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10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 Saul PANUELAS GUTIERREZ,

14 Petitioner,

15 v.

16 Kristi NOEM, Secretary, Department of
17 Homeland Security; Todd LYONS, in his
18 official capacity as Acting Director of U.S.
19 Immigration and Customs Enforcement; Pam
20 BONDI, Attorney General of the United
21 States; and David GOMEZ, Field Office
22 Director, San Bernardino ICE Field Office.

23 Respondents.
24
25
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27
28

No.

**Petition for Writ of Habeas
Corpus**

Immigration Case

INTRODUCTION

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3 1. Petitioner Saul Panuelas Gutierrez files this petition for writ of habeas
4 corpus seeking his release from the custody of the Department of Homeland
5 Security (DHS) and an injunction preventing removal to a third country or outside
6 of this district. Petitioner was detained on October 9, 2025 at the San Bernardino
7 Immigration and Customs Enforcement (ICE) field office.

8 2. Petitioner is a native of Mexico who was granted deferral of removal
9 under the Convention Against Torture by an immigration judge on March 6, 2023.
10 That order prevents his removal to Mexico.

11 3. Petitioner was already detained by immigration authorities for more than
12 180 days, and was ordered released by an immigration judge on November 10,
13 2022.

14 4. On October 9, 2025, Petitioner appeared for a routine appointment on an
15 Order of Supervision with ICE at the San Bernardino Field Office, and was taken
16 into immigration custody. He was informed that he was being detained for
17 immigration authorities to seek an alternate country for removal.

18 5. There is no legal basis for detaining Petitioner, absent evidence of
19 changed circumstances that a third country will accept Petitioner for removal.

20 6. Further, if there is such evidence, then Petitioner cannot be removed from
21 the United States without notice and an opportunity to seek protection under the
22 Convention Against Torture.

23 7. Petitioner's detention violates the Immigration and Nationality Act, its
24 implementing detention regulations, and his right to Due Process.

JURISDICTION AND VENUE

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27 8. This Court has jurisdiction over the present action based on 28 U.S.C. §
28 2241 (habeas corpus); 28 U.S.C. § 1331 (Federal Question), and 28 U.S.C. §

1 1346(b) (Federal Respondent).

2 9. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(e)(1)
3 because this is a civil action in which Respondents are employees or officers of the
4 United States, acting in their official capacity; and a substantial part of the events or
5 omissions giving rise to the claim occurred within the Central District of California,
6 and there is no real property involved in this action.

7 10. Further, pursuant to Braden v. 30th Judicial Circuit Court of Kentucky,
8 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the
9 Central District of California, the judicial district in which Petitioner is currently
10 detained.

11 **PARTIES**

12 11. Petitioner Saul Panuelas Gutierrez is a citizen of Mexico who has resided
13 in the United States since 1987 and who currently resides in Lake Elsinore,
14 California. He was detained by immigration authorities in San Bernardino on
15 October 9, 2025.

16 12. Respondent Kristi Noem is the Secretary of the Department of Homeland
17 Security. She is responsible for the implementation and enforcement of the
18 Immigration and Nationality Act and oversees ICE, which is responsible for
19 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner.
20 She is sued in her official capacity.

21 13. Respondent Todd Lyons is the Acting Director of ICE and has authority
22 over the operations of ICE. In that capacity and through his agents, Respondent
23 Lyons has broad authority over the operation and enforcement of the immigration
24 laws. Respondent Lyons is sued in his official capacity.

25 14. Respondent Pam Bondi is the Attorney General of the United States. She
26 is responsible for the Department of Justice and is sued in her official capacity.

27 15. Respondent David Gomez is the Director of the San Bernardino Field
28 Office of ICE's Enforcement and Removal Operations division. As such, he is the

1 custodian of all persons held at the ICE facilities in the San Bernardino Field
2 Office. He is Petitioner's immediate custodian and is responsible for his detention.
3 He is sued in his official capacity.

4 **FACTUAL ALLEGATIONS**

5 16. Petitioner was born in Mexico and came to the United States in 1987 at
6 the age of 12. He did not have lawful status.

7 17. Petitioner resides in Lake Elsinore, California and has an extended
8 community and family support.

9 18. Petitioner grew up in San Clemente, California with his parents, siblings,
10 uncle, and cousins.

11 19. He joined the [REDACTED] gang at the age of 14. Petitioner
12 had been experiencing bullying and believed that the gang would provide
13 protection. He was "jumped in" to the gang at the age of 16.

14 20. On October 15, 1993, Petitioner went to eat at a local Taco Bell with
15 friends, and then went to the local beach. A man was in his truck near the beach and
16 Petitioner and his friends pulled over near the man.

