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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ABRAHAM BARRETO SANCHEZ

Petitioner,

vs.

MARKWAYNE MULLIN, Secretary, U.S.

Department of Homeland Security;

TODD LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

PATRICK DIVVER, San Diego Field Office

Director, ICE;

WARDEN, OTAY MESA DETENTION

CENTER; and

TODD BLANCHE, Attorney General of the

United States

Respondents.

Case No. **'26CV3692 DMS JAC**

Agency No. 

**PETITION FOR WRIT OF HABEAS
CORPUS and MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Expedited Hearing Requested

**PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT**

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1 **I. INTRODUCTION**

2
3 Petitioner Abraham Barreto Sanchez, a national and citizen of Mexico, through his counsel
4 Hernando De Cima of De Cima Law, brings this Petition for Writ of Habeas Corpus
5 pursuant to 28 U.S.C. § 2241. Petitioner challenges his unlawful, ongoing civil detention by
6 U.S. Immigration and Customs Enforcement (ICE) at the Otay Mesa facility. Petitioner
7 contends that his continued detention without a meaningful individualized bond hearing,
8 combined with an administrative mechanism that denies access to judicial review, violates
9 his statutory rights under the Immigration and Nationality Act (INA), his rights under the
10 Fifth Amendment's Due Process and Equal Protection components, and his rights under the
11 Eighth Amendment's protections against excessive bail and cruel and unusual punishment.

12 **II. JURISDICTION AND VENUE**

- 13
14 1. Jurisdiction is invoked pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. §
15 1331 (federal question), and Article I, Section 9, Clause 2 of the United States
16 Constitution (the Suspension Clause).
17 2. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(b)
18 because the Petitioner is currently detained within this judicial district at 7488
19 Calzada De La Fuente, San Diego, CA 92154.

20 **III. PARTIES**

- 21
22 • **Petitioner: ABRAHAM BARRETO SANCHEZ**  is a
23 42-year-old native and citizen of Mexico, currently held in the custody of
24 Respondents.
25 • **Respondents:** The Respondents named above are the official custodians of
26 immigration detainees within this district or exercise ultimate authority over the
27 policies governing Petitioner's detention.
28

1 **IV. STATEMENT OF FACTS**

- 2
- 3 3. **Immigration History:** As documented in **I 862.pdf**, Petitioner arrived in the United
- 4 States at or near San Ysidro, California, on or about **March 1, 1992**, as a child, and
- 5 has continuously resided in the United States for over 34 years.
- 6 4. **Apprehension and Charging:** On **June 15, 2026**, the Department of Homeland
- 7 Security (DHS) served Petitioner with Form **I 862.pdf**, Notice to Appear (NTA),
- 8 placing him in removal proceedings under Section 240 of the INA.
- 9 5. **Detention and Current Custody Status:** Petitioner was taken into ICE custody and
- 10 formally detained on **June 17, 2026**. According to **EOIR Status.pdf**, his upcoming
- 11 Master Calendar hearing is scheduled for **June 26, 2026, at 1:00 PM** before
- 12 Immigration Judge **Mark Sameit** at the Otay Mesa Immigration Court.

13 **V. STATEMENT OF EXHAUSTION AND FUTILITY**

- 14
- 15 6. As designated in **I 862.pdf**, DHS has classified Petitioner as an alien present in the
- 16 United States who has not been admitted or paroled.
- 17 7. Under governing regulations, an Immigration Judge lacks jurisdiction to redetermine
- 18 custody conditions or conduct a bond hearing for individuals falling within certain
- 19 unadmitted or arriving categories.
- 20 8. Because the Immigration Court strictly disclaims jurisdiction over custody
- 21 determinations for individuals carrying Petitioner's specific classification, Petitioner
- 22 has no available administrative mechanism within the EOIR system to seek release or
- 23 an individualized bond review. Any attempt to seek a bond hearing before the
- 24 Immigration Judge would be an exercise in futility.

25 **VI. CLAIMS FOR RELIEF**

- 26
- 27 • **COUNT I:** Violation of the Fifth Amendment (Procedural Due Process) for unlawful
- 28 detention without an individualized bond hearing.

- 1 • **COUNT II:** Violation of the Fifth Amendment (Substantive Due Process) for
- 2 arbitrary and disproportionate civil detention.
- 3 • **COUNT III:** Violation of the Fifth Amendment (Equal Protection) for
- 4 discriminatory denial of custody redeterminations.
- 5 • **COUNT IV:** Violation of the Eighth Amendment for excessive bail and cruel and
- 6 unusual punishment.
- 7 • **COUNT V:** Violation of the Suspension Clause (Article I, Section 9, Clause 2).

