

District Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NOLBERTO BRAMBILA SANCHEZ,

Petitioner,

v.

BRUCE SCOTT, *et al.*,<sup>1</sup>

Respondents.

Case No. 2:26-cv-00948-RAJ

FEDERAL RESPONDENT'S<sup>2</sup> RETURN

Noted For Consideration:  
April 8, 2026

**I. INTRODUCTION**

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Nolberto Brambila Sanchez pursuant to 8 U.S.C. § 1231(a)(6) due to his reinstated order of removal. In 2000, Petitioner violated an immigration judge's grant of voluntary departure from the United States, which then subjected him to a removal order. Thus, his initial noncompliance is the reason that Petitioner is subject to any removal order. Immigration officials have removed Petitioner from the United States to Mexico on three separate occasions. However, Petitioner continued to

<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Defendants substitute Secretary Markwayne Mullin for Kristi Noem.

<sup>2</sup> Respondent Bruce Scott is not a federal official and is not represented by undersigned counsel.

1 demonstrate his noncompliance by repeatedly entering the United States in violation of the laws.  
2 When ICE encountered Petitioner in 2020, his removal order was reinstated again, but ICE  
3 released him from detention pending a determination of his claim of fear of return to Mexico.

4 In July 2025, ICE revoked Petitioner's supervised release for the purpose of U.S.  
5 Citizenship and Immigration Service's ("USCIS") adjudication of his fear claim. USCIS, an  
6 immigration judge, and now the Ninth Circuit have or are reviewing his fear claim. Once the fear  
7 claim is final, Petitioner will either be removed to Mexico pursuant to his reinstated order of  
8 removal or placed in withholding only removal proceedings.

9 There is no dispute that Petitioner is subject to a reinstated order of removal, detained  
10 pursuant to 8 U.S.C. § 1231(a), or that he does not have legal status to remain in the United States.  
11 The reinstatement of Petitioner's removal order, and subsequent detention, does not violate due  
12 process. *See Morales-Izquierdo v. Gonzales*, 486 F.3d 484, 497–98 (9th Cir. 2007) (reinstatement  
13 meets due process); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (detention is a constitutionally  
14 permissible aspect of the government's enforcement of the immigration laws).

15 While Petitioner's detention has become prolonged due to his petition for review pending  
16 before the Ninth Circuit, his detention has not become unreasonably prolonged. The immigration  
17 court held a bond hearing in January 2026, where the government bore the burden to justify  
18 Petitioner's continued detention. The immigration judge found that the government had met its  
19 burden by establishing that Petitioner is a flight risk.

## 20 II. BACKGROUND

### 21 A. Legal Background

22 The Immigration and Nationality Act ("INA") governs the detention and release of  
23 noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*,  
24 594 U.S. 523, 527 (2021). This includes an expedited process for noncitizens who reenter the

1 United States without authorization after having already been removed. *See* 8 U.S.C. § 1231(a)(5)  
2 (reinstatement of removal orders).

3 If the Attorney General finds that an alien has reentered the United States illegally  
4 after having been removed or having departed voluntarily, under an order of  
5 removal, the prior order of removal is reinstated from its original date and is not  
6 subject to being reopened or reviewed, the alien is not eligible and may not apply  
7 for any relief under this Act, and the alien shall be removed under the prior order  
8 at any time after the reentry.

9 *Id.*; *see also* 8 C.F.R. §§ 241.8, 1241.8 (procedures for reinstating removal order). While a  
10 noncitizen may not seek most discretionary relief from the terms of the reinstated order, a  
11 noncitizen may pursue withholding-only relief and protection under the Convention Against  
12 Torture to prevent his removal to the country listed in the reinstated removal order. *Johnson*, 594  
13 U.S. at 530-31.

14 Withholding only proceedings are initiated by the reasonable fear process. A noncitizen  
15 who expresses a fear of returning to the country of removal is referred to U.S. Citizenship and  
16 Immigration Services for a reasonable fear determination by an asylum officer. 8 C.F.R.  
17 §§ 208.31(a)-(c). If the asylum officer determines that the noncitizen has established a reasonable  
18 fear of persecution or torture, the matter is referred to an immigration judge for full consideration  
19 of the request for withholding of removal. 8 C.F.R. § 208.31(e). On the other hand, and relevant  
20 here, if the asylum officer determines that the noncitizen has not established a reasonable fear of  
21 persecution, the noncitizen may request de novo review of the negative decision by an  
22 immigration judge. 8 C.F.R. §§ 208.31(f), (g); 8 C.F.R. § 1208.31(g). If the immigration judge  
23 concurs with the asylum officer's negative decision, the case shall be returned to the Department  
24 of Homeland Security for the noncitizen's removal. 8 C.F.R. § 1208.31(g)(1). In the Ninth  
Circuit, a noncitizen may file a petition for review of a negative reasonable fear determination.  
*Ayala v. Sessions*, 855 F.3d 1012, 1015-16 (9th Cir. 2017).

1 Detention during this process is pursuant to 8 U.S.C. § 1231(a). *Padilla-Ramirez v. Bible*,  
2 882 F.3d 826, 830-33 (9th Cir. 2017).

