

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

Pablo Alejandro Zamora Mejia,

Petitioner,

v.

Case No.: 2:25-cv-00981-SPC-NPM

Kristi Noem, Secretary of the
Department of Homeland Security; et
al.,

Respondents.

**PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Petitioner respectfully requests that the Court grant his Emergency Motion for a Temporary Restraining Order and Preliminary Injunction and issue a temporary restraining order:

(1) Requiring Respondents to immediately release Petitioner.

The grounds for this motion are set forth in the accompanying memorandum of law, exhibits in support thereof, the Petition (ECF No. 1), all pleadings filed, and applicable law. A proposed order also accompanies this motion.

Respectfully submitted on 31st day of October, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 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 all counsel of record.

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**MEMORANDUM OF LAW IN SUPPORT OF
PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

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I. INTRODUCTION

In May 2025, the Department of Homeland Security directed Immigration and Customs Enforcement (hereinafter “ICE”) to arrest 3,000 people per day, ICE has aggressively escalated its arrests and detentions of immigrants. These arrests target immigrants who are cooperating with authorities through legal processes while living and working peaceably in their communities. It also targets immigrants who are in lawful status, such as is the case of Petitioner, Pablo Alejandro Zamora Mejia (hereinafter “Mr. Zamora Mejia”), who was detained by ICE in October 2025, although he remains in lawful status.

Mr. Zamora Mejia respectfully requests that this Court provide immediate relief by ordering Respondents to release him from custody. Petitioner seeks emergency relief because his continued detention constitutes an ongoing deprivation of liberty without due process and cannot await the ordinary briefing schedule. Given the upcoming weekend, and his unlawful detention, Petitioner respectfully requests that the Court rule on this motion by **5:00 p.m. on October 31, 2025**.

II. STATEMENT OF FACTS

Mr. Zamora Mejia is a 46-year-old Venezuelan national who entered the US lawfully on a B-2 visa for pleasure, on April 5, 2018. ECF 1 ¶22. Fearing persecution in Venezuela, he sought asylum protection by filing Form I-589, Application for Asylum and Withholding of Removal, on April 5, 2019. His application for asylum remains pending. ECF 1 ¶23. On March 9, 2021, the Department of Homeland Security (hereinafter “DHS”) designated Venezuela for Temporary Protected Status (hereinafter “TPS”) under 8 U.S.C. § 1254a. 86 FR 13574. Mr. Zamora Mejia promptly applied and remained in TPS status until September 10, 2025. ECF 1 ¶24. On September 8, 2025, DHS extended TPS and its attendant work authorizations under 8 U.S.C. 1254a(b)(3) for

a limited period of 60 days while also serving notice of its termination of TPS for Venezuela, making the termination effective on November 7, 2025. 90 FR 43225. ECF 1 ¶25. On October 17, 2025, Mr. Zamora Mejia was arrested for the first time in his life at 46 years of age and charged with driving under the influence. There was no alleged harm to persons or property, and Mr. Zamora Mejia was set for release when his family paid a state bond amount of \$1150. Before he was released from state custody, Mr. Zamora Mejia was transferred to a detention facility inside the Big Cypress National Preserve, also known as Alligator Alcatraz (hereinafter “the detention center”), run by the Florida Division of Emergency Management and under the supervision/control of DHS and ICE. The unproven criminal allegations against Mr. Zamora Mejia remain pending. ECF 1 ¶26. On October 23, 2025, the undersigned counsel inquired about the legal grounds for Mr. Zamora Mejia’s detention. The government replied that it determined Mr. Mejia’s TPS status had lapsed on September 10, 2025. ECF 1 ¶27. On October 27, 2025, the undersigned counsel inquired on the government’s interpretation and import of the federal register notice published on September 8, 2025. 90 FR 43225. However, to this date, no response has been provided. ECF 1 ¶28. Upon information and belief, Mr. Zamora Mejia remains at the detention center. ECF 1 ¶29.

III. LEGAL STANDARD

To obtain temporary and preliminary injunctive relief, Mr. Zamora Mejia must demonstrate that (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Swain v. Junior*, 961 F.3d 1276, 1284-85 (11th Cir. 2020); Fed. R. Civ. P. 65(b). When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Swain v. Junior*, 961 F.3d 1276, 1293 (11th Cir. 2020). To obtain preliminary injunctive relief, a

complainant need show only a likelihood of success on the merits; they need not demonstrate actual success. *See Winter*, 555 U.S. at 32. As explained below, Mr. Zamora Mejia is likely to succeed on the merits of his claims, he faces irreparable harm absent injunctive relief, the equities balance in his favor, and injunctive relief is in the public interest.

Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c). *BellSouth Telecomms., Inc. v. MCI Metro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (“[I]t is well-established that the amount of security required by the rule is a matter within the discretion of the trial court, and the court may elect to require no security at all”).

IV. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits.

1. Petitioner is likely to succeed on the merits of his claim that his detention is a violation of constitutional due process.

Noncitizens who enter the US are entitled to due process under the Fifth Amendment to the US Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979). “Freedom from physical restraint ‘has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.’” *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997).

A TPS recipient “shall not remove the alien from the United States during the period in which such status is in effect” and for the duration of the TPS designation, the individual is considered to be in lawful immigration status. 8 U.S.C. § 1254a(a)(1).

Detaining a TPS holder constitutes an arbitrary deprivation of liberty in violation of substantive due process. The Supreme Court has recognized that the Fifth Amendment due process

clause “forbids the Government to “deprive any “person . . . of . . . liberty . . . without due process of law.” *Zadvydas v. Davis*, 533 U.S. 678, 690. In fact, “[f]reedom from imprisonment -- from government custody, detention, or other forms of physical restraint -- lies at the heart of the liberty that Clause protects.” *Id.* Because individuals with TPS are lawfully present and non-removable, detention lacks any legitimate governmental purpose and is therefore arbitrary. The government’s authority to detain noncitizens derives from its interest in effectuating removal. However, under §1254a, a TPS holder cannot lawfully be removed during the TPS designation period. Consequently, detention serves no immigration enforcement purpose and violates the constitutional prohibition against arbitrary detention.¹

TPS confers a statutory and regulatory entitlement—a legitimate expectation of lawful presence and work authorization for the duration of the designation. As such, it constitutes both a liberty and property interest protected by procedural due process. The government must provide notice and a meaningful opportunity to be heard before depriving a TPS recipient of these protected interests. Detaining an individual in TPS status without prior process, hearing, or individualized findings of necessity (e.g., risk to the community or flight risk) violates the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test:

- a. Private Interest — The individual’s liberty and lawful presence are of the highest constitutional magnitude.
- b. Risk of Erroneous Deprivation — Extremely high, as TPS status is readily verifiable and detention may result from administrative error or misclassification.
- c. Government Interest — Minimal, since TPS recipients are statutorily protected from removal and generally present no enforcement necessity.

Balancing these factors, detention without process violates procedural due process guarantees.

2. Petitioner is likely to succeed on the merits of his claim that his detention is a

¹ Although vacated as moot, the Eleventh Circuit in *Sopo v. U.S. Attorney General*, 825 F.3d 1199 (11th Cir. 2016), articulated a persuasive due process analysis applicable to prolonged immigration detention, recognizing that detention may become constitutionally “unreasonably prolonged” and require an individualized bond hearing. See *Sopo v. U.S. Attorney General*, 890 F.3d 952 (11th Cir. 2018) (vacating as moot).

violation of the Administrative Procedure Act.

The Administrative Procedure Act (hereinafter “APA”) governs federal agency action and establishes standards for judicial review. Under 5 U.S.C. § 706(2), a reviewing court shall hold unlawful and set aside agency action, findings, and conclusions that are:

- a. arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- b. in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or
- c. without observance of procedure required by law...

The APA thus prohibits executive agencies, including DHS and ICE, from taking enforcement actions contrary to governing statutes or lacking a reasoned basis.

An agency action is arbitrary and capricious if the agency “has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n v. State Farm*, 463 U.S. 29, 43 (1983). Here, DHS’s detention decision lacks any rational basis. A TPS beneficiary is not subject to removal and poses no inherent enforcement necessity. Detention under such circumstances contradicts the statutory protections of § 1254a; lacks factual or legal justification; and reflects an irrational and inconsistent application of agency policy. Thus, the detention is arbitrary, capricious, and an abuse of discretion within the meaning of § 706(2)(A).

The authority to detain under 8 U.S.C. § 1226 applies only to an alien arrested and detained “pending a decision on whether the alien is to be removed” and under § 1231 only to those “ordered removed.” Because a TPS holder cannot lawfully be removed while TPS remains in effect, the statutory basis for detention does not exist. By detaining a TPS recipient, DHS acts “in excess of

statutory jurisdiction” and “short of statutory right” under § 706(2)(C). See, *INS v. Chadha*, 462 U.S. 919, 953 n.16 (1983)(agencies must operate strictly within statutory bounds). Detaining a TPS holder violates this core principle of administrative law.

