

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**FILED**

**UNITED STATES DISTRICT COURT**

for the  
Western District of Texas

OCT 31 2025  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY *[Signature]*  
DEPUTY CLERK

JOSE LUIS SANCHEZ

*Petitioner*

v.

Kristi Noem, Secretary of Homeland Security, Todd M. Lyons, acting director, US ICE, and Warden, Camp East, Montana Detention Facility.

*Respondent*

*(name of warden or authorized person having custody of petitioner)*


**EP 25 CV 0510**

Case No.

*(Supplied by Clerk of Court)*

**PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

**Personal Information**

1. (a) Your full name: JOSE LUIS SANCHEZ RODRIGUEZ  
 (b) Other names you have used: n/a
2. Place of confinement:  
 (a) Name of institution: Camp East Montana Detention Facility  
 (b) Address: 6920 Digital Road, El Paso, TX 79936
- (c) Your identification number: A-Number: 
3. Are you currently being held on orders by:  
 Federal authorities     State authorities     Other - explain: \_\_\_\_\_
4. Are you currently:  
 A pretrial detainee (waiting for trial on criminal charges)  
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
 If you are currently serving a sentence, provide:  
 (a) Name and location of court that sentenced you: \_\_\_\_\_  
 (b) Docket number of criminal case: \_\_\_\_\_  
 (c) Date of sentencing: \_\_\_\_\_  
 Being held on an immigration charge  
 Other *(explain)*: PRESUMABLY HELD ON IMMIGRATION CHARGES, BUT NO NOTICE TO APPEAR HAS BEEN ISSUED. THERE ARE NO COURT DATES OR PENDING REMOVAL PROCEEDINGS.

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**Decision or Action You Are Challenging**

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention

Immigration detention

Detainer

The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

Disciplinary proceedings

Other (explain): U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) is holding the Petitioner.

NO REMOVAL OR OTHER PROCEEDINGS HAVE BEEN STARTED AGAINST HIM. IMMIGRATION JUDGES HAVE NOT JURISDICTION TO ORDER RELEASE OR ANYTHING ELSE.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: \_\_\_\_\_

(b) Docket number, case number, or opinion number: \_\_\_\_\_

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

PETITIONER IS CHALLENGING HIS DETENTION WITHOUT A HEARING OR ANY FORMAL PROCEEDINGS OR CHARGES AGAINST HIM.

(d) Date of the decision or action: \_\_\_\_\_

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes

No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Petitioner, through counsel, filed two Motions for Bond with the Immigration Court and a Petition to ICE for release on humanitarian grounds.

(2) Date of filing: 10/23/2025

(3) Docket number, case number, or opinion number: A [REDACTED]

(4) Result: Both petitions for bond were denied for lack of jurisdiction since no NTA filed.

(5) Date of result: 10/23/2025

(6) Issues raised: Petitioner argued that he should be released or an NTA filed so that his case could proceed. Petitioner argue violations of his due process rights.

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(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: THERE IS NO OTHER COURT OR AUTHORITY WITH JURISDICTION OVER THIS MATTER

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

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(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_  
\_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes  No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
  - (2) Case number: \_\_\_\_\_
  - (3) Date of filing: \_\_\_\_\_
  - (4) Result: \_\_\_\_\_
  - (5) Date of result: \_\_\_\_\_
  - (6) Issues raised: \_\_\_\_\_
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(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
  - (2) Case number: \_\_\_\_\_
  - (3) Date of filing: \_\_\_\_\_
  - (4) Result: \_\_\_\_\_
  - (5) Date of result: \_\_\_\_\_
  - (6) Issues raised: \_\_\_\_\_
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(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

Multiple horizontal lines for text entry.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 10/22/2025
(b) Date of the removal or reinstatement order:
(c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

If "Yes," provide:

- (1) Date of filing:
(2) Case number:
(3) Result:
(4) Date of result:
(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

- (1) Name of court:
(2) Date of filing:
(3) Case number:

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(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

(a) Kind of petition, motion, or application: MOTION FOR CUSTODY DETERMINATION

(b) Name of the authority, agency, or court: IMMIGRATION COURT EL PASO, TEXAS

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** Petitioner's detention is arbitrary, unauthorized by statute, and violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

\_\_\_\_\_

\_\_\_\_\_

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

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(b) Did you present Ground One in all appeals that were available to you?

