

1 Marlon Bayas (Bar No.: 440972023)
2 Bayas Law, P.C.
3 58-84 Norfolk Street, Suite 7
4 Newark, NJ 07103
5 info@bayaslaw.com
6 Attorney for Petitioner
7 *Pending Special Admission*

8
9
10 **UNITED STATES DISTRICT COURT**
11 **MIDDLE DISTRICT OF FLORIDA**
12 **FORT MYERS DIVISION**

13 **JORGE LUIS PEREZ GUZMAN,**

14 *Petitioner,*

15 v.

16 **WARDEN, GLADES COUNTY**
17 **DETENTION CENTER;**

18 **PAMELA JO BONDI**, in her official
19 capacity as Attorney General of the United
20 States;

21 **TODD LYONS**, in his official capacity as
22 Acting Director and Senior Official
23 Performing the Duties of the Director of
24 U.S. Immigration and Customs
25 Enforcement; and

26 **GARRET RIPA**, in his official capacity
27 as Miami Field Office Director for U.S.
28 Immigration and Customs Enforcement.

Respondents.

Civil Action No.: 2:26-cv-00835-KCD-DNF

PETITIONER'S *EX-PARTE* APPLICATION
FOR TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE
RE: PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner, Jorge Luis Perez Guzman, files this *ex parte* application for a temporary restraining order ("TRO") ordering his immediate release. Petitioner's case is substantially similar to the circumstances of the petitioner in Arcila Perez v. Noem, 2:26-cv-00107-SPC-NPM

1 (M.D. Flo. Feb. 12, 2026) (granting a motion for temporary restraining order to a TPS holder
 2 facing imminent deportation despite valid status).¹

3 Petitioner is a Venezuelan national who has continuously held Temporary Protected
 4 Status (TPS) under 8 U.S.C. § 1254a since 2024 under the 2023 designation. A TPS holder, like
 5 Petitioner, shall not be detained or deported so long as their TPS is valid. The TPS statute
 6 provides that “[a]n alien provided temporary protected status under this section **shall not be**
 7 **detained** by the Attorney General on the basis of the alien’s immigration status in the United
 8 States.” 8 U.S.C. 1254a(d)(4) (emphasis added). That protection remains available even if the
 9 TPS holder has a final removal order or lacks other immigration status, because the government
 10 “**shall not remove** the alien from the United States during the period in which such [TPS] status
 11 is in effect.” 8 U.S.C. 1254a(a)(1)(A) (emphasis added); *see also* 8 U.S.C. 1254a(a)(5) (TPS
 12 statute provides no authority to “deny temporary protected status to an alien based on the alien’s
 13 immigration status”); 8 U.S.C. 1254a(g) (TPS statute constitutes the exclusive authority for
 14 affording nationality-based protection to “otherwise deportable” non-citizens).
 15
 16

17 While former DHS Secretary, Kristi Noem, purported to rescind TPS for Venezuela, for
 18 the purposes of this habeas petition, Petitioner’s TPS status must be deemed valid. On December
 19 10, 2025, the federal district court of the Northern District of California granted declaratory relief
 20 and declared unlawful former DHS Secretary Noem’s vacatur of the January 17, 2025, extension
 21 of TPS for Venezuela and subsequent termination of Venezuela’s 2023 designation in a case
 22 brought by the membership organization National TPS Alliance. *Nat’l TPS All. v. Noem*, No. 25-
 23 cv-01766-EMC, 2025 WL 3539156 at *3 (N.D. Cal. Dec. 10, 2025) (hereinafter “*NTPSA*” and
 24
 25

26 ¹ Although the temporary restraining order was granted, the underlying habeas petition was denied due in large part
 27 to the petitioner’s failure to provide a reply brief which resulted in the Court accepting the respondent’s arguments
 28 and facts “as true because evidence in the record does not dispute and Arcila Perez did not file a reply.” *Arcila Perez*
v. Noem, 2:26-cv-00107-SPC-NPM (M.D. Flo. Feb. 12, 2026). Here, Petitioner can provide further clarification on
 the unrefuted legal issues in briefing or oral argument.

