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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Helen Lisseth CASTRO-POROTOCARRERO,
Petitioner,
vs.

CHRISTOPHER J. LAROSE, Administrator Otay Mesa Detention Center, GREGORY J. ARCHAMBEAULT, Field Officer Director for the San Diego Immigration and Customs Enforcement Office; DAVID VENTURELLA, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, TODD BLANCHE, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. '26CV3997 RFL MMP

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

PREFACE

Is Ms. Helen Lisseth Castro-Portocarrero's ("Ms. Castro") February 19, 2026, arrest and continued detention by the Department of Homeland Security ("DHS") lawful, after her admission and parole into the United States ***three and a half years earlier,*** on December 9, 2022? Several courts in this district have ruled in favor of similarly situated petitioners on this issue recently, finding detention unlawful, and ordering their immediate release from custody. *See, e.g., Sayed Naser Noori v. Christopher LaRose, et al.*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *14 (S.D. Cal. Oct. 1, 2025) (holding that revocation of petitioner's parole with no notification or individualized determination violated the APA and denied petitioner his due process rights); *N.A. v. Christopher J. LaRose, et. Al.*, 25-CV-2384-RSH-BLM; 2025 WL --- (S.D. Cal. Oct. 07, 2025). (explaining that the petitioner, who had entered and been granted parole three years prior, was not subject to mandatory detention as an arriving alien (citing 8 U.S.C. § 1225(b)(1)).

This Court should also rule in favor of Ms. Castro and order her immediate release.

INTRODUCTION

1. Petitioner, Helen Lisseth Castro-Portocarrero ("Ms. Castro"), an asylum seeker from Nicaragua, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' unlawful detention of her after her arrest at her home after having been paroled into the United States, because her detention violates the Constitution and is not authorized by any statute.

2. Mr. Castro is an asylum seeker who fled Nicaragua after suffering persecution. She is currently detained at the Otay Mesa Detention Center ("Otay Mesa") which is owned and operated by CoreCivic.

3. On December 9, 2022, Ms. Castro arrived in the United States at the El Paso, Texas, Port of Entry and was paroled into the United States that same date. Respondents paroled her based on the individualized facts in his case, under 8 U.S.C. § 1182(d)(5). Specifically, Respondents found that Ms. Castro is not a flight risk and that he is not a danger to the community. She has no criminal history and has significant ties to the community, including her sister, her brother-in-law, and extended family who reside in South Carolina and Florida.

4. Respondents commenced removal proceedings against Ms. Castro in immigration court, entitling her to present her asylum claim with the due process rights under 8 U.S.C. § 1229a. Respondents charged Ms. Castro with removability under INA § 212(a)(6)(A)(i) and 212 (a)(7)(A)(i)(I), arguing that she was present without admission or parole and lacked proper immigration documents at the time of entry into the United States.

5. Ms. Castro had been living in the United States for over three years, first under parole and later also applied for asylum and employment authorization, her employment authorization remains active through 2029.

6. Individuals within the United States have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

7. Despite releasing Ms. Castro from custody in 2022, Respondents now seek to keep her detained without a meaningful opportunity to seek a bond or custody redetermination hearing. *See* 8 U.S.C. § 1225. As explained below, Respondents do so based not on her personal or changed circumstances or individualized facts.

8. Ms. Castro has complied with all terms of her parole by attending required check-ins with Immigration and Customs Enforcement, timely filing for asylum,

and remaining law abiding. Despite that, and with no prior notice, Respondents re-detained Ms. Castro at her home. She had been experiencing severe back pain as a result of a car accident and had been unable to attend her regular check-ins. Additionally, she was experiencing mental health challenges due to the accident and her persecution in her home country. She informed her case manager of her inability to attend her check-in, yet was detained anyway.

