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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

Lorenzo CHOC CHEN

Petitioner,

v.

Brian MCSHANE, Field Office Director of
Enforcement and Removal Operations,
Philadelphia Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Warden of
MOSHANNON VALLEY PROCESSING
CENTER

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 Respondents are unlawfully detaining the Petitioner Lorenzo CHOC CHEN at the
3 Moshannon Valley Processing Center Philipsburg, Pennsylvania in violation of his Fifth
4 Amendment right to Due Process and the immigration laws of the United States. Petitioner is an
5 indigenous native and citizen of Guatemala. Petitioner entered the United States on December 16,
6 2008, by crossing the United States-Mexico border without inspection. He was not apprehended
7 by the border patrol at that time. He has lived and worked in Elizabethtown, Pennsylvania for more
8 than 17 years.

9 On September 20, 2018, Respondent Department of Homeland Security (DHS)
10 apprehended Petitioner during a workplace raid in Elizabethtown, Pennsylvania. On September
11 21, 2018, DHS released Petitioner on his own recognizance pursuant to its authority under 8 U.S.C.
12 §1226 and Part 236 of Title 8, Code of Federal Regulations. On October 29, 2018, DHS initiated
13 removal proceedings against Petitioner pursuant to 8 U.S.C. §1229a and charged him with being
14 removable under 8 U.S.C. §1182(a)(6)(A)(i) as an alien present in the United States without being
15 admitted or paroled, or who arrives in the United States at any time or place other than as
16 designated by the Attorney General.

17 At a hearing on January 29, 2019, Petitioner conceded that he was removable as charged
18 but declined to designate a country of removal pursuant to 8 U.S.C. §1231(a)(2)(A). Instead,
19 Petitioner indicated that he wished to seek withholding of removal under 8 U.S.C. §1231(b)(4)
20 believing that his life or freedom would more likely than not be threatened if he returned to
21 Guatemala on account of his race, religion, nationality, membership in a particular social group,
22 or political opinion. At the same hearing, DHS requested the Immigration Court to designate
23 Guatemala as the country of removal pursuant to 8 U.S.C. §1231(b)(2)(E)(iv) because Guatemala
24

1 is Petitioner's country of birth. The Immigration Court granted this request. Significantly, DHS
2 did not request the Immigration Court to designate another country of removal pursuant to any
3 other provision of 8 U.S.C. §1231(b)(2)(E)(i)-(vii).

4 On July 14, 2022, after a hearing on the merits, the Immigration Court ordered Petitioner
5 removed to Guatemala, as DHS had requested, but granted his claim for withholding of removal
6 under 8 U.S.C. §1231(b)(4). Neither party appealed this decision. Thereafter, DHS directed
7 Petitioner to report to ICE on a periodic basis pursuant to 8 U.S.C. §1231(a)(3)(A) under an order
8 of supervision.

9 On December 4, 2025, ICE detained Petitioner when he reported for his regularly
10 scheduled check-in appointment at the ICE Field Office in York, Pennsylvania, notwithstanding
11 his full compliance with all the terms of his supervision order. Between December 4, 2025, and
12 December 16, 2025, ICE transported Petitioner to the Federal Detention Center in Philadelphia,
13 Moshannon Valley Processing Center in Philipsburg, Pennsylvania, ICE detention facilities in
14 Ohio, Louisiana, and Arizona, before returning him to the Federal Detention Center in Philadelphia,
15 and then again to the Moshannon Valley Processing Center in Philipsburg, Pennsylvania, where
16 he is currently detained. During his ordeal, Petitioner remained handcuffed almost continuously
17 and a bag containing his personal property went missing. In addition, approximately \$200 of the
18 \$900 in cash he had when he was detained has not been returned to him.

19 Because ICE officials have asked him how he likes Honduras and Mexico, Petitioner
20 believes, and therefore avers, that DHS intends to remove him to one of those countries. And while
21 DHS retains authority after removal proceedings have ended to remove Petitioner to a country
22 other than Guatemala, as specified under 8 U.S.C. §1231(b)(2)(E)(i)-(vii), it must comply with the
23 Due Process Clause of the Fifth Amendment before it does so.

