

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VERONICA CARAPIA BARROSO,

Petitioner,

v.

Todd LYONS, in his capacity as Acting
Director, Immigration and Customs
Enforcement; **Kristi NOEM**, Secretary, U.S.
Department of Homeland Security; **Pamela
BONDI**, U.S. Attorney General; **EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
WARDEN**, of South Texas ICE Processing
Center, Pearsall, Texas

Respondents.

Case No. 5:26-cv-234

**PETITIONER'S MOTION FOR
ORDER TO SHOW CAUSE**

PETITIONER'S MOTION FOR AN ORDER TO SHOW CAUSE

I. INTRODUCTION

Petitioner hereby requests that the Court issue an Order to Show Cause requiring Respondents to timely respond to his Petition for Writ of Habeas Corpus, pursuant to Rules 1(b) and 4 Governing § 2254 Cases in the U.S. District Courts, and 28 U.S.C. § 2243. For the reasons set forth below, and based on good cause shown, Petitioner requests that the Court order Respondents to file their response within three days of the date of filing of the Petition or, for good cause shown, additional time not exceeding twenty days, and Petitioner to file a reply within ten days thereafter, and set a hearing on the Petition shortly thereafter.

FACTS AND PROCEDURAL HISTORY

Petitioner was detained in Bexar County, Texas following a criminal arrest. After her charges were dismissed, she was transferred to ICE detention. Despite having lived in the U.S. for several years, Respondents have denied Petitioner a bond hearing. Respondents erroneously assert that an Immigration Judge has no jurisdiction over Ms. Carapia's bond motion. She seeks relief from her ongoing unjustified detention including release or, alternatively, a custody hearing before a neutral arbiter to determine whether her continued detention is justified. ECF Dkt. 1.

ARGUMENT

I. The Court Should Order Respondents to Make a Timely Response based on 28 U.S.C. § 2243 and Rules Governing Habeas Petitions in District Courts.

Ms. Carapia Barroso requests that the Court order Respondents to make a timely response to his habeas petition within three days. This Court has authority to order such relief, based on the Rules governing habeas proceedings in the United States district courts. *See* Rules Governing § 2254 Cases in the U.S. Dist. Cts., Rule 1(b) ("The district court may apply any or all of these rules to a habeas corpus petition [other than a § 2254 petition]."); Rule 4 ("If the petition is not

dismissed [*sua sponte*], the judge must order the respondent to file [a] . . . response within a fixed time, or to take other action the judge may order.”).

In addition, 28 U.S.C. § 2243 provides further authority for this Court to grant Petitioner’s request. This provision provides in relevant part:

A court, justice or judge entertaining an application for 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.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

28 U.S.C. § 2243 (emphasis added).

Pursuant to Section 2243, this Court may order Respondents to file an answer or “return” on the habeas petition within three days, or additional time not exceeding twenty days, if good cause is shown. Here, Petitioner seeks an order requiring a response within three days or, for good cause shown, additional time not exceeding twenty days, which provides adequate time for Respondents to marshal facts and legal arguments that they believe support his continued detention. This case does not require complex or protracted investigation by Respondents, as this similar legal issue has been litigated in Courts throughout the U.S. No difficult factual questions prohibit Respondents from filing an answer to the habeas petition within three days or, for good cause shown, additional time not exceeding twenty days.

Additional grounds exist for requiring Respondents to timely respond. First, the habeas statute contemplates a timely hearing and remedy. “Congress has provided that once a petition for a writ of habeas corpus is filed, unless the court is of the opinion that the petitioner is not

entitled to an order to show cause, the writ must be awarded 'forthwith,' or an order to show cause must be issued." *Harris v. Nelson*, 394 U.S. 286, 298-99 (1969) (quoting 28 U.S.C. § 2243); *see also*, *Simpson v. Ortiz*, 995 F.2d 606, 609 (5th Cir. 1993). A habeas petition "is a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination." *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-38 (9th Cir. 1954); *see also*, *McClellan v. Young*, 421 F.2d 690, 691 (6th Cir. 1970); *Johnson v. Rogers*, 917 F.2d 1283, 1284 (10th Cir. 1990); *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

Petitioner should not have to wait longer for Respondents to answer when relevant law authorizes and contemplates this short time frame and because facts and circumstances warrant expedited consideration of his habeas petition.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court order Respondents to file their response within three days of the date of filing of the Petition or, for good cause shown, additional time not exceeding twenty days, and Petitioner to file a reply within ten days thereafter, and set a hearing on the Petition shortly thereafter.

Dated: January 18, 2026

Respectfully submitted,

/s/ Jennifer Scarborough /s/

Jennifer Scarborough
Attorney for Petitioner
Texas Bar No. 24106401
Law Firm of Jennifer Scarborough
P.O. Box 18460
Minneapolis, MN 55418
Phone: 956-513-7633
jennifer@texasborderlawyer.com