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Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Juan Sanchez-Hernandez

Petitioner,

v.

Fred Figueroa, Warden, Eloy Detention
Center; John E. Cantu, Field Office Director,
U.S. Immigration and Customs Enforcement,
U.S. Department of Homeland Security;
Kristi Noem, Secretary of U.S. Department of
Homeland Security; and Pam Bondi,
Attorney General of the United States, in their
official capacities.

Respondents.

No.

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241 AND COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration
Under Color of Immigration Detention
Statutes; Request for Declaratory and
Injunctive Relief

PETITION FOR WRIT OF HABEAS CORPUS

In December 2022, Petitioner Juan Sanchez-Hernandez, a.k.a. Angel Sanchez Hernandez, (“Ms. Sanchez” or “Petitioner”) won an order from an immigration judge granting her deferral of removal under the Convention against Torture (“CAT deferral”), which prohibits Respondents from removing her to her native Honduras.

1 Should Respondents wish to remove Petitioner to Honduras, the law sets forth
2 specific procedures by which they can reopen the case and seek to set aside the grant
3 of CAT deferral. Should Respondents wish to remove Petitioner to any other country,
4 they would first need to provide her with notice and the opportunity to apply for
5 protection as to that country as well. Until they do either of these things, they cannot
6 remove Petitioner from the United States. But Respondents have arrested Petitioner
7 without warning and without observance of procedures required by regulation, and are
8 detaining her for no reason; they now appear to be seeking to deport Petitioner
9 without observance of any legal procedures whatsoever, ripping her away from her
10 family. Such conduct cries out for immediate judicial relief.

13 CUSTODY

14 1. Petitioner is in the physical custody of Respondents and held at Eloy
15 Detention Center (EDC) in Eloy, Arizona. At the time of this filing, Petitioner
16 continues to be detained at EDC. EDC is a facility that contracts with ICE to hold
17 people awaiting removal. Petitioner is in direct control of Respondents and their
18 agents.
19
20

21 JURISDICTION

22 2. This action arises under the Constitution of the United States, the
23 Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. Seq., as amended by
24 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
25 ("IRRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has subject matter
26 jurisdiction and may grant relief under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. §
27 1651 (All Writs Act), and 28 U.S.C. § 1331 (federal question). This Court also has
28

1 jurisdiction to hear this case under the Suspension Clause of Article I of the United
2 States Constitution. *INS v. St. Cyr*, 533 U.S. 289 (2001). The Court may also grant
3 relief under 28 U.S.C. §§ 2201 (declaratory relief).

4
5 3. Because Petitioner challenges her custody, jurisdiction is proper in this
6 Court. While the courts of appeals have jurisdiction to review removal orders through
7 petitions for review, *see* 8 U.S.C. §§ 1252(a)(1) and (b), the federal district courts
8 have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens
9 challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S.
10 678, 687–88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006).

11 VENUE

12
13
14 4. Venue is proper in the District of Arizona pursuant to 28 U.S.C. §§
15 1391(b) and (e) and local rules of this court because a substantial part, if not all, of the
16 events or omissions giving rise to these claims occurred in this district, where
17 Respondents reside, and where Petitioner is detained.

18 REQUIREMENTS OF 28 U.S.C. § 2243

19
20
21 5. The Court must grant the petition for writ of habeas corpus or issue an order
22 to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to
23 relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require
24 respondents to file a return “within *three days* unless for good cause additional time, not
25 exceeding twenty days, is allowed.” *Id.* (emphasis added).

26
27
28 6. Courts have long recognized the significance of the habeas statute in

1 protecting individuals from unlawful detention. The Great Writ has been referred to as
2 “perhaps the most important writ known to the constitutional law of England, affording as
3 it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay*
4 *v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).
5

6 PARTIES

7 All Respondents listed below are sued in their official capacities.
8

9 7. Petitioner Juan Angel Sanchez-Hernandez is a noncitizen who is a
10 national and citizen of Honduras. Respondents seek to deport her without any legal
11 process whatsoever, and in violation of an immigration judge’s order and a federal
12 regulation prohibiting them from doing so.
13

14 8. Respondent Fred Figueroa is Warden at the Eloy Detention Center
15 (EDC), a facility that holds Petitioner and other immigrants awaiting removal in Eloy,
16 Arizona. He is the Petitioner’s immediate custodian and resides in the judicial district
17 of the United States Court for the District of Arizona.
18

19 9. Respondent John A. Cantu is the Field Office Director for the Phoenix
20 Field Office of U.S. Immigration and Customs Enforcement’s (“ICE”) Enforcement
21 and Removal (“ERO”) division. The Phoenix Field Office’s area of responsibility
22 includes the entire state of Arizona. Respondent Cantu has the authority to order
23 Petitioner’s release or continued detention. As such, Respondent Cantu is a legal
24 custodian of Petitioner.
25

26 10. Respondent Kristi Noem is the Secretary of the United States
27 Department of Homeland Security (“DHS”). She is responsible for the
28

1 implementation and enforcement of the immigration laws and oversees ICE. As such,
2 Respondent Noem has ultimate custodial authority over Petitioner.

