UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:25cv21478

FRANKLIN JOSE JIMENEZ BRACHO,

Petitioner,

v.

MIKE MEADE, Miami Field Office Director, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement,
KENNETH GENALO, Acting Executive Associate Director, Enforcement and Removal (ERO) Operations, U.S. Immigration and Customs Enforcement,
TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE)
KRISTI NOEM, Secretary, Department of Homeland Security,
SUSAN C. DUNBAR, Acting Executive Associate Director, Office of Management and Administration, U.S. Immigration and Customs Enforcement, and
KROME WARDEN, Warden, Krome North Service Processing Center (Krome Detention Center),

Respondents.

CIVIL ACTION No.**1:25cv21478**

PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241

PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:25cv21478

FRANKLIN JOSE JIMENEZ BRACHO,

Petitioner,

v.

MIKE MEADE, Miami Field Office Director, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement,
KENNETH GENALO, Acting Executive Associate Director, Enforcement and Removal (ERO) Operations, U.S. Immigration and Customs Enforcement,
TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE)
KRISTI NOEM, Secretary, Department of Homeland Security,
SUSAN C. DUNBAR, Acting Executive Associate Director, Office of Management and Administration, U.S. Immigration and Customs Enforcement, and
KROME WARDEN, Warden, Krome North Service Processing Center (Krome Detention Center),

Respondents.

CIVIL ACTION No.**1:25cv21478**

PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241

PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241

Petitioner Franklin Jose Jimenez-Bracho, a Venezuelan national lawfully present in the United States under Temporary Protected Status (TPS) valid through September 10, 2025, was arrested on March 18, 2025. He is detained pursuant to a March 15, 2025 Presidential

Proclamation invoking the Alien Enemies Act (AEA) to target Venezuelan nationals allegedly affiliated with the "Tren de Aragua" (TdA) gang. Petitioner, who has no criminal record and whose immigration case was administratively closed in 2023, vehemently denies any gang affiliation.

The Petition alleges that the Proclamation, applied during peacetime without a declared war or invasion, bypasses standard immigration procedures and due process. It notes that a D.C. court has issued a Temporary Restraining Order (TRO) blocking removals under this policy. Petitioner contends his detention—lacking notice, hearing, or individualized determination—violates constitutional guarantees of due process, equal protection, and free association, as well as statutory protections under TPS and the Immigration and Nationality Act (INA).

II. JURISDICTION AND VENUE

Jurisdiction:

This Court has jurisdiction under 28 U.S.C. § 2241 to grant habeas relief to persons "in custody in violation of the Constitution or laws." Petitioner's detention at Krome Detention Center, Miami, Florida, falls squarely within this mandate. The REAL ID Act and the lack of a final removal order do not bar this Petition. Federal question jurisdiction under 28 U.S.C. § 1331 also applies.

Venue:

Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §§ 2241 and 1391(e), since Petitioner is detained in Miami and the events giving rise to this action occurred in this District.

III. PARTIES

A. Petitioner

1. Franklin Jose Jimenez-Bracho is a 50-year-old Venezuelan citizen who has resided in the United States since 2019. He currently remains detained at Krome Detention Center (ICE's Miami Field Office jurisdiction) as a result of the AEA Proclamation. Petitioner is a beneficiary of TPS under the Department of Homeland Security's 2021 designation for Venezuela, and his TPS is valid until September 10, 2025 (see Exhibit D, USCIS Approval Notice dated Apr. 23, 2024, confirming TPS grant from 09/10/2022 to 09/10/2025. He has no criminal record whatsoever – no convictions in the U.S., and, as confirmed by official Venezuelan records, no charges or warrants in Venezuela. Petitioner is a family man and small business owner (father to a U.S. citizen child) who fled persecution and corruption in Venezuela and was pursuing relief in U.S. immigration proceedings before those proceedings were administratively closed in 2023 (see Exhibit F, EOIR Automated Case Information printout confirming administrative decision on May 9, 2023, and no future hearings.

B. Respondents

Respondents are officers within custody or legal authority ovr Petitioner's detention and removal. They include:

2. Respondent KROME WARDEN [Name is unknown to Petitioner at the present time] is the Warden or Center Director of the Krome Service Processing Center, located at 18201 SW 12th St, Miami, FL 33194, where Petitioner is currently detained. As the official exercising immediate physical custody over Petitioner, the Warden is the necessary respondent for this habeas corpus action pursuant to 28 U.S.C. § 2241. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004). This Respondent

is responsible for the day-to-day confinement of Petitioner and carrying out detention orders related to him.