17 21. After a brief exchange, Petitioner's friend punched the man in the face.
18 The man pulled away and four additional trucks approached.

19 22. Petitioner and his friends grabbed what they could find to defend
20 themselves. Petitioner threw a "rock the size of a golf ball" at the top of one of the
21 trucks.

22 23. One of the objects that was thrown pierced a truck window, striking a 17
23 year old boy in the car and placing him in a coma. The victim later died from the
24 wound.

25 24. Petitioner and his friends were arrested. Petitioner was charged with
26 second degree murder, seven counts of assault, and gang enhancements.

27 25. He was age 17 at the time, but was charged as an adult.
28

1 26. This case garnered community outrage and substantial media attention.

2 27. Petitioner was sentenced to fifteen years to life in prison and was placed
3 in prison with other gang members from the [REDACTED] gang. He believed that he had
4 to join the or else he would be severely harmed or killed.

5 28. Petitioner was required to participate in riots and fights on behalf of the
6 gang.

7 29. He was in prison for nearly thirty years.

8 30. In 2015, Petitioner heard testimony from the victim's family during his
9 parole hearing, and began thinking about his decisions. He began to distance
10 himself from the gang and chose to work in the prison instead of participating in
11 gang activities, and was beaten because of this choice. The [REDACTED] gang threatened
12 to kill Petitioner.

13 31. Petitioner affirmatively informed prison officials of the activities of the
14 [REDACTED] gang and its leadership.

15 32. He then disassociated with the gang and was moved to a cell in the
16 general population.

17 33. Petitioner went on in prison to earn his General Educational Development
18 (GED) degree, and attended vocational classes, bible study, and self-help classes.

19 34. In 2021, when Petitioner was waiting for his parole hearing, a member of
20 the [REDACTED] gang threatened to kill Petitioner.

21 35. In 2022, Petitioner's murder conviction was vacated, and he was
22 resentenced to 18 years in prison, receiving credit for time served.

23 36. Once Petitioner was released in 2022, he was transferred to immigration
24 custody.

25 37. On May 5, 2022, Petitioner was detained by immigration authorities and
26 was issued an administrative order of removal by DHS pursuant to 8 U.S.C. §
27 1228(b).

28 38. He expressed a reasonable fear of return to Mexico and was placed into

1 “withholding only” proceedings before an immigration judge, while still detained.

2 39. While Petitioner was detained, DHS could have sought removal to a third
3 country since Petitioner was subject to a removal order.¹ It did not.

4 40. On November 10, 2022, Petitioner was ordered released on a \$5,000 bond
5 and Alternatives to Detention by the immigration judge, after having been in
6 custody for more than six months. As a part of the terms of release, Petitioner
7 reported regularly to ICE on an Order of Supervision.

8 41. On March 6, 2023, the immigration judge granted Petitioner deferral of
9 removal under Article III of the Convention Against Torture, based on a clear
10 probability that Petitioner would suffer torture if removed to Mexico, based on his
11 risk of torture from gangs in Mexico and that Mexican officials would consent or
12 acquiesce to such torture.

13 42. DHS did not appeal the decision.

14 43. Petitioner reported as required under the terms of his order of supervision.

15 44. On October 9, 2025, Petitioner went to report to the San Bernardino ICE
16 Field Office and was taken into immigration custody. He was told that ICE would
17 seek his removal to a third country.

18 45. He was not informed that there was any evidence that DHS had obtained
19 documents for third country removal or that he had violate the terms of his release.

20
21 **CAUSES OF ACTION**

22 **COUNT ONE**

23 **(VIOLATION OF 8 U.S.C. § 1231(a)(6) AND DUE PROCESS)**

24 **(RE-DETENTION AFTER MORE THAN 180 DAYS IN CUSTODY)**

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27 ¹ Johnson v. Guzman Chavez, 594 U.S. 523, 528, 141 S. Ct. 2271, 2281, 210 L. Ed.
28 2d 656 (2021).

1 46. Petitioner incorporates the allegations in the paragraphs above as though
2 fully set forth here.

3 47. The Administrative Procedure Act (APA) provides that a court shall hold
4 unlawful and set aside an agency action that is “in excess of statutory jurisdiction,
5 authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

6 48. The Immigration and Nationality Act authorizes a post-removal-period
7 detention of six months to allow the United States to effectuate removal. 8 U.S.C. §
8 1231(a)(6). Zadvydas v. Davis, 533 U.S. 678 (2001).

