

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

M-S-L

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kurt David Hermansen, CA Bar No. 166349
Supervisory Assistant Federal Public Defender
kurt_hermansen@fd.org

DEFENDANTS

DREW BOSTOCK, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	☐ 310 Airplane	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 320 Assault, Libel & Slander		INTELLECTUAL PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 330 Federal Employers' Liability		☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine		☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 345 Marine Product Liability		☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 350 Motor Vehicle	LABOR	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 355 Motor Vehicle Product Liability	☐ 710 Fair Labor Standards Act	☐ 880 Defend Trade Secrets Act of 2016	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 360 Other Personal Injury	☐ 720 Labor/Management Relations	SOCIAL SECURITY	☐ 480 Consumer Credit (15 USC 1681 or 1692)
☐ 190 Other Contract	☐ 362 Personal Injury - Medical Malpractice	☐ 740 Railway Labor Act	☐ 861 HIA (1395ff)	☐ 485 Telephone Consumer Protection Act
☐ 195 Contract Product Liability		☐ 751 Family and Medical Leave Act	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 196 Franchise		☐ 790 Other Labor Litigation	☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/Exchange
		☐ 791 Employee Retirement Income Security Act	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	IMMIGRATION	☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	☐ 462 Naturalization Application	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 220 Foreclosure	☐ 441 Voting	☐ 465 Other Immigration Actions	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 230 Rent Lease & Ejectment	☐ 442 Employment		☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
☐ 240 Torts to Land	☐ 443 Housing/Accommodations			☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment			☐ 950 Constitutionality of State Statutes
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other			
	☐ 448 Education			
	PRISONER PETITIONS			
	☒ 463 Alien Detainee			
	☐ 510 Motions to Vacate Sentence			
	☐ 530 General			
	☐ 535 Death Penalty			
	Other:			
	☐ 540 Mandamus & Other			
	☐ 550 Civil Rights			
	☐ 555 Prison Condition			
	☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC §§ 2241, 2243

Brief description of cause:

Writ of Habeas Corpus, Petitioner was unlawfully detained

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 10, 2025

SIGNATURE OF ATTORNEY OF RECORD

Kurt David Hermansen

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP Yes

JUDGE

MAG. JUDGE

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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Eugene Division**

M-S-L, an adult,

Petitioner,

v.

DREW BOSTOCK, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); TODD LYONS, Acting
Director of Immigration Customs
Enforcement ("ICE"); U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT; KRISTI
NOEM, Secretary of the Department of
Homeland Security ("DHS"); U.S.
DEPARTMENT OF HOMELAND
SECURITY; and PAMELA BONDI, Attorney
General of the United States,

Respondents.

Case No. _____

Agency No. A-



**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. M-S-L (“Petitioner”) is a transgender woman from Mexico who fled Mexico because she experienced severe emotional and physical harm due to her gender identity. Petitioner suffered such emotional distress that it caused serious mental health symptoms that made it difficult to live. Petitioner suffered beatings in her home country because of her gender identity.
2. Petitioner was released on their own recognizance from immigration custody on/around February 25, 2024, nearly one year and nine months ago, by Respondents. Petitioner applied for asylum before the U.S. immigration authorities on February 18, 2025.
3. On information and belief, since entering in February 25, 2024, Petitioner has complied with every request, demand, and requirement by Respondents, in addition to complying with all legal timelines for their asylum case.
4. Now, Respondents have detained Petitioner and plan to transfer them away from the District of Oregon so that they can eject Petitioner from Petitioner’s pending asylum case and rapidly deport them. Respondents do so based not on Petitioner’s personal circumstances or individualized facts.
5. The law under which Respondents will attempt to rapidly remove Petitioner does not authorize their actions because they had already determined to release Petitioner, and the U.S. Constitution requires the Respondents provide at least the rights available to Petitioner when they filed their application for asylum.
6. Accordingly, to vindicate Petitioner’s rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents’ attempts to detain

and transfer them are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*
8. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

10. Venue is proper because Petitioner resides within this judicial district and is in Respondents' custody in Eugene, Oregon. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
11. For these same reasons, divisional venue is proper under Local Rule 3-2.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Its “root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release.” *Fay v. Noia*, 372 U.S. 391, 402 (1963). “It must never be forgotten that the writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired.” *Bowen v. Johnston*, 306 U.S. 19, 26 (1939).
14. Petitioner is “in custody” for purposes of § 2241 because he is arrested and detained by Respondents.

PARTIES

15. Petitioner is a transgender female who is a citizen of Mexico and resides in Oregon. Petitioner is present within the state of Oregon as of the time of the filing of this petition.¹
16. Respondent Drew Bostock is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Bostock is a legal custodian of Petitioner.

¹ Petitioner seeks leave to proceed anonymously because his public identification creates a retaliatory physical harm risk because his status as an asylum seeker in the United States and the nature of his claim is sensitive and highly personal. *See Does I thru XIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). The Ninth Circuit has identified several situations in which parties have been permitted to proceed under a fictitious name, including “(1) when identification creates a risk of retaliatory physical or mental harm,...; [and] (2) when anonymity is necessary ‘to preserve privacy in a matter of sensitive and highly personal nature.’” *Id.* (collecting cases; internal citations omitted). The Petitioner would provide his identity to the Respondents and the Court under seal.

17. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement. He has authority over the actions of respondent Drew Bostock and ICE in general. Respondent Lyons is a legal custodian of Petitioner.
18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
19. Respondent Pamela Bondi is the Attorney General of the United States, and as such, has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
20. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.
21. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.
22. This action is commenced against all Respondents in their official capacities.
23. Petitioner’s removability is currently the subject of an administrative proceeding before the Immigration Court.

LEGAL FRAMEWORK

24. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

25. Immigration detention is a form of civil confinement. “[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.”

Addington v. Texas, 441 U.S. 418, 425 (1979).

26. Individuals with prior removal orders are detained when if they unlawfully reenter the United States but may be released from detention and confinement. 8 U.S.C. § 1231(a)(1)(B)(iii).

27. Individuals detained under 8 U.S.C. § 1231 may be released, subject to terms of supervision.

28. Individuals with a prior order of removal who have a reasonable fear of persecution or torture upon return to their country of origin, are able to apply for Withholding of Removal.

29. Revocation and return to custody is authorized only based on the individual facts and circumstances, and only by certain authorized officials. 8 C.F.R. § 1236.1(c)(8)-(9).

30. A noncitizen may be paroled under 8 U.S.C. § 1182(d)(5)(A) due to urgent humanitarian reasons and/or significant public benefit (parole “purposes”), after a case-by-case analysis. That parole may be revoked only after those purposes have been served, in the Secretary of Homeland Security’s opinion, *i.e.*, only after a case-by-case determination that there is no further urgent humanitarian reason or significant public benefit. *Id.*

31. A noncitizen must be notified in writing that parole under 8 U.S.C. § 1182(d)(5)(A) is terminated. 8 CFR § 212.5(e)(2)(i).

FACTUAL BACKGROUND

32. M-S-L fled Mexico because she had experienced severe emotional and physical harm due to her identity as a trans woman and her gender expression, which does not comport with the traditional male gender expression in Mexico.

33. Petitioner had tried to enter the United States before they entered on or around February 25, 2024. Petitioner has a prior order of removal from a previous entry. When Respondents

detained Petitioner on February 25, 2024, and subsequently released them, Respondents knew of those previous entries or attempts to enter.

- 34. Respondents detained and had complete custody of Petitioner after Petitioner entered.
- 35. Respondents released Petitioner on individualized information they had then.
- 36. Upon information and belief, Petitioner was released after a credible fear determination.
- 37. Upon information and belief, Petitioner was informed they had been granted humanitarian parole when released from detention.
- 38. Petitioner submitted a form I-589, Application for Asylum, Withholding of Removal, and protection under the CAT on February 13, 2025. That application remains pending.

CLAIMS FOR RELIEF

COUNT ONE

**Violation of the Administrative Procedure Act - 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act - 8 U.S.C. § 1226, and Federal Regulations
Not in Accordance with Law and in Excess of Statutory Authority, Abuse of Discretion**

- 39. Petitioner restates and realleges all paragraphs as if fully set forth here.
- 40. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
- 41. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

42. The INA provides that Respondents may, as they did in Petitioner's case, release an individual from custody based on an individualized determination of parole, either for urgent humanitarian reasons or a significant public benefit. 8 USC § 1182(d)(5)(A).
43. Parole ends when "the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served." *Id.*
44. By arbitrarily terminating Petitioner's parole and detaining them without consideration of his individualized facts and circumstances, Respondents have violated the APA.
45. The INA provides that Respondents may, as they did almost two years ago in Petitioner's case, release an individual from custody based on an individualized determination of their danger and flight risk. See 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); 8 C.F.R. § 1236.1(c)(8). After such a release decision is made, a revocation of the custody determination may be made only when warranted by an individual's specific facts and circumstances, and only by authorized officials. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(8)-(9).
46. To survive an APA challenge, the agency must articulate "'a satisfactory explanation' for [its] action, 'including a rational connection between the facts found and the choice made.'" *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
47. By categorically revoking Petitioner's release and detaining them without consideration of his individualized facts and circumstances, Respondents have violated the APA.
48. On information and belief, Respondents have made no finding that Petitioner is a danger to the community.
49. On information and belief, Respondents have made no finding that Petitioner is a flight risk because, in fact, they were arrested while appearing at his scheduled ICE check-in.

50. On information and belief, by detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, on information and belief, there have been no changes to his facts or circumstances since the agency made its initial custody determination that support the revocation of his release from custody.
51. Respondents have already considered Petitioner's facts and circumstances and determined that there was a purpose for paroling them. On information and belief, there have been no changes to the facts that justify this revocation of his release from custody.
52. Because nothing material has changed in the circumstances of Petitioner's case, it was arbitrary and capricious and an abuse of discretion to re-detain them.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

53. Petitioner restates and realleges all paragraphs as if fully set forth here.
54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.
55. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
56. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

57. Respondents have chosen to revoke Petitioner's parole and release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents' revocation of Petitioner's release violates his right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (5) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Dated: July 10, 2025.

/s/

s/Kurt David Hermansn
Attorney for Petitioner