3. Respondent MIKE MEADE is the Field Office Director (FOD) for the Miami Field Office of U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). The Krome Service Processing Center falls within the Miami FOD's area of operational responsibility. As FOD, this Respondent is responsible for directing and supervising ICE ERO activities within this district, including the execution of detention operations at Krome and the local implementation of federal directives such as the AEA Proclamation that provides the putative basis for Petitioner's detention.
4. Respondent KENNETH GENALO is the Acting Executive Associate Director (EAD) for ICE ERO nationwide. EAD Genalo directs ICE's national detention and removal operations and is responsible at a national level for implementing policies and directives concerning immigration enforcement across all ERO field offices. This includes the nationwide implementation and operational oversight of the challenged AEA Proclamation under which Petitioner is detained. As the head of ERO, this Respondent has ultimate operational authority over the ERO personnel and facilities involved in Petitioner's detention.
5. Respondent TODD M. LYONS is the Acting Director of U.S. Immigration and Customs Enforcement (ICE). As the head of ICE, Director Lyons is responsible for the overall administration and enforcement functions of the agency. This includes overseeing ERO and the implementation of national immigration enforcement policies and presidential directives, such as the AEA Proclamation challenged herein. This Respondent exercises ultimate agency authority over the decision to detain Petitioner pursuant to the AEA Proclamation and ICE's adherence to that policy.
6. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security (DHS). ICE is a component agency within DHS. As Secretary, Respondent Noem is responsible for the administration and enforcement of the immigration laws of the United States, oversees all DHS components including

ICE, and bears ultimate responsibility within the Executive Branch (subordinate only to the President) for interpreting and implementing national security directives and immigration policies, including the AEA Proclamation that forms the basis for Petitioner's detention and potential removal.

7. Respondent SUSAN C. DUNBAR is the Acting Executive Associate Director for ICE's Office of Management and Administration (M&A). This office provides agency-wide support functions. This Respondent is included based on M&A's potential role in establishing or administering the policies, procedures, resource allocations, or administrative framework supporting the detention operations carried out under the challenged AEA Proclamation.

Each Respondent is named in his or her official capacity as an agent of the federal government responsible for Petitioner's custody or the enforcement of the challenged Proclamation.

IV. STATEMENT OF FACTS

A. Lawful Presence and TPS Status

Petitioner entered the U.S. in 2019 and applied for asylum in January 2021. Following Venezuela's TPS designation in 2021, he registered and was granted TPS, protecting him from removal. His removal proceedings were closed on May 9, 2023 (see Exhibit E and Exhibit F). TPS legally authorizes his stay, and he remains in good standing.

B. Political Persecution and False Accusations

In late 2019, Petitioner was targeted by Venezuelan security forces—subjected to a raid, detention, and extortion attempts—and subsequently filed a complaint (see Exhibit H). Later, Venezuelan authorities sought an INTERPOL Red Notice based on false allegations that he was involved in organized crime. These charges were thoroughly debunked during his immigration bond proceedings in 2021–2022, leading to his release on bond.

C. AEA Proclamation and Targeting of Venezuelans

On March 15, 2025, President Trump's Proclamation invoked the AEA to label Venezuelan nationals suspected of TdA affiliation as "enemy aliens." The Proclamation bypasses the INA by denying these individuals the benefit of notice, a hearing, and due process. The policy has been used to justify the immediate removal of hundreds of Venezuelans, despite there being no genuine evidence of any invasion or threat from a foreign nation.

D. Arrest and Detention Without Process

Petitioner was arrested on March 18, 2025, by a joint ICE-Florida task force and transferred to Krome Detention Center without any formal charging document or Notice to Appear. His attorney's inquiries have been met with generic responses, and no opportunity for a hearing or individualized review has been provided, leaving him in indefinite, extrajudicial detention.

E. Imminent Threat of Removal

In addition to indefinite detention, Petitioner faces the imminent risk of deportation. Early transfers of Venezuelan detainees under the Proclamation (prior to the TRO) indicate that removal is being pursued without due process, potentially to third-country detention facilities where he could face torture or other harm.

V. LEGAL ARGUMENT

The following legal grounds exist that support Petitioner's claim that he is being held in violation of the Constitution, in violation of the laws of the United States, as well as public policy considerations, and in violation of international laws.

