

United States District Court
Northern District of Texas
Abilene Division

RONNY JOSE RODRIGUEZ SILVA,

Petitioners,

v.

No. 1:25-CV-00061-H

TODD M. LYONS, in his official
capacity as Acting Director of the U.S.
Immigration and Customs Enforcement,
et al,

Respondents.

RESPONDENTS' RESPONSE TO PETITION
FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

Respondents submit this response to Petitioner's Petition for a Writ of Habeas Corpus (Dkt. 1) ("Petition" or "Pet."). Petitioner, Ronny Jose Rodriguez Silva ("Rodriguez" or "Petitioner"), a Venezuelan, is in civil immigration detention pending proceedings to remove him from the country, and he disputes the legality of his immigration detention on the grounds that he has been granted Temporary Protective Status ("TPS"). The Petitioner fails for three reasons.

First, Petitioner fails to name his immediate custodian, the warden of the Bluebonnet Detention Center, who is the only proper respondent in this case. Thus, the Court cannot grant his request for immediate release.

Second, Petitioner's Temporary Protective Status does not prohibit his detention or removal under Title 50. As noted in the attached declaration, Petitioner has been designated an alien enemy under Section 21 of Title 50 of United States Code and is detained pursuant to Title 50 of the United States Code. *See* Declaration of Yousuf Khan ("Decl."), at ¶ 4. Petitioner does not challenge the legality of his detention under the Alien Enemies Act. To the extent Petitioner seeks to challenge that designation, he should be required to file an Amended Petition identifying those challenges, and Respondents given the opportunity to respond.

Finally, Petitioner may soon be subject to detention under Title 8 in the event that Petitioner's TPS status is revoked. Although the statutory language at 8 U.S.C. § 1254a(d)(4) prevents the DHS from detaining a noncitizen with TPS status based on their immigration status, the statute does not prohibit the detention of TPS recipients on other grounds. Here, as explained below, Petitioner is not detained on account of his immigration status. His detention is, therefore, proper, and it does not violate any statute or impede Petitioner's Due Process rights.

BACKGROUND

I. Statutory and Regulatory Background

Temporary Protected Status. The Immigration and Nationality Act (“INA”) establishes a limited, temporary status, called Temporary Protected Status (“TPS”), for noncitizens who are nationals of designated countries that the Secretary of Homeland Security determines (i) are in the midst of an armed conflict; (ii) have experienced a natural disaster and the foreign state requests such designation; or (iii) present “extraordinary and temporary conditions . . . that prevent[] aliens who are nationals of the state from returning to the state in safety.” 8 U.S.C. § 1254a(b)(1)(A)-(C).¹ A TPS recipient “shall be considered as being in, and maintaining, lawful status as a nonimmigrant,” but only for purposes of adjustment or change of immigration status. *Id.* § 1254a(f)(4). The statute also provides limited protection against detention, in that a TPS recipient “shall not be detained *on the basis of the alien’s immigration status* in the United States.” *Id.* § 1254a(d)(3) (emphasis added).

Once granted, TPS status remains in effect until the termination of the designation, *id.* § 1254a(b)(3)(B), or the temporary status provided to the particular

¹ Although the statutory text refers to the Attorney General, the authority pertaining to TPS designations, as well as detention and removal of noncitizens from the United States, has been transferred to the Department of Homeland Security. 6 U.S.C. § 251(2); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 n.3 (2020).

noncitizen is withdrawn, *id.* § 1254a(c)(3). TPS status may be withdrawn from a particular non-citizen if the Secretary of Homeland Security determines, among other potential grounds, that “the alien was not in fact eligible for such status under this section.” *Id.* § 1254a(c)(3)(A). In turn, a noncitizen is ineligible for such status if she or he “has been convicted of a felony or 2 or more misdemeanors committed in the United States, or the alien is described in section 1158(b)(2)(A) of this title.” *Id.* § 1254a(c)(2)(B)(i)-(ii).² And if ineligible, the Secretary may initiate removal proceedings based on that ineligibility. 8 C.F.R. §§ 244.18, 1244.18. Should those removal proceedings result in a final order of removal, the noncitizen “may be removed from the United States.” *Id.* §§ 244.18(d), 1244.18(d).

Detention under the INA. The INA generally authorizes detention of noncitizens during the pendency of removal proceedings. *See* 8 U.S.C. § 1226. That provision establishes two types of detention authority: (1) discretionary detention pursuant to 8 U.S.C. § 1226(a), and (2) mandatory detention pursuant to 8 U.S.C. § 1226(c). Neither provision authorizes detention based on a noncitizen’s immigration status. Instead, the decision to detain is based on an individual’s risk of danger or flight, or on criminal convictions—*i.e.*, reasons unrelated to an individual’s immigration status. For example, section 1226(c) mandates detention

² Relevant here, 8 U.S.C. § 1158(b)(2)(A)(iv) renders a noncitizen ineligible for TPS if “there are reasonable grounds for regarding the alien as a danger to the security of the United States.”

of noncitizens convicted of specific criminal offenses or who have engaged in certain types of terrorist activities. *Id.* § 1226(c)(1)(A)-(E).

