UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Jean Emmanuel Pierre,

Petitioner,

v.

Pamela Bondi, Attorney General;

Kristi Noem, Secretary, U.S. Department of Homeland Security;

Peter Berg, Director, Ft. Snelling Field Office Immigration and Customs Enforcement;

and,

Eric Tollefson, Sheriff of Kandiyohi County.

Respondents.

25-2248

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Respondents are detaining Petitioner, Mr. Jean Emmanuel Pierre ("Pierre") in violation of law.

2. Pierre has challenged his removal and custody through the immigration court. See Exh. 4; Exh. 5; Exh. 6; Exh. 7.

3. The continued detention of Pierre serves no legitimate purpose.

4. To remedy this unlawful detention, Pierre seeks declaratory and injunctive relief in the form of immediate release from detention.

5. Pending the adjudication of his Petition, Pierre seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to- day operations of U.S. Customs and Immigration's ("ICE") Ft. Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota.

6. Pending the adjudication of this Petition, Petitioners also respectfully request that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Pierre.

7. Pierre requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hours-notice prior to any removal or movement of him away from the State of Minnesota.

JURISDICTION AND VENUE

8. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1254a.

9. Because Pierre seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

10. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. Demore v. Kim, 538 U.S. 510, 516–17 (2003); Jennings v. Rodriguez, 138 S. Ct. 830, 839–41 (2018); Nielsen v. Preap, 139 S. Ct. 954, 961–63 (2019); Sopo v. U.S. Attorney Gen., 825 F.3d 1199, 1209-12 (11th Cir. 2016).

11. Federal district courts have jurisdiction to enforce 8 U.S.C. § 1254a(d)(4). This statute, 8 U.S.C. § 1254a(d)(4), prohibits the detention of individuals maintaining temporary protected status.

12. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Pierre is detained within this District. He is currently detained at the Kandiyohi County Law Enforcement Center in Willmar, Minnesota. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

13. Petitioner Jean Emmanuel Pierre is a native and citizen of Haiti. See Exh. 11; Exh. 12. Pierre entered the United States in 2010 with a valid B-2 visa. Exh. 12. Pierre subsequently applied for temporary protected status. Id. USCIS granted his application and all subsequent extension applications. Exh. 1; Exh. 12. Pierre has a timely extension application pending with USCIS at the time of this petition. See Exh. 3; Exh. 9. Pierre has traveled several times with TPS travel authorization consistent with 8 U.S.C. § 1254(a)(f)(4). See Exh. 2. Pierre is not an arriving alien. Pierre is currently in custody at the Immigration and Customs Enforcement ("ICE") in Willmar, Minnesota.

14. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares

responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Pierre. Attorney General Bondi's official address is 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

15. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Ft. Snelling ICE Field Office, and is legally responsible for pursuing Pierre's detention and removal. As such, Respondent Noem is a legal custodian of Pierre. Secretary Noem's official address is 2707 Martin Luther King Jr. Avenue SE, Washington, D.C. 20528.

16. Respondent Peter Berg is being sued in his official capacity as the Field Office Director for the Ft. Snelling Field Office for ICE within DHS. In that capacity, Field Director Berg has supervisory authority over the ICE agents responsible for detaining Pierre. The address for the Ft. Snelling Field Office is 1 Federal Drive, Ft. Snelling, Minnesota 55111.

17. Respondent Sheriff Eric Tollefson is being sued in his official capacity as the Sheriff responsible for the Kandiyohi County Law Enforcement Center.

Because Petitioner is detained in the Kandiyohi County Law Enforcement Center, Respondent has immediate day-to-day control over Petitioner. The address for the Kandiyohi County Sheriff's Office is 2201 NE 23rd St., Suite 101, Willmar, Minnesota 56201.