A. GROUND ONE - *Ultra Vires* – The AEA Does Not Authorize Detention or Removal Absent War or Invasion by a Nation-State

The Alien Enemies Act of 1798 is a narrowly drawn statute that conditions the President's wartime powers over aliens on specific triggers. By its text, the AEA permits the President to act ***only*** when:

(i) there is a declared war between the United States and a foreign nation or government; or

(ii) an invasion or predatory incursion is perpetrated or threatened "by any foreign nation or government" against U.S. territory, and

(iii) the President publicly proclaims the threat.

50 U.S.C. § 21.

None of these conditions are met here. Congress has not declared war on Venezuela (or any nation) – no war exists. And Tren de Aragua is not a "foreign nation or government." It is a non-state criminal enterprise. However violent TdA's acts may be, they do not constitute an "invasion" by a country. Further, Petitioner is not a member of Tren de Aragua.

The Proclamation's attempt to equate a gang with a sovereign twists the statute beyond recognition. As the D.C. Circuit concurrence observed, the AEA's requirement that an invasion be "conducted by a nation-state and against the United States' territory" shows Congress used "invasion" in the military sense of the language.

The AEA's drafters contemplated foreign armies or governments (e.g. the French, during the Quasi-War) invading our territory, which would alter our relations under the law of. They did *not* contemplate stray criminal gangs as triggering this extraordinary power.

Simply put, "courts will not start a war on the government's behalf" by allowing the Executive to invoke wartime powers when the factual preconditions are absent.

Historically, the AEA has only been invoked in bona fide wartime: during the War of 1812, World War I, and World War II (against enemy nationals from hostile nations). Even then, its use was controversial but tethered to a state of war. The Supreme Court's decision in *Ludecke v. Watkins,* 335 U.S. 160 (1948), upheld continued detention of a German alien *after* WWII under the AEA, but only because a formal state of war still technically existed.

Crucially, *Ludecke* did not render the AEA's triggers a political question beyond judicial review; the Court merely deferred to the political branches on the timing of war's end, not on whether the statutory preconditions existed in the first.

Here, unlike *Ludecke*, there is no "acknowledged war" to speak of. For the President to unilaterally declare a domestic crime problem an "invasion" stretches the AEA to a context never sanctioned by Congress or the courts. It would effectively allow the Executive to create a war where none exists, thereby claiming extraordinary powers over noncitizens without congressional authorization – an outcome completely at odds with our constitutional separation of powers.

Indeed, when a similar argument was raised in the 1940s (that the AEA could be used without a war declaration if an invasion occurred), the D.C. Circuit rejected it, warning that the courts cannot allow an end-run around the requirement of war or invasion by a nation (see *Citizens Protective League v. Clark*, 155 F.2d 290 (D.C. Cir. 1946)). The same logic holds in the present matter: the AEA cannot be employed as a general immigration enforcement tool or as a means to bypass the INA. Congress has established a comprehensive immigration statutory scheme, and nothing in the AEA suggests it can be invoked absent the dire circumstances enumerated in the statute.

Furthermore, even if one strained to consider TdA's crimes as an "incursion," it still fails the AEA's nation-state actor requirement. Gangs, cartels, or terrorist groups are simply not "foreign nations or governments." Congress knows how to legislatively address such non-state threats (through criminal statutes, sanctions, immigration law's terrorism bars, etc.), but it did not do so via the Alien Enemies Act.

Executive action is *ultra vires* when it contravenes the controlling statute, and here the President's Proclamation is incompatible with the plain language and context of the AEA. Courts have a duty in habeas cases to inquire into the legal authority for a detention; where that authority is exceeded, the detention is unlawful. Because the AEA was improperly invoked – in a situation outside the statute's limited grant of authority – Petitioner's detention under that asserted authority is unlawful.

The Proclamation's recitation of the statutory words "invasion" and "enemy" cannot mask the reality that no such invasion by a foreign government exists. This Court should not defer to the President's *ipse dixit* that a gang equals an invading army.

In *Ex parte Endo*, the Supreme Court read even broad wartime detention authority in a restrained manner, holding that a loyal Japanese-American citizen could not be detained under an order that did not explicitly authorize detention of concededly loyal persons. Here, even more starkly, the statute itself does not authorize what is being done. Therefore, the detention of Petitioner is *ultra vires* and must be set aside.

