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THE UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
EL PASO, TEXAS

In the Matter of: _____)
)
 [REDACTED])
)
 Respondent,)
)
 In removal proceedings _____)

File No: [REDACTED]

Immigration Judge [REDACTED]

Next Hearing: July 14, 2026

RESPONDENT'S PRE-HEARING BRIEF IN SUPPORT OF ASYLUM,
WITHHOLDING OF REMOVAL, AND PROTECTION UNDER THE CONVENTION
AGAINST TORTURE

I. INTRODUCTION

Respondent, [REDACTED] ("Respondent"), through undersigned counsel, respectfully submits this brief in support of his applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). Respondent is a 32-year-old citizen of Nicaragua, a gay man, and a member of the Indigenous Miskito community from the North Caribbean Coast of Nicaragua. He fled Nicaragua after the Ortega-Murillo regime and its allied paramilitary and ruling-party actors identified him as an opponent because of his visible participation in the 2018 civic protests, his emergency medical support to injured protesters, and his public anti-regime satire and reporting under the name [REDACTED]

Respondent suffered severe past persecution. He was surveilled, threatened, assaulted by Sandinista Youth members, forced into hiding, kidnapped by paramilitary actors, held incommunicado for approximately two months, beaten, sexually assaulted by police officers, interrogated as a supposed traitor and foreign collaborator, shot during his escape, and forced to treat his own injuries because seeking hospital care would have exposed him to the same state actors who had tortured him. Country conditions confirm that Nicaragua continues to target real and perceived government opponents, students, journalists, independent media workers, Indigenous leaders, LGBTIQ+ persons, human rights defenders, and those associated with the 2018 protest movement. Respondent therefore qualifies as a refugee under INA § 101(a)(42)(A), merits asylum as a matter of discretion, and, in the alternative, meets the higher burdens for withholding of removal and CAT protection.

II. STATEMENT OF FACTS

A. Respondent is a gay Miskito man whose family had already been targeted by state actors.

Respondent is Indigenous Miskito. His family belongs to the Miskito community from Nicaragua's North Caribbean Coast. Respondent explains in his declaration (*see* Tab A) that

Miskito communities have historically suffered mistreatment, forced relocation, denial of civil rights, and exclusion from opportunities outside their region.¹ Before Respondent became publicly known for his anti-government activism, his family had already experienced state abuse. In December 2013, Nicaraguan police and anti-narcotics officers entered his grandmother's business, planted evidence, wrongfully accused his grandmother and uncle, and used the criminal process to dispossess the family of homes, vehicles, bank accounts, merchandise, jewelry, property documents, warehouses, transport units, and commercial modules. The police commissioner responsible for the operation caused the assigned judge to be replaced after the judge appeared inclined to rule favorably for Respondent's family. The replacement judge convicted Respondent's grandmother and uncle without due process, sentenced them to twenty-five years, and the government took the family's assets.

Respondent also experienced social exclusion because of his sexual orientation. While studying at [REDACTED], he was verbally abused, harassed, excluded from artistic platforms, and forced to work harder to represent and defend both his Indigenous and LGBTIQ+ communities. Respondent's identity as a gay man and as a Miskito man is central to his life and his claim; it also made him particularly vulnerable in a country where state repression and machismo compound the risks faced by LGBTIQ+ dissidents.

B. Respondent became publicly involved in anti-government protest activity in 2018.

In April 2018, Respondent joined protests after the government failed to respond to a wildfire in the Indio Maíz Biological Reserve and refused international assistance. Police identified him at those protests and created a file with his photograph and personal information. Shortly afterward, the Ortega-Murillo government attempted to reform the Nicaraguan Social Security

¹ The factual background set forth herein is drawn from Respondent's sworn declaration, filed concurrently with the Supporting Evidence as Tab A. Respondent will also be prepared to testify at his individual hearing.

Institute, triggering mass protests. On April 19, 2018, Respondent began organizing large groups of people to protest peacefully in defense of retirees. Police attacked protesters with tear gas, pellets, and rubber bullets.

Respondent then founded and coordinated an emergency paramedical unit with UPOLI peers to provide medical support to injured protesters. He gathered medical students, paramedics, medical supplies, equipment, and trucks to assist protesters at universities and other protest points. The government had ordered public and private hospitals not to provide medical treatment to people with bullet wounds. Respondent's work saving injured protesters therefore caused the government to view him as a terrorist and supporter of the opposition movement.

