, No. 2:25-cv-01819-TMC-BAT
7 (W.D. Wash. Sept. 22, 2025), Dkt. 9 (requiring return to petition within ten days; Order, *Guzman*
8 *Alfaro v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to petition
9 within seven days); Order *Toktosunov v. Wamsley*, No. 2:25-cv-01724 (W.D. Wash. Sept. 9,
10 2025), Dkt. 6 (requiring return to petition within ten days). Petitioner respectfully requests that
11 the Court do the same here.

12 ARGUMENT

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

1 Congress’s intent to provide a speedy remedy is reflected in 28 U.S.C. § 2243, noting that
2 “[a] court, justice or judge entertained an application for a writ of habeas corpus shall forthwith
3 award the writ or issue an order directing the respondent to show cause why the writ should not
4 be granted.” 28 U.S.C. § 2243. The custodian must file a return “within three days [of the OSC]
5 unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* Further
6 emphasizing the expeditious nature of habeas proceedings, the statute requires a hearing “not
7 more than five days after the return,” unless good cause is established. *Id.* The requirements
8 ensure that courts “summarily hear and determine facts, and dispose of the matter as law and
9 justice require.” *Id.*

10 In the Court’s orders on similar requests, it has noted that the “Rules Governing Section
11 2254 Cases in the United States District Courts” supersede 28 U.S.C. § 2243, and that those rules
12 allow for “a response [that] is due within the period of time fixed by the court.” *Guzman Alfaro*
13 *v. Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified).
14 But, as the Court has recognized in cases cited herein, expeditious processing of a petition for
15 writ of habeas corpus is still warranted. In a typical § 2241 habeas corpus petition, the Court
16 issues an OSC several days or even weeks after the petition is filed. That OSC normally requires
17 a return within thirty days, rather than the three days established by statute. Then, at the time the
18 return is filed, the government files a return and motion to dismiss, which is noted for twenty-
19 eight days later, as required by LCR 7(d)(4). Once briefing on the motion is complete, the
20 petitions are first considered by a magistrate judge, who issues a report and recommendation
21 (R&R) and provides another fourteen days for objections, and another fourteen days for
22 responses to those objections. As a result, even assuming that an OSC is issued the same day a
23 petition is filed (which does not typically happen) and a magistrate judge issues an R&R the

1 same day as the noting date on the government’s motion to dismiss, it takes at least three months
2 for a district judge to first consider a petitioner’s habeas petition. It is precisely this type is
3 “comparatively cumbersome and time consuming procedure of reference, report, and hearing
4 upon [a] report” that the Supreme Court has criticized as a means to decide habeas petitions,
5 emphasizing the “more expeditious method...prescribed by the statute.” *Holiday v. Johnston*,
6 313 U.S. 342, 353 (1941).

7 Petitioner also respectfully submits that Congress did not intend for the § 2254 Rules to
8 supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ
9 dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already
10 proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and
11 Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by
12 definition, such cases have already received extensive oversight by state or federal court judges.
13 That is not true in most § 2241 immigration habeas cases. In these cases, typically it is only a
14 “government enforcement agent” who has made any decision about the propriety of detention,
15 *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), which differs drastically from the
16 hearing before a neutral decisionmaker that due process typically requires, *see e.g., Shadwick v.*
17 *City of Tampa*, 407 U.S. 345, 350 (1972) (“Whatever else neutrality and detachment might
18 entail, it is clear that they require severance and disengagement from activities of law
19 enforcement.”); *see also Gerstein v. Pugh*, 420 U.S. 103, 112-13 (1975) (similar). This
20 comparison sheds light on the need and justification for an expedited order to show cause.

21 **CONCLUSION**

22 In light of Mr. Sira-Hurtado’s strong claim for release, the statutory requirements for
23 habeas proceedings, and the caselaw cited above, Mr. Sira-Hurtado respectfully requests that the

1 Court issue and order to show cause which orders a return from Respondents and sets for the
2 following briefing schedule:

- 3 - Respondents' return, including any arguments for dismissal: due **seven** days from
issuance of the order to show cause;
- 4 - Petitioners' traverse and response: due **four** days from the filing of the return;

5 Petitioner also requests that the Court order Respondents not to transfer him from this district
6 while it considers this petitioner, so as not to impede his access to counsel while pursuing his
7 claims. Cf. *Kumar*, No. 2:25-cv-2055-KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7, at 2 (ordering
8 government to provide advance notice "prior to any action to move or transfer [Petitioner] from
9 the Northwest Immigration and Customs Enforcement Processing Center" in order to preserve
10 the status quo while the court determines its subject-matter jurisdiction); *See also*, *Y.M.M. v.*
11 *Wamsley*, No.2:25-cv-02075 (W.D. Wash. Oct. 28, 2025), Dkt. 8, at 2 (similar).

12 Respectfully submitted this 2nd day of November, 2025.

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