

District Judge Tana Lin
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PETRONA TOMAS MANUEL, *et al.*,

Petitioners,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02353-TL-MLP

FEDERAL RESPONDENTS'¹
RESPONSE TO PETITIONER'S EX
PARTE MOTION FOR ORDER TO
SHOW CAUSE

Federal Respondents submit this response to Petitioners' Ex Parte Motion for Order to Show Cause. Dkt. No. 2. Federal Respondents do not object to Petitioner's request for this Court to issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause why the habeas petition should not be granted, if this Court should determine that a return is required. Federal Respondents object to Petitioner's suggestion to require Respondents to file a return within seven days. *Id.*, at 7. Federal Respondents ask this Court, in its discretion, to provide Respondents with 20 days to file a return, far less than the usual practice in this District to provide Respondents with 30 days from the date of the Order to file the return. This will allow undersigned counsel to obtain

¹ Respondent Bruce Scott is not a Federal Respondent.

1 the necessary documents and information necessary to prepare a return. This will take additional
2 time here as there are five petitioners, with five separate A-files, which will need to be assessed
3 independently of each other. Given the high volume of habeas cases filed in this District, and
4 because the return period will include the Thanksgiving holiday which will slow information
5 gathering, seven days does not provide the U.S. Attorney's Office with sufficient time to obtain
6 complete and accurate information from Respondents while also balancing the needs of other
7 habeas cases that have been pending longer and/or that present more time sensitive factual
8 circumstances.

9 Petitioners base their request for a seven-day response time based on the language in 28
10 U.S.C. 2243 stating that the return shall be provided "within three days unless good cause
11 additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243. But "[i]t is long-
12 established law that Habeas Rule 4 supersedes and overrides the prior enactment in § 2243 with
13 regard to the time allowed for a response in § 2254 and § 2241 habeas proceedings." *Peters v.*
14 *Wofford*, No. 1:25-cv-00497, 2025 WL 1307796, at *1 (E.D. Cal. May 6, 2025) (collecting cases).
15 "[T]he Ninth Circuit has held there is no fixed time requirement for responding to a habeas petition,
16 and district courts have discretion to set appropriate deadlines for responses to habeas petitions."
17 *Hernandez Velasquez v. McAleenan*, No. 19-cv-1887, 2019 WL 8017813, at *1 (C.D. Cal. Oct.
18 31, 2019) (collecting cases).

19 Federal Respondents respectfully request that this Court utilize its discretion and allow
20 Federal Respondents 20 days from the date of its order, if issued, to file a return. *See Wofford*,
21 2025 WL 1307796, at *1 (requiring return to be filed within 45 days).

22 //

23 //

24 //

1 DATED this 24th day of November, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
4 United States Attorney

s/ Michelle R. Lambert

5 MICHELLE R. LAMBERT, NYS #4666657

6 Assistant United States Attorney

7 United States Attorney's Office

8 Western District of Washington

9 1201 Pacific Ave., Ste. 700

10 Tacoma, WA 98402

11 Phone: (253) 428-3824

12 Fax: (253) 428-3826

13 Email: michelle.lambert@usdoj.gov

14 *Attorneys for Defendant*