B. GROUND TWO: Violation of the Fifth Amendment – Due Process

1. **Procedural Due Process**

The Fifth Amendment guarantees that no person (citizen or non-citizen) shall be deprived of liberty without due process of law. Petitioner is indisputably entitled to due process protection, as he is physically present in the United States and has significant ties (including lawful TPS status).

The Supreme Court has repeatedly emphasized that even in times of conflict, fundamental due process must be afforded. For example, even individuals deemed "enemy combatants" have the right to a "meaningful opportunity to contest the factual basis" for their detention (*Hamdi v. Rumsfeld,* 542 U.S. 507, 509 (2004); *Boumediene v. Bush,* 553 U.S. 723, 779 (2008)).

Boumediene reaffirmed that the Great Writ of habeas corpus cannot be denied to detainees without adequate substitute process, warning that "security subsists, too, in fidelity to freedom's first principles" (553 U.S. at 798). Yet here, the government has afforded Petitioner no process at all. He was arrested and locked up solely on the President's categorical say-so, under a blanket proclamation that does not allow for any individualized determination. There has been no notice of charges, no hearing, no neutral decision-maker – nothing.

As the D.C. Circuit panel observed, the government's position is that, based on its unproven allegation alone, individuals like Petitioner "can be removed immediately with no notice, no hearing, no opportunity—zero process—to show that they are not members of the gang, to contest their eligibility for removal under the law, or to invoke legal protections". This is the antithesis of due process.

Petitioner's situation is analogous to the worst examples of summary executive detention in our history. During World War II, even as it upheld military curfew orders, the Supreme Court stressed that "[p]rocedure is the fair way of meeting accusations… as indispensable to liberty as the sun is to life" (*see Kiyoshi Hirabayashi v. United States*, 320 U.S. 81, 105 (1943) (Murphy, J., concurring)). In *Ex parte Endo*, the Court implicitly required individualized findings before continued detention of a Japanese-American, ordering the release of a detainee whom the government itself conceded was loyal. The wholesale denial of any hearing for Petitioner is "*reminiscent of historical abuses*" from which our jurisprudence has retreated. It cannot stand even under exigent circumstances, let alone in this non-war context.

To evaluate procedural due process, courts apply the *Mathews v. Eldridge* balancing test, 424 U.S. 319 (1976), weighing: **(1)** the private interest affected; **(2)** the risk of erroneous deprivation under current procedures and the value of additional safeguards; and **(3)** the government's interest and burdens of additional process.

<u>All factors here favor Petitioner</u>:

(1) Petitioner's interest is of the highest order: freedom from indefinite detention and from erroneous deportation to persecution or torture, perhaps even to death. He has already been detained for over a week with no end in sight, and faces permanent banishment.

(2) The risk of error under the government's scheme is extraordinarily high, because the government is making determinations based on untested allegations (possibly old intelligence or foreign-supplied accusations) with no adversarial process whatsoever. Petitioner's case vividly illustrates this risk: the sole allegations of gang affiliation stem from foreign political persecution and have been rebutted by objective evidence – yet without a hearing, the government is blindly accepting them. Providing a basic hearing, notice of evidence, and an opportunity to respond would obviously greatly reduce the risk of error.

(3) The governmental burden to provide such a process is minimal. The government could still achieve its aims of identifying genuine threats by using the existing immigration court system or some streamlined hearing process; indeed, immigration courts regularly handle alleged gang affiliation cases in removal proceedings, and our immigration laws already have mechanisms (inadmissibility/deportability grounds, detention authority) to address dangerous noncitizens.

The Proclamation's true motive appears to be speed and spectacle over accuracy. But administrative convenience or political expediency cannot justify dispensing with the Constitution. As Judge Millett noted, "if the government can choose to abandon fair and equal process for some people, it can do the same for everyone," which is why adherence to the rule of law is paramount especially when it's. The Constitution's demand of due process cannot be so easily thrown aside, even for those accused of dangerous affiliations.

Accordingly, the complete denial of procedural due process to Petitioner is unconstitutional. At a minimum, he is entitled to a prompt individualized hearing before a neutral arbiter where the government must prove any basis for detention or removal. Because no such process has been provided, his ongoing detention is unlawful and the removal cannot proceed.

