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9 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
10 **San Diego Division**

11 Raul SANCHEZ BUENO,
(aka Raul BUENO SANCHEZ)

12 **Petitioner,**

13 v.

14 CHRISTOPHER J. LAROSE, Senior
Warden Core Civic, Otay Mesa, CA.;
15 GREGORY J. ARCHAMBEAULT, San
Diego Field Office Director, Immigration
16 and Customs Enforcement and
Removal Operations (ICE/ERO);
17 TODD LYANS, Acting Director of
Immigration Customs Enforcement
18 (ICE); U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
19 KRISTI NOEM, Secretary of the
Department of Homeland Security; and
20 PAMELA BONDI, Attorney General
of the United States,
21

22 **Respondents.**

Case No: 3:25-cv-2509-AGS-MMP
Agency No. A 088 037 602

AMENDED PETITION
FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT
REQUESTED

Expedited Hearing Requested

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INTRODUCTION

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

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

9 3. On or about September 28, 2022, Respondents reinstated the June 4,
10 2013, order of removal against Petitioner thereby placing Petitioner in
11 “Withholding-Only” proceedings pursuant to 8 U.S.C. §1231, which resulted in
12 Petitioner being placed into Respondents’ custody for the duration of his
13 Withholding-Only proceedings culminating with Petitioner being granted
14 Withholding of Removal from being removed to Mexico pursuant to 8 U.S.C.
15 §1231(b)(3) on November 2, 2022.

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

19 5. In April of 2025, Petitioner was found to be morbidly obese and to be
20 suffering from Diabetes Type II, Diabetic Retinopathy, Diabetic Macular Edema,
21 and Hypertension. Petitioner was prescribed medications for his conditions
22 including medicine for his rapidly degenerating eye sight.

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

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

27 8. In response to Petitioner filing a motion with the EOIR to redetermine
28 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 county. 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**

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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).

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8 **VENUE**
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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**
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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 Christopher J. LaRose is the Senior Warden of the
12 private facility Petitioner is currently held in, operated by Core Civic in Otay
13 Mesa, California, custody services for which are paid for by the U.S. Government.

14 Respondent La Rose was not a named Respondent in Petitioner’s original
15 Petition and has been added to this Amended Petition for Writ of Habeas Corpus.

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

24 23. Respondent Todd Lyons is the acting director of U.S. Immigration
25 Customs and Enforcement, and has authority over the actions of Respondent
26 Archambeault and ICE in general. Respondent Lyons is a legal custodian of
27 Petitioner.

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

6 25. Respondent Pamela Bondi is the Attorney General of the United
7 States, and as such has authority over the Department of Justice and is charged
8 with faithfully administering the immigration laws of the United States.

9 26. Respondent U.S. Immigration Customs and Enforcement (ICE) is the
10 federal agency responsible for custody decisions relating to non-citizens charged
11 with being removable from the United States, including arrest, detention, and
12 custody status of non-citizens.

13 27. Respondent U.S. Department of Homeland Security (DHS) is the
14 federal agency that has authority over the actions of ICE and all other DHS
15 Respondents.

16 28. This action is commenced against all Respondents in their official
17 capacities.

18
19 **EXHAUSTION OF ADMINISTRATIVE REMEDY**
20

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

27 ///

LEGAL FRAMEWORK

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2
3 30. Department of Homeland Security immigration custody is civil in
4 nature and is not meant to be punitive. See *Zadvydas v. Davis*, 533 U.S. 678
5 (2001).

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

11 32. Despite being provided a copy of the prescription for Petitioner’s eye
12 medication related to his diabetic conditions; Respondents continue to refuse to
13 provide Petitioner his medication resulting in Petitioner’s deteriorating vision.

14 33. When the Government intends to send a non-citizen who has been
15 granted Withholding to a third country ie not the country the person is protected
16 from being returned to, which in Petitioner’s case is Mexico; the Government is
17 required to officially notify the non-citizen of the third country the Government
18 intends to send the non-citizen to and to provide the non-citizen with a reasonable
19 opportunity to contest that removal. See *Johnson v. Guzman Chavez*, 594 U.S.
20 523 (2021).

21 34. Petitioner has never been informed by Respondents of the third
22 country Respondents seek to remove Petitioner to and has never provided
23 Petitioner an opportunity to contest removal to any third country.

24 35. Normally, the Government can hold a non-citizen in Petitioner’s
25 position for 90 days while it tries to execute the removal to a third country. The
26 order in Petitioner’s case became administratively final on June 14, 2013. See
27 *Johnson* at 528/538/545. No court has ever issued a stay of removal in
28

1 Petitioner’s case. Here the decision is referring to an Article III court not
2 administrative proceedings. Petitioner was released from non-immigration
3 detention or confinement on September 28, 2022, when Respondents reinstated
4 the prior order of removal and placed Petitioner into Respondents’ custody. See
5 *Johnson* at 528 wherein is found:

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

14 36. Petitioner was held in Respondents’ custody from September 28,
15 2022, to when Petitioner was released from Respondent’s custody on December 1,
16 2022, a total of 64 days toward the 90 day period leaving a balance of 26 days.

17 37. *Johnson* held: “If no exception applies, an alien who is not removed
18 within the 90-day removal period will be released subject to supervision.”

