

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division**

\_\_\_\_\_  
Edwin Hernandez-Campos,

c/o Murray Osorio PLLC  
8630 Fenton Street, Suite 918,  
Silver Spring, MD 20910

*Petitioner,*

v.

Kristi Noem, *Secretary of Homeland Security,*

Secretary of Homeland Security  
Washington, DC 20508

Todd Lyons, *Acting Director, U.S. Immigration  
and Customs Enforcement,*

Kenneth Genalo, *Acting Executive Associate  
Director, ICE Enforcement and Removal  
Operations,*

Nikita Baker, *ICE Baltimore Field Office Director,*

500 12th St., SW  
Washington, D.C. 20536

Pamela Bondi, *Attorney General,*

950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

*Respondents.*

\_\_\_\_\_

Civil Action No. \_\_\_\_\_

**PETITION FOR WRIT OF HABEAS CORPUS**

In 2019, Petitioner Edwin Hernandez-Campos won an order from an immigration judge granting him a form of relief called withholding of removal under the Convention Against Torture, which prohibits Defendants from removing him to El Salvador. Should Defendants wish to remove Petitioner to El Salvador, the law sets forth specific procedures by which they can reopen the case

and seek to set aside the grant of withholding of removal. Should Defendants wish to remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Defendants have arrested and now appear to be seeking to deport Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained in ICE's "Baltimore Hold Room" in Baltimore, Maryland; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Baker's principal place of business is in Baltimore, Maryland.

### **THE PARTIES**

4. Petitioner Edwin Hernandez-Campos is a citizen and native of El Salvador who resides in Beltsville, Maryland. Respondents seek to deport him to El Salvador without any legal process whatsoever, and in violation of an immigration judge order and a federal regulation prohibiting them from doing so.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Kenneth Genalo is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States.

8. Respondent Baker is the ICE Baltimore Field Office Director. She is the head of the ICE office that unlawfully arrested Plaintiff, and such arrest took place under her direction and supervision. She is the immediate legal and physical custodian of Petitioner.

9. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

10. All government Respondents are sued in their official capacities.

### **LEGAL BACKGROUND**

11. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where he is more likely than not to face torture. 8 C.F.R. § 1208.16(c). This protection is usually referred to as “CAT withholding of removal.”

12. For an immigration judge (serving as the designee of Respondent Bondi) to grant CAT withholding of removal to a noncitizen, the noncitizen must prove that he is more likely than not to suffer torture. “The burden of proof is on the applicant for withholding of removal under

[the CAT] to establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2).

13. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

14. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received “ample notice and an opportunity to be heard”).<sup>1</sup>

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<sup>1</sup> Indeed, the Solicitor General’s office acknowledged this legal principle earlier this week in oral argument before the Supreme Court:

JUSTICE KAGAN: So let me --let me make sure I understand that. You think you have the --the --the legal right -- . . . --to --to send the non-citizen to some other country, where he doesn’t have a CAT --CAT claim, but, in fact, the U.S. government does not exercise that right?

MR. McDOWELL: Under Title 8 we --we do not do that as a matter of practice. We do think we have the legal authority to do that, with the following caveat: We would have to give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country. If they raise that reasonable fear, the withholding-only proceedings would simply continue. They would just focus on the new country, rather than the original one.

JUSTICE KAGAN: But you don’t have the legal power to remove the person to the country for which there is a pending CAT claim?

MR. McDOWELL: That’s exactly right. The regulations prohibit that.

15. Federal regulations provide a procedure by which a grant of CAT withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge, and then DHS will bear the burden of proof, by a preponderance of the evidence, that grounds for termination exist. 8 C.F.R. § 1208.24(f). After a grant of withholding of removal is terminated, there would be no impediment to removal.

### **FACTS**

16. Petitioner Edwin Hernandez-Campos is a citizen of El Salvador and no other country.

17. On January 30, 2023, Petitioner was granted CAT withholding of removal pursuant to 8 U.S.C. § 1232(b)(3)(A), after the immigration judge agreed that he had established it was more likely than not that he would be tortured in El Salvador. *See* Ex. A (Immigration Judge order). ICE did not appeal the grant of relief, *see* Ex. B (immigration court “Automated Case Information” page). Petitioner was then promptly released from custody, and went home to be with his family. Nor has ICE taken any steps to reopen or rescind the grant of relief, *see* Ex. B.

18. On February 26, 2025, Petitioner was instructed to present himself at the Baltimore ICE offices for purposes of “removal.” *See* Ex. C (ICE call-in letter).

19. Petitioner presented himself as scheduled on March 27, 2025, at the Baltimore ICE office, whereupon he was taken into detention. He remains in detention in the Baltimore “ICE Hold Room” as of the time of filing this habeas corpus petition. *See* Ex. D (ICE Detainee Locator screenshot).

20. The Baltimore ICE Office has recently begun deporting individuals from El Salvador with valid grants of withholding of removal to El Salvador, in gross violation of the law.

*See Abrego Garcia v. Noem*, Civ. No. 8:25-cv-951-PX, Dkt. No. 1 (D. Md., filed March 24, 2025).

Petitioner is terrified that the same thing will happen to him.

