

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

SIRLEY JULISSA GUTIERREZ) CIVIL ACTION NO: 3:25-cv-01777
VILLARREAL)
VERSUS) JUDGE DOUGHTY
KEITH DEVILLE, *ET AL.*) MAGISTRATE JUDGE MCCLUSKY

**RESPONDENTS' OPPOSITION TO MOTION FOR ISSUANCE
OF AN ORDER TO SHOW CAUSE**

Respondents, Brian Acuna, Acting Director, New Orleans Field Office, U.S. Immigration & Customs Enforcement, Enforcement & Removal Operations; Todd M. Lyons, Acting Director, U.S. Immigration & Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; Pamela Bondi, U.S. Attorney General; and Daren K. Margolin, Director, Executive Office for Immigration Review, respectfully file this opposition to Petitioner's Motion for Issuance of an Order to Show Cause (ECF No. 6).

Petitioner has filed a Motion for Issuance of an Order to Show Cause regarding the petition for habeas corpus filed in this matter, as well as a proposed Order regarding the motion, asking the Court to order Respondents to show cause no later than three days after issuance of the Order as to why the petition for writ of habeas corpus should not be granted. For the reasons set forth herein, the Court should decline to order Respondents to respond within three days and instead set a reasonable deadline for a response. Generally, federal respondents are granted sixty days to respond to a habeas petition, as recognized by the summonses issued in this case (ECF No. 3).

Petitioner essentially asks the Court to impose on Respondents an expedited deadline to respond to the habeas petition. However, there are no extenuating circumstances which justify the imposition of an expedited deadline to respond to this standard habeas petition. In fact, Petitioner has

only been in custody since September 24, 2025 (ECF No. 6, p. 2), far less than the 6 months considered presumptively reasonable under *Zadydas v. Davis*, 533 U.S. 678 (2001). This is therefore simply an attempt by Petitioner to “skip the line” and have her habeas petition decided expediently. Respondents should be given an adequate amount of time to gather information to respond to the habeas petition and set forth their position as to why Petitioner is subject to mandatory detention under 8 U.S.C. § 1225 and not entitled to a bond hearing or “release on other conditions” as argued by Petitioner.

Finally, and critically, Respondents have not yet been properly served with the petition for habeas corpus. Therefore, any deadline set by the Court for a response should not run until proper service is perfected.

Petitioner relies on 28 U.S.C. §2243 as the basis for the request for an expedited three-day deadline. However, generally, under §§ 2241 and 2243, a court may “adjust the scope of [a] writ in accordance with equitable and prudential considerations.” *Danforth v. Minnesota*, 552 U.S. 264, 278 (2008). More specifically, the three-day time limit referenced in § 2243 is “subordinate to the Court’s discretionary authority to set deadlines under Rule 4 of the Rules Governing § 2254 Cases,” which are applicable to petitions filed under § 2241. *Maniar v. Warden Pine Prairie Corr. Ctr.*, 6:18-CV-00544, 2018 WL 4869383, at *1 (W.D. La. 2018) (Hanna, M.J.); *see also*, *Taylor v. Gusman*, CV 20-449, 2020 WL 1848073, at *2 (E.D. La. 2020).

Given this discretion under Rule 4, then, a court may “order [a] respondent to file an answer, motion, or other response within a fixed time, or . . . [may] take other action” in its discretion. *See Castillo v. Pratt*, 162 F. Supp. 2d 575, 577 (N.D. Tex. 2001) (noting a court’s discretion under Rule 4 “prevails” over the strict time limits of § 2243). Before requiring a response or holding a hearing, a court may certainly require that a respondent be properly served *and* allow a respondent time to conduct a reasonable investigation. *See, e.g., Baker v. Middlebrooks*, 2008 WL 938725 (N.D. Fla. 2008) (allowing 60 days to respond to a § 2241 habeas petition); *Hickey v. Adler*, 1:08-CV-826, 2008 WL

3835764 (E.D. Cal. 2008) (same); *Rodelo v. Lyons*, No. CV 3:25-01282, 2025 WL 2888376, at *2 (W.D. La. Sept. 26, 2025) (“Upon consideration, the Court will grant Rodelo’s motion, insofar as he seeks an order requiring Respondents to file a ‘return,’ answer, or, if warranted, dispositive motion. However, the Court will accord Respondents 45 days to file same, to run from the date that Rodelo properly serves them.”)

For the reasons set forth herein, Respondents respectfully request that the Court decline to impose the three-day deadline proposed by Petitioner and instead require Respondents to respond within sixty days of the date of proper service of the petition for habeas corpus upon Respondents, as set forth in the summonses issued (ECF No. 3), or within another reasonable time determined by the Court.

Respectfully submitted,

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