

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

E.A.A.P.,

Petitioner,

v.

Civil Action No. _____

TERRENCE DICKERSON, *in his official capacity as Warden of Stewart Detention Center*; TRACI HORRACH, *in her official capacity as Assistant Field Office Director of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office*; Officer Serving as Field Office Director of U.S. Immigration and Customs Enforcement, Atlanta Field Office, *in their official capacity*; KENNETH GENALO, *in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement*; TODD LYONS, *in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement*; KRISTI NOEM, *in her official capacity as Secretary of the U.S. Department of Homeland Security*; and PAMELA BONDI, *in her official capacity as Attorney General of the United States*,

Respondents.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

HEARING REQUESTED

INTRODUCTION

1. Petitioner E.A.A.P. (“Petitioner” or “Mr. A.”) is a 24-year-old Venezuelan man, soon-to-be father of three, who is currently detained at Stewart Detention Center. Mr. A. entered the United States in April 2023, and was granted Temporary Protected Status (TPS), which continues to protect him from detention and deportation. Nevertheless, Immigration and Customs Enforcement (ICE) took Mr. A. into its custody on or around March 20, 2025. He has been detained since. Mr. A.’s detention in ICE custody is patently unlawful. The TPS statute unequivocally states

that “[a] [non-citizen] provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the [noncitizen]’s immigration status in the United States.” 8 U.S.C. § 1254a(d)(4) (emphasis added).

2. Respondents’ detention of Mr. A. violates the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment. Accordingly, Petitioner asks this Court to issue a writ of habeas corpus ordering his immediate release from ICE custody.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201–02 (declaratory relief).

4. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

5. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(1) and 2241(c)(3), because Mr. A. is currently detained in this district at Stewart Detention Center (“SDC”) in Lumpkin, Georgia, and the events or omissions giving rise to this action occurred in this district.

PARTIES

6. Petitioner E.A.A.P. is a Venezuelan citizen currently detained at Stewart Detention Center in the custody of the Atlanta ICE Field Office in Georgia.

7. Respondent Terrence Dickerson is the Warden of SDC. Pursuant to a contract with ICE, Respondent Dickerson is responsible for the operation of the SDC. Respondent Dickerson has control over Mr. A. as his immediate custodian. Respondent Dickerson is sued in his official

capacity.

8. Respondent Traci Horrach is the Assistant Field Office Director for the Atlanta ICE Field Office. Respondent Horrach has control over Mr. A. as his immediate custodian.

9. Respondent Officer Serving as the Field Office Director of U.S. Immigration and Customs Enforcement, Atlanta Field Office is an unknown individual. The Atlanta Field Office Director has control over Mr. A. as his immediate custodian. Respondent Officer Serving as the Field Office Director for the Atlanta ICE Field Office is sued in his official capacity.

10. Kenneth Genalo is the Acting Executive Associate Director of ICE Enforcement and Removal Operations (“ERO”). He is the head of the ICE office that carries out arrests and detention of noncitizens and removals from the United States. Respondent Genalo is a legal custodian of Mr. A. Respondent Genalo is sued in his official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of immigration laws, including immigrant detention. Respondent Lyons is a legal custodian of Mr. A. Respondent Lyons is sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws and has supervisory responsibility for and authority over the detention and removal of noncitizens throughout the United States. Secretary Noem is the ultimate legal custodian of Mr. A. Respondent Noem is sued in her official capacity.

13. Respondent Pamela Bondi is the Attorney General of the United States. Attorney General Bondi is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g). Respondent Bondi is a legal custodian of Mr. A. Respondent Bondi is sued in her

official capacity.

LEGAL BACKGROUND

14. 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 [noncitizens] 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).

15. 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 that “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.

16. DHS extended and broadened TPS protection for Venezuelans 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, allowing individuals who had come to the United States after March 2021 to become eligible for TPS. 88 Fed. Reg. 68130 (“2023 Venezuela Designation”). The extension of the 2021 designation ran from March 11, 2024 through 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”).

17. 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).