EXHAUSTION

18. ICE asserts authority to jail Pierre pursuant to the mandatory detention provisions of 8 U.S.C. § 1225. No statutory requirement of exhaustion applies to Pierre's challenge to the lawfulness of his detention. See, e.g., Araujo-Cortes v. Shanahan, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.").

19. To the extent that prudential consideration may require exhaustion in some circumstances, Pierre has exhausted all effective administrative remedies available to him as he has sought bond and sought to reconsider the Immigration Judge's finding that he is ineligible twice. See Exh. 4; Exh. 5; Exh. 7. Any further efforts would be futile.

20. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." McCarthy v. Madigan, 503 U.S. 140, 148 (1992), superseded by statute on other grounds as stated in Woodford v. Ngo, 548 U.S. 81 (2006).

21. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." McCarthy, 503 U.S. at 147. Every day that Pierre is unlawfully detained causes him and his family irreparable harm. Jarpa v. Mumford, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); Matacua v. Frank, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); Hamama v. Adducci, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

22. Prudential exhaustion is additionally not required in cases where the agency "lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute." McCarthy, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Pierre raises here. See, e.g., Matter of C-, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); Matter of Akram, 25 I. & N. Dec. 874, 880 (BIA 2012);

Matter of Valdovinos, 18 I. & N. Dec. 343, 345 (BIA 1982); Matter of Fuentes-Campos, 21 I. & N. Dec. 905, 912 (BIA 1997); Matter of U-M-, 20 I. & N. Dec. 327 (BIA 1991).

23. Because requiring Pierre to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.

24. In any event, Pierre has indeed exhausted all remedies available to him. Pierre has sought his release in a bond hearing to no avail.

25. The immigration court denied bond because it incorrectly believes Pierre is an arriving alien. See Exh. 4; Exh. 5; Exh. 7. The immigration court incorrectly determined that Pierre stopped maintaining his temporary protected status in 2019. See Exh. 6; Exh. 7.

26. Pierre, in fact, has maintained his temporary protected status since 2011. See Exh 1; Exh. 2; Exh. 3; Exh. 12. Pierre had an application for an extension of his temporary protected status pending prior to his detention consistent with instructions set forth in the federal register. See Exh. 3; Exh. 9; Exh. 12. Respondents' records confirm this fact.

27. No additional administrative remedies exist under the law to challenge detention that violates 8 U.S.C. § 1254a(d)(4).

28. 8 U.S.C. § 1254a(d)(4) does not require exhaustion. It is a non-discretionary directive prohibiting the detention of individuals who hold temporary protected status.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

29. Pierre is a native and citizen of Haiti. Exh. 12.

30. Pierre was initially lawfully admitted as a B-2 visitor on January 25, 2010. Id.

31. On June 25, 2010, Pierre applied for TPS, but this initial application was denied. Id.

32. Pierre again applied for temporary protected status on November 15, 2011. USCIS approved this application on January 11, 2012. Id.

33. Pierre has subsequently applied for and received all extensions of his temporary protected status benefit consistent with the requirements announced in the Federal Register. See Extension of the Designation of Haiti for Temporary Protected Status, 77 FR 59,943 (Oct. 1, 2012); Extension of the Designation of Haiti for Temporary Protected Status, 79 FR 11,808 (Mar. 3, 2014); Extension of the Designation of Haiti for Temporary Protected Status, 80 FR 51,582 (Aug. 25, 2015); Extension of the Designation of Haiti for Temporary Protected Status, 82 FR 23,830 (May 24, 2017).

34. On January 18, 2018, Respondents sought to terminate TPS Haiti, *see* Termination of the Designation of Haiti for Temporary Protected Status, 83 Fed. Reg. 2,648 (Jan. 18, 2018), but were enjoined from doing so in Ramos v. Nielsen, 321 F.Supp.3d 1083 (N.D. Cal. Oct. 3, 2018), which challenged the termination of TPS for Haiti, among other countries. The district court ordered the automatic extension of TPS during the pendency of the case through the issuance of a preliminary injunction on October 3, 2018.

