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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Jannio Jose DIAZ PADILLA,

Petitioner,

v.

**Warden, Broward Transitional Center;
Garrett Ripa, Miami Field Office Director,
Todd M. Lyons, Acting Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. Department of
Homeland Security; Executive Office for
Immigration Review; Pamela BONDI, U.S.
Attorney General; each in their Official
capacities.**

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 exclusive authority for affording nationality-based protection to “otherwise deportable” non-
2 citizens).

3 6. While Respondent DHS Secretary Kristi Noem purported to rescind TPS for
4 Venezuela, for the purposes of this habeas petition, Petitioner’s TPS status must be deemed
5 valid. On December 10, 2025, the federal district court of the Northern District of California
6 granted declaratory relief and declared unlawful Respondent Noem’s vacatur of the January 17,
7 2025 extension of TPS for Venezuela and subsequent termination of Venezuela’s 2023
8 designation in a case brought by the membership organization National TPS Alliance. *Nat’l TPS*
9 *All. v. Noem*, No. 25-cv-01766-EMC, 2025 WL 3539156 at *3 (N.D. Cal. Dec. 10, 2025)
10 (hereinafter “*NTPSA*” and “December 10 Order”).

11 7. On December 10, 2025, the district court in *NTPSA* issued a final judgment
12 declaring the vacatur and termination unlawful. *Nat’l TPS All. v. Noem*, No. 25-CV-01766-EMC,
13 2025 WL 3539156, at *3 (N.D. Cal. Dec. 10, 2025). (“*NTPSA* December 10 Order”). The court
14 stayed its order for two weeks to permit the government to appeal and/or seek a stay. The
15 government did not seek a stay, but it filed an appeal. However, unless or until the December 10
16 order is actually reversed on appeal, it remains in effect.

17 8. Petitioner has now been detained by U.S. Immigration and Customs Enforcement
18 (ICE) since December 06, 2025 despite the unambiguous statutory command that TPS holders
19 may not be either detained or deported. ***See Exhibit D.***

20 9. Petitioner challenges their detention as a violation of the Immigration and
21 Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

22 10. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus and
23 order Respondents to release them from custody. Petitioner seeks habeas relief under 28 U.S.C.
24

1 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v.*
2 *Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are
3 properly brought directly through habeas”) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88
4 (2001)).

5 JURISDICTION

6 11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
7 at the Broward Transitional Center, 3900 N. Powerline Rd, Pompano Beach, FL 33073, Florida.
8 *See Exhibit D.*

9 12. This action arises under the Constitution of the United States and the Immigration
10 and Nationality Act (INA).

11 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28
12 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
13 Constitution (the Suspension Clause).

14 14. Because Petitioner seeks to challenge his custody as a violation of the
15 Constitution and laws of the United States, jurisdiction is proper in this court.

16 VENUE

17 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
18 500 (1973), venue lies in the United States District Court for the Southern District of Florida, the
19 judicial district in which Petitioner currently is detained.

20 16. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because
21 Respondents are operating in this district and are directly responsible for the confinement of
22 Petitioner. *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004).

1 (S.D.N.Y. 2010) (holding that administrative challenges to a noncitizen’s classification under the
2 mandatory detention statute would be futile given the agency’s precedent on the issue).

3 30. The BIA interprets § 1225(b) as mandating detention of arriving aliens pending
4 removal proceedings. See *Matter of X-K-*, 23 I&N Dec. 731, at 732 (BIA 2005) (“There is no
5 question that Immigration Judges lack jurisdiction [for a bond hearing] over arriving aliens who
6 have been placed in... removal proceedings...”). Exhaustion before the BIA would therefore be
7 futile.

8 31. Further, “the BIA [Board of Immigration Appeals] does not have jurisdiction to
9 adjudicate constitutional issues...” (citation modified). *United States v. Gonzalez-Roque*, 301
10 F.3d 39, 48 (2d Cir. 2002). Because Petitioner raises a constitutional due process claim in his
11 habeas petition, exhaustion of his due process claims would be futile.

12 STATEMENT OF FACTS

13 32. Petitioner, Jannio José Díaz Padilla, is a native and citizen of Venezuela. *See*
14 *Exhibit B*.

15 33. He entered the United States on or about November 15, 2021, near Andrade,
16 California, and was subsequently placed in removal proceedings. *See Exhibit E*.

17 34. On November 16, 2024, USCIS approved Petitioner’s Application for Temporary
18 Protected Status (Form I-821). His TPS was valid from November 16, 2024 through April 2,
19 2025. *See Exhibit C*.

