

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DOMILIO TERAN PEREZ,

Petitioner,

v.

DAVID HARDEN, Warden, Glades County
Detention Center ; GARRET J. RIPA, Field Office
Director of Enforcement and Removal Operations,
United States Department of Homeland Security;
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.: 2:26-cv-775

**PETITION FOR WRIT OF HABEAS
CORPUS**

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner, DOMILIO TERAN PEREZ, 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 his release.
3. Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for 117 days despite the unambiguous statutory command that TPS holders may not be either detained or deported.
4. Petitioner challenges his 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 them 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 Glades County Detention Center an immigration detention facility, in Glades County, Florida. 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, Petitioners’ 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 Glades County Detention Center, an immigration detention facility. Petitioner has been in ICE custody since on or about November

21, 2025, when he was arrested during a traffic stop while driving a company work truck with no valid registration decal.

10. Respondent David Harden is the Warden of the Glades County Detention Center, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in her official capacity.
11. Respondent Garret J. Ripa, is the Acting Field Office, Director of Enforcement and Removal Operations for Immigration and Customs Enforcement, within the State of Florida, an agency of the Department of Homeland Security, responsible for the 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 FROM VENEZUELA

15. Petitioner came to the United States prior to July 31, 2023. Petitioner applied for Temporary Protected Status in the United States pursuant to the 2023 designation of TPS for Venezuela, namely pursuant to the most recent January 17, 2025 extension, which extended protection for Venezuelan TPS beneficiaries through October 2, 2026. *See, Composite Exhibit A.*
16. ICE officers took Petitioner into custody approximately three days after being detained by local

law enforcement following the traffic stop of November 21, 2025.

17. On March 17, 2026, undersigned sent an email to the ICE office and relevant supervisory officials at the Glades County Detention Center. The message cited the TPS statute's non-detention provision and included as an attachment Petitioner's proof of TPS status. **Composite Exhibit B.**

18. To date, there has been no response.

II. TEMPORARY PROTECTED STATUS FOR VENEZUELA

19. 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).

20. Shortly afterwards, 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 to apply. 88 Fed. Reg. 68,130 (Oct. 3, 2023).

21. 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.

22. 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).

23. 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.

24. On February 3, 2025, just days after she took office, 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.

25. 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).

26. On September 8, 2025, DHS published a notice in the Federal Register purporting to terminate the 2021 designation of TPS for Venezuela.¹ 90 Fed. Reg. 43225 (Sept. 8, 2025).

LEGAL CHALLENGE TO VENEZUELA’S TPS TERMINATION

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

28. 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,

¹ The termination of Venezuela’s 2021 designation is not at issue in this case because Petitioner held TPS under Venezuela’s 2023 designation.

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.

29. In *National TPS Alliance v. Noem*, No. 25-5724, 150 F.4th ____ (9th Cir. Jan. 28, 2026), the Ninth Circuit affirmed the district court’s order setting aside the Secretary of Homeland Security’s vacatur and termination of Venezuela’s Temporary Protected Status (TPS) designation, holding that the Secretary exceeded her statutory authority under 8 U.S.C. § 1254a. The court concluded that the TPS statute does not grant the Secretary authority to “vacate” an existing designation or extension, that the statutory judicial review bar did not preclude review of ultra vires claims, and that APA § 706 set-aside relief was not barred by 8 U.S.C. § 1252(f)(1). Accordingly, the Secretary’s actions were unlawful as in excess of statutory authority and were properly set aside.
30. Pursuant to the *NTPSA* December 10 Order, Petitioner retains TPS because Defendants’ actions purporting to deprive them 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), *Seminole Tribe of Fla. V. Biegalski*, 757 F. Appx. 851 (11th Cir. 2018).²

² “A declaratory judgment is binding on the parties before the court and is res judicata in subsequent proceedings as to the matters declared,” and can be used by a party to later obtain further relief. *Union de Empleados de Muelles de Puerto Rico, Inc. v. Int’l Longshoremen’s Ass’n*, 884 F.3d 48 (1st Cir. 2018) (*citing* *Am. Airlines, Inc. v. Cardoza-Rodriguez*, 133 F.3d 111, 122 n.11 (1st Cir. 1998)).

“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.” *Duane Reade, Inc. v. St. Paul Fire & Marine Ins. Co.*, 600 F.3d 190 (2d Cir. 2010)

Adams Outdoor Advert. Ltd. P’ship v. City of Madison, Wisconsin, 56 F.4th 1111, 1117 (7th Cir. 2023) (Holding that “a declaratory judgment is binding as to matters which were actually decided”); *Walsh Const. Co. of Illinois v. Nat’l Union Fire Ins. Co. of Pittsburgh, Pennsylvania*, 153 F.3d 830, 832 (7th Cir. 1998) (“claim preclusion applies to issues that were actually decided or could have been decided in the original suit.”).

Anatol Zukerman & Charles Krause Reporting, LLC v. United States Postal Serv., 64 F.4th 1354, 1366 (D.C. Cir. 2023) (“A declaratory judgment may serve as the basis for issuance of a later injunction to give effect to the declaratory judgment and it may have res judicata effect in later actions.”).

LEGAL FRAMEWORK

35. The Court need analyze only 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 in an attempt to understand 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.”). 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 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).

Minneapolis Auto Parts Co. v. City of Minneapolis, 739 F.2d 408, 409-10 (8th Cir. 1984) (“A judgment on the merits is an absolute bar to a second suit for the same cause of action not only to matters litigated, but also to every matter that might have been litigated therein,” and a declaratory judgment has preclusive effect “when coercive relief is sought and granted in the first suit”).

Mascarenas Enters., Inc. v. City of Albuquerque, 494 F. App’x 846 (10th Cir. 2012)

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.

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 deport Petitioner, detention is not reasonably related to its purpose.
39. Second, because Petitioner is not "deportable" insofar as the TPS statute bars his deportation, 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 him 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. Petitioners reallege and incorporate 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. Section 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, Petitioners’ detention violates Section 1254a, and he 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. Petitioners reallege and incorporate 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. Petitioners’ 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 Petitioners 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: March 18, 2026

COUNSEL FOR PETITIONER

Respectfully submitted,

/s/ Jose-Carlos Villanueva. /
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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 Petitioner's attorneys. I, Jose-Carlos Villanueva, Esq. 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/ Jose-Carlos Villanueva
JOSE-CARLOS VILLANUEVA
Date: March 18, 2026