35. On Sept. 14, 2020, in Ramos, et al. v. Wolf, et al., 975 F.3d 872 (9th Cir., Sept. 14, 2020), the U.S. Court of Appeals for the Ninth Circuit vacated the district court's decision but did not issue a directive to the district court to terminate the injunction and that injunction remained in effect until the Ninth Circuit's decision vacating the district court decision was itself vacated on February 10, 2023. See Ramos v. Wolf, 59 F.4th 1010, 1011 (9th Cir. 2023).

36. To comply with the court's injunction, on December 9, 2020, Respondents announced that "Beneficiaries under the TPS designation for Haiti will retain their TPS while either of the preliminary injunctions in Ramos or Saget remain in effect, provided that an alien's TPS is not withdrawn because of individual ineligibility." 85 Fed. Reg. 79,208 (Dec. 9, 2020).

37. Through this action, Respondents "extend[ed] the validity of TPS-related documentation for beneficiaries under the TPS designations for [ ] Haiti … for nine months through October 4, 2021." Id.

38. This extended Pierre's TPS pursuant to the Ramos injunction.

39. Pursuant to his TPS status, Pierre applied for and received TPS travel authorization on July 1, 2021.

40. With his most recent TPS travel authorization, Pierre exited and then returned to the United States on August 10, 2021, through the Ft. Lauderdale Port of Entry. Exh. 2.

41. U.S. Customs and Border Protection inspected Pierre and admitted Pierre into the country. US Customs & Border Protection stamped "paroled until August 8, 2022" on this TPS travel document, though this was not the correct legal description of Pierre's entry status. Id.

42. Pursuant to the Federal Register Vol. 87, No. 220 released on November 16, 2022, USCIS specifically announced the following action for the continuation of TPS for all impacted Haitian beneficiaries of the 2011 TPS designation of Haiti. The 2011 TPS designation of Haiti was identified in the Ramos litigation. It stated:

> Extension of the designation of Haiti for TPS from Feb. 4, 2023, through Aug. 3, 2024, and the redesignation of Haiti for TPS from Feb. 4, 2023, through Aug. 3, 2024. Individuals who held TPS prior to the new designation and who wish to ensure that

> they maintain TPS if the Ramos injunction ends, provided that they remain eligible for TPS, are encouraged to submit their applications for TPS following the instructions in the extension and re-designation of Haiti for TPS FRN (88 FR 5022). Failure to submit an application under the new designation of Haiti, however, does not affect the continuation of the validity of the TPS and TPS documents through June 30, 2024 if the individual was granted TPS under the 2011 designation for Haiti that the court has continued as long as the injunction exists, and as described in this notice.

87 Fed. Reg. 68,717 (Nov. 16, 2022).

43. On July 1, 2024, Respondents "extend[ed] the designation of Haiti for Temporary Protected Status (TPS) and redesignat[ed] Haiti for TPS for 18 months, beginning on August 4, 2024, and ending on February 3, 2026." Exh. 9.

44. "The extension allow[ed] existing TPS beneficiaries to retain TPS through February 3, 2026, if they otherwise continue[d] to meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish[ed] to extend their status through February 3, 2026, [had to] re-register during the 60-day re-registration period" that ran "from July 1, 2024, through August 30, 2024." Id.

45. The subsequent partial vacatur announced in Federal Register Vol. 90, No. 35, did not alter the fact that Pierre has maintained his TPS benefit. It merely changed the end date to August 30, 2025. See 90 Fed. Reg. 10,511 (Feb. 24, 2025).

46. USCIS's site today confirms this interpretation. It states,

> If you were granted TPS under the Haiti 2011 designation which was the subject of the Ramos litigation, your TPS and related benefits ended June 30, 2024. For more information, please see the November 2022 FRN. Current beneficiaries covered under the *Ramos* litigation must re-register according to the latest FRN related to TPS for Haiti to receive TPS and related benefits through Aug. 3, 2025.

https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti.

