

II. PARTIES

3. Petitioner Gabriel Alexander Guaicara Chauran is a citizen and national of Venezuela in valid TPS status who is currently detained by the Respondents at the STIPC in Pearsall, Texas.

4. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and is charged with implementing the immigration laws of the United States. Secretary Noem is being sued in her official capacity.

5. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement (ICE), a sub-agency of DHS. It is under ICE's authority that the Petitioner is being held without bond. Acting Director Lyons is being sued in his official capacity.

6. Respondent Miguel Vergara is the San Antonio ICE Field Office Director. It is under Respondent Miguel Vergara's order that the Petitioner is in immigration custody. Respondent Vergara is being sued in his official capacity.

7. Respondent Bobby Thompson is the Warden and/or immediate custodian at the STIPC. Respondent Thompson is sued in his official capacity.

III. JURISDICTION

8. This Court has subject matter jurisdiction over Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court also has jurisdiction pursuant to 28 U.S.C. § 1331 (Federal Question Jurisdiction) since the case is a civil action arising under the laws of the United States.

9. Although only the Court of Appeals has jurisdiction to review removal orders directly through a petition for review, *see* 8 U.S.C. §§ 1252(a)(1), (a)(5), (b), District Courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or

constitutionality of their detention by ICE. *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687–88.

10. Venue is proper in this district because the Petitioner is detained within this district, and a substantial amount of the events giving rise to this claim occurred within this district. 8 U.S.C. § 1391(e)(1).

IV. TEMPORARY PROTECTED STATUS FOR VENEZUELAN

11. In 8 U.S.C. § 1254a(b)(1) and (c), Congress enacted a process to provide TPS for certain noncitizens designated by the Secretary of DHS “after consultation with appropriate agencies of the Government”

12. Critically, “[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).

13. Noncitizens who qualify for TPS are eligible for work authorization and “shall not [be] remove[d] from the United States during the period in which such status is in effect.” 8 U.S.C. § 1254a(a)(1)(A-B). Even qualifying individuals with a final order of removal are eligible for TPS and may not be denied TPS based upon a removal order. 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).

14. Venezuela was first designated by the Respondents as deserving TPS on or around March 9, 2021. *See Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure*, 86 FR 13574 (Mar. 9, 2021). The initial designation provided TPS for Venezuelans who had been

continually physically present in the United States since March 9, 2021. This initial designation was extended twice, ultimately providing TPS holders lawful status and work authorization through September 10, 2025. *See Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 FR 68130 (Oct. 3, 2023).

15. On October 3, 2023, the Respondents redesignated Venezuela for TPS. *Id.* The redesignation extended TPS status to those Venezuelans physically present in the United States since October 2, 2023. The redesignation provided TPS status to qualified Venezuelans through April 2, 2025. However, on January 17, 2025, Secretary of Homeland Security Alejandro Mayorkas extended the redesignation by 18 months, or until October 2, 2026. *See Extension of the 2023 Designation of Venezuela for Temporary Protected Status*, 90 FR 5961 (Jan. 17, 2025).

16. Secretary Mayorkas also consolidated the TPS designations for Venezuela allowing those 2021 designees to also receive the extension through October 2, 2026.

17. On January 28, 2025, the new Secretary of Homeland Security Kristi Noem vacated her predecessor's decision to consolidate and extend TPS for Venezuelans. *See Vacatur of 2025 Temporary Protected Status Decision for Venezuela*, 90 FR 8805 (Feb. 3, 2025).

18. On February 5, 2025, Secretary Noem entered an order terminating the extension of the 2023 designation for Venezuelans with the effective date being April 7, 2025. *See Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*, 90 FR 9040 (Feb. 5, 2025). Thus, Venezuelans falling under the 2023 designation were advised that their status expires on April 7, 2025. The 2021 designation was not terminated but was set to expire without an extension on September 10, 2025.

19. On February 19, 2025, the National TPS Alliance filed a class action lawsuit in the Northern District of California. Complaint, *Nat'l TPS All., et al. v. Noem, et al.*, No. 3:25-cv-

01766-EMC(N.D. Cal. Feb. 19, 2025), ECF No. 1. The lawsuit alleged that Secretary Noem's orders vacating and terminating TPS violated the Administrative Procedures Act (APA).