The APA also requires agencies to adhere to procedural safeguards, including reasoned decision-making and adherence to published rules. TPS status may be withdrawn only through the procedures outlined in 8 U.S.C. § 1254a(c)(3) and 8 C.F.R. § 244.14, which require notice to the TPS holder, with indication of the opportunity to provide evidence of good cause in certain circumstances, the right to a de novo determination of eligibility for TPS status in removal proceedings, or the right to appeal the decision. Detaining a TPS holder without first terminating TPS through these prescribed procedures constitutes a failure to observe procedure required by law under § 706(2)(D). This procedural violation deprives the individual of statutory process and frustrates the orderly administration of the TPS program as established by Congress.

The APA demands consistent, reasoned policymaking. Arbitrarily detaining a TPS holder after granting lawful presence and work authorization contradicts DHS’s own administrative determinations. Under *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211 (2016), agencies must provide a reasoned explanation for changing or disregarding prior positions upon which individuals have reasonably relied. TPS beneficiaries rely on the statutory assurance that they will not be subject to removal or detention during the validity of their status. Detaining them without notice or justification upends these reliance interests, rendering the action arbitrary and capricious.

B. Petitioner Has Suffered and Will Continue to Suffer Irreparable Harm Absent Emergency Injunctive Relief.

Parties seeking preliminary injunctive relief must also show they are “likely to suffer irreparable harm in the absence of preliminary relief.” *Winter*, 555 U.S. at 20. “An injury is ‘irreparable’ only if it cannot be undone through monetary remedies.” *Ferrero v. Associated*

Materials, Inc., 923 F.2d 1441, 1449 (11th Cir. 1991). *See also Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053, 1068 (9th Cir. 2014); *see also Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013).

The deprivation of a constitutional right constitutes irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Gayle v. Meade*, 614 F. Supp. 3d 1175, 1205 (S.D. Fla. 2020). As shown above, Mr. Zamora Mejia’s detention by Respondents is a deprivation of his constitutional due process right, therefore he is suffering an irreparable harm.

For these reasons, Mr. Zamora Mejia has demonstrated irreparable harm.

C. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner’s Favor.

The final two factors for injunctive relief—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Swain v. Junior*, 958 F.3d 1084, 1091 (11th Cir. 2020). Here, Mr. Zamora Mejia faces weighty hardships, namely the deprivation of his constitutional right to due process and deprivation of his liberty.

Respondents, by contrast, face, at the most, minimal hardship. If Mr. Zamora Mejia is released from detention, Respondents will not have to incur the administrative costs associated with his detention, therefore eliminating any hardship. There may be administrative costs associated with processing his release, however, these are minimal, especially when compared with the cost of maintaining him in detention. “[T]he balance of hardships tips decidedly in plaintiffs’ favor” when “[f]aced with such a conflict between financial concerns and preventable human suffering.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

Moreover, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice . . .” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public

interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640 F.3d 962, 971 (9th Cir. 2011) (noting “the public’s interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”).

V. CONCLUSION

For the foregoing reasons, Mr. Zamora Mejia requests that the Court grant temporary/preliminary injunctive relief, ordering Respondents to immediately release him.

Respectfully submitted on the 31st day of October, 2025.

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**[PROPOSED] ORDER GRANTING PETITIONER'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

THIS MATTER comes before the Court on Petitioner's Emergency Motion for a Temporary Restraining Order and Preliminary Injunction. Having considered the motion, the memorandum and exhibits in support thereof, and any subsequent submissions related to the motion, the petition, and the applicable law, the Court ORDERS as follows:

1. Petitioner's Motion for a Temporary Restraining Order is GRANTED.
2. The Court ORDERS that Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, must immediately release Petitioner.
3. Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, are hereby further ENJOINED and RESTRAINED from continuing to detain Petitioner.
4. No security bond is required under Federal Rule of Civil Procedure 65(c).

5. The parties shall, within ____ days of this Order, propose a briefing schedule with respect to Petitioner's motion for preliminary injunctive relief. The hearing date shall be no later than fourteen days from today.

It is so ORDERED.

DATED this _____ day of _____, 2025.

Sheri Polster Chappell
United States District Judge