

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Wilmer GARCIA GUERRERO,

Petitioner,

v.

Scott SMITH, Jail Captain, Dodge
County Jail;
Sam OLSON, Field Office Director of
Enforcement and Removal Operations,
Chicago Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary of the U.S. Department of
Homeland Security; U.S. DEPARTMENT
OF HOMELAND SECURITY; Pamela
BONDI, Attorney General of the United
States; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW,
in their official capacities,

Respondents.

Case No. 2:25-cv-1975

**APPLICATION FOR ISSUANCE
OF ORDER TO SHOW CAUSE**

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court “forthwith” issue an order directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.

2. Petitioner challenges his unlawful detention based in immigration court because he has not been afforded an opportunity to hold a bond hearing in his case. See Petition for Writ of Habeas Corpus, Dkt. No. 1. More specifically, his

challenges are based on a violation of the INA, due process, and relief requested pursuant to *Maldonado Bautista v. Santacruz*. *Id.*

3. The federal habeas corpus statute provides that “[a] court, justice or judge entering 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 unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

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

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

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

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

8. Giving Respondents additional time to respond is inappropriate in this case because Petitioner faces irreparable harm due to his ongoing detention in

immigration custody. Moreover, as his removal case is proceeding in immigration court separately from his bond case, there is a risk that the Petitioner would be ordered removed before this Court issues a decision on whether he is entitled to a custody hearing. If released, Petitioner would have more time and access to additional resources in preparing his asylum petition, which would greatly increase his chances of success on the merits. For these reasons, the petitioner faces irreparable harm absent the issuance of an order to show cause in this case.

Signed this 16th day of December, 2025 in Waupaca, WI.

Respectfully submitted,

Wilmer Garcia Guerrero, *Petitioner*

/s/ electronically signed by KFD

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