1 “December 10 Order”). Petitioner is a member of the National TPS Alliance, so the NTPSA
2 December 10 Order has a preclusive effect in this habeas case as to the controlling question of
3 whether Petitioner retains TPS status. Because Petitioner’s TPS was never lawfully terminated,
4 Petitioner retained and continues to retain his TPS, thereby rendering his arrest and current
5 detention unlawful. This Court should therefore order Petitioner’s immediate release.
6

7 **STATEMENT OF FACTS**

8 ***Petitioner’s Immigration History***

9 Petitioner is a native of Venezuela who has resided in the United States since October 4,
10 2022. Pet. at 2, 8. Petitioner initially applied for and was granted Temporary Protected Status
11 (TPS) in the United States pursuant to the 2023 designation of TPS for Venezuela. *Id.*; Exh. C,
12 TPS Approval under 2023 Designation. Petitioner has consistently renewed TPS since his
13 initial registration, including pursuant to the most recent January 17, 2025, extension, which
14 extended protection for Venezuelan TPS beneficiaries through October 2, 2026. Pet. at 8.; *See*
15 *also* Exh. E, Petitioner’s 2025 TPS Re-Registration Receipt. Petitioner is a member of the
16 National TPS Alliance. Exh. F, Proof of Petitioner’s National TPS Alliance Membership.
17

18 Petitioner is married to a United States citizen, has a pending I-130, Petition for Alien
19 Relative, and a pending Form I-589, Application for Asylum and Withholding of Removal. Pet.
20 at 8. Petitioner is gainfully employed pursuant to a work permit that was granted by
21 Respondents. *Id.* Petitioner also has an established community of family and friends. *Id.* On
22 November 30, 2025, Petitioner was unlawfully detained at a routine ICE check-in and taken
23 into custody due to an alleged lack of status in the United States. Pet. at 8. Petitioner has
24 remained unlawfully detained since. Petitioner was transferred through various ICE facilities
25 and is currently detained at the Glades County Correctional Center in Moore Haven, FL. Exh.
26 A, ICE Detainee Locator.
27
28

1 ***Temporary Protected Status for Venezuela***

2 Venezuela was first designated for TPS on March 9, 2021, allowing Venezuelans residing
 3 in the U.S. since March 8, 2021, to apply for protection. 86 Fed. Reg. 13,574 (“2021
 4 Designation”). On September 8, 2022, Venezuela’s 2021 designation was extended by 18
 5 months. 87 Fed. Reg. 55,024. On October 3, 2023, the TPS designation was extended for 18
 6 months and *separately redesignated* for 18 months based upon the same factual circumstances
 7 and legal considerations pursuant to section 244 of the INA, 8 U.S.C. 1254a. 88 Fed. Reg. 68,
 8 130 (“2023 Designation”). Under the 2023 designation, “individuals who currently do not have
 9 TPS may submit an initial application during the initial registration period that runs from October
 10 3, 2023, and runs through the full length of the redesignation period ending April 2, 2025.” *Id.* at
 11 68, 131; Exh. C at 2 (emphasis added).
 12

13
 14 On January 17, 2025, the DHS Secretary extended the 2023 Venezuela designation by 18
 15 months, through October 2, 2026. 90 Fed. Reg. 5,961. In the extension order, DHS also
 16 streamlined the registration process for TPS holders by consolidating them into a single track,
 17 “allow[ing] existing beneficiaries of either the 2021 or 2023 TPS designation to seek an 18-
 18 month extension of status through October 2, 2026.” *Id.* at 5,962.

