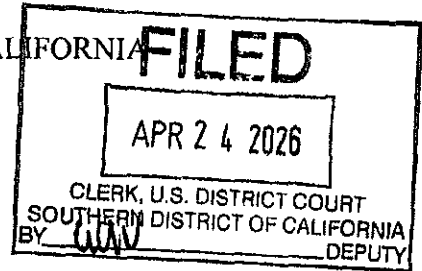


UNITED STATES DISTRICT  
COURT SOUTHERN DISTRICT OF CALIFORNIA



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5 SCARLETH JUNIETH RODRIGUEZ PACHECO,  
Pceeding Pro Se

6 *Petitioner,*

7 v.

8 \_\_\_\_\_, Warden, Otay Mesa Detention Center;  
9 \_\_\_\_\_, Field Office Director, ICE San Diego Field  
10 Office;  
11 TODD M. LYONS, Acting Director, United States  
12 Immigration and Customs Enforcement;  
13 KRISTI NOEM, Secretary of Homeland Security;  
14 MERRICK GARLAND, United States Attorney  
General, in their official capacities,

15 *Respondents.*

Case No.: '26CV2621 BTM DEB

**PETITIONER'S *EX PARTE*  
APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER**

16 NOTICE OF EX PARTE APPLICATION

17 NOTICE IS HEREBY GIVEN that Petitioner SCARLETH JUNIETH RODRIGUEZ  
18 PACHECO applies ex parte for a Temporary Restraining Order pursuant to Rule 65(b) of the  
19 Federal Rules of Civil Procedure.

20 Good cause exists to waive the advance notice requirements. The need for ex parte relief is  
21 urgent and compelling. Since her arrest on February 1, 2026, Petitioner has already been  
22 subjected to an unannounced interstate transfer—first being held in Florida for a month, and  
23 then transferred across the country to the Otay Mesa Detention Center in San Diego.

24 This established pattern demonstrates that Respondents are highly likely to transfer Petitioner  
25 again or remove her from the United States before this Court can rule on the merits of her  
26 accompanying Petition for a Writ of Habeas Corpus. Providing notice of this application to  
27 Respondents would likely prompt them to immediately transfer or deport Petitioner, thereby  
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1 rendering her habeas petition moot and depriving this Court of jurisdiction. An emergency  
2 order is the only means to preserve the status quo and ensure that Petitioner's fundamental  
3 rights are not irrevocably lost.

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5 I. INTRODUCTION

6 Petitioner Scarleth Junieth Rodriguez Pacheco, a native of Nicaragua with a pending asylum  
7 claim and no criminal record, has been detained by Immigration and Customs Enforcement  
8 (ICE) since February 1, 2026. She is currently held at the Otay Mesa Detention Center.

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10 Critically, her detention began after a minor traffic accident, not as the result of any criminal  
11 investigation or charge. She has an active asylum case pending in the Miami, Florida  
12 Immigration Court, with a hearing scheduled for February 26, 2026. Despite this, she was  
13 transferred from Florida to California, thousands of miles from her court and community.  
14 Petitioner now seeks an emergency *ex parte* Temporary Restraining Order (TRO) to prevent  
15 Respondents from transferring her out of this district or removing her from the United States  
16 while her concurrently filed Petition for a Writ of Habeas Corpus is pending. The need for this  
17 order is critical. In the short time she has been in custody, Petitioner has already been  
18 transferred across state lines without notice. Absent an immediate order from this Court, there  
19 is an imminent risk that Respondents will once again transfer her or remove her entirely. Such  
20 action would irreparably harm her by mootng her meritorious asylum claim and foreclosing  
21 her right to seek protection in the United States. A TRO is necessary to preserve the status  
22 quo and ensure this Court can provide meaningful relief.  
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26 II. STATEMENT OF FACTS

- 27 1. Petitioner Scarleth Junieth Rodriguez Pacheco, A-Number  is a native and  
28 citizen of Nicaragua who entered the United States on March 23, 2022, to seek asylum from

1 political persecution.

- 2 2. On February 1, 2026, she was arrested by immigration authorities in Miami, Florida. Her  
3 arrest was prompted by a routine traffic accident and was not related to any criminal activity.
- 4 3. Petitioner has no criminal record in the United States.
- 5 4. She is currently detained at the Otay Mesa Detention Center in San Diego, California.
- 6 5. Since her arrest, Petitioner has been subjected to an unannounced interstate transfer. She was  
7 first held in Florida for approximately one month before being transferred to her current  
8 location in San Diego.
- 9 6. Petitioner has an active asylum case pending before the Miami, Florida Immigration Court  
10 (Judge Daniel J. Dowell), with her next hearing scheduled for February 26, 2026. Her asylum  
11 claim is based on death threats and persecution by police and paramilitary forces in Nicaragua  
12 for her participation in political protests.
- 13 7. Petitioner is a mother to two minor children who reside in Nicaragua and depend on her  
14 support. Prior to her detention, she worked for one year as a housekeeper.
- 15 8. A prior legal matter in Nicaragua lists Petitioner as a representative of a victim, not as an  
16 accused party. That case is closed and has no bearing on her admissibility or character.
- 17 9. Given Respondents' demonstrated pattern of transferring Petitioner without warning, she faces  
18 an immediate and credible threat of being transferred out of this jurisdiction or removed from  
19 the country before her habeas petition can be heard, which would render her asylum claim  
20 moot.  
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25 III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER

26 A temporary restraining order is an extraordinary remedy intended to preserve the status quo  
27 and prevent irreparable harm. To obtain a TRO, a petitioner must show: (1) a likelihood of  
28 success on the merits; (2) a likelihood of suffering irreparable harm in the absence of

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preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

A. Petitioner Is Likely to Succeed on the Merits.

Petitioner has a strong likelihood of succeeding on the merits of her habeas petition. Her detention is arbitrary and violates the Immigration and Nationality Act (INA) and the Due Process Clause. As she has no criminal history, she is not subject to mandatory detention under 8 U.S.C. § 1226(c). Her custody falls under the discretionary authority of § 1226(a). The government has failed to provide an individualized bond hearing to justify her detention by showing she is a flight risk or a danger to the community. Her pending asylum claim, stable work history, and lack of criminal record strongly indicate she is neither. Her continued detention without such a hearing is unlawful.

B. Petitioner Will Suffer Irreparable Harm Absent a TRO.

Petitioner will suffer immediate and irreparable harm if a TRO is not issued. First, the deprivation of constitutional rights—specifically, the fundamental right to liberty—“unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Every additional day of unlawful detention is a continuing irreparable harm. Second, without a TRO, Respondents are free to transfer or remove Petitioner at any moment, as demonstrated by their established pattern of conduct. A transfer would further disrupt her ability to litigate her asylum claim, while removal would permanently extinguish her claim and her right to due process. See *La Union del Pueblo Entero v. McAleenan*, 440 F. Supp. 3d 1073, 1092 (N.D. Cal. 2019) (finding removal from the country is irreparable harm).

C. The Balance of Equities and the Public Interest Favor Granting the TRO.

The balance of equities tips sharply in Petitioner’s favor. The harm to Petitioner from continued unlawful detention and the potential for transfer or removal is immense. In contrast, the burden on the Government from a TRO is minimal—it merely requires maintaining the

1 status quo by keeping Petitioner in her current location pending a judicial hearing on a serious  
2 constitutional challenge. When the Government is a party, the balance of equities and the  
3 public interest merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).  
4 The public has a profound interest in ensuring that the government does not arbitrarily detain  
5 non-dangerous asylum seekers and that federal courts can provide meaningful review of such  
6 government action.

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9 IV. ARGUMENT

10 Petitioner meets all the requirements for an ex parte TRO under Federal Rule of Civil  
11 Procedure 65(b) and *Winter*. As established above, her claim that she is being unlawfully  
12 detained without an individualized bond hearing is strong and likely to succeed. The harm she  
13 faces—continued unconstitutional confinement and the imminent threat of transfer or  
14 permanent removal that would moot her asylum claim—is severe and irreparable. The balance  
15 of hardships and the public interest weigh decisively in favor of preserving this Court's  
16 jurisdiction and ability to adjudicate her habeas petition.

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18 The ex parte nature of this request is justified by Respondents' past conduct. Having already  
19 subjected Petitioner to an unannounced interstate transfer from Florida to California, there is  
20 every reason to believe that providing notice would prompt them to take immediate action to  
21 moot this case. An emergency order is the only way to ensure Petitioner's rights are not  
22 irrevocably lost.

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25 V. CONCLUSION

26 For the foregoing reasons, Petitioner respectfully requests that this Court grant this ex parte  
27 application and issue a Temporary Restraining Order.

28 WHEREFORE, Petitioner respectfully requests that this Court:

- 1 1. Issue an immediate Temporary Restraining Order enjoining Respondents, their agents, and  
2 their employees from: a. Transferring Petitioner Scarleth Junieth Rodriguez Pacheco, A-  
3 Number A240-639-121, from her current place of detention at the Otay Mesa Detention  
4 Center; b. Removing or deporting Petitioner from the United States; and c. Taking any other  
5 action to facilitate her transfer or removal pending a hearing on this matter.
- 6 2. Order Respondents to show cause why a preliminary injunction should not issue.
- 7 3. Set a hearing on the concurrently filed Petition for a Writ of Habeas Corpus within five (5)  
8 days, as required by 28 U.S.C. § 2243.
- 9 4. Grant such other and further relief as this Court deems just and proper.

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12 VERIFICATION

13 I, Scarleth Junieth Rodriguez Pacheco, being the petitioner, hereby certify under penalty of  
14 perjury that the statements set forth herein are true and correct to the best of my knowledge  
15 and belief.

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17 Date: April 21, 2026

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19 /S/ Scarleth Junieth Rodriguez Pacheco  
20 Scarleth Junieth Rodriguez Pacheco  
21 Pro Se  
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