C. Respondent became known as [REDACTED],” a satirist and independent reporter critical of the Ortega-Murillo regime.

In DATE, Respondent traveled to Estelí for a concert and became stranded by roadblocks. While there, he helped organize food, medicine, and medical supplies for protesters. He then made a satirical video parodying Rosario Murillo, calling himself [REDACTED]. The video went viral, with more than 100,000 views. Respondent created a Facebook page known as [REDACTED]. [REDACTED] What began as humor became a news and logistics channel as independent journalists were kidnapped or forced to flee. Respondent received information from around the country, reported events, and used the channel as a bridge to coordinate food, medicine, and health services for civilians in areas where the government had blocked access.

Members of the Juventud Sandinista, an infamous pro-regime youth group, began sending Respondent death threats. On May 30, 2018, while Respondent participated in Mother's Day demonstrations in Estelí, disguised pro-government followers photographed protesters and passed information to police and paramilitary actors. At the end of the activity, police and paramilitary

actors opened fire, killed two people, and attempted to kidnap Respondent because he had been identified as a cyber-terrorist under the regime's new anti-cyberterrorism framework.

D. Respondent hid within the National Theater while continuing his anti-regime work.

After the regime's "Operación Limpieza"² began tracking, kidnapping, jailing, and sometimes executing people involved in the protests and roadblocks, Respondent returned to Managua and hid his location. Friends told him he was the only surviving member of [REDACTED]; others had been captured, killed, or disappeared. Respondent knew that students, journalists, political leaders, and civilians were held in El Chipote and La Modelo, where detainees suffered food deprivation, electric shocks, beatings, sexual abuse, and drowning attempts. He therefore tried to hide in plain sight by entering the National Theater and the Instituto Nicaragüense del Canto, an institution connected to Laureano Ortega-Murillo, the president's son.

Respondent pretended to support Daniel Ortega while secretly continuing to manage the [REDACTED] channel. His vocal talent allowed him to obtain a privileged position in the Opera House. He also developed a secret personal relationship with Laureano Ortega-Murillo, who required Respondent to keep the relationship hidden. Respondent used his position to stay alive, but his safety collapsed when another cast member discovered his identity as [REDACTED] and information about the secret relationship was leaked. Police trucks began parking outside his home at night; unknown callers threatened him, accused him of betraying the country, called him a terrorist, and said he deserved to be killed by paramilitaries. He could no longer work and moved

² Country conditions evidence corroborates Respondent's testimony regarding the Ortega-Murillo regime's 2018 crackdown on protesters and perceived opponents. International human rights organizations have documented the government's "Operación Limpieza," or "Operation Clean-Up," during which Nicaraguan police and heavily armed pro-government/parapolice forces forcibly dismantled protest barricades and targeted protesters with lethal force, arbitrary arrests, torture, and criminalization as "terrorists" or "coup plotters." See Tab Q. Amnesty International reported in October 2018 that the government intensified its strategy of repression through this operation beginning in June 2018, targeting protesters with arbitrary arrests, torture, and widespread lethal force.

among safe houses. Juventud Sandinista members assaulted him twice and robbed his backpack, cellphone, and money.

E. In January 2022, paramilitaries kidnapped Respondent and police officers tortured and sexually assaulted him.

In January 2022, after months of hiding, paramilitary members found Respondent in a supermarket and took him to an unknown location outside Managua. He was held with other kidnapped people and physically tortured. His captors hit him with the backs of AK-47s, knocked out a tooth, broke his nose, ripped out fingernails, deprived him of food and water, and woke detainees at 3:00 a.m. for interrogations designed to force them to reveal names and addresses. Respondent did not provide information.

Police officers later came to force Respondent to talk. They violently sexually assaulted him, accused him of selling secrets to the United States because he was a public figure with a well-known channel, and accused him of treason, CIA financing, and foreign collaboration. After another interrogation, officers beat him until he fainted. Respondent woke up in his own blood and severe pain. After nearly two months in captivity, Respondent escaped when the captors left detainees guarded by only a few paramilitary actors. He was shot in the ankle and arm during the escape, and one bullet nearly severed his finger. He hid in a truck, reached a friend's home in Managua, and treated his own injuries because he feared arrest or disappearance if he sought hospital care. A nurse friend stitched his finger, removed the bullet from his ankle, and cleaned his wounds.

A friend later told Respondent that his boyfriend had been killed a few weeks after Respondent was kidnapped. His boyfriend's body was found beside a road outside the capital. Respondent fled Nicaragua on [REDACTED].

