

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Luis Demetrio Perez Sanchez,

Petitioner,

vs.

Bobby Thompson, Jail Administrator
South Texas ICE Processing Center

Michael Vergara, Field Office Director,
San Antonio, U.S. Immigration and
Customs Enforcement

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

Respondents.

CASE NO: 5: 25 -cv-1122

HEARING REQUESTED

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Luis Demetrio Perez Sanchez has been detained by Immigration and Customs Enforcement (ICE) for seven months, with the supposed intent to remove him to a third country, but without any indication that ICE has a plan to remove him to any specific third country in the foreseeable future.

2. In April of 2000, Mr. Perez Sanchez, a Cuban national and citizen, was ordered removed to Cuba. However, he cannot be removed there because he was granted deferral of removal under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment

or Punishment (CAT), meaning the immigration judge (IJ) found that he would more likely than not be subject to torture if removed to Cuba.

3. The IJ did not designate an alternative country of removal in the removal order.

4. This means that to execute his removal order, ICE must identify a third country for removal, communicate with the third country's government to secure the government's acceptance of Mr. Perez Sanchez, and then facilitate the issuance of travel documents so that Mr. Perez Sanchez's removal can actually be effected.

5. At the time of the IJ's decision, Mr. Perez Sanchez was serving a state criminal sentence in Massachusetts. He was granted parole on December 19, 2024, and was released from Massachusetts state prison on February 5, 2025.

6. Thereafter, Mr. Perez Sanchez was immediately transferred to ICE custody, where he remains to this day with the supposed intent to execute his removal order from 2000.

7. A little over one month into his immigration detention, an ICE agent asked Mr. Perez Sanchez about how he would feel if he were sent to El Salvador, Guantanamo Bay, or Mexico.

8. Mr. Perez Sanchez wrote to the ICE agent that he held a fear of being sent to those places, but that Mexico could be a good alternative country of removal if he had guarantees of his safety.

9. In this letter, Mr. Perez Sanchez asked the ICE agent to contact his attorneys regarding his removal to a third country. As of the date of this petition, and despite contacts by his attorneys to ICE, ICE has failed to provide Mr. Perez Sanchez's counsel with specific information regarding his possible removal to a third country.

10. ICE is detaining Mr. Perez Sanchez under 8 U.S.C. § 1231(a)(6), which permits the detention of a noncitizen with a final order of removal for the sole purpose of executing said order of removal in the reasonably foreseeable future.

11. However, there is a constitutional limitation implicit in 8 U.S.C. § 1231(a)(6) – where there is no significant likelihood of removal in the reasonably foreseeable future, detention by ICE violates 8 U.S.C. § 1231(a)(6) and the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

12. There is an insurmountable institutional barrier to Mr. Perez Sanchez's removal to Cuba, as he has been awarded deferral of removal to Cuba under the CAT.

13. While ICE can remove Mr. Perez Sanchez to a safe third country, there is no evidence that ICE has a plan for doing so.

14. ICE has not contacted Mr. Perez Sanchez during the entirety of his more than six-month detention for interviews with foreign consulates or to review and sign travel papers.

15. This lack of evidence of a plan and dearth of affirmative steps to carry out a plan of removal, coupled with the fact that Mr. Perez Sanchez has been detained for more than six months, demonstrates that the government is not doing anything to execute his removal order.

16. Thus, there is no significant likelihood of removal to a safe third country in the reasonably foreseeable future and the continued detention of Mr. Perez Sanchez is an unlawful restraint on his liberty.

17. As ICE's detention of Mr. Perez Sanchez violates both the Immigration and Nationality Act and the U.S. Constitution, he must be released immediately under appropriate supervision.

18. Therefore, by this Petition Mr. Perez Sanchez seeks a Court order freeing him from the government's unlawful restraint of his liberty and requiring his immediate release from the South Texas ICE Processing Center under an appropriate order of supervision.

JURISDICTION & VENUE

19. The U.S. District Court for the Western District of Texas has jurisdiction to adjudicate the present Petition pursuant to Sections 2241 and 1331 of United States Code Title 28.