2. **Substantive Due Process**

The Fifth Amendment also protects against arbitrary and oppressive government action even if procedural protections were present. Substantive due process forbids the government from detaining individuals except in certain carefully constrained circumstances (such as pending criminal charges or removal proceedings, or in civil commitment with strong justification).

Petitioner's detention fails any substantive due process test. It is not tied to a permissible regulatory purpose; rather, it appears punitive, based on general deterrence or retribution against a group. In immigration, the Supreme Court has held that civil detention must be reasonably related to preventing danger or flight and cannot be indefinite or arbitrary (see *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001)). Here, Petitioner does not even have a removal order, and removal is not legally feasible while he has TPS. Thus, detaining him serves no legitimate immigration purpose – it is not "securing removal" (since he cannot be removed under the INA at this time) and he has no history of violence or danger to suggest public safety requires confinement.

Any purported substantive rationale (preventing espionage/sabotage by enemy aliens) is utterly inapplicable to Petitioner. Holding him in custody indefinitely "is not reasonably related to a legitimate governmental purpose" and is excessive in relation to any purpose asserted. Petitioner's TPS status explicitly authorizes his presence; by detaining him notwithstanding that status, Respondents are treating him as if he were an undocumented, removable alien, which he is not. This mismatch renders the detention fundamentally unfair and *"shocks the conscience"* in a constitutional sense.

Moreover, if the government's true goal is to remove alleged TdA members as a national security measure, deportation to a country where Petitioner likely faces persecution or torture is itself constitutionally problematic. The Fifth Amendment's guarantee of liberty includes the right not to be sent to a place where one's life or freedom is threatened without at least a chance to seek protection (reflected in statutory withholding of removal and CAT obligations).

A summary removal of Petitioner under the Proclamation, with no opportunity to seek asylum or CAT relief, would violate substantive due process as well as U.S. treaty-based law (*see Pham v. U.S. Dep't of Homeland Sec.*, 919 F.3d 236, 242–43 (4th Cir. 2019) (recognizing due process right to apply for asylum)). The D.C. Circuit panel noted the grave danger here: people were to be shipped to a prison where torture is likely. This is arbitrary and conscience-shocking treatment, not a careful tailoring of means to a legitimate end.

In sum, the absolute denial of procedural protections and the arbitrary, punitive nature of Petitioner's detention and threatened removal violate the Fifth Amendment. The writ of habeas corpus has historically served as a check against exactly this sort of executive detention without trial. The Court should honor that great tradition by ordering Petitioner's release.

C. GROUND THREE: Equal Protection and First Amendment Violations

1. **Violations of Legal Rights to Equal Protection**

The Fifth Amendment's Due Process Clause contains an implicit equal protection component that restrains the federal government from invidious discrimination (see *Bolling v. Sharpe,* 347 U.S. 497, 499 (1954)). The AEA Proclamation, as applied here, is a textbook example of discriminatory treatment based on nationality and perceived group membership without sufficient justification.

It singles out Venezuelan nationals – and only Venezuelans – for summary detention and removal. Petitioner is being detained solely because of his nationality (Venezuelan) combined with an unproven imputed association. If Petitioner were of a different nationality, he would not be subject to this AEA action. This national-origin classification warrants strict scrutiny (at least in the civil detention context), or at minimum, careful judicial examination. Even in wartime, the Supreme Court has repudiated the notion that broad-brush measures against an entire ethnic or national group can be upheld without the most compelling justification.

The infamous *Korematsu* decision, 323 U.S. 214 (1944), which approved Japanese American internment, has since been effectively disavowed as gravely wrong – and even in Korematsu, the Court applied a form of heightened scrutiny, requiring a pressing public necessity. In *Trump v. Hawaii,* 138 S. Ct. 2392, 2423 (2018), the Court noted that Korematsu was overruled by history and that racial or nationality-based classifications demanding strict scrutiny are almost never justified (the travel ban case was decided on other grounds, but the Court took pains to distance itself from *Korematsu*'s reasoning). Here, the Proclamation's dragnet for Venezuelans allegedly tied to TdA appears to resurrect the logic of guilt by nationality that our constitutional jurisprudence forbids.

Petitioner's circumstances starkly illustrate the unfairness: he is a lawful TPS holder with no criminal record, save an arrest by Midland Police for a traffic violation and driving without a license-first offense. Yet he is treated as an "enemy" purely because of birth in Venezuela and the happenstance that Venezuelan officials maligned him as a gang member. There are thousands of Venezuelan TPS holders; selecting this subset for punishment is overinclusive and underinclusive in extreme ways.

