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DETAINED

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

9 MICHAEL TESSEMA;

10 Petitioner,
v.

11 PAMELA BONDI, *et al.*;

12 Respondents.
13
14

Case No.: 2:25-cv-2330

EX PARTE MOTION FOR ORDER TO
SHOW CAUSE

15 **EX PARTE MOTION FOR ORDER TO SHOW CAUSE**

- 16 1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully request that this Court “forthwith”
17 issue an order directing Respondents to show cause why the petition for a writ of habeas corpus
18 filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.
- 19 2. Petitioner, Mr. Michael Tessema, challenges his detention on the ground that Immigration
20 and Customs Enforcement (ICE) did not follow its own regulations in revoking his order of
21 supervision. By failing to follow their own regulations, Respondents have violated Petitioner’s
22 constitutional right to due process. See Petition for Writ of Habeas Corpus, Dkt. No. 1.
23

1 3. Government agencies are required to follow their own regulations. *United States ex rel.*
2 *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Ramos*, 623 F.3d 672, 683
3 (9th Cir. 2010) ("It is well-known maxim that agencies must comply with their own regulations.")
4 (quoting *Ramon-Sepulveda v. INS*, 743 F.2d 1307, 1310 (9th Cir. 1984)).

5 4. The law makes clear that Petitioner should not be detained. Detention is unlawful when the
6 government fails to follow its own regulations. *Minh Nhat Phan v. Noem*, No.: 3:25-cv-02422-
7 RBM-MSB, 2025 WL 2898977, at *9. (S.D. Cal. Oct. 10, 2025) (granting a habeas petition after
8 finding that that the petitioner's detention was unlawful because ICE failed to comply with the
9 regulations); see also *M.S.L. v. Bostock*, Civ. No. 6:25-cv-01204-AA, 2025 U.S. Dist. LEXIS
10 162519, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (finding an informal interview given
11 27 days after petitioner was taken into ICE custody "cannot reasonably be construed as . . .
12 prompt" and granting habeas petition); *Quoc Chi Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP,
13 2025 U.S. Dist. LEXIS 136002, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding
14 petitioner likely to succeed on his claim that his detention was unlawful "[b]ecause there is no
15 indication that an informal interview [*10] was provided"); *Wing Nuen Ltu v. Carter*, Case No.
16 25-03036-JWL, 2025 U.S. Dist. LEXIS 115275, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025)
17 (finding "that officials did not properly revoke petitioner's release" because "most obviously . . .
18 petitioner was not granted the required interview upon the revocation of his release").

19 5. The federal habeas corpus statute provides that "[a] court, justice or judge entering a writ
20 of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show
21 cause why the writ should not be granted." 28 U.S.C. § 2243.

22 6. Section 2243 further provides that the writ or order to show cause "shall be returned within
23 three days unless for good cause additional time, not exceeding twenty days, is allowed."

1 7. Section 2243 also provides that the court shall hold a hearing on the writ or order to show
2 cause “not more than five days after the return unless for good cause additional time is allowed.”

3 8. In addition, Section 2243 states that the court “shall summarily hear and determine the
4 facts, and dispose of the matter as law and justice require.”

5 9. Pursuant to Section 2243, Petitioner requests that the Court immediately issue an Order to
6 Show Cause directing Respondents to file a return within seven days of the Court’s order, showing
7 cause, if any, why the writ of habeas corpus should not be granted, and to provide Petitioner an
8 opportunity to file a reply within four days after Respondents file the return.

9 10. An expedited briefing schedule is appropriate in this case because Petitioner faces
10 irreparable harm due to his deprivation of his physical liberty. “It is well established that the
11 deprivation of constitutional rights’ unquestionably constitutes irreparable injury.” *Melendres v.*
12 *Arpalo*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

13 11. Petitioners recognize that the Court retains the discretion to determine when an answer or
14 response to a § 2241 habeas petition is due. *See, e.g., Chatchette v. Rushon*, 770 F.2d 1469, 1474–
15 75(9th Cir. 1985) (pursuant to Habeas Corpus Rule 4, the federal court has discretion to fix a time
16 to file an answer beyond the time periods set forth in 28 U.S.C. § 2243). Notably, this Court has
17 issued similar orders to show cause in recent weeks and months. *See, e.g., Order, Lopez Reyes*,
18 No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 1, 2025), Dkt. 5 (requiring return to petition
19 within six days); *Order, Scott v. Wamsley*, No. 2:25-cv-01819-TMC-BAT (W.D. Wash. Sept. 22,
20 2025), Dkt. 9 (requiring return to petition within ten days); *Order, Guzman Alfaro v. Bostock*, No.
21 2:25-cv-01706 (W.D. Wash. Sept. 16, 2025) (requiring return to petition within seven days);
22 *Order, Toktosunov v. Wamsley*, No. 2:25-cv-01724 (W.D. Wash. Sept. 9, 2025), Dkt. 6 (requiring
23 return to petition within ten days). It should do the same here.

1
2 WHEREFORE, Petitioner respectfully requests that this court issue an order to show cause
3 directing which orders a return from Respondents and sets the following briefing schedule:

- 4 (1) Respondents return, including any arguments from dismissal: due seven days from
5 issuance of the order to show cause;
- 6 (2) Petitioners' traverse and response: due four days from the filing of the return;
- 7 (3) Petitioners also request that the Court order Respondents not to transfer him from this
8 district while it considers this petition, so as not to impede their access to counsel while
9 pursuing their claims;
- 10 (4) Grant such other relief as may be just and reasonable.

11
12 Respectfully submitted this 19th day of November, 2025,

13 /s/ Hilary Smith
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18 *I certify this motion contains 899 words*
19 *in compliance with the Local Civil Rules.*