8 **VII. MEMORANDUM OF POINTS AND AUTHORITIES**

- 9
- 10 9. **Legal Standard:** "Freedom from bodily restraint has always been at the core of the
- 11 liberty protected by the Due Process Clause" (*Foucha v. Louisiana*, 504 U.S. 71, 80
- 12 (1992)). Civil immigration detention must be narrowly tailored to a legitimate, non-
- 13 punitive regulatory purpose (*Zadvydas v. Davis*, 533 U.S. 678 (2001)).
- 14 10. **Argument:** Detaining Petitioner—a long-term resident of over 34 years—without
- 15 any individualized showing of flight risk or danger renders his detention arbitrary,
- 16 punitive, and a violation of Substantive Due Process. Furthermore, the absolute
- 17 denial of bail access creates a constitutional crisis under the Eighth Amendment, as
- 18 the lack of judicial recourse for a civil detainee amounts to an excessive penalty. The
- 19 categorical denial of custody review based solely on the classification in **I 862.pdf**
- 20 lacks a rational basis and violates the Equal Protection component of the Fifth
- 21 Amendment.
- 22

23 **VIII. PRAYER FOR RELIEF**

24 WHEREFORE, Petitioner respectfully requests that this Court:

25

- 26 • **ASSUME** jurisdiction;
- 27 • **ISSUE** a Writ of Habeas Corpus directing Respondents to immediately release
- 28 Petitioner, or order an individualized bond hearing within 7 days;

- **ORDER** that the burden of proof is placed on the government to demonstrate by clear and convincing evidence that detention is justified;
- **AWARD** reasonable attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

Dated: 6/23/2026

Respectfully submitted,

/s/Hernando De Cima
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105 N Rose St Ste 109
Escondido, Ca 92027
hernando@decimalaw.com
858-525-5578
Attorney for Petitioner

1 **IX. ATTORNEY VERIFICATION**

2 I, Hernando De Cima, declare as follows:

- 3
- 4 1. I am an attorney at law duly licensed to practice before all courts of the State of
- 5 California and the United States District Court for the Southern District of California,
- 6 and I am counsel of record for the Petitioner, Abraham Barreto Sanchez, in this
- 7 action.
- 8 2. I make this verification on behalf of Petitioner pursuant to 28 U.S.C. § 2242 because
- 9 Petitioner is currently detained by Respondents at the Otay Mesa facility in San
- 10 Diego, California, and is therefore unavailable to sign this document directly.
- 11 3. I have prepared the foregoing Petition for Writ of Habeas Corpus and Memorandum
- 12 of Points and Authorities based on an official review of government records provided
- 13 by the Department of Homeland Security and the Executive Office for Immigration
- 14 Review (specifically **I 862.pdf**, **EOIR Status.pdf**, and **EOIR 28.pdf**) as well as
- 15 direct consultations.
- 16 4. The facts stated in the foregoing petition are true and correct to the best of my
- 17 knowledge, information, and belief.

18 I declare under penalty of perjury under the laws of the United States of America that the

19 foregoing is true and correct.

20

21 Dated: 6/23/2026

22 Respectfully submitted,

23

24 /s/Hernando De Cima

25 **Hernando De Cima, Esq**

26 105 N Rose St Ste 109

27 Escondido, Ca 92027

28 hernando@decimalaw.com

858-525-5578

Attorney for Petitioner

1 **X. CERTIFICATE OF SERVICE**

2
3 I, Hernando De Cima, certify that on June 23, 2026, I filed the foregoing with the Clerk of
4 the Court via CM/ECF and will serve the Respondents and the U.S. Attorney's Office for
5 the Southern District of California.

6
7
8
9
10 Dated: 6/23/2026

11 Respectfully submitted,

12
13 /s/Hernando De Cima
14 **Hernando De Cima, Esq**
15 105 N Rose St Ste 109
16 Escondido, Ca 92027
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18 858-525-5578
19 *Attorney for Petitioner*
20
21
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27
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1 **UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF CALIFORNIA**
3 **PROPOSED ORDER TO SHOW CAUSE**
4

5 Upon consideration of the verified Petition for a Writ of Habeas Corpus filed by Petitioner
6 Abraham Barreto Sanchez on 6/23/2026:

7 **IT IS HEREBY ORDERED** that Respondents show cause before this Court why a Writ of
8 Habeas Corpus should not issue directing Petitioner's release from civil immigration custody
9 or, in the alternative, ordering Respondents to provide Petitioner with an individualized,
10 constitutional custody redetermination hearing before an Immigration Judge.
11

12 **IT IS FURTHER ORDERED THAT:**
13

- 14 1. Respondents shall file a Return to the Petition and Show Cause Response, including
15 any supporting briefs, declarations, or administrative records within three (3)
16 calendar days of the date of service of this Order;
- 17 2. Petitioner may file a Traverse/Reply to Respondents' Return on or before within two
18 (2) calendar days of the filing of Respondents' Return; and
- 19 3. A hearing on the Petition is scheduled before the Honorable District Court Judge on
20 _____, 2026, at ____:____.m. in Courtroom ____ of the United States District
21 Court for the Southern District of California, located at 333 West Broadway, San
22 Diego, CA 92101.

23 **IT IS SO ORDERED.**
24

25 Dated: _____, 2026
26
27

28 _____
UNITED STATES DISTRICT JUDGE