19
 20 On February 3, 2025, former DHS Secretary Noem purported to “vacate” DHS’s January
 21 17 extension of TPS for Venezuela. 90 Fed. Reg. 8805. On February 5, 2025, DHS published a
 22 notice in the Federal Register purporting to terminate the 2023 Venezuela Designation. 90 Fed.
 23 Reg. 9040 (Feb. 5, 2025). On September 8, 2025, DHS published a notice in the Federal Register
 24 terminating the 2021 designation of TPS for Venezuela.² 90 Fed. Reg. 43225 (Sept. 8, 2025)
 25
 26
 27

28 ² The termination of Venezuela’s 2021 designation is not at issue in this case because Petitioner has held TPS since Venezuela’s 2021 designation.

Legal Challenge to Venezuela's TPS Termination

On February 19, NTPSA and seven individual Venezuelan TPS holders challenged the vacatur and termination of Venezuela's 2023 designation as contrary to the TPS statute in violation of the Administrative Procedure Act (APA) and unlawful under the Fifth Amendment. See *National TPS Alliance (NTPSA) v. Noem*, No. 3:25 CV 01766 (N.D. Cal. Feb. 19, 2025) ("NTPSA"). On December 10, 2025, the district court in NTPSA issued a final judgment declaring the vacatur and termination 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 not seek a stay, but it filed an appeal. However, unless or until the December 10 order is actually reversed on appeal, it remains in effect.

Following the federal court's decision in *NTPSA*, on March 20, 2026, counsel for Petitioner called and spoke to the U.S. Attorney's Office of the Middle District of Florida regarding the strong merits of Petitioner's claim. Immediate relief was requested in lieu of initiating the instant litigation, but ultimately, the U.S. Attorney's Office of the Middle District of Florida declined and recommended filing a habeas petition. Thus, despite being on notice that Petitioner's continued detention is blatantly unlawful because he is a TPS holder, Respondents have not yet released him.

STANDARD OF REVIEW

An *ex parte* Temporary Restraining Order ("TRO") may be issued upon a showing that "immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A). A party seeking preliminary injunctive relief must demonstrate (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction

1 is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the
 2 government is a party, the balance of equities and public interest factors merge. *Nken v. Holder*,
 3 556 U.S. 418, 435 (2009). When the nonmoving party is a governmental entity, the last two *Winter*
 4 factors “merge.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). If a TRO is granted, then the court must
 5 also issue an order to show cause why a preliminary injunction should not issue. *See* L.R. 65-1.
 6

7 ARGUMENT

8 Petitioner respectfully submits that his continued detention violates his constitutional
 9 rights under the Fifth Amendment, including the right to due process, and as an alien who has
 10 been given Temporary Protected Status, also violates his statutory rights. Petitioner is being held
 11 without lawful authority, and each day of detention constitutes irreparable harm absent relief, and
 12 the balance of equities and public interest strongly favor issuance of a Temporary Restraining
 13 Order and an Order to Show Cause re Preliminary Injunction.
 14

15 **A. Likelihood of Success on the Merits**

16 Petitioner is unlawfully detained in violation of constitutional and statutory law. Due
 17 process rights extend to noncitizens who are present in the United States, including those subject
 18 to final removal orders. *See Zadyvadas v. Davis*, 533 U.S. 678, 693-94 (2001) (“[T]he Due
 19 Process Clause applies to all persons within the United States, including aliens, whether their
 20 presence here is lawful, unlawful, temporary, or permanent.”). The TPS statute is unambiguous:
 21 A TPS recipient “shall not be detained . . . on the basis of the [noncitizen’s] immigration status.”
 22 8 U.S.C. § 1254a(d)(4) (emphasis added). Petitioner maintains TPS status despite the vacatur and
 23 termination of Venezuela’s TPS designation because, under the *NTPSA* December 10 Order—
 24 which has preclusive effect in this case—the vacatur and termination were unlawful.
 25 Accordingly, Petitioner is very likely to succeed in showing their detention is unlawful.
 26

27 A final merits judgment, including a declaratory judgment, has preclusive effect on future
 28

1 proceedings involving the same parties. *See* 28 U.S.C. 2201 (“Any such declaration shall have the
 2 force and effect of a final judgment[.]”); *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023) (“the
 3 point of a declaratory judgment ‘is to establish a binding adjudication that enables the parties to
 4 enjoy the benefits of reliance and repose secured by res judicata’”). Without preclusive effect, a
 5 declaratory judgment is little more than an advisory opinion.” (internal citations and quotation
 6 marks omitted).