20. On March 31, 2025, the District Court entered an order postponing the Respondents' decision to vacate and terminate TPS for Venezuelans pending resolution of the lawsuit. *See Nat'l TPS All. v. Noem*, 773 F. Supp. 3d 807 (N.D. Cal. 2025). The Respondents appealed the District Court's order to the Ninth Circuit Court of Appeals. They also moved the District Court to stay its order postponing the termination and vacatur of TPS while the case is pending on appeal. *Nat'l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 U.S. Dist. LEXIS 65363 (N.D. Cal. Apr. 4, 2025). The District Court and the Ninth Circuit both denied the government's motion to stay the order of postponement. *Id.*; *Nat'l TPS All. v. Noem*, No. 25-2120, 2025 U.S. App. LEXIS 9436 (9th Cir. Apr. 18, 2025).

21. On May 19, 2025, the Supreme Court of the United States granted the government's motion to stay the postponement of the order terminating TPS for Venezuelans. However, in its order granting the stay, the Supreme Court stated:

[t]his order is without prejudice to any challenge to Secretary Noem's February 3, 2025 vacatur notice [on Venezuela] insofar as it purports to invalidate EADs [employment authorization documents], Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates [i.e., the date provided for by Secretary Mayorkas's extension]. See 8 U.S.C. § 1254a(d)(3).

Noem v. Nat'l TPS All., 221 L.Ed.2d 981, 981–82 (2025).

22. On remand, based on the above language from the Supreme Court order, the District Court granted the TPS holders' motion to preserve their status and rights under the TPS statute issued to them prior to Secretary's Noem's February 5, 2025, decision terminating TPS for Venezuela. *Nat'l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 U.S. Dist. LEXIS 103572 (N.D. Cal. May 30, 2025). In other words, those TPS status holders who had already received TPS benefits retained

their benefits. As the District Court stated: those TPS holders who “received TPS-related documentation based on the Mayorkas extension anytime up to and including February 5, 2025,” retain TPS benefits. *Id.* at *19.

23. On September 5, 2025, the District Court entered a final order finding that the government’s decision to terminate TPS for Venezuelans violated the APA. *Nat’l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 U.S. Dist. LEXIS 174048 (N.D. Cal. Sep. 5, 2025). The Court specifically set aside, or vacated, Secretary Noem’s decision to cancel TPS for Venezuelans.

24. The District Court’s final decision restores Secretary Mayorkas’ January 17, 2025, extension of TPS for Venezuelans.

25. United States Citizenship and Immigration Services’ (USCIS) website now reflects that the TPS extension is in place for Venezuelans who applied for benefits under the January 17, 2025 notice from Secretary Mayorkas. *See Exh. A, Temporary Protected Status Designated Country: Venezuela*, USCIS.GOV, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last visited Sept. 18, 2025).

V. FACTS

26. The Petitioner is a citizen of Venezuela who entered the United States on or about August 14, 2022.

27. He timely applied for TPS benefits under the 2023 redesignation available for Venezuelans. On December 11, 2023, the Respondents issued him a work authorization valid from December 11, 2023, through April 2, 2025. *See Exh. B* (Employment Authorization Document or EAD).

28. On January 27, 2025, ten days after Secretary Mayorkas’ announcement extending TPS for Venezuelans to October 2026, the Petitioner filed to renew his work authorization. *See Exh. C* (Form I-797, Receipt Notice).

29. Under the District Court's order preserving benefits while litigation is ongoing, the combination of an EAD that expires on or before April 2, 2025, along with a USCIS filing receipt showing that an application for EAD renewal was received by USCIS on or before February 5, 2025, automatically extends TPS benefits through October 2, 2026. The Respondents are aware about this extension. Indeed, USCIS posted the notice on their website acknowledging that the extension of TPS benefits. *See Exh. D* (USCIS notice).

