

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

NATANAEL DAVID ROSALES-SIRA,

Plaintiff,

v.

**KRISTI NOEM, Secretary of the
United States Department of Homeland Security,
SAM OLSON, Deputy Director of Chicago
Immigration and Customs Enforcement
Field Office, BRISON SWEARINGEN,
Clay County Sheriff,**

Defendants.

Case No. 25 cv 05441

**AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND FOR RELEASE
FROM CUSTODY**

NOW COMES the Plaintiff, NATANAEL DAVID ROSALES-SIRA ("Natanael"), by and through undersigned counsel, and in support of his Amended Petition for Writ of Habeas Corpus and for Release from Custody, states as follows:

PARTIES

1. Plaintiff Natanel David Rosales-Sira is a citizen of Venezuela and has resided in the United States since on or about November 16, 2021.
2. Defendant Kristi Noem is the Secretary for the United States Department of Homeland Security. Secretary Noem is charged with, among other things, administering the Citizenship and Immigration Services and the implementation and enforcement of the Immigration and Nationality Act. Defendant Noem has ultimate decision-making authority over the matters alleged in this Complaint. She is sued in her official capacity.
3. Defendant Sam Olson is the District Director of the Chicago Immigration and Customs Enforcement Field Office. In his capacity, Defendant Olson administers US

immigration enforcement in the state of Illinois and has immediate custody over the Plaintiff. He is sued in his official capacity.

4. Defendant Brison Swearingen is the Sheriff of Clay County, Indiana. In his capacity, Defendant Swearingen operates and oversees the Clay County Jail and has immediate custody over the Plaintiff.

JURISDICTION AND VENUE

5. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

6. Venue is proper in this court pursuant to 28 U.S.C. § 1391 as this is an action against officers and agencies of the United States in their official capacities and brought in this District in which the Plaintiff resides.

7. Venue is further proper under 8 U.S.C. § 1447(b) as Plaintiff resides in this District.

FACTS

8. On February 20, 2024, Respondent was granted Temporary Protected Status (TPS) under 8 U.S.C. § 1254a. See Exhibit A.

9. Respondent's TPS is valid through October 2, 2026 pursuant to an Order entered March 31, 2025 in the United States District Court for the Northern District of California. See Exhibit B.

10. An individual granted TPS status is protected from removal or deportation, is authorized to work in the United States, and has the opportunity to apply for travel authorization.

11. Specifically, TPS under INA § 244 prohibits the Department of Homeland Security from removing a noncitizen while that status is in effect.

12. 8 U.S.C. § 1254a(a)(1)(A) provides that a noncitizen granted TPS "shall not be removed from the United States" during the designation period.

13. On May 15, 2025, Plaintiff Natanael was detained by the Department of Homeland Security ("DHS"), at his residence in Hanover Park, Illinois.

14. Plaintiff Natanael is currently in the custody of DHS.

15. On information and belief, on or about May 16, 2025, Plaintiff was transferred to Clay County Jail in Brazil, Indiana. Clay County Jail operates in part as an ICE detention center.

16. Plaintiff has applied concurrently with this Petition for an Emergency Stay of Removal with the Chicago Immigration and Customs Enforcement Field Office.

17. There remains no adequate administrative remedy.

18. The ultimate authority to interpret federal statutes is vested in the courts of the United States, and not in the administrative agencies charged with enforcing those statutes.

19. Plaintiff remains detained by the government for no lawful reason.

20. Plaintiff has not been charged with any crime.

21. Plaintiff is not a danger to the community or a flight risk. He has no pending criminal cases.

22. Plaintiff has deep roots in this community. Prior to his unlawful detainment, Plaintiff was working and providing for his family, including his U.S. citizen wife. His continued detention deprives his family of his companionship and income.

23. This is a restraint on Plaintiff's liberty in violation of the Constitution and laws and treaties of the United States and this detention is without any lawful or rational basis and is meant only to punish, humiliate, and denigrate Plaintiff.

24. Defendant's decision to detain Plaintiff is without any legal justification whatsoever and is arbitrary and capricious.

**COUNT I
VIOLATION OF DUE PROCESS – FIFTH AMENDMENT**

25. Plaintiff alleges and incorporates by reference paragraphs 1-24 as and for paragraph 25 of this Count I.

26. Defendants have detained Plaintiff despite his TPS designation which forbids Defendants from removing Plaintiff during the designation period.

27. Plaintiff's unlawful detention violates his right to substantive and procedural due process guaranteed by the Fifth Amended to the U.S. Constitution.

**COUNT II
UNLAWFUL DETENTION PURSUANT TO 8 U.S.C. § 1254A AND FEDERAL
INJUNCTION**

28. Plaintiff alleges and incorporates by reference paragraphs 1-24 as and for paragraph 28 of this Count II.

29. Plaintiff is protected from removal under 8 U.S.C. § 1254a(a)(1)(A), which prohibits the removal of any noncitizen during the effective period of TPS. Defendants have detained Plaintiff despite his TPS designation which forbids Defendants from removing Plaintiff during the designation period.

30. Plaintiff's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

31. DHS's attempt to remove or detain Plaintiff for removal directly contradicts the plain language of the statute and the January 2025 extension of Venezuelan TPS through October 2, 2026.

32. ICE's conduct further violates the injunction issued by the Northern District of California, which preserved TPS protections for all eligible Venezuelan nationals.

COUNT III

33. Should Plaintiff prevail, Plaintiff requests attorneys fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this honorable court:

1. Order the Defendants to bring the Plaintiff before this Court;
2. Order the Defendants to immediately release Plaintiff from custody;
3. Issue a preliminary and permanent injunction from taking Plaintiff into custody;
4. Grant attorney's fees and costs of court to Plaintiff under the Equal Access to Justice Act and any other relief this honorable court deems appropriate.

Respectfully submitted,

/s/ Zachary Reynolds
Zachary Reynolds

Cunningham Lopez LLP
Attorneys for Plaintiff
120 W Madison St., Suite 611
Chicago, Illinois 60602
312-419-9611
ARDC # 6330333

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner's wife the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: May 16, 2025

/s/ Zachary Reynolds