

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

MICHAEL ALEXANDER CHACON RIOS

PLAINTIFF

v.

CIVIL ACTION NO. 4:25-cv-00108-RGJ (*e-filed*)

MIKE LEWIS, Jailer, Hopkins County Jail;
SAMUEL OLSON; Field Office Director, Chicago
Field Office, Immigration and Customs Enforcement
TODD M. LYONS, Acting Director, or his agent, U.S.
Immigration and Customs Enforcement;
And KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and
PAMELA JO BONDI, United States Attorney General,
in their official capacities

DEFENDANTS

SHOW CAUSE WHY WRIT OF HABEAS CORPUS SHOULD NOT BE GRANTED

Petitioner Chacon-Rios is detained under 8 U.S.C. § 1226(a) as “an alien ... arrested and detained pending a decision on whether the alien is to be removed from the United States.” His arguments about Temporary Protected Status (TPS) are properly litigated in his immigration court proceeding where he previously described his TPS as expired, not in this Court.¹

I. Lawful basis for detention

Petitioner Chacon-Rios is lawfully detained pursuant to 8 U.S.C. § 1226(a), because he is “an alien ... arrested and detained pending a decision on whether the alien is to be removed from the United States.” He previously sought bond from the immigration court, describing his TPS

¹ This response to Petitioner’s habeas petition is filed on behalf of Respondents Kristi Noem, Todd Lyons, and Pam Bondi. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States’ interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States’ interests to the extent that the petition names Mike Lewis, the Hopkins County Jailer, as a respondent.

status as expired. (Exh. 1, Motion for Bond at 1, 3.). The immigration judge denied bond because he found Chacon-Rios to be both a danger and a flight risk. (Exh. 2, Order of the Immigration Judge at 1.). Respondents' position is that the Court should order Chacon-Rios to seek to overturn the immigration judge's bond decision by presenting his Temporary Protected Status (TPS) arguments in the immigration court. Chacon-Rios previously stated to the immigration judge that his TPS expired in April 2025. If his circumstances have changed, or if he thinks he has grounds to seek dismissal of his removal proceeding, he should present that information to the immigration judge and allow him to consider whether Petitioner should be detained.

II. Facts

Petitioner Chacon-Rios entered the United States through Texas without authorization on September 1, 2022, and he was paroled at that time due to a lack of detention capacity. He was granted Temporary Protected Status (TPS) for the period of December 26, 2024, through April 2, 2025. (Doc. 1-1, PageID.12.). In March, 2025, federal authorities in Chicago identified Chacon-Rios as [REDACTED] (Exh. 3, I-213, Exhibit 3 in Chacon-Rios' immigration court bond hearing, at 2.). Also in March, 2025, Chacon-Rios was arrested for battery in Berwyn, Illinois. (See Exh. 1, Motion for Bond, at 6.). On April 3, 2025, Chacon-Rios' TPS expired. (Doc. 1-1, PageID.12; Exh. 1, Chacon-Rios' Motion for Bond at 1, 3.). Chacon-Rios was detained in Cicero, Illinois on July 1, 2025, pursuant to a warrant of arrest. (Exh. 3, I-213 at 2.). Chacon-Rios asked an immigration judge to release him on bond, stating that his TPS had expired and lapsed. (Exh. 1, Motion for Bond at 1-3.). The immigration judge found that Chacon-Rios was both a danger to the public and a flight risk, and denied bond. (Exh.

2, Order of the Immigration Judge.).

III. The Court should apply the doctrine of prudential exhaustion and dismiss Chacon-Rios' petition for failure to exhaust administrative remedies, because every issue he now attempts to litigate in this Court should be litigated in his ongoing immigration court proceeding.

If Chacon-Rios believes he is eligible for TPS, or holds it and is not subject to detention, or thinks he should have been granted bond, he should have raised that in his immigration court proceedings. See 8 U.S.C. § 1254a(b)(5)(B), establishing an administrative procedure for denial of TPS benefit, and 8 C.F.R. § 1003.6(c)(1), establishing process for appeal of a bond determination. If Chacon-Rios believes *Nat'l TPS All. v. Noem* means he cannot be subject to removal proceedings or detained, he can and should litigate that matter before the immigration court. A review of the immigration court record indicates that Chacon-Rios has neither appealed his bond determination nor moved for termination of his removal proceedings due to *Nat'l TPS All. v. Noem* or any other basis.

