

3:25-cv-02509-BEN-MMP Sanchez Bueno v. Archambeault et al

Roger T. Benitez, presiding

Michelle M. Pettit, referral

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
San Diego Division

Raul SANCHEZ BUENO,
(aka Raul BUENO SANCHEZ)

Petitioner,

v.

GREGORY J. ARCHAMBEAULT, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations (ICE/ERO); TODD LYANS, Acting Director of Immigration Customs Enforcement (ICE); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No: '25CV2509 BEN MMP
Agency No. A 

PETITION FOR WRIT OF

**ORAL ARGUMENT
REQUESTED**

Expedited Hearing Requested

INTRODUCTION

1. Petitioner is a 40 year-old Mexican National who seeks protection from being removed by Respondents from the U.S. to a currently unnamed third country.

2. Petitioner was last ordered removed and removed from the U.S. on June 4, 2013. Petitioner last entered the U.S. without inspection on July 2, 2021.

3. On or about September 28, 2022, Respondents reinstated the June 4, 2013, order of removal against Petitioner thereby placing Petitioner in “Withholding-Only” proceedings pursuant to 8 U.S.C. §1231, which resulted in Petitioner being placed into Respondents’ custody for the duration of his Withholding-Only proceedings culminating with Petitioner being granted Withholding of Removal from being removed to Mexico pursuant to 8 U.S.C. §1231(b)(3) on November 2, 2022.

4. Respondents released Petitioner from Respondents’ custody on or about December 1, 2022, after Respondents declined to pursue an appeal of the grant of Withholding.

5. In April of 2025, Petitioner was found to be morbidly obese and to be suffering from [REDACTED]

[REDACTED]. Petitioner was prescribed medications for his conditions including medicine for his rapidly degenerating eye sight.

6. Petitioner was placed back into Respondents’ custody on or about May 9, 2025, where Petitioner remains, in Otay Mesa, California.

7. To date, DHS has refused to provide Petitioner the medicine he was prescribed for his rapidly degenerating eye sight and is losing his ability to see.

8. In response to Petitioner filing a motion with the EOIR to redetermine Petitioner’s custody status, Respondents filed with the EOIR, on August 26, 2025,

1 a copy of the EOIR's grant of Withholding and a Form I-213 which noted that
2 "BUENO-Sanchez will be detained pending removal to a third country." This was
3 the first time that Respondents acknowledged to Petitioner that Respondents
4 intended on removing Petitioner to a third country. A copy of this document and
5 the relevant reference can be found in Petitioner's Exhibits at numbered page 20.

6 9. On August 29, 2025, Immigration (IJ) Judge Paula DIXON held a
7 Bond Redetermination Hearing for Petitioner. Before those proceedings were
8 adjudicated on the merits, IJ Dixon ruled that the EOIR lacked jurisdiction to
9 determine Petitioner's release and in turn allowed Petitioner to withdraw his
10 motion for custody redetermination.

11 10. As of the date of the filing of this petition, Respondents have refused
12 to notify Petitioner as to the third country Respondents anticipate removing
13 Petitioner to, refused to provide Petitioner a meaningful opportunity to challenge
14 his removal to any third-country, refused to provide Petitioner the medicines he
15 has been prescribed to treat his vision loss from his diabetic conditions making his
16 loss of vision imminent and refused to provide Petitioner an opportunity to seek
17 release from Respondents' custody.

18 11. Accordingly, to vindicate Petitioner's rights, this Court should grant
19 the instant petition for writ of habeas corpus. Petitioner asks that this Court find
20 that Respondent's continuing custody of Petitioner is in violation of Petitioner's
21 rights and the law and order Respondent to release Petitioner from its custody.
22

23 JURISDICTION

24

25 12. This action arises under the Constitution of the United States and the
26 Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. seq.

27 13. This court has subject matter jurisdiction under 28 U.S.C. 2241
28

1 (habeas corpus), 28 U.S.C. 1331 (federal question), and Article I, §9, cl. 2 of the
2 United States Constitution (Suspension Clause).