20 35. Petitioner is an active member of the National TPS Alliance (NTPSA), a
21 nationwide organization composed of TPS beneficiaries advocating for protection of the TPS
22 program and enforcement of statutory rights. *See Exhibit F*.

1 because Venezuela was experiencing “the worst humanitarian crisis in the Western Hemisphere
2 in recent memory.” 86 Fed. Reg. 6,845, 6,845 (Jan. 19, 2021). President Trump’s action
3 permitted approximately 300,000 Venezuelan refugees to live and work here for 18 months.
4 Memorandum re Deferred Enforced Departure for Certain Venezuelans, 86 Fed. Reg. 6845 (Jan.
5 19, 2021).

6 43. Shortly afterwards, on March 9, 2021, then-DHS Secretary Mayorkas designated
7 Venezuela for TPS, allowing Venezuelans residing in the U.S. since March 8, 2021 to apply for
8 protection. 86 Fed. Reg. 13,574 (Mar. 9, 2021). He did so again on October 3, 2023, allowing
9 more recently arrived Venezuelans to apply. 88 Fed. Reg. 68,130 (Oct. 3, 2023).

10 44. DHS twice extended the 2021 designation of TPS for Venezuela, providing
11 protections through September 10, 2025 to TPS holders who initially registered in 2021. 87 Fed.
12 Reg. 55,024 (Sept. 8, 2022); 88 Fed. Reg. at 68,130.

13 45. On January 17, 2025, the DHS Secretary extended the 2023 Venezuela
14 Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5,961 (“January 2025
15 Extension”). DHS cited Venezuela’s ongoing “complex, serious and multidimensional
16 humanitarian crisis,” which has “disrupted every aspect of life,” and concluded that the
17 “extraordinary and temporary conditions supporting Venezuela’s TPS designation remain.” *Id.* at
18 5,963 (citation omitted).

19 46. In the extension order, DHS also streamlined the registration process for TPS
20 holders by consolidating them into a single track, “allow[ing] existing beneficiaries of either the
21 2021 or 2023 TPS designation to seek an 18-month extension of status through October 2,
22 2026.” *Id.* at 5,962.

1 47. On February 3, 2025, just days after she took office, Respondent Secretary Noem
2 purported to “vacate” DHS’ January 17 extension of TPS for Venezuela. 90 Fed. Reg. 8805
3 (Feb. 3, 2025). That decision was the first vacatur of a TPS extension in the 35-year history of
4 the TPS statute.

5 48. On February 5, 2025, DHS published a notice in the Federal Register purporting
6 to terminate the 2023 Venezuela Designation. 90 Fed. Reg. 9040 (Feb. 5, 2025).

7 49. On September 8, 2025, DHS published a notice in the Federal Register purporting
8 to terminate the 2021 designation of TPS for Venezuela. 90 Fed. Reg. 43225 (Sept. 8, 2025).

9 50. On February 19, the National TPS Alliance and seven individual Venezuelan TPS
10 holders sued the federal government, alleging that the vacatur of the January 17, 2025 extension
11 of TPS for Venezuela and subsequent termination of Venezuela’s 2023 TPS designation were
12 contrary to the TPS statute in violation of the Administrative Procedure Act and unlawful under
13 the Fifth Amendment. *Nat’l TPS All. v. Noem*, No. 25-CV-01766-EMC (N.D. Cal. Filed Feb. 19,
14 2025).

15 51. On December 10, 2025, the district court in *NTPSA* issued a final judgment
16 declaring the vacatur of the January 17, 2025 extension of TPS for Venezuela and termination of
17 Venezuela’s 2023 TPS designation unlawful. *Nat’l TPS All. v. Noem*, No. 25-CV-01766-EMC,
18 2025 WL 3539156, at *3 (N.D. Cal. Dec. 10, 2025) (“*NTPSA* December 10 Order”). The court
19 stayed its order for two weeks to permit the government to appeal and/or seek a stay. *Id.* The
20 government did neither.

21 52. Pursuant to the *NTPSA* December 10 Order, Petitioner retains TPS because
22 Defendants’ actions purporting to deprive them of that status, *i.e.*, the vacatur of the January 17,
23 2025 extension and the termination of Venezuela’s 2023 designation, were unlawful.

1 **I. The TPS statute unequivocally prohibits Petitioner’s Detention.**

2 57. This case can be resolved on the plain language of one statutory provision. The
3 Temporary Protected Status (“TPS”) statute is unambiguous: “An alien provided temporary
4 protected status under this section shall not be detained by the Attorney General on the basis of
5 the alien’s immigration status in the United States.”8 U.S.C. § 1254a(d)(4) (emphasis added).

