

UNITED STATES DISTRICT COURT FOR
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

WILSON JOSE BRITO HIDALGO,

Petitioner,

v.

Jose Garcia Longoria, Jr., Officer in
Charge, Port Isabel Detention Center;
Miguel Vergara, Acting Field Office
Director, San Antonio Field Office, 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.: 1:25-cv-00224

**PETITIONER'S BRIEF
PURSUANT TO OCTOBER 8
COURT ORDER**

PETITIONER'S BRIEF PURSUANT TO OCTOBER 8 COURT ORDER

Petitioner Wilson Jose Brito Hidalgo ("Petitioner" or "Mr. Brito Hidalgo") files this brief pursuant to the Court's October 8, 2025 Order instructing him to inform the Court whether exceptions to the termination of TPS for Venezuela apply in his case or whether the petition should be dismissed. *See* ECF Doc. 7. For the reasons discussed below, Mr. Brito Hidalgo will file a notice of voluntary dismissal of his Petition or otherwise consents to dismissal without prejudice of the Petition upon expiration of the Temporary Restraining Order (TRO) this Court issued on October 6 and updated on October 8, 2025.

I. STATEMENT OF THE ISSUES

Whether Mr. Brito Hidalgo falls within the limited exceptions to the Supreme Court's order granting the government's application for a stay of the district court order in *NTPSA v. Noem*,

3:25-cv-1766-EMC, 2025 WL 2578045 (N.D. Cal. Sept. 5, 2025) during the pendency of the government's appeal, *Noem v. National TPS Alliance (NTPSA)*, 606 U.S. ____, 2025 WL 2812732 (2025); *see also* Application for Stay, *Noem v. NTPSA*, 25A326 (Supreme Court Sept. 15, 2025) (disclaiming challenge to preservation of rights for certain individuals who received TPS-related documentation during limited window), or whether his Petition for Writ of Habeas Corpus, ECF 1, should be dismissed.

II. BACKGROUND

Mr. Brito Hidalgo is a Venezuelan national who fled persecution in Venezuela in 2021. ECF 2-1 at ¶ 4. He is the father of three young children, including a three-year-old U.S. citizen son and five-month-old U.S. citizen daughter. *Id.* at ¶ 2.

Mr. Brito Hidalgo entered the United States on or about December 2021. *Id.* at ¶ 4. On October 25, 2023, an Immigration Judge in Newark, New Jersey ordered him removed after his attorney missed a filing deadline. *See id.* at ¶ 6. Through counsel, Mr. Brito Hidalgo appealed the removal order to the Board of Immigration Appeals (BIA). The BIA dismissed the appeal on September 16, 2025. On October 15, 2025, Mr. Brito Hidalgo filed a timely Petition for Review (PFR) and Motion for Stay of Removal in the Third Circuit, and a temporary stay of removal has issued pending a final decision on the Motion for Stay of Removal. *Wilson Brito Hidalgo v. Attorney General of the United States of America*, No. 25-3005 (3rd. Cir.).

Mr. Brito Hidalgo first applied for TPS on December 5, 2022. ECF 2-1 at ¶ 5. U.S. Citizenship and Immigration Services (USCIS) granted his application on June 7, 2024. *See* TPS Approval Notice, ECF 2-1. He timely filed his TPS re-registration and received a USCIS notice regarding his re-registration on January 21, 2025. *See* TPS Re-Registration Document, ECF 2-1.

Since his removal order in 2023, Mr. Brito Hidalgo had been attending regular check-ins with ICE without issue. ECF 2-1 at ¶ 7. On July 25, 2025, Mr. Brito Hidalgo attended a regular ICE check-in with his partner who was two-months postpartum at the time after giving birth to their U.S. citizen baby. *Id.* at ¶¶ 8-14. ICE detained Mr. Brito Hidalgo at that check-in. *Id.* at ¶ 16.

Mr. Brito Hidalgo was originally detained in ICE custody at North Lake Correctional Facility in Michigan. *Id.* On September 5, 2025, while Mr. Brito Hidalgo was still detained, the district court entered summary judgement in *NTPSA v. Noem*, 3:25-cv-1766-EMC, 2025 WL 2578045 (N.D. Cal. Sept. 5, 2025). The district court's decision found unlawful and set aside the government's vacatur and termination of TPS for Venezuela. *See id.* It went into effect immediately. Despite that order having lawful effect as of September 5, 2025, Respondents continued unlawfully detaining Mr. Brito Hidalgo for the month that followed.