9. Ms. Castro's arrest and detention are causing her tremendous and ongoing harm. Ms. Castro has been torn away from her family, friends, and community. She is separated from her family members who reside in South Carolina and are unable to visit her in detention. She experienced trauma and suffers from anxiety and other mental health conditions as a result of persecution in her home country, which are exasperated by her current detention. While in Stewart Detention Center, she was placed in solitary confinement for fifteen days after making a complaint about a detention officer. While in detention, she has been experiencing panic attacks, suicidal ideation, and self-harm. She was transferred to Otay Mesa from Stewart, Georgia, and the transfer caused her tremendous stress.

10. The United States Constitution protects Ms. Castro– and every other person present in this country-- from arbitrary deprivations of her liberty and guarantees her due process of law. The government's power over immigration is broad but, as the Supreme Court has declared, it "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana,* 504 U.S. 71, 80 (1992). Ms. Castro therefore respectfully seeks a writ of habeas corpus ordering the government to immediately release him from his ongoing, unlawful detention, prohibiting her re-arrest without a hearing to contest that re-arrest before

a neutral decisionmaker.

11. Additionally, Ms. Castro seeks declaratory and injunctive relief to declare her detention unlawful at Imperial Regional Detention Facility, where he has been held by DHS since being unlawfully detained on February 19, 2026, without first being provided a due process hearing to determine whether her incarceration is justified.

JURISDICTION

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

VENUE

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Ms. Castro is physically detained within this district. Venue is further proper because a substantial part of the events or omissions giving rise to Mr. Parra's claims occurred in this District, where she is now in Respondents' custody. 28 U.S.C. § 1391(e).

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

14. 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.*

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391,400 (1963).

16. Ms. Castro is "in custody" for the purpose of § 2241 because she is arrested and is detained by Respondents.

PARTIES

17. Ms. Castro is a thirty-five-year-old resident of North Charleston, South Carolina. She has no criminal history and is pursing asylum based on a fear of persecution in Nicaragua, which if approved, would give her lawful permanent residency, and eventually, U.S. citizenship. She is presently in the physical custody of Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center in San Diego, California.

18. Respondent Christopher J. LaRose is the Warden of the Otay Mesa Detention Center. He is the physical custodian of Ms. Castro. In this capacity, she is responsible for overseeing the operations of the Otay Mesa Detention Center, including the detention of Ms. Castro. Respondent LaRose is sued in his official capacity.

19. Respondent Gregory J. Archambeault is the Field Office Director of the San Diego ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Diego Area of Responsibility, including the detention of Ms. Castro. Respondent Archambeault maintains an office and regularly conducts business in this district. Respondent Archambeault is sued in his official capacity.

20. Respondent David Venturella is the Acting Director of ICE. As the Senior

Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Ms. Castro. Respondent Venturella is sued in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Ms. Castro. Respondent Mullin is sued in her official capacity.

22. Respondent Todd Blanche is the Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

LEGAL BACKGROUND

A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

23. This case concerns the unlawful revocation of Petitioner's release on parole without notice or review. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

24."[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. at 693.

25.Respondents arrested and detained Ms. Castro without a pre-deprivation hearing demonstrating changed circumstances, despite her release from custody more than three years prior.

26.Ms. Castro has a vital interest in her liberty, which is a legally protected interest. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "...obtaining necessary medical care, [and] maintaining his relationships in the community..."). Indeed, once they are present in the United States, noncitizens have a "weighty" liberty interest in remaining, as they "stand[] to lose the right to stay and live and work in this land of freedom," and "may lose the right to rejoin [their] immediate family, a right that ranks high among the interests of the individual." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

27.On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy of immigration detention that rejected the well-established understanding of the statutory framework and reversed decades of practice where non-citizens who were paroled into the United States remained free on parole pending resolution of their immigration cases. The policy changed to begin detaining people who had been previously paroled into the United States, many who had established jobs and lives in the United States, and some who live in the interior of the United States.