Yes  No

**GROUND TWO:**

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

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(b) Did you present Ground Two in all appeals that were available to you?

Yes  No

**GROUND THREE:**

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

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(b) Did you present Ground Three in all appeals that were available to you?

Yes  No

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**GROUND FOUR:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**(a) Supporting facts (Be brief. Do not cite cases or law.):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**(b) Did you present Ground Four in all appeals that were available to you?**

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: \_\_\_\_\_

**Request for Relief**

15. State exactly what you want the court to do: ORDER RELEASE OF THE PETITIONER OR ORDER THE DEPARTMENT OF HOMELAND SECURITY TO ISSUE A NOTICE TO APPEAR AND BEGIN REMOVAL PROCEEDINGS.

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:


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I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 10/22/2025

*Signature of Petitioner*

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*Signature of Attorney or other authorized person, if any*

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS – EL PASO DIVISION**

**José Luis Sánchez Rodríguez,**  
Petitioner,

v.

**Kristi Noem, Secretary of the Department of Homeland Security;  
Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement;  
Marcos Charles, Executive Associate Director, Enforcement and Removal Operations;  
Mary De Anda-Ybarra, Field Office Director, ICE El Paso Field Office;  
Warden, Camp East Montana Detention Facility**  
Respondents.

**EP 25 CV 0510**

Civil Action No. \_\_\_\_\_

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

**I. INTRODUCTION**

1. Petitioner, **José Luis Sánchez Rodríguez** (“Mr. Sánchez”), is a thirty-one-year-old native and citizen of Guatemala, currently detained by the U.S. Department of Homeland Security (“DHS”) at the **El Paso Service Processing Center, El Paso, Texas**.
2. Mr. Sánchez has been detained by Immigration and Customs Enforcement (“ICE”) since **September 8, 2025**. Despite more than a month in custody, **the government has failed to file or lodge a Notice to Appear (NTA) with the Immigration Court, and therefore no removal proceedings have commenced**.
3. Petitioner seeks a writ of habeas corpus ordering his **immediate release from ICE custody**, or, alternatively, ordering the government to **file the NTA and provide a prompt custody redetermination hearing before an Immigration Judge**.

**II. JURISDICTION AND VENUE**

4. This petition is brought under **28 U.S.C. § 2241**, which authorizes district courts to grant writs of habeas corpus to individuals in federal custody in violation of the Constitution, laws, or treaties of the United States.

5. Venue is proper in this Court because Petitioner is detained within the **Western District of Texas (El Paso Division)**, and the Respondents responsible for his detention reside within this District.

### **III. PARTIES**

- **Petitioner:**

**José Luis Sánchez Rodríguez**

A-Number: 

Currently detained at the Camp East Montana Detention Facility,  
6920 Digital Road, El Paso, TX 79936

- **Respondents:**

- **Kristi Noem**, Secretary, U.S. Department of Homeland Security;
- **Todd Lyons**, Acting Director, Immigration and Customs Enforcement;
- **Marcos Charles**, Executive Associate Director, Enforcement and Removal Operations;
- **Mary De Anda-Ybarra**, Field Office Director, ICE El Paso Field Office; and
- **Warden**, Camp East Montana Detention Facility.

