UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA

MARTIN JAIRO POSADA ALVAREZ

Petitioner,

v.

JASON STREEVAL, Warden, Stewart Detention Center; ROSE M. KENDRICK, Acting Director Atlanta Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities*,

Respondents.

Case No.: 4:26-cv-00514

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

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

INTRODUCTION

1. Martin Jairo Posada Alvarez (herein after "Petitioner") is a Venezuelan national and Colombian citizen who holds Temporary Protected Status (TPS) under 8 U.S.C. § 1254a and has a pending asylum application. Respondents detained Petitioner, who is currently in Stewart Detention Center in Lumpkin, Georgia. Petitioner is under the direct control of the Respondents and has no scheduled release date. Petitioner is detained under the jurisdiction of the U.S. Immigration and Customs Enforcement Atlanta Field Office at Atlanta, Georgia. Petitioner has been living peacefully in Georgia with his US Citizen children and wife since 2021.

2. 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).

3. While former 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 former Secretary 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.

4. Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for

30 days despite the unambiguous statutory command that TPS holders may not be either detained or deported.

5. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

6. Further, Petitioner is currently detained by immigration authorities following the purported revocation of an Order of Supervision ("OSUP"). That detention is unlawful because the government failed to comply with the legal and constitutional requirements governing OSUP revocation. An OSUP is not an informal or discretionary arrangement that may be withdrawn at will. Rather, it arises from statutory and constitutional limits on immigration detention recognized in Zadvydas v. Davis. Under *Zadvydas*, once removal is not reasonably foreseeable, continued detention is impermissible, and the government must release the individual subject to appropriate supervision. Thus, the issuance of an OSUP reflects a binding determination: that detention is no longer lawful absent new justification. The government cannot evade that constraint by re-detaining the individual without first satisfying the requirements for revocation.

7. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief under 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Rivero v. Mina*, No. 6:26-CV-66-RBD-NWH, 2026 WL 199319, at *2 (M.D. Fla. Jan. 26, 2026) ("It is well-settled that courts have habeas jurisdiction to consider 'challenges to the lawfulness of immigration-related detention.'") (*quoting Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)).

8. Detaining Petitioner is an expensive and pointless endeavor. Petitioner respectfully seeks

the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

CUSTODY

9. Petitioner is in the physical custody of Respondents. Petitioner is imprisoned at Stewart Detention Center an immigration detention facility, in Lumpkin, Georgia. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

10. 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

11. 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

12. Petitioner Mr. Posada Alvarez is currently detained by Respondents at Stewart Detention Center, an immigration detention facility. Petitioner has been in ICE custody since on or about February 28, 2026 when he was arrested at his home the day proceeding a routine ICE check-in.

13. Respondent Jason Streeval is the Warden of the Stewart Detention facility, where Petitioner

is currently detained. He is a legal custodian of Petitioner and is named in her official capacity.

14. Respondent Rose M. Kendrick is the Acting Field Office Director responsible for the Atlanta Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. She is a legal custodian of Petitioner and is named in her official capacity.

15. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

16. Respondent Troy Edgar is the Deputy Secretary of the United States Department of Homeland Security (DHS). He is the legal custodian of Petitioner and named in his official capacity.

17. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (DHS). He is a legal custodian of Petitioner and is named in his official capacity.

18. 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

19. Petitioner came to the United States prior to July 31, 2023, specifically around May 2, 2021. See Exh. A. At the time of his entry, he presented himself to US Border Patrol agents and was released into the United States on May 4, 2021 under an Order of Supervision ("OSUP"). Exh. B.

20. Petitioner has a previous *in absentia* removal order from September 28, 2011, that was never properly executed because Petitioner had already departed the United States prior to the hearing being scheduled, around December 2009. See Exh. J.

21. Following his release, Petitioner applied for asylum with USCIS on July 18, 2022. Exh. C.
22. Petitioner applied for and was granted Temporary Protected Status in the United States initially pursuant to the 2023 designation of TPS for Venezuela. Petitioner has consistently renewed TPS since this initial registration, including pursuant to the most recent January 17, 2025 extension, which extended protection for Venezuelan TPS beneficiaries through October 2, 2026. See Exh. D. Petitioner's most recent I-94, which serves as proof of TPS registration, has been valid since June 28, 2024. See Exh. Id.
23. Petitioner is a member of the National Temporary Protected Status Alliance ("NTPSA"). See Exh. E.
24. ICE officers took Petitioner into custody at on or about February 28, 2026 from his home in Alpharetta, GA 30004 and was subsequently transferred to Stewart Detention Center in Lumpkin, Georgia. The ERO has not provided any paperwork with a clear justification for Petitioner's detention or identified the statutory authority under which it is maintaining custody. See Exh F.
25. On March 4, 2026; March 5, 2026; March 6, 2026 Attorney and paralegal called ICE ERO multiple times to request release or organize signature of voluntary departure on behalf of Petitioner. Several voicemails were left at two phone numbers associated the Atlanta ICE Field Office and ERO: 229-838-1105 and (404) 893-1290 with no response. See Exh. G.
26. Attorney sent an email to the ICE office and relevant supervisory officials at the Atlanta field office. The message cited the TPS statute's non-detention provision and included as an attachment Petitioner's proof of TPS status. It also included a form G-28 proof of legal representation. See Exh Id.
27. Petitioner poses no risk to society and has strong connections to his community, including