3 14. This Court may grant relief under the habeas corpus statutes, 28
4 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
5 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
6 U.S.C. § 1251(e)(2).

7 8 **VENUE**

9
10 15. Venue is proper because Petitioner is in Respondents' custody in
11 Otay Mesa, California. Venue is further proper because a substantial part of the
12 events or omissions giving rise to Petitioner's claims occurred in this District,
13 where Petitioner is now in Respondents' custody 28 U.S.C. §1391(e).

14 16. For these same reasons, divisional venue is proper under the local
15 rules.

16 17 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

18
19 17. The court must grant the petition for writ of habeas corpus or issue an
20 order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is
21 entitled to relief. 28 U.S.C. §2243. If an OSC is issued, the Court must require
22 Respondents to file a return "within three days unless for good cause additional
23 time, not exceeding twenty days, is allowed." *Id.*

24 18. Courts have long recognized the significance of the habeas statute in
25 protecting individuals from unlawful detention. The Great Writ has been referred
26 to as "perhaps the most important writ known to the constitutional law of England,
27 affording as it does a swift and imperative remedy in all cases of illegal restraint or
28

1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

2 19. Petitioner is “in custody” for the purpose of §2241 because he is
3 arrested and detained by Respondents.

4
5 **PARTIES**

6
7 20. Petitioner, Raul SANCHEZ BUENO, aka Raul BUENO
8 SANCHEZ, is a 40 year old citizen of Mexico. He is a resident of Southern
9 California, married to a U.S. Citizen, and is present within the state of California
10 as of the time of the filing of this petition.

11 21. Respondent Gregory J. Archambeault is the Field Office Director for
12 the San Diego Field Office, Immigration Customs and Enforcement and Removal
13 Operations (“ICE”). The San Diego Field Office is responsible for local custody
14 decisions relating to non-citizens (aliens) charged with being removable from the
15 U.S., including the arrest, detention, and custody status of non-citizens. The San
16 Diego Field Office’s area of responsibility includes San Diego and Otay Mesa,
17 California where Petitioner is currently held in DHS custody. Respondent
18 Archambeault is a legal custodian of Petitioner.

19 22. Respondent Todd Lyons is the acting director of U.S. Immigration
20 Customs and Enforcement, and has authority over the actions of Respondent
21 Archambeault and ICE in general. Respondent Lyons is a legal custodian of
22 Petitioner.

23 23. Respondent Kristi Noem is the Secretary of the Department of
24 Homeland Security (DHS) and has authority over the actions of all other DHS
25 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
26 legal custodian of Petitioner and is charged with faithfully administering the
27 immigration laws of the United States.

1 24. Respondent Pamela Bondi is the Attorney General of the United
2 States, and as such has authority over the Department of Justice and is charged
3 with faithfully administering the immigration laws of the United States.

4 25. Respondent U.S. Immigration Customs and Enforcement (ICE) is the
5 federal agency responsible for custody decisions relating to non-citizens charged
6 with being removable from the United States, including arrest, detention, and
7 custody status of non-citizens.

8 26. Respondent U.S. Department of Homeland Security (DHS) is the
9 federal agency that has authority over the actions of ICE and all other DHS
10 Respondents.

11 27. This action is commenced against all Respondents in their official
12 capacities.

14 **EXHAUSTION OF ADMINISTRATIVE REMEDY**

15
16 28. On August 29, 2025, Immigration (IJ) Judge Paula DIXON held a
17 Bond Redetermination Hearing for Petitioner at the EOIR in Otay Mesa,
18 California, where Petitioner is currently held in the custody of Respondents.
19 Before those proceedings were adjudicated on the merits, IJ Dixon ruled that the
20 EOIR lacked jurisdiction to determine Petitioner's release and in turn allowed
21 Petitioner to withdraw his motion for custody redetermination.

23 **LEGAL FRAMEWORK**

24
25 29. Department of Homeland Security immigration custody is civil in
26 nature and is not meant to be punitive. See *Zadvydas v. Davis*, 533 U.S. 678
27 (2001).

