

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

NATANAEL DAVID ROSALES-SIRA,)	
)	
Plaintiff,)	
v.)	Case No. 25 cv 05441
)	
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.)	

**PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION AND FOR ORDER TO SHOW CAUSE**

NOW COMES the Plaintiff, NATANAEL DAVID ROSALES-SIRA ("Natanael"), by and through undersigned counsel, and in support of his Emergency Motion for Temporary Restraining Order and Preliminary Injunction and for Order to Show Cause, states as follows:

INTRODUCTION

Plaintiff seeks an emergency Order enjoining Defendants from removing Natanael David Rosales-Sira from the United States. Natanael has resided in the United States since November, 2021. On February 20, 2024, Natanael was granted Temporary Protected Status ("TPS") which prevents his removal from the United States. Plaintiff's TPS is valid through October 2, 2026 pursuant to March 31, 2025 Order in the United States District Court for the Northern District of California in Case No. 3:25-cv-1766.

Despite his protected status, on May 15, 2025, Plaintiff was detained by the Department of Homeland Security at his residence in Hanover Park, Illinois and moved to the Broadview, Illinois detention center. On or about May 16, 2025, Natanael was transferred to the Clay

County detention center in Brazil, Indiana. Natanael has not been charged with any crime and there is no basis for his initial or continued detainment.

On May 19, 2025, the Supreme Court ordered a stay of the March 31, 2025 Order entered in Case No. 3:25-cv-1766, pending the disposition of the appeal in the Ninth Circuit and disposition of a petition for writ of certiorari.

Plaintiff requests an Order preventing Defendants from removing Plaintiff from the United States pending the outcome of the appeal in the Ninth Circuit Case No. 3:25-cv-1766 and further Order of the Supreme Court. Plaintiff further requests an Order to bring Plaintiff before this Court under the Court's inherent habeas corpus authority.

FACTS

1. On February 20, 2024, Plaintiff was granted Temporary Protected Status (TPS) under 8 U.S.C. § 1254a. See Dkt. 1-2. Plaintiff's TPS was granted under the 2023 Venezuela Designation.
2. Pursuant to the notice, Plaintiff's TPS was valid through April 2, 2025. See Dkt. 1-2.
3. On January 17, 2025, notice was published in the Federal Register granting an extension of 2023 Venezuela TPS Designations through October 2, 2026. (See Exhibit 1).
4. On February 3, 2025, notice was published in the Federal Register purporting to vacate the January 17, 2025 notice and eliminate the 2023 Venezuela TPS extension. (See Exhibit 2).
5. On March 31, 2025, the United States District Court for the Northern District of California in Case No. 3:25-cv-1766 entered an Order staying the governments actions to vacate the extension of the 2023 Designation and to terminate the 2023 Designation. (See Dkt. 1-3).

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

7. On May 15, 2025, Plaintiff filed a Petition for Writ of Habeas Corpus and for Release from Custody. (See Dkt. 1). Said Petition was since amended as of right. (See Dkt. 5).

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

9. 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.

10. On May 19, 2025, the Supreme Court ordered a stay of the March 31, 2025 Order entered in Case No. 3:25-cv-1766, pending the disposition of the appeal in the Ninth Circuit and disposition of a petition for writ of certiorari. (See Exhibit 3). The Ninth Circuit Court of Appeals previously set a briefing schedule on the merits of the matter and is currently set for hearing in July, 2025. (See Exhibit 4).

LAW

11. A plaintiff seeking a preliminary injunction or temporary restraining order must show 1) some likelihood of success on the merits, 2) no adequate remedy at law exists, 3) that it will suffer irreparable harm if the injunction is not granted. *Cumulus Radio Corporation v. Olson*, 80 F.Supp.3d 900, 904 (C.D. Ill 2015). If the first three requirements are met, the Court balances the relative harms of the parties and the public and weighs all factors using a sliding scale approach. *Id.* “The more likely it is the plaintiff will succeed on the merits, the less balance of irreparable harms need weigh towards its side; the less likely it is the plaintiff will succeed, the more the balance need weigh toward its side.” *Abbott Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 12 (7th Cir. 1992).

ARGUMENT

I. Plaintiff is Likely to Succeed on the Merits of His Due Process and Unlawful Detention Claims.

12. A petition seeking habeas corpus relief is appropriate under 28 U.S.C. § 2241 when a petitioner is challenging the fact or duration of his confinement. *Ochoa v. Kolutwenzew*, 464 F.Supp.3d 972, 980 (C.D. Ill. 2020). Habeas corpus has been recognized as an appropriate vehicle through which noncitizens may challenge their civil immigration detention on constitutional grounds. *Id.* at 981.

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

14. Plaintiff is likely to proceed on the merits of his Claims. Here, Plaintiff was detained by Defendants on May 15, 2025, despite his TPS status, which, at the time of detainment, was unequivocally in effect until October 2, 2026. Plaintiff was detained without being charged with any crime or any other act. Plaintiff was detained and shipped off to at least two different detention centers and currently at the time of this filing remains at the Clay County Jail in Brazil, Indiana.

15. Defendants have not given any justification, and indeed none exists, to initially or continuously detain Plaintiff. Instead, as has been seen countless times since January 20, 2025, Defendants have decided to detain and conceal any individual, here the Plaintiff, on a whim, deny them any process, while they seek to deport them. Unfortunately for Defendants, this runs afoul of the very bedrock constitutional protections within the Constitution and Fifth Amendment.