F. Respondent entered the United States through CHNV parole and filed his Form I-589 pro se after his parole expired and while detained.

Respondent entered the United States on or about [REDACTED], through humanitarian parole under the CHNV parole program. His parole expired on September 7, 2025. Respondent had previously tried to secure help to file for asylum: in June 2024, he paid \$5,000 to a person he believed was an attorney but later discovered no filing had been made and that the listed address was a garage. He then worked to repay the money he had borrowed and tried to save to hire a legitimate attorney. Respondent was arrested in [REDACTED] while working as a DoorDash driver, detained at Krome in Florida for about a month, then transferred to El Paso Camp East Montana and later to the El Paso Processing Center. As soon as he was able to obtain a copy of the asylum application from the Court, he worked diligently and filed his Form I-589 pro se on March 2, 2026. Current counsel has moved to amend and clarify the record because prior pro bono counsel later filed an amended Form I-589 containing inaccuracies.

III. COUNTRY CONDITIONS IN NICARAGUA

Country conditions in Nicaragua strongly corroborate Respondent's account and his fear of return. Since the 2018 civic uprising, the Ortega-Murillo regime has consolidated authoritarian control and has targeted real and perceived opponents through surveillance, arbitrary detention, enforced disappearance, torture, sexual violence, forced exile, citizenship revocation, property confiscation, and the dismantling of civil society and independent media.

A. The Ortega-Murillo regime targets real and perceived political opponents, including 2018 protesters, students, journalists, and independent media actors.

The U.S. Department of State reported that Nicaragua's human rights situation worsened in 2024 and that significant abuses included arbitrary or unlawful killings, disappearances, torture or cruel, inhuman, or degrading treatment, arbitrary arrest and detention, transnational repression,

serious restrictions on freedom of expression and media freedom, restrictions on internet freedom, and impunity for officials who committed human rights abuses. *See* Tab I, U.S. Department of State, 2024 Country Reports on Human Rights Practices: Nicaragua (Aug. 12, 2025). The State Department also reported that parapolice units coordinate with government security forces and target perceived enemies of the regime, including former political prisoners and their families, farmworker activists, prodemocracy opposition groups, human rights defenders, private-sector leaders, clergy, and ruling-party members who dissent or seek to defect. *Id.*

Human Rights Watch similarly reported that Ortega and Murillo continued systematically repressing dissent through arbitrary arrest and prosecution, enforced disappearance, forced exile, revocation of citizenship, and confiscation of assets. *See* Tab L, Human Rights Watch, World Report 2026: Nicaragua (Events of 2025). Human Rights Watch reported that security forces sustain a climate of fear through surveillance, harassment, and arbitrary detention and that critics abroad also face surveillance and harassment. *Id.* Freedom House rates Nicaragua as “Not Free” and reports that after 2018, state forces and allied armed groups responded to anti-government protests with violence and repression; since then, the regime has consolidated power through surveillance, curtailment of press freedom, arrests of political opponents, exile, and citizenship stripping. *See* Tab N, Freedom House, Freedom in the World 2026: Nicaragua.

B. Nicaragua continues to use police, parapolice, prisons, and ruling-party networks to surveil, detain, torture, and intimidate opponents.

The State Department reported that police and parapolice subject people who criticize the government, the ruling party, or its policies to surveillance, harassment, imprisonment, and abuse. It further reported that journalists faced government violence, harassment, cyberattacks, death threats, exile, confiscation of nationality, passport restrictions, and detention. *See* Tab I, U.S. Department of State, 2024 Country Reports on Human Rights Practices: Nicaragua.

The State Department also documented torture and cruel, inhuman, or degrading treatment by government officials for the purposes of securing information, inflicting punishment, and deterring citizens from reporting on government actions or participating in civic actions. Political prisoners and other detainees were underfed, fed spoiled food, interrogated after conviction, deprived of sunlight, kept in darkness or extreme heat, forced into silence, denied religious objects or reading material, held in solitary confinement, beaten, and subjected to threats against family members. Human rights organizations reported that parapolice forces, prison officials, and police regularly subjected women prisoners to strip searches, degrading treatment, threats, and other violence; one organization reported that one of every four women prisoners had been raped while in custody in 2023. *Id.*