### **IV. FACTUAL BACKGROUND**

6. Mr. Sánchez entered the United States in 2012 **without inspection** and has since resided continuously in Massachusetts.
7. He is **married** and the **father of two U.S. citizen children**, ages four and eight. He owns a family home in Massachusetts and is the sole provider for his household.
8. Mr. Sánchez is the **owner of JJ Carpentry Corp**, a Massachusetts-based construction company employing local residents and paying regular business taxes.
9. He filed a **Form I-589 application for asylum** in 2022, which remains **pending before USCIS**.
10. On or about **September 8, 2025**, ICE officers arrested Mr. Sánchez in Massachusetts. He was transferred to Buffalo, New York first and then to El Paso, Texas, where he has been detained since.

11. To date, **the government has not filed an Notice To Appear (NTA)** with the Executive Office for Immigration Review (EOIR).
12. Because the NTA has not been filed, **no Immigration Judge has jurisdiction** to review custody or set bond. See 8 C.F.R. § 1003.14(a); *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).
13. Mr. Sánchez has **no criminal convictions**, is in good health, and has substantial family, business, and community ties in Massachusetts.

## **V. LEGAL FRAMEWORK**

14. Under 8 U.S.C. § 1226(a), DHS may detain a noncitizen “pending a decision on whether the alien is to be removed.” That statutory authority, however, **presupposes the commencement of removal proceedings** through the filing of an NTA.
15. Where, as here, DHS detains an individual without filing an NTA, **there is no lawful basis for continued detention**, and the individual’s custody violates both the **Immigration and Nationality Act (INA)** and the **Due Process Clause of the Fifth Amendment**.
16. The Supreme Court has held that indefinite or arbitrary immigration detention violates due process. *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).
17. Prolonged pre-NTA detention, without judicial oversight, constitutes an **unlawful and arbitrary deprivation of liberty**, see *Jennings v. Rodriguez*, 583 U.S. 830 (2018), and multiple district courts have granted habeas relief in similar circumstances.

## **VI. CLAIMS FOR RELIEF**

### **Count I – Violation of the Fifth Amendment (Due Process)**

18. Petitioner’s continued detention without a filed NTA and without access to a bond hearing violates the Due Process Clause of the Fifth Amendment.

### **Count II – Detention Without Statutory Authority**

19. Because DHS has not filed or lodged an NTA, Petitioner's custody is not "pending a decision on whether [he] is to be removed," and is therefore *ultra vires* under 8 U.S.C. § 1226(a).

## VII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:


1. Issue a writ of habeas corpus ordering Petitioner's immediate release from ICE custody under reasonable conditions of supervision or bond;
2. Alternatively, order DHS to file the NTA and provide Petitioner with a custody redetermination hearing within seven (7) days;
3. Enjoin Respondents from transferring Petitioner outside this Court's jurisdiction while this action is pending; and
4. Grant such other and further relief as this Court deems just and proper.

## VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Honorable Court:

- Declare that his continued detention violates the Fifth Amendment and the INA;
- Order his immediate release from custody or, in the alternative, a prompt custody hearing before an Immigration Judge;
- Retain jurisdiction to ensure compliance; and
- Award attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412.

**Respectfully submitted,**

/s/   
Oriosto Medrano Santana, Esq. (BBO #659359)  
Santana & Associates  
1330 Beacon Street, Suite 300  
Brookline, MA 02446  
Tel: (617) 849-7890  
Email: [ottomedrano@yahoo.com](mailto:ottomedrano@yahoo.com)

Dated: October 23, 2025

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of October 2025, I served a true and correct copy of the foregoing **Petition for Writ of Habeas Corpus** via email and/or U.S. Mail upon:

- **U.S. Attorney for the Western District of Texas**  
700 E. San Antonio Avenue, Suite 200  
El Paso, TX 79901
- **Office of Immigration Litigation – Civil Division**  
U.S. Department of Justice  
P.O. Box 878, Ben Franklin Station  
Washington, DC 20044
- **ICE Office of the Principal Legal Advisor (OPLA)**  
11541 Montana Avenue, Suite O  
El Paso, TX 79936

  
/s/ Oriosto Medrano Santana  
Oriosto Medrano Santana, Esq.