his US citizen daughters and wife who is also her under Temporary Protect Status. He is well-liked in his community and has received unwavering support from his family and friends. See Exh. H.

II. TEMPORARY PROTECTED STATUS FOR VENEZUELA

28. 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).

29. 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).

30. 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.

31. 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).

32. 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.

33. 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.

34. 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).

35. 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

36. 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).

[1] The termination of Venezuela's 2021 designation is not at issue in this case because Petitioner holds TPS under Venezuela's 2023 designation.

37. 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.

38. 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.

39. 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.

40. 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[.]"); *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023) (a declaratory judgment conclusively resolves the legal rights of the parties and has preclusive effect); *see also Thomas v. Blue Cross & Blue Shield Ass'n*, 594 F.3d 823, 829 (11th Cir. 2010) (a postjudgment order is final if it disposes of all issues raised in the motion).

41. 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)).

42. "'The established rule in the federal courts is that a final judgment retains all of its res judicata

consequences pending decision of the appeal.'" *Jaffree v. Wallace*, 837 F.2d 1461, 1467 (11th Cir. 1988) (*quoting* 18 C. Wright, A. Miller, & E. Cooper, *Federal Practice and Procedure*, sec. 4433 at 308 (1981, Supp. 1987)); *see also Comer v. Murphy Oil USA, Inc.*, 718 F.3d 460, 467 (5th Cir. 2013) ("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.") (internal citations and quotation marks omitted).

LEGAL FRAMEWORK

43. 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 U.S.C. § 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).[2] It is hard to imagine a clearer statutory mandate proscribing detention.

44. 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

[2] "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.

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).

45. 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).

46. 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.

47. 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.

48. Third, Petitioner is detained despite DHS not properly revoking Petitioner's Order of Supervision ("OSUP"), further supporting that Petitioner's detention is unlawful. Under *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001) (Kennedy, J., dissenting) (emphasis added), post-removal-period detention is constitutionally limited, and once removal is no longer reasonably foreseeable, the government must release the individual subject to supervision. The issuance of an OSUP reflects that continued detention is not authorized absent new justification. The government therefore cannot simply re-detain Petitioner without first establishing a lawful basis to revoke supervision, which requires a material change in circumstances—such as a significant likelihood of removal in the reasonably foreseeable future—or a material, documented violation of supervision conditions. Here, the government has demonstrated neither: there is no evidence that removal has become reasonably foreseeable, nor that Petitioner committed a material violation sufficient to justify re-detention, and conclusory assertions or minor technical noncompliance are insufficient under governing law. Because the OSUP was not properly revoked, Petitioner's continued detention violates the Constitution and federal law.

49. Fourth, 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. Petitioner presented himself at the border in May 2021 and was released into the U.S. under and Order of Supervision. Despite following the requirements and reporting dutifully to his ICE check-

ins, he was detained. Petitioner's detention is arbitrary and unlawful.

50. Fifth, the weight of authority of federal courts holds that when ordering a bond hearing under § 1226(a) as a habeas remedy, the burden of proof should be on the government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *See*, e.g., *Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *10 (W.D. Tex. Oct. 24, 2025). This Court already decided that the government must bear the burden of proof to justify a noncitizen's detention pending removal proceedings. *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 1331, 1335 (M.D. Ga. 2020). In doing so, it joined several Circuit courts and an overwhelming majority of district courts that have held the same.[3] "Allocating the burden in this manner reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error

