

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-60433-CIV-MIDDLEBROOKS/AUGUSTIN-BIRCH

JANNIO JOSE DIAZ PADILLA,

Petitioner,

v.

WARDEN, BROWARD  
TRANSITIONAL CENTER, *et al.*,

Respondents.

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**RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

Respondents,<sup>1</sup> by and through the undersigned Assistant United States Attorney, respond to the Petition for Writ of Habeas Corpus [DE 1] (Petition) in accordance with the Paperless Order to Show Cause [DE 6]; and in support thereof state the following.

By way of the Petition, Petitioner, Jannio Jose Diaz Padilla, argues his detention is unlawful because he has Temporary Protected Status (TPS), or that he should be deemed to have TPS. Petitioner's own allegations, however, establish that his TPS expired on April 2, 2025. Petition ¶34, Exhibit C. Moreover, on February 5, 2025, the Department of Homeland Security (DHS) terminated the TPS designation for Venezuela effective as of April 7, 2025, *Termination of the October 3, 2023 Designation of Venez. for [TPS]*, 90 Fed. Reg. 9,040, 9,041 (Feb. 5, 2025), and the Supreme Court recently permitted that termination of TPS to take effect. *Noem v.*

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<sup>1</sup> A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld*, 542 U.S. at 439. Accordingly, Petitioner's current custodian is the only proper respondent.

*National TPS Alliance*, 146 S. Ct. 23, 24 (2025). Accordingly, Petitioner does not have TPS, and his Petition should be denied.

### **Background**

Petitioner is a native and citizen of Venezuela. Declaration of Deportation Officer John Mansey ¶6, Exhibit 1 Form I-213, Record of Deportable/Inadmissible Alien (Form I-213) dated December 06, 2025. Petitioner entered the United States without inspection on November 15, 2021, through Andrade, California after which he was apprehended by Customs and Border Protection (CBP). Mansey Dec. ¶7, Exhibit 1. On April 21, 2021, DHS issued Petitioner a Notice to Appear (NTA) charging Petitioner as inadmissible to the United States in violation of INA § 212(a)(6)(A)(i), as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Mansey Dec. ¶8, Exhibit 2 Notice to Appear. On or about November 18, 2021, Petitioner was released from custody on an order of release on his own recognizance. Mansey Dec. ¶9.

On February 20, 2024, Petitioner filed an application for relief from removal before the immigration court. Mansey Dec. ¶10. On March 06, 2024, Petitioner attended his initial master calendar hearing where he admitted the allegations and conceded to the sole charge of inadmissibility. Mansey Dec. ¶11. On the same date, the immigration court sustained the charge of inadmissibility. Mansey Dec. ¶12.

On May 10, 2024, Petitioner filed Form I-821, Application for Temporary Protected Status (TPS) with U.S. Citizenship and Immigration Services (USICS) pursuant to the 2023 Venezuela TPS designation. Mansey Dec. ¶13, Exhibit 3 Form I-821 Approval Notice. On November 16, 2024, USCIS approved the application granting Petitioner temporary protected

status. Mansey Dec. ¶14, Exhibit 3. Petitioner's TPS expired on April 02, 2025. *Id.* On February 5, 2025, DHS Secretary of Homeland Security Kristi Noem terminated the 2023 designation for Venezuelan TPS effective April 07, 2025. Mansey Dec. ¶15.

On April 30, 2025, Petitioner filed his application to re-register his TPS. Mansey Dec. ¶16, Exhibit 4 Form I-821 receipt notice. That application has not been approved.

On December 06, 2025, Petitioner was encountered by ICE ERO following a traffic violation and taken into custody. Mansey Dec. ¶18, Exhibit 5 Form I-200 dated December 06, 2025. On January 14, 2026, removal proceedings were transferred to the immigration court at Broward Transitional Center (BTC). Mansey Dec. ¶20. Petitioner is detained by ICE at BTC in Pompano Beach, Florida, since December 31, 2025. Mansey Dec. ¶19. To date, Petitioner has not requested a custody redetermination hearing from the immigration court. Mansey Dec. ¶22.

### **Analysis**

The Petition is an impermissible shotgun pleading. The Petitioner includes two pleaded Counts. Count I purports to bring a claim for violation of the Immigration and Nationality Act (INA), and Count II purports to bring a claim for violation of Fifth Amendment Due Process Rights. Count II "incorporates by reference each and every allegation contained above." Petition ¶86. Accordingly, the Petition commits the "mortal sin of re-alleging all preceding counts" into successive counts making "the last count ... a combination of the entire complaint." *Weiland*. The Eleventh Circuit has "repeatedly held that a District Court retains authority to dismiss a shotgun pleading on that basis alone." *Jackson v. Bank of America*, 898 F.3d 1348, 1357 (11th Cir. 2018) (citing *Weiland*, 792 F.3d at 1320).

Even if the Court does not dismiss because the Petition is an impermissible shotgun pleading, the Petition should be denied. Both Counts are dependent upon Plaintiff having TPS

status. *See generally* Petition ¶¶84, 89, 90, 92, 93, 95. As explained below, Petitioner does not have TPS status. Without TPS status, Petitioner cannot state a claim. The Petition should be denied.

## **I. Venezuelan TPS does not entitle Petitioner to release**

### **A. Background**

#### **1. Venezuela's TPS Designation**

TPS is a statutory program that provides work authorization and removal protection for eligible aliens from countries designated by the Secretary of Homeland Security. 8 U.S.C. §1254a(a)(1)(A)-(B). Venezuela was initially designated for TPS in 2021, and that designation was extended in 2023. *Designation of Venez. for [TPS]*, 86 Fed. Reg. 13,574 (Mar. 9, 2021); *Extension and Redesignation of Venez. for [TPS]*, 88 Fed. Reg. 68,130 (Oct. 3, 2023). On January 17, 2025, DHS extended the 2023 Designation from April 2, 2025, to October 2, 2026. *Extension of the 2023 Designation of Venez. for [TPS]*, 90 Fed. Reg. 5,961 (Jan. 17, 2025).

On January 28, 2025, DHS vacated the extension, *Vacatur of 2025 TPS Decision for Venez.*, 90 Fed. Reg. 8,805 (Feb. 3, 2025) (Vacatur), and on February 5, 2025, it terminated Venezuela's 2023 designation because it was "contrary to the national interest to permit the covered Venezuelan nationals to remain temporarily in the United States." *Termination of the October 3, 2023 Designation of Venez. for [TPS]*, 90 Fed. Reg. 9,040, 9,041 (Feb. 5, 2025) (Termination).

#### **2. TPS Alliance litigation.**

The National TPS Alliance sued the Secretary of Homeland Security to challenge the Vacatur and Termination. *Nat'l TPS Alliance v. Noem*, 3:25-cv-1766 (N.D. Cal.), ECF 1, 355. On September 5, 2025, the District Court entered partial final judgment to plaintiffs in *Nat'l TPS Alliance*, setting aside the Vacatur and Termination, which the government appealed to the Ninth

Circuit. *Nat'l TPS Alliance*, 798 F. Supp. 3d 1108, 1164 (N.D. Cal. 2025). On October 3, 2025, the Supreme Court stayed the September 5, 2025, judgment, permitting the Venezuela Vacatur and Termination to proceed pending the disposition of the government's appeal in the Ninth Circuit and disposition of a timely petition for a writ of certiorari. *Noem v. National TPS Alliance*, 146 S. Ct. 23, 24 (2025).

On December 10, 2025, while the appeal from the partial final judgment was pending, the district court granted plaintiffs' motion for declaratory relief, declaring the Vacatur and Termination unlawful. *Nat'l TPS Alliance*, No. 25-cv-01766, 2025 WL 3539156, at \*3 (N.D. Cal. Dec. 10, 2025).

Most recently, on January 28, 2026, the Ninth Circuit affirmed the district court's September 5, 2025, decision, holding that DHS "exceeded [its] authority under the TPS statute by attempting to terminate Venezuela's TPS" before its expiration on October 2, 2026. *Nat'l TPS Alliance v. Noem*, No. 25-5724, 2026 WL 226573, at \*18 (9th Cir. Jan. 28, 2026). The government filed a petition for rehearing en banc.

**B. Petitioner does not currently hold TPS.**

The TPS approval notice that Petitioner attached to his Petition expired by its terms on April 2, 2025. Petition ¶34, Exhibit C. Moreover, Venezuelans are not currently eligible for TPS due to the Vacatur and Termination, which remains in effect due to the Supreme Court stay. *See Quintero v. Francis*, No. 25-CV-10107 (MKV), 2026 WL 265921, at \*8 (S.D.N.Y. Feb. 2, 2026); *Segundo Sangronis v. Unknown Party et al.*, No. 1:26-cv-88, 2026 WL 362790, at n.1 (W.D. Mich. Feb. 10, 2026) (noting that "the stay remains in effect under *National TPS Alliance*" "because the Government still has time to file a timely petition for writ of certiorari[.]"). Accordingly, Respondents maintain that Petitioner has not established that he currently has TPS.

To the extent Petitioner can establish he currently holds TPS, that status was terminated on April 7, 2025, when the February 5, 2025, termination of Venezuela’s 2023 designation took effect. *Termination of the October 3, 2023 Designation of Venez. for [TPS]*, 90 Fed. Reg. 9,040, 9,041 (Feb. 5, 2025); *Noem v. National TPS Alliance*, 146 S. Ct. 23, 24 (2025). Accordingly, Petitioner does not current hold TPS.

**C. TSP Alliance does not change Petitioner’s status**

Petitioner argues that his “TPS status must be deemed valid” in light of the declaratory judgment entered in *Nat’l TPS Alliance*, on December 10, 2025, while that case was on appeal. Petition ¶6. Respondents maintain that the December 10, 2025, declaratory judgment does not grant any alien TPS status, much less Petitioner. The Petition should be denied.

Petitioner fails to explain how the December 10, 2025, declaratory judgment grants him TPS status. By his own admission, Petitioner’s TPS status expired on April 2, 2025, well before the entry of the declaratory judgment. Petition ¶34. Moreover, the declaratory judgment merely declares that the vacatur of the TPS extension and termination of designation is unlawful. *Nat’l TPS Alliance*, 2025 WL 3539156, at \*3. It does not grant or resurrect TPS status. The declaratory judgment has no impact upon Petitioner’s current status.

WHEREFORE, for the foregoing reasons, the Petition should be denied.

Respectfully submitted,

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