8 The *NTPSA* December 10 Order conclusively establishes that: “(1) the vacatur of the
 9 January 17, 2025, TPS extension for Venezuela was unlawful, as was (2) the termination of
 10 Venezuela’s 2023 TPS designation on February 5, 2025.” *NTPSA December 10 Order* at 3.
 11 Petitioner was granted Temporary Protected Status (TPS) in the United States pursuant to the
 12 2023 designation of TPS for Venezuela, Exh. C, and is a member of the National TPS Alliance.
 13 Exh. F. Accordingly, Petitioner’s TPS status has never been lawfully terminated, and he has TPS
 14 through October 6, 2026, rendering his detention unlawful. 8 U.S.C. § 1254a(d)(4) (“An alien
 15 provided temporary protected status under this section shall not be detained by the Attorney
 16 General on the basis of the alien’s immigration status in the United States.”). For this reason
 17 alone, Petitioner is likely to succeed in this habeas case.

19 Furthermore, while this Court need not reach the constitutional claims, Petitioner has also
 20 established a likelihood of success on those for three reasons. First, Petitioner’s detention lacks
 21 any reasonable relation to any lawful immigration purpose. Immigration detention must always
 22 “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v.*
 23 *Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Just as clear as its anti-
 24 detention mandate, the TPS statute also contains a prohibition on removing noncitizens with TPS.
 25 See 8 U.S.C. § 1254a(a)(1)(A) (the government “shall not remove the [noncitizen] from the
 26 United States” while they have TPS protections); *see also* 8 C.F.R. § 244.5(b). Where, as here,
 27
 28

1 the government has no authority to remove Petitioner, detention is not reasonably related to its
2 purpose and violates due process.

3 Second, because the TPS statute bars the government from removing Petitioner,
4 Petitioner's continued deprivation of liberty cannot be narrowly tailored to serve a compelling
5 government interest. The Due Process Clause requires that any deprivation of Petitioner's liberty
6 be narrowly tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292,
7 301–02 (1993) (holding that due process “forbids the government to infringe certain
8 ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement
9 is narrowly tailored to serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying less
10 rigorous standard for “deportable aliens”). Petitioner's ongoing imprisonment obviously cannot
11 satisfy that rigorous standard, where there is no statutory purpose, let alone a compelling
12 government interest, in Petitioner's continued detention.

13 Finally, at a bare minimum, “the Due Process Clause includes protection against unlawful
14 or arbitrary personal restraint or detention.” *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001)
15 (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an individual's
16 detention, their detention necessarily violates the Due Process rights. Having confirmed that
17 Petitioner's TPS designation is valid and current, Subsection (d)(4) of 8 U.S.C. § 1254a is
18 unambiguous in providing that “[a]n alien provided temporary protected status under this section
19 shall not be detained by the Attorney General on the basis of the alien's immigration status in the United
20 States.” Respondents have not, nor will they be able to, offer any justification for their arrest and
21 detention of Petitioner. Accordingly, Petitioner's arrest and detention by immigration authorities
22 violate 8 U.S.C. § 1254a(d)(4), and, thus, Petitioner is likely to succeed on the merits of his claim.

23
24 **B. There is High Likelihood of Irreparable Harm to Petitioner.**

25 Each day that Petitioner remains in ICE custody in violation of the INA and the Due Process
26
27
28

1 Clause of the Constitution, Petitioner suffers irreparable harm. Deprivation of constitutional rights “for
2 even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S.
3 347, 373, 96 S. Ct. 2673, 2690, 49 L. Ed. 2d 547 (1976); *See also Wright, Miller, & Kane*, Federal
4 Practice and Procedure, § 2948.1 (2d ed. 2004) (“When an alleged deprivation of a constitutional right is
5 involved, most courts hold that no further showing of irreparable injury is necessary.”). While
6 unnecessary to justify granting a TRO, Petitioner’s continued detention is also detrimental to his family,
7 community, and well-being. Petitioner’s unconstitutional, unlawful, and unnecessary continued
8 detention under these conditions constitutes irreparable harm justifying this emergency relief.

