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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

M-S-L, an adult,

Petitioner,

Case No. 6:25-cv-01204-AA

v.

DREW BOSTOCK, et al,

Respondents.¹

FIRST AMENDED PETITION FOR
WRIT OF HABEAS CORPUS UN-
DER 28 U.S.C. § 2241

¹ Respondents include: (1) Drew Bostock, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); (2) Todd Lyons, Acting Director of Immigration Customs Enforcement ("ICE"); (3) Kristi Noem Secretary of the Department of Homeland Security ("DHS"); (4) Pamela Bondi, Attorney General of the United States; (5) U.S. Immigration and Customs Enforcement; and 6) U.S. Department of Homeland Security.

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 and local law enforcement officers refused to protect her from the abuse and harassment.
2. Upon entering the United States on February 8, 2024, Petitioner was detained by immigration authorities. On or about February 25, 2024, nearly one and a half years ago, Petitioner was released from immigration custody on an order of supervised release (“OSUP”) pending a reasonable fear interview. Petitioner applied for asylum by submitting an electronic I-589 form on February 18, 2025.
3. On July 10, 2025, Petitioner was taken into custody by ICE officers during a routine check-in at the Eugene ICE Office. Two days later, on July 12, 2025, Petitioner’s release was revoked. ECF 14-4. According to Respondents, Petitioner violated the conditions of her OSUP agreement. ECF 14 at 3. However, Petitioner believes she has complied with every request, demand, and requirement by Respondents since entering in February 2024, in addition to complying with all legal timelines for her asylum case.
4. Now, Respondents have detained Petitioner at the immigration detention facility in Tacoma, Washington without following the processes mandated in the Immigration and Nationality Act (INA), the Administrative Procedure Act (APA), and

other federal regulations, and in violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

5. 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 her continued detention is arbitrary and capricious and in violation of the law, and to issue an order releasing her from custody.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*
7. 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).
8. 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

9. Venue is proper because Petitioner resides within this judicial district and was taken into Respondents' custody in Eugene, Oregon before transport to Tacoma, Washington. Venue is further proper because the original habeas petition was filed before Petitioner's departure out of District and a substantial part of the

events or omissions giving rise to Petitioner's claims occurred in this District. 28 U.S.C. § 1391(e).

10. For these same reasons, divisional venue is proper under Local Rule 3-2.

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

11. 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.*
12. 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).
13. Petitioner is "in custody" for purposes of § 2241 because she was arrested and is currently detained by Respondents.

PARTIES

14. Petitioner is a transgender female who is a citizen of Mexico and resides in Oregon. Petitioner was present within the state of Oregon at the time of the filing of the original habeas petition.² ECF 1.
15. 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.
16. 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.
17. 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

² Petitioner seeks leave to proceed anonymously because their public identification creates a retaliatory physical harm risk because their status as an asylum seeker in the United States and the nature of their 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 their identity to the Respondents and the Court under seal. The Court has granted this unopposed request. *See* ECF 15.

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.

18. 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.

19. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

20. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

21. This action is commenced against all Respondents in their official capacities.

22. Petitioner's removability is currently the subject of an administrative proceeding before the Immigration Court.

LEGAL FRAMEWORK

23. 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).

24. 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).

25. Individuals with prior removal orders can be detained during the removal period but may be released from detention and confinement. 8 U.S.C. § 1231.

26. Individuals detained under 8 U.S.C. § 1231(a)(3) may be released, subject to terms of supervision.

27. 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. 8 C.F.R. § 208.31.

28. Revocation and return to custody is authorized upon following certain processes and an exercise of discretion by certain authorized officials making individualized findings. 8 C.F.R. § 241.4(l).

29. A noncitizen must promptly be notified of the reasons for revocation of release, be afforded an initial informal interview to respond to the reasons for revocation, and the revoking official can only exercise his or her discretion after a particularized finding is made. 8 C.F.R. § 241.4(l).

FACTUAL BACKGROUND

30. Petitioner fled Mexico because she had experienced severe emotional and physical harm due to her identity as a transgender woman and her gender expression, which does not comport with the traditional male gender expression in Mexico. Law enforcement officers in Mexico refused to protect her due to her gender identity.

