

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

Pui Sun HO

Petitioner,

v.

Kristi NOEM, et. al.

Respondents.

Case No. 2:25-cv-02222

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

Agency File No.: 

Petitioner is a 47-year-old lawful permanent resident, born in Hong Kong. He originally entered the United States as a child at the age of 15, as a conditional resident, obtaining lawful permanent resident status in 1995. Petitioner was rearrested by Immigration and Customs Enforcement (ICE) on November 5, 2025.

In 2022, ICE sent Petitioner a letter requesting that he report to its Portland Field Office in Portland, Oregon. On November 17, 2022, Petitioner reported to the Portland Field Office, as required, and was taken into custody. The government issued Petitioner a Notice to Appear, initiating removal proceedings against him. ICE officers reviewed Petitioner's case and released him from custody under an Order of Release on Recognizance (ROR) that same day. This release

1 required regular reporting during the pendency of his removal proceedings. He has complied fully,
2 attended all hearings and check-ins, worked lawfully, lived with his family, and structured his life
3 in reliance on the government's supervision framework.

4 On November 5, 2025, months before his next scheduled ICE check-in and while his
5 removal proceedings are still administratively pending, ICE officers waited outside Petitioner's
6 home, surrounded his vehicle, pulled him out of the car to arrest him, and revoked his ROR without
7 notice, stated grounds, or an opportunity to respond. He was taken into custody in Portland, Oregon
8 and transferred to the for-profit detention facility, Northwest ICE Processing Center in Tacoma,
9 Washington that same day.

10 The law makes clear that Petitioner should not be detained. In fact, individuals released on
11 forms of conditional release have a "continued liberty" interest. *Morrissey v. Brewer*, 408 U.S.
12 471, 482 (1972). As this Court has repeatedly held, due process requires that for people like
13 Petitioner—individuals who have lived in the United States without incident after DHS first
14 released them, submitted applications for protection from removal, and otherwise complied with
15 the terms of their release—prior to re-detention, Respondents must afford a hearing before a
16 neutral decisionmaker where ICE is required to justify the revocation of release and show that
17 Petitioner now constitutes a flight risk or danger to the community. *See E.A. T.-B. v. Wamsley*, --
18 - F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025);
19 *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
20 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-
21 BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); *Ledesma Gonzalez v. Bostock*,
22 No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); Report &
23 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 Petitioner's 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 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.").

1 Congress's intent to provide an expeditious remedy is reflected in 28 U.S.C. § 2243. Under
2 that statute, "[a] court, justice or judge entertaining an application for a writ of habeas corpus shall
3 forthwith award the writ or issue an order directing the respondent to show cause why the writ
4 should not be granted." 28 U.S.C. § 2243. The custodian must file a return "within three days [of
5 the OSC] unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*
6 (emphasis added). Consistent with these expeditious procedures, the statute further requires a
7 hearing "not more than five days after the return," unless good cause is established. *Id.* These
8 requirements ensure that courts "summarily hear and determine the facts, and dispose of the matter
9 as law and 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 v.*
13 *Bostock*, No. 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025), Dkt. 11 at 2 (citation modified). But
14 even if that is so, as the Court has recognized in these orders, expeditious processing of a petition
15 for writ of habeas corpus is still warranted. In a typical § 2241 habeas petition, the Court issues an
16 OSC several days or even weeks after the petition is filed. That OSC normally requires a return
17 within thirty days, rather than the three days presumptively established by statute. Then, at the
18 time the return is filed, the government files a return and motion to dismiss, which is noted for
19 twenty-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 responses
22 to those objections. As a result, even assuming that an OSC is issued the same day a petition is
23 filed (which does not typically happen) and a magistrate judge issues an R&R the same day as the

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

6 Petitioners also respectfully submit that Congress did not intend for the § 2254 Rules to
7 supersede the rules for § 2241 in most cases. Cases that proceed under § 2254 and § 2255 differ
8 dramatically from those filed under § 2241. In § 2254 and § 2255 cases, a person has already
9 proceeded through the criminal process, protected by the rights of the Fourth, Fifth, Sixth, and
10 Seventh Amendments. Often, they have appealed their cases to higher courts. In short, by
11 definition, such cases have already received extensive oversight by state or federal judges. That is
12 not true in most § 2241 immigration habeas cases. In these cases, typically it is only a "government
13 enforcement agent" who has made any decision about the propriety of detention, *Coolidge v. New*
14 *Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a neutral decisionmaker
15 that due process typically requires, *see, e.g., Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972)
16 ("Whatever else neutrality and detachment might entail, it is clear that they require severance and
17 disengagement from activities of law enforcement."); *see also Gerstein v. Pugh*, 420 U.S. 103,
18 112–13 (1975) (similar). This backdrop is important to understanding the need for an expedited
19 order to show cause. Such expeditious treatment of habeas petitions reflects what Congress
20 intended in § 2243, and is consistent with the Supreme Court's and Ninth Circuit's repeated
21 affirmances that cases like this one should receive timely determinations.

CONCLUSION

In light of Petitioner's 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 **three days** from issuance of the order to show cause;
- Petitioner's traverse and response: due **two days** from the filing of the return;
- Petitioners also request that the Court order Respondents not to transfer Petitioner from this district while it considers this petition, so as to not impede their access to counsel while pursuing their claims.

Dated: November 7, 2025

s/ Hannah Hamley

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Respectfully submitted,

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***Application for *pro hac vice* admission forthcoming**

WORD COUNT CERTIFICATION

I, Hannah Hamley, certify that this motion contains 1,629 words, in compliance with the Local Civil Rules.

s/ Hannah Hamley

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