9
10 Petitioner faces ongoing and irreparable harm as a result of his unlawful detention. He continues
11 to be deprived of a fundamental constitutional right. “It is well established that the deprivation of
12 constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
13 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Each day that
14 Petitioner remains in detention without lawful authority constitutes a continuing violation of his
15 Fifth Amendment due process rights, causing him to suffer irreparable harm. Respondents have
16 offered no legal justification for Petitioner’s detention, and the ongoing incarceration imposes not
17 only physical and emotional hardships but also disrupts his ability to work, maintain housing, and
18 care for himself or his United States citizen wife in the United States. Pet. at 8. Petitioner has a
19 weighty liberty interest given his long residence in the United States since 2022. *Id.*

20
21
22 Furthermore, he faces removal to a third country, Ecuador, because Respondent DHS has
23 filed a motion to pretermitt his pending asylum application and is set to be decided at an expedited
24 master calendar hearing on March 30, 2026. See Exh. B, Proof of Emergent Circumstances, at 1
25 (“The Department of Homeland Security has filed a motion to pretermitt the following
26 applications: Respondent’s application for relief...Granted...A hearing will be held on the motion
27 to pretermitt at the next scheduled hearing on March 18, 2026.”). But the law is clear: “An alien
28

provided temporary protected status...shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States" and "*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); (d)(4). (emphasis added). Thus, Petitioner statutorily should not be in detention nor facing removal to Ecuador, but is set to receive a removal to Ecuador on March 30, 2026. Therefore, because of the continued deprivation of his liberty and a possible removal order to Ecuador, Petitioner has established that he will suffer immediate and irreparable harm by Respondents if this motion is not granted.

C. The Balance of Equities Tips Heavily in Favor of Petitioner, and a TRO is in the Public Interest.

The final two factors for preliminary injunctive relief weigh heavily in Petitioner's favor. The ongoing injury to Petitioner far outweighs any harm that would result to Respondents once a TRO is issued by the Court. Petitioner challenges an action that is in violation of his constitutional rights; both the equities and the public interest favor the issuance of a temporary restraining order. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Fifth Amendment's Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). There are no apparent legitimate public interests served by Petitioner's unlawful detention. In fact, the public is better served by the faithful execution of immigration laws. See *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing "the public interest in having the immigration laws applied correctly and evenhandedly"); see also *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (finding the government "cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns."). The public interest favors enforcing clear legal rights, including 8 U.S.C. § 1254a. Granting the TRO reinforces the rule of law, as Respondents clearly have no authority to detain Petitioner. Thus, protecting Petitioner from ongoing unlawful detention weighs conclusively in favor of granting relief. For these same

1 reasons, the Court should also find pursuant to Federal Rule of Civil Procedure 65(c), there is no
2 realistic likelihood of harm to Respondents if this motion is granted.

3 Accordingly, the Court should find that Petitioner's ongoing immigration detention is
4 unjustified and unlawful, will cause irreparable harm if allowed to continue, and does not serve
5 the public interest.
6

7
8 **CONCLUSION**

9 **WHEREFORE**, for the foregoing reasons, Petitioner respectfully requests that this Court
10 issue a Temporary Restraining Order and order Respondents to immediately release Petitioner
11 from unlawful custody.
12

13
14 Dated: March 20, 2026

Respectfully submitted,

15 **/S/ Marlon Bayas**
16

17 Marlon Bayas, Esq.
18 Bar No.: 440972023
19 Bayas Law, P.C.
20 58-84 Norfolk Street, Suite 7
21 Newark, NJ 07103
22 T: (862)763-0139
23 info@bayaslaw.com
24 Attorney for Petitioner
25 *Pending Special Admission*
26
27
28