**TEMPLATE APPLICATION FOR ORDER TO SHOW CAUSE**

**AND PROPOSED ORDER**

**For more detailed information, see the practice advisory**

**Habeas Corpus Petitions**

**available at:** **www.immigrationlitigation.org**

[Attorney Information and Bar No.,

if Required by Local Rule]

*Attorney/s for Petitioner*

**UNITED STATES DISTRICT COURT**

**\_\_\_\_\_\_ DISTRICT OF [STATE]**

**\_\_\_\_ DIVISION**

**[NAME],** )

) Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner, )

) **APPLICATION FOR ISSUANCE**

v. ) **OF ORDER TO SHOW CAUSE**

)

[**NAME]**, Warden, [Name of Facility]; )

[**NAME],** Acting/Director of [City] Field Office, )

U.S. Immigration and Customs Enforcement;)

[**NAME],** Secretary of the U.S. Department of )

Homeland Security; and **[NAME], )**

Attorney General of the United States, )

in their official capacities, )

)

Respondents. )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

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 [explain basis for habeas petition]. *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 Respondent(s) 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 # days after Respondent(s) file the return.

8. Giving Respondent(s) additional time to respond is inappropriate in this case because Petitioner faces irreparable harm due to [assert the deprivation of his/her/their physical liberty and explain; or assert applicable type of irreparable harm Petitioner faces absent issuance of a show cause order.]

/s/ *Attorney Name*

Attorney Name

Signature block

*Counsel for Petitioner*

**UNITED STATES DISTRICT COURT**

**\_\_\_\_\_\_ DISTRICT OF [STATE]**

**\_\_\_\_ DIVISION**

**[NAME],** )

) Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner, )

) **[PROPOSED] ORDER**

v. ) **TO SHOW CAUSE**

)

[**NAME]**, Warden, [Name of Facility]; )

[**NAME],** Acting/Director of [City] Field Office, )

U.S. Immigration and Customs Enforcement;)

[**NAME],** Secretary of the U.S. Department of )

Homeland Security; and **[NAME], )**

Attorney General of the United States, )

in their official capacities, )

)

Respondents. )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

Upon consideration of Petitioner’s Application for Issuance of Order to Show Cause pursuant to 28 U.S.C. § 2243 and Petitioner’s Petition for Writ of Habeas Corpus (Dkt. No. 1), IT IS HEREBY ORDERED that:

1. Respondent(s) shall file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus should not be granted by [Date];

2. Petitioner shall have an opportunity to file a reply by [Date];

3. This matter shall be heard by this Court on [Date] at [Time].

4. Service of this Order shall be made by Petitioner on the United States Attorney for the \_\_\_\_\_\_\_\_ District of [State] by [Time] on [Date] and shall constitute good and sufficient service.

**IT IS SO ORDERED.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

UNITED STATES DISTRICT JUDGE