16. While the Supreme Court stayed the March 31, 2025 Order entered in Case No. 3:25-cv-1766, Defendants must not deport any individual, including Plaintiff, *as his TPS status remains in effect* until resolution of that Case and/or pending further official vacatur notice of the Department of Homeland Security.

17. As Plaintiff is likely to succeed on the merits, this factor weighs heavily in Plaintiff's favor.

II. No Adequate Remedy at Law Exists and Plaintiff is Likely to Suffer Irreparable Harm Should Relief Not be Granted.

18. Plaintiff is likely to be deported should Defendants not be enjoined from removing him from the United States. Defendants have made clear since January 20, 2025 that they will stop at nothing, including disobeying Orders of the Supreme Court, to deport immigrants. *See* Order entered April 10, 2025, *Noem et al v. Kilmar Armando Abrego Garcia*.

19. Indeed, should relief not be granted, Plaintiff would be deported to Venezuela, a country that the State Department has issued a Level 4: Do Not Travel Advisory. The State Department advises "Do not travel to or remain in Venezuela due to the high risk of wrongful detention, torture in detention, terrorism, kidnapping, arbitrary enforcement of local laws, crime, civil unrest, and poor health infrastructure...Do not travel to Venezuela for any reason." ([https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Venezuela.html?gad_source=1&gad_campaignid=44031958015&gbraid=0AAAAqbBk5urn-iDq-ferZ3MvG-N9OXR&gclid=CjwKCAjwraVBBhBjEiwAIr30VKhvt9emCN49VdUFR0_MzbDx57B8jo1dYt5vUs34UtcGyvIBsUiSSBoC1EsQAvD_BwE](https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Venezuela.html?gad_source=1&gad_campaignid=44031958015&gbraid=0AAAAAqbBk5urn-iDq-ferZ3MvG-N9OXR&gclid=CjwKCAjwraVBBhBjEiwAIr30VKhvt9emCN49VdUFR0_MzbDx57B8jo1dYt5vUs34UtcGyvIBsUiSSBoC1EsQAvD_BwE), last accessed May 19, 2025).

20. Nor does any adequate remedy at law exist. As of this filing, the 2023 TPS Designation status of hundreds of thousands of Venezuelan immigrants, including Plaintiff,

remains up in the air. Judging by Defendant Noem's previous actions, seeking to vacate Plaintiff's status entirely, it is anticipated that Defendant will seek to immediately deport Plaintiff, despite the Supreme Court's May 19, 2025 Order and prior to the Ninth Circuit's resolution of the merits of Defendant's attempt to terminate the Plaintiff's TPS.

21. Plaintiff would suffer the very model of irreparable harm should the relief not be granted. Plaintiff would be deported, despite protected status forbidding Defendants from doing so, to a country acknowledged by Defendants to be dangerous. This factor weighs entirely in Plaintiff's favor.

III. Balance of Equities Favors Plaintiff Remain in the United States and Released from Custody.

22. The balance of equities favors Plaintiff. Plaintiff has resided in the United States since November, 2021 and lawfully obtained his TPS in February, 2024. Plaintiff has deep roots in his community, working and providing for his family, including his U.S. citizen wife. Plaintiff has not been charged with any crime immediately preceding his detention. Plaintiff is not a danger to the community nor a flight risk.

23. There is further a public interest in Plaintiff remaining in the United States and being released. The public must remain confident in its legal systems and lawful immigration orders, such as here where Plaintiff has abided by the legal process and obtained a protected status through October 2, 2026.

24. Measured against the irreparable injury Plaintiff faces if he remains detained and subsequently deported, Defendants have little to no interest or right to detain or deport him. Plaintiff has a lawful status forbidding Defendant from deporting him through at least October 2, 2026, or pending resolution of the Ninth Circuit decision and possible determination thereafter

by the Supreme Court. However, at this time, *Plaintiff's TPS status remains through October 2, 2026 and he cannot, by law, be deported prior to that date.*

IV. This Court May Grant Relief Through Habeas Corpus Authority or Through Its Inherent Powers to Remedy Constitutional Harms.

25. Plaintiff has been detained for four days now with no opportunity to be heard. Plaintiff is detained despite a protected status pursuant to 8 U.S.C. § 1254a(a)(1)(A) and despite no action being taken against Plaintiff to revoke his protected status nor any accusation of any crime.

26. Relief is also appropriate either as a grant of a writ of habeas corpus pursuant to the Court's 28 U.S.C. § 2241 powers or under 28 U.S.C. § 1331 to remedy constitutional due process claims. Under either, this Court has the authority to Order Plaintiff's immediate release by issuing a temporary restraining order or preliminary injunction. Plaintiff requests that this Court exercise that authority.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this honorable court grant his Emergency Motion for Temporary Restraining Order and Preliminary Injunction and enter an Order:

1. Preventing Defendants from taking any action to deport Plaintiff pending further order of this court and resolution of the Ninth Circuit appeal in Case No. 3:25-cv-1766 or further order of the Supreme Court regarding the same;
2. Order the Defendants to bring the Plaintiff before this Court;
3. Order the Defendants to immediately release Plaintiff from custody;
4. Any other relief this honorable court deems appropriate.

Respectfully submitted,

/s/ Zachary Reynolds

Respectfully submitted,

/s/ Alexandra Reed-Lopez

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**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 Emergency Motion for Temporary Restraining Order and Preliminary Injunction are true and correct to the best of my knowledge.

Dated: May 19, 2025

/s/ Zachary Reynolds