The United Nations Group of Human Rights Experts on Nicaragua (GHREN) has identified four phases of repression since April 2018, including the violent crackdown on widespread protests, targeted repression before the 2021 election, efforts to eliminate remaining political opposition beginning in 2022, and a current phase aimed at eliminating all criticism and preventing resistance movements. *See* Tab J, UN Human Rights Council, Group of Human Rights Experts on Nicaragua, Summary Report 2026. GHREN concluded that, since 2018, victims have been targeted because of their real or perceived political identity or association with perceived opponents, and that this forms part of a discriminatory policy aimed at persecuting and silencing dissent. *Id.* GHREN further reported that enforced disappearance has increased, arbitrary detention and ill-treatment in custody remain regular occurrences, and that the violations investigated since 2018 amount, *prima facie*, to crimes against humanity including murder, imprisonment, torture, deportation, enforced disappearance, and persecution on political grounds. *Id.*

C. Nicaragua criminalizes and suppresses online speech and independent reporting.

Respondent's claim centers in part on his public anti-regime satire and independent reporting as [REDACTED]. Country conditions directly corroborate the danger faced by social media critics and independent communicators. The State Department reported that the government retaliated against press and broadcast outlets by blocking transmissions, confiscating equipment, blocking reentry to the country, imprisoning journalists and citizens for expressing news and opinions on social media, and committing violence against journalists. It also reported that the government used troll farms to manipulate political opinions and attack independent media websites; online accounts deemed opposition were tracked by trolls and bots to facilitate retaliation. *See* Tab I, U.S. Department of State, 2024 Country Reports on Human Rights Practices: Nicaragua.

Human Rights Watch reported that human rights defenders, journalists, and critics are targets of death threats, assaults, intimidation, harassment, surveillance, online defamation campaigns, arbitrary detention, prosecution, nationality deprivation, expulsion, and denial of entry. It also reported that the government closed at least 58 media outlets and that hundreds of journalists fled Nicaragua after 2018. *See* Tab L, Human Rights Watch, World Report 2025: Nicaragua; Tab K, Human Rights Watch, World Report 2026: Nicaragua.

D. LGBTIQ+ persons and LGBTIQ+ dissidents face heightened vulnerability within the regime's broader political repression.

Respondent is a gay man who was publicly visible as an artist, activist, and satirist, and whose relationship with a regime-linked figure became a further source of danger. GHREN found that political persecution in Nicaragua has had distinct gendered dimensions and that women and LGBTIQ+ persons have been affected differently. It reported that Nicaraguan authorities subjected women's and LGBTIQ+ movements and organizations to defamation campaigns and mass

closures, and that LGBTIQ+ persons were subjected to violations from the start of the repression, including arbitrary arrest, sexual and gender-based violence, other ill-treatment and torture, and humiliation and abuse related to gender identity and/or sexual orientation. *See* Tab J, UN Human Rights Council, Group of Human Rights Experts on Nicaragua, Summary Report 2026.

Amnesty International likewise reported that patterns of repression continued to consolidate in 2025, including arbitrary deprivation of nationality, restrictions on movement, arbitrary detention, enforced disappearance of dissidents, severe limits on expression and religion, and the closure of civic space. Amnesty reported that Nicaragua approved constitutional reforms eliminating the express prohibition on torture while expanding the repressive apparatus through a patriotic military reserve and thousands of volunteer police officers. *See* Amnesty International, Nicaragua 2025.

E. Indigenous and Afro-descendant leaders, including Miskito communities and organizations, face repression and violence.

Respondent is Miskito, and his family's history reflects the vulnerability of Indigenous communities to state abuse, criminalization, and dispossession. The State Department reported that killings were common in the North Caribbean Autonomous Region and that human rights groups viewed those killings as a continuation of a campaign of terror against Indigenous groups by members or affiliates of the ruling FSLN seeking to encroach on and seize land and natural resources from autonomous Indigenous territories. *See* Tab I, U.S. Department of State, 2024 Country Reports on Human Rights Practices: Nicaragua; *See* Tab O, Wageningen University, *The Mobilities of the Nicaraguan Miskito Community, The Various Reasons Behind Miskito Mobilities to Costa Rica*, June 2023.

Human Rights Watch reported in 2025 that Indigenous and Afro-descendant leaders face defamation campaigns, surveillance, harassment, arbitrary detention, politically motivated

prosecutions, and entry bans. It also reported that the Supreme Electoral Council stripped the Indigenous political party YATAMA of legal status and that police detained YATAMA leaders Brooklyn Rivera and Nancy Henríquez. *See* Tab L, Human Rights Watch, World Report 2025: Nicaragua. In its 2026 report, Human Rights Watch reported that Indigenous and Afro-descendant leaders continued to face systematic persecution, including surveillance, arbitrary detention, prosecutions, and entry bans. *See* Tab K, Human Rights Watch, World Report 2026: Nicaragua.

