

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLORADO

ANAIS CAROLINA RODRIGUEZ DE VITERI,

Petitioner,

v.

JUAN BALTAZAR, Warden, Denver Contract
Detention Facility; ROBERT HAGAN, Field
Office Director, Denver Field Office, United States
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.:

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Anais Carolina Rodriguez de Viteri is a Venezuelan national who holds Temporary Protected Status (TPS) under 8 U.S.C. § 1254a. TPS holders may not be either detained or deported so long as their TPS is valid. 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” non-citizens).

2. While Respondent DHS Secretary Kristi Noem purported to rescind TPS for Venezuela, for the purposes of this habeas petition, Petitioner’s TPS status must be deemed valid. On December 10, 2025, the federal district court of the Northern District of California granted declaratory relief and declared unlawful Respondent Noem’s vacatur of the January 17, 2025 extension of TPS for Venezuela and subsequent termination of Venezuela’s 2023 designation in a case brought by the membership organization National TPS Alliance. *Nat’l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 WL 3539156 at *3 (N.D. Cal. Dec. 10, 2025) (hereinafter “*NTPSA*” and “December 10 Order”). The December 10 Order in *NTPSA* has preclusive effect in Petitioner’s habeas case, controlling the legal question of whether members of the National TPS Alliance (NTPSA), such as Petitioner, retain their TPS status. This Court must thus find Petitioner’s detention unlawful and order her release.
3. Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for 42 days despite the unambiguous statutory command that TPS holders may not be either detained or deported.
4. Petitioner challenges her detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
5. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus and order Respondents to release her from custody. Petitioner 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. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at the Denver Contract Detention Facility run by Geo Group, an immigration detention facility, in Aurora, Colorado. Petitioner is under the direct control of Respondents and their agents.

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, Petitioner is detained in this District, Petitioner’s 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. Petitioner is currently detained by Respondents at Aurora, an immigration detention facility. Petitioner has been in ICE custody since on or about January 5, 2026, when she was arrested by ICE as a “collateral” arrest while visiting a friend’s apartment complex.

10. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in his official capacity.
11. Respondent Robert Hagan is the Field Office Director responsible for the Denver Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.
12. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner 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 Petitioner 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 Petitioner and is named in her official capacity.

STATEMENT OF FACTS

I. PETITIONER IS DETAINED DESPITE HAVING TEMPORARY PROTECTED STATUS FOR VENEZUELA

15. Petitioner came to the United States prior to July 31, 2023.¹ Petitioner applied for and was granted Temporary Protected Status in the United States pursuant to the 2023 designation of TPS for Venezuela. Petitioner's I-94, which serves as proof of TPS registration, has been valid since March 13, 2024. *See* Ex. A. She also filed an affirmative asylum application with USCIS on March 16, 2024. Ex. B.
16. Petitioner is a member of the National TPS Alliance ("NTPSA"). *See* Ex. C.
17. ICE officers took Petitioner into custody while she was visiting a friend at an apartment

¹ Petitioner arrived in the United States on April 12, 2023, and DHS ordered her release on her own recognizance the following day. Ex. D at 1-2 (ROR and 2023 NTA).

complex on or about January 5, 2026. ICE did not have a warrant for her arrest; rather, they were seeking someone else in the apartment complex but took Petitioner into custody, notwithstanding her TPS status.

18. On February 9, 2026, undersigned counsel sent an email to U.S. Attorney's office for the District of Colorado. The message cited the TPS statute's non-detention provision and included attachments with Petitioner's proof of TPS status, and membership in the NTPSA. Ex. E.
19. On February 13, 2026, undersigned counsel reached back out to the U.S. Attorney's office, and was informed that DHS had not responded to the request for Petitioner's release.