1 30. The Eight Amendment to the Constitution protects against the
2 Government causing cruel and unusual punishment on a person in Government
3 custody. In *Estelle v. Gamble*, 429 U.S. 97, (1976) that court held that the Eighth
4 Amendment to the Constitution protects against government officials acting with
5 “deliberate indifference” to a substantial risk to an inmate’s health or safety.

6 31. Despite being provided a copy of the prescription for Petitioner’s eye
7 medication related to his diabetic conditions; Respondents continue to refuse to
8 provide Petitioner his medication resulting in Petitioner’s deteriorating vision.

9 32. When the Government intends to send a non-citizen who has been
10 granted Withholding to a third country ie not the country the person is protected
11 from being returned to, which in Petitioner’s case is Mexico; the Government is
12 required to officially notify the non-citizen of the third country the Government
13 intends to send the non-citizen to and to provide the non-citizen with a reasonable
14 opportunity to contest that removal. See *Johnson v. Guzman Chavez*, 594 U.S.
15 523 (2021).

16 33. Petitioner has never been informed by Respondents of the third
17 country Respondents seek to remove Petitioner to and has never provided
18 Petitioner an opportunity to contest removal to any third country.

19 34. Normally, the Government can hold a non-citizen in Petitioner’s
20 position for 90 days while it tries to execute the removal to a third country. The
21 order in Petitioner’s case became administratively final on June 14, 2013. See
22 *Johnson* at 528/538/545. No court has ever issued a stay of removal in
23 Petitioner’s case. Here the decision is referring to an Article III court not
24 administrative proceedings. Petitioner was released from non-immigration
25 detention or confinement on September 28, 2022, when Respondents reinstated
26 the prior order of removal and placed Petitioner into Respondents’ custody. See
27 *Johnson* at 528 wherein is found:
28

1 Once an alien is ordered removed, DHS must physically
2 remove him from within a 90-day "removal period." 8.U.S.C.
3 §1231(a)(1)(A). The removal period begins on the latest of
4 three dates: (1) the date the order of removal becomes
5 "administratively final," (2) the date of the final order of any
6 court that entered a stay of removal, or (3) the date on which
7 the alien is released from non-immigration detention or
8 confinement. §1231(a)(2).

9 35. Petitioner was held in Respondents' custody from September 28,
10 2022, to when Petitioner was released from Respondent's custody on December 1,
11 2022, a total of 64 days toward the 90 day period leaving a balance of 26 days.

12 36. *Johnson* held: "If no exception applies, an alien who is not removed
13 within the 90-day removal period will be released subject to supervision."

14 37. The *Johnson* court went on to note those circumstances where the
15 Government may hold the non-citizen past the 90 day period which was defined in
16 *Johnson* as the "post-removal-period". See *Johnson* at 528 and 541:

17 Under §1231, the removal period may be extended in at least three
18 circumstances, such that an alien remains detained after 90 days have
19 passed. First, the removal period may be extended if the alien fails to
20 make a timely application for travel documents or acts to prevent his
21 removal. §1231(a)(1)(C). Second, DHS may stay the immediate
22 removal of certain aliens if it decides that such removal is not
23 practicable or proper, or if the alien is needed to testify in a pending
24 prosecution. §1231(c)(2)(A). And finally, the statute provides that
25 an alien may be detained beyond the removal period or released under
26 supervision if he is inadmissible, (2) removable as a result of
27 violations of status requirements, entry conditions, or the criminal
28 law, or for national security or foreign policy reasons, or (3) a risk to
the community or unlikely to comply with the removal order.
§1231(a)(6); see also 8 CFR §241.4 (setting out procedures DHS
must follow to impose continued detention). Continued detention
under this provision creates the "post-removal-period."

38. Petitioner has not failed to make a timely application for travel
documents nor acted to prevent his removal.

39. Petitioner is not in a position to inform the court as to whether his
removal by Respondents is practicable or proper.

1 46. Petitioner is in Respondents' custody and not receiving medications
2 he has been prescribed to treat his diabetic condition which in turn is negatively
3 affecting his vision.