B. Respondent's Arbitrary Arrest of Ms. Castro Violates the Administrative Procedure Act 5 U.S.C. § 706(2)

28. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

29. Respondents' continued detention of Ms. Castro is arbitrary and capricious, and violates the INA as well as the Fifth Amendment. Respondents do not have statutory authority under 1225(b)(2) or any other statute to detain Ms. Castro. Ms. Castro was not provided the opportunity to respond or object to her re-detention. Ms. Castro's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

FACTUAL BACKGROUND

30.Ms. Castro is a 35-year-old citizen of Nicaragua.

31. Ms. Castro fled Nicaragua after suffering threats, based on her political beliefs and activism during the Mother's Day protests of 2018.

32. On December 9, 2022, Ms. Castro arrived at the El Paso, Texas, Port of Entry where she was shortly paroled into the United States. Ms. Castro entered the United States to seek asylum, withholding of removal, and protection under the Convention Against Torture due to the persecution he suffered in Nicaragua. She filed her initial I-589, application for asylum and withholding of removal. She obtained her Employment Authorization on December 3, 2024, it is valid through December 2, 2024.

33. Ms. Castro had been residing in the United States for over three years. She had been placed on Orders of Supervision (OSUP) and had regular virtual and in-person check-ins. In November 2024, Ms. Castro was involved in a car accident, and sustained injuries to her spine, which cause her physical and mental pain to this date. Because of her pain, she was unable to attend an ISAP check-in on February 2, 2026. On February 19, 2026, she was at her home in North Charleston, South Carolina, when she was arrested by ICE agents. The officials processed her and she was eventually transferred to Otay Mesa Detention Center in San Diego, California.

34. Ms. Castro remains in DHS custody at the Otay Mesa Detention Center.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Ms. Castro's Detention is in Violation of the 5th Amendment's Procedural Due Process Protections

35. Mr. Parra incorporates by reference the allegations of fact set forth in the preceding paragraphs.

36. 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.

37. What due process protections apply depend on the situation and accounts for 1) the private interest at issue, 2) the risk of erroneous deprivation of that interest through the procedures used, and 3) the Government's interest. *Mathews v. Eldridge, supra,* 424 U.S. at 334-35.

38. Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli,* 492 F. Supp. 3d 1169,1181 (W.D. Wash. 2020) *(Moreno II), aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou,* 52 F.4th, 821 (9th Cir. 2022). It "is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio,* 695 F.3d 990,1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford,* 418 F.3d 989,1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions,* 872 F.3d 976,994-95 (9th Cir. 2017) ("Thus, it follows inexorably from our conclusion that the government's current policies [which fail to consider financial ability to pay immigration bonds] are likely unconstitutional-and thus that members of the plaintiff class will likely be deprived of their physical liberty unconstitutionally in the absence of the injunction-that Plaintiffs have also carried their burden as to irreparable harm."); *Maldonado Bautista v. Santacruz,* No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,2025),Order Granting Temporary Restraining Order, Dkt.14 at 9 ("[T]he Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under§ 1226(a).")

39.Ms. Castro has a private interest in remaining free. She has over three and a half years of presence in the United States and significant community and family ties. Her detention is causing her tremendous stress, including suicidal thoughts and self-harm. Ms. Castro was detained amid her removal proceedings, without any opportunity to be heard prior to being arrested and detained.

SECOND CLAIM FOR RELIEF

Ms. Castro's Detention Violates her Fifth Amendment Right to Substantive Due Process

65. Ms. Castro incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

66. 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. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas,* 533 U.S. at 690.

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

68. As already stated, Ms. Castro has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "...obtaining necessary medical care, [and] maintaining his relationships in the community...").

69. Ms. Castro, prior to her detention complied with all aspects of her parole. Further, she developed community ties, and had applied for asylum based on persecution in her home country for her political beliefs.

70. Prior to granting parole, Respondents considered Ms. Castro's facts and circumstances and determined she was not a flight risk or a danger to the community. There have been no changes to the facts that justify a revocation of her parole.