On or about October 1, 2025, ICE transferred Mr. Brito Hidalgo to Port Isabel Detention Center in the Southern District of Texas. ECF 2-1 at ¶ 19. That same day, undersigned counsel alerted the U.S. Attorney's Office for the Southern District of Texas of his valid TPS status that rendered his detention and any removal unlawful, and sought assurances that he would not be removed in violation of the statute. ECF 2-2 at ¶ 2. Undersigned counsel received no such assurances. *Id.* On October 2, Mr. Brito Hidalgo informed his partner that he had been told by officials at Port Isabel that he would be removed overnight between October 2 and October 3, 2025. ECF 2-1 at ¶ 20. Petitioner's counsel yet again contacted the U.S. Attorney's Office for the Southern District of Texas, who did not confirm that Mr. Brito Hidalgo would not be removed. ECF 2-2 at ¶ 3-6.

Undersigned counsel filed the Petition, ECF 1, and Motion for a Temporary Restraining Order, ECF 2, in this case on October 2. Undersigned counsel immediately sent a copy of the

Petition and TRO Motion to the U.S. Attorney's Office and yet again sought assurances that Mr. Brito Hidalgo would not be unlawfully removed. He was not removed, and on October 3, counsel for Respondents indicated to this Court that they intended to transfer Mr. Brito Hidalgo back to Michigan over the weekend and release him upon his arrival. *See* ECF 3.

Later on Friday October 3, the Supreme Court in a two-paragraph order granted the government's application for a stay of the district court order in *NTPSA v. Noem*, 3:25-cv-1766-EMC, 2025 WL 2578045 (N.D. Cal. Sept. 5, 2025) during the pendency of the government's appeal. *Noem v. National TPS Alliance (NTPSA)*, 606 U.S. ___, 2025 WL 2812732 (2025).

Early on Monday October 6, the Court granted Petitioner's TRO Motion. *See* ECF 4. That same day, Petitioner and Respondents filed advisories to the Court regarding the Supreme Court decision. *See* ECF 5, 6. Petitioner's filing to the Court noted that there are limited exceptions to the Supreme Court stay "that likely do not apply here." ECF 5. On October 8, 2025, the Court ordered Petitioner to file this brief by October 16, 2025 "informing the Court if any exceptions apply in Petitioner's case or if the Petition should be dismissed." ECF 7. The Court also amended the TRO to extend it until November 3, 2025 and ordering Respondents "to continue detaining, without removing, Petitioner until November 3, 2025 at 5 P.M. CST." *Id.*

III. DISCUSSION

The termination of TPS for Venezuela is subject to a narrow exception for individuals who received certain documents between January 17 and February 5, 2025. *NTPSA v. Noem*, Case No. 25-cv-01766, 2025 WL 1547628, at *7 (N.D. Cal May 30, 2025) (district court order preserving rights of limited group of Venezuelan TPS recipients); *see also* Application for Stay, *Noem v. NTPSA*, 25A326, at n. 12 (Supreme Court Sept. 15, 2025) (disclaiming challenge of summary judgment order insofar as it applies to individuals covered by district court's May 30 order). Those

documents include “EADs [Employment Authorization Documents], Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates pursuant to the January 17, 2025, extension of TPS for Venezuela.” *NTPSA*, 2025 WL 1547628, at *7. People who received those documents within the operative window continue to have TPS protections.

The documentation Mr. Brito Hidalgo received on January 21, 2025 likely does not place him within the narrow exception because it does not fall into the categories of documents delineated in the May 30 order.

On October 15, 2025, Mr. Brito Hidalgo filed a Petition for Review and Motion for Stay of Removal in the Third Circuit Court of Appeals, which has since issued a temporary stay of removal, independently barring his removal. *Wilson Brito Hidalgo v. Attorney General of the United States of America*, No. 25-3005 (3rd. Cir.); *see also* Third Circuit Standing Order Regarding Immigration Cases (“Upon receipt of a motion for stay of removal that meets the above criteria, . . . the Clerk is directed to administratively stay removal until such time as a motions panel can consider the motion.”). Mr. Brito Hidalgo will therefore file a notice of voluntary dismissal of his Petition or otherwise consents to dismissal without prejudice upon the expiration of the TRO in this case.

IV. CONCLUSION

For the foregoing reasons, Mr. Brito Hidalgo will file a notice of dismissal or otherwise consents to dismissal without prejudice of this Petition upon the expiration of the TRO.

Dated: October 16, 2025

Respectfully submitted,

/s/ Sofia López Franco
SOFÍA LÓPEZ FRANCO

Email: lopezfranco@law.ucla.edu
CA Bar: 354123
Texas Fed. ID No.: 3914762
Attorney-in-charge

MONIKA Y. LANGARICA*
Email: langarica@law.ucla.edu
CA Bar: 308518

AHILAN T. ARULANANTHAM
Email: arulanantham@law.ucla.edu
CA Bar: 237841
Texas Fed. ID No.: 3842512
Center for Immigration Law and Policy
UCLA School of Law
385 Charles E. Young Drive East
Box 951476
Los Angeles, CA 90095-1476
Telephone: (310) 206-2675

COUNSEL FOR PETITIONER

**pro hac vice motion forthcoming*