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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Antonio Javier Zea-Soto,

Petitioner,

v.

Warden, Delaney Hall Detention Facility; John Tsourakis, Field Office Director, Newark Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities,*

Respondents.

Case No.:

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

Petitioner, Antonio Javier Zea-Soto (“Mr. Zea-Soto” or “Petitioner”), by and through his undersigned counsel, as his complaint and petition, states as follows:

PRELIMINARY STATEMENT

1. This action seeks to remedy Respondents' unlawful detention of Petitioner.
2. Mr. Zea-Soto's ongoing detention by the Department of Homeland Security ("DHS") Immigration and Customs Enforcement ("ICE") plainly contravenes the clear non-detention provision of the Temporary Protected Status ("TPS") statute of the Immigration and Nationality Act ("INA") - a provision which is eligible to Mr. Zea-Soto as a beneficiary of active TPS.
3. Mr. Zea-Soto holds active TPS, granted pursuant to the October 3, 2023 redesignation of TPS for Venezuela. While the history of TPS for Venezuela is complex, what matters for this habeas petition is only that this status remains in effect, pursuant to the order of a federal court.
4. In fact, on September 5, 2025, a federal court "set aside" the government's prior attempt end TPS for Venezuela (terminating the 2023 designation and vacating the January 17, 2025 extension of the designation until October 2, 2026). *See National TPS Alliance v. Noem*, 2025 WL _____, 25-CV-01766 (N.D. Cal. Sep. 5, 2025). The district court has nationwide application and immediate effect. *Id.* To date, no stay of this order has been granted. Accordingly, the operative agency action governing TPS for Venezuela is and remains the January 17, 2025 decision which extended TPS for Venezuela through October 2, 2026. *See* 90 Fed. Reg. 5961.
5. Yet, despite this, and despite his counsel's requests that Respondents release Mr. Zea-Soto since the district court order, Mr. Zea-Soto remains detained by Respondents, within this Court's jurisdiction, and in violation of both statutory law and constitutional protections.
6. In short, there is no basis for detention while Petitioner has TPS.

INTRODUCTORY ALLEGATIONS

7. Antonio Javier Zea-Soto is a Venezuelan national with no criminal history and a record of diligence and compliance in regards to his pursuit of lawful immigration status in the United States. *See* Exhibit A, DHS Form I-213.
8. Mr. Zea-Soto holds current, active TPS. *See* Exhibit B, TPS Approval Notice. This status was granted to Mr. Zea-Soto pursuant to the October 3, 2023 redesignation of TPS for Venezuela. *See* 88 Fed. Reg. 68130 (Oct. 3, 2023). Mr. Zea-Soto's TPS remains in effect pursuant to the January 17, 2025 extension of the Venezuela TPS designation. *See* 90 Fed. Reg. 5961 (Jan. 17, 2025). Per this extension, Mr. Zea-Soto's TPS remains in effect until October 2, 2026. *Id.*
9. Because Mr. Zea-Soto holds active TPS, his detention by Respondents is contrary to law. The TPS statute provides, in relevant part, that “[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.” 8 U.S.C. § 1254a(d)(4) (emphasis added).
10. Despite this, Mr. Zea-Soto remains detained by ICE at the Delaney Hall Detention Facility (“Delaney Hall”), in Newark, New Jersey. *See* Exhibit A, DHS Form I-213; Exhibit C, ICE Detainee Locator result *accessed* September 17, 2025. ICE has failed to respond to Mr. Zea Soto’s requests that they release him.
11. Mr. Zea-Soto's detention not only violates statute, also violates his constitutional Due Process rights; his detention serves no legitimate government purpose where Mr. Zea-Soto's removal is not just unforeseeable, *see, Zadvydas v. Davis* 533 U.S. 678 (2001); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 231 (3d Cir. 2011), in light of his active TPS, removal

of Mr. Zea-Soto would be blatantly unlawful. *See* 8 U.S.C. 1254a(a)(1)(A) (the government “shall not remove” a non-citizen granted TPS “during the period in which such [TPS] status is in effect.”)