Other courts have applied the doctrine of prudential exhaustion to require exhaustion of habeas petitioners' administrative remedies. See *Torrealba v. U.S. Dep't of Homeland Sec.*, 2025 WL 2444114, at *23-24, n. 16 (S.D. Ohio Aug. 25, 2025); *Villalta v. Greene*, 2025 WL 2472886 (N.D. Ohio Aug. 5, 2025); *Castillo Lachapel v. Joyce*, 2025 WL 1685576, 2025 U.S. Dist. LEXIS 115808 (S.D.N.Y. June 16, 2025) (citing cases). The *Torrealba* court, quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007), noted that application of a prudential exhaustion requirement is appropriate when (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude

the need for judicial review. All three factors are present in this case. Application of agency expertise and development of a record, including through appeal to the Board of Immigration Appeals, is appropriate in this matter; while many habeas petitioners complain to this Court of a deprivation of due process, in this case Chacon-Rios is declining to avail himself of available process, seeking instead to bypass the immigration court and the Board of Immigration Appeals by coming instead to this Court. If Chacon-Rios' claims about TPS and *Nat'l TPS All. v. Noem* have merit, he can and should litigate those matters in his ongoing immigration proceedings, but he appears to have filed no appeal of his bond determination, or any motion to terminate his removal proceedings. This Court should not encourage immigration court litigants to bring parallel actions to it, instead of resolving their matters in the appropriate forum.

A. The question of whether Chacon-Rios is eligible for Temporary Protected Status should be litigated in his ongoing immigration court proceedings.

8 U.S.C. § 1254a(c)(2)(B)(ii) states: "An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that— the alien is described in section 1158(b)(2)(A) of this title." 8 U.S.C. § 1158(b)(2)(A)(iv) states: "there are reasonable grounds for regarding the alien as a danger to the security of the United States". Chacon-Rios has [REDACTED] (Exh. 3, I-213, at 2.). If Chacon-Rios believes he is eligible for TPS, he can and should litigate that issue in the immigration court, including by filing a motion to terminate removal proceedings.

B. The question of whether Chacon-Rios has Temporary Protected Status should be litigated in his ongoing immigration court proceedings.

Petitioner Chacon-Rios received Temporary Protected Status (TPS) for the period of December 26, 2024 to April 2, 2025. (See Doc. 1-1, PageID.12.). Chacon-Rios' initial grant of

TPS expired on April 2, 2025. (See *id.*). Chacon-Rios applied to renew his Temporary Protected Status, but it has not been renewed. (See Doc. 1, PageID.4, 5, ¶¶ 18, 21.). Both Chacon-Rios and the Government previously agreed that he did not have TPS at the time of his July 1, 2025 detention, with Chacon-Rios saying it had expired. (Exh. 1, Motion for Bond at 1, 3.). In late July, 2025, when Chacon-Rios sought bond before the immigration court, his Motion for Bond, filed by the same organization now representing him before this Court, stated that he “had Temporary Protected Status” and said that “his former legal status, temporary protected status, expired less than a year ago.” (Exh. 1, Motion for Bond at 1.). Chacon-Rios’ Motion for Bond continued to repeatedly tell the immigration court that his TPS lapsed, and that he did not have TPS: “he had temporary legal status”; he “was later detained upon the issuance of a warrant, in the interior, and after the lapse of another legal status, Temporary Protected Status.” (*Id.* at 3.). That same Motion for Bond explains the significance of using past tense, as opposed to other verb tenses. (*Id.* at 4-5.). Chacon-Rios tells this Court that “the history and current procedural status of TPS for Venezuela may be somewhat complex” and “[t]he ensuing litigation history is complex” (Doc. 1, PageID.4, 5, ¶¶ 16, 20); if so, this is a case in which “agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision.” *Torrealba*, 2025 WL 2444114 at *23-24, n. 16. And if Chacon-Rios is correct in asserting that the matter is unambiguous and clear (Doc. 1, PageID.5-6, ¶ 22), “administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.” *Torrealba*, 2025 WL 2444114 at *23-24, n. 16.

C. The question of whether *NTPSA v. Noem* applies to Chacon-Rios should be litigated in his ongoing immigration court proceedings.

Chacon-Rios argues that “the history and current procedural status of TPS for Venezuela

may be somewhat complex”, and that a California district court decision in *NTPSA v. Noem* has application to his case. (Doc. 1, PageID.2, 5, ¶¶ 2, 20.). But that case only addressed an action asking that a 2025 vacation of an extension of TPS be set aside, and it would apply to individuals who hold TPS and are eligible for it. *Nat’l TPS All. v. Noem*, No. 25-CV-01766-EMC, 2025 WL 2578045, at *2, 41 (N.D. Cal. Sept. 5, 2025). That decision would not apply to someone who does not hold TPS and is ineligible for it, including on the basis that they are a danger to the security of the United States. *Id.*; 8 U.S.C. § 1254a(c)(2)(B)(ii); 8 U.S.C. § 1158(b)(2)(A)(iv); Exh. 2, Order of the Immigration Judge at 1.

IV. The Court should deny relief to Chacon-Rios.

An immigration judge has determined that Chacon-Rios is a danger. (Exh. 2, Decision of the Immigration Judge at 1.). Protections afforded to recipients of TPS do not apply to individuals who do not have TPS or are ineligible for it. Chacon-Rios should continue to litigate the merits of his claims in his ongoing immigration court proceedings, consistent with the doctrine of prudential exhaustion. Chacon-Rios has declined to avail himself of that process; the Court should direct him to do so.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Jason Snyder

Jason Snyder

Assistant United States Attorney