F. Internal relocation is not reasonable where the persecutor is the national government and there is an allied ruling party network throughout the country.

Respondent cannot avoid persecution by relocating within Nicaragua. His persecutors are not localized private actors; they are police officers, paramilitary actors, FSLN-linked youth and neighborhood structures, and persons tied to the national ruling family. Country conditions show that the regime uses nationwide and transnational surveillance, control of police, prison, judicial, migration, media, and local party structures to identify and punish opponents. GHREN reported that current repression seeks to eliminate all criticism and resistance, including from within state institutions and Sandinista ranks, and that the authorities have created an integrated surveillance and intelligence network involving the army, police, diplomatic service, state institutions, FSLN members, and informants. *See* Tab J, UN Human Rights Council, Group of Human Rights Experts on Nicaragua, Summary Report 2026. Under these circumstances, relocation is neither safe nor reasonable.

IV. RESPONDENT IS ELIGIBLE FOR ASYLUM

A. Legal standard.

Asylum is available to a noncitizen who meets the statutory definition of a refugee. INA § 208(b)(1); INA § 101(a)(42)(A). A refugee is a person outside his country of nationality who is unable or unwilling to return to, and unable or unwilling to avail himself of the protection of, that

country because of past persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA § 101(a)(42)(A); 8 C.F.R. § 1208.13(b). A protected ground need not be the only reason for persecution; for applications governed by the REAL ID Act, the applicant must show that a protected ground was “at least one central reason” for the harm. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 214 (BIA 2007); *Shaikh v. Holder*, 588 F.3d 861, 864 (5th Cir. 2009).

Past persecution by the government or forces the government is unable or unwilling to control establishes a rebuttable presumption of a well-founded fear of future persecution. 8 C.F.R. § 1208.13(b)(1); *Tesfamichael v. Gonzales*, 469 F.3d 109, 113 (5th Cir. 2006); *Matter of D-I-M-*, 24 I&N Dec. 448, 450 (BIA 2008). If the persecutor is the government, internal relocation is presumed unreasonable unless DHS establishes by a preponderance of the evidence that relocation would be reasonable. 8 C.F.R. § 1208.13(b)(3)(ii); *Singh v. Sessions*, 898 F.3d 518, 523 (5th Cir. 2018).

B. Respondent’s asylum application is timely under the extraordinary-circumstances exception to the one-year filing deadline.

Respondent entered the United States on or about [REDACTED]. He filed his Form I-589 pro se with the Immigration Court on March 2, 2026, after his CHNV humanitarian parole expired on September 7, 2025. Although his application was filed more than one year after arrival, the one-year deadline should be excused because Respondent was “given parole” until a reasonable period before filing his asylum application. 8 C.F.R. § 1208.4(a)(5)(iv).

The regulations provide that “extraordinary circumstances” may excuse an untimely asylum application where the circumstances are directly related to the failure to file within one year and the applicant filed within a reasonable period given those circumstances. 8 C.F.R. §

1208.4(a)(5). The regulation expressly identifies as an extraordinary circumstance that “[t]he applicant maintained Temporary Protected Status, lawful immigrant or nonimmigrant status, or was *given parole*, until a reasonable period before the filing of the asylum application.” 8 C.F.R. § 1208.4(a)(5)(iv) (emphasis added). The Fifth Circuit has recognized that possible extraordinary circumstances include being paroled or maintaining lawful status until a reasonable period before filing. *Bouchikhi v. Holder*, 676 F.3d 173, 178 (5th Cir. 2012) (“Possible extraordinary circumstances include being paroled or maintaining lawful immigrant or nonimmigrant status ‘until a reasonable period before the filing of the asylum application’” citing 8 C.F.R. § 1208.4(a)(5)(iv)).

Respondent filed within a reasonable period after his parole expired. The Board has held that an applicant does not receive an automatic one-year extension after changed or extraordinary circumstances, and that reasonableness must be evaluated under the totality of the particular circumstances. *Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193, 195-96 (BIA 2010). In discussing individuals whose valid status expires, the Board cited the regulatory preamble explaining that waiting six months or longer after expiration or termination of status would generally not be reasonable, while shorter periods are assessed case-by-case. *Id.* at 194-95. Respondent filed 176 days after his parole expired - less than six calendar months - and his shorter delay was reasonable under the facts of this case.

