

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF KENTUCKY**

MICHAEL ALEXANDER CHACON RIOS,

Petitioner,

v.

MIKE LEWIS, Jailer, Hopkins County Jail;
SAMUEL OLSON, Field Office Director, Chicago
Field Office, 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.

Civil Action No.: 4:25CV-108-BJB

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

INTRODUCTION

1. Michael Alexander Chacon Rios (“Mr. Chacon Rios” or “Petitioner”) holds Temporary Protected Status (TPS) under 8 U.S.C. 1254a. The TPS statute 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). That protection remains available even if the TPS holder has a final removal order or lacks other immigration status, because the government “shall not remove the alien from the United States during the period in which such [TPS] status is in

effect.” 8 U.S.C. 1254a(a)(1)(A). *See also* 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”); 8 U.S.C. 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-based protection to “otherwise deportable” noncitizens).

2. While the government has attempted to terminate TPS for Venezuela, a federal court recently found that termination unlawful. As that court explained, its ruling applies nationwide, and it has gone into effect immediately. *See NTPSA v. Noem*, No. 25-cv-01766, 2025 WL 2578045 (N.D. Cal. Sep. 5, 2025). *See also NTPSA v. Noem*, No. 25-2120, 2025 WL 2487771 (9th Cir. 2025) (affirming preliminary relief order that had been stayed by Supreme Court).
3. Despite this unambiguous statutory command, Mr. Chacon Rios is currently detained by U.S. Immigration and Customs Enforcement (ICE).
4. Mr. Chacon Rios challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
5. Mr. Chacon Rios respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody. Mr. Chacon Rios seeks habeas 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

6. Mr. Chacon Rios is in the physical custody of Respondents in this District. He is imprisoned at Hopkins County Jail, an immigration detention facility in Madisonville, Kentucky. Respondent Lewis is the direct physical custodian of Mr. Chacon Rios. Respondents Olson, Lyons, Noem, and Bondi are the legal custodians of Mr. Chacon Rios.

JURISDICTION

7. 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

8. 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, Mr. Chacon Rios is detained in this District, Mr. Chacon Rios' immediate physical custodian is located in this District, and 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

9. Mr. Chacon Rios is currently detained by Respondents at Hopkins County Jail, an immigration detention facility. He has been in Immigration and Customs Enforcement ("ICE") custody since June 2025, when he was arrested by ICE in Illinois.
10. Respondent Lewis is the Jailer of the Hopkins County Jail facility, where Mr. Chacon Rios is currently detained. He is the physical custodian of Mr. Chacon Rios and is named in his official capacity.
11. Respondent Olson is the Field Office Director responsible for the Chicago Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Mr. Chacon Rios and is named in his official capacity.
12. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Mr. Chacon Rios and is named in his official capacity.

13. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Mr. Chacon Rios and is named in her official capacity.

14. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Mr. Chacon Rios and is named in her official capacity.

STATEMENT OF FACTS

15. Mr. Chacon Rios is a native of Venezuela who came to the United States in 2022. He has lived in Illinois for three years. His U.S. citizen partner is due to give birth any day to their first child, with an expected delivery date of September 18, 2025. Exh. E.

16. Mr. Chacon Rios was served with a Notice to Appear in March 2024 and was granted Temporary Protected Status on December 26, 2024. *See* Exh. A. Mr. Chacon Rios timely filed to renew his TPS on September 10, 2025. *See* Exh. B. Although the history and current procedural status of TPS for Venezuela may be somewhat complex, *see infra* ¶¶ 24-26, all that matters for purposes of this habeas petition is that TPS for Venezuela remains in effect, and that Mr. Chacon Rios continues to hold TPS status.

17. ICE officers took Mr. Chacon Rios into custody in June 2025 and promptly transferred him to Hopkins County Jail, where he has remained since then.

18. On September 11, 2025, Counsel for Mr. Chacon Rios sent an email to ICE at the Chicago Field Office. The message cited the TPS statute's non-detention provision and the recent court order restoring TPS for Venezuela. It also included as an attachment Mr. Chacon Rios's proof of TPS status and receipt of his application for TPS renewal. Exh. C. On September 16, 2025, Counsel sent a similar email to ICE Enforcement and Removal Operations and the appropriate supervising staff. Counsel has received no response to either of these communications.

19. Mr. Chacon Rios' TPS was originally granted through April 2, 2025, consistent with the 2023 Venezuela designation. On January 17, 2025, then-DHS Secretary Mayorkas extended the 2023 Venezuela TPS designation through October 2, 2026. 90 Fed. Reg. 5961 ("January 2025 TPS Extension"). On January 28, 2025, DHS Secretary Noem purported to "vacate" the January 17 extension and terminate the 2023 Venezuela designation.

