

**II.
PARTIES**

2. Pavlo M. Zinkevych (Petitioner) is a native and citizen of Ukraine. He is in DHS custody, and has been since January 28, 2025.
3. Defendant Josh Johnson is the Acting Director of the Dallas Field Office of Immigration and Customs Enforcement, a division of DHS. Defendant Johnson is the official charged with supervisory authority over all operations of the Dallas Field Office of ICE and is the official who has custody over Petitioner. Defendant Johnson is named in his official capacity only.
4. Defendant Pamela Jo Bondi is the Attorney General of the United States. She has authority over the Board of Immigration Appeals and the immigration courts. Defendant Bondi is named in her official capacity only.
5. Defendant Kristi Noem is the Secretary of Homeland Security. She is charged with the administration of DHS, including ICE. As such, she is the ultimate legal custodian of Petitioner. Defendant Noem is named in her official capacity only.

**III.
JURISDICTION**

6. This court has jurisdiction under 28 U.S.C. section 2241 (habeas corpus), under 28 U.S.C. section 1331 (federal question); and 28 U.S.C. section 1361 (mandamus).

**IV.
VENUE**

7. Venue is proper in this district in accordance with 28 U.S.C. section 1391(e), because Petitioner is detained in this district and Defendant Johnson resides in this district.

**V.
RELEVANT LEGAL AUTHORITY**

8. Under 8 U.S.C. section 1254a(b)(1)(A) nationals of a foreign state whose personal safety would be threatened by an ongoing armed conflict in that state may be granted Temporary Protected Status (TPS).
9. To qualify, an alien who is physically present in the United States must satisfy the requirements of 8 U.S.C. section 1254a(c)(1).
10. First, the applicant must prove he is a national of the TPS designated country (8 C.F.R. §§ 244.9, 1244.9).
11. Second, he must have maintained continuous physical presence in the U.S. since the date of his nation's most recent TPS designation (8 U.S.C. § 1254a(c)(1)(A)).
12. Thirdly, the alien must be admissible to the United States except for any ground of inadmissibility waived by the statute (8 U.S.C. § 1254a(c)(2)(A)).
13. Fourth, he must not have been convicted of any felony or two or more misdemeanors (8 U.S.C. § 1254a(c)(2)(B)).
14. Fifth and last, the applicant must apply for TPS within the established registration period by filing a TPS application (Form I-821) and paying the requisite fee (8 U.S.C. § 1254a(c)(1)(A)(iv)).
15. Under 8 U.S.C. section 1254a(a)(4)(B), an applicant who is prima facie eligible "shall" be provided the benefits of TPS "until a final determination with respect to the alien's eligibility" is made.

16. Those benefits of TPS are that the alien *shall* not be removed from the United States while TPS is in effect *and* that he *shall* receive employment authorization (8 U.S.C. § 1254a(a)(1)(A)).

**VI.
STATEMENT OF FACTS**

17. Petitioner was born on [REDACTED] in Ukraine. (Exhibit 1, Petitioner's Birth Certificate and Certified Translation; Exhibit 2, Petitioner's Passport). He was paroled into the United States on August 13, 2022, under the Ukrainian Humanitarian Parole Program. (Exhibit 3, Admission Record (I-94)); Exhibit 2, p. 10).
18. Petitioner filed an Application for TPS on February 24, 2025. (Exhibit 4, Receipt Notice).
19. Petitioner came to the attention of DHS on or about January 26, 2025, following an arrest on suspicion of driving while intoxicated (DWI). He has *not* been convicted of that, or any other, offense.
20. On or about January 28, 2025, Petitioner posted an appearance bond and the State of Texas released him to the custody of DHS. DHS refused to set a bond for the release Petitioner.
21. On March 10, 2025, DHS initiated removal proceedings against the Petitioner, charging that he is removable under 8 U.S.C. section 1182(a)(7)(A)(i)(I), having no visa or valid entry document. (Exhibit 5, Notice to Appear). DHS has charged no other removal ground.
22. This charged ground of removal is expressly waived by the TPS statute (8 U.S.C. § 1254a(c)(2)(A)). Accordingly, even if the immigration court were to find Petitioner

removable, he would not be disqualified from TPS *and* could not be deported, at least until his TPS Application were finally adjudicated.

23. Once in DHS custody, the Petitioner requested a custody redetermination. However, the Immigration Judge found she lacked jurisdiction to set a bond because Petitioner is an “arriving alien,” by virtue of having been paroled into the U.S. The Immigration Judge therefore denied Petitioner’s request. (Exhibit 6, Order of the Immigration Judge, February 19, 2025).
24. Petitioner’s prima facie eligibility for TPS has been established by his Application and supporting documentation.
25. First, his Ukrainian Passport (Exhibit 2) and his Birth Certificate (Exhibit 1) satisfy the requirement that he establish his nationality, because they prove he is a native of the Ukraine, a TPS designee (8 C.F.R. §§ 244.9, 1244.9). DHS has acknowledged Petitioner’s Ukrainian nationality in the removal proceedings (Exhibit 5), and the Immigration Judge has found that Petitioner is Ukrainian.
26. Also in the removal proceedings, DHS has alleged that the Petitioner arrived in the U.S. on August 22, 2022, at which time he was paroled. (Exhibit 5). The Immigration Judge also found that Petitioner arrived in the United States on that date. Petitioner has never departed the U.S., and thus satisfies the physical presence and continuous residence requirement, because TPS was last designated for Ukraine on October 20, 2023, and he has lived in the U.S. since August 13, 2022—almost one year before the date (August 16, 2023) by which he must have begun living in the U.S. (8 U.S.C. § 1254a(c)(1)(A)).

