

1 Robert Enrique Molina Castanedam
2 A [REDACTED]
3 Stewart Detention Center
4 146 CCA Road, Lumpkin, GA 31815

5 **PRO SE**

6 **THE UNITED STATES DISTRICT COURT**
7 **FOR THE MIDDLE DISTRICT OF GEORGIA**

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10 **Robert Enrique Molina Castaneda,**

11 *Petitioner,*

12 *v.*

13 **Kristi Noem**, Secretary, Department of
14 Homeland Security; **Todd M. Lyons**,
15 Acting Director, United States Immigration
16 and Customs Enforcement (ICE); **Pamela**
17 **Jo Bondi**, Attorney General of the United
18 States; **Field Office Director**, Atlanta
19 Field Office; and **Warden**, Stewart
20 Detention Center *in their official*
21 *capacities,*

22 *Respondents.*

Case No.:

PLAINTIFF'S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE RE:
PRILIMINARY INJUNCTION

INTRODUCTION

Petitioner files this motion for a temporary restraining order (“TRO”) ordering their immediate release. Petitioner is a Venezuelan national who holds Temporary Protected Status (“TPS”) under 8 U.S.C. § 1254a. 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).

While Respondent DHS Secretary Kristi Noem purported to vacate and terminate TPS for Venezuela, for the purposes of this habeas petition, that vacatur and termination must be deemed unlawful. On December 10, 2025, a federal district court issued a final judgment declaring Respondent Noem’s vacatur and termination unlawful in a case brought by National TPS Alliance on behalf of its members. *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”). Petitioner is a member of the National TPS Alliance, so the *NTPSA* December 10 Order has preclusive effect in this habeas case as to the controlling question whether Petitioner retains TPS status. Because Petitioner’s TPS was never lawfully terminated, Petitioner retains TPS, and Petitioner’s detention is unlawful. This Court should therefore order Petitioner’s immediate release.

STATEMENT OF FACTS

Petitioner’s Immigration History

Petitioner is a native of Venezuela who has resided in the United States since prior to July 31, 2023.¹ Petitioner applied for TPS and Petitioner’s application was granted on or about 6 June 2024. 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

¹ July 31, 2023 is the date by which TPS beneficiaries must have been continuously physically present in the United States in order to qualify under Venezuela’s 2023 TPS designation. 88 Fed. Reg. 68,130 (Oct. 3, 2023).

1 *Id.*

2 On or about 14 April 2026 Petitioner was arrested by ICE Petitioner has been in ICE custody
3 ever since.

4 Petitioner is a member of the National TPS Alliance, a membership organization of TPS
5 holders.

6 *TPS for Venezuela*

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8 Venezuela was first designated for TPS on March 9, 2021, allowing Venezuelans residing
9 in the U.S. since March 8, 2021 to apply for protection. 86 Fed. Reg. 13,574 (“2021
10 Designation”). On September 8, 2022, Venezuela’s 2021 designation was extended by 18
11 months 87 Fed. Reg. 55,024. Venezuela was designated a second time on October 3, 2023,
12 extending protection for the 2021 group and also allowing more recently arrived Venezuelans to
13 apply. 88 Fed. Reg. 68,130 (“2023 Designation”).

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

20 On February 3, 2025, Respondent Secretary Noem purported to “vacate” DHS’ 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)

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27 ² The termination of Venezuela’s 2021 designation is not at issue in this case because the 2021
28 and 2023 TPS designations were consolidated into a single track and, by re-registering pursuant
(Footnote continues on next page.)

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). See Exh. D ("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.

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). "[T]he legal standards applicable to TROs and preliminary injunctions are substantially identical." *Babaria v. Blinken*, 87 F.4th 963, 976 (9th Cir. 2023) (internal quotations omitted). The party seeking relief "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "The first factor under *Winter* is the most important—likely success on the merits." *Aamer v. Obama*, 742 F.3d 1023, 1038

to the January 17 extension, 2021 beneficiaries became beneficiaries of the 2023 designation. 90 Fed. Reg. 5,961 at 5,962.

(D.C.Cir. 2014). Where the government is the opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits.

The TPS statute is unambiguous: A TPS recipient “*shall not be detained . . . on the basis of the [noncitizen’s] immigration status*” 8 U.S.C. § 1254a(d)(4) (emphasis added). Petitioner maintains TPS status despite the vacatur and termination of Venezuela’s TPS designation because, under the *NTPSA* December 10 Order—which has preclusive effect in this case—the vacatur and termination were unlawful. Accordingly, Petitioner is very likely to succeed in showing their detention is unlawful.

A final merits judgment, including a declaratory judgment, has preclusive effect on future proceedings involving the same 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) (“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)). “[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.” *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); *Mascarenas Enters., Inc. v. City of Albuquerque*, 494 F. App’x 846 (10th Cir. 2012); *Seminole Tribe of Fla. v. Biegalski*, 757 F. App’x 851 (11th Cir. 2018).