3 **B. Factual Background**

4 Petitioner is a native and citizen of Mexico who first unlawfully entered the United States  
5 in 2009. Rodriguez Decl., ¶ 4. In 2000, immigration officers apprehended Petitioner and placed  
6 him in removal proceedings. Rodriguez Decl., ¶ 5. In April 2000, an immigration judge granted  
7 Petitioner's request for voluntary departure. Rodriguez Decl., ¶ 6; Lambert Decl., Ex. A, Order.  
8 Petitioner was supposed to leave the United States before August 23, 2000. Rodriguez Decl., ¶ 6.  
9 Petitioner did not leave as required, and his voluntary departure order converted to a removal  
10 order. Rodriguez Decl., ¶ 6; Lambert Decl., Ex. A. ICE removed Petitioner to Mexico on August  
11 5, 2009. Rodriguez Decl., ¶ 8.

12 On August 31, 2009, U.S. Border Patrol arrested Petitioner after he unlawfully re-entered  
13 the United States and reinstated his prior order of removal. Rodriguez Decl., ¶ 9; Lambert Decl.,  
14 Ex. B, Notice of Intent/Decision to Reinstate. Two days after his arrest, Border Patrol removed  
15 Petitioner again to Mexico. Rodriguez Decl., ¶ 9; Lambert Decl., Ex. C, Warrant of  
16 Removal/Deportation.

17 But just one day after his second removal to Mexico, on September 3, 2009, U.S. Border  
18 Patrol again encountered Petitioner after having unlawfully reentering the United States and again  
19 reinstated his removal order. Rodriguez Decl., ¶ 10; Lambert Decl., Ex. D, Notice of  
20 Intent/Decision to Reinstate. For the third time in less than a month, Petitioner was removed to  
21 Mexico. Rodriguez Decl., ¶ 10; Lambert Decl., Ex. E, Warrant of Removal/Deportation.

22 On November 25, 2020, ICE encountered Petitioner in the United States and reinstated  
23 his order of removal. Rodriguez Decl., ¶ 11; Lambert Decl., Ex. F, Form I-213; Ex. G, Notice of  
24 Intent/Decision to Reinstate. However, Petitioner claimed fear of return to Mexico, which

1 initiated the reasonable fear process described above. Rodriguez Decl., ¶ 11. Due to a lack of  
2 bed space at the Northwest ICE Processing Center ("NWIPC"), ICE released Petitioner under an  
3 order of supervision ("OSUP"). Rodriguez Decl., ¶ 11; Lambert Decl., Ex. H, OSUP.

4 On July 8, 2025, Petitioner reported in person to the ICE office in Seattle. Rodriguez  
5 Decl., ¶ 13; Lambert Decl., Ex. I, Form I-213. ICE confirmed that USCIS had not made a fear  
6 determination. Rodriguez Decl., ¶ 13. To complete the reasonable fear process, ICE issued and  
7 served Petitioner with a notice of revocation of release and took him into custody. Rodriguez  
8 Decl., ¶ 13; Lambert Decl., Ex. J, Notice of Revocation of Release; Ex. K, Warrant for Arrest;  
9 Ex. L, Notice of Custody Determination. While Petitioner was provided with a notice of the  
10 revocation of his release, the record does not indicate that Petitioner was provided with an  
11 informal interview as set forth in the regulations. 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i). ICE  
12 transferred Petitioner to the NWIPC and subsequently referred his case for the required reasonable  
13 fear interview. Rodriguez Decl., ¶¶ 13, 14.

14 On July 24, 2025, USCIS determined that Petitioner had not established a reasonable fear  
15 of persecution if returned to Mexico. Rodriguez Decl., ¶ 16.

16 On August 12, 2026, an immigration judge concurred with USCIS's negative  
17 determination and returned the matter to DHS for Petitioner's removal to Mexico. Rodriguez  
18 Decl., ¶ 16; Lambert Decl., Ex. M, Order. That same day Petitioner filed a petition for review  
19 along with a motion to stay his removal with the Ninth Circuit. Rodriguez Decl., ¶ 18; *Brambila*  
20 *Sanchez v. Bondi*, No. 25-5086 (9th Cir.). A temporary stay of removal has been issued pursuant  
21 to General Order 6.4(c). *Brambila Sanchez v. Bondi*, No. 25-5086, Dkt. No. 2 (9th Cir. Aug. 12,  
22 2025). This petition and the stay remain pending the Ninth Circuit's decision.

On January 13, 2026, the immigration court held an *Aleman* Bond hearing.<sup>3</sup> Lambert Decl., Ex. N, Order. An *Aleman* hearing, which was previously called a *Martinez-Baños* bond hearing, must comply with the procedural safeguards established in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). *Banos v. Asher*, No. 16-cv-1454, 2018 WL 3244988, at \*5 (W.D. Wash. Jan. 23, 2018), *report and recommendation adopted*, 2018 WL 1617706 (W.D. Wash. Apr. 4, 2018), *aff'd in part, vacated in part, rev'd in part sub nom. Flores Tejada v. Godfrey*, 954 F.3d 1245 (9th Cir. 2020), *rev'd and remanded sub nom. Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022). This means that the government has the burden to justify continued detention by clear and convincing evidence that the alien is either a danger to the community or a flight risk. *Id.* At the end of the hearing, immigration judge denied bond finding that the government had established that Petitioner is a flight risk. Lambert Decl., Ex. N; Lambert Decl., Ex. O, Audio Recording.