31. In the span of one week, between January 31st and February 8th, 2024, Petitioner attempted to enter the United States on three separate occasions by availing herself to immigration authorities and conveying the danger she faced if returned to Mexico. On or about February 25, 2024, Petitioner was released from immigration detention on an order of supervised release (OSUP).
32. Upon Petitioner's release, she was given permission to reside with her aunt in California and given reporting instructions that she has complied with to the best of her knowledge.
33. In February, 2025, Petitioner submitted an I-589 form, Application for Asylum, Withholding of Removal, and protection under the Convention Against Torture (CAT). That application remains pending.
34. On July 9, 2025, Petitioner had a scheduled check-in with immigration authorities. She appeared at the ICE Office in Eugene, Oregon, and was instructed to return the following day.
35. On July 10, 2025, per immigration authorities' instructions, Petitioner returned to the ICE Office in Eugene, Oregon. Shortly after her arrival, she was detained by immigration authorities who escorted her to a vehicle and immediately began transporting her to the immigration detention center in Tacoma, Washington.
36. Two days after her arrest, on July 12, 2025, Petitioner received a Notice of Revocation of Release in English. ECF 14-4 at 1-2. Petitioner is not fluent in English. The notice was signed by Field Office Director, Erik K. Johnson. *Id.*

37. The notice states that Petitioner was detained pursuant to 8 C.F.R. § 241.13. *Id.*

It does not mention Petitioner's OSUP or the reasons for revocation of her release except to say "[t]his decision has been made based on review of your case; your existing order of removal; and a determination that there is a significant likelihood of your removal in the reasonably foreseeable future." *Id.*

38. Upon information and belief, Petitioner has not received notice of the reasons for the revocation of her release, and she has not been afforded an informal interview to address the reasons for the revocation.

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. § 1231, 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 arbitrary, and/or an abuse of discretion, among other things. 5 U.S.C.

§ 706(2)(A).

41. An action is arbitrary or capricious and thus 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, who is subject to a removal order, to supervision if appropriate or statutorily required. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(a). Any person released under such circumstances "shall be released pursuant to an order of supervision." 8 C.F.R. § 241.5(a).

43. Specified ICE officials may revoke supervised release "in the exercise of discretion," but this requires formal processes and findings. 8 C.F.R. § 241.4(l)(1)-(2).

44. The language of 8 C.F.R. § 241.4(l) specifically limits the power of anyone who is not the Executive Associate Director to revoke release. For example, it provides that "[a] district director may also revoke release of a [noncitizen] when"—and only when—"in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." Thus, before a district director can revoke release, the district director must make certain findings.

45. A noncitizen's release may be revoked "in the exercise of discretion" when, in the opinion of the revoking official, "[t]he purposes of release have been served," the noncitizen "violates any condition of release;" revocation "is appropriate to enforce a removal order or to commence removal proceedings against [the noncitizen]," or "[t]he conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2).

46. The language of 8 C.F.R. § 241.4(l)(1) also requires that upon revocation of release, a noncitizen “will be notified of the reasons for revocation” of release and “be afforded an initial informal interview promptly after his or her return to [] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.”

47. Regardless of Petitioner’s removal order, by arbitrarily terminating Petitioner’s supervised release and detaining her without following proper procedures, Respondents have violated the INA and federal regulations. *See Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *17 (W.D.N.Y. May 2, 2025) (granting habeas relief after finding ICE violated 8 C.F.R. § 241.4(l) when it did not afford petitioner an informal interview or an opportunity to respond to the reasons for revocation); *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *2 (S.D.N.Y. Oct. 29, 2023) (noting that notwithstanding ICE’s discretion to execute a removal order, ICE “cannot remove” a noncitizen—even one subject to a final removal order—“in any manner [it] please[s]”); *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) (“[W]hen a regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute, and [the government] fails to adhere to it, the challenged deportation proceeding is invalid and a remand to the agency is required”—even in the absence of a showing of prejudice.).

48. By categorically revoking Petitioner's release and detaining her without making the requisite findings and without considering Petitioner's individualized facts and circumstances, Respondents have violated the APA.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

49. Petitioner restates and realleges all paragraphs as if fully set forth here.

50. 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 v. Davis*, 533 U.S. 678, 693 (2001).

51. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

52. While the government has discretion to detain individuals under 8 U.S.C. § 1231 and to revoke custody decisions under 8 C.F.R. § 241.4(l), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 697-98.

53. Respondents have chosen to revoke Petitioner's release in an arbitrary manner and without the formal processes and findings required by statute and regulation, in violation of due process. Because no individualized determination for rev-

ocation has been made and because Petitioner has not been afforded an opportunity to respond to the reasons for revocation, Respondents' revocation of Petitioner's release violates her 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 and process violates the Due Process Clause of the Fifth Amendment;
- (4) Order Respondents not to transfer Petitioner to any detention facility other than the Tacoma detention facility during the pendency of the Petition.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Order parties to proceed in this action maintaining Petitioner's anonymity, using only M-S-L as their name, and redacting or removing all personally identifying information;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(8) Grant any further relief this Court deems just and proper.

Dated: July 24, 2025.

s/ Robert Easton

Robert Easton

s/ Kara Anne Sagi

Kara Anne Sagi

s/ Kurt David Hermansen

Kurt David Hermansen

Attorneys for Petitioner