

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

DAIMAR NALLIBEL APONTE REYES,

Petitioner,

v.

JASON STREEVAL, Warden, Stewart Detention Center; LADEON FRANCIS, Field Office 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; TODD BLANCHE, Acting United States Attorney General, *in their official capacities,*

Respondents.

Civil Action No.:

**PETITION FOR WRIT OF HABEAS
CORPUS FOR DAIMAR NALLIBEL
APONTE REYES (A244100052)**

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

I. INTRODUCTION

1. Daimar Nallibel Aponte Reyes 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. 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 former Department of Homeland Security (“DHS”) Secretary Kristi Noem purported to rescind TPS for Venezuela, that attempted rescission was invalid and in violation of the Administrative Procedure Act (“APA”).
3. On December 10, 2025, in a case brought by the National TPS Alliance (“NTPSA”)—an organization of which Ms. Aponte Reyes is a member—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 TPS designation. *Nat’l TPS All. v. Noem*, No. 25-cv-01766, 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 on Ms. Aponte Reyes’s habeas case; under that order, Ms. Aponte Reyes retains her TPS.
4. Ms. Aponte Reyes has now been detained by U.S. Immigration and Customs Enforcement (“ICE”) for over 160 days despite the unambiguous statutory command that TPS holders may not be either detained or deported.
5. Ms. Aponte Reyes challenges her detention as a violation of the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment.
6. Ms. Aponte Reyes 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, 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)). Ms. Aponte Reyes respectfully requests that this Court grant a writ of habeas corpus and order Respondents to immediately release her from custody.

II. CUSTODY

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

III. JURISDICTION

8. 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.

IV. VENUE

9. 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, Ms. Aponte Reyes is detained in this District, Ms. Aponte Reyes’s 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.

V. PARTIES

10. Ms. Aponte Reyes is currently detained by Respondents at Stewart Detention Center, an immigration detention facility. Ms. Aponte Reyes has been in ICE custody since approximately November 14, 2025.

11. Respondent Jason Streeval is the Warden of the Stewart Detention Center, where Ms. Aponte Reyes is currently detained. He is a legal custodian of Ms. Aponte Reyes and is named in his official capacity.
12. Respondent LaDeon Francis is the Field Office Director responsible for the Atlanta Field Office of ICE with administrative jurisdiction over Ms. Aponte Reyes's immigration case. He is a legal custodian of Ms. Aponte Reyes and is named in his official capacity.
13. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Ms. Aponte Reyes and is named in his official capacity.
14. Respondent Markwayne Mullin is the Secretary of DHS. He is a legal custodian of Ms. Aponte Reyes and is named in his official capacity.
15. Respondent Todd Blanche is the Acting Attorney General of the United States Department of Justice. He is a legal custodian of Ms. Aponte Reyes and is named in his official capacity.

VI. STATEMENT OF FACTS

A. MS. APONTE REYES' IMMIGRATION HISTORY

16. Ms. Aponte Reyes came to the United States prior to July 31, 2023. She registered for TPS in the United States initially on October 31, 2023, pursuant to the 2023 designation of TPS for Venezuela, and her TPS was approved on June 11, 2024. *See* Exh. A, Aponte Reyes TPS Approval Notice.
17. Ms. Aponte Reyes submitted a TPS renewal registration on April 9, 2025, pursuant to the January 17, 2025, extension of Venezuelan TPS through October 2, 2026. *See* Exh. B, Aponte Reyes TPS Receipt Notice.
18. Even if an individual does not submit a renewal registration, an individual maintains TPS unless or until: (1) the government seeks to withdraw TPS from the individual for cause under a statutