

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ZUHAIR SAAD CHAYAN AL-SUDANI,

Petitioner,

v.

Case No. 2:26-cv-00317-MIS-KRS

PAMELA BONDI, et al.,

Respondents.

MOTION FOR EXTENSION OF TIME

Federal Respondents respectfully request an extension of time to respond to the Petition for Writ of Habeas Corpus (Doc. 1) stating the following:

1. On February 9, 2026, the Court issued an Order Directing Service and an Order to Show Cause (Doc. 10). The Court ordered Respondents to answer the petition within three days of service of the order. *Id.*

2. The present timeline to respond does not provide Respondents with sufficient time to consult the appropriate agencies, review the necessary documents and prepare a defense¹. Respondents have requested the relevant information from the agencies but are still awaiting documentation.

3. Further, there is significant authority providing the Court with discretion to grant additional time as the prior timeline requirements under 28 U.S.C. § 2243 were superseded by the adoption of Habeas Rule 4. *See* Habeas Rule 4, Rules Governing Section 2254 Cases in the United States District Courts.

4. Petitioner filed this habeas petition under § 2241. The Court may apply the § 2254

¹ Respondents request additional time to consult with the relevant agencies and investigate the allegations in the Petition (Doc. 1) and produce sufficient information to allow the Court to evaluate the claims in the motion and make an informed decision on the merits.

habeas rules to this § 2241 petition. *See* § 2253 Habeas Rules, Rule 1(b) (“The district court may apply any or all of these rules to a habeas corpus petition not covered by Rule 1(a)”)²

5. The Rules Advisory Committee expressly contemplated that Habeas Rule 4 would supersede the outdated timeline requirements of § 2243:

In the event an answer is ordered under rule 4, the court is accorded greater flexibility than under § 2243 in determining within what time period an answer must be made. Under § 2243, the respondent must make a return within three days after being so ordered, with additional time of up to forty days allowed under the Federal Rules of Civil Procedure, Rule 81(a)(2), for good cause. In view of the widespread state of work overload in prosecutors' offices (*see, e.g., Allen*, 424 F.2d at 141), additional time is granted in some jurisdictions as a matter of course. Rule 4, which contains no fixed time requirement, gives the court the discretion to take into account various factors such as the respondent's workload and the availability of transcripts before determining a time within which an answer must be made.

Rules Governing § 2254 cases, Rule 4, Advisory Committee Notes (1976 Adoption) (emphasis added), *quoted in Clutchette v. Rushen*, 770 F.2d 1469, 1474–75 (9th Cir. 1985).

6. The habeas rules were expressly adopted by Congress in 1976, after the enactment of § 2243. *See* Pub. L. 94–426, § 1, 90 Stat. 1334 (1976). Pursuant to the Rules Enabling Act, enacted rules have the full force of a statute, and supersede prior, contrary statutes. 28 U.S.C. § 2072(b) (“All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.”).

7. Based on these principles, numerous courts of appeals have concluded that if

² To the extent Petitioner may argue that Habeas Rule 4 does not apply to § 2241 petitions, the First Circuit has rejected that argument. *Bramson v. Winn*, 136 F. App'x 380, 382 (1st Cir. 2005), *citing* Rule 1(b) of the Rules Governing § 2254 Cases (allowing district court in its discretion to apply § 2254 habeas rules to § 2241 petitions). The First Circuit concluded that a district court may apply the § 2254 habeas rules to § 2241 petitions and supersede § 2243's timeline requirements. *Id.* The Tenth Circuit found no abuse of discretion when a district court did the same as to a § 2241 petition. *Bradin v. Thomas*, 823 F. App'x 648, 656–57 (10th Cir. Aug. 13, 2020) (unpublished) (as to § 2241 petition, finding no abuse of discretion in the federal district court's ruling that “28 U.S.C. § 2243's time limit for filing an answer is subordinate to Habeas Rule 4, which contains no fixed time requirement but instead gives district courts considerable discretion in setting deadlines for responses to habeas petitions”).

there is conflict between timeline requirements under Habeas Rule 4 and § 2243, Habeas Rule 4 supersedes the statute. *Bradin v. Thomas*, 823 F. App'x 648, 656-57 (10th Cir. Aug. 13, 2020) (unpublished) (as to § 2241 petition, finding no abuse of discretion in the district court's ruling that “28 U.S.C. § 2243's time limit for filing an answer is subordinate to Habeas Rule 4, which contains no fixed time requirement but instead gives district courts considerable discretion in setting deadlines for responses to habeas petitions”); *Bleitner v. Welborn*, 15 F.3d 652, 653–54 (7th Cir. 1994) (noting that Rule 4, which has force of superseding statute, loosened up deadline for responses and has the force of a superseding statute); *Clutchette v. Rushen*, 770 F.2d 1469, 1474 (9th Cir. 1985) (Habeas Rule 4 supersedes § 2243’s timeline requirement); *Bramson v. Winn*, 136 F. App'x 380, 382 (1st Cir. 2005) (applying Habeas Rule 4 to § 2241 petition to supersede § 2243’s timeline requirements); *see also France v. State*, No. 1:13CV250, 2014 WL 11997461, at *2 (M.D.N.C. Apr. 30, 2014) (finding Rule 4 superseded § 2243)), *aff'd*, 584 F. App'x 117 (4th Cir. 2014); *see also Hudson v. Harvanek*, No. CIV 22-290-RAW-JAR, 2023 WL 5533526, at *1 (E.D. Okla. Aug.28, 2023).

8. Requiring compliance with the currently scheduled timelines would produce an inadequate brief or record and prevent the Court from issuing a thorough and informed decision on the merits of the above-captioned case.

9. For these reasons, Respondents respectfully request the Court reconsider the response deadline articulated in the Court Order (Doc. 10) and exercise its discretion to allow additional time to prepare as permitted under Habeas Rule 4.

10. Respondents respectfully request the Court extend the deadline to respond to the Petition to two weeks after service.

11. Petitioner, through counsel, emailed Respondents’ counsel with a courtesy copy of a proposed order to grant the petition, so presumably opposes this motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, I filed the foregoing pleading electronically through the CM/ECF system which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Allison Shokes
ALLISON SHOKES
Assistant United States Attorney