4 47. Petitioner's life is in danger in Mexico.

5 48. An immigration judge granted Petitioner protection from being
6 returned to Mexico on November 2, 2022.

7 49. Respondent held Petitioner in Petitioner's custody from September 2,
8 2022, to December 1, 2022, 64 days.

9 50. Respondents have held Petitioner in Respondents' custody since May
10 9, 2025, which as of September 23, 2025, is 137 days.

11 51. Respondents have held Petitioner in Respondents' custody after
12 Petitioner was granted Withholding of Removal a total of 166 days of the 180 days
13 allowed as of the date of the filing of this Petition.

14 52. Respondents, through its representative at the EOIR, part of the
15 Department of Justice have to date refused to set a bond in Petitioner's case after
16 finding the EOIR lacked jurisdiction to consider Petitioner's bond on release.

17 53. Petitioner has suffered the following convictions: 2007-violation of 8
18 U.S.C. §1325 with a 55 day custodial sentence; 2009-violation of 8 U.S.C. §1326
19 with a 60 day custodial sentence; 2013-violation of 8 U.S.C. §1326 with a 118 day
20 custodial sentence; 2022-violation of 8 U.S.C. §1326 with a 62 day custodial
21 sentence; 2024-violation of California Penal Code §415 disturbing the peace, a
22 misdemeanor with no custodial sentence; 2025-probation violation for testing
23 positive for marijuana with a 45 day custodial sentence. Petitioner's criminal
24 record does not indicate Petitioner is either a danger to the community or likely to
25 flee if released.

54. Upon release; Petitioner would return to living with his U.S. Citizen wife and U.S. Citizen severely disabled step-son in the Imperial/El Centro California area.

55. Petitioner restates and re-alleges all paragraphs as if fully set forth here.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

56. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the U.S. Federal Government from depriving a person of their “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, or unlawful, temporary, or permanent.” *Zadvydas*, 533 at 693.

57. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

58. Here, on information and belief, Petitioner has not been provided due process by Respondents who continue to hold Petitioner in Respondents' custody without providing Petitioner with any information which identifies the country/s Respondents intend to remove Petitioner to.

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III

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COUNT TWO

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

59. Petitioner restates and re-alleges all paragraphs as if fully set forth here.

60. Here, on information and belief, Petitioner has not been provided due process by Respondents who continue to hold Petitioner in Respondent's custody without providing Petitioner an opportunity to contest Petitioner's removal to a third-country which remains unnamed.

COUNT THREE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

Violation of Eighth Amendment Right to be free from Cruel and Unusual Punishment

61. Petitioner restates and re-alleges all paragraphs as if fully set forth here.

62. Here, on information and belief, Petitioner has not been provided due process by Respondents who continue to refuse to provide Petitioner his prescribed medication resulting in the continuing deterioration of Petitioner's vision.

63. Immigration custody is civil in nature and should not be punitive. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

64. The Eighth Amendment to the constitution protects against those in Government custody suffering cruel and unusual punishment.

1 65. Respondent's continued deliberate indifference to the serious medical
2 needs of Petitioner violates Petitioner's Eight Amendment right to be free from
3 cruel and unusual punishment. See *Estelle v. Gamble*, 429 U.S. 97 (1976).

4
5 **COUNT FOUR**

6 **Violation of Fifth Amendment Right to Due Process**

7 **Procedural Due Process**
8

9 66. Petitioner restates and re-alleges all paragraphs as if fully set forth
10 here.

11 67. Petitioner has been held in Respondents' custody past the normal 90
12 removal period identified in *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021),
13 thereby creating a presumption that Petitioner is being held in violation of his
14 Fifth Amendment due process rights.
15
16

17 **COUNT FIVE**

18 **Violation of Fifth Amendment Right to Due Process**

19 **Procedural Due Process**

20 68. Petitioner restates and re-alleges all paragraphs as if fully set forth
21 here.