47. Pierre filed his application during the mandatory 60-day period for seeking an extension of his 2011 TPS benefit by filing on July 31, 2024. This application remains pending. See Exh. 3.

48. Respondents took Pierre into custody on April 1, 2025, when USCBP encountered Pierre in North Dakota. Exh. 12.

49. Respondents served its Notice to Appear on Pierre, alleging that he is an arriving alien because of his authorized travel. Exh. 11.

50. Respondents maintain Pierre is ineligible for release from custody.

51. Pierre sought a custody redetermination hearing before the immigration court sitting in Ft. Snelling, Minnesota.

52. The immigration court denied the request, asserting Pierre is an arriving alien. Exh. 4.

53. Pierre filed a motion to reconsider the bond decision, which was denied. Exh. 5.

54. Pierre filed a motion to terminate the removal proceedings. Pierre asserted his not an arriving alien and therefore not removable under 8 U.S.C. § 1182.

55. The immigration court denied Pierre's motion to terminate. Exh. 6.

56. Pierre filed a second motion to reconsider his bond decision simultaneously with the motion to terminate. This motion was denied as well. Exh. 7.

57. Both the motion to reconsider and motion to terminate focused on what Pierre's legal status is today and the authority of the government to hold him in custody as a TPS beneficiary and an individual previously admitted to the United States in B-2 status through a duly recognized port of entry.

58. Both motions to reconsider and the motion to terminate were denied. See Exh. 5; Exh. 6; Exh. 7.

59. Pierre filed a motion to reconsider the termination request. This motion is still pending. Respondents have filed their opposition to this motion.

LEGAL FRAMEWORK: TPS & DETENTION

60. "An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that-

> (i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States, or
> (ii) the alien is described in section 1158(b)(2)(A) of this title.

8 U.S.C. § 1254a(c)(2)(B).

61. "An alien provided temporary protected status under this section **shall not be detained** by the Attorney General on the basis of the alien's immigration status in the United States." 8 U.S.C. § 1254a(d)(4) (emphasis added).

62. "Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section." 8 U.S.C. § 1254a(d)(1).

63. In the absence of the termination of TPS, "such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved **and any extension of such period**." 8 U.S.C. § 1254a(d)(2).

64. As of today, by operation of law, Pierre is a TPS beneficiary with no disqualifying criminal history. Respondents cannot detain Pierre lawfully.

LEGAL FRAMEWORK: ARRIVING ALIENS

65. "An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1).

66. "All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3).

67. "If an immigration officer determines that an alien … who is arriving in the United States … is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum." 8 U.S.C. § 1225(b)(1)(A)(i) (emphasis added).

68. "If the officer determines at the time of the interview that an alien has a credible fear of persecution … the alien shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added).

69. "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

70. "Read most naturally, §§ 1225(b)(1) and (b)(2) mandate detention of applicants for admission until certain proceedings have concluded. Until that

point, nothing in the statutory text imposes a limit on the length of detention, and neither provision says anything about bond hearings." Jennings v. Rodriguez, 583 U.S. 281, 282 (2018)

71. By regulation, "[a]*rriving alien* means an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport. An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked." 8 C.F.R. § 1.2.

72. "[A]n immigration judge may not redetermine conditions of custody imposed by the Service with respect to … [a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act." 8 C.F.R. § 1003.19(h)(2)(i)(B).

73. As such, arriving aliens are not entitled to bond.

74. By contrast, for most aliens in removal proceedings, "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General … may release the alien on

bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General." 8 U.S.C. § 1226(a)(2)(A).

LEGAL FRAMEWORK: TPS TRAVEL

75. TPS recipients "may travel abroad with the prior consent" of the Department of Homeland Security (DHS). 8 U.S.C. § 1254a(f)(3).