[3] *See e.g.*, *Velasco Lopez v. Decker*, 978 F.3d 842, 853 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (As of 2020, the "vast majority" of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.); *Dubon Miranda v. Barr*, 463 F. Supp. 3d 632, 646–47 (D. Md. 2020); *Chavero v. Bondi*, No. EP-25-CV-00638-DB, 2025 WL 3679768, at *5 (W.D. Tex. Dec. 18, 2025); *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026); *Velasquez Salazar v. Dedos*, No. 25-CV-835, 2025 WL 2676729, at *1, *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-CV-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-CV-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *1, *14 (E.D. Cal. Sept. 5, 2025); *Arostegui-Maldonado v. Baltazar*, 2025 WL 2280357, at *1, *12 (D. Colo. Aug. 8, 2025); *Cruz-Zavala v. Barr*, 445 F. Supp. 3d 571, 576 (N.D. Cal. 2020) ("[A]t a § 1226(a) bond hearing, the government must prove by clear and convincing evidence that an alien is a flight risk or a danger to the community to justify denial of bond.") (internal quotation omitted); *Vargas v. Wolf*, No. 2:19-cv-02135-KJD-DJA, 2020 WL 1929842, at *7 (D. Nev. Apr. 21, 2020) ("In sum, the Fifth Amendment's Due Process Clause requires the government to prove a detainee's flight risk or dangerousness, by clear and convincing evidence, to justify continued detention."); *Diaz-Ceja v. McAleenan*, No. 19-cv-00824-NYW, 2019 WL 2774211, at *7 (D. Colo. July 2, 2019) ("Requiring a non-criminal alien to prove that he is not dangerous and not a flight risk at a bond hearing violates the Due Process Clause. The clear weight of authority from courts to have considered the question after the Jennings Court's deferral and remand of the constitutional question have come to the same conclusion.") (internal citation omitted); *Al-Sadeai v. USCIS*, 540 F. Supp. 3d 983, 991 (S.D. Cal. 2021) ("[N]oncitizens still face such a significant possible deprivation of liberty at the time of their initial bond hearing under Section 1226(a) that the Due Process Clause requires the burden of proof to justify detention to be placed on the Government ...."); *Darko v. Sessions*, 342 F. Supp. 3d 429, 435 (S.D.N.Y. 2018); *M. D. v. Garland*, No. 21-CV-1343 (NEB/TNL), 2021 WL 7161831, at *10 (D. Minn. Dec. 29, 2021), report and recommendation adopted, No. 21-CV-1343 (NEB/TNL), 2022 WL 542426 (D. Minn. Feb. 23, 2022) ("[D]ue process requires the Government prove by clear and convincing evidence that his detention is necessary to justify his confinement under Section 1226(a).").

equally.'" *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d at 688 (quoting *German Santos*, 965 F.3d at 214). As the Second Circuit has explained, due process calls for the burden-shifting in a bond hearing because "the Government had substantial resources to deploy" and "to the extent the Government did not have the necessary information at its fingertips, it had broad regulatory authority to obtain it." *Velasco Lopez*, 978 F.3d at 853. Conversely, for a petitioner to prove the negative as to risk of flight (or danger) can be difficult. *See Elkins v. United States*, 364 U.S. 206, 218 (1960) ("[A]s a practical matter it is never easy to prove a negative."). The Second Circuit further concluded that requiring the government to prove that the noncitizen was a danger to the community or a flight risk *by clear and convincing evidence* to justify his continued detention "strikes a fair balance between the rights of the individual and the legitimate concerns of the state." *Velasco Lopez*, 978 F. 3d at 857 (quoting *Addington v. Texas*, 441 U.S. 418, 431 (1979)).

51. In *J.G. v. Warden,* this Court applied the *Mathews v. Eldridge* balancing test and emphasized three features of § 1226(a) bond proceedings: (1) the liberty interest at stake—freedom from physical incarceration—is fundamental; (2) a detained noncitizen faces serious practical obstacles to gathering evidence, contacting witnesses, and obtaining records while incarcerated; and (3) the government, by contrast, "has substantial resources available" and ready access to the very information bearing on flight risk and danger. 501 F. Supp. 3d at 1337–39. The court concluded that placing the burden on the detainee in this setting creates a high risk of erroneous deprivation and that due process therefore requires the ***government***—not the noncitizen—to justify continued detention at a § 1226(a) bond hearing. *Id.* at 1341.

52. As such, 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

53. Petitioners reallege and incorporate by reference each and every allegation contained above.

54. 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.

55. 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.

56. 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

57. Petitioners reallege and incorporate by reference each and every allegation contained above.

58. 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).

59. Petitioner's detention is unlawful because DHS failed to validly revoke the Order of Supervision and cannot justify renewed custody under the constitutional limits established in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

60. Most federal courts—including this Court in *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 1331, 1335 (M.D. Ga. 2020)—hold that due process requires the government, not the detainee, to prove by clear and convincing evidence at a § 1226(a) bond hearing that continued detention is justified, given the fundamental liberty interest at stake and the government's superior access to evidence.

61. 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: April 2, 2026

Respectfully submitted,

/s/*Melaney LaGrone*
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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 and his current detention makes him unable to do so on his own behalf. I and 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/Melaney LaGrone
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Date: April 2, 2026