20. Venue is proper in the U.S. District Court for the Western District of Texas under 28 U.S.C. § 2241 because Mr. Perez Sanchez is presently being detained at a facility within this district and his immediate physical custodian is located in this district.

PARTIES

21. Mr. Perez Sanchez, a national and citizen of Cuba, is currently being detained at the South Texas ICE Processing Center at the direction of ICE.

22. Respondent Bobby Thompson is the jail administrator of and responsible for the management of the South Texas ICE Processing Center and thus has day-to-day control over the facility in which ICE is presently housing Mr. Perez Sanchez, and is being sued in his official capacity as Jail Administrator.

23. Respondent Michael Vergara is the Field Office Director for the ICE San Antonio Field Office. He has jurisdiction over individuals in ICE custody at the South Texas ICE Processing Center. He is being sued in his official capacity.

24. Respondent Todd Lyons is the Acting Director for ICE. He supervises all ICE field offices, including the San Antonio Field Office. He is being sued in his official capacity.

FACTS

25. Luis Demetrio Perez Sanchez was born in Cuba in 1951.


26. Mr. Perez Sanchez's father was in the military in Cuba for many years under the government of Fulgencio Batista.

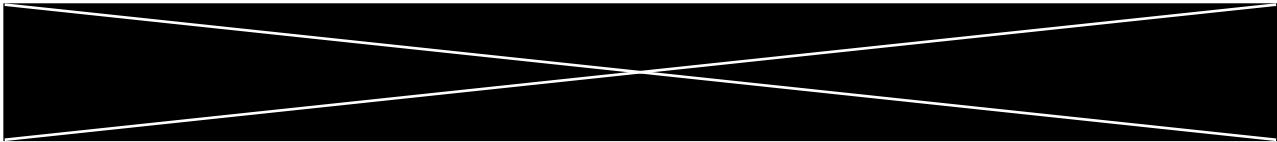
27. When the Batista regime was overthrown and the Communist Party of Cuba came to power in 1959, Mr. Perez Sanchez's father was arrested and held for seven months.

28. Mr. Perez Sanchez attended a military academy run by the Communist government, but when he was approximately 15, he and some colleagues stole a fishing boat, defected from Cuba, and sought asylum in Mexico.

29. Mr. Perez Sanchez was granted political asylum in Mexico in 1966.

30. In 1967 or 1968, Mr. Perez Sanchez came to the United States.

31. In the United States, 




32. In 1971, at the age of 19, Mr. Perez Sanchez participated in a robbery in Lowell, Massachusetts, which resulted in a death and a structure fire.

33. In 1973, following a jury trial, Mr. Perez Sanchez was convicted of first-degree murder, armed robbery, arson, and larceny of a motor vehicle. He was sentenced to life without the possibility of parole.

34. In prison, Mr. Perez Sanchez worked hard to rehabilitate himself – he had no disciplinary infractions after 2006, completed over 70 programs, worked as a law library clerk, graduated from college, and became an ordained minister.

35. In 2000, the Immigration and Naturalization Service (INS), the predecessor agency to ICE, initiated removal proceedings against Mr. Perez Sanchez in immigration court and designated Cuba as the only country of removal.

36. Mr. Perez Sanchez filed an application for deferral of removal under the CAT, because he feared torture at the hands of the Cuban Communist regime if returned to Cuba because of 

37. The immigration judge issued a final order of removal to Cuba but found that Mr. Perez Sanchez was more likely than not to be subject to torture if returned to Cuba and granted him deferral of removal to Cuba under the CAT.

38. The INS appealed the IJ's decision, and the Board of Immigration Appeals (BIA) affirmed the IJ's decision and dismissed the appeal in 2000.

39. At the time of filing this Petition, the Communist Party is still in power in Cuba.

40. In 2024, the Supreme Judicial Court of Massachusetts held in *Commonwealth v. Mattis*, 493 Mass. 216 (2024), that sentencing individuals who were between the ages of 18 and 20 at the time of the offense to life in prison without the possibility of parole is unconstitutional.