21. El Salvadoran males deported to El Salvador are frequently placed in the CECOT prison, a notorious torture site. The government of El Salvador has boasted that no-one ever leaves that prison alive. As Judge Boasberg wrote earlier this week:

In Salvadoran prisons, deportees are reportedly highly likely to face immediate and intentional life-threatening harm at the hands of state actors. The country's government has boasted that inmates in CECOT never leave; indeed, one expert declarant alleges that she does not know of any CECOT inmate who has been released. Once inmates enter the prisons, moreover, their families are often left in the dark.

Plaintiffs offer declarations that inmates are rarely allowed to leave their cells, have no regular access to drinking water or adequate food, sleep standing up because of overcrowding, and are held in cells where they do not see sunlight for days.

At CECOT specifically, one declarant states that "if the prison were to reach full supposed capacity ..., each prisoner would have less than two feet of space in shared cells ... [which] is less than half the space required for transporting midsized cattle under EU law." Given poor sanitary conditions . . . "tuberculosis, fungal infections, scabies, severe malnutrition[,] and chronic digestive issues [a]re common."

Beyond poor living conditions, Salvadoran inmates are, according to evidence presented, often disciplined through beatings and humiliation. One inmate claimed that "police beat prison newcomers with batons .... [W]hen he denied being a gang member, they sent him to a dark basement cell with 320 detainees, where prison guards and other detainees beat him every day. On one occasion, one guard beat him so severely that [he] broke a rib." Three prior deportees from the United States reported being kicked in the face, neck, abdomen, and testicles, with one requiring "an operation for a ruptured pancreas and spleen." One inmate reported being forced to "kneel on the ground naked looking downwards for four hours in front of the prison's gate." That same prisoner also said that he was made to sit in a barrel of ice water as guards questioned him and then forced his head under water so he could not breathe.

One scholar avers that, since March 2022, an estimated 375 detainees have died in Salvadoran prisons. Although the Salvadoran government maintains that all deaths have been natural, others respond that 75% of them "were violent, probably violent, or with suspicions of criminality on account of a common pattern of hematomas caused by beatings, sharp object wounds, and signs of strangulation on the cadavers

examined.” When an inmate is killed, there are also reports that guards “bring the body back into the cells and leave it there until the body start[s] stinking.”

*J.G.G. v. Trump*, No. CV 25-766 (JEB), 2025 WL 890401, at \*16 (D.D.C. Mar. 24, 2025) (internal citations omitted). Petitioner is terrified that if deported to El Salvador, he will immediately be sent to CECOT, never to be seen or heard from again.

22. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CAUSE OF ACTION:  
HABEAS CORPUS,  
28 U.S.C. § 2241**

23. Petitioner incorporates the foregoing paragraphs 1-22 by reference.

24. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

25. As set forth herein, Respondents are currently detaining Petitioner in violation of the Constitution or laws or treaties of the United States, and intend to remove Petitioner to El Salvador in violation of the Constitution or laws or treaties of the United States.

**SECOND CAUSE OF ACTION:  
VIOLATION OF THE CONVENTION AGAINST TORTURE,  
8 C.F.R. § 1208.16(c)**

26. Petitioner incorporates the foregoing paragraphs 1-22 by reference.

27. The Convention Against Torture regulation, 8 C.F.R. § 1208.16(c), prohibits Respondents from removing a noncitizen to any country from which he has been granted CAT withholding of removal, unless such grant is formally terminated by lawful means.

28. As set forth above, Respondents intend to remove Petitioner to El Salvador, the country from which he had been granted CAT withholding of removal, without formally terminating his grant of withholding of removal, thus violating this law.



**THIRD CAUSE OF ACTION:  
PROCEDURAL DUE PROCESS  
U.S. CONSTITUTION, AMENDMENT V**

29. Plaintiffs incorporate the foregoing paragraphs 1-22 by reference.

30. Petitioner has a procedural due process right not to be removed to El Salvador, the country from which he had been granted CAT withholding of removal, without an immigration judge first carrying out the procedures set forth in federal regulations.

31. As set forth above, Respondents intend to remove Petitioner to El Salvador, the country from which he had been granted CAT withholding of removal, without formally terminating his grant of withholding of removal, thus violating his procedural due process rights under the Fifth Amendment to the U.S. Constitution.

**FOURTH CAUSE OF ACTION:  
SUBSTANTIVE DUE PROCESS  
U.S. CONSTITUTION, AMENDMENT V  
(All Plaintiffs)**

32. Petitioner incorporates the foregoing paragraphs 1-22 by reference.

33. Petitioner has a substantive due process right under the Fifth Amendment to the U.S. Constitution not to be subjected to government conduct that shocks the conscience. For Respondents to deport Petitioner to near-certain torture in El Salvador, notwithstanding a judge's order that they not do so, as set forth above, would violate that right.

**REQUEST FOR RELIEF**

Petitioner prays for judgment against Respondent and respectfully request that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;



- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador, unless and until his order of CAT Withholding of Removal is terminated, including all appeals;
- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country;
- d) Preliminarily enjoining Respondents from removing Petitioner from the State of Maryland pending the outcome of this litigation;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody; and
- f) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

//s// Simon Sandoval-Moshenberg

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