

That protection remains available even if the TPS holder has a final removal order or lacks other immigration status, because the government “shall not remove the alien from the United States during the period in which such [TPS] status is in effect.” 8 U.S.C. § 1254a(a)(1)(A). *See also* 8 U.S.C. § 1254a(a)(5) (TPS statute provides no authority to “deny temporary protected status to an alien based on the alien’s immigration status”); 8 U.S.C. § 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-based protection to “otherwise deportable” non-citizens).

2. Despite this unambiguous statutory command, Petitioner is unlawfully detained by U.S. Immigration and Customs Enforcement (ICE).
3. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
4. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief under 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Shokeh v. Thompson*, 369 F.3d 865, 869 (5th Cir.), vacated on other grounds, 375 F.3d 351 (5th Cir. 2004); *Zadvydas v. Davis*, 533 U.S. 678, 699–700 (2001).

CUSTODY

5. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at Bluebonnet Detention Center, an immigration detention facility located at 400 E. Second Street, Anson, Texas 79501. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

6. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and

the Suspension Clause, U.S. Const. art. I, § 2.

7. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687; *Maldonado v. Macias*, 150 F. Supp. 3d 788, 794 (W.D. Tex. 2015).

VENUE

8. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because at least one Respondent is in this District, Petitioner is detained in this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. § 2242) (cleaned up).

PARTIES

9. Petitioner is currently detained by Respondents at Bluebonnet Detention Center, an immigration detention facility located at 400 E. Second Street, Anson, Texas 79501.
10. Respondent Marcello Villegas is the Facility Administrator of the Bluebonnet Detention Center, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in his official capacity.
11. Respondent Josh Johnson is the Acting Field Office Director responsible for the Dallas Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.
12. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

13. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

14. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

I. PETITIONER REMAINS DETAINED DESPITE HAVING TEMPORARY PROTECTED STATUS FROM VENEZUELA

15. Petitioner applied for Temporary Protected Status, and his application was granted on March 6, 2024. The government extended this TPS designation by 18 months, through October 2, 2026. *See* 90 Fed. Reg. 5961 (Jan. 17, 2025). Although the history and current procedural status of TPS for Venezuela may be somewhat complex, *see infra* Section II, all that matters for the purposes of this habeas petition is that TPS for Venezuela remains in effect, and that Respondents continue to detain Petitioner despite the fact that he continues to hold TPS status.

16. ICE officers took Petitioner into custody, and Respondents are currently detaining him at the Bluebonnet Detention Facility.

17. On April 17, 2025, attorney Kristy Blumeyer-Martinez sent an email to the U.S. Attorney's Office for the Western District of Texas via Assistant United States Attorney Lacy McAndrew, notifying AUSA McAndrew that Petitioner has TPS status, his detention by ICE is unlawful, and that if ICE did not immediately release him, RAICES would file federal litigation challenging his unlawful detention. Mrs. Blumeyer-Martinez also requested that AUSA McAndrew share this information with her counterpart in the U.S. Attorney's Office for the Northern District of Texas and ICE.

18. On April 18, 2025, paralegal Jennifer Briseno attempted to contact Petitioner's Deportation

Officer to notify them of the same. However, after calling the number provided on the Bluebonnet Detention Facility's information page, as well as the ICE Dallas Field Office, she was unable to contact Petitioner's Deportation Officer.

19. On April 18, 2025, attorney Farha Rizvi sent an email to the U.S. Attorney's Office for the Northern District of Texas via Assistant United States Attorney Chad Meacham, notifying AUSA Meacham that Petitioner has TPS status, his detention by ICE is unlawful, and that RAICES intended to file federal litigation challenging Petitioner's unlawful detention.

II. TEMPORARY PROTECTED STATUS FOR VENEZUELA REMAINS IN EFFECT

20. Venezuelans living in the United States first received temporary protection from removal on January 19, 2021, when President Trump—on the last day of his first Administration—directed the Secretaries of State and Homeland Security to “take appropriate measures to defer for 18 months the removal of any national of Venezuela . . . who is present in the United States as of January 20, 2021,” with limited exceptions, and “to take appropriate measures to authorize employment for aliens whose removal has been deferred, as provided by this memorandum, for the duration of such deferral.” Memorandum re: Deferred Enforced Departure for Certain Venezuelans, 86 Fed. Reg. 6845 (Jan. 19, 2021).
21. DHS then designated TPS for Venezuela on March 9, 2021, based on the Secretary's determination that “extraordinary and temporary conditions in the foreign state prevent [Venezuelans] from returning in safety” and “permitting [Venezuelans] to remain temporarily in the United States” is not “contrary to the national interests of the United States.” 86 Fed. Reg. 13574 at 13575. The Secretary found that “Venezuela is currently facing a severe humanitarian emergency” and “has been in the midst of a severe political and economic crisis for several years . . . marked by a wide range of factors including:

Economic contraction; inflation and hyperinflation; deepening poverty; high levels of unemployment; reduced access to and shortages of food and medicine; a severely weakened medical system; the reappearance or increased incidence of certain communicable diseases; a collapse in basic services; water, electricity, and fuel shortages; political polarization; institutional and political tensions; human rights abuses and repression; crime and violence; corruption; increased human mobility and displacement (including internal migration, emigration, and return); and the impact of the COVID-19 pandemic, among other factors.” *Id.* at 13576.

22. DHS extended and broadened TPS protection for Venezuela twice after that initial designation. DHS extended Venezuela’s TPS designation for 18 months on September 8, 2022, through March 10, 2024. 87 Fed. Reg. 55024. DHS again extended the 2021 designation of Venezuela for 18 months on October 3, 2023. At that time DHS also re-designated Venezuela for TPS for 18 months. 88 Fed. Reg. 68130 (“2023 Venezuela Designation”) (allowing individuals who had come to the United States after March 2021 to become eligible). The extension of the 2021 designation ran from March 11, 2024 to September 10, 2025. The new 2023 re-designation ran from October 3, 2023 through April 2, 2025. Finally, on January 17, 2025, the DHS Secretary extended the 2023 Venezuela Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5961 (“January 2025 Extension”).
23. In support of that extension, the DHS Secretary found that “Venezuela is experiencing a complex, serious and multidimensional humanitarian crisis. The crisis has reportedly disrupted every aspect of life in Venezuela. Basic services like electricity, internet access, and water are patchy; malnutrition is on the rise; the healthcare system has collapsed; and

children receive poor or no education. Inflation rates are also among the highest in the world. Venezuela's complex crisis has pushed Venezuelans into poverty, hunger, poor health, crime, desperation and migration. Moreover, Nicolas Maduro's declaration of victory in the July 28, 2024 presidential election—which has been contested as fraudulent by the opposition—has been followed by yet another sweeping crackdown on dissent." *Id.* at 5963 (internal quotation marks and citations omitted).

24. After the inauguration, the U.S. federal government reversed course on TPS for Venezuela. On January 28, 2025, the new DHS Secretary purported to "vacate" the January 2025 Extension of TPS for Venezuela.¹ That decision was the first vacatur of a TPS extension in the 35-year history of the TPS statute. DHS published this vacatur via notice in the Federal Register on February 3, 2025. 90 Fed. Reg. 8805.
25. On February 1, 2025, the new Secretary "decided to terminate" the 2023 Venezuela Designation, ordering an end to the legal status of approximately 350,000 Venezuelans, effective in April 2025.²
26. On February 5, 2025, DHS published a notice in the Federal Register purporting to terminate the 2023 Venezuela Designation. 90 Fed. Reg. 9040.
27. On February 19, the National TPS Alliance and seven individual Venezuelan TPS holders sued the federal government, alleging that the vacatur and subsequent termination of TPS for Venezuela were contrary to the TPS statute, in violation of the Administrative Procedure Act, and unlawful under the Fifth Amendment. *See National TPS Alliance v.*

¹ USCIS, *Temporary Protected Status Designated Country: Venezuela*, available at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>.

² USCIS, *Temporary Protected Status Designated Country: Venezuela*, available at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>.

Noem, No. 3:25 CV 01766 (N.D. Cal.). Plaintiffs moved to postpone the recent vacatur and termination. That motion was granted on March 31, 2025, meaning that Petitioner's TPS remains valid.

28. The first Trump administration also attempted to strip several hundred thousand people of their TPS status. That attempt ultimately proved unsuccessful, as everyone who held TPS in 2017 remained eligible by the end of the first Trump administration. *See generally Ramos v. Nielsen*, 709 F. Supp. 3d 871 (N.D. Cal. 2023) (explaining procedural history).