12. Accordingly, Mr. Zea-Soto herein challenges his ICE detention as a violation of the clear statutory language of the INA’s TPS provisions, and as a violation of his rights pursuant to the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

13. Mr. Zea-Soto respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to immediately effect his release from custody.

14. Petitioner seeks such relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas”) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

CUSTODY

15. Petitioner is in the physical custody of Respondents. Mr. Zea-Soto is held in ICE custody at the Delaney Hall Detention Facility, an immigration detention facility, in Newark, New Jersey, operated by contract between private and government Respondents. *See* Exhibit C, ICE Detainee Locator result *accessed* September 17, 2025. Petitioner is thus under the direct control of Respondents and their contracted agents.

JURISDICTION

16. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. Amend. V; and the Suspension Clause, U.S. Const. art. I, § 2.

VENUE

17. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C. 2242 because at least one Respondent is in this District, because Petitioner is detained in this District, because Petitioners' immediate physical custodian is located in this District, and because a substantial part of the events giving rise to the claims in this action took place in this District. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. 2242) (cleaned up).

PARTIES

18. Petitioner, Antonio Javier Zea-Soto, is a Venezuelan national and TPS holder, currently detained by Respondents at Delaney Hall, in Newark, New Jersey. *See* Exhibit A, DHS Form I-213; Exhibit C, ICE Detainee Locator result *accessed* September 17, 2025.
19. Mr. Zea-Soto has been in ICE custody since August 9, 2025, when he was apprehended by DHS while attending a scheduled check-in appointment at the Mount Laurel, New Jersey field office of ICE Enforcement and Removal Operations ("ERO"). *See* Exhibit A, DHS Form I-213. At the time of his arrest, Mr. Zea-Soto was issued a Notice to Appear, DHS Form I-862, which was filed thereafter with the Executive Office of Immigration Review ("EOIR"), Immigration Court in Elizabeth, New Jersey, thus initiating his removal proceedings. *See* Exhibit A, DHS Form I-213.
20. Respondent, Warden¹ is warden and administrator of Delaney Hall, where Mr. Zea-Soto currently detained. They are Mr. Zea-Sotos's immediate custodian. They are sued in their official capacity.

¹ One of petitioner's counsel, Ms. Strandburg-Peshkin, is an attorney employed by American Friends Service Committee ("AFSC"), a non-profit legal services organization, and numerous other *pro bono* legal services provider. Since the opening of Delaney Hall in early 2025,

21. Respondent, John Tsoukaris, is the Field Office Director of the ICE Newark Field Office and is the federal agent charged with overseeing all ICE detention centers in New Jersey, including Delaney Hall. Mr. Tsoukaris is a legal custodian of Mr. Zea-Soto and is sued in his official capacity.
22. Respondent, Todd M. Lyons, is Acting Director of ICE. As the senior official performing the duties of Director of ICE, he is responsible for the administration and enforcement of the immigration laws and is legally responsible for pursuing any effort to confine, remove, accept bond payment for, and release of a noncitizen in ICE custody; as such he is a legal custodian of Mr. Zea-Soto. He is sued in his official capacity.
23. Respondent, Kristi Noem, is the Secretary of the United States Department of Homeland Security (“DHS”). She is a legal custodian of Petitioner and is named in her official capacity.
24. Respondent, Pamela Jo Bondi, is the Attorney General of the United States Department of Justice (“DOJ”). She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

25. Mr. Zea Soto, with his partner, entered the United States on or around September 3, 2022, via the United States-Mexico border. *See* Exhibit A, DHS Form I-213. He promptly presented himself to U.S. authorities, expressed his intent to seek asylum, and was released by DHS officers on a grant of parole, pursuant to 8 U.S.C. § 1182(d)(5). *See id.*; *See* Exhibit D, Alien Booking Record and I-94 Parole. Mr. Zea Soto’s parole was terminated by its expiration, on

numerous legal services attorneys, including Ms. Strandburg-Peshkin's colleagues at AFSC, have sought to obtain the name of the warden of Delaney Hall, including by calling the facility and requesting the warden’s name from employees of the facility. In all instances, these employees have refused to provide the information requested.