3 11. Respondent Pamela Bondi is the Attorney General of the United States.
4 The Immigration Judges who decide removal cases and application for relief from
5 removal do so as her designees.
6

7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 12. Petitioner has exhausted administrative remedies to the extent required by
9 law. She has requested information and release and has been told only the government
10 may seek to send her to a third country, including Mexico. Thus, the only remedy for
11 Petitioner's continued potentially indefinite detention is by way of this constitutional
12 habeas challenge.
13

14 **LEGAL FRAMEWORK**

15 13. Deferral of removal under the Convention Against Torture (CAT), an
16 international treaty obligation, is governed by implementing regulations. 8 C.F.R. §
17 1208.17. CAT deferral prohibits the government from removing a noncitizen to a
18 country where she is more likely than not to be tortured. *See* 8 C.F.R. § 1208.17(a).
19 This form of relief is mandatory if the applicant meets the standard and is distinct
20 from asylum in that it does not lead to permanent residency.
21

22 14. To qualify for CAT deferral, the noncitizen bears the burden of proving
23 that it is more likely than not that they would face torture if returned to their country
24 of origin. The government may not remove an individual with a valid CAT deferral
25 order to that country unless the order is formally terminated following the procedures
26 set forth in the regulations. *See* 8 C.F.R. § 1208.17(d).
27
28

1 15. Federal regulations provide a procedure by which a grant of CAT
2 deferral issued by an immigration judge may be terminated: DHS must move to
3 reopen the removal proceedings before the immigration judge and must prove, by a
4 preponderance of the evidence, that the individual would no longer face torture. 8
5 C.F.R. § 1208.24(f). Only after termination may removal proceed.
6

7 16. However, CAT deferral is a country-specific form of relief. Should the
8 government wish to remove an individual with a grant of CAT deferral to some other
9 country, it must first provide that individual with notice and an opportunity to apply
10 for CAT deferral as to that country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A).
11 See also *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132
12 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir.
13 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per
14 curiam) (permitting removal to third country only where individuals received “ample
15 notice and an opportunity to be heard”).
16
17

18 17. Finally, for individuals with a removal order but who cannot be
19 removed (because there is no country designated to which they can lawfully be
20 removed, or because logistical or practical considerations prevent execution of an
21 otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to
22 detain noncitizens during the “removal period,” which is defined as the 90-day period
23 during which “the Attorney General shall remove the alien from the United States.” 8
24 U.S.C. §1231(a)(1)(A).
25
26

27 18. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3)
28 provides that the government shall release unremovable noncitizens on an order of

1 supervision (the immigration equivalent of supervised release, with strict reporting
2 and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with
3 aggravated felony convictions may be “released” if “subject to the terms of
4 supervision” set forth in 8 U.S.C. § 1231(a)(3).
5

6 19. Constitutional limits on detention beyond the removal period are well
7 established. Government detention violates due process unless it is reasonably related
8 to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).
9 “[W]here detention’s goal is no longer practically attainable, detention no longer
10 ‘bear[s][a] reasonable relation to the purpose for which the individual [was]
11 committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
12 Additionally, cursory or pro forma findings of dangerousness do not suffice to justify
13 prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld
14 preventative detention based on dangerousness only when limited to especially
15 dangerous individuals [like suspected terrorists] and subject to strong procedural
16 protections.”)
17
18

19 20. The purpose of detention during and beyond the removal period is to
20 “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme
21 Court “read § 1231 to authorize continued detention of an alien following the 90-day
22 removal period for only such time as is reasonably necessary to secure the alien’s
23 removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at
24 699).
25
26

27 21. As the Supreme Court explained, where there is no possibility of
28 removal, immigration detention presents substantive due process concerns because

1 “the need to detain the noncitizen to ensure the noncitizen’s availability for future
2 removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92.
3 Detention is lawful only when “necessary to bring about that alien’s removal.” *See*
4 *id.* at 689.
5

6 22. To balance these competing interests, the *Zadvydas* Court established a
7 rebuttable presumption regarding what constitutes a “reasonable period of detention”
8 for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six
9 months detention could be deemed a “presumptively reasonable period of detention,”
10 after which the burden shifts to the government to justify continued detention if the
11 noncitizen provides a “good reason to believe that there is not significant likelihood
12 of removal in the reasonably foreseeable future.” *Id.* at 701.
13
14

