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**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
MINNEAPOLIS DIVISION**

Jose Maria Lozano Hernandez,)

Petitioner,)

v.)

David Easterwood, Director of St. Paul)
Field Office, U.S. Immigration and)
Customs Enforcement; **Kristi Noem**, Secretary)
of the U.S. Department of Homeland Security;)
and Pamela Bondi, Attorney General of the)
United States, in their official capacities,)

Respondents.)
_____)

Case No. 26-893

**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 by Immigration and Customs Enforcement under 8 U.S.C. § 1225(b)(2). Petitioner has been misclassified as an individual “seeking admission” under 8 U.S.C. § 1225(b)(2), making him ineligible for

bond. Petitioner is subject to discretionary detention, if any, pursuant to 8 U.S.C. § 1226, making him bond-eligible. *See* Petition for Writ of Habeas Corpus, Dkt. No. 1.

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 3 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 deprivation of his physical liberty from

unlawful detention. Petitioner has been misclassified as a noncitizen subject to mandatory detention under 8 U.S.C. § 1225(b)(2), making him ineligible for bond. Continued detention of Petitioner infringes upon his constitutional rights to due process. Without intervention from this court, Petitioner is at risk of being detained for months until the conclusion of his removal proceedings.

/s/ Paschal O. Nwokocha
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