November 7, 2022. *Id.* Mr. Zea-Soto thereafter reported to ICE, as requested. *See* Exhibit E, DHS Form G-56. He was then released on recognizance, with ICE reporting requirements. *See id;* Exhibit A, DHS Form I-213; Exhibit F, DHS Form I-220R.

26. For the next three years, Mr. Zea-Soto diligently complied with the terms of his release, including by reporting to ICE ERO in Mount Laurel, New Jersey. *See, e.g.* Exhibit A, DHS Form I-213.
27. During the same three-year period, Mr. Zea-Soto filed three affirmative applications with United States Citizenship and Immigration Services (“USCIS”) - a DHS sub-agency. First, Mr. Zea-Soto timely applied for asylum, filing his Form I-589 Application *pro se*. *See* Exhibit G, USCIS Receipt Notice for Form I-589; Exhibit A, DHS Form I-213. Second, he applied for and was granted employment authorization. *See* Exhibit H, Employment Authorization Document; Exhibit A, DHS Form I-213.
28. On October 3, 2023, the government published the redesignation of TPS for Venezuela, permitting new initial registrations of Venezuelan nationals present and residing in the United States since on or before July 31, 2023. *See* 88 Fed. Reg. 68130 (Oct. 3, 2023).
29. Mr. Zea Soto filed his initial TPS application timely, pursuant to the redesignation, on December 26, 2023. *See* Exhibit I, Petitioner’s Form I-821 Initial TPS Application. USCIS approved this application on July 24, 2024. *See* Exhibit B, TPS Approval Notice. The approval notice grants Mr. Zea-Soto TPS until either the lawful termination or expiration of the designation of Venezuela for TPS, *or* until USCIS takes affirmative action to withdraw TPS, following approval. *See, Exhibit B, TPS Approval Notice* (stating that “failure to re-register during a TPS extension re-registration period *may* result in the withdrawal of your TPS” (emphasis added)).

30. On January 17, 2025, prior to the expiration of the 2023 designation, the government published a notice automatically and immediately extending TPS protection to beneficiaries granted TPS under either the 2021 or the 2023 designations of TPS for Venezuela. *See* 90 Fed. Reg. 5961. The extension notice explicitly “allows existing TPS beneficiaries to *retain* TPS through October 2, 2026, if they otherwise continue to meet the eligibility requirements for TPS.” *Id* (emphasis added).
31. On January 28, 2025, the incoming administration issued a notice, purporting to vacate the January 17, 2025 extension of TPS for Venezuela. *See* U.S. Citizenship & Immigration Services, *Vacatur of 2025 Temporary Protected Status Decision for Venezuela*, Jan. 10, 2025 (effective Jan. 28, 2025), *available at* <https://www.uscis.gov/sites/default/files/document/notices/Venezuela-Vacatur-FR-SIGNED.pdf> This vacature is now void with regard to Mr. Zea-Soto, by the September 5, 2025 District Court order. *See National TPS Alliance v. Noem*, 2025 WL _____, 25-CV-01766 (N.D. Cal. Sep. 5, 2025).
32. On February 5, 2025, the administration published a notice purporting to terminate the October 3, 2023 designation of TPS for Venezuela, with termination effective April 7, 2025, and to thus expressly supersede the January 17, 2025 extension of the 2023 redesignation. The February 5, 2025 notice has also now been rendered void with regard to Mr. Zea-Soto, by way of the September 5, 2025 order of the district court. *See National TPS Alliance v. Noem*, 2025 WL _____, 25-CV-01766 (N.D. Cal. Sep. 5, 2025).
33. On April 27, 2025, Mr. Zea-Soto filed a timely TPS re-registration application, pursuant to the January 17, 2025 TPS extension. *See* Exhibit J, USCIS Receipt Notice for Form I-821; Exhibit A, DHS Form I-213.