Many bona fide TdA criminals are not Venezuelan (the gang operates in other countries), and many innocent people are Venezuelan – nationality is a poor proxy for danger. The Proclamation makes no individualized calibration; it casts suspicion on an entire group. Such a scheme fails even rational basis review, let alone strict scrutiny. The government has no compelling interest in bypassing due process for Venezuelans as a class – national security can be addressed by case-by-case tools. Blanket detention is not narrowly tailored; indeed, it is the opposite of tailoring.

Ex parte Endo is instructive, as the Court there released a detainee because even if mass internment had some initial justification, continuing to hold a person who was concededly loyal (within the suspect class) was beyond the authority given – essentially an equal protection concern that you cannot hold someone who does not fit the narrow criteria. Petitioner here is in an even stronger position: he is part of a class (Venezuelans in the U.S.) that has not been shown to collectively pose a threat warranting such draconian treatment, and individually he certainly poses no threat. To the extent the Proclamation rests on stereotypes of Venezuelan immigrants as gang members, it is an arbitrary and discriminatory policy.

Moreover, the political context suggests that this classification was driven less by genuine security need and more by an animus or fearmongering toward Venezuelan migrants. Public statements from President Trump and officials have painted Venezuelan asylum-seekers as dangerous criminals (branding them "venomous snakes," etc.), which raises the specter that the AEA action is a pretext for xenophobia rather than a lawful security measure. Courts are not blind to such context (see *Hawaii*, 138 S. Ct. at 2420 – looking at extrinsic evidence in travel ban).

If strict scrutiny applies, the policy plainly fails: there is no compelling interest that could not be achieved by less restrictive means than detaining and deporting TPS holders without hearings.

If rational basis applies, it still fails because targeting Petitioner in this manner is not a rational way to achieve any legitimate government interest (especially given TPS status, which by law signifies the U.S. interest in *not* removing him). Therefore, Petitioner's detention violates equal protection guarantees.

2. **<u>Violation of freedom of speech and freedom of association under First Amendment</u>**:

The First Amendment protects freedom of speech and association. While Petitioner is not being jailed for speaking out, he is effectively being punished for an imputed association – his alleged membership or association with a disfavored group (TdA). It is well-established that the government cannot criminalize mere membership in an organization absent specific intent to further the group's unlawful ends (see *Scales v. United States,* 367 U.S. 203 (1961); *United States v. Robel,* 389 U.S. 258 (1967).

In *Robel*, the Supreme Court struck down a law barring Communist Party members from certain employment in defense facilities, holding that it swept too broadly by penalizing association without proof of active intent to do harm. Here, the penalty is even more severe – detention and expulsion – based solely on presumed gang membership with no evidence of personal wrongdoing or intent. If Petitioner were actually proven to be an active TdA operative engaged in crime, the government could prosecute or remove him through normal processes.

But instead, they have dispensed with proof and process, which chills and penalizes association in a manner the First Amendment forbids. Petitioner maintains he is *not* and never was affiliated with TdA, but the Proclamation does not care – by its terms, *suspected* affiliation is enough. This means people could be detained for who they know, who they are seen with, or based on unfounded rumor. Such guilt by association runs afoul of core constitutional values.

Moreover, Petitioner's actual associations and activities are protected – for instance, his political activity in reporting corruption in Venezuela is a form of petitioning government for redress, and now he is seemingly being punished (by both Venezuela and, indirectly, by the U.S. responding to Venezuela's false accusations) for that activity.

The overbreadth of the Proclamation means that even Venezuelan community groups in the U.S. fear gathering or speaking out, lest they be labeled "TdA associates." This is not hypothetical; Venezuelan expatriates opposing Maduro could be branded as gang members as retaliation (as possibly happened to Petitioner). The net effect is a chilling of lawful expression and association among Venezuelan exiles.

The First Amendment injury here is intertwined with equal protection: Petitioner's political identity and national origin are being used against him. Such an overbroad, associational dragnet cannot survive the required scrutiny. As *Robel* noted, the Constitution does not allow the government "to pursue its legitimate interests at the sacrifice of First Amendment freedoms" (389 U.S. at 263. The Proclamation's approach is far too blunt, sacrificing the rights of innocents in the name of expedience. This Court should recognize that Petitioner's detention, predicated on who he supposedly is rather than anything he has done, violates fundamental First Amendment principles as applied to the states via the Fifth Amendment.