9 49. Once removal is no longer foreseeable, it is a violation of 8 U.S.C. §
10 1231(a)(6) and Due Process to hold a noncitizen in immigration detention.

11 50. Zadvydas places the burden on the alien to show, after a detention period
12 of six months, that there is “good reason to believe that there is no significant
13 likelihood of removal in the reasonably foreseeable future. Pelich v. I.N.S., 329
14 F.3d 1057, 1059 (9th Cir. 2003).

15 51. Petitioner was already detained for more than six months in 2022. During
16 the 2022 withholding only hearing, DHS was free to seek removal to a third country
17 and failed to do so. Arzate v. Andrews, No. 1:25-CV-00942-KES-SKO (HC), 2025
18 WL 2411010, at *3 (E.D. Cal. Aug. 20, 2025).

19 52. The burden is now on the government to prove that Petitioner has a
20 significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. §
21 241.13(i). The government has not met that burden.

22 53. Petitioner’s continued detention is a violation of 8 U.S.C. § 1231(a)(6)
23 and Due Process.

COUNT TWO

**(Violation of Revocation of Release Regulation, 8 C.F.R. § 241.13(i)(2)
and Due Process)**

54. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

55. The APA provides that a court shall hold unlawful and set aside an agency action that is “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

56. An agency’s failure to follow its regulations that are meant to protect fundamental rights is a violation of due process. Accardi v. Shaughnessy, 347 U.S. 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); Sameena Inc. v. U.S. Air Force, 147 F.3d 1148, 1153 (9th Cir. 1998).

57. DHS regulations authorize the revocation of an order of release only when “if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

58. The regulation at 8 C.F.R. § 241.13(i)(2) is designed to protect the fundamental interest of liberty, and the failure to follow the regulation is a violation of due process.

59. This regulation places the burden on the government to demonstrate that there are new circumstances which now establish that removal is reasonably foreseeable, consistent with the requirements of Zadvydas.

60. Respondents have violated 8 C.F.R. § 241.13(i)(2) and Petitioner’s due process rights by detaining Petitioner without evidence of changed circumstances that his removal is reasonably foreseeable.

COUNT THREE

**(Violation of Revocation Regulation, 8 C.F.R. § 241.4(l)
and Due Process)**

61. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

62. The APA provides that a court shall hold unlawful and set aside an agency action that is “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

63. An agency’s failure to follow its regulations that are meant to protect fundamental rights is a violation of due process. Accardi v. Shaughnessy, 347 U.S. 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); Sameena Inc. v. U.S. Air Force, 147 F.3d 1148, 1153 (9th Cir. 1998).

64. The regulation at 8 C.F.R. § 241.4(l) authorizes the revocation of release only where there has been a violation of the conditions of release or there has been a determination by the Executive Associate Commissioner that “i) The purposes of release have been served; (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.”

65. The regulation at 8 C.F.R. § 241.4(l) is designed to protect the fundamental interest of liberty, and the failure to follow the regulation is a violation of due process.

66. None of the circumstances under 8 C.F.R. § 241.4(l) have been met, in violation of the regulation at 8 C.F.R. § 241.13(i)(3) and in violation of Due Process.

COUNT FOUR

**(Third Country Removal in Violation of Due Process and the Convention
Against Torture)**

67. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

68. Under the Due Process Clause of the Fifth Amendment to the United States Constitution, no person shall be “deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

69. Due Process requires notice and an opportunity to respond before Petitioner is removed to a third country. Mullane v. Cent. Hanover Bank & Tr. Co., 339 U.S. 306, 320, 70 S. Ct. 652, 660, 94 L. Ed. 865 (1950).

70. “Failing to notify individuals who are subject to deportation that they have the right to apply ... for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.” Andriasian v. I.N.S., 180 F.3d 1033, 1041 (9th Cir. 1999).

71. Article III of the Convention Against Torture bars the removal of any individual to a country where they face a clear probability of torture.

72. Petitioner must be provided notice and an opportunity to seek protection under Article III of the Convention Against Torture before he may be removed to a third country. Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, at *19 (W.D. Wash. Aug. 21, 2025).

73. Removing Petitioner to a third country without notice and the opportunity to apply for protection from removal violates Due Process and Article III of the Convention Against Torture.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner outside of this judicial district;
- (3) Enjoin Respondents from removing Petitioner to a third country without notice and an opportunity to seek protection under the Convention Against Torture;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Order that Petitioner be released from detention;
- (6) Award reasonable costs and attorneys' fees; and
- (7) Grant such further relief as the Court deems just and proper.

Dated: October 9, 2025

Respectfully submitted,

By: /s/ Stacy Tolchin

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