THIRD CLAIM FOR RELIEF

Petitioners' Detention Violates the Administrative Procedure Act, 5 U.S.C. § 706(2)

71. Ms. Castro incorporates by reference the allegations of fact set forth in the preceding paragraphs.

72. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

73. Ms. Castro's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

FOURTH CLAIM FOR RELIEF

Respondent's Arrest of Ms. Castro Violates Her Fourth Amendment to Be Free from Unreasonable Seizures (Unlawful Arrest)

74. Mr. Parra repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

75. The Fourth Amendment protects the right of persons present in the United States to be free from unreasonable seizures by government officials.

76. As a corollary to that right, the Fourth Amendment prohibits government officials from conducting repeated arrests on the same grounds. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested "solely on the ground that she is subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom.*, *Saravia for*

A.H. v. Sessions, 905 F.3d 1137 (9th Cir. 2018).

FIFTH CLAIM FOR RELIEF

Respondent's Detention is Punitive and Violates the Substantive Due Process Clause

77. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

78. In *Demore*, the Supreme Court rejected a facial due process challenge to categorical no-bond detention under Section 1226(c) and upheld "brief" detention under Section 1226(c) on the misinformed understanding that it lasts "an average … of 47 days" in the "vast majority" of cases and otherwise rarely exceeds five months. *Demore*, 538 U.S. at 529-30. Yet *Demore* but did not disturb the longstanding principle that civil detention cannot be punitive, and did not consider the constitutionality of mandatory detention that had become prolonged.

79. Even civil detention that begins as constitutionally acceptable may become unconstitutionally punitive when it exceeds a particular duration. "[A]s the period of... confinement grows," greater justification is needed "for detention to remain reasonable." *Zadvydas*, 533 U.S. at 701; *see also id.* at 690 ("A statute permitting indefinite detention of [a noncitizen] would raise a serious constitutional problem"); *Salerno*, 481 U.S. at 747, n.4 (recognizing there may be "[a] point at which detention in a particular case might become

excessively prolonged, and therefore punitive, in relation to Congress' regulatory goal"); *Jackson*, 406 U.S. at 733 (expressing "substantial doubt" that statutes authorizing pretrial detention of incompetent criminal defendants "could survive constitutional scrutiny if interpreted to authorize indefinite commitment"); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (upholding "short-term confinement with a limited purpose;" however, "by the same token, the duration of the confinement must be strictly limited" to adhere with due process); *Schall*, 467 U.S. at 269-70 (finding pre-trial detention of juveniles non-punitive because it was "strictly limited in time" and the maximum possible detention was 17 days).

80. Here, Petitioner's detention is "'excessive in relation to [its non-punitive] purpose'" because she does not pose a risk of flight or danger to the community that can justify the months she has spent and continues to spend in civil incarceration. *Jones*, 393 F.3d at 934 (internal citation omitted); see also *Salerno*, 481 U.S. at 747 (determining whether a restriction on liberty is punitive requires considering "whether it appears excessive in relation to the [non-punitive] purpose" (quoting *Schall v. Martin*, 467 U.S. 253, 269 (1984)). Ms. Castro has experienced extreme distress, including suicidal ideation, while in detention, first in Georgia, and now in California. Her mental and physical health conditions have been exacerbated, and her transfer from Georgia to California was particularly traumatic. For these potentially life-threatening reasons, her detention is excessive and punitive in violation of the Substantive Due Process Clause.

PRAYER FOR RELIEF

Ms. Castro respectfully requests that this Court:

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 Ms. Castro's 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 Ms. Castro from custody forthwith;
5. Issue an Order prohibiting the Respondents from transferring Ms. Castro from this district without the Court's approval;
6. Award Ms. Castro's counsel reasonable attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;
7. Grant such further relief as the Court deems just, equitable, and Appropriate.

Date: July 12, 2026

Respectfully Submitted,
*/s/Megan Day*_____
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