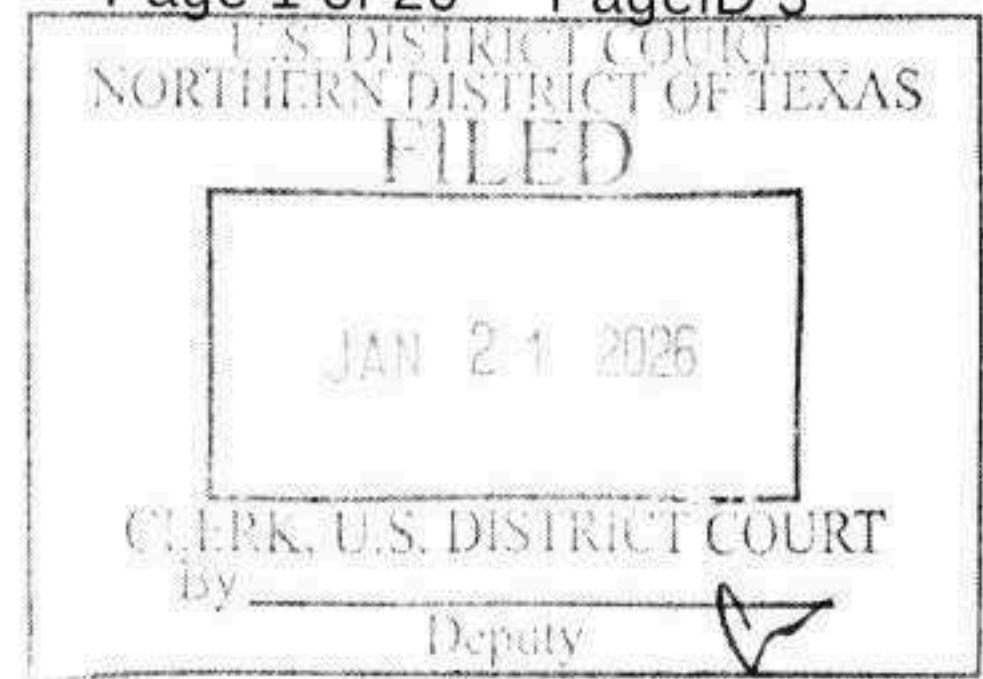


ORIGINAL



APPLICATION FOR WRIT OF HABEAS CORPUS

(Immigration Detention)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

3-26CV0170-L

Earle Cabell Federal Building and Courthouse

1100 Commerce Street
Dallas, Texas 75242-1699

I, **Nilkary Josefina Prieto Prieto**, respectfully appear before this Honorable Court to **request the issuance of a Writ of Habeas Corpus** on behalf of the detained individual **NILSON JOSÉ PRIETO PRIETO**, identified by **A-Number** XXXXXXXXXX.

Mr. **Nilson José Prieto Prieto** has **complied with all immigration requirements mandated by law**, having **attended all scheduled immigration appointments**. Nevertheless, he was **detained without being informed of the reason for his detention or the charges alleged against him**, thereby violating his fundamental rights.

The detainee is a **father**, responsible for **two minor daughters**, who depend on him both financially and emotionally. Additionally, he has a **properly filed asylum application submitted within the timeframe established by law**, which is currently pending.

Due to the **lack of clear information regarding the basis for his detention**, and considering his **family ties**, his **history of compliance with immigration proceedings**, and the **existence of a pending asylum case**, this **Writ of Habeas Corpus** is submitted so that this Honorable Court may:

- **Review of the legality of the detention** of Mr. Nilson José Prieto Prieto;
- **Order that the legal basis and charges for his detention be formally stated**; and
- **Grant a reasonable bond**, allowing him to **continue his asylum proceedings while at liberty**, in accordance with the law.

For the foregoing reasons, I respectfully request the **prompt intervention of this Honorable Court**, given the urgent nature of the deprivation of liberty suffered by **Mr. Nilson José Prieto Prieto**.

Respectfully submitted,

Nilkary J Prieto Prieto

Relationship to detainee: **Sister**

Telephone: 

Date: **January 13, 2026**

Signature: Nilkary Prieto

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-8903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

Nelson Puello

ERNESTO A GARDEA FERNANDEZ

(Signature of Respondent) (Sign in ink)

Date: 2022.02.12 23:50:03

BORDER PATROL AGENT

Date: 02/12/2022

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on February 12, 2022, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Nelson Puello

ERNESTO A GARDEA FERNANDEZ

(Signature of Respondent if Personally Served) (Sign in ink)

ERNESTO GARDEA-FERNANDEZ, BORDER PATROL AGENT
Date: 2022.02.12 23:50:08

(Signature and Title of officer) (Sign in ink)

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATIONAL TPS ALLIANCE, et al.,
Plaintiffs,
v.
KRISTI NOEM, et al.,
Defendants.