18. After entering office, the current administration reversed course on TPS for

Venezuela.¹ On January 28, 2025, the new DHS Secretary purported to “vacate” the January 2025 Extension of TPS for Venezuela.² That decision was the first vacatur of a TPS extension in the 35-year history of the TPS statute. DHS published the decision via notice in the Federal Register on February 3, 2025. 90 Fed. Reg. 8805.

19. 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 on April 7, 2025.³

20. On February 5, 2025, DHS published a notice in the Federal Register purporting to terminate the 2023 Venezuela Designation. 90 Fed. Reg. 9040.

21. On February 19, 2025, 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. Plaintiffs moved to stay the recent vacatur and termination. The district court granted that motion, *National TPS Alliance v. Noem*, --- F.3d ---, 2025 WL 957677 (N.D. Cal. Mar. 31, 2025), and the Government appealed to the Ninth Circuit, *National TPS Alliance, et al. v. Noem, et al.*, No. 25-2120 (9th Cir). That appeal is pending. In the interim, the January 2025 Extension remains in effect, extending the 2023 Venezuela Designation

¹ 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 for it 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).

² USCIS, *Temporary Protected Status Designated Country: Venezuela*, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last updated Apr. 8, 2025).

³ USCIS, *Temporary Protected Status Designated Country: Venezuela*, available at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>.

to October 2, 2026.

STATEMENT OF FACTS

22. E.A.A.P. was born in Venezuela in 2000.

23. Mr. A. came to the United States in April 2023 and was processed by immigration officials. He was served with a Notice to Appear, the charging document issued by DHS to initiate removal proceedings, which identified a September 6, 2023 court date before the immigration court in New York, New York.

24. Mr. A. first went to Denver, Colorado, to stay with a relative, although he intended New York City to be his final destination. However, after he arrived in Denver, the person who was going to receive him in New York City could no longer do so, so Mr. A. decided to stay in Denver. He was later joined by his wife⁴ and young child.⁵

25. On February 8, 2024, the immigration court in Denver, Colorado issued Mr. A. a final order of removal *in absentia*. Mr. A. did not know that he had been scheduled for immigration court in Denver, Colorado. Mr. A. did not learn that the immigration court had ordered his removal until later.

26. In February 2024, Mr. A. applied for Temporary Protected Status through U.S. Citizenship and Immigration Service (USCIS). On May 8, 2024, Mr. A. received a notice from USCIS granting him TPS status. Ex. 1 (TPS approval). His TPS status was listed as active and valid through April 2, 2025. *Id.*⁶

⁴ Mr. A. and his wife are in a common law marriage.

⁵ Mr. A. also has a child from another relationship who is in Venezuela.

⁶ Pursuant to the court's order in *National TPS Alliance v. Noem*, --- F.3d ---, 2025 WL 957677 (N.D. Cal. Mar. 31, 2025), all TPS grants pursuant to the 2023 Designation, including Mr. A.'s, are currently extended until October 2, 2026. USCIS, *Temporary Protected Status Designated Country: Venezuela*, available at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>.

27. Noncitizens who have removal orders are still eligible for TPS. *See* 8 C.F.R. § 244.2 (listing eligibility requirements for TPS, which does not exclude individuals with final removal order); *id.* § 244.4 (providing that noncitizens are ineligible for TPS if they are inadmissible to the United States barred from asylum for certain criminal or national, but not referencing the existence of removal orders). That removal order “remains inexecutable so long as the [noncitizen] remains a TPS beneficiary.” *Duarte v. Mayorkas*, 27 F.4th 1044, 1053–54 (5th Cir. 2022) (citing *Dhakai v. Sessions*, 895 F.3d 532, 537 n.8 (7th Cir. 2018); *Serrano v. U.S. Att’y Gen.*, 655 F.3d 1260, 1265 (11th Cir. 2011); *see also Matter of Sosa Ventura*, 25 I. & N. 391, 393 (BIA 2010)).

28. After living for a little over a year in Colorado, Mr. A. and his family moved to Chicago, Illinois. The family lived there for approximately five months before moving to Wilmington, North Carolina. Mr. A. had been living there with his wife, who is now approximately four months pregnant, and their now two-year old child, up until the time of his arrest.