D. Unlawful Detention Conflicts with Temporary Protected Status, Immigration Laws, and U.S. International Obligations

1. **<u>Violation of TPS Statute and INA</u>**:

Congress created Temporary Protected Status (TPS) (8 U.S.C. § 1254a) to protect foreign nationals in the U.S. from being removed to countries facing crises (war, disaster, etc.). Under the TPS statute, a TPS holder "may not be removed from the United States" during the designated period. The only exceptions are if TPS is withdrawn individually for disqualifying conduct or if the person leaves TPS voluntarily. Petitioner has not had his TPS withdrawn, nor engaged in any disqualifying conduct (no criminal convictions, etc.). By attempting to deport Petitioner notwithstanding his TPS, the Executive is directly contravening the TPS statute.

The proper legal course, if the government truly believed Petitioner was a danger, would be to attempt to withdraw TPS for cause (with notice and an interview) or terminate TPS for Venezuela as a whole (subject to legal challenge). The President cannot simply ignore a statute by invoking another statute that doesn't even apply. Yet that is what is happening: DHS is treating the AEA Proclamation as a trump card to override TPS and the INA. This upends the separation of powers, as the Executive is effectively cancelling a congressionally-granted benefit by decree.

TPS was intended by Congress to be a humanitarian safeguard, and it explicitly confers lawful status and work authorization on the individual. Petitioner's detention treats him as an "illegal" enemy alien, which he is not – he is lawfully present. This is an internal contradiction in DHS's position. Regulations (8 C.F.R. § 244.14) provide a process for withdrawing TPS if an individual is found not to warrant it; Petitioner has not been through any such process. Instead, DHS is simply ignoring the existence of his TPS. Courts have power to prevent agency actions that flout statutory directives. Here, ordering Petitioner's release and halting his removal would uphold the integrity of the TPS program and Congress's intent.

Additionally, Petitioner's immigration case is closed, meaning there is no active removal proceeding or order against him. Under the INA, ICE cannot remove someone without a final order of removal (except in narrow circumstances like expedited removal or stipulated removal, none of which apply). By bypassing the INA's removal process, Respondents are evading the statutory requirements that would normally apply to Petitioner's situation (e.g., the right to apply for asylum or other relief in removal proceedings). The AEA Proclamation thus conflicts with the INA's "sole and exclusive procedures" for removal determinations (8 U.S.C. § 1229a(a)(3)). When two statutes conflict, courts attempt to harmonize but should not assume Congress silently authorized the Executive to override later-enacted, specific immigration protections via a broad 18th-century statute. The more specific TPS and INA provisions should control in this context, meaning Petitioner should remain in the U.S. at liberty under TPS unless and until an immigration judge lawfully orders otherwise. Hence, his current detention and potential summary expulsion are not in accordance with law and are an appropriate subject for habeas relief (unlawful custody due to statutory error).

2. **International Law and Non-Refoulement run contrary to Petitioner's unlawful detention**:

The United States has binding obligations under international treaties and customary international law not to return individuals to countries where they face persecution or torture (principle of non-refoulement, see the 1967 Protocol Relating to the Status of Refugees, and the Convention Against Torture (CAT), implemented at 8 C.F.R. § 208.16(c)). Our domestic asylum and CAT laws reflect these obligations.

If Petitioner were removed to Venezuela (or effectively handed over via a third country prison), the U.S. would likely violate these non-refoulement duties, given Petitioner's credible fear of persecution by the Maduro regime (due to his past opposition and false accusations) and the likelihood of torture. Removing him without any opportunity to apply for asylum or CAT protection short-circuits the system Congress put in place to meet our international commitments.

Courts have recognized that due process is violated when a noncitizen is removed without a meaningful chance to seek asylum relief (see, e.g., *Shaughnessy v. U.S. ex rel. Mezei*, 345 U.S. 206, 226 (1953) (Jackson, J., dissenting) – cautioning against banishment without hearing; more modernly, circuit courts have found flaws in procedures that effectively deny asylum claims). The TRO issued by the D.C. court rightly noted that deporting these individuals to a notorious prison or to Venezuela would likely result in torture or harm, which would be a clear breach of CAT Article 3. This Court should likewise prevent such a result.