1 Due Process requires DHS to give Petitioner notice of the designated country of removal
2 and the statutory basis under 8 U.S.C. §1231(b)(2)(E)(i)-(vii) for such designation. Due Process
3 also requires DHS to give Petitioner an opportunity to challenge such designation. In addition, Due
4 Process requires DHS to give Petitioner notice of his right to apply for asylum in the United States
5 under 8 U.S.C. §1158(a)(2)(D), based on the changed circumstance of any newly designated
6 country for removal and of his right to apply for withholding of removal to that country under 8
7 U.C.S. §1231(b)(3).

8 In 2018, DHS initiated removal proceedings against Respondent pursuant to 8 U.S.C.
9 §1229a to determine whether he should be removed to Guatemala. Now, if DHS properly
10 designates another country for removal under 8 U.S.C. §1231(b)(2)(E)(i)-(vii), Petitioner will
11 exercise his right to apply for asylum and for withholding of removal from any country DHS
12 designates. And, since 8 U.S.C. §1229a(a)(3) provides that removal proceedings are the exclusive
13 procedure for making such determinations, Due Process requires DHS to seek to reopen
14 Petitioner's removal proceedings, so that it can designate a third country for removal and seek an
15 alternative order of removal, while preserving Petitioner's right to challenge the designation and
16 pursue his claims for asylum and for withholding of removal.

17 Because DHS has failed to comply with the requirements of the Due Process Clause and
18 the statutes and regulations applicable to removal to an alternate country, DHS has no lawful
19 authority to detain Petitioner. Consequently, this Court should order his immediate release from
20 DHS custody. In the alternative, the Court should order the Immigration Court to hold a custody
21 redetermination hearing pursuant to 8 U.S.C. §1226, which authorizes the Immigration Court to
22 release an alien upon the posting of a bond pending a decision on whether Petitioner should be
23 removed from the United States.

1 On September 21, 2018, DHS previously released Petitioner on his own recognizance
2 pursuant to its authority under 8 U.S.C. §1226 and Part 236 of Title 8, Code of Federal Regulations.
3 After his most recent detention on December 15, 2025, Petitioner filed a Motion for Custody
4 Redetermination with the Elizabeth Immigration Court, which has jurisdiction over the
5 Moshannon Valley Processing Center in Philipsburg, Pennsylvania, where Petitioner is currently
6 detained. Petitioner sought release on a bond pursuant to 8 U.S.C. §1226(a), but the Immigration
7 Court denied the motion finding that it lacked jurisdiction. As a result, Petitioner remains in
8 detention.

9 **PARTIES**

10 1. Petitioner Lorenzo Choc Chen is a citizen of Guatemala who has been in
11 immigration detention since December 4th, 2025. After arresting Petitioner in York Pennsylvania,
12 the Department of Homeland Security did not set bond and Petitioner requested review of his
13 custody by an Immigration Judge (IJ). On December 18th, 2025, Petitioner was denied bond by an
14 IJ at the Elizabeth Immigration Court because of lack of jurisdiction.

15 2. Respondent Brian McShane is the Director of the Philadelphia Field Office of
16 Immigration and Custom Enforcement, Enforcement and Removal Operations division. As such,
17 Brian McShane is Petitioner's immediate custodian and is responsible for Petitioner's detention
18 and removal. He is named in his official capacity.

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

1 **VENUE**

2 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
3 500 (1973), venue lies in the United States District Court for the Middle District of Pennsylvania,
4 the judicial district in which Petitioner currently is detained.

5 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
6 Respondents are employees, officers, and agencies of the United States, and because a substantial
7 part of the events or omissions giving rise to the claims occurred in the Middle District of
8 Pennsylvania.

9 **REQUIREMENTS OF 28 U.S.C. § 2243**

10 13. The Court must grant the petition for writ of habeas corpus or order Respondents
11 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
12 order to show cause is issued, the Respondents must file a return “within three days unless for
13 good cause additional time, not exceeding twenty days, is allowed.” *Id.*

14 14. Habeas corpus is “perhaps the most important writ known to the constitutional
15 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
16 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
17 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
18 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
19 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

20 **COUNT I**

21 **Violation of Due Process**

22 15. Petitioner repeats, re-alleges, and incorporates by reference each and every
23 allegation in the preceding paragraphs as if fully set forth herein.
24

1 16. The government may not deprive a person of life, liberty, or property without due
2 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,
3 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
4 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

5 17. Petitioner has a fundamental interest in liberty and being free from official restraint.