41. Pursuant to *Mattis*, Mr. Perez Sanchez was granted parole on December 19, 2024.

42. Mr. Perez Sanchez was released from Massachusetts state prison on February 5, 2025, and was transferred to ICE custody the same day.

43. A little over one month into his immigration detention, an ICE agent asked Mr. Perez Sanchez about how he would feel if he were removed to Guantanamo Bay, El Salvador, or Mexico.

44. Later that same day, Mr. Perez Sanchez sent a letter to the ICE agent explaining that he held a fear of removal to the places indicated, but that Mexico was a good alternative country for removal, but he did not know if there would be any guarantees of his safety.

45. After this conversation with the ICE agent, Mr. Perez Sanchez was afraid that he would be sent to El Salvador without ICE properly moving to reopen his removal proceedings to designate El Salvador as a country for removal.

46. Accordingly, Mr. Perez Sanchez quickly filed a motion to reopen his removal proceedings and an emergency motion to stay his removal to El Salvador with the BIA so that, in accordance with the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment, he may have the opportunity to present his meritorious claim of fear of removal to El Salvador.

47. Both motions are still pending before the BIA.

48. After the conversation with the ICE agent and after Mr. Perez Sanchez sent the above-mentioned letter to the ICE agent, ICE did not follow up with Mr. Perez Sanchez with concrete steps for removal to Mexico, including about an interview with a Mexican consulate official or about travel documents.

49. As Mr. Perez Sanchez spent more time in ICE detention without any communications from ICE about a plan for his removal, Mr. Perez Sanchez decided to try to contact the Mexican government on his own to see if Mexico would accept him for removal.

50. As a result of his own efforts, Mr. Perez Sanchez was contacted by an official with the Mexican Consulate in San Antonio sometime in June of 2025 for a telephonic interview, which he cooperated with.

51. Mr. Perez Sanchez's attorneys were then informed by a Mexican government official with the San Antonio Mexican Consulate that Mr. Perez Sanchez's ICE deportation officer needed to contact a Mexican government agency to inquire about his possible removal to Mexico.

52. Immediately thereafter, on June 27, 2025, Mr. Perez Sanchez's attorneys contacted ICE informing ICE of Mr. Perez Sanchez's willingness to be sent to Mexico and requesting that ICE take the necessary steps to effect his removal to Mexico.

53. ICE did not respond to Mr. Perez Sanchez's attorneys.

54. ICE also did not then reach out to Mr. Perez Sanchez about his removal to Mexico.

55. On August 7, 2025, Mr. Perez Sanchez's attorneys again reached out to ICE to inquire about the status of Mr. Perez Sanchez's request to be returned to Mexico, specifically to counsel with the Office of the Principal Legal Advisor of ICE (OPLA) and an Assistant United States Attorney (AUSA) with the United States Attorney's Office (USAO).

56. An OPLA Assistant Chief Counsel responded stating that ICE was aware of Mr. Perez Sanchez's willingness to be removed to Mexico and was facilitating that request but did not provide any specific facts related to steps ICE has taken to facilitate the request.

57. Additionally, an AUSA with the Western District of Texas also responded, stating that she would reach out to ICE Enforcement and Removal Operations (ERO) to ask whether ERO was able and willing to execute his removal order to Mexico, but she did not follow-up thereafter.

58. During the entirety of his seven months in immigration custody, ICE has not provided formal, written notice to Mr. Perez Sanchez of which country, if any, they might intend to remove him to.

59. During the entirety of his seven months in immigration custody, ICE has not contacted Mr. Perez Sanchez or his attorneys about interviews with foreign consulates or the issuance of travel documents.

60. Mr. Perez Sanchez is presently detained at the South Texas ICE Processing Center located in Pearsall, Texas, in the custody of Jail Administrator Bobby Thompson and at the direction of ICE.