By granting the writ and enjoining Petitioner's removal, the Court would ensure that the U.S. does not commit an unlawful refoulement. It would also allow Petitioner, if the government still pursues removal through legal channels, to apply for asylum or CAT as warranted.

Finally, to the extent relevant, international human rights law (e.g., the International Covenant on Civil and Political Rights) prohibits arbitrary detention. While not directly enforceable in U.S. courts, these norms underscore that the indefinite detention of Petitioner with no charge or trial is an affront to basic human rights, further supporting an interpretation of domestic law that avoids such illegality.

In conclusion, the legal defects in Petitioner's detention and threatened removal are numerous and profound. No statute authorizes what is being done; the Constitution squarely forbids it. Under 28 U.S.C. § 2241, this Court has the power and duty to order the release of a person held in violation of the law. Petitioner requests that this Court exercise that power to grant immediate relief, as detailed below.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioner Franklin Jose Jimenez-Bracho respectfully prays that this Court:

1. Declare that Petitioner's detention pursuant to the March 15, 2025 AEA Proclamation is unlawful and unconstitutional as applied to him, violating the Fifth Amendment and exceeding statutory authority;
2. Grant a Writ of Habeas Corpus directing Respondents to immediately release Petitioner from custody;
3. Enjoin Respondents from removing or transferring Petitioner under the AEA Proclamation (or otherwise deporting him) during the pendency of this Petition or other immigration proceedings, to ensure he is not removed without due process or in violation of his TPS protection;
4. In the alternative, order Respondents to provide Petitioner with a prompt individualized hearing before an impartial adjudicator at which the government must justify any continued detention and Petitioner can contest the factual allegations against him;
   Award reasonable attorneys' fees and costs under the Equal Access to Justice Act or other applicable law, and grant such other relief as the Court deems just and proper to secure Petitioner's rights.

This the __31st__ day of March, 2025.

Respectfully submitted,

/s/ Chad Piotrowski

Chad Piotrowski, Esq.
FL Bar ID # 33507
chad@piotrowski.law
PIOTROWSKILAW
Alfred I. duPont Building
169 E. Flagler Street
Suite 1600
Miami, Florida 33131
O:(305) 204-5000

VERIFICATION

Personally appeared before me, the undersigned officer authorized to administer oaths, Chad Piotrowski, who, after being duly sworn, states under oath that the foregoing Expedited Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 is true and correct to the best of his knowledge and belief.

This **31st** day of **March**, **2025**.

Respectfully Submitted,

This the 31st day of March, 2025.

Respectfully,

/s/ Chad Piotrowski

Chad Piotrowski, Esq.
FL Bar ID # 33507
chad@piotrowski.law
PIOTROWSKILAW
Alfred I. duPont Building
169 E. Flagler Street
Suite 1600
Miami, Florida 33131
O:(305) 204-5000

Sworn to and subscribed before me
this 31st day of March, 2025.

Notary Public
My Commission Expires: 08/20/2025

Notary Public State of Florida
Cecilia Lourdes Gobin
My Commission HH 355075
Expires 8/20/2025

CERTIFICATE OF SERVICE

I hereby certify that I, __Chad Piotrowski__, have this day served a copy of the foregoing Expedited Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 upon the following:

THE HONORABLE KRISTI NOEM
Secretary of Homeland Security
Washington, DC 20528

WARDEN OF KROME NORTH PROCESSING CENTER
Krome North Processing Center (a/k/a/ Krome Detention Center)
18201 SW 12th Street
Miami, Florida 33194

MIKE MEADE, ICE Miami Field Office Director
Immigration and Customs Enforcement
865 SW 78th Avenue, Suite 101
Plantation, Florida 33324
Miami.Outreach@ice.dhs.gov

SUSAN DUNBAR, Acting Executive Associate Director,
Management and Administration,
Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

KENNETH GENALO, Acting Executive Associate Director, Enforcement and Removal Operations (ERO)
Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

TODD M. LYONS, Acting Director,
U.S. Immigration and Customs Enforcement
500 12th St SW
Washington, DC 20536

Service method: Summons

[redacted]

This 31st day of March, 2025.

Respectfully,

/s/ Chad Piotrowski

Chad Piotrowski, Esq.
FL Bar ID # 33507
chad@piotrowski.law
PIOTROWSKILAW
Alfred I. duPont Building
169 E. Flagler Street
Suite 1600
Miami, Florida 33131
O:(305) 204-5000