6 58. It is difficult to imagine clearer statutory language. Congress did not qualify this
7 command. It did not condition it. It did not carve out exceptions for individuals in removal
8 proceedings or those with final orders. It categorically prohibits detention “on the basis of
9 immigration status.”

10 59. Petitioner has been granted TPS by USCIS. Under 8 U.S.C. § 1254a(a)(1)(A),
11 while TPS remains in effect, the government: (a) “shall not remove the alien from the United
12 States”; and (b) must permit the alien to remain in the United States during the designated
13 period.

14 60. The statutory structure makes clear that detention for the purpose of effectuating
15 removal cannot stand where removal itself is prohibited. Because the government lacks authority
16 to remove Petitioner during the TPS period, it likewise lacks authority to detain him on the basis
17 of his immigration status.

18 61. For that reason alone, this Court should grant the writ. See 28 U.S.C. § 2241(c)(3)
19 (authorizing habeas relief for persons “in custody in violation of the Constitution or laws or
20 treaties of the United States”).

21 **II. TPS protection remains valid notwithstanding removal proceedings or**
22 **prior orders.**

1 62. The Court need not analyze any other aspect of Petitioner’s immigration posture.
2 TPS protection applies regardless of whether a person: (i) is in removal proceedings, (ii) has
3 been previously charged as inadmissible, or (iii) even has a final order of removal.

4 63. Congress explicitly provided that TPS cannot be denied “based on the alien’s
5 immigration status.” 8 U.S.C. § 1254a(a)(5). Indeed, TPS is specifically designed to protect
6 “otherwise deportable” noncitizens. See 8 U.S.C. § 1254a(g).

7 64. Thus, even if DHS argues that Petitioner remains charged under INA §
8 212(a)(6)(A)(i), that charge does not negate TPS protection. TPS suspends removal authority
9 during the designation period. Because removal authority is suspended, detention premised on
10 effectuating removal is unlawful.

11 **III. The NTPSA December 10 order has preclusive effect and confirms**
12 **Petitioner’s TPS remains valid.**

13 65. To the extent DHS argues that Venezuela’s TPS designation was vacated or
14 terminated, that argument fails as a matter of preclusion law.

15 66. The NTPSA December 10 Order conclusively determined that: (a) The vacatur of
16 the January 17, 2025 TPS extension for Venezuela was unlawful; and (b) The termination of
17 Venezuela’s 2023 TPS designation was unlawful.

18 67. A final declaratory judgment has binding preclusive effect. See 28 U.S.C. § 2201
19 (“Any such declaration shall have the force and effect of a final judgment”); *Haaland v.*
20 *Brackeen*, 599 U.S. 255, 293 (2023) (explaining that the purpose of declaratory relief is to
21 establish a binding adjudication entitled to *res judicata* effect).

22 68. It is well settled that once a right, question, or fact has been determined by a final
23 judgment, it is conclusively established between the parties in subsequent proceedings. See
24

1 Comer v. Murphy Oil USA, Inc., 718 F.3d 460, 467 (5th Cir. 2013); Tahoe-Sierra Pres. Council,
2 Inc. v. Tahoe Reg'l Plan. Agency, 322 F.3d 1064, 1077 (9th Cir. 2003).

3 69. Because the December 10 Order invalidated the vacatur and termination of
4 Venezuela's TPS designation, Petitioner's TPS has never been lawfully terminated. It remains in
5 effect. It necessarily follows that § 1254a(d)(4)'s anti-detention mandate applies.

6 70. A federal court has already granted release to a Venezuelan TPS holder on this
7 same basis. See Gonzalez v. Noem, No. 5:26-cv-00357-JWH-AJR (C.D. Cal. Feb. 2, 2026). We
8 request this Court to do the same.

9 **IV. Petitioner's detention violates the Fifth Amendment**

10 71. Although this Court need not reach constitutional questions because the detention
11 is plainly prohibited by statute, Petitioner is also likely to succeed on his claim that his continued
12 confinement violates the Due Process Clause of the Fifth Amendment.

13 **A. Immigration Detention Must Bear a Reasonable Relation to a Lawful Purpose.**

14 72. The Supreme Court has made clear that civil immigration detention must "bear[] a
15 reasonable relation to the purpose for which the individual was committed." Demore v. Kim, 538
16 U.S. 510, 527 (2003) (citing Zadvydas v. Davis, 533 U.S. 678, 690 (2001)). Immigration
17 detention is constitutionally permissible only insofar as it serves its limited regulatory purposes,
18 namely, ensuring an individual's appearance at proceedings or effectuating removal.