19 38. The *Johnson* court when on to note those circumstances where the
20 Government may hold the non-citizen past the 90 day period which was defined in
21 *Johnson* as the “post-removal-period”. See *Johnson* at 528 and 541:

22 Under §1231, the removal period may be extended in at least three
23 circumstances, such that an alien remains detained after 90 days have
24 passed. First, the removal period may be extended if the alien fails to
25 make a timely application for travel documents or acts to prevent his
26 removal. §1231(a)(1)(C). Second, DHS may stay the immediate
27 removal of certain aliens if it decides that such removal is not
28 practicable or proper, or if the alien is needed to testify in a pending
prosecution. §1231(c)(2)(A). And finally, the statute provides that
an alien may be detained beyond the removal period or released under
supervision if he is inadmissible, (2) removable as a result of
violations of status requirements, entry conditions, or the criminal
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.”

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

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

5 41. To Petitioner's knowledge, Petitioner is not needed to testify in a
6 pending prosecution.

7 42. *Johnson* held that once the six-month period has passed, the non-
8 citizen should be released from DHS custody if there is no significant likelihood
9 that the non-citizen will be removed to a third country in the reasonably foresee-
10 able future ie the removal is not imminent. See *Johnson* at 529.

11 43. Petitioner was taken back into Respondents' custody on May 9, 2025,
12 where he remains. As of today, September 23, 2025, Petitioner has been in
13 Respondents custody since May 9, 2025, for a total of 137 days. The 64 days plus
14 the current ongoing custody which has reached 137 days total 201 days which is
15 more than 180 days meaning Petitioner has passed the "post-removal-period"
16 defined in *Johnson* and Petitioner has been in Respondents' custody more than the
17 presumptively maximum of six months found in *Zadvydas v. David*, 533 U.S. 678
18 (2001).

19 44. Petitioner may only be detained for a period reasonably necessary to
20 bring about Petitioner's removal within the six month period. *Zadvydas*. There is
21 no indication that there is a significant likelihood that Petitioner's removal from
22 the U.S. will be accomplished in the foreseeable future in light of the fact that
23 Respondents have still not named the third-country nor provided Petitioner an
24 opportunity to challenge his removal to that third-country.

25 45. In light of the totality of the circumstances, there does not exist a legal
26 justification to continue to hold Petitioner in Respondents' custody.

FACTUAL BACKGROUND

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2 46. Petitioner is a married, 40 year-old, Mexican citizen who suffers from
3 morbid obesity and diabetes which if untreated will result in Petitioners' loss of
4 vision and death.

5 47. Petitioner is in Respondents' custody and not receiving medications
6 he has been prescribed to treat his diabetic condition which in turn is negatively
7 affecting his vision.

8 48. Petitioner's life is in danger in Mexico.

9 49. An immigration judge granted Petitioner protection from being
10 returned to Mexico on November 2, 2022.

11 50. Respondent held Petitioner in Petitioner's custody from September 2,
12 2022, to December 1, 2022, 64 days.

13 51. Respondents have held Petitioner in Respondents' custody since May
14 9, 2025, which as of September 23, 2025, is 137 days.

15 52. Respondents have held Petitioner in Respondents' custody after
16 Petitioner was granted Withholding of Removal a total of 166 days of the 180 days
17 allowed as of the date of the filing of this Petition.

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

21 54. Petitioner has suffered the following convictions: 2007-violation of 8
22 U.S.C. §1325 with a 55 day custodial sentence; 2009-violation of 8 U.S.C. §1326
23 with a 60 day custodial sentence; 2013-violation of 8 U.S.C. §1326 with a 118 day
24 custodial sentence; 2022-violation of 8 U.S.C. §1326 with a 62 day custodial
25 sentence; 2024-violation of California Penal Code §415 disturbing the peace, a
26 misdemeanor with no custodial sentence; 2025-probation violation for testing
27 positive for marijuana with a 45 day custodial sentence. Petitioner's criminal
28

1 record does not indicate Petitioner is either a danger to the community or likely to
2 flee if released.

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

6 56. Petitioner restates and re-alleges all paragraphs as if fully set forth
7 here.

8
9 **CLAIMS FOR RELIEF**

10 **COUNT ONE**

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

12 **Procedural Due Process**

13
14 57. The Due Process Clause of the Fifth Amendment to the U.S.
15 Constitution prohibits the U.S. Federal Government from depriving a person of
16 their “life, liberty, or property, without due process of law.” U.S. Const. Amend.
17 V. Due process protects “all ‘persons’ within the United States, including [non-
18 citizens], whether their presence her is lawful, or unlawful, temporary, or
19 permanent. *Zadvydas*, 533 at 693.

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

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

26 ///

27 ///

1 **COUNT TWO**

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

3 **Procedural Due Process**

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5 60. Petitioner restates and re-alleges all paragraphs as if fully set forth
6 here.

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

11
12 **COUNT THREE**

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

14 **Procedural Due Process**

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

17
18 62. Petitioner restates and re-alleges all paragraphs as if fully set forth
19 here.

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

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

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

1 66. 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 67. Petitioner restates and re-alleges all paragraphs as if fully set forth
10 here.

11 68. 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 69. Petitioner restates and re-alleges all paragraphs as if fully set forth
21 here.

22 70. 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 (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: December 1, 2025

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