

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Emmanuel McSweeney v. Warden of the Otay Mesa Detention
Facility, et al.

McSweeney · No. 3:25-cv-02488-RBM-DEB · Decided October 24, 2025

SUMMARY

The United States District Court for the Southern District of California granted Emmanuel McSweeney’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court held that ICE violated McSweeney’s due process rights and its own regulations by failing to provide adequate notice of the reasons for revoking his release and by delaying his required informal interview for approximately six months. The court ordered his immediate release subject to his preexisting order of supervision and denied his motion for a temporary restraining order as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Ruth Bermudez Montenegro
JURISDICTION	United States District Court for the Southern District of California
DECIDED	October 24, 2025
DOCKET	3:25-cv-02488-RBM-DEB
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the lawfulness of immigration detention. The district court granted the petition and ordered immediate release subject to the preexisting order of supervision.
STANDARD OF REVIEW	The petitioner bears the burden under 28 U.S.C. § 2241(c)(3) to show custody in violation of the Constitution or laws or treaties of the United States. The court independently determined its jurisdiction before reaching the merits and reviewed the legality of Petitioner's detention.
PRECEDENTIAL VALUE	unpublished district court order; persuasive value only
PARTIES	Emmanuel McSweeney v. Warden of the Otay Mesa Detention Facility, Kristi Noem, Pamela Bondi, Todd Lyons, Jesus Rocha,

TOPICS

immigration detention federal habeas corpus procedural due process removal proceedings
administrative law

PRACTICE AREAS

immigration detention federal habeas corpus administrative law constitutional law civil rights

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g) deprived the district court of jurisdiction over Petitioner's challenges to his immigration detention and the manner in which ICE executed the removal order.
2. Whether ICE was required to attempt removal to The Bahamas before Haiti under 8 U.S.C. § 1231(b) (2).
3. Whether ICE violated Petitioner's due process rights and its own regulations, 8 C.F.R. §§ 241.4(l) and 241.13(i), by revoking his release without adequate notice and without a prompt informal interview.
4. Whether the regulatory violations prejudiced Petitioner and warranted release from custody.

HOLDINGS

1. Section 1252(g) and Rauda preclude jurisdiction over Petitioner's claim seeking to stay removal while his motion to reconsider and reopen was pending, but they do not bar habeas jurisdiction over claims challenging the legality and manner of his detention.
2. ICE did not violate 8 U.S.C. § 1231(b) by seeking removal to Haiti without completing removal to The Bahamas because ICE had sought to remove Petitioner to The Bahamas and the Bahamian government was unwilling to accept him.
3. ICE violated Petitioner's due process rights by failing to comply with the notice and prompt informal-interview requirements of 8 C.F.R. §§ 241.4(l) and 241.13(i) when it revoked his release and re-detained him.
4. ICE's regulatory violations prejudiced interests protected by the regulations and rendered Petitioner's detention unlawful, warranting his release.

KEY QUOTATIONS

“Under either regulation, however, ICE failed to comply with the required procedures, thereby violating Petitioner’s due process rights.” (at 8)

“ICE’s failure to comply with both 8 C.F.R. § 241.4 and § 241.13 violated Petitioner’s due process rights.” (at 13)

“Respondents are ORDERED to immediately release Petitioner from custody, subject to his preexisting Order of Supervision.” (at 14)

FACTUAL BACKGROUND

Emmanuel McSweeney, a Bahamian-born noncitizen, had been subject to a final removal order and was previously released from ICE custody on an order of supervision. ICE re-detained him on March 18, 2025, but provided inconsistent information about the country to which he would be removed and did not conduct the required informal interview until September 19, 2025. The court found that ICE failed to provide adequate notice of the reasons for revocation and failed to provide a prompt opportunity to respond before continuing Petitioner's detention.

PROCEDURAL HISTORY

Petitioner filed the habeas petition pro se in the Eastern District of California on September 15, 2025. The case was transferred to the Southern District of California on September 19, 2025; after appointment of counsel, Petitioner filed motions for temporary injunctive relief and an amended petition. Following briefing, a hearing, and supplemental briefing, the court granted habeas relief, denied the temporary restraining order motion as moot, and ordered Petitioner released.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

No remand. Respondents were ordered to immediately release Petitioner from custody subject to his preexisting order of supervision. The temporary restraining order motion was denied as moot.

CASES CITED

- Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004)
- Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)
- Lance v. Coffman, 549 U.S. 437, 439 (2007)
- Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94-95 (1998)
- Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482 (1999)
- Rauda v. Jennings, 55 F.4th 772, 776-779 (9th Cir. 2022)
- Louangmilith v. Noem, 2025 WL 288178, at *3 (S.D. Cal. Oct. 9, 2025)
- Ceesay v. Kurzdorfer, 781 F. Supp. 3d 137 (W.D.N.Y. 2025)
- Sanchez v. LaRose, 2025 WL 2770629, at *2 (S.D. Cal. Sept. 26, 2025)
- Jennings v. Rodriguez, 583 U.S. 281, 294 (2018)
- Zadvydas v. Davis, 533 U.S. 678, 693-94, 699 (2001)
- Aroldo Rodriguez Diaz v. Merrick Garland, Rodriguez Diaz v. Garland, 53 F.4th 1189, 1209 (9th Cir. 2022)
- Jama v. Immigration & Customs Enforcement, 543 U.S. 335, 341 (2005)
- Diaz v. Wofford, 2025 WL 2581575, at *8 (E.D. Cal. Sept. 5, 2025)
- Memphis Light, Gas & Water Division v. Craft, 436 U.S. 1, 14 (1978)

- M.S.L. v. Bostock, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025)
- Yang v. Kaiser, 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025)
- Carnation Co. v. Secretary of Labor, 641 F.2d 801, 804 n.4 (9th Cir. 1981)
- United States v. Calderon-Medina, 591 F.2d 529, 531 (9th Cir. 1979)
- Orellana v. Baker, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025)
- Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012)
- Elrod v. Burns, 427 U.S. 347, 373 (1976)
- Hernandez v. Sessions, 872 F.3d 976, 995, 1000 (9th Cir. 2017)
- United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954)
- United States v. Ramos, 623 F.3d 672, 683 (9th Cir. 2010)
- Rokhfirooz v. LaRose, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025)
- Rombot v. Souza, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017)
- K.E.O. v. Woosley, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025)
- Grigorian v. Bondi, 2025 WL 2604573, at *10 (S.D. Fla. Sept. 9, 2025)

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