22 69. Petitioner has been held in Respondents' custody for the purpose of
23 removing Petitioner to a third-country for 201 days without Respondent removing
24 Petitioner to a third country and without providing Petitioner an opportunity to
25 seek release from Respondents' custody.
26
27
28

1 70. The *Johnson* court also held that the Government may only hold the
2 non-citizen it intends to remove to a third country if that removal is imminent.
3 Petitioner's removal to a third country is not imminent.

4 71. Respondents' continued custody of Petitioner violates Petitioner's
5 right to due process.

7 PRAYER FOR RELIEF

8 WHEREFORE, Petitioner respectfully requests that this Court grant the
9 following:

- 10 (1) Assume jurisdiction over this matter.
- 11 (2) Issue an Order to Show Cause ordering Respondents to show cause
12 why this Petition should not be granted within three days.
- 13 (3) Declare that Respondent's continued refusal to inform Petitioner as to
14 the Third Country Respondents intend to send Petitioner to as
15 violating the Due Process Clause of the Fifth Amendment.
- 16 (4) Declare that Respondents's continued refusal to provide Petitioner an
17 opportunity to contest removal to a Third Country to date unnamed as
18 violating the Due Process Clause of the Fifth Amendment.
- 19 (5) Declare that Respondents' continued refusal to provide Petitioner
20 the medicines he has been prescribed for his medical condition after
21 being notified of the prescription to be evidence of negligent
22 indifference amounting to cruel and unusual punishment in violation
23 of Petitioner's rights under the Eight Amendment to the Constitution;
- 24 (6) Declare that Respondents' continued detention of Petitioner past the
25 normal 90 days for removal as violating the Due Process Clause of
26 the Fifth Amendment;

- 1 (7) Declare Respondents' continued refusal to provide Petitioner an
- 2 opportunity to challenge his continued custody as violating the Due
- 3 Process Clause of the Fifth Amendment;
- 4 (8) Issue a Writ of Habeas Corpus ordering Respondents to release
- 5 Petitioner from Respondents' custody;
- 6 (9) Award Petitioner's attorney's fees and costs under the Equal Access
- 7 to Justice Act, and on any other basis justified under the law; and
- 8 (10) Grant any further relief this Court deems just and proper.
- 9

10 Dated: September 23, 2025 /s/David Landry

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
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Raul SANCHEZ BUENO,
(aka Raul BUENO SANCHEZ)

Petitioner,

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GREGORY J. ARCHAMBEAULT, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations (ICE/ERO);
TODD LYANS, Acting Director of Immigration Customs Enforcement (ICE); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;
KRISTI NOEM, Secretary of the Department of Homeland Security; and
PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No: '25CV2509 BEN MMP

Agency No. A 088 037 602

**EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner, by and through counsel hereby offers the following documents in support of Petitioner's Petition for Writ of Habeas Corpus:

1. July 3, 2021, Form I-871 Notice of Intent/Decision to Reinstate Prior Order regarding Petitioner; numbered 1.
2. September 22, 2022, Form I-863 Notice of Referral to Immigration Judge regarding Petitioner; numbered 2-3.
3. November 2, 2022, Order of the Immigration Judge granting Petitioner Withholding of Removal pursuant to INA §241(b)(3) aka 8 U.S.C. §1231 (b)(3), numbered 4-5.
4. Medical evidence regarding Petitioner from March-April 2025, numbered 6-14.
5. Copy of July 2025 email correspondence between counsel for Petitioner and Department of Homeland Security counsel regarding Petitioner's medical conditions, numbered 15-16.
6. Copy of DHS-7 showing according to the Department of Homeland Security's records Petitioner's immigration and criminal history, numbered 17-20.
7. Copy of minute order from the Superior Court of California County of Imperial showing that Petitioner was convicted of violating California

Penal Code §415 for disturbing the peace in case# ECM011819,
numbered 21-22.

7. Copy of Immigration Judge Dixon's August 29, 2025, Order noting
that Petitioner withdrew his bond redetermination request, numbered
23-24.

RESPECTFULLY SUBMITTED this 23rd day of September 2025

By: /s/David Landry
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