Respondent also acted diligently. Before his parole expired, he tried to obtain help to file for asylum. In June 2024, before the original one-year deadline expired, he paid \$5,000 to a person he believed was an attorney, only to discover that no asylum application had been filed and that the person's listed address was a garage. Respondent then worked to repay the borrowed money and tried to save funds to hire legitimate counsel. In August 2025, before his parole expired, he was arrested while working as a DoorDash driver, detained at Krome in Florida, transferred to El

Paso Camp East Montana, and later transferred again to the El Paso Processing Center. While detained and transferred between facilities, he lacked meaningful access to the application and records. Once he was able to obtain the asylum application from the Court, he diligently prepared and filed it pro se on March 2, 2026. Under the totality of circumstances - valid parole until September 7, 2025, fraud by a purported legal representative, detention, transfers, lack of access to paperwork, and prompt pro se filing once he obtained the application - Respondent filed within a reasonable period after the extraordinary circumstance ended. The Court should therefore reach the merits of his asylum application.

C. Respondent suffered past persecution.

Respondent suffered harm far beyond harassment or discrimination. He was surveilled, threatened with death, assaulted, forced into hiding, kidnapped, detained incommunicado for approximately two months, beaten with weapons, deprived of food and water, interrogated, sexually assaulted by police officers, accused of treason and foreign collaboration, beaten unconscious, shot while escaping, and forced to treat gunshot wounds and other injuries outside the medical system because the hospital system itself was unsafe for opponents. Serious physical violence, rape, torture, excessive or arbitrary detention, and threats connected to physical abuse constitute persecution. See *Matter of D-V-*, 21 I&N Dec. 77 (BIA 1993); *Abdel-Masieh v. INS*, 73 F.3d 579, 583-84 (5th Cir. 1996); *Tamara-Gomez v. Gonzales*, 447 F.3d 343, 348-49 (5th Cir. 2006).

The harm was inflicted by the government and forces closely allied with and controlled by the government. Police identified Respondent at protests, government-aligned hospitals were ordered not to treat wounded protesters, police trucks surveilled his home, Juventud Sandinista members threatened and assaulted him, paramilitary actors kidnapped him, and police officers participated in interrogating and sexually assaulting him. Country conditions confirm that

parapolice and FSLN-aligned structures act in coordination with the Nicaraguan National Police and report to government-linked actors. This satisfies the requirement that persecution be inflicted by the government or by forces the government is unwilling or unable to control.

D. The persecution was on account of Respondent's actual and imputed political opinion.

Respondent was persecuted because of his actual and imputed political opinion against the Ortega-Murillo regime. Political opinion includes more than formal party membership. The Fifth Circuit recognizes that a person may hold a political opinion within his social and political environment even without formal party affiliation. *See Rivas-Martinez v. INS*, 997 F.2d 1143, 1147 (5th Cir. 1993). The Board has recognized that opposition to government corruption or abuse may constitute political opinion where the applicant's conduct is directed at governing institutions and is perceived as a threat. *Matter of N-M-*, 25 I&N Dec. 526 (BIA 2011).

Respondent's political opinion was overt and public. He protested the government's handling of the Indio Maíz fire. He organized people to protest the Ortega-Murillo social security reforms. He created and coordinated a medical corps for protesters after the government ordered hospitals not to treat wounded protesters. He used [REDACTED] to satirize Rosario Murillo, publish news, and coordinate humanitarian support in areas where the government blocked food, medicine, and health services. These are political acts in the context of Nicaragua's repression of dissent.

The persecutors' own words and actions establish nexus. Respondent was identified by police at protests. His anti-Murillo parody went viral, and he became known as [REDACTED]. Juventud Sandinista members threatened him under that alias. Police and paramilitary actors labeled him a terrorist, cyber-terrorist, traitor, CIA-supported actor, and foreign collaborator. During torture, police accused him of selling secrets to the American government because his channel was famous and they believed he had foreign connections. These accusations

show that at least one central reason for the harm was the regime's perception that Respondent opposed and threatened the Ortega-Murillo government. *See Matter of S-P-*, 21 I&N Dec. 486, 489 (BIA 1996) (motive may be shown through direct or circumstantial evidence); *Sharma v. Holder*, 729 F.3d 407, 412-13 (5th Cir. 2013).

