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

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| P.T.,<br><br>Petitioner,<br><br>v.<br><br>LAURA HERMOSILLO, et al.,<br><br>Respondents. | Case No. 2:25-cv-2249<br><br>**EX PARTE MOTION TO ISSUE ORDER TO SHOW CAUSE AND ISSUE EXPEDITED BRIEFING SCHEDULE**<br><br>Note on Motion Calendar:<br>November 11, 2025 |

## INTRODUCTION

Petitioner P.T. is an asylum applicant from India who was unlawfully re-detained by Immigration and Customs Enforcement (ICE) on November 8, 2025 in Portland, Oregon. Petitioner was initially detained by Customs and Border Patrol near San Luis, Arizona on approximately January 30, 2023. Petitioner was released from custody on an order of recognizance and placed in removal proceedings pursuant to 8 USC § 1229a. Petitioner has applied for asylum, and he has an asylum application pending with the Immigration Court in Portland, Oregon. Petitioner's hearing on his application for asylum is scheduled for October 11, 2028.



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Without cause or justification – and without providing a pre-detention process to determine if changed circumstances demonstrate that petitioner is a flight risk or danger to the community – Respondents re-detained petitioner in Portland, Oregon, and he is now detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

The law is clear that Petitioner should not be detained. As this Court has repeatedly held, due process requires that for people like P.T.—those who have already established to the satisfaction of DHS officials that they pose neither a flight risk or danger to the community -- 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 P.T. 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 P.T.'s immediate release is warranted.

Accordingly, P.T. respectfully requests 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, *Kumar v. Wamsley*, No. 2:25-cv-2055-KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7 (requiring return to petition within eight days); 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.



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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), Dkt. 11 (same); Order, *Toktosunov v. Wamsley*, No. 2:25-cv-01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (same). 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*, 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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P.T. respectfully submits 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—and counsel's experience with the Court waiting to issue orders to show cause and the lengthy process that follows—is important to understanding why P.T. respectfully submits that the Court should immediately issue an order to show cause, and why it should do so on a schedule that aligns with the one reflected in § 2243. 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 P.T.'s strong claim for release, the statutory requirements for habeas proceedings, and the caselaw cited above, he respectfully requests that the Court issue an order to show cause that orders a return from Respondents and sets the following briefing schedule:



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

P.T. requests that the Court order Respondents not to transfer him from this district while it considers this petition, so as to not impede his access to counsel while he pursues his claims. *Cf. Kumar*, No. 2:25-cv-2055-KKE (W.D. Wash. Oct. 22, 2025), Dkt. 7, at 2 (ordering government to provide advance notice "prior to any action to move or transfer [Petitioner] from the Northwest Immigration and Customs Enforcement Processing Center" in order to preserve the status quo while the court determines its subject-matter jurisdiction).

Respectfully submitted this 11th day of November, 2025.

s/ Matt Adams
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**Application for admission pro hac vice forthcoming*

*Attorneys for P.T.*

**WORD COUNT CERTIFICATION**

I, Matt Adams, certify that this motion contains 1,510 words, in compliance with the Local Civil Rules.

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