

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
Brownsville Division**

Nelson Ariel Umanzor Chavez,
Petitioner,

v.

Kristi Noem, *Secretary of Homeland Security,*
Todd Lyons, *Acting Director, U.S. Immigration
and Customs Enforcement,*
Pamela Bondi, *Attorney General,*
Field Office Director, *Harlingen Field Office,
Immigration and Customs Enforcement,*
Warden, *Port Isabel Service Processing Center,*
Respondents.

Civil Action No.

PETITION FOR WRIT OF HABEAS CORPUS

1. In 2019, an immigration judge found that Petitioner Nelson Ariel Umanzor Chavez would more likely than not be tortured if he were returned to his native El Salvador, either by or at the acquiescence of the government of that country. The immigration judge therefore granted Petitioner withholding of removal under the Convention Against Torture (CAT), thus prohibiting the U.S. government from removing him to El Salvador. Petitioner was then released from custody on an Order of Supervision. Now, several years later, the government has re-detained Petitioner, and threatens to deport him to Mexico without a fear interview. Petitioner has requested a fear interview, and Respondents' policies require that he be provided one prior to removal to any third country, but Respondents threaten to deport him today or tomorrow to Matamoros without a fear interview.

JURISDICTION AND VENUE

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

3. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. Venue lies in this District because Petitioner is detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Port Isabel Service Processing Center, located within this division of this judicial district. Each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

5. Petitioner Nelson Ariel Umanzor Chavez is a citizen and native of El Salvador who resides in Prince George's County, Maryland.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as

her designees.

9. Respondent Field Office Director, Harlingen Field Office is the ICE Harlingen Field Office Director. She or he is the immediate legal custodian of Petitioner.

10. Respondent Warden, Port Isabel Service Processing Center is the warden of the ICE Port Isabel Service Processing Center, where Petitioner is detained. She or he is the immediate physical custodian of Petitioner.

11. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

12. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where he is more likely than not to face torture. 8 C.F.R. § 1208.16(c). This protection is usually referred to as “CAT withholding of removal.”

13. For an immigration judge (serving as the designee of Respondent Bondi) to grant CAT withholding of removal to a noncitizen in the first instance, the noncitizen must prove that he is more likely than not to suffer torture. “The burden of proof is on the applicant for withholding of removal under [the CAT] to establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2).

14. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

15. Federal regulations provide a procedure by which a grant of CAT withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge, and then DHS will bear the burden of proof, by a preponderance of the evidence, that grounds for termination exist. 8 C.F.R. § 1208.24(f). After

a grant of withholding of removal is terminated, there would be no impediment to removal.

16. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. “[T]he prohibition on removal to a country where a noncitizen would face persecution or torture remains absolute. And precisely because withholding of removal is country-specific, as the government says, if a noncitizen who has been granted withholding as to one country faces removal to an alternative country, then she must be given notice and an opportunity to request withholding of removal to *that* particular country.” *Guzman Chavez v. Hott*, 940 F.3d 867, 879 (4th Cir. 2019), *rev’d on other grounds*, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), citing *Kossov v. INS*, 132 F.3d 405, 409 (7th Cir. 1998).

17. The Government acknowledges that an individual with a removal order cannot be removed to a third country, if that individual expresses a fear of removal, without first conducting a fear interview. *See* Ex. 1 (DHS policy on third-country removals) at 2.

FACTS

18. Petitioner Nelson Ariel Umanzor Chavez is a citizen of El Salvador and no other country.

19. On May 16, 2019, Petitioner was granted CAT withholding of removal pursuant to 8 C.F.R. § 1208.16(b), after the immigration judge agreed that he had established it was more likely than not that he would be tortured in El Salvador. *See* Ex. 2 (Immigration Judge order). The government waived appeal of this order. *Id.* To date, the Department of Homeland Security has

not filed a motion to reopen or rescind the grant of relief, and Petitioner has remained fully compliant with his Order of Supervision since his release from ICE custody in June 2019.

