UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

J.U.A.M. A# [redacted] Petitioner, vs. JASON STREEVAL, in his official capacity as *Warden of Stewart Detention center*; and LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office*, and TODD LYONS, in his official capacity as *Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General.* Respondents.	)	CASE NO.: 4:25-cv-519-CDL-AGH

PETITIONER'S MOTION FOR ORDER TO SHOW CAUSE
AND FOR PRODUCTION OF EVIDENCE
ON AN EMERGENCY BASIS

The Petitioner, J.U.A.M. has been unlawfully detained in civil immigration detention. As such, Petitioner, by and through the undersigned, moves the Court to issue an order to show cause on an emergency basis:

(1) Requiring the Respondents to file a return to demonstrate the "true cause of the [Petitioner's] detention," 28 U.S.C. § 2243, "**within three days**," *id.*, of service on an expedited basis, why Petitioner should not be released, and allowing Petitioner to file a traverse within the same period of time; and

(2) Requiring the Respondents to produce all evidence supporting Petitioner's detention,

specifically all evidence about the reasons of her detention and all of her records bearing upon the "true cause of the [Petitioner's] detention," 28 U.S.C. § 2243, in support of their return.

Argument

I. Sitting in habeas, the Court may proceed via a summary show cause procedure notwithstanding the Rules of Civil Procedure.

The Federal Rules of Civil Procedure expressly contemplate that they only "apply to proceedings for habeas corpus . . . to the extent that the practice in those proceedings" is not specified in a federal statute." Fed. R. Civ. P. 81(a)(4)(A); *U. S. ex rel. Goldsby* v. *Harpole*, 249 F.2d 417, 421 (5th Cir. 1957) ("The Federal Rules of Civil Procedure have no application, other than by analogy, to habeas corpus proceedings unless by express statutory requirement.") (citations omitted) (precedential under *Bonner* v. *City of Prichard, Ala.*, 661 F.2d 1206, 1207 (11th Cir. 1981)). The practice in § 2241 habeas proceedings is governed by the provisions of chapter 153 of title 28 of the U. S. Code, and by federal case law.

"In a habeas corpus proceeding, the court sits as a court of law to determine 'in a summary way' whether the petitioner is unlawfully restrained of his liberty." *Overholser* v. *Treibly*, 147 F.2d 705, 708 (D.C. Cir. 1945) (footnotes and citations omitted); accord *Walker* v. *Johnston*, 312 U. S. 275, 283–84 (1941) ("The court or judge 'shall proceed in a summary way to determine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the party as law and justice require.'") (citation omitted). Given this summary nature, 28 U.S.C. § 1657(a) provides that "courts [s] shall expedite the consideration of any action brought under chapter 153 . . . of this title."

The petitioner is seeking a general writ of habeas corpus under 28 U.S.C. § 2241, as

opposed to one filed under § 2254, or § 2255. As per § 2243, when a court "entertain[s] an application for a writ of habeas corpus," it "shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted."[1] "The person to whom the writ or order is directed shall make a return certifying the true cause of the detention." § 2243.

"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." § 2243. "Granted that dispatch is the keynote in all phases of habeas corpus and that the statutory limitation of time is clearly directed to that end," it is still true that the "court possess[es] th[e] inherent power" to "grant respondent additional time." *Wallace* v. *Heinze*, 351 F. 2d 39, 40 (9th Cir. 1965).

In response, a petitioner may "traverse[]" "[t]he allegation of a return to the writ of habeas corpus or of an answer to an order to show cause," § 2248, and may "deny any of the facts outlined in the return or allege any other material facts" and file "suggestions made against" the re- turn, § 2243. Once fully briefed, a "convenient" practice has long been followed, whereby "the petition and traverse are treated, as [the Supreme Court] think[s] they should be, as together constituting the application for the writ, and the return to the rule as setting up the facts thought to warrant its denial." *Walker*, 312 U.S., at 284. "[O]n the facts admitted, it may appear that, as matter of law, the prisoner is entitled to the writ and to a discharge." *Id.*; accord *Tijerina* v. *Thornburgh*, 884 F. 2d 861, 866 (5th Cir. 1989) ("Where the petitioner raises only questions of law, or questions regarding the legal implications of

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[1] "[U]nless it appears from the application that the applicant or person detained is not entitled thereto." § 2243.

undisputed facts, a hearing becomes duplicative and unnecessary.")

But, "if the petition, the return, and the traverse raise substantial issues of fact, it is the petitioner's right to have those issues heard and determined in the manner the statute prescribes." *Walker*, 312 U. S., at 286; see also *Stewart* v. *Overholser*, 186 F.2d 339, 342 (D.C. Cir. 1950) ("[T]he denial by an answer or return of factual allegations outlined in a petition for the writ would not require a traverse to raise the issue."); *Walton* v. *Hill*, 652 F. Supp. 2d 1148, 1171 (D. Or. 2009) (same); *Whitehead* v. *Richardson*, 580 F. Supp. 44, 46 n. 3 (N.D. Ind. 1984) (same).