30. The Petitioner, therefore, is in TPS status based on at least two federal court decisions. First, the September 5, 2025, decision setting aside Secretary Noem's decision to vacate TPS for Venezuelans falling under the 2023 redesignation. Second, the Petitioner holds TPS status under the District Court's interim ruling preserving his TPS benefits while litigation is ongoing.

31. Nonetheless, on or around August 17, 2025, the Respondents arrested the Petitioner and placed him into custody in Pearsall, Texas at the STIPC.

32. The Petitioner has been criminally charged twice for driving while under the influence of alcohol. Importantly, the pending charges have not resulted in a conviction. Under the TPS statute, mere arrests/charges do not render an applicant ineligible for TPS benefits. Rather, noncitizens who have been "**convicted** of any felony or 2 more misdemeanors committed in the United States . . ." are ineligible. 8 U.S.C. § 1254a(c)(2)(B)(i). As such, the Petitioner's arrest history does not provide a basis for terminating TPS or his unlawful detention in immigration custody.

33. The Petitioner, through counsel, alerted the Respondents about the Petitioner's TPS status and his unlawful detention on multiple occasions. *See Exh. E* (Counsel's emails). The Respondents did not respond.

34. Although the Petitioner holds TPS protection and therefore is not amenable to deportation, on September 10, 2025, ICE served him with a notice to appear (NTA) before an immigration judge (IJ) for a removal hearing. He has an initial master hearing set for September 29, 2025.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

35. The Petitioner has exhausted his administrative remedies to the extent required by law.

36. The IJ will not entertain a bond hearing under 8 U.S.C. § 1226 based on the wrongly decided, but precedential decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which holds that noncitizens who entered the country without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Filing for a bond before the IJ, as such, would be futile.

VII. CLAIMS FOR RELIEF

37. The Petitioner alleges and incorporates by reference the paragraphs alleged above.

Count 1. Statutory claim

38. The Petitioner has a clear right under statute not to be detained.

39. The Respondents are detaining the Petitioner in direct violation of 8 U.S.C. § 1254a(d)(4), which states 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.”

40. The statute cannot be clearer and requires the Petitioner’s release from custody.

Count 2. Fifth Amendment Due Process

41. The Petitioner has a weighty liberty interest as his freedom “from government . . . detention . . . lies at the heart of the liberty that [the Fifth Amendment] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

42. Petitioners' 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*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690). Since the government has no authority to deport Petitioner, detention is not reasonably related to its purpose.

43. Second, because Petitioner is not "deportable" insofar as the TPS statute bars his deportation, the Due Process Clause requires that any deprivation of Petitioner's 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"); *Demore*, 538 U.S. at 528 (applying less rigorous standard for "deportable aliens"). The Respondents cannot show a compelling state interest to continue to detain the Petitioner when the TPS statute provides that the governmental interest is to not detain TPS holders.

44. Third, at a bare minimum, "the Due Process Clause includes protection against *unlawful* or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an individual's detention, their detention is unlawful and, as such, violates the Due Process Clause.

45. It is irrelevant that the government may, at some unknown time in the future, successfully terminate Petitioner's TPS. The TPS statute's unambiguous command applies so long as the TPS holder's status remains in effect. It contains no exception for people whose TPS status may be terminated. And, as noted above, a court has set aside the government's attempt to end TPS for Venezuelans. It is not appropriate for this Court (or any other) to speculate on the likely outcome

of any appeal that may be filed. Rather, it should decide this petition on the state of affairs as they currently exist, under which Petitioner remains a TPS holder, and has now been illegally imprisoned for approximately one month.

PRAYER FOR RELIEF

For the foregoing reasons, Petitioner requests that the Respondents be cited to appear and that, upon due consideration, the Court enter an order:

- a. Granting this writ of habeas corpus and declare that the Petitioner's custody is unlawful;
- b. Ordering that the Petitioner be released from custody;
- c. Enjoin Respondents from further detaining Petitioner so long as TPS for Venezuela remains in effect and he continues to hold TPS status;
- d. Granting Petitioner such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2241

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.

Dated: September 18, 2025

/s/ Kathrine Russell
Kathrine Russell