### III. LEGAL STANDARD

“The district courts of the United States ... are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws,

<sup>3</sup> *Martinez-Baños, et al. v. Asher*, 2:16-cv-01454-JLR, 2018 WL 1617706 (W.D. Wash. April 4, 2018), *aff'd in part, vacated in part, rev'd in part sub nom. Flores Tejada v. Godfrey*, 954 F.3d 1245 (9th Cir. 2020), *rev'd and remanded sub nom. Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022). The injunction in *Martinez-Baños* has not been lifted, thus immigration courts in this District still conduct *Aleman* hearings.

1 or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943,  
2 969 n.16 (9th Cir. 2004).

3 **IV. ARGUMENT**

4 **A. Petitioner's detention is lawful under 8 U.S.C. § 1231(a)(6).**

5 Because the only issue under judicial review is whether Petitioner is eligible for relief  
6 from removal, he is subject to an administratively final removal order. *See Padilla-Ramirez v.*  
7 *Bible*, 882 F.3d 826, 830-33 (9th Cir. 2017) (finding that detention during withholding only  
8 proceedings is pursuant to Section 1231 and not Section 1226). Although there is no statutory  
9 time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a  
10 noncitizen may be detained only "for a period reasonably necessary to bring about that  
11 [noncitizen's] removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).  
12 The Supreme Court has further identified six months as a presumptively reasonable time  
13 necessary to bring about a noncitizen's removal. *Id.*, at 701.

14 Petitioner is challenging the immigration judge's negative fear determination, which is  
15 currently before the Ninth Circuit and is the reason for his continued detention. Even though  
16 Petitioner has been detained longer than six months, the six-month presumption "does not mean  
17 that every alien not removed must be released after six months. To the contrary, [a noncitizen]  
18 may be held in confinement until it has been determined that there is no significant likelihood of  
19 removal in the reasonably foreseeable future." *Id.* If Petitioner's petition for review is denied,  
20 Petitioner will be removed to Mexico, as he has been multiple times in the past, and his detention  
21 will then cease.

22 Petitioner incorrectly asserts that he has not had an individualized review in violation of  
23 due process. *Pet.*, at 10-11. In January 2026, the immigration judge held an Aleman bond  
24 hearing where the government had to justify his continued detention by clear and convincing

1 evidence. The immigration judge found that the government met its burden in establishing that  
2 Petitioner is a flight risk. Thus, Petitioner has had individualized review with substantial  
3 procedural protections in place. If Petitioner disagrees with the immigration judge's decision, he  
4 should be required to exhaust his administrative remedies. *See Aden v. Nielson*, No. 18-cv-1441,  
5 2019 WL 5802013, at \*1-2 (W.D. Wash. Nov. 7, 2019) (requiring a petitioner to exhaust his  
6 administrative remedies prior to bringing a habeas claim concerning a court-ordered bond  
7 hearing).

8 The immigration judge's determination adds an additional reason as to why Petitioner's  
9 continued detention is lawful. The Supreme Court has repeatedly recognized that detention is a  
10 constitutionally permissible aspect of the Government's enforcement of the immigration laws and  
11 fulfills the legitimate purpose of ensuring that individuals appear for their removal proceedings.  
12 *See Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018); *Demore v. Kim*, 538 U.S. 510, 523 (2003);  
13 *Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001). Petitioner is indisputably subject to a reinstated  
14 order of removal. Consistent with the requirements of due process, Petitioner's confinement is  
15 thus "reasonably related" to a legitimate government interest and is constitutional while his  
16 petition for review is pending. *Bell v. Wolfish*, 441 U.S. 535, 538-39 (1979).

17 **B. Petitioner's derivative U visa petition does not render his detention unlawful.**

18 Petitioner asserts that his detention is unlawful because of his derivative U visa petition and  
19 related applications pending with USCIS. The filing of a U visa petition does not render  
20 immigration detention unlawful. As described above, immigration detention is a lawful  
21 component of the removal process. A pending U visa petition does not preclude removal from  
22 the United States. 8 C.F.R. § 214.14(c)(1)(ii). Also, removal would not vitiate Petitioner's U  
23 visa eligibility. 8 C.F.R. § 214.14(c)(5)(i)(B) (confirming that a Form I-918 can be approved for  
24 individuals outside the United States).



1 Accordingly, Petitioner's pending derivative U visa petition has no impact on the lawfulness of  
2 his detention.

3 **CONCLUSION**

4 For the foregoing reasons, Petitioner's detention is lawful pursuant to 8 U.S.C.  
5 § 1231(a)(6).

6 DATED this 3rd day of April, 2026.

7 Respectfully submitted,

8 s/ Michelle R. Lambert

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19 *I certify that this memorandum contains 2,355*  
20 *words, in compliance with the Local Civil Rules.*