19 73. Here, however, the government is statutorily barred from removing Petitioner
20 during the pendency of his Temporary Protected Status. 8 U.S.C. § 1254a(a)(1)(A) ("the
21 Attorney General shall not remove the alien from the United States during the period in which
22 such status is in effect"). Where removal is legally prohibited, detention for the purpose of
23 effectuating removal cannot be reasonably related to its objective.

1 74. Because the government lacks authority to remove Petitioner, his continued
2 detention cannot satisfy even the deferential standard articulated in *Demore*. Detention without a
3 lawful removal purpose is constitutionally impermissible.

4 **B. Petitioner’s Detention Cannot Satisfy Heightened Due Process Scrutiny.**

5 75. “Freedom from imprisonment—from government custody, detention, or other
6 forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.”
7 *Zadvydas*, 533 U.S. at 690.

8 76. When the government deprives an individual of physical liberty, due process
9 requires that the deprivation be justified by sufficient governmental interests. The Supreme Court
10 has held that the government may not infringe fundamental liberty interests unless the restriction
11 is narrowly tailored to serve a compelling governmental interest. *Reno v. Flores*, 507 U.S. 292,
12 301–02 (1993).

13 77. Petitioner cannot be treated as “deportable” for purposes of relaxed detention
14 standards because Congress has expressly prohibited his removal while TPS remains in effect. 8
15 U.S.C. § 1254a(a)(1)(A), (d)(4). Where removal is statutorily barred and detention is expressly
16 prohibited, the government cannot articulate any compelling—or even legitimate—interest in
17 continued confinement.

18 78. Petitioner’s imprisonment therefore cannot survive constitutional scrutiny.

19 **C. Detention in Direct Violation of Federal Law Is Arbitrary and Unconstitutional.**

20 79. At a minimum, “the Due Process Clause includes protection against unlawful or
21 arbitrary personal restraint or detention.” *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting).

1 80. Where federal law explicitly prohibits detention—as 8 U.S.C. § 1254a(d)(4) does
2 here—continued detention is unlawful by definition. Detention that contravenes a clear statutory
3 command is necessarily arbitrary and constitutionally impermissible.

4 81. Because Congress has forbidden the detention of TPS recipients on the basis of
5 immigration status, Petitioner’s continued confinement independently violates the Fifth
6 Amendment.

7 **CLAIMS FOR RELIEF**

8 **COUNT I**
9 **VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT**
10 **8 U.S.C. § 1254(a)**

11 82. Petitioners reallege and incorporate by reference each and every allegation
12 contained above.

13 83. Section 1254a of Title 8 of the U.S. Code governs the treatment of TPS holders,
14 including their detention and removal under federal immigration law.

15 84. Section 1254a(d)(4) states “[a]n alien provided temporary protected status under
16 this section *shall not be detained* by the Attorney General on the basis of the alien’s immigration
17 status in the United States.” (emphasis added). There is no exception to this rule provided in the
18 statute.

19 85. Thus, Petitioners’ detention violates Section 1254a, and he is entitled to
20 immediate release from custody.

21 **COUNT II**
22 **VIOLATION OF THE FIFTH AMENDMENT RIGHT TO DUE PROCESS**

23 86. Petitioner realleges and incorporates by reference each and every allegation
24 contained above.

1 87. The Due Process Clause of the Fifth Amendment forbids the federal government
2 from depriving any person of liberty without due process of law. U.S. Const. amend. V. Civil
3 immigration detention implicates the most fundamental liberty interest recognized by the
4 Constitution—freedom from physical restraint. “Freedom from imprisonment—from
5 government custody, detention, or other forms of physical restraint—lies at the heart of the
6 liberty that the Due Process Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

7 88. Petitioner’s continued detention violates the Fifth Amendment for multiple
8 independent reasons.

9 89. First, immigration detention must “bear[] a reasonable relation to the purpose for
10 which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing
11 *Zadvydas*, 533 U.S. at 690). Immigration detention is constitutionally permissible only insofar as
12 it serves its limited regulatory purposes—ensuring appearance at removal proceedings or
13 effectuating removal. Here, however, Congress has expressly prohibited the removal of a person
14 granted Temporary Protected Status during the period in which such status is in effect. 8 U.S.C.
15 § 1254a(a)(1)(A). Congress has further mandated that a TPS holder “shall not be detained ... on
16 the basis of the alien’s immigration status.” 8 U.S.C. § 1254a(d)(4). Because the government
17 lacks statutory authority to remove Petitioner, detention cannot be reasonably related to
18 effectuating removal. Detention that lacks a lawful removal purpose fails even the deferential
19 standard articulated in *Demore* and is therefore unconstitutional.