76. Section 304(c)(1)(A) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Pub. L. 102-232, 105 Stat. 1733, 1749 (December 12, 1991) (codified as amended at 8 U.S.C. § 1254a, Note 3), provides in pertinent part that a TPS recipient whom the Secretary of Homeland Security authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization "shall be inspected and admitted in the same immigration status the alien had at the time of departure ...."

77. USCIS issues form I-512L advance parole to facilitate travel under 8 U.S.C. § 1244 because it has yet to promulgate a TPS travel document notice.

78. Matter of Z-R-Z-C-, Adopted Decision 2020-02 (AAO Aug. 20, 2020) specifically addressed whether Pierre was paroled and therefore an arriving alien. Z-R-Z-C- ruled that a person reverts to the status the person held prior to the travel with TPS parole. Under Z-R-Z-C-, Respondent is either a B-2 overstay or admitted "TPS Status."

79. Z-R-Z-C- specifically disavowed this travel under 8 U.S.C. § 1254a(f)(4) as parole. It interpreted the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 to indicate that, "In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization **the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure**." Pub. L. 102–232, title III, §304(c)(1)(A), Dec. 12, 1991, 105 Stat. 1749 (emphasis added).

80. USCIS subsequently conceded that travel with TPS Travel Authorization still satisfied the inspected and admitted requirement of 8 § U.S.C. 1225(a). This clarification did not alter Z-R-Z-C- and its core holding – TPS authorized travel is not parole travel. It is statutorily authorized travel independent of parole authority.

81. USCIS issued Matter of Z-R-Z-C-, Adopted Decision 2020-02 (AAO Aug. 20, 2020). PM-602-0179, on August 20, 2020. Z-R-Z-C- is clear that the person returns back to the person's status that he or she had when he or she initially arrived in the United States before receiving TPS and is not a paroled.

82. Pierre entered the United States with a valid B-2 visa in 2010. Exh. 12. He subsequently traveled after Z-R-Z-C-. Under Matter of Z-R-Z-C- and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pierre is not a parolee or arriving alien.

83. In a July 2022 policy announcement, USCIS, which is a department within Respondent Noem's Department of Homeland Security, articulated how it views travel with its duly issued travel document. It stated:

> USCIS will no longer use the advance parole mechanism to authorize travel for TPS beneficiaries, but will instead provide a new TPS travel authorization document. This document will serve as evidence of the prior consent for travel contemplated in INA 244(f)(3) and serve as evidence that the bearer may be inspected and admitted into TPS pursuant to MTINA if all other requirements are met.
>
> TPS beneficiaries whom DHS has inspected and admitted into TPS under MTINA, subsequent to that inspection and admission, will have been "inspected and admitted" and are "present in the United States pursuant to a lawful admission," including for purposes of adjustment of status under INA 245. This is true even if the TPS beneficiary was present without admission or parole when initially granted TPS.

USCIS PM-602-0188, Rescission of Matter of Z-R-Z-C- (July 1, 2022) (clarifying the impact of travel with TPS travel permission on 245(a) and adjustment of status).

84. USCIS specifically clarified in USCIS PM-602-0188 that its guidance does not apply to anyone who traveled on another form of parole. It stated:

> This guidance does not apply to travel undertaken by noncitizens whose TPS was not valid for the duration of travel, who traveled without obtaining advance authorization under INA 244(f)(3), who did not return in accordance with prior authorization under INA 244(f)(3), who were not inspected at a designated port of entry, who were found to be inadmissible on the grounds specified in INA 244(c)(2)(A)(iii) when returning from authorized travel, or who were paroled or permitted to enter the United States on a basis other than the TPS-based travel authorization.

85. There was no other form of parole available to Pierre. Pierre could not have been granted and traveled with TPS travel permission in 2021 if his TPS expired in 2019. See Exh. 2.