34. Currently, and since May of 2025, the USCIS' online case status tracker continues to list Mr. Zea-Soto's re-registration application as timely-filed and pending before USCIS. *See* Exhibit K, USCIS Case Status *accessed* September 9, 2025.
35. On September 9, 2025, Mr. Zea-Soto's *pro bono* attorney, Danielle Strandburg-Peshkin, sent an email to the ICE office and relevant supervisory officials at the Newark/Elizabeth Field Offices of ICE ERO. Attached, Ms. Strandburg-Peshkin provided a formal request and exhibits supporting and providing the legal basis for Mr. Zea-Soto's release. *See* Exhibit L, Email correspondence *dated* September 9, 2025. The message cited the TPS statute's non-detention provision, included evidence of Mr. Zea-Soto's TPS status, and attached the recent Court order restoring TPS for Venezuela pursuant to the January 17, 2025 extension, through October 2, 2026. *Id.* It also included a form G-28 proof of legal representation. *Id.*
36. Over the week that followed, Ms. Strandburg-Peshkin sent at least three additional email correspondences to relevant ICE ERO supervisory officials, and made over five attempts at telephone communication.
37. To date, no response has been received by anyone in the relevant supervisory chain regarding requests for Mr. Zea-Soto's release, and Respondents have provided no recorded reasoning as to the justification for Mr. Zea-Soto's continued detention.
38. On September 5, 2025, the EOIR Board of Immigration Appeals issued a precedential decision in *Matter of Yajure Hurtado*, in which it aligned EOIR's position with that of DHS as articulated in a July 8, 2025 DHS policy memorandum. Following *Matter of Yajure Hurtado*, it is now EOIR's express position that all non-citizens who have not been admitted after inspection are "applicants for admission" per 8 U.S.C. § 1225(a)(1), and are subject to the "shall be detained" subclause of 8 U.S.C. § 1225(b)(2)(A), stripping EOIR

of jurisdiction to make custody redeterminations in the cases of non-citizens detained by ICE and deemed to be in this procedural position. *See* 29 I&N Dec. 216 (BIA 2025).

39. The standard custody determination document, DHS Form I-286, explicitly asserts the discretionary detention provision at 8 U.S.C. 1226 as the detention authority governing the listed non-citizen's detention. Yet there is no record of any Form I-286 issued in Mr. Zea-Soto's case, nor any written record of DHS custody determination authorizing his detention by DHS on or after August 9, 2025.

40. In the absence of any record custody determination by DHS in Mr. Zea-Soto's case, there is no mechanism for Mr. Zea-Soto to request a custody redetermination by EOIR.²

41. Moreover, on September 15, 2025, the Immigration Judge presiding in Mr. Zea-Soto's EOIR removal proceedings stated, on the record, during a preliminary hearing in the removal case, that he would not find EOIR jurisdiction over Mr. Zea Soto's custody, pursuant to *Matter of Yajure Hurtado*. *See* 29 I&N Dec. 216 (BIA 2025).

42. Accordingly, where exhaustion by way of a bond motion to the Immigration Court would be futile, no custody redetermination by EOIR should be required for this Court to exercise its jurisdiction in this matter.

LEGAL FRAMEWORK

43. The Court need analyze only one statutory provision to resolve this habeas petition. The

² Petitioner reserves the right to raise additional constitutional and statutory arguments raised by the government's claim that his detention is governed by the mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A), rather than the discretionary detention provision at 8 U.S.C. § 1226(a). The Court need not reach these issues should this matter be decided on the basis of the TPS statute and the constitutional implications of detention of a non-citizen with active TPS. Petitioner thus reserves the right to fully brief the arguments regarding 8 U.S.C. § 1225(b)(2)(A) detention should the TPS legal landscape shift in a manner which materially alters the arguments dependent on his holding of that status.

