

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
Laredo Division**

ISRAEL ADONAY SAGASTIZADO SANCHEZ,)

Petitioner,)

v.)

KRISTI NOEM, *et al.*,)

Respondents.)

Civil Action No. 5:25-cv-104

Petitioner's Motion for Leave to Serve Document Request

Petitioner Israel Adonay Sagastizado Sanchez, by counsel, hereby moves this Court for leave to conduct limited, targeted discovery in the form of a single document request to Respondents, attached hereto as Ex. A.¹ In support of this motion, Petitioner respectfully represents as follows:

Legal Standard

"A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). Discovery is limited in habeas corpus proceedings, "only if and only to the extent that the district court finds good cause. Good cause may be found when a petition for a writ of habeas corpus establishes a prima facie claim for relief. Before authorizing discovery, the Court must first conclude that the

¹ Counsel for Petitioner e-mailed counsel for Respondents on August 11, 2025 to attempt to obtain the requested records without formal discovery or ascertain Respondents' position on this motion. In response, Respondents provided only a copy of Petitioner's El Salvadoran passport, but no communications with the government of Mexico. See Ex. C hereto. Counsel for Respondent explained that "ICE will notify me once Mexico confirms that it will accept Mr. Sagastizado for repatriation," which seems to imply that Mexico *has not yet* confirmed that it will accept Petitioner.

specific allegations in the petition show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is confined illegally and is therefore entitled to relief. In that regard, petitioner's factual allegations must be specific, as opposed to merely speculative or conclusory, to justify discovery.” *Kingery v. Dretke*, 2006 WL 1441925, at *22 (S.D. Tex. May 23, 2006), quoting *Murphy v. Johnson*, 205 F.3d 809, 814 (5th Cir.).

Discovery Requested

Here, Petitioner requests leave to serve one single document request on Respondents, requesting “All Communications to or from any Third-Country Government, regarding accepting Petitioner for removal; including but not limited to any formal or informal request for travel documents from the Third-Country Government, and any formal or informal response thereto.” *See Ex. A.*

Argument

Good cause exists to grant Petitioner’s discovery request, so that Petitioner can prepare his opposition to Respondents’ Motion to Dismiss, Dkt. No. 7.

The parties agree that the relevant legal standard for this habeas corpus petition is *Zadvydas v. Davis*, 533 U.S. 678 (2001), which entrusts the habeas court with determining whether there is a significant likelihood of removal within the reasonably foreseeable future. Respondents’ basis for arguing that a significant likelihood of removal exists, is one sentence in their memorandum: “In Sagastizado’s case, the Government of Mexico has agreed to accept his repatriation to facilitate his removal from the United States.” Dkt. No. 7 at 10. This sentence cites to one exhibit: Dkt. No. 7-5, the Notice of Revocation of Release, which was given to Petitioner at 9:45am on May 6, 2025—the day he was arrested by ICE—and informed him that “[t]he Government of Mexico has agreed to accept your repatriation to facilitate your removal from the United States.”

There is good reason to believe that the statement in the Notice of Revocation of Release was false, and that at 9:45am on May 6, 2025, when Petitioner was first arrested and served his Notice of Revocation of Release, Respondents had not yet asked the government of Mexico to review Petitioner's case for the issuance of a travel document. In another litigation regarding third-country removals, *Abrego Garcia v. Noem*, No. 8:25-cv-951-PX (D. Md.), Thomas Giles, ICE's Interim Assistant Director for Enforcement Removal Operations testified in open court under oath on July 10, 2025. *See* Ex. B hereto. Assistant Director Giles explained that ICE officers do not begin the process of trying to identify a third country for removal "until the individual is in ICE custody. . . . They are not worked until they are arrived in ICE custody." *Id.* at 26:16—27:1. *See also id.* at 31:14-21 ("Q. Why hasn't ICE begun the process of identifying a third country . . . for Mr. Abrego Garcia? A. We don't preempt -- we don't work cases that aren't in ICE custody preemptively as our docket officers are worried about the cases that they have in their custody now. So no decision -- we don't work these cases until they're in ICE custody."). This raises a serious question as to the accuracy of the government's representation that ICE officers had already obtained approval from the Government of Mexico to accept Petitioner for removal *prior* to arresting Petitioner. *See also* Ex. C hereto (implying that Mexico has not yet confirmed that it will accept Petitioner for repatriation).

Petitioner's requested discovery would not be burdensome. It would not require searches of electronic communications across ICE or DHS generally: Respondents already know exactly which ICE officials are responsible for communicating with the government of Mexico regarding their request that Mexico accept Petitioner for removal. Finally, the documents can be filed under seal, or provided to Petitioner's counsel pursuant to a protective order if necessary.

Conclusion

For the foregoing reasons, Petitioner should be granted leave to take limited targeted discovery, in the form of the document request attached hereto as Ex. A.

Respectfully submitted,

/s/ Simon Y. Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
Virginia State Bar no. 77110
Counsel for Plaintiff
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
ssandoval@murrayosorio.com

Date: August 16, 2025

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, along with all attachments thereto, to this Court's CM/ECF case management system, which will send a Notice of Electronic Filing (NEF) to all counsel of record.

Respectfully submitted,

/s/ Simon Y. Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
Virginia State Bar no. 77110
Counsel for Plaintiff
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
ssandoval@murrayosorio.com

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