20 90. Second, Petitioner’s detention cannot survive heightened constitutional scrutiny.
21 When the government deprives an individual of physical liberty, due process requires that the
22 deprivation be justified by sufficient governmental interests. The Supreme Court has made clear
23 that the government may not infringe fundamental liberty interests unless the restriction is
24

1 narrowly tailored to serve a compelling governmental interest. *Reno v. Flores*, 507 U.S. 292,
2 301–02 (1993). Because Congress has expressly shielded TPS holders from removal and
3 detention on the basis of immigration status, Petitioner cannot properly be treated as
4 “deportable” for purposes of relaxed detention standards. Where removal is statutorily barred
5 and detention is expressly prohibited, the government cannot articulate any compelling—or even
6 legitimate—interest in continued confinement. Petitioner’s imprisonment therefore cannot
7 withstand constitutional scrutiny.

8 91. Third, and independently, the procedures employed in detaining Petitioner fail to
9 satisfy constitutional requirements. Once a petitioner demonstrates a protected liberty interest, a
10 court must determine whether constitutionally sufficient procedures were provided by balancing:
11 (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of that
12 interest through the procedures used and the probable value of additional or substitute procedural
13 safeguards; and (3) the government’s interest, including the function involved and the fiscal and
14 administrative burdens that additional or substitute procedural requirements would entail.
15 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Each of these factors weighs decisively in
16 Petitioner’s favor.

17 92. The private interest at stake—freedom from physical confinement—is at the apex
18 of constitutional protection. The Supreme Court has repeatedly emphasized that physical
19 imprisonment triggers the most serious due process concerns. The risk of erroneous deprivation
20 is substantial because Petitioner possesses TPS, and Congress has expressly prohibited detention
21 of TPS recipients on the basis of immigration status. Yet ICE has detained Petitioner without
22 providing any individualized determination addressing the statutory anti-detention mandate. No
23 neutral adjudicator has meaningfully evaluated whether 8 U.S.C. § 1254a(d)(4) bars his custody.

1 The procedures used here permit detention in direct contravention of federal law, creating a
2 manifest risk of erroneous deprivation. The probable value of additional procedural safeguards—
3 such as a prompt individualized hearing before a neutral decisionmaker empowered to apply the
4 TPS statute—would be significant. At minimum, due process requires a meaningful opportunity
5 to be heard on whether detention is legally authorized. Those safeguards have not been
6 meaningfully provided.

7 93. By contrast, the government’s interest in continued detention is minimal. Because
8 removal is statutorily prohibited during the period in which TPS remains valid, detention does
9 not further any lawful removal objective. Nor has the government articulated any alternative
10 regulatory purpose specific to Petitioner that would justify his confinement. The administrative
11 burden of complying with the TPS statute—or of providing constitutionally adequate process—is
12 negligible when weighed against the severe deprivation of liberty imposed by detention.
13 Compliance with federal law does not constitute a cognizable governmental hardship.

14 94. Balancing these factors under *Mathews v. Eldridge* compels the conclusion that
15 Petitioner’s continued detention violates procedural due process. The liberty interest is
16 fundamental, the risk of erroneous detention is evident, and the government’s countervailing
17 interest is weak or nonexistent.

18 95. Finally, at a minimum, “the Due Process Clause includes protection against
19 unlawful or arbitrary personal restraint or detention.” *Zadvydas*, 533 U.S. at 718 (Kennedy, J.,
20 dissenting). Where federal law explicitly prohibits detention, detention is necessarily unlawful
21 and arbitrary. Because Congress has forbidden the detention of TPS recipients on the basis of
22 immigration status, Petitioner’s continued confinement independently violates the Fifth
23 Amendment.

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TABLE OF EXHIBITS

Exhibit A— Current Detention Center- Broward Transitional Center, 3900 N. Powerline Rd, Pompano Beach, FL 33073

Exhibit B — Venezuelan passport

Exhibit C — TPS Approval Notice (I-821) + I-94 Tear-Off (Valid: 11/16/2024–04/02/2025) and receipt notice of re-registration case status.

Exhibit D —ICE custody since December 06, 2025.

Exhibit E — Notice to Appear (NTA) – Issued 11/17/2021. It shows that the date of admission was November 15, 2021, near Andrade, CA., and was subsequently placed in removal proceedings.

Exhibit F — Proof of NTPSA Membership

Exhibit G — Moving Traffic Violation by Sarasota County