TPS statute unambiguously provides that “[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.” 8 U.S.C. 1254a(d)(4) (emphasis added). It is hard to imagine a clearer statutory mandate proscribing detention.³

44. The Court need not delve further in an attempt to understand other aspects of Petitioner’s immigration status; TPS protection is expressly valid regardless of whether the TPS holder has or lacks any other form of lawful immigration status. *See* 8 U.S.C. 1254a(a)(1)(A) (the government “shall not remove the alien from the United States during the period in which such [TPS] status is in effect.”).
45. Since his August 9, 2025 detention, Mr. Zea-Soto has been in EOIR removal proceedings, yet even non-citizens who have completed removal proceedings, been denied relief, or have a final or reinstated removal order, all remain statutorily eligible for TPS, and may not be denied TPS – or its statutory benefits – on the basis of their presence or lack of other immigration status; 8 U.S.C. 1254a(a)(5) (TPS statute provides no authority to “deny temporary protected status to an alien based on the alien’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).
46. It is also irrelevant that Mr. Zea-Soto's TPS *re*-registration application remains pending and timely-filed, but has not yet been adjudicated by USCIS. *See* Exhibit J, TPS Re-registration Receipt Notice; Exhibit K, USCIS Case Status tracker *accessed* September 9, 2025.
47. The TPS statute, implementing regulations, language in relevant USCIS policy memoranda and TPS-related documents, and federal register notices at issue in this matter, all

³ “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.

consistently demonstrate that TPS status – and attendant detention and removal prohibitions – do not lapse for a non-citizen previously granted TPS by USCIS, who is subject to an active current TPS designation, and who has filed a timely application for re-registration, while that application remains pending.

48. First, the TPS statute supports this understanding. Once a TPS holder has been granted such status – in fact, even during the pendency of an *initial* application – statutorily-defined benefits automatically adhere, including the prohibition on ICE detention while TPS is active. *See* 8 U.S.C. § 1254a(a)(1)(A)–(B). Moreover, the statute makes clear that TPS status and its benefits continue unchanged – without any further action by the non-citizen – unless and until one of several defined events is found to provide basis for DHS to act affirmatively to withdraw the TPS status of a beneficiary for whom there remains an active TPS designation. *See* 8 U.S.C. 1254a(c)(3). To this end, once a non-citizen is granted TPS, even that person’s failure to timely re-register when required does not automatically nor necessarily require the withdrawal of their TPS protection. *Id.* Rather, the statute requires, in relevant part, that DHS “withdraw temporary protected status granted to an alien under this section if ... (C) the alien fails, without good cause, to register with the Attorney General annually, at the end of the 12-month period after the granting of such status...” 8 U.S.C. 1254a(c)(3)(C). Accordingly, even failure to timely register does not inherently abate TPS protections once an initial application has been granted, and the presence of a possible good cause exception further clarifies that TPS and its benefits remain in effect during pending re-registration, absent withdrawal of an individual’s TPS by DHS’ affirmative action.

49. Here, DHS has not taken any such affirmative action to withdraw Mr. Zea-Soto's TPS, as

indicated by the fact that his re-registration application remains pending. *See* Exhibit K, USCIS Case Status tracker, *accessed* September 9, 2025. There is also no reason to believe that Mr. Zea-Soto would meet any of the bases established by the statute for TPS to be withdrawn by the DHS. Accordingly, the statutory text clearly demonstrates that Mr. Zea-Soto's TPS is current and active.

50. The language employed throughout the January 17, 2025 extension notice also demonstrates that the status of those already approved for TPS should remain undisturbed during pending and timely re-registration. The notice states its purpose as to “allow[] existing TPS beneficiaries to *retain* TPS through October 2, 2026, if they otherwise continue to meet the eligibility requirements.” *Id* (*emphasis added*). Moreover, while re-registration is required, the term has consistently been used to mean to mean the act of submitting a re-registration application, rather than the approval of such application by the DHS. *Id*. Were this not the case, the punitive consequences of failure to timely re-register without good cause would be illogical on their face. The intent at continuity of status is also clear from the manner in which the notice addresses certain benefits in detail, focusing on those which require documentation. *Id*. For example, employment authorization documents issued prior to the extension notice are auto-extended by proof of the extension notice alone, along with proof of prior TPS status, to allow time for processing of re-registration applications. *Id*.
51. Moreover, Mr. Zea-Soto exercised particular diligence in applying for TPS re-registration five months ago, within weeks of the pre-extension end date of the 2023 designation. *See* Exhibit J, TPS Re-registration Receipt Notice. The fact that his application remains pending at this time is, per implications in DHS Form I-213, most likely a result of DHS’ unlawful attempts to terminate and vacate the January 17, 2025 extension, thus stalling the

adjudication of his re-registration.