29. On or around March 20, 2025, Mr. A. was arrested by unidentified federal agents in Wilmington, North Carolina. They threw Mr. A. to the ground before handcuffing him. Upon information and belief, the officers then took Mr. A. to a county jail, then a jail in Raleigh, North Carolina. Mr. A. was then transferred to Stewart Detention Center in Lumpkin, Georgia, where he continues to be detained.

ARGUMENT

30. The Court need analyze only one statutory provision to resolve this habeas petition. The TPS statute unambiguously provides that a “[noncitizen] provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the [noncitizen]’s

immigration status in the United States.”⁷ 8 U.S.C. § 1254a(d)(4) (emphasis added). It is hard to imagine a clearer statutory mandate prohibiting detention.

31. TPS protection remains valid even if the TPS holder lacks other immigration status. 8 U.S.C. § 1254a(a)(1)(A) (the government “shall not remove the [noncitizen] from the United States during the period in which such [TPS] status is in effect.”); 8 U.S.C. § 1254a(a)(5) (TPS statute provides no authority to “deny temporary protected status to an [noncitizen] based on the [noncitizen]’s immigration status”). *See also* 8 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 Mr. A.’s immediate release. *See* 28 U.S.C. § 2241(c)(3) (authorizing writ for people detained in violation of federal law).

32. While the Court need not reach constitutional questions given the clarity of the statutory provision prohibiting detention, should it do so it should also find that Mr. A.’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 v. Davis*, 533 U.S. 678, 690 (2001).

33. Mr. A.’s detention violates the Fifth Amendment protection of 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 v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Where, as here, the government currently has no authority to

⁷ “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.

deport Mr. A., detention is not reasonably related to its purpose.

34. Second, because Mr. A. is not “deportable” insofar as the TPS statute bars his deportation, the Due Process Clause requires that any deprivation of his 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” (emphasis in original)); *Demore*, 538 U.S. at 528 (applying less rigorous standard for “deportable [non-citizens]”). Mr. A.’s ongoing imprisonment obviously cannot satisfy that rigorous standard.

35. 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). Where federal law explicitly prohibits an individual’s detention, their detention also violates the Due Process Clause.

36. It is irrelevant for purposes of this case that Mr. A.’s TPS status may expire if the Government successfully defends in court at some unspecified point in the future its unprecedented attempt to vacate the January 2025 TPS Extension for Venezuela. Pursuant to court order, the January 2025 Extension remains in place, which extends the 2023 Designation until October 2, 2026. *See Nat’l TPS All.*, 2025 WL 957677 (granting stay of Respondent Noem’s vacatur of the January 2025 Extension). 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 potentially expire at some unspecified point in the future. And, as noted above, because litigation challenging the government’s attempt to end TPS for Venezuela is pending, 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 Mr. A. remains a TPS holder.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT – 8 U.S.C. § 1254a

37. Mr. A. re-alleges and incorporates 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 noncitizen] provided temporary protected status under this section *shall not be detained* by the Attorney General on the basis of the [noncitizen]’s immigration status in the United States.” (emphasis added). There is no exception to this rule provided in the statute.

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

SECOND CLAIM FOR RELIEF

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

41. Mr. A. re-alleges 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. “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 protects. *Zadvydas*, 533 U.S. at 690; *see*

generally Demore v. Kim, 538 U.S. 510 (2003).

43. Mr. A.'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 requests that the Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days, set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243, and order Respondents not to transfer or remove Petitioner from this District while this Petition is pending;
3. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
6. Enjoin Respondents from further detaining Petitioner so long as TPS for Venezuela remains in effect and Petitioner continues to hold TPS status;
7. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
8. Grant such further relief as this Court deems just and proper.

Dated: April 27, 2025

Respectfully submitted,

/s/ Stephanie M. Alvarez-Jones

Stephanie M. Alvarez-Jones

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**pro hac vice admission applications
forthcoming*

Counsel for Petitioner

Verification by Someone 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 the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Verified Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

/s/ Stephanie M. Alvarez-Jones

Date: April 27, 2025

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants.

I have emailed copies of these documents to Robert Grantham, Assistant U.S. Attorney for the Middle District of Georgia, at roger.grantham@usdoj.gov.

Respectfully submitted,

Date: April 27, 2025

/s/ Stephanie M. Alvarez-Jones

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