II. TEMPORARY PROTECTED STATUS FOR VENEZUELA

20. On the last day of his first term, President Trump designated Venezuela for Deferred Enforced Departure—a form of nationality-based, discretionary relief from deportation—because Venezuela was experiencing “the worst humanitarian crisis in the Western Hemisphere in recent memory.” 86 Fed. Reg. 6,845, 6,845 (Jan. 19, 2021). President Trump's action permitted approximately 300,000 Venezuelan refugees to live and work here for 18 months. Memorandum re Deferred Enforced Departure for Certain Venezuelans, 86 Fed. Reg. 6845 (Jan. 19, 2021).
21. Shortly thereafter, on March 9, 2021, then-DHS Secretary Mayorkas designated Venezuela for TPS, allowing Venezuelans residing in the U.S. since March 8, 2021 to apply for protection. 86 Fed. Reg. 13,574 (Mar. 9, 2021). He did so again on October 3, 2023, allowing more recently arrived Venezuelans, like Ms. Rodriguez de Viteri, to apply. 88 Fed. Reg. 68,130 (Oct. 3, 2023).
22. DHS twice extended the 2021 designation of TPS for Venezuela, providing protections through September 10, 2025 to TPS holders who initially registered in 2021. 87 Fed. Reg. 55,024 (Sept.

8, 2022); 88 Fed. Reg. at 68,130.

23. On January 17, 2025, the DHS Secretary extended the 2023 Venezuela Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5,961 (“January 2025 Extension”). DHS cited Venezuela’s ongoing “complex, serious and multidimensional humanitarian crisis,” which has “disrupted every aspect of life,” and concluded that the “extraordinary and temporary conditions supporting Venezuela’s TPS designation remain.” *Id.* at 5,963 (citation omitted).
24. In the extension order, DHS also streamlined the registration process for TPS holders by consolidating them into a single track, “allow[ing] existing beneficiaries of either the 2021 or 2023 TPS designation to seek an 18-month extension of status through October 2, 2026.” *Id.* at 5,962.
25. On February 3, 2025, Respondent Secretary Noem purported to “vacate” DHS’ January 17 extension of TPS for Venezuela. 90 Fed. Reg. 8805 (Feb. 3, 2025). That decision was the first vacatur of a TPS extension in the 35-year history of the TPS statute.
26. On February 5, 2025, DHS published a notice in the Federal Register purporting to terminate the 2023 Venezuela Designation. 90 Fed. Reg. 9040 (Feb. 5, 2025).
27. On September 8, 2025, DHS published a notice in the Federal Register purporting to terminate the 2021 designation of TPS for Venezuela.² 90 Fed. Reg. 43225 (Sept. 8, 2025).

LEGAL CHALLENGE TO VENEZUELA’S TPS TERMINATION

28. On February 19, 2025, the National TPS Alliance and seven individual Venezuelan TPS holders sued the federal government, alleging that the vacatur of the January 17, 2025 extension of TPS for Venezuela and subsequent termination of Venezuela’s 2023 TPS designation were contrary to the TPS statute in violation of the Administrative Procedure Act

² The termination of Venezuela’s 2021 designation is not at issue in this case because Petitioner holds TPS under Venezuela’s 2023 designation.

and unlawful under the Fifth Amendment. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC (N.D. Cal. Filed Feb. 19, 2025).

