

Hernando De Cima, Esq. (SBN 361132)
DE CIMA LAW
105 N Rose st #109
Escondido, CA 92027
Tel: (858) 525-5578
Fax: (760) 418-6462
Email: hernando@decimalaw.com

Attorney for: Petitioner

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.

Agency No.

**PETITIONER'S TRAVERSE TO
RESPONDENTS' RETURN TO
PETITION FOR WRIT OF HABEAS
CORPUS**

**PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner Abraham Barreto Sanchez, by and through counsel, respectfully submits this
Traverse to Respondents' Return to the Petition for Writ of Habeas Corpus.

1 **I. INTRODUCTION & ACCEPTANCE OF CONCESSION**

2
3 Petitioner notes and welcomes Respondents' non-opposition to an order directing that an
4 individualized custody redetermination hearing be held. Because Respondents explicitly
5 concede that Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a) , the sole
6 remaining disputes before this Court concern: (1) the appropriate burden of proof governing
7 the hearing , and (2) the timeline under which the hearing must occur.

8 **II. ARGUMENT**

9
10 **A. Due Process Demands that the Burden of Proof Rest on the Government by Clear**
11 **and Convincing Evidence**

12 In Footnote 2 of the Return, Respondents assert that the burden must rest entirely on the
13 detainee to prove they are not a flight risk or a danger to the community , citing *Rodriguez*
14 *Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022). Respondents' reliance on ordinary
15 administrative review frameworks ignores the unique, constitutional nature of habeas corpus
16 relief under 28 U.S.C. § 2241.

17
18 While *Rodriguez Diaz* addressed the default *statutory* interpretation of § 1226(a) in a direct
19 petition for review , it does not override the fundamental constitutional constraints this
20 Court enforces via habeas corpus. Freedom from bodily restraint is a paradigmatic liberty
21 interest protected by the Fifth Amendment's Due Process Clause. When a long-term lawful
22 resident of over 34 years is subjected to prolonged civil detention , the government must
23 justify that deprivation of liberty.

24
25 This Court has historically recognized that in individual habeas proceedings challenging the
26 lawfulness of ongoing civil immigration detention, placing the initial burden on the shackled
27 detainee flips the constitutional architecture on its head. Consistent with traditional habeas
28 standards issued by district courts within this circuit, the government—as the detaining

1 authority—must bear the burden of establishing by clear and convincing evidence that
2 continued detention is strictly justified by flight risk or an active danger to society.
3 Petitioner respectfully requests this Court explicitly incorporate this constitutional standard
4 into its final order.

5
6 **B. The Court Should Reject Respondents' Request for a 14-Day Delay**

7 Respondents request that the Court grant them 14 days from the issuance of an order to
8 conduct the bond hearing, citing "heavy caseloads and staffing levels." This request should
9 be denied.

10
11 Petitioner has been detained in civil custody since June 17, 2026. Every single day of
12 ongoing civil confinement without due process constitutes an irreparable injury.

13 Respondents have been on formal notice of these proceedings since at least June 23, 2026.
14 Granting an additional two weeks to schedule a single administrative hearing before an
15 Immigration Judge at the Otay Mesa facility—where Petitioner is already housed—is
16 excessive and inflicts punitive hardship on a long-term resident.

17 To protect Petitioner's constitutional rights while remaining mindful of agency resources,
18 Petitioner requests that this Court order the bond hearing to occur within **seven (7) calendar**
19 **days** of the Court's order.

20
21 **III. PRAYER FOR RELIEF**

22 Wherefore, Petitioner respectfully requests that this Court:

- 23
24 1. **GRANT** the Petition for Writ of Habeas Corpus in part based on Respondents' non-
25 opposition;
26 2. **ORDER** Respondents to provide Petitioner with an individualized custody
27 redetermination hearing before an Immigration Judge within **seven (7) days**; and
28

3. **ORDER** that at said hearing, the burden of proof is placed on the government to demonstrate by clear and convincing evidence that continued detention is justified.

Dated: 6/30/2026

Respectfully submitted,

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

1 **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: 6/30/2026

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
17 hernando@decimalaw.com
18 858-525-5578
19 *Attorney for Petitioner*
20
21
22
23
24
25
26
27
28

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 6/30/2026:

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