E. Respondent was also persecuted on account of membership in cognizable particular social groups and on account of his race, ethnicity, and Indigenous Miskito identity.

Respondent is also eligible based on membership in particular social groups, including "gay Nicaraguan men" and, if the Court requires a separate formulation for ethnicity beyond race or nationality, "Indigenous Miskito persons in Nicaragua." A particular social group must be composed of members who share a common immutable characteristic, be defined with particularity, and be socially distinct within the society in question. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 237 (BIA 2014); *Matter of W-G-R-*, 26 I&N Dec. 208, 212-18 (BIA 2014); *Orellana-Monson v. Holder*, 685 F.3d 511, 519 (5th Cir. 2012).

Gay Nicaraguan men share an immutable or fundamental characteristic. *Matter of Toboso-Alfonso* recognized that a gay man may establish membership in a particular social group based on sexual orientation. *Matter of Toboso-Alfonso*, 20 I&N Dec. 819, 822-23 (BIA 1990). More recently, the Board reiterated that protection is available to applicants who fear persecution on account of a social group based on sexual orientation and that adjudicators should not expect a respondent to hide his sexual orientation to avoid future harm. *Matter of C-G-T-*, 28 I&N Dec. 740, 745-46 (BIA 2023).

Respondent's Miskito identity also supports relief. Indigenous Miskito identity is immutable, particular, and socially distinct, and it separately falls within the protected grounds of race and nationality as those terms are broadly understood in refugee law. Respondent's family was targeted and dispossessed through a sham criminal proceeding that he credibly describes as a

xenophobic attack tied to their Miskito ethnicity. Country conditions corroborate that Miskito, Mayangna, Indigenous, and Afro-descendant leaders and communities face violence, arbitrary detention, politically motivated prosecution, land encroachment, defamation, surveillance, and entry bans.

The record also supports mixed-motive nexus. Respondent's political opposition, visible gay identity, secret relationship with a regime-connected man, and Miskito ethnicity were intertwined in the persecutors' targeting of him. A protected ground need not be the only reason for persecution; it must be at least one central reason. INA § 208(b)(1)(B)(i); *Shaikh*, 588 F.3d at 864. Here, Respondent's political opposition alone satisfies nexus, and his sexual orientation and Indigenous identity provide additional protected bases for asylum and withholding.

F. Respondent has a well-founded fear of future persecution, and DHS cannot rebut the regulatory presumption.

Because Respondent established past persecution on protected grounds, he is presumed to have a well-founded fear of future persecution. 8 C.F.R. § 1208.13(b)(1). DHS cannot rebut that presumption by showing fundamental changed circumstances or safe and reasonable internal relocation. The same regime remains in power. Country conditions have not improved; they have worsened. The State Department, Human Rights Watch, Amnesty International, Freedom House, and GHREN all report continuing repression, arbitrary detention, torture, enforced disappearance, surveillance, and systematic targeting of perceived opponents (*see generally* Tabs I-Q). The regime has expanded, not reduced, its mechanisms of control.

Nor can DHS show safe and reasonable relocation. Respondent's persecutors were police, paramilitaries, FSLN-linked actors, and persons connected to the ruling family. Country reports document nationwide and even transnational surveillance and repression. Because the persecutor is the national government and its allied structures, internal relocation is presumed unreasonable,

and the record confirms that there is no safe place in Nicaragua for Respondent to live openly as himself or avoid being identified as [REDACTED] and a regime opponent. 8 C.F.R. § 1208.13(b)(3)(ii); *Singh v. Sessions*, 898 F.3d at 523.

G. Respondent merits asylum in the exercise of discretion.

Respondent merits asylum as a matter of discretion. He is a torture survivor who entered the United States through a lawful parole process, attempted in good faith to file his asylum application, filed pro se while detained, and seeks only protection from the same government and allied actors who have already kidnapped, tortured, sexually assaulted, and shot him. He has also contributed positively as an artist and member of his community in the United States. The favorable equities and the severity of the persecution overwhelmingly support a discretionary grant of asylum.

V. RESPONDENT IS ELIGIBLE FOR WITHHOLDING OF REMOVAL

Withholding of removal is mandatory where an applicant establishes that his life or freedom would be threatened in the proposed country of removal because of race, religion, nationality, membership in a particular social group, or political opinion. INA § 241(b)(3)(A). The applicant must show a “clear probability” of persecution, meaning that it is more likely than not that he would be persecuted on account of a protected ground if removed. *INS v. Stevic*, 467 U.S. 407, 429-30 (1984).