Detention under section 1226(a) is discretionary. *Id.* § 1226(a) (“[A]n alien *may* be arrested and detained pending a decision on whether the alien is to be removed from the United States”). ICE and the immigration courts share this discretionary authority. Upon initial apprehension of a removable noncitizen, ICE makes an individualized custody determination. *See* 8 C.F.R. § 236.1(c)(8), (g). ICE may release the noncitizen on bond if it determines that the noncitizen “would not pose a danger to property or persons, and . . . is likely to appear for removal proceedings.” *See id.* § 236.1(c)(8). If ICE denies release on bond (or sets a bond the noncitizen believes is excessive), the noncitizen may seek review of the custody decision in immigration court through an individualized bond hearing at which he or she may call witnesses and present evidence. *See id.* §§ 236.1(d)(1), 1236.1(d)(1). The presiding immigration judge is required to evaluate—based on the evidence presented at the hearing—various factors to determine whether the noncitizen poses a flight risk or a danger to the community, and whether the noncitizen warrants release as a matter of discretion. *See id.* § 1003.19(d); *see also Miranda v. Garland*, 34 F.4th 338, 346-47 (4th Cir. 2022). If the immigration judge denies release on bond, the noncitizen may notice an appeal of that decision to the Board of Immigration Appeals (“BIA”). *See* 8 C.F.R. § 1003.19(f). And the exercise of this

discretionary judgment—whether by ICE, an immigration judge, or the BIA—is not subject to Article III judicial review. *See* 8 U.S.C. § 1226(e).

Detention under the AEA. Congress gave the President broad discretionary authority to remove noncitizens in the Alien Enemies Act of 1798 (AEA):

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies.

50 U.S.C. § 21. Courts have consistently recognized the legitimacy of the AEA as a lawful exercise of the war power reserved to Congress and the Executive. *Ludecke v. Watkins*, 335 U.S. 160, 165 n.8 (1948) (collecting cases). Indeed, the Supreme Court has described the AEA “as unlimited” a grant of power to the executive “as the legislature could make it.” *Id.* at 164 (quoting *Lockington v. Smith*, 15 F. Cas. 758, 760 (C.C.D. Pa. 1817)). Courts have further explained that the statute encompasses “matters of political judgment for which judges have neither technical competence nor official responsibility.” *Id.* at 170 (holding that the President’s power under the AEA remained in effect even after actual hostilities in World War II had ceased). The D.C. Circuit has held the AEA confers “[u]nreviewable power in the President to restrain, and to provide for the removal of, alien enemies.” *Citizens Protective League v. Clark*, 155 F.2d 290, 294 (D.C. Cir. 1946). Courts

have limited their review in prior challenges to a few, very narrow questions that sound in habeas: “the construction and validity of the statute;” whether, when relevant, there is a “declared war;” and whether the “person restrained is an enemy alien fourteen years of age or older.” *Ludecke*, 335 U.S. at 171 & n.17; *see also Trump v. J.G.G.*, 604 U.S. ___, 2025 WL 1024097, at *2 (2025).

In March, the President issued Proclamation No. 10904, *Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua* (the “Proclamation”). *See* 90 Fed. Reg. 13034. Therein, the President made findings that members of the transnational criminal organization TdA, in conjunction with a narco-terrorism enterprise backed by the illegitimate regime of Nicolas Maduro in Venezuela, are “conducting irregular warfare and undertaking hostile actions against the United States.” *Id.* at Preamble. TdA has also “engaged in and continues to engage in mass illegal migration to the United States,” including to inflict harm on U.S. citizens and support Maduro’s regime in undermining democracy. *Id.* Further, TdA is “closely aligned with” and “has infiltrated” Maduro’s regime, growing under Tareck El Aissami’s governance of the province of Aragua from 2012 to 2017. *Id.* Aissami himself is a “fugitive facing charges arising from his violations of United States sanctions triggered by his” designation as a Specially Designated Narcotics Trafficker under 21 U.S.C. § 1901 *et seq.* *Id.* And Maduro leads the “Cártel de los Soles, which coordinates with and relies on TdA and other organizations to carry out

its objective of using illegal narcotics as a weapon to ‘flood’ the United States.” *Id.*

Criminal organizations such as TdA have taken greater control over Venezuelan territory, resulting in the creation of a “hybrid criminal state” that poses “substantial danger” to the United States and is “perpetrating an invasion of and predatory incursion” into the nation. *Id.* (noting also INTERPOL Washington’s finding that TdA has infiltrated the flow of immigrants from Venezuela). TdA has independently been designated as an Foreign Terrorist Organization (FTO) under 8 U.S.C. § 1189 since February 20, 2025. *Id.* That designation has not been challenged in court.