52. Accordingly, Mr. Zea-Soto is a current beneficiary of TPS, because a federal court has found the government's attempt to end TPS for Venezuela – and terminate the previously-authorized extension of TPS for Venezuela – to have been unlawful actions which accordingly are now void, restoring TPS status for individuals, including Mr. Zea-Soto, who were granted TPS and timely applied for re-registration under the January 17, 2025 extension of TPS for Venezuela.
53. On the basis of the aforementioned reasons alone, this Court should grant the writ and order Petitioner's immediate release. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).
54. Should the Court nonetheless choose to address constitutional questions, it should also find that Petitioner'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).
55. Petitioner's detention violates the Fifth Amendment's protection for 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 has no authority to deport Petitioner, detention is not reasonably related to any legitimate purpose.
56. Second, because the TPS statute bars Petitioner's deportation, he is not "deportable" in the manner required to trigger a lower standard for the interest balancing applied in due process claims adjudication. *See Demore*, 538 U.S. at 528 (applying less rigorous standard for

“deportable aliens”). Accordingly, where the TPS statute bars Mr. Zea-Soto's 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”). Here – and particularly, but not necessarily, where Mr. Zea-Soto lacks any criminal history which might suggest any danger to the community, nor any other indication of the government’s basis for detaining him – there is no manner in which to reasonably construe Petitioner’s ongoing deprivation of liberty as adequately narrowly tailored to meet this rigorous standard.

57. Finally, “the Due Process Clause includes protection against *unlawful* or arbitrary personal restraint or detention.” *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001) (Kennedy, J., dissenting) (emphasis added). Here, as aforementioned, federal law explicitly prohibits the detention of Mr. Zea-Soto where he is a TPS beneficiary. This violation of statute – particularly where DHS has been clearly notified of the illegality of Mr. Zea-Soto's ongoing detention – is also consequently a constitutional violation.
58. Finally, it is irrelevant for purposes of this case that Petitioner’s TPS status may, at some unknown future date, again be deemed expired, if the government successfully obtains a stay of the September 5, 2025 district court order restoring the January 17, 2025 TPS extension. The TPS statute’s unambiguous command – that TPS holders should not be detained nor removed – continues to apply so long as the status does remain active, to any approved TPS holder whose approval USCIS has not withdrawn.
59. The September 5, 2025 court order explicitly applied the order nationwide. *See National*

TPS Alliance v. Noem, 2025 WL _____, 25-CV-01766 (N.D. Cal. Sep. 5, 2025). Thus, it would not be appropriate for this Court (or any other) to speculate on the order’s validity, as it remains in effect. Rather, this Court should decide this petition on the current state of affairs, under which Petitioner remains an active holder of TPS, as a result of which his detention is unlawful, and should be ended.

CLAIMS FOR RELIEF

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

60. Petitioner realleges and incorporates by reference each and every allegation contained above.
61. 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.
62. 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.
63. Thus, Petitioner’s detention violates Section 1254a, and he is entitled to immediate release from custody.

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

64. Petitioner realleges and incorporates by reference each and every allegation contained above.
65. 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. See generally *Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

66. Petitioner'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, Petitioners pray that this 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, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. 2243;
3. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. 1254a(d)(4);
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 Petitioners from further detaining Petitioner so long as TPS for Venezuela remains in effect and he continues to hold TPS status;
7. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act,

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 have discussed with 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/ Danielle Strandburg-Peshkin

Date: September 14, 2025