

Congress of the United States
Washington, DC 20510

February 9, 2018

The Honorable Kirstjen Nielsen
Secretary
Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

Dear Secretary Nielsen:

We write to bring your attention to the case of Lilian Calderon, A# 075-99-274. According to reports, on January 15, 2018, Ms. Calderon was detained by Immigration and Customs Enforcement (ICE) in Johnston, Rhode Island, while she and her husband, Luis Gordillo, a U.S. Citizen, were attempting to verify their marriage through the I-130 process. Ms. Calderon's continued detention has kept her apart from her husband and two young children, ages 4 and 1, both U.S. citizens. Ms. Calderon's family is understandably distraught about the prospect of her deportation, and her absence has already hurt the welfare and wellbeing of her children.

Based on our review of her case file, Ms. Calderon's case is particularly sympathetic. Fleeing violence and persecution in their native Guatemala, Ms. Calderon's parents brought Lilian and her siblings to the United States in 1990, when she was just three years old. They formally sought asylum, and although the immigration judge found her father's testimony to be credible, the judge rejected the family's asylum application because they were unable to document with specificity the threats they faced in Guatemala; Ms. Calderon was just 12 years old at the time. The immigration judge authorized a voluntary departure period, and when Ms. Calderon's family failed to leave the country by the end of that period, that order became an order of removal to Guatemala.

Ms. Calderon, who, according to her case file, has no criminal record, was a textbook candidate for protection under the Department of Homeland Security's (DHS) Deferred Action for Childhood Arrivals (DACA) program, meeting each of its seven eligibility criteria. Again, however, her good faith attempt to gain legal status was thwarted. Notwithstanding extensive evidence demonstrating her continuous residence in the United States over the course of the past decade, Ms. Calderon's DACA application was denied when the adjudicator found that she had not established continuous residence. That denial, based solely on two short gaps in her otherwise comprehensive record of continuous residence, was not appealable.

After marrying her U.S. citizen husband, Ms. Calderon's latest attempt to gain legal status, through an I-130 petition, looked promising. We understand that her Form I-130 had been approved and she was in the process of having her marriage verified by USCIS when she was suddenly detained by ICE officers. She has been in detention, separated from her husband and children, ever since.

Responding to media inquiries about this matter, an ICE spokesperson said that “with respect to all recent enforcement actions, all of those who have been targeted for arrest were targeted based on previously issued orders of removal by a federal immigration judge. The individuals targeted had previously ignored the aforementioned removal orders and will now be held in ICE custody pending removal.” We are disappointed in that response, which fails to acknowledge Ms. Calderon’s repeated good faith efforts to seek legal status.

In light of the psychological and emotional toll this ordeal has taken on Ms. Calderon’s family, Ms. Calderon’s attorney has sought an emergency stay of removal with the Board of Immigration Appeals (BIA), has requested that Ms. Calderon be granted supervised release, and has asked BIA to use its *sua sponte* authority to reopen Ms. Calderon’s asylum case. He has further requested that USCIS reconsider its surprising decision to deny Ms. Calderon’s DACA request, given her clear eligibility for protection under the program. Ms. Calderon has also petitioned the federal district court for a writ of habeas corpus; this week, the court issued an order barring Ms. Calderon’s removal while it considers her petition.

In light of the equities this case presents, and given the imminent threat of irreparable harm to Ms. Calderon’s children posed by her continued detention and impending removal, we respectfully request that you give appropriate and timely consideration to her requests in accordance with all rules and regulations of your agency.

Thank you for your prompt attention to this matter.


Sincerely,



Sheldon Whitehouse
United States Senator



James R. Langevin
Member of Congress



David N. Cicilline
Member of Congress