Based on these findings, the President proclaimed that “all Venezuelan citizens 14 years of age or older who are members of TdA, are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies.” *Id.* § 1. The President further directed that all such alien enemies “are subject to immediate apprehension, detention, and removal.” *Id.* § 3. The Attorney General and Secretary of Homeland Security have been tasked with executing these directives, in addition to any separate authority that may exist to apprehend and remove such persons. *Id.* §§ 4, 6.

The President also issued regulations prohibiting the entry, attempted entry, or presence of the alien enemies described in Section 1 of the Proclamation, with

any such alien enemies “subject to summary apprehension.” *Id.* § 6(a). Apprehended alien enemies are subject to detention until their removal from the United States, and they may be removed to “any such location as may be directed” by those responsible for executing the regulations. *Id.* § 6(b)–(c).

II. Factual and Procedural Background

On March 6, 2024, DHS granted Petitioner TPS. Pet., at ¶ 15. On February 5, 2025, the Department of Homeland Security (“DHS”) published a notice in the Federal Register terminating the 2024 Venezuela Designation as a TPS designated country, thereby terminating TPS for Venezuelan nationals as of April 1, 2025. Thus, Petitioner’s lawful status in the United States terminated on April 1, 2025.

ICE detained Petitioner as of March 21, 2025. *See* Decl., at ¶ 4. Initially, ICE held Petitioner for one day at ICE’s holding facility in Dallas. Decl., at ¶ 5. On March 22, 2025, ICE transferred Petitioner to Tulsa, Oklahoma. Decl., at ¶ 6. Six days later, on March 28, 2025, ICE transferred Petitioner to the Bluebonnet Detention Center in Anson, Texas. Decl., at ¶ 7. The next day, ICE transferred Petitioner to Alvarado, Texas, and then again transferred Petitioner to the Bluebonnet Detention Center in Anson, Texas, on April 15, 2025, where he remains. Decl., at ¶¶ 9, 10. ICE designated Petitioner as an Alien Enemy on April 18, 2025. *See* Decl. at ¶ 7.

On April 18, 2025, Petitioner filed a habeas petition in the U.S. District Court for the Northern District of Texas, arguing that, as a TPS holder, his detention is unlawful because of the statutory bar to detention in 8 U.S.C. § 1254a(d)(4). Pet., at ¶¶ 37-39.

ARGUMENT

The sole basis of this habeas proceeding is Petitioner's request for his immediate release from ICE custody, on the single alleged ground that his detention violates the INA—specifically, the TPS statute—and Due Process. As explained below, these arguments are without merit. Petitioner's detention is lawful, and the Court should therefore deny the Petition.

I. The Court Cannot Grant Relief Because Petitioner Failed To Name His Immediate Custodian As The Proper Respondent In This Case.

“Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004). In adopting the “immediate custodian” rule, the Supreme Court rejected the “legal reality of control” standard and held that legal control does not determine the proper respondent in a habeas petition that challenges present physical confinement. *See Padilla*, 542 U.S. at 437-39. In unambiguous terms, the Supreme Court explained that, “[i]n challenges to present physical confinement, we reaffirm that the immediate custodian, not a supervisory official who exercises legal control, is the

proper respondent.” *Id.* at 439. Here, the warden of the detention facility—the person with physical custody and control over the petitioner—is Petitioner’s immediate custodian, not a local ICE Field Office Director, who exercises only legal control. Indeed, *Padilla* makes clear that the warden of the detention facility, who has physical control over the habeas petitioner, is in fact the official who has the ability to “produce” the petitioner so “that he may be released” pursuant to a writ of habeas corpus. *Id.* at 435.

Petitioner did not name the wardens. *See* Pet., at ¶¶ 5-14. Marcello Villegas, the Facility Administrator of Bluebonnet Detention Center, is Petitioner’s immediate custodian. Importantly, he is the only one who can effectuate Petitioner’s release. Petitioner provides no reason for ignoring this requirement. As such, the Court cannot, even assuming *arguendo* that Petitioner is entitled to habeas relief—which he is not, grant Petitioner his prayer for relief for immediate release. Pet., at p. 12, ¶ 4.

II. Petitioner is Lawfully Detained.

The AEA affords Respondents broad authority to detain aliens, like the Petitioner, who have been designated alien enemies under Title 50. Petitioner does not challenge the legality of the AEA, the President’s Proclamation invoking the AEA, or the underpinnings of Petitioner’s designation. Petitioner’s only challenge is based on a provision found in a different Title, Title 8, which limits the

government's authority when operating under the Immigration and Nationality Act.