Case No. 25-cv-01766-EMC

**ORDER RE PLAINTIFFS' MOTION
FOR DECLARATORY RELIEF**

Docket No. 327

United States District Court
Northern District of California

Currently pending before the Court is Plaintiffs' motion for declaratory relief. Having considered the parties' briefs, their supplemental filings, and the oral argument of counsel, the Court hereby **GRANTS** Plaintiffs' motion but stays the relief for two weeks to permit an appeal to and request for a longer stay from the Ninth Circuit.

L. DISCUSSION

The Court previously issued a partial final judgment in Plaintiffs' favor. Under that final judgment, the Court set aside the agency actions with respect to the Venezuela vacatur and termination and the Haiti vacatur, finding those actions violated the APA. The government's appeal of the partial final judgment divested this Court of jurisdiction over all "aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982).

The Court did not rule on Plaintiffs' Equal Protection claims which remain pending.

Plaintiffs now seek an entry of a declaratory judgment based on the Court's ruling in granting the partial final judgment on the APA claims. In so moving, Plaintiffs do not assert any new legal theory in support. Instead, the requested declaratory relief is essentially derivative of the earlier judgment.

The government contends this Court no longer has jurisdiction under *Griggs* to enter

United States District Court
Northern District of California

1 declaratory relief on legal claims now pending on appeal before the Ninth Circuit and that, even if
2 there were jurisdiction, there currently is no appropriate legal vehicle for doing so. Plaintiffs
3 argue that, in spite of *Griggs*, a district court retains jurisdiction to issue certain relief while an
4 appeal is pending. For example, under Federal Rule of Civil Procedure 62(d),¹ a district court may
5 modify a previously-issued injunction so long as the modification simply preserves the status quo
6 (pending at the time of the appeal) and does not materially alter the status of the case on appeal.
7 *See Natural Resources Defense Council v. Southwest Marine, Inc.*, 242 F.3d 1163, 1166 (9th Cir.
8 2001) (hereinafter *NRDC*); *see also Kidder, Peabody & Co. v. Maxus Energy Corp.*, 925 F.2d 556,
9 565 (2d Cir. 1991) (noting that, “under [then-]Rule 62(c), a district court may grant injunctive
10 relief after a proper notice of appeal has been filed, but only when it is necessary to preserve the
11 status quo pending the appeal”). As another example, under 28 U.S.C. § 2202,² a party that
12 prevails in a declaratory judgment action “may seek further relief in the form of damages or an
13 injunction” (*i.e.*, additional relief consistent with the declaratory relief). *United Teacher Assocs.*
14 *Ins. Co v. Union Labor Life Ins. Co.*, 414 F.3d 558, 570 (5th Cir. 2005).

15 Here, Plaintiffs are not invoking Rule 62(d) (as the Court did not issue an injunction) nor §
16 2202 (as Plaintiffs are now asking for declaratory relief in the first instance). But Plaintiffs’
17 authorities do suggest a broader principle – independent of Rule 62(d) or § 2202 – that a district
18 court has authority to issue relief pending an appeal so long as the relief simply preserves the
19 status quo (pending at the time of the appeal) and does not materially alter the status of the case on
20 appeal. *See NRDC*, 242 F.3d at 1166 (noting that then-Rule 62(c) *codifies* an exception to the
21 *Griggs* rule); *Hoffman on behalf of NLRB v. Beer Drivers & Salesmen's Local Union*, 536 F.2d
22 1268, 1276 (9th Cir. 1976) (stating that “[t]he general rule” that an appeal divests a district court
23

24
25 ¹ See Fed. R. Civ. P. 62(d) (“While an appeal is pending from an interlocutory order or final
26 judgment that grants, continues, modifies, refuses, dissolves, or refuses to dissolve or modify an
injunction, the court may suspend, modify, restore, or grant an injunction on terms for bond or
other terms that secure the opposing party’s rights.”).

27 ² See 28 U.S.C. § 2202 (“Further necessary or proper relief based on a declaratory judgment or
28 decree may be granted, after reasonable notice and hearing, against any adverse party whose rights
have been determined by such judgment.”).

1 of jurisdiction “should not be applied in those cases where the district court, as here, has a
2 continuing duty to maintain a status quo, and where, as the days pass, new facts are created by the
3 parties and the maintenance of the status quo requires new action[;] [t]his result is *not unlike* that
4 achieved by Fed. R. Civ. P. 62(c)” (emphasis added).³ Indeed, it would seem illogical to find the
5 law allows the issuance of further relief following entry of declaratory relief, but not the issuance
6 of declaratory relief after, e.g., injunctive-type relief since declaratory relief is generally a
7 narrower remedy.

