

Kurt David Hermansen, CA SBN 166349  
Supervisory Assistant Federal Public Defender  
Email: [kurt\\_hermansen@fd.org](mailto:kurt_hermansen@fd.org)  
859 Willamette St. Suite 200  
Eugene, OR 97401  
541-465-6937

Kara A. Sagi, AZ SBN 032250  
Assistant Federal Public Defender  
Email: [kara\\_sagi@fd.org](mailto:kara_sagi@fd.org)  
101 SW Main St. Suite 1700  
Portland, OR 97204  
503-326-2123

Robert Easton, OR SBN 203697  
Catholic Community Services of Lane County  
Email: [reaston@ccslc.org](mailto:reaston@ccslc.org)  
1464 West 6th Avenue  
Eugene, Oregon 97402  
541-345-3628

Attorneys for Petitioner

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

M-S-L, an adult,

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

Petitioner,

v.

DREW BOSTICK, et al.,

Respondents.

MOTION TO GRANT THE WRIT OF  
HABEAS CORPUS, OR IN THE  
ALTERNATIVE, SCHEDULE  
EVIDENTIARY HEARING PURSUANT  
TO 28 U.S.C. § 2243

---

Petitioner, M-S-L, through counsel, hereby requests the Court grant the Writ of Habeas  
Corpus, or in the alternative, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243.

**I. Factual Background**

M-S-L is a transgender woman from Mexico who fled Mexico because she experienced severe emotional and physical harm because of her gender identity. M-S-L suffered such emotional distress that it caused serious mental health symptoms that made it difficult to live. M-S-L 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.

During her several encounters with U.S. immigration officials, M-S-L stated her fear of return to Mexico. ECF 17-2 at ¶¶ 4, 6-7. On or about February 25, 2024, nearly one-and-a-half years ago, M-S-L was released from immigration custody on an order of supervised release (“OSUP”) pending a reasonable fear interview. ECF 14-3. M-S-L applied for asylum by submitting an electronic I-589 form on February 18, 2025. ECF 17-2 ¶ 10.

On July 10, 2025, M-S-L was taken into custody by ICE officers during a routine check-in at the Eugene ICE Office. ECF 17-2 ¶¶ 12-13. Two days later, on July 12, 2025, M-S-L’s release was revoked. ECF 14-4. According to Respondents, M-S-L violated the conditions of her OSUP agreement. ECF 14 at ¶ 9. However, M-S-L did everything within her control to comply 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. ECF 17-2 ¶¶ 12, 18.

Now, Respondents have detained M-S-L 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. *See* ECF 17 at §§ IV-V.

M-S-L filed a counseled petition for writ of habeas corpus on July 10, 2025, and the Court ordered Respondents to “answer or respond to the Petition” by noon on July 14, 2025. ECF 1; 6 at 3. On July 14th, Respondents filed a motion to dismiss arguing that this Court lacks jurisdiction. ECF 13. On July 24th, M-S-L filed her first amended petition for writ of habeas corpus, ECF 16, and the following day, she filed her response in opposition to Respondents’ motion to dismiss. ECF 17.

No further scheduling orders have been made, nor any hearings set.

## **II. Law and Argument**

“The writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.” *Harris v. Nelson*, 394 U.S. 286, 290-91 (1969). The nature of the writ “demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.” *Id.* Federal courts “not only may grant evidentiary hearings to applicants, but must do so upon an appropriate showing.” *Id.* at 291 (citations omitted). The Supreme Court has recognized the need for an evidentiary hearing, in large part, because “the petitioner, being in custody, is usually handicapped in developing the evidence needed to support in necessary detail the facts alleged in his petition[.]” *Id.*

The steps for habeas proceedings are summarized in 28 U.S.C. § 2243, which provides that, once the habeas petition is filed, the Court “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted[.]” The order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243. From there, a hearing is scheduled “not more than

five days after the return unless for good cause additional time is allowed.” *Id.* Moreover, unless there are only question of law, Respondents “shall be required to produce at the hearing the body of the person detained” for purposes of testifying. *Id.*

Here, the Court ordered Respondents to “answer or respond” to M-S-L’s original petition by July 14th— three days after the petition was filed and in accordance with § 2243. Rather than file an answer, the Respondents filed a motion to dismiss arguing that this Court lacks jurisdiction. In her response, M-S-L disputed many of the factual allegations and legal arguments contained in the motion to dismiss. For example, the motion to dismiss included a declaration from Respondents’ Supervisory Detention and Deportation Officer Jason Weiss who stated that M-S-L was detained because she “failed on several occasions to report to ICE officials at the time and place specified, as required under the terms of the Order of Supervision.” ECF 14 at ¶ 9. That conflicts with M-S-L’s written check-in sheet—the record of when M-S-L had reported to ICE—which includes no missed check-ins. *See* ECF 17-1.

Officer Weiss also stated that M-S-L did not inform ICE of her move from California to Oregon. ECF 14 at ¶ 9. In her sworn declaration, M-S-L explained that she hired who she thought was an attorney to inform ICE about her move to Oregon. ECF 17-2 at ¶ 9. Her “attorney” confirmed with M-S-L that the address was updated with ICE. *Id.* Desiring to comply with her OSUP and believing that ICE knew she had changed her residence to Oregon, M-S-L presented herself to ICE at their Eugene, Oregon office. ECF 14 at ¶ 9; ECF 17-2 at ¶¶ 11-13. Immigration officials revoked her release two days later. ECF 14-4. On information and belief, Respondents still have not afforded M-S-L an interview to respond to the reasons for the revocation, as is stated on the notice of revocation of release. *See id.*

In addition to Officer Weiss's erroneous justification for detention based on past events, Respondents also stated that M-S-L's detention was based on future events—that there was a “significant likelihood of [her] removal in the reasonably foreseeable future.” ECF 14-4. The presumption of a “significant” likelihood of removal is an overstatement. It is inconsistent with Respondents' knowledge of M-S-L's fear of returning to her country and Respondents' July 12th referral of M-S-L to a reasonable fear interview. *See* ECF 14 at ¶ 10. Rather, it is more likely that M-S-L will not be removed back to the danger she faces. Also worth noting, the motion to dismiss did not state her removal was likely. ECF 13.

There are clearly unresolved factual and legal questions warranting an evidentiary hearing pursuant to 28 U.S.C. § 2243, where M-S-L is entitled to be present and to testify. The record includes contention over this Court's jurisdiction, the legal authority M-S-L's detention is based on, and Respondent's factual justification for M-S-L's detention. An evidentiary hearing will allow this Court to assess whether M-S-L has received adequate process for her detention or if her detention violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”), the Immigration and Nationality Act (“INA”), and certain other federal regulations.

### **III. Conclusion**

M-S-L requests that the Court schedule an evidentiary hearing forthwith, and order Respondents to physically transfer her to the hearing in Eugene, Oregon, so as to provide testimony. In the alternative, if the Court believes the record is sufficient to grant the writ, M-S-L respectfully requests the writ be issued and Respondents ordered to release her from custody.

Before being detained, M-S-L lived with family in Oregon. If released from detention, she will return to the same home and continue to comply with her OSUP.

Dated: August 1, 2025.

s/ Robert Easton  
Robert Easton, OR SBN 203697

s/ Kurt Hermansen  
Kurt David Hermansen, CA SBN 166349

/s/ Kara A. Sagi  
Kara A. Sagi, AZ SBN 032250