The INA prohibits detention of TPS holders "the basis of" that detention is the noncitizen's "immigration status." 8 U.S.C. § 1254a(d)(4). The provision is not implicated when, as here, the noncitizen's "immigration status" is not the "basis" of detention. 8 U.S.C. § 1254a(d)(4). To be sure, the government contends that Petitioner is inadmissible and has initiated Title 8 removal proceedings as an alternative avenue for removing Petitioner from the United States. But his inadmissibility is not the basis for his detention. Petitioner is detained because the government determined that he is an alien enemy and subject to treatment under Title 50. That determination is wholly independent of Petitioner's "immigration status" under Title 8. Petitioner is therefore not subject to the TPS statute's detention restriction.

IV. Petitioner's Detention Does Not Violate His Right to Due Process.

Petitioner argues that his Due Process rights were violated, specifically alleging (1) his detention "is not rationally related to any immigration purpose; (2) detention is not the least restrictive mechanism for accomplishing any legitimate purpose; (3) his detention lacks statutory authorization. Pet., at ¶¶ 41-43. His arguments lack merit.

As an initial matter, Petitioner is not denied liberty without Due Process when this Court provides him with ample opportunity to file a habeas petition, and indeed,

he has done so through chosen counsel. Respondents have agreed not to remove Petitioner under the AEA for the duration of this habeas proceeding to give him ample time and opportunity to challenge his AEA designation. Decl. at ¶ 14.

Second, Petitioner's detention is rationally connected to a legitimate purpose as he has been designated as an alien enemy. Petitioner does not challenge the substance of that designation here, but, as noted above, may do so in an amended petition. Moreover, Petitioner's TPS status was never meant to be permanent. In the event Petitioner's TPS is revoked, he may be detained and removed consistent with Title 8. It would be unlawful for this Court to preemptively prohibit future invocation of Title 8 detention or removal authority.

CONCLUSION

For these reasons, Federal Respondents respectfully request that the Court deny the Petition for Writ of Habeas Corpus.

Respectfully Submitted,

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

RONNY JOSE RODRIGUEZ SILVA,

Petitioner,

v.

DONALD J. TRUMP, et al.

Respondents-Defendants.

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No. 1:25-CV-00061

DECLARATION OF YOUSUF KHAN

In accordance with the provisions of Section 1746 of Title 28, United States Code, I, the undersigned, Yousuf Khan, do hereby make the following declaration, under penalty of perjury in the above-styled and numbered cause:

1. I, Yousuf Khan, am presently employed by the United States Department of Homeland Security (“DHS” or the “Department”), Immigration and Customs Enforcement (“ICE”), in the position of Assistant Field Office Director.
2. I am familiar with the case of Ronny Jose Rodriguez Silva (“Petitioner”).
3. Petitioner has been assigned Alien Registration Number A .
4. On March 21, 2025, Petitioner was detained in ICE custody pursuant to Title 8 of the U.S. Code.
5. On March 21, 2025, ICE issued a Notice to Appear, Form I-862, to Petitioner, charging him as being inadmissible pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act.

6. On March 21, 2025, ICE issued a Notice of Custody Determination, Form I-286, to Petitioner. Pursuant to the authority contained in section 236 of the Immigration Nationality Act and part 236 of title 8, code of Federal Regulations, ICE determined that Petitioner would be detained by the Department of Homeland Security pending a final administrative determination in Petitioner's case. Petitioner acknowledged receipt of the notification and requested an immigration judge review the custody determination.
7. On April 18, 2025, Petitioner was designated as an Alien Enemy under section 21 of Title 50 of United States Code and has since been detained pursuant to Title 50 of the United States Code.
8. Petitioner was initially held at the ERO Dallas Field Office Holding Facility in Dallas, Texas for 1 day, on March 21, 2025.
9. One March 22, 2025, Petitioner was transferred to the Tulsa County Jail in Tulsa, Oklahoma.
10. On March 28, 2025, Petitioner was transferred to the Bluebonnet Detention Center in Anson, Texas.
11. On March 29, Petitioner was transferred to the Prairieland Detention Center in Alvarado, Texas.
12. On April 15, 2025, Petitioner was transferred to the Bluebonnet Detention Center in Anson, Texas, and has remained at the facility since this date.
13. ICE is aware that Petitioner is the petitioner in the instant habeas petition.

14. ICE does not intend to remove Petitioner under the Alien Enemy Act (AEA) while his habeas petition is pending.

Sworn to and subscribed this 12th day of May, 2025.

A handwritten signature in black ink, appearing to read 'Yousuf Khan', is written over a horizontal line.

Yousuf Khan
Assistant Field Office Director
Department of Homeland Security
Immigration and Customs Enforcement