61. The Declaration of Luis Demetrio Perez Sanchez, sworn under penalty of perjury, is attached to this Petition as **Exhibit 1** and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

62. The Declaration of Caroline Meade, sworn under penalty of perjury, is attached to this Petition as **Exhibit 2** and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

63. The Declaration of Claire Maguire, sworn under penalty of perjury, is attached to this Petition as **Exhibit 3** and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

*FIRST COUNT – INDEFINITE DETENTION
IN VIOLATION OF UNITED STATES CODE TITLE 8, SECTION 1231(a)*

64. Mr. Perez Sanchez incorporates paragraphs 1 through 63 above as if fully restated below.

65. Mr. Perez Sanchez is currently in the custody of Respondents under or by color of the authority of the United States.

66. Mr. Perez Sanchez has received a final order of removal to Cuba and is therefore detained pursuant to United States Code 8, Section 1231(a)(6).

67. A limitation to detention is implied in United States Code 8, Section 1231(a)(6) for the statute to remain constitutional, one that requires a detainee like Mr. Perez Sanchez only remain detained if his removal is significantly likely to occur in the reasonably foreseeable future.

68. An immigration judge has granted Mr. Perez Sanchez deferral of removal to Cuba under the CAT, and therefore ICE cannot lawfully remove Mr. Perez Sanchez to Cuba.

69. No country was designated as an alternative to Cuba in Mr. Perez Sanchez's order of removal.

70. ICE has not indicated, and no evidence suggests, that any third country has accepted or is significantly likely to accept Mr. Perez Sanchez for removal.

71. Without a plan for removal and without taking affirmative steps to effect his removal, Mr. Perez Sanchez's removal is not significantly likely to occur in the reasonably foreseeable future and therefore his ongoing detention violates United States Code 8, Section 1231(a)(6).

*SECOND COUNT – INDEFINITE DETENTION
IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT*

72. Mr. Perez Sanchez incorporates paragraphs 1 through 71 above as if fully restated below.

73. Mr. Perez Sanchez is currently in the custody of Respondents under or by color of the authority of the United States.

74. Mr. Perez Sanchez has received a final order of removal to Cuba and is therefore detained pursuant to United States Code 8, Section 1231(a)(6).

75. Substantive Due Process, as guaranteed by the Fifth Amendment to the U.S. Constitution, requires that a detainee like Mr. Perez Sanchez only remain detained if his removal is significantly likely to occur in the reasonably foreseeable future.

76. An immigration judge has granted Mr. Perez Sanchez deferral of removal to Cuba under the CAT, and therefore ICE cannot lawfully remove Mr. Perez Sanchez to Cuba.

77. No country was designated as an alternative to Cuba in Mr. Perez Sanchez's order of removal.

78. ICE has not indicated, and no evidence suggests, that any third country has accepted or is significantly likely to accept Mr. Perez Sanchez for removal.

79. Without a plan for removal and without taking affirmative steps to effect his removal, Mr. Perez Sanchez's removal is not significantly likely to occur in the reasonably foreseeable future and therefore his ongoing detention violates the Fifth Amendment.

PRAYER FOR RELIEF

Wherefore, based on the foregoing and the accompanying memorandum of law, Mr. Perez Sanchez respectfully requests that the Court:

- A. Order Respondents to immediately release Mr. Perez Sanchez from the South Texas ICE Processing Center under appropriate conditions of supervision; and
- B. Award to Mr. Perez Sanchez his reasonable litigation costs and attorney's fees pursuant to the Equal Access to Justice Act; and
- C. Grant such other further relief is deemed just and proper by the Court.

Respectfully submitted,

LUIS DEMETRIO PEREZ SANCHEZ,

By his attorneys,

/s/ Elissa C. Steglich

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Date: September 8, 2025

Counsel's Verification

I am submitting this verification on behalf of Petitioner Luis Demetrio Perez Sanchez because I am one of Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Claire Maguire

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Date: September 8, 2025

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I or my co-counsel will furthermore send true copies, with corresponding summonses, by USPS Certified Priority Mail to the following individuals:

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South Texas ICE Processing Center
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San Antonio, TX 78217

Todd Lyons, Acting Director,
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Office of the United States Attorney
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Dated: September 8, 2025

Respectfully submitted,

/s/ Elissa Steglich
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