27. In satisfaction of the third requirement, the Petitioner is admissible to the U.S., except for the ground of inadmissibility expressly waived by the statute (8 U.S.C. § 1254a(c)(2)(A)). Significantly, DHS charges in the removal proceedings that Petitioner is inadmissible on that ground alone. (Exhibit 5).
28. The Petitioner has not been convicted of *any* criminal offense and therefore is not disqualified by having been convicted of any felony or two or more misdemeanors (8 U.S.C. § 1254a(c)(2)(B)). Even if he were convicted of DWI, Petitioner would remain eligible for TPS.
29. By filing his TPS Application on February 24, 2025, and paying the registration fee, Petitioner fulfilled the fifth and last requirement—that he register for TPS between August 21, 2023, and April 19, 2025 (Exhibit 4) (8 U.S.C. § 1254a(c)(1)(A)(iv)).
30. In a pleading in the removal case, DHS has *conceded* that Petitioner is *prima facie* eligible for TPS *and* entitled to its benefits. (Exhibit 7, DHS Opposition to Termination, p. 2, ¶ 3). In that filing,

DHS concedes that the [Petitioner] appears eligible for TPS under section 244(c) of the Immigration and Nationality Act (INA) and has applied for it. Therefore, by virtue of section 244(d)(4) he is entitled to the benefits listed in section 244(a)(1) of the INA. These benefits include (A) temporary protected status in the United States which prevents removal during the period of TPS and (B) authorization for employment.

Id.

31. Despite confessing that Petitioner is entitled to these benefits, DHS is unlawfully withholding those benefits from Petitioner by detaining him. The petitioner is therefore entitled to immediate release from detention.

32. DHS's unlawful detention of the Petitioner also threatens his health. He has a medically documented need for a complex procedure to address a severe chronic periodontal disease. His dentist, Dr. Anna Vasilev, D.M.D., explains that his disease leads to acute abscesses that "can cause life-threatening outcomes," and that he has an untreated abscess. (Exhibit 8, Letter of Anna Vasilev, D.M.D.) Dr. Vasilev adds that Petitioner's condition continues to deteriorate, and "[i]f a long time passes before the procedure is performed, his condition may become too advanced, and put [him] at a high risk of life-threatening complications." *Id.*
33. Upon information and belief, the necessary procedure cannot be performed in any DHS custodial facility.
34. The procedure costs over \$9,500.00, which Petitioner cannot raise without working.
35. In view of these circumstances, the Petitioner requested that DHS expedite the processing of his TPS Application. (Exhibit 9, Request to Expedite Adjudication of TPS Application, April 16, 2025).
36. On May 5, 2025, DHS informed Petitioner that it will not adjudicate TPS Applications from Ukrainian parolees, including Petitioner's, because they are the subject of an "administrative hold," pending "screening and vetting." (Exhibit 10, Notice from Immigration Services Officer, May 5, 2025). The Notice does not predict or estimate how long the "administrative hold" will last. *Id.* As such, it is indefinite. *Id.*
37. DHS's plain refusal to process and adjudicate pending applications—particularly those for which it has collected fees—violates the TPS statute and regulations, the

Administrative Procedures Act, and Petitioner's right to due process.

**VII.
IRREPARABLE INJURY**

38. Petitioner is suffering and will continue to suffer irreparable injury because of the actions of DHS. Every day the Petitioner is held in custody he suffers further injury, which is irreparable.

**VIII.
EXHAUSTION OF ADMINISTRATIVE REMEDIES**

39. Petitioner has exhausted all administrative remedies, and no further administrative remedies remain available.

**IX.
REQUEST FOR RELIEF**

The Petitioner respectfully requests the following relief:

- (1) that this court issue a Writ of Habeas Corpus, directing the Respondents to bring the Petitioner to this court at a time to be specified and explain why Petitioner should not be released from custody immediately;
- (2) that this court issue a declaratory judgment stating that Petitioner's detention is unlawful;
- (3) that this court order that the Petitioner be released from DHS custody immediately;
- (4) that this court enter an order finding that DHS's refusal to fulfill its obligation to process Petitioner's TPS application is unlawful;
- (5) that this court issue an order directing DHS to adjudicate Petitioner's TPS Application within 30 days; and,
- (6) for such other relief, as may be just and appropriate, including costs, expenses, and

reasonable attorney fees.

Respectfully submitted,

/s/ Joseph Reina

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COUNSEL FOR PETITIONER

VERIFICATION

Joseph Reina, being duly sworn upon oath, hereby states: I represent the petitioner in these habeas corpus proceedings. The Petitioner, Pavlo M. Zinkevych, is currently being held in detention and is not able to appear in my office to sign this verification. I have reviewed the record of the removal proceedings, discussed this matter with the petitioner and his family, and I hereby attest that the information contained in this Petition is true incorrect to the best of my knowledge and belief.

/s/ Joseph Reina
Joseph Reina
Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that on the 6th day of May 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

- 1) Chad Meacham
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1100 Commerce Street, Third Floor
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- 2) Josh Johnson
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- 3) Pamela Jo Bondi,
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/s/ Joseph Reina

Joseph Reina

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