LEGAL FRAMEWORK

29. The Court need analyze only one statutory provision to resolve this habeas petition. The TPS statute unambiguously provides that “[a]n alien provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the alien’s immigration status in the United States.” 8 U.S.C. § 1254a(d)(4) (emphasis added). It is hard to imagine a clearer statutory mandate proscribing detention.³
30. The Court need not delve further in an attempt to understand other aspects of Petitioner’s immigration status, because TPS protection remains valid even if the TPS holder has a final removal order or lacks other immigration status. 8 U.S.C. § 1254a(a)(1)(A) (the government “*shall not remove the alien from the United States* during the period in which such [TPS] status is in effect.”) (emphasis added). Indeed, individuals with a final order of removal are statutorily eligible for TPS and may not be denied TPS on the basis of that removal order if otherwise eligible. 8 U.S.C. § 1254a(a)(5) (TPS statute provides no authority to “deny temporary protected status to an alien based on the alien’s immigration status”). *See also* 8

³ “Attorney General” in Section 1254a now refers to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

U.S.C. § 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-based protection to “otherwise deportable” non-citizens). For that reason alone, this Court should grant the writ and order Petitioner’s immediate release. *See* 28 U.S.C. § 2241(c)(3) (authorizing writ for people detained in violation of federal law).

31. Should the Court nonetheless choose to address constitutional questions, it should also find that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.
32. Petitioner’s detention violates the Fifth Amendment’s protection for liberty, for at least three related reasons. First, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690). Whereas here the government has no authority to deport Petitioner, detention is not reasonably related to its purpose.
33. Second, because Petitioner is not “deportable” insofar as the TPS statute bars his deportation, the Due Process Clause requires that any deprivation of Petitioner’s liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying less rigorous standard for “deportable aliens”). Petitioner’s on-going imprisonment obviously cannot satisfy that rigorous standard.
34. Third, at a bare minimum, “the Due Process Clause includes protection against *unlawful* or

arbitrary personal restraint or detention.” *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an individual’s detention, their detention also violates the Due Process Clause.

35. It is irrelevant that the government may, at some unknown time in the future, successfully terminate Petitioner’s TPS. The government may indicate that it has placed Mr. Rodriguez Silva in Removal Proceedings with the intent to revoke his TPS status. However, implementing regulations are clear. It is only following removal proceedings, once an immigration judge enters a final order of removal, that an individual’s TPS status is withdrawn. 8 C.F.R. §§ 244.18(a), 1244.18(a).”

36. The TPS statute’s unambiguous command applies so long as the TPS holder’s status remains in effect. It contains no exception for people whose TPS status may soon expire, or for whom the government has indicated an intent to withdraw TPS, but not completed the legal requirements to do so. And, as noted above, a court has postponed the government’s attempt to end TPS for Venezuelans in the course of litigation to challenge that decision. It would not be appropriate for this Court (or any other) to speculate on the likely outcome of that litigation. Rather, it should decide this petition on the state of affairs as it currently exists, under which Petitioner remains a TPS holder, and is unlawfully imprisoned by Respondents.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE IMMIGRATION AND NATIONALITY

ACT – 8 U.S.C. § 1254a

37. Petitioner realleges and incorporate by reference each and every allegation contained above.

38. Section 1254a of Title 8 of the U.S. Code governs the treatment of TPS holders, including their detention and removal under federal immigration law.

39. Section 1254a(d)(4) states “[a]n alien provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the alien’s immigration status in the United States.” (emphasis added). There is no exception to this rule provided in the statute.

40. Thus, Petitioner’s detention violates Section 1254a, and he is entitled to immediate release from custody.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

41. Petitioner realleges and incorporates by reference each and every allegation contained above.

42. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno*, 507 U.S. 292; *Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510.

43. Petitioner’s detention violates the Due Process Clause because it is not rationally related to any immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate purpose the government could have in imprisoning Petitioner; and because it lacks any statutory authorization.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;
3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
4. Grant a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody due to Respondents' custody of Petitioner being in violation of law, as authorized by 8 U.S.C. § 2241(a);
5. Enjoin Respondents from further detaining or removing Petitioner so long as TPS for Venezuela remains in effect and he continues to hold TPS status;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

Dated: April 18, 2025

Respectfully submitted,

/s/ Cesar Diaz

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Attorneys for Petitioner
**Pro hac vice applications forthcoming*

**Verification by Kristy Blumeyer-Martinez Acting on Petitioner's Behalf Pursuant to
28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's TPS status, are true and correct to the best of my knowledge.

Dated: April 18, 2025

/s/ Kristy Blumeyer-Martinez