

District Judge James L. Robart
Chief Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUSSIE TEWELDEMEDHIN,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 2:25-cv-02363-JLR-TLF

FEDERAL RESPONDENTS'¹ RESPONSE
TO PETITIONER'S EX-PARTE MOTION
FOR ORDER TO SHOW CAUSE AND
EXPEDITED BRIEFING SCHEDULE

Federal Respondents submit this response to Petitioner's ex-parte motion for order to show cause and expedited briefing schedule. Dkt. 2. Federal Respondents do not object to Petitioner's request for this Court to issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause why the habeas petition should not be granted, if this Court should determine that a return is required. Federal Respondents object to Petitioner's suggestion to require Respondents to file a return within seven days. Federal Respondents ask this Court, in its discretion, to provide Respondents with 14 days to file a return, far less than the usual practice in this District to provide Respondents with 30 days from the date of the Order to file the return. This will allow undersigned

¹ Respondent Bruce Scott is not a Federal Respondent.

1 counsel to obtain the necessary documents and information necessary to prepare a return. Given
2 the extremely high volume of habeas cases filed in this District, seven days does not provide the
3 U.S. Attorney's Office with sufficient time to obtain complete and accurate information from
4 Respondents while also balancing the needs of other habeas cases that have been pending longer
5 and/or that present more time sensitive factual circumstances. This is especially true in this case,
6 where Thanksgiving falls within the requested seven-day period.

7 Petitioner bases his request for a seven-day response time based on the language in 28
8 U.S.C. 2243 stating that the return shall be provided "within three days unless good cause
9 additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243. But "[i]t is long-
10 established law that Habeas Rule 4 supersedes and overrides the prior enactment in § 2243 with
11 regard to the time allowed for a response in § 2254 and § 2241 habeas proceedings." *Peters v.*
12 *Wofford*, No. 1:25-cv-00497, 2025 WL 1307796, at *1 (E.D. Cal. May 6, 2025) (collecting cases).
13 "[T]he Ninth Circuit has held there is no fixed time requirement for responding to a habeas petition,
14 and district courts have discretion to set appropriate deadlines for responses to habeas petitions."
15 *Hernandez Velasquez v. McAlesman*, No. 19-cv-1887, 2019 WL 8017813, at *1 (C.D. Cal. Oct.
16 31, 2019) (collecting cases).

17 Federal Respondents respectfully request that this Court utilize its discretion and allow
18 Federal Respondents 14 days from the date of its order, if issued, to file a return. *See Wofford*,
19 2025 WL 1307796, at *1 (requiring return to be filed within 45 days).

20 //

21

22 //

23

24 //

1 DATED this 25th day of November, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
4 United States Attorney

5 *s/ Michelle R. Lambert*
6 MICHELLE R. LAMBERT, NYS #4666657
7 Assistant United States Attorney
8 United States Attorney's Office
9 Western District of Washington
10 1201 Pacific Ave., Ste. 700
11 Tacoma, WA 98402
12 Phone: (253) 428-3824
13 Fax: (253) 428-3826
14 Email: michelle.lambert@usdoj.gov

15 *Attorneys for Federal Respondents*

16 *I certify that this memorandum contains 395*
17 *words, in compliance with the Local Civil Rules.*