20. The ensuing litigation history is complex, but all that matters for purposes of this habeas petition is that TPS for Venezuela remains in effect for everyone who held it, whether under the 2021 or 2023 designations. On Friday, September 5, 2025, a federal court "set aside" the federal government's attempt to end TPS for Venezuela. The ruling made clear that it applies nationwide and went into effect immediately. *See National TPS Alliance v. Noem*, 2025 WL 2578045, 25-CV-01766 (N.D. Cal. Sep. 5, 2025) *appeal docketed*, No. 25-5724 (9th Cir. Sept. 10, 2025). The federal government sought a stay of that ruling before the District Court, but on September 10, 2025, the District Court denied the government's motion to stay. *See id.*, at Dkt. 29. Therefore, the District Court's September 5, 2025, ruling remains in effect.

21. Because of that order, the January 2025 TPS Extension is once again operative. The Federal Register Notice "extend[s] the 2023 designation of Venezuela for Temporary Protected Status (TPS) for 18 months, beginning on April 3, 2025, and ending on October 2, 2026." 90 Fed. Reg. 5961. That notice also specifies that "TPS beneficiaries . . . who wish to extend their status through October 2, 2026, must re-register during the re-registration period described in the notice," which runs "from January 17, 2025, through September 10, 2025." *Id.* Mr. Chacon Rios has met this requirement by filing to renew on September 10. Exh. B.

LEGAL FRAMEWORK

22. The Court need analyze only one statutory provision to resolve this habeas petition. The 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.¹

23. Mr. Chacon Rios was granted TPS pursuant to the 2023 Venezuela designation on December 26, 2024. His approval notice indicated his TPS status was valid until April 2, 2025, the day that the 2023 Venezuela designation was set to expire. Exh. A. Mr. Chacon Rios timely submitted his re-registration on September 10, 2025, consistent with the Notice’s requirement. Exh. B. Thus, Mr. Chacon Rios retains his TPS status and is in compliance with the re-registration requirement.
24. The Court need not delve further in an attempt to understand other aspects of Mr. Chacon Rios’ immigration status, because TPS protection remains valid even if the TPS holder has a final removal order or lacks other immigration status. 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.”). Indeed, individuals with a final order of removal are statutorily eligible for TPS and may not be denied TPS if otherwise eligible on the basis of that 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). For that reason alone, this Court should grant the writ and order Mr. Chacon Rios’ immediate release. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).

25. Should the Court nonetheless choose to address constitutional questions, it should also find that

¹ “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.

Mr. Chacon Rios' 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).

26. Mr. Chacon Rios' detention violates the Fifth Amendment's protection of 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 Mr. Chacon Rios, detention is not reasonably related to its purpose.

27. Second, because Mr. Chacon Rios is not "deportable" insofar as the TPS statute bars his deportation, the Due Process Clause requires that any deprivation of Mr. Chacon Rios' 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"). Mr. Chacon Rios' on-going imprisonment obviously cannot satisfy that rigorous standard.

28. Third, at a bare minimum, "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). Where federal law explicitly prohibits an individual's detention, that individual's detention also violates the Due Process Clause.

29. It is irrelevant for purposes of this case that Mr. Chacon Rios' TPS status may lapse in several weeks, if the government successfully obtains a stay of the district court order finding unlawful the government's unprecedented attempt to vacate the January 2025 TPS Extension for

Venezuela. 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 soon expire. And, as noted above, because a federal court has now found the government's attempt to end TPS for Venezuela unlawful and applied its order nationwide, it would not be appropriate for this Court (or any other) to speculate on the validity of that order. Rather, it should decide this petition on the state of affairs as it currently exists, under which Mr. Chacon Rios remains a TPS holder.

CLAIMS FOR RELIEF

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

30. Petitioner realleges and incorporates by reference each and every allegation contained above.
31. 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.
32. The same section 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.” § 1254a(d)(4) (emphasis added). There is no exception to this rule provided in the statute.
33. 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**

34. Petitioner realleges and incorporates by reference each and every allegation contained above.
35. 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).

36. 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, Petitioner prays 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 Respondents 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, 5 U.S.C. 504 and 28 U.S.C. 2412; and
8. Grant such further relief as this Court deems just and proper.

Dated: September 18, 2025

Respectfully submitted,

s/ Colleen Cowgill

Colleen Cowgill*

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**Pro Hac Vice Admission Pending*

VERIFICATION

I, s/ Colleen Cowgill, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 2242 that, on information and belief, the factual statements in the foregoing Petition for Habeas Corpus are true and correct.

Dated: September 18, 2025