8 Furthermore, the authorities cited by Plaintiffs do not suggest that a party must rely on
9 Rule 59(e) or Rule 60(b) to seek such relief from the court, at least where the further relief does
10 not materially alter the status of the appeal and may serve to preserve the status quo.⁴ Hence, any
11 failure to follow the procedural requisites of Rules 59 or 60(b) does not bar entry of a further
12 judgment granting declaratory relief.⁵

13 Accordingly, the Court grants Plaintiffs’ motion for declaratory relief. Based on the merits
14 analysis in its prior summary judgment order, the Court declares that (1) the vacatur of the January
15 17, 2025, TPS extension for Venezuela was unlawful as was (2) the termination of Venezuela’s
16 2023 TPS designation on February 5, 2025. This grant of declaratory belief, predicated on this
17 Court’s ruling now pending appeal, does not materially alter the status of that appeal. It leaves the
18 prior judgment entirety intact. The issues pending on appeal remain the same.

19 Furthermore, the declaratory relief issued here may help preserve the pending status quo
20

21 ³ Similar to the district court’s ability to award and fees and costs after entry of final judgment,
22 see, e.g., *Noecker v. S. Cal. Lumber Indus. Welfare Fund*, No. CV 09-05922 DMG (SSx), 2011
23 U.S. Dist. LEXIS 164721, at *3-4 (C.D. Cal. May 18, 2011) (noting that a post-judgment motion
24 for attorney’s fees is considered a collateral matter over which a district court retains jurisdiction,
“even after being divested of jurisdiction on the merits”), the entry of declaratory judgment here
would not affect or touch the previously-issued partial judgment. It is, in practical effect,
collateral to that earlier judgment.

25 ⁴ At the hearing, Plaintiffs disavowed that they were bringing a Rule 59(e) or Rule 60(b) motion.
26 Rather than amending the judgment under Rule 59(e) or (60(b), Plaintiffs seek entry of a separate
judgment granting declaratory relief; they do not seek to alter or modify the prior partial judgment.

27 ⁵ To the extent the government argues this Court’s analysis is contrary to Judge Cogan’s approach
28 in *Haitian Evangelical Clergy Association v. Trump*, No. 25-cv-1464 (E.D.N.Y.), Judge Cogan
was not presented with the situation before this Court. In his case, there was no pending appeal at
the time of his order.

United States District Court
Northern District of California

1 for individual members of the NTPSA. Plaintiffs have indicated an intent to preserve the status
2 quo of individual members, possibly in individual actions where an individual member might
3 receive some benefit from the declaratory judgment.⁶

4 The Court rejects the government's contention that the Supreme Court's order staying the
5 partial final judgment precludes the issuance of declaratory relief. The basis for the Supreme
6 Court stay has never been articulated; it could have stayed the final judgment for any number of
7 reasons which may not bar declaratory judgment herein. For example, it could have stayed the
8 final judgment simply based on its assessment of the balance of hardships, a factor that does not
9 undermine declaratory relief. Furthermore, there are several reasons why the Supreme Court
10 could have stayed the Court's final judgment setting aside the agency actions but still left open the
11 door to declaratory relief – *e.g.*, the Supreme Court could have agreed with the government that §
12 1252(f)(1) is a jurisdictional bar because a vacatur of agency action is functionally the same as an
13 injunction, but § 1252(f)(1) does not necessarily prohibit declaratory relief (as the Ninth Circuit
14 has held). Another possibility is that the Supreme Court could have taken issue with the vacatur
15 of agency action because it operated as “universal”-type relief, *see Trump v. CASA, Inc.*, 606 U.S.
16 831 (2025), whereas declaratory relief would simply be an adjudication of a case or controversy
17 between the parties.

18 While the Supreme Court's stay order is not a bar to the Court's issuance of declaratory
19 relief, the Court does deem it prudent to issue a brief stay, but only so that a prompt appeal may
20 be taken to the Ninth Circuit (which is already scheduled to have oral argument in January 2026
21 on the government's appeal of the partial final judgment issued by this Court) and to give the
22 Ninth Circuit the opportunity to consider any stay. A temporary stay is prudent given the
23 relatively unique posture of this case wherein, *e.g.*, Plaintiffs now seek an additional judgment
24 which is a lesser form of remedy than that already granted.

25
26
27 ⁶ Because this Court has jurisdiction to enter declaratory judgment based on its prior ruling and
28 entry of partial final judgment setting aside the agency actions, it need not utilize Rule 62.1 to
enter an indicative ruling and await remand from the Ninth Circuit. If jurisdiction did not vest, the
Court would, of course, upon remand enter the exact same terms as those herein.

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II. CONCLUSION

For the foregoing reasons, the Court grants Plaintiffs' motion for declaratory relief. As stated above, the Court declares that (1) the vacatur of the January 17, 2025, TPS extension for Venezuela was unlawful as was (2) the termination of Venezuela's 2023 TPS designation on February 5, 2025. The Court, however, stays this order for two weeks from the date of this order.

This order disposes of Docket No. 327.

IT IS SO ORDERED.

Dated: December 10, 2025



EDWARD M. CHEN
United States District Judge

United States District Court
Northern District of California