Respondent meets that standard. He was already kidnapped, tortured, sexually assaulted by police officers, accused of treason and foreign collaboration, and shot during his escape. His public identity as [REDACTED], his protest organizing and medical support work, his relationship with a regime-linked figure, and his Miskito and gay identities would continue to mark him as a target. The regime remains in power and continues to target real and perceived opponents, journalists, students, LGBTIQ+ persons, Indigenous leaders, and exiles. Because Respondent has

shown that it is more likely than not that his life or freedom would be threatened if removed to Nicaragua, the Court should grant withholding of removal if it does not grant asylum.

VI. RESPONDENT IS ELIGIBLE FOR PROTECTION UNDER THE CONVENTION AGAINST TORTURE

To qualify for CAT protection, Respondent must show that it is more likely than not that he would be tortured if removed to Nicaragua, and that the torture would be inflicted by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. 8 C.F.R. §§ 1208.16(c)(2); *Hakim v. Holder*, 628 F.3d 151, 155 (5th Cir. 2010). Torture includes severe physical or mental pain or suffering intentionally inflicted for purposes such as obtaining information, punishment, intimidation, coercion, or discrimination. 8 C.F.R. § 1208.18(a)(1). In determining whether an applicant is more likely than not to be tortured, the Court must consider evidence of past torture, the possibility of relocation, gross and flagrant human rights violations, and other relevant country conditions. 8 C.F.R. § 1208.16(c)(3).

Respondent has already survived torture in Nicaragua. He was held under physical control for approximately two months; beaten with weapons; deprived of food and water; interrogated for names and addresses; sexually assaulted by police officers; accused of treason, CIA financing, and foreign collaboration; beaten unconscious; and shot during escape. These acts were specifically intended to inflict severe physical and mental pain, punish and intimidate him, and obtain information. They were committed by paramilitary actors and police officers, in coordination with the state's campaign against perceived opponents. Country conditions confirm that torture, sexual violence, arbitrary detention, enforced disappearance, and impunity remain widespread tools of the Nicaraguan state.

The public-official requirement is satisfied. Police officers directly participated in the torture and sexual assault. Paramilitary and parapolice actors act in coordination with state security

forces and ruling-party structures. Even when a state actor claims personal motivation, an act is under color of law when the actor misuses power possessed by virtue of state law and made possible because the actor is clothed with state authority. *See United States v. Causey*, 185 F.3d 407, 442 (5th Cir. 1999); *Marmorato v. Holder*, 376 F. App'x 380, 385-86 (5th Cir. 2010). Respondent's torture was not an isolated private act; it was part of the regime's established practice of punishing, extracting information from, and terrorizing political opponents and perceived traitors.

Respondent is more likely than not to be tortured again if returned. Nicaragua continues to arbitrarily detain, disappear, torture, and mistreat political prisoners and perceived opponents. The same regime remains in power. Respondent is known as a public critic, a social media satirist, a former protest organizer, a person accused of terrorism and foreign collaboration, and a gay Miskito man whose relationship with a regime-connected figure created additional motive to silence him. There is no safe internal relocation because the threat comes from the national government and its integrated surveillance, police, parapolice, and ruling-party networks. The Court should grant withholding of removal under CAT or, if any mandatory bar were found to apply, deferral of removal under CAT.

VII. CONCLUSION

Respondent has established that he is a refugee because he suffered past persecution and has a well-founded fear of future persecution in Nicaragua on account of actual and imputed political opinion, membership in cognizable particular social groups, and his Miskito Indigenous identity. His asylum application should be deemed timely under the extraordinary-circumstances exception because he was given parole until September 7, 2025, and filed within a reasonable period afterward while detained and acting diligently. He merits asylum as a matter of discretion. In the alternative, Respondent has shown that it is more likely than not that his life or freedom

would be threatened on account of protected grounds and that he would be tortured by or with the acquiescence of Nicaraguan officials if returned. The Court should grant asylum, withholding of removal, and/or CAT protection.

DATED: July 10, 2026

Respectfully submitted,

[REDACTED]
[REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

I, [REDACTED], hereby certify that on July 10, 2026, I served a copy of the foregoing Respondent's Pre-Hearing Brief by uploading it onto ECAS, in which the Department of Homeland Security participates. Therefore, no separate service is required.

[REDACTED]
[REDACTED]
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