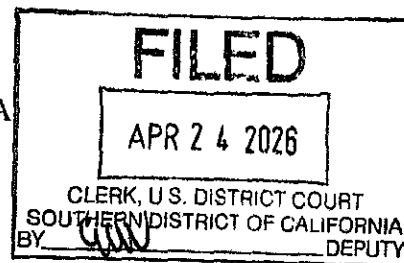


UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA



SCARLETH JUNIETH RODRIGUEZ PACHECO
Proceeding Pro Se,
Petitioner,

v.

_____, Warden, Otay Mesa Detention Center;
_____, Field Office Director, ICE San Diego Field Office;
TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of Homeland Security;
MERRICK GARLAND, United States Attorney General,

Respondents.

Civil Action No.: **'26CV2621 BTM DEB**

PETITION FOR WRIT OF HABEAS
CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

(Verified Petition Pursuant to 28 U.S.C. § 2241)

INTRODUCTION

Petitioner SCARLETH JUNIETH RODRIGUEZ PACHECO respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging her unlawful and unconstitutional civil immigration detention by the United States Department of Homeland Security and Immigration and Customs Enforcement (ICE).

Petitioner, a native of Nicaragua with a pending asylum claim, was arrested on February 1, 2026, following a minor traffic incident—not a criminal offense. She has no criminal record. Despite having an active asylum case before the Miami Immigration Court with a hearing scheduled for February 26, 2026, she was detained.

Since her arrest in Florida, she was held for approximately one month before being transferred across the country to the Otay Mesa Detention Center in California. This interstate transfer has deliberately isolated her from the venue of her legal proceedings, obstructing her ability to prepare her asylum case and access her community support system.

The Government's authority to detain Petitioner is strictly limited by statute and the Constitution. As an asylum seeker with no criminal history, she is not a danger to the community or a flight risk. Her continued confinement without an individualized custody determination that considers her pending asylum claim, strong community ties, and lack of criminal history violates the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment. Freedom from unlawful physical restraint is the bedrock of liberty. Detaining an individual who poses no danger, has a pending legal claim for protection, and was apprehended under non-criminal circumstances is the definition of arbitrary government action. Because Petitioner's detention is statutorily and constitutionally infirm, habeas relief is necessary. Petitioner respectfully requests that this Court grant the writ and order her immediate release, or, in the alternative, order an immediate individualized bond hearing where the Government bears the burden of justifying her continued detention.

CUSTODY

Petitioner is in the physical custody of Respondents at the Otay Mesa Detention Center, 7488 Calzada De La Fuente, San Diego, CA 92154. He is under the direct control of:

- Warden, Otay Mesa Detention Center;
- Field Office Director, ICE San Diego Field Office;
- Acting Director, United States Immigration and Customs Enforcement;

- Secretary, Department of Homeland Security;
- Attorney General, United States.

JURISDICTION

This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 2241 (writ of habeas corpus).

1. Personal jurisdiction attaches to the named respondents in their official capacities.
2. The Court's jurisdiction is further supported by the Due Process Clause of the Fifth Amendment and the Suspension Clause of the United States Constitution.

VENUE


Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because:

- Petitioner is detained in San Diego, California;
- The Facility and the Respondents' custodial officers are located in this District.

PARTIES

Party Description

I, SCARLETH JUNIETH RODRIGUEZ PACHECO, A-Number 

 citizen of Nicaragua, presently detained at the Otay Mesa Detention

Petitioner Center.

Respondent

1 Warden, Otay Mesa Detention Center, named in official capacity.

Party Description


Respondent Field Office Director, ICE San Diego Field Office, named in official
2 capacity.

Respondent Acting Director, United States Immigration and Customs Enforcement,
3 named in official capacity.

Respondent
4 Secretary, Department of Homeland Security, named in official capacity.

Respondent
5 Attorney General, United States, named in official capacity.

STATEMENT OF FACTS

1. Petitioner SCARLETH JUNIETH RODRIGUEZ PACHECO is a native and citizen of Nicaragua, born on 
2. She entered the United States on or about March 23, 2022, to seek protection from persecution in her home country.
3. Petitioner has an active and pending application for asylum (Form I-589) based on credible fears of political persecution, death threats, and harassment by police and paramilitary forces in Nicaragua due to her participation in protests.
4. Her asylum case is currently before the Miami, Florida Immigration Court, with a Master Calendar Hearing scheduled before Immigration Judge Daniel J. Dowell on February 26, 2026.

5. On or about February 1, 2026, Petitioner was arrested by law enforcement in Miami, Florida. The arrest occurred following a minor traffic accident, not in connection with any violent or serious criminal activity.
6. Petitioner has no criminal record in the United States. She is not a danger to the community.
7. Prior to her detention, Petitioner was a productive member of society, working as a housekeeper for approximately one year.
8. Petitioner is the mother of two minor children who reside in Nicaragua and depend on her for support.
9. There was a past criminal case in Nicaragua in which Petitioner's name appeared. However, she was not the accused party; she was the representative of the victim. That case is now closed by prescription, and there is no conviction or active order against her.
10. Following her arrest in Florida, Petitioner was detained there for approximately one month.
11. Subsequently, she was transferred across the country without advance notice to the Otay Mesa Detention Center in San Diego, California, where she is currently detained.
12. This interstate transfer has severed Petitioner from her community and the jurisdiction where her asylum case is being litigated, creating a significant barrier to preparing her legal defense.
13. The Government initiated removal proceedings against Petitioner, but these proceedings are subject to her pending application for asylum and withholding of removal.
14. Despite her pending asylum claim, lack of criminal history, and the non-violent nature of her arrest, Respondents continue to detain Petitioner.

15. The Government has not afforded Petitioner a meaningful, individualized bond hearing to assess whether her detention is necessary.
16. Petitioner poses no risk of flight, given her active engagement with the immigration court system and her vested interest in pursuing her asylum claim.
17. Her continued detention is arbitrary, punitive, and serves no legitimate governmental interest.

LEGAL FRAMEWORK

1. **Statutory Basis for Discretionary Detention.** Petitioner has not been convicted of any crime that would subject her to mandatory detention under 8 U.S.C. § 1226(c). Therefore, her custody is governed by the discretionary standard of § 1226(a). This section authorizes detention pending a decision on removal but requires an individualized custody determination. Detention is a tool to ensure appearance at proceedings, not a form of punishment.
2. **Due Process Clause.** The Fifth Amendment prohibits the government from depriving any "person" of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection extends to non-citizens within the United States. Prolonged and arbitrary detention of an asylum seeker who poses no risk to the community and has a pending claim for relief violates fundamental principles of due process.
3. **Individualized Bond Hearing Requirement.** For individuals detained under § 1226(a), the Ninth Circuit has recognized that due process requires a bond hearing where the government bears the burden of proving by clear and convincing evidence that the non-citizen is a flight risk or a danger to the community. *See Hernandez v. Sessions*, 872 F.3d

976 (9th Cir. 2017). Petitioner has been denied such a hearing.

4. **Factors for Injunctive Relief.** To obtain emergency relief like a TRO, a petitioner must show a likelihood of success on the merits, a likelihood of irreparable harm, that the balance of equities tips in her favor, and that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The continued loss of liberty constitutes irreparable harm.
5. ***Mathews v. Eldridge* Balancing.** Applying the three-part test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), confirms that Petitioner's detention is unconstitutional. First, Petitioner has a fundamental private interest in her own liberty. Second, the risk of erroneous deprivation is immense, as she is being held without an individualized assessment of her risk profile. Third, the governmental interest in detaining a non-dangerous asylum seeker with a pending case is minimal compared to the profound harm of her confinement.

CLAIMS FOR RELIEF

COUNT ONE – VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT (INA)

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. Petitioner's detention is governed by the discretionary provisions of 8 U.S.C. § 1226(a).
3. Respondents are detaining Petitioner without making an individualized determination that her custody is necessary to ensure her appearance at future proceedings or to protect the community.
4. Given her lack of criminal history, her pending asylum claim, and her stable work

history, there is no evidence to suggest she is a flight risk or a danger.

5. Accordingly, Petitioner's prolonged detention is arbitrary and unlawful under the INA, and she is entitled to immediate release.

COUNT TWO – VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

1. Petitioner realleges and incorporates by reference each allegation set forth above.
2. The Due Process Clause requires that any deprivation of liberty be predicated on a legitimate legal and factual basis and be accompanied by fair procedures. *Zadvydas*, 533 U.S. at 690.
3. Detaining Petitioner for a prolonged period without a bond hearing where the government must justify her confinement violates her fundamental right to due process.
4. The interstate transfer from Florida to California further burdens her due process rights by impeding her ability to prepare for her asylum hearing.
5. Petitioner has therefore suffered an unconstitutional deprivation of her liberty and is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Issue an immediate Temporary Restraining Order enjoining Respondents from transferring, removing, or deporting Petitioner pending resolution of this application.
2. Assume jurisdiction over this matter.
3. Order Respondents to show cause why a writ of habeas corpus should not be granted, within three (3) days, and set a hearing on this petition within five (5) days of the return,

as required by 28 U.S.C. § 2243.

4. Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from the Otay Mesa Detention Center.
6. In the alternative, order Respondents to provide Petitioner with an immediate bond hearing before an Immigration Judge, at which the Government must prove by clear and convincing evidence that her continued detention is necessary.
7. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, and 28 U.S.C. § 2412.
8. Grant such further relief as this Court deems just and proper.

VERIFICATION

I, SCARLETH JUNIETH RODRIGUEZ PACHECO, being the petitioner, hereby certify under penalty of perjury that the statements set forth herein are true and correct to the best of my knowledge and belief.

Date: April 21, 2026

/S/ Scarleth Junieth Rodriguez Pacheco
Scarleth Junieth Rodriguez Pacheco
Pro Se