

IN THE
Supreme Court of the United States

LUIS ALONSO SAM-PENA,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MOTION TO EXPEDITE ACTION ON THE PETITION IN THIS MATTER

The government has indicted Petitioner Luis Sam-Pena on one count of illegal reentry following deportation, in violation of 8 U.S.C. § 1326(a). His trial is presently scheduled to begin on July 5, 2022. In this petition, Mr. Sam asks this Court to review a decision of the United States Court of Appeals for the Ninth Circuit that affirmed a district judge’s decision to order Mr. Sam to be detained pending trial as a flight risk. The court of appeals affirmed that decision on December 13, 2021, and denied a timely filed petition for rehearing en banc on March 8, 2022.

Mr. Sam is filing this petition well in advance of the due date under Rules 13.1 and 13.3. This Court typically acts on timely filed petitions within eight weeks of filing if there is a waiver of the right to respond, or three to four weeks after a brief in opposition is filed (if one is filed). *See* Stephen M. Shapiro et al., *Supreme Court Practice* 5-2 (11th ed. 2019). While action within that usual timeframe would allow the Court to decide whether to grant review before this case becomes moot, action outside of that timeframe might not. If this petition should still be pending after a guilty verdict is rendered or plea is accepted, the statutory authority for detaining Mr. Sam would shift from 18 U.S.C. § 3142(e) to 18 U.S.C. § 3143(a). Under the latter statute, “a person who has been found guilty of an offense and who is awaiting imposition or execution of sentence” *must* be detained unless “the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released” with

or without conditions. In order to avoid this petition becoming moot, *see United States v. Sanchez-Gomez*, 138 S. Ct. 1532, 1542 (2018) (holding that constitutional claims relating to pretrial detention became moot, and were not capable of repetition yet evading review, when the claimant was no longer a pretrial detainee), Mr. Sam respectfully asks the Court to expedite action on this petition, and briefing and argument if necessary, in order that he may have an decision on the detention issue before it becomes moot. *See generally* 18 U.S.C. § 3145(c) (stating that an appeal from a detention order “shall be determined promptly”).

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