6 18. As set forth above, Respondents are unlawfully detaining Petitioner in violation of
7 his right to Due Process under the Fifth Amendment by failing to provide him proper notice of its
8 intent to designate a country for removal other than Guatemala, by failing to provide him proper
9 notice of his right to challenge such designation in reopened removal proceedings, and by failing
10 to provide him with notice of his right to apply for asylum in the United States under 8 U.S.C.
11 §§1158(a)(2)(D) due to changed circumstances or, in the alternative for withholding of removal
12 under 8 U.C.S. §1231(b)(3) to the designated country in reopened removal proceedings.

13 19. In the alternative, Respondents are unlawfully detaining Petitioner in violation of
14 his right to Due Process under the Fifth Amendment by failing to provide him with an opportunity
15 to seek release on bond under 8 U.S.C. §1226(a).

16 COUNT II

17 **Violation of the INA**

18 20. Petitioner incorporates by reference the allegations of fact set forth in the preceding
19 paragraphs.

20 21. As set forth above, Respondents have failed to follow the statutes and regulations
21 relating to removal to a country other than Guatemala by by failing to provide him proper notice
22 of its intent to designate a country for removal other than Guatemala, by failing to provide him
23 proper notice of his right to challenge such designation in reopened removal proceedings, and by
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1 failing to provide him with notice of his right to apply for asylum in the United States under 8
2 U.S.C. §§1158(a)(2)(D) due to changed circumstances or, in the alternative for withholding of
3 removal under 8 U.C.S. §1231(b)(3) to the designated country in reopened removal proceedings.

4 22. In the alternative, Respondents are unlawfully detaining Petitioner in violation of
5 his right to seek release on bond under 8 U.S.C. §1226(a).

6 **CLAIMS FOR RELIEF**

7 23. Petitioner seeks the issuance of a Writ of Habeas Corpus directing his immediate
8 release from DHS custody due to DHS' failure to comply with the Due Process Clause of the Fifth
9 Amendment and the laws relating to designation of an alternate country of removal.

10 24. In the alternative, Petitioner seeks the issuance of a Writ of Habeas Corpus directing
11 the Elizabeth Immigration Court to conduct a custody redetermination hearing pursuant to 8 U.S.C.
12 §1226(a) to consider Petitioner's request for release on bond pending the outcome of any decision
13 to removal him from the United State to any country other than Guatemala.

14 25. Further, Petitioner seeks an order directing that, if DHS wishes to remove Petitioner
15 to any country other than Guatemala, it must provide Petitioner with notice of the country
16 designated country, the statutory basis of such designation under 8 U.S.C. §1231(b)(2)(E)(i)-(vii)
17 and his right to challenge such designation.

18 26. Further, Petitioner seeks an order directing that, if Petitioner indicates that he
19 wishes to challenge DHS' country designation under 8 U.S.C. §1231(b)(2)(E)(i)-(vii), DHS must
20 seek to reopen Petitioner's removal proceedings and, if reopened, will bear the burden of proving
21 that its country designation is proper under 8 U.S.C. §1231(b)(2)(E)(i)-(vii).

22 27. Further, Petitioner seeks an order directing DHS to provide Petitioner with notice
23 of his right to apply for asylum in the United States pursuant to 8 U.S.C. §1158(a)(2)(D) due to
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1 changed circumstances arising from the designation of a country of removal other than Guatemala
2 and of his right to withholding of removal to the designated country under 8 U.C.S. §1231(b)(3).

3 28. Further, Petitioner seeks and order directing that, if Petitioner indicates that he
4 wishes to apply for asylum or withholding of removal, DHS must seek to reopen Petitioner's
5 removal proceedings so that he may pursue those claims before the Immigration Court.

6 **PRAYER FOR RELIEF**

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

- 8 a. Assume jurisdiction over this matter;
- 9 b. Issue a writ of habeas corpus requiring that Respondents release Petitioner
- 10 c. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
11 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
12 law; and
- 13 d. Grant any other and further relief that this Court deems just and proper.

14 DATED this 26th of December 2025.

15 */s/Michael S. Henry*
16 *Attorneys for Petitioner*
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Dated: December 26, 2025