1 The NTPSA December 10 Order conclusively establishes that: “(1) the vacatur of the
2 January 17, 2025 TPS extension for Venezuela was unlawful as was (2) the termination of
3 Venezuela’s 2023 TPS designation on February 5, 2025.” NTPSA December 10 Order at 3.
4 Accordingly, Petitioner’s TPS status has never been lawfully terminated, and it remains in effect
5 It necessarily follows that Petitioners’ detention is unlawful. 8 U.S.C. § 1254a(d)(4) (“An alien
6 provided temporary protected status under this section shall not be detained by the Attorney General
7 on the basis of the alien’s immigration status in the United States.”). For this reason alone, Petitioner
8 is likely to succeed in this habeas case.
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10 While this Court need not reach the constitutional claims, Petitioner has also established
11 likelihood of success on those for three reasons. First, Petitioner’s detention lacks any reasonable
12 relation to any lawful immigration purpose. Immigration detention must always “bear[] a
13 reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538
14 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Just as clear as its anti-detention mandate,
15 the TPS statute also contains a prohibition on removing noncitizens with TPS. *See* 8 U.S.C. §
16 1254a(a)(1)(A) (the government “shall not remove the [noncitizen] from the United States” while
17 they have TPS protections); *see also* 8 C.F.R. § 244.5(b). Where, as here, the government has no
18 authority to remove Petitioner, detention is not reasonably related to its purpose and violates due
19 process.
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21 Second, because the TPS statute bars the government from removing Petitioner, Petitioner’s
22 continued deprivation of liberty cannot be narrowly tailored to serve a compelling government
23 interest. The Due Process Clause requires that any deprivation of Petitioner’s liberty be narrowly
24 tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02
25 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty
26 interests at all, no matter what process is provided, unless the infringement is narrowly tailored to
27 serve a compelling state interest”); *Demore*, 538 U.S. at 528 (applying less rigorous standard for
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1 “deportable aliens”) Petitioner’s on-going imprisonment obviously cannot satisfy that rigorous
2 standard, where there is no statutory purpose, let alone a compelling government interest, in
3 Petitioner’s continued detention.

4 Finally, at a bare minimum, “the Due Process Clause includes protection against unlawful
5 or arbitrary personal restraint or detention.” *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001)
6 (Kennedy, J., dissenting) (emphasis added). Where federal law explicitly prohibits an individual’s
7 detention, their detention necessarily violates the Due Process rights.

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9 **B. Petitioner Will Suffer Irreparable Harm.**

10 Each day that Petitioner remains in ICE custody in violation of the INA and the Due Process
11 Clause of the Constitution, Petitioner suffers irreparable harm. Deprivation of constitutional rights
12 “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*,
13 427 U.S. 347, 373, 96 S. Ct. 2673, 2690, 49 L. Ed. 2d 547 (1976). *See also* Wright, Miller, & Kane,
14 Federal Practice and Procedure, § 2948.1 (2d ed. 2004) (“When an alleged deprivation of a
15 constitutional right is involved, most courts hold that no further showing of irreparable injury is
16 necessary.”).

17
18 While unnecessary to justify granting a TRO, Petitioner’s continued detention is also
19 detrimental to his family, community, and well-being. For example My detention is causing severe
20 and ongoing hardship to my family. I am the primary and

21 sole financial provider for my two children in Venezuela, who depend entirely on me for
22 their most basic needs, including food, housing, education, and daily living expenses.

23 Since my detention, they have been left without any stable financial support, placing
24 them in a highly vulnerable and uncertain situation.

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27 In addition, I have lived with my partner in the United States for the past several years at
28 the same address, maintaining a stable and consistent home. I have always worked to

1 support our household, and I have been her primary source of financial support. My
2 detention has forced her to face all responsibilities alone, creating overwhelming
3 financial pressure and emotional distress. She is now struggling to cover essential
4 expenses such as rent, utilities, and food without my assistance.

5 Prior to my detention, I consistently maintained employment and demonstrated a strong
6 work ethic. Even at the time of the traffic stop that led to my detention, I was actively
7 working and contributing to my household. This reflects my commitment to being a
8 responsible, law-abiding, and productive individual who supports his family.

9 My detention has deeply affected not only my family but also me as a person. Being
10 separated from my loved ones and unable to fulfill my role as a provider has caused
11 significant emotional distress, anxiety, and a sense of helplessness. I have always
12 Take pride in supporting my family and being present in their lives, and this situation
13 has taken a serious emotional toll on me.

14 My continued detention is not only causing extreme financial hardship, but also
15 profound emotional suffering for my children and my partner, who rely on me for
16 support, guidance, and stability. The longer I remain detained, the more severe and
17 lasting the harm becomes, as my family struggles to meet their basic needs and
18 maintain any sense of stability without me

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21 Petitioner unconstitutional, unlawful, and unnecessary continued detention under these conditions
22 constitutes irreparable harm justifying this emergency relief.
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24 **C. The Balance of Equities Tips Heavily in Favor of Petitioner and a TRO is in the
Public Interest**

25 The ongoing injury to Petitioner far outweighs any harm that will result to Respondents if
26 the Court issues a TRO. Further, the issuance of a TRO does not disserve the public interest but
27 rather promotes it because it upholds the rule of law. "[N]either equity nor the public's interest are
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1 furthered by allowing violations of federal law to continue.” *Galvez v. Jaddou*, 52 F.4th 821, 832
2 (9th Cir. 2022); *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (“The public interest
3 benefits from an injunction that ensures that individuals are not deprived of their liberty and held
4 in immigration detention because of bonds established by a likely unconstitutional process”). In
5 this case, the law is clear that Respondents have no authority to detain Petitioner. Granting the TRO
6 promotes the rule of law.

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8 **I. CONCLUSION**

9 For the foregoing reasons, this Court should issue a temporary restraining order and instruct
10 Respondents to immediately release Petitioner.

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12 Dated: June 03 2026
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15 Respectfully submitted,

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17 Robert Molina

18 Petitioner
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