20. On the morning of May 21, 2025, Petitioner dutifully appeared at his scheduled ICE check-in appointment at the Baltimore Field Office pursuant to the conditions of his Order of Supervision. Instead of allowing him to return home, ICE officers detained him at the Baltimore Hold Room without warning. The stated reason for Petitioner's detention is that the government intends to remove Petitioner to Mexico, *See Ex. 3*.

21. Petitioner has stated a fear of removal to Mexico, and requested a fear interview to Mexico, on multiple occasions. *See Ex. 4*.

22. On November 5 or 6, 2025, Petitioner was transferred from the ICE detention center in Louisiana where he was detained for the last six months, to the Port Isabel Service Processing Center, for imminent removal to Mexico.

23. On November 7, 2025, Petitioner was informed that he would be removed to Matamoros, Mexico either that same day or the next day. Petitioner was able to call his wife and inform her of this, and his wife immediately called undersigned counsel and so informed him. *See Ex. 5*.

24. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(b)(3) and Convention Against Torture**

25. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-24.

26. Respondents threaten to deport Petitioner to Mexico, a country where he fears persecution and torture, and which country he fears will re-deport him to El Salvador where it has already been judicially determined that he is more likely than not to be tortured, without an

interview or any process whatsoever to evaluate his fear of persecution and torture. Such conduct violates the withholding of removal statute, 8 U.S.C. § 1231(b)(3), as well as the Convention Against Torture and its implementing regulations.

27. In addition, Respondents would deport Petitioner to Mexico, a country where he fears persecution and torture, and which country he fears will re-deport him to El Salvador where it has already been judicially determined that he is more likely than not to be tortured, without an Immigration Judge reviewing his fear of persecution and torture. Such conduct violates the withholding of removal statute, 8 U.S.C. § 1231(b)(3), as well as the Convention Against Torture and its implementing regulations.

SECOND CLAIM FOR RELIEF:

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

28. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-24.

29. Respondents threaten to deport Petitioner to Mexico, a country where he fears persecution and torture, and which country he fears will re-deport him to El Salvador where it has already been judicially determined that he is more likely than not to be tortured, without an interview or any process whatsoever to evaluate his fear of persecution and torture. Such conduct violates the Due Process Clause of the U.S. Constitution.

30. In addition, Respondents would deport Petitioner to Mexico, a country where he fears persecution and torture, and which country he fears will re-deport him to El Salvador where it has already been judicially determined that he is more likely than not to be tortured, without an Immigration Judge reviewing his fear of persecution and torture. Such conduct violates the Due Process Clause of the U.S. Constitution.

**THIRD CAUSE OF ACTION:
HABEAS CORPUS, 28 U.S.C. § 2241**

31. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-24.

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

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

**FOURTH CAUSE OF ACTION:
DEPORTATION IN VIOLATION OF SUBREGULATORY POLICY/ACCARDI**

34. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-24.

35. As set forth above, Respondents threaten to deport Petitioner to Mexico, a country where he fears persecution and torture, and which country he fears will re-deport him to El Salvador where it has already been judicially determined that he is more likely than not to be tortured, without an interview or any process whatsoever to evaluate his fear of persecution and torture. Such conduct violates the Government's own procedures for third-country removal, which procedures were put in place in order to preserve and secure the due process rights of individuals like Petitioner. Such conduct is invalid under *U.S. ex rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador, unless and until his order of CAT Withholding of Removal is terminated, including all appeals;

- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country, by means of (1) a fear interview before a USCIS asylum officer, followed by (2) Immigration Judge review;
- d) Restoring Petitioner to his prior Order of Supervision, and releasing him from custody thereupon;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody; and
- f) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

//s//Simon Sandoval-Moshenberg
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Date: November 7, 2025

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the Southern District of Texas
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Respectfully submitted,

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Date: November 7, 2025