29. On December 10, 2025, the district court in *NTPSA* issued a final judgment declaring the vacatur of the January 17, 2025 extension of TPS for Venezuela and termination of Venezuela's 2023 TPS designation unlawful. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC, 2025 WL 3539156, at *3 (N.D. Cal. Dec. 10, 2025) ("*NTPSA* December 10 Order"). The court stayed its order for two weeks to permit the government to appeal and/or seek a stay. *Id.* The government did neither.
30. Pursuant to the *NTPSA* December 10 Order, Petitioner retains TPS because Defendants' actions purporting to deprive her of that status—*i.e.*, the vacatur of the January 17, 2025 extension and the termination of Venezuela's 2023 designation—were unlawful.
31. The *NTPSA* December 10 Order controls as to the question of whether members of the National TPS Alliance—the lead plaintiff in *NTPSA*—retain their TPS status.
32. A declaratory judgment is a final judgment on the merits which defines the legal duties among the parties. *See* 28 U.S.C. § 2201 ("Any such declaration shall have the force and effect of a final judgment[.]"); *Burlington Ins. Co. v. Oceanic Design & Constr., Inc.*, 383 F.3d 940, 952 (9th Cir. 2004) (cleaned up, citation omitted) ("A declaratory judgment is a binding adjudication that establishes the rights and other legal relations of the parties where those rights are in doubt.").
33. A final merits judgment, including a declaratory judgment, has preclusive effect on future proceedings involving the same parties. *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023) ("the point of a declaratory judgment 'is to establish a binding adjudication that enables the parties to enjoy the benefits of reliance and repose secured by res judicata,'" *citing* 18A C. Wright, A. Miller, & E. Cooper, *Federal Practice and Procedure* § 4446 (3d ed. Supp. 2022)).

34. “A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. [E]ven if the second suit is for a different cause of action, the right, question, or fact once so determined must, as between the same parties or their privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified. Accordingly, [a] case pending appeal is res judicata and entitled to full faith and credit unless and until reversed on appeal.” *Comer v. Murphy Oil USA, Inc.*, 718 F.3d 460, 467 (5th Cir. 2013) (internal cites and quotations omitted); *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003).

LEGAL FRAMEWORK

35. The Court only need analyze one statutory provision to resolve this habeas petition. The TPS statute unequivocally prohibits the detention of persons with valid TPS, and Petitioner must be released. See 8 USC 1254a(a)(1)(A), (d)(4) (“[a]n alien provided temporary protected status under this section *shall not be detained* by the Attorney General”) (emphasis added).³ It is hard to imagine a clearer statutory mandate proscribing detention.

36. The Court need not delve further into other aspects of Petitioner’s 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.”).⁴ 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

³ “Attorney General” in Section 1254a now refer to the Secretary of the Department of Homeland Security. See 8 U.S.C. 1103; 6 U.S.C. 557.

⁴ In the instant case, Petitioner’s affirmative asylum application was previously filed with USCIS, and following her detention and the issuance of the NTA, was transferred to immigration court.

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 Petitioner’s immediate release. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).

37. Should the Court nonetheless choose to address constitutional questions, it should also find that Petitioner’s 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).

38. Petitioner’s detention violates the Fifth Amendment’s protection for 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 remove Petitioner, detention is not reasonably related to its purpose.

39. Second, because Petitioner is not “deportable” insofar as the TPS statute bars her removal, the Due Process Clause requires that any deprivation of Petitioner’s 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”). Petitioner’s on-going imprisonment obviously cannot satisfy that rigorous standard.

40. 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, their detention also violates the Due Process Clause.

41. Petitioner may not be legally detained or deported, and this Court should order Petitioner's immediate release her from ICE custody. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).

CLAIMS FOR RELIEF

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

42. Petitioner realleges and incorporates by reference each and every allegation contained above.
43. 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.
44. 8 U.S.C. § 1254a(d)(4) states “[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.” (emphasis added). There is no exception to this rule provided in the statute.
45. Thus, Petitioner's detention violates 8 U.S.C. § 1254a, and she is entitled to immediate release from custody.

COUNT TWO **VIOLATION OF THE DUE PROCESS CLAUSE** **OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

46. Petitioner realleges and incorporates by reference each and every allegation contained above.
47. 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).
48. 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, Petitioners pray 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;
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 the December 10 Order remains in effect;
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: February 17, 2026

Respectfully submitted,
s/Dana M. Camilleri
Dana M. Camilleri, Esq.
COUNSEL FOR PETITIONER

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. Others working under my supervision have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's TPS status, are true and correct to the best of my knowledge.

/s/ Dana M. Camilleri

Date: February 17, 2026