In such cases, "documentary evidence" "shall be admissible in evidence." 28 U. S. C. § 2247. "[E]vidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit." § 2246. "If affidavits are admitted any party shall have the right to propound written interrogatories to the affiants, or to file answering affidavits." *Id.* Furthermore, "the power of inquiry on federal habeas corpus is plenary." *Harris* v. *Nelson*, 394 U. S. 286, 292 (1969) (punctuation and citation omitted).

But "the Federal Rules' discovery rules do not apply completely and automatically" to habeas proceedings, as those rules are "ill-suited to the special problems and character of such proceedings" because "their literal application would be to invoke a procedure which is circuitous, burdensome, and time consuming." *Id.*, at 296–98. For example, concerning "Rule 26(b)," its "broad-ranging preliminary inquiry is neither necessary nor appropriate in the context of a habeas corpus proceeding." *Id.*, at 297.

Rathis, "a district court may, in an appropriate case, arrange for procedures which will allow development, for purposes of the hearing, of the facts relevant to disposition of a habeas corpus petition." *Id.*, at 298. "[I]f the court concludes that the petitioner is entitled to

an evidentiary hearing," "it shall order one to be held promptly," using the statutes' "[f]lexible provision . . . for taking evidence," and may do so by "fashion[ing] appropriate modes of procedure, by analogy to existing rules or otherwise in conformity with judicial usage." *Id.*, at 299; *id.*, at 300 ("[I]n exercising this power, the court may utilize familiar procedures, as appropriate, whether these are found in the civil or criminal rules or elsewhere in the 'usages and principles of law.'") (footnote omitted). Thus, on a case-by-case basis, "where specific allegations before the court show reason," the "courts in the exercise of their discretion" may "require discovery when essential to render a habeas corpus proceeding effective." *Id.*, at 300 & 300 n. 7.

II. The Court should order the Respondent to show cause within three days and to produce documents showing the true cause of the Petitioner's continued detention, with leave for the petitioner to file a traverse within an equal time period.

To begin with, Petitioner respectfully moves the Court to treat her Petition for Writ of Habeas Corpus (ECF No. 1), together with the supporting documentation, as her opening brief for purposes of summary disposition. See *Walker v. Johnston*, 312 U.S. 275, 284 (1941). As set forth in the Petition, Petitioner is being held in civil immigration detention without a meaningful opportunity to be heard.

Upon information and belief, Petitioner is being held by Respondents unlawfully being held as an "arriving alien" or "applicant for admission" under 8 U. S. C. § 1225(b) even though she was apprehended in the interior of the country long after her entry.

As the Petitioner's claims are already set forth in detail, and in light of the statutory requirement for expedited treatment of habeas petitions, 28 U. S. C. § 1657(a), and since the U. S. Attorney's Office is already aware of this Petition, Petitioner requests the Court to order the Respondents to show cause via the submission of a **return within three days**, see 28

U. S. C. § 2243; of the Court's order. And, the Petitioner in turn moves the Court to grant her leave to file a traverse to the respondents' return within a time equal to the time given to the Respondents to file their return.

With respect to the Respondents need to show cause why the Petitioner should not be released, and to show "the true cause of the [petitioner's] detention," 28 U. S. C. § 2243, the petitioner moves the Court to order the production of evidence. Specifically, this includes all of these records bearing upon the "true cause of the [petitioner's] detention," 28 U.S.C. § 2243. Last, the Petitioner requests further production of all of his records bearing upon the "true cause of [her] detention." Since the Petitioner was just detained and immigration proceedings are in their infancy, there should not be many documents required. 28 U.S.C. § 2243.

Lastly, the Petitioner preserves her right to propound interrogatories under 28 U.S.C. § 2246, or to request any other discovery by motion that would help "to render [this] habeas corpus proceeding effective," *Harris*, 394 U. S., at 300, 300 n. 7.

Wherefore, this motion should be granted and the Court should issue an Order to Respondents to Show Cause why this Writ of Habeas should not be granted within 3 days. Petitioner can respond to the Court within the same timeframe of three days, or the Court can just grant the writ under *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), and also order Respondents to adjudicate Petitioner's I-601A within a reasonable time.

Respectfully Submitted,

This 27th day of December, 2025.

/s/ Karen Weinstock
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2025, this Foregoing Document was served, via electronic delivery to Respondents' counsel via the CM/ECF system, which will forward copies to Counsel of Record.

/s/ Karen Weinstock

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