REMEDY

86. Respondents' detention of Pierre under U.S.C. § 1225(a) violates the Due Process Clause of the United States Constitution. Pierre's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." Zadvydas, 533 U.S. at 690 (citing Jackson v. Indiana, 406 U.S. 715, 738 (1972)).

87. Pierre seeks immediate release from custody.

88. In the alternative, Pierre seeks a constitutionally adequate custody redetermination hearing in which he is not erroneously treated as an arriving

alien and in which the burden be placed on the government at that hearing, such that the government must justify his prolonged detention by clear and convincing evidence.

89. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, I.N.S. v. St. Cyr, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. Boumediene v. Bush, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

90. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. See, e.g., Munaf v. Geren, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); See also Wajda v. US, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody.").

91. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," Schlup v. Delo, 513 U.S. 298, 319 (1995), and that as an equitable

remedy, federal courts "[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters 'as law and justice require.'" Hilton v. Braunskill, 481 U.S. 770, 775 (1987), quoting 28 U.S.C. § 2243. An order of release falls under court's broad discretion to fashion relief. See, e.g., Jimenez v. Cronen, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) ("Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

92. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT ONE: VIOLATION OF 8 U.S.C. § 1254a(d)(4).

93. Pierre re-alleges and incorporates by reference the paragraphs above.

94. 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.

95. Pierre's detention is in violation under 8 U.S.C. § 1254a(d)(4). Section 1254a(d)(4) states "[a]n alien provided temporary protected status under this section **shall not be detained** by the Attorney General on the basis of the alien's immigration status in the United States." (emphasis added). There is no exception to this rule provided in the statute.

96. Respondent must release Pierre without any conditions, including bond or other monitoring requirements.

COUNT TWO: DECLARATORY RELIEF

97. Pierre re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

98. Pierre requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Pierre is not an arriving alien under the law.

99. Pierre requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Pierre is eligible for release from Respondents' custody.

COUNT THREE: VIOLATION OF 8 U.S.C. § 1226(a).

100. Pierre re-alleges and incorporates by reference the paragraphs above.

101. Section 1226 of Title 8 of the U.S. Code governs the detention of aliens pending a determination of removal from the United States.

102. Such an alien "may [be] release[d] … on bond of at least $1,500." 8 U.S.C. § 1226(a)(2)(A).

103. The denial of Pierre's bond eligibility is in violation of 8 U.S.C. § 1226(a)(2)(A), which specifically makes him eligible for bond.

104. If Respondents do not release Pierre without any conditions, he must be afforded a bond hearing in which a neutral arbiter determines whether he poses either a danger or flight risk.

COUNT FOUR: VIOLATION OF THE FIFTH AMENDMENT

105. Pierre re-alleges and incorporates by reference the paragraphs above.

106. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

107. Pierre is not an arriving alien as a matter of law and therefore not subject to mandatory custody under the Immigration & Nationality Act.

108. Pierre's detention is forbidden and therefore unreasonable under 8 U.S.C. § 1254a(d)(4) and in violation of the Fifth Amendment's guarantee of due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Jean Emmanuel Pierre, asks this Court for the following relief:

1. Assume jurisdiction over this matter;

2. Issue an order restraining Respondents from attempting to move Pierre from the State of Minnesota during the pendency of this petition;

3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Pierre;

4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153;

5. Order Pierre's immediate release, or, alternatively, order Respondents hold a bond hearing consistent with 8 U.S.C. § 1226(a);

6. Declare that Pierre's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;

7. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

8. Enjoin Respondents from further detaining Pierre so long as TPS for Haiti remains in effect and he continues to hold TPS status.

9. Grant Pierre reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

10. Grant any and all further relief this Court deems just and proper.

DATED: May 27, 2025

Respectfully submitted,

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Attorneys 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 Petitioner's attorneys. I and others working under my supervision have discussed with the Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's TPS status, are true and correct to the best of my knowledge.

/s/ David L. Wilson, Esq. Date: May 27, 2025