15 23. Where a petitioner has provided “good reason to believe there is no
16 significant likelihood of removal in the reasonably foreseeable future,” the burden
17 shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.
18 Habeas corpus is at its core a constitutional protection against unlawful and indefinite
19 detention. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 536 (2004); *see also Zadvydas v.*
20 *Davis*, 533 U.S. 678, 689 (“A statute permitting indefinite detention of an alien
21 would raise a serious constitutional problem.”).
22
23

24 **STATEMENT OF FACTS**

25 24. Petitioner, Juan Angel Sanchez-Hernandez, is a citizen of Honduras and
26 no other country.
27

28 25. On December 15, 2022, Petitioner was granted deferral of removal
under the Convention Against Torture under 8 C.F.R. § 1208.17(a) after the

1 immigration judge agreed that she had established it was more likely than not that she
2 would be tortured in Honduras. *See* Ex. A. (Immigration Judge Order). To date,
3 Respondents have not taken any steps to reopen or rescind the grant of relief. *See* Ex.
4 B. (EOIR Automated Case Information)
5

6 26. ICE released the Petitioner on an order of supervision on January 18,
7 2023. *See* Ex. C (Order of Supervision) Since that time, Petitioner has not been
8 convicted of any crimes, nor has the Petitioner violated the terms of her order of
9 supervision with ICE.
10

11 27. On June 19, 2025, Petitioner was called into her probation office.
12 Without warning and without any explanation for the legal or factual basis of her
13 detention, Petitioner was detained by ICE. For approximately one week, she was
14 denied her hormone treatment, essential medication not only to maintain her
15 transgender identity, but also a delicate medication without which her hormonal levels
16 began to fluctuate. Petitioner, a transgender woman, was housed with male
17 noncitizens at the Eloy Detention Center.
18

19 28. Prior to her unlawful detention, Petitioner was dutifully attending
20 scheduled check-ins with ICE pursuant to her release on supervision. She now
21 remains in detention at Eloy Detention Center at the time of filing this habeas corpus
22 petition. *See* Ex. D (ICE Detainee Locator screenshot).
23

24 29. ICE has informed Petitioner that they would like to remove her to
25 Mexico. But since Petitioner has no claim to legal immigration status in Mexico, then
26 Mexico will promptly send her to Honduras, where it has already been determined
27 that she will face torture. This chain refolement would violate the treaty obligations
28

1 under the CAT and its implanting regulations just as surely as if Respondents carried
2 out the removal directly to Honduras. In addition, the Petitioner has a fear of Mexico
3 based on her transgender identity.

4
5 30. Respondents currently lack any factual or legal basis to detain
6 Petitioner, since Respondents cannot establish that that Petitioner will likely be
7 removed from the United States in the reasonably foreseeable future.

8
9 31. Petitioner has exhausted all administrative remedies. No further
10 administrative remedies are available to Petitioner.

11 **CLAIMS FOR RELIEF**

12 **COUNT ONE**

13 **Violation of 8 U.S.C. § 1231(a)(6)**

14 32. Petitioner re-alleges and incorporates by reference the preceding
15 paragraphs 1-31.

16
17 33. Petitioner's continued detention by the Respondents violates 8 U.S.C. §
18 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period
19 and six-month presumptively reasonable period for continued removal efforts have
20 long since passed.

21
22 34. Under *Zadvydas*, the continued detention of someone like Petitioner is
23 unreasonable and not authorized by 8 U.S.C. § 1231.

24 **COUNT TWO**

25 **Due Process/Detention**

26 35. Petitioner re-alleges and incorporates by reference the preceding
27 paragraphs 1-31.

28 36. Petitioner's detention during the removal period is only constitutionally

1 permissible under the Due Process Clause when there is a significant likelihood of
2 removal in the reasonably foreseeable future. Respondents have rearrested and re-
3 detained Petitioner on the assumption that Petitioner will be removable to Mexico but
4 have no factual basis to believe that such third-country removal will ever become
5 practicable and legally permissible.
6

7 37. Respondent continues to detain Petitioner without evidence that they
8 will be able to remove her imminently, to Honduras or to any other country.
9

10 38. Respondents' detention of Petitioner no longer bears any reasonable
11 relation to a legitimate government purpose and thus violates the Due Process
12 Clause.
13

14 **COUNT THREE**
Habeas Corpus, 28 U.S.C. § 2241

15 39. Petitioner re-alleges and incorporates by reference the preceding
16 paragraphs 1-31.
17

18 40. The writ of habeas corpus is available to any individual who is held in
19 custody of the federal government in violation of the Constitution or laws or treaties
20 of the United States.
21

22 41. Respondents presently have no legal basis to detain Petitioner in
23 immigration custody, and the writ of habeas corpus should issue.
24

25 **COUNT FOUR**
Procedural Due Process/Removal

26 42. Petitioner re-alleges and incorporates by reference the preceding
27 paragraphs 1-31.
28

43. Petitioner has a procedural due process right not to be removed to

1 Honduras, the country from which she had been granted deferral, without an
2 immigration judge first carrying out the procedures set forth in federal regulations.

3 44. In addition, as set forth above, Respondents intend to remove Petitioner
4 to Mexico, which will in turn remove Petitioner back to Honduras, without adequate
5 notice and opportunity to be heard, thus violating his procedural due process rights
6 under the Fifth Amendment to the U.S. Constitution.
7

8
9
10 **COUNT FIVE**
11 **Violation of Government Regulations and Procedures/Relief**

12 45. Petitioner re-alleges and incorporates by reference the preceding
13 paragraphs 1-31.

14 46. As set forth above, government regulations and procedures do not allow
15 Petitioner to be removed to Honduras, the country from which she had been granted
16 deferral of removal under the CAT, without an immigration judge first carrying out
17 the procedures set forth in federal regulations.
18

19 47. In addition, as set forth above, government regulations and procedures
20 do not allow Petitioner to be removed to Mexico, which will in turn remove
21 Petitioner back to Honduras, without adequate notice and opportunity to seek
22 protection from removal to Mexico under the CAT.
23

24 **COUNT SIX**
25 **Violation of 8 C.F.R. § 241.4(l)**

26 48. Petitioner re-alleges and incorporates by reference the preceding
27 paragraphs 1-31.

28 49. As set forth above, Respondents' actions in cancelling Petitioner's

1 release on supervision and re-arresting Petitioner without any advance or
2 contemporaneous explanation of the legal or factual basis for re-detention violated 8
3 C.F.R. § 241.4(l), a regulation designed to protect the due process rights of
4 noncitizens like Petitioner.
5

6 50. This violation of required procedures also violated Petitioner's due
7 process rights under the Fifth Amendment to the U.S. Constitution.
8

9 51. In arresting and re-detaining Petitioner, Respondents violated important
10 substantive and procedural rules designed to protect his due process rights, and the
11 writ of habeas corpus should issue.
12

13 **ATTORNEY FEES AND COSTS**

14 52. If Petitioner prevails, Petitioner requests attorney's fees and costs
15 under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.
16

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner respectfully requests that the Court grant the
19 following relief:

- 20 a. Assume jurisdiction over this matter;
- 21 b. Issue an Order to Show Cause ordering Respondents to justify the basis of
22 Petitioner's detention in fact and in law, forthwith;
- 23 c. Preliminarily and permanently enjoining Respondents from removing
24 Petitioner to Honduras, unless and until her order of deferral of removal under
25 the CAT is terminated, including all appeals;
- 26 d. Preliminarily and permanently enjoining Respondents from removing
27 Petitioner to any other country without first providing her notice and offering
28

- 1 her adequate opportunity to apply for withholding of removal or protection
2 under the Convention Against Torture as to that country, including all appeals;
3
4 e. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his
5 own recognizance, under parole, or with reasonable conditions of supervision;
6
7 f. Award Petitioner reasonable costs and attorney's fees; and
8
9 g. Grant any other and further relief as the Court deems just and proper.

Dated: July 7, 2025

10 Respectfully submitted,

11 /s/ Gregory Fay

12 Gregory Fay, 035534

13 Florence Immigrant & Refugee Rights Project

14 P.O. Box 32670

15 Phoenix, AZ 85064

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16 *Attorney for Plaintiff*
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1
2 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**
3 **PURSUANT TO 28 U.S.C. § 2242**

4 I am submitting this verification on behalf of the Petitioner because I the
5 Petitioner's attorney. I have discussed with the Petitioner the events described in this
6 Petition. On the basis of those discussions, I hereby verify that the statements made in
7 the attached Petition for Writ of Habeas Corpus are true and correct to the best of my
8 knowledge.
9

10 Dated: July 7, 2025

11 /s/ Gregory Patrick Fay
12 Gregory Patrick Fay
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CERTIFICATE OF SERVICE

I, Gregory Patrick Fay, hereby certify that on July 7, 2025, a true and correct copy of Petitioner's **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**, was served via United States Postal Services Priority Mail on Respondents to the following addresses:

John E. Cantu, Field Office Director
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s/ Gregory Patrick Fay
July 7, 2025.
Gregory Patrick Fay