

Alternatively, Ms. Monterrosa-Flores seeks a declaration and injunction to compel Respondents to immediately provide Ms. Monterrosa-Flores necessary medical care. In addition, Ms. Monterrosa-Flores seeks monetary damages against Respondents and Defendant Lynda M. Parker for the unconstitutional denial of medical care.

Ms. Monterrosa-Flores also brings a claim against Defendant the United States Immigration and Customs Enforcement (“ICE”) for its violations of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*

CUSTODY

1. Ms. Monterrosa-Flores is in the physical custody of Respondents at the Hutto Detention Center in Williamson County, Texas. Ms. Monterrosa-Flores is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States and also is brought pursuant to the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.* This Court has jurisdiction under 28 U.S.C. § 1331.

3. This Court has authority to grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. This Court has authority to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

5. This Court has authority to grant injunctive relief in this action pursuant to 5 U.S.C. § 702, and Rule 65 of the Federal Rules of Civil Procedure.

VENUE

6. Venue is proper in the United States District Court for the Western District of Texas, the judicial district where Petitioner currently is in custody and where a substantial portion of the acts or actions giving rise to the claims occurred. 28 U.S.C. § 1391(b).

PARTIES

7. Plaintiff-Petitioner Laura Monterrosa-Flores currently is detained at the Hutto Detention Center pursuant to civil immigration laws. She is in the physical custody of Respondents, and is under the direct control of Respondents and their agents. Ms. Monterrosa-Flores has been diagnosed with Posttraumatic Stress Disorder and Major Depressive Disorder. She suffers a disability with the meaning of the Rehabilitation Act.

8. Defendant the United States Immigration and Customs Enforcement (“ICE”) is a law enforcement agency within the United States Department of Homeland Security. ICE is charged with detaining individuals at the Hutto Detention Center pursuant to federal immigration law.

9. Defendant-Respondent Daniel Bible is the Director of the San Antonio Field Office of the Office of Enforcement and Removal Operations of ICE. As such, Defendant-Respondent Bible is Ms. Monterrosa-Flores’s legal custodian, charged with the responsibility of determining whether Ms. Monterrosa-Flores will be detained in ICE custody or released pending the conclusion of immigration removal proceedings.

10. Defendant-Respondent Charlotte Collins is Warden of the Hutto Detention Center and oversees, directs, and controls the Detention Center. She is Ms. Monterrosa-Flores’s immediate custodian.

11. Defendant Lynda M. Parker (“Dr. Parker”) is a physician whose primary specialty is psychiatry. She is an employee of ICE and has provided direct medical care to Ms. Monterrosa-Flores.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. Ms. Monterrosa-Flores has exhausted her administrative remedies to the extent required by law, and her only remedy is by way of this judicial action.

STATEMENT OF FACTS

13. On May 23, 2017, Defendant ICE detained Ms. Monterrosa-Flores after she entered the United States. On or around May 31, 2017, Defendant ICE transferred Ms. Monterrosa-Flores to Respondents’ custody at the Hutto Detention Center where she has remained for the past nine months.

14. At all times while in the custody of Respondents, Ms. Monterrosa-Flores has suffered from Posttraumatic Stress Disorder and Major Depressive Disorder.

15. On January 12, 2018, Ms. Monterrosa-Flores made a suicide attempt and inflicted self-harm by ingesting a large quantity of potent medical pills.

16. Throughout Ms. Monterrosa-Flores’s detention, Respondents and Defendants ICE and Dr. Parker have extensively documented Ms. Monterrosa-Flores’s physical and mental health.

17. Although aware that Ms. Monterrosa-Flores requires special treatment and reasonable accommodations due to her mental disability, Respondents and Defendants ICE and Dr. Parker have failed to provide such treatment and accommodations. Further, Respondents and Defendants ICE and Dr. Parker discriminated against Ms. Monterrosa-Flores and denied her

access to medical services and treatments that were generally available to other detainees due to and on the basis of Ms. Monterrosa-Flores's disability.

18. Defendant Dr. Parker provided direct medical care to Ms. Monterrosa-Flores. Defendant Dr. Parker refused to treat Ms. Monterrosa-Flores's mental disability because of her mental disability. On at least one occasion, Defendant Dr. Parker discouraged Ms. Monterrosa-Flores from reporting and seeking treatment for her mental disability by suggesting to Ms. Monterrosa-Flores that reporting her mental disability and seeking treatment would negatively affect her immigration case.

19. Respondents and Defendants ICE and Dr. Parker have never provided Ms. Monterrosa-Flores a full psychiatric evaluation and psychiatric treatment, including medication, even though Respondents and Defendants were aware that Ms. Monterrosa-Flores needed a full psychiatric evaluation and psychiatric treatment.

20. Respondents have promulgated a rule to limit psychological and psychiatric treatment of detainees at the Hutto Detention Center that is not reasonably related to any legitimate governmental objective and that places detainees, including Ms. Monterrosa-Flores, in substantial risk of serious harm.

21. As a result of Respondents' and Defendants ICE's and Dr. Parker's failures to address Ms. Monterrosa-Flores's medical needs, Ms. Monterrosa-Flores's physical and mental condition has deteriorated. Respondents and Defendants ICE and Dr. Parker have placed Ms. Monterrosa-Flores in segregation and isolation because of her physical and mental deterioration even though solitary confinement exacerbates both Posttraumatic Stress Disorder and Major Depressive Disorder.

22. Despite numerous requests for medical treatment and requests for reasonable accommodations by Ms. Monterrosa-Flores, Respondents and Defendants ICE and Dr. Parker have refused to remedy the situation. Instead, Respondents and Defendants ICE and Dr. Parker retaliated against Ms. Monterrosa-Flores by purposely misdiagnosing her condition, denying her adequate treatment and reasonable accommodations, and by placing her in segregation and isolation.

23. Ms. Monterrosa-Flores has suffered and continues to suffer emotional pain and anguish as a result of Respondents' and Defendants ICE's and Dr. Parker's actions.

24. Ms. Monterrosa-Flores remains at a high risk for suicide.

25. On January 28, 2018, a licensed clinical psychologist retained by Ms. Monterrosa-Flores's counsel performed an independent psychological evaluation of Ms. Monterrosa-Flores. The psychologist strongly recommended intensive outpatient treatment of Ms. Monterrosa-Flores for Posttraumatic Stress Disorder and Major Depressive Disorder. Further, the psychologist strongly recommended a full psychiatric evaluation and psychiatric treatment, including medication, to manage Ms. Monterrosa-Flores's severe psychiatric symptoms. The psychologist also recommended that the use of solitary confinement be stopped immediately.

CLAIMS FOR RELIEF

CLAIM ONE

Fifth Amendment to the U.S. Constitution (Due Process Clause)

26. Petitioner realleges and incorporates by reference the allegations made above.

27. The Due Process Clause of the Fifth Amendment requires that all individuals who are detained by the State be afforded adequate medical care, including mental health care, during their detention.

28. Respondents and Defendant Dr. Parker failed to provide necessary mental health care and treatment for Petitioner, although Respondents and Defendant Dr. Parker extensively evaluated Petitioner and were aware that she required special treatment and reasonable accommodations due to her mental disability.

29. Respondents and Defendant Dr. Parker denied Petitioner a full psychiatric evaluation and the necessary psychological care, including medication, required to treat Petitioner for her mental disability, which includes Posttraumatic Stress Disorder and Major Depressive Disorder. Respondents and Defendant Dr. Parker have continued to deny Petitioner needed mental health care even after Petitioner engaged in self-harm.

30. The actions and omissions of Respondents and Defendant Dr. Parker violate the right of Petitioner to medical care while in detention. Respondents and Defendant Dr. Parker acted, failed to act, and continue to fail to act, despite their knowledge of a substantial risk of serious harm to Petitioner, in violation of Petitioner's Fifth Amendment rights.

31. Respondents and Defendant Dr. Parker engaged, and continue to engage, in their injurious conduct with deliberate indifference to Petitioner's serious medical needs, in light of her known and documented mental health needs.

32. Respondents' and Defendant Dr. Parker's deliberate indifference to Plaintiff's serious mental health needs has caused, and continues to cause, Petitioner physical pain and suffering, mental anguish, emotional distress, the deterioration of her mental health, and an undue risk of serious injury and/or premature death.

33. Respondents hold Petitioner in custody in violation of the Fifth Amendment to the United States Constitution. A writ of habeas corpus, pursuant to 28 U.S.C. § 2241, is necessary to remedy the constitutional violations, to ensure Petitioner receives necessary medical care, and

to remove the unreasonable risk that Petitioner will suffer new or worsening serious physical and mental health illnesses, injuries, and harm.

34. Alternatively, if the Court denies a writ of habeas corpus, declaratory and injunctive relief to compel Respondents to provide necessary medical care is needed to remedy Respondents' violation of the Fifth Amendment and to prevent serious, imminent, irreparable physical, mental, and emotional injuries to Petitioner.

35. In addition to and apart from a writ of habeas corpus and declaratory and injunctive relief, Respondents and Dr. Parker are liable to Petitioner in their individual capacities for actual and punitive damages from their injurious conduct that amounted to deliberate indifference to Petitioner's serious medical needs in violation of the Fifth Amendment.

CLAIM TWO

Rehabilitation Act of 1973

36. Petitioner realleges and incorporates by reference the allegations made above.

37. Section 504 of the Rehabilitation Act provides that "No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." 29 U.S.C. § 794.

38. Defendant ICE is an Executive agency within the meaning of the Rehabilitation Act.

39. Defendant ICE's actions violated and violate the Rehabilitation Act because they constitute discrimination on the basis of disability. Defendant ICE's actions also constitute retaliation in violation of the Rehabilitation Act. Finally, in failing to provide reasonable

accommodations to Petitioner because of her disability, Defendant ICE violated the Rehabilitation Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare Petitioner's detention to be unlawful and unconstitutional;
3. Order Petitioner's release from custody forthwith;
4. In the alternative, if the Court does not grant a writ of habeas corpus, order Respondents to provide Petitioner with a full psychiatric evaluation and psychiatric treatment, including medication and placement in inpatient treatment as needed, forthwith;
5. In the alternative, if the Court does not grant a writ of habeas corpus, enjoin Respondents from placing Petitioner in solitary confinement, whether through segregation, isolation, or otherwise.
6. Enjoin Respondents from transferring Petitioner outside of this judicial district pending litigation of this matter or her removal proceedings.
7. Order Respondents and Defendants to pay compensatory and punitive damages for violating Petitioner's rights;
8. Award to Petitioner reasonable costs and attorneys' fees; and,
9. Grant any other relief that this Court deems just and proper.

DATED: March 2, 2018

Respectfully submitted,

/s/ Jack Salmon

Celina Moreno

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ATTORNEYS FOR PLAINTIFF-PETITIONER
LAURA MONTERROSA-FLORES

Verification by someone acting on Petitioner's behalf pursuant to 28 U.S.C. § 2242

I submit this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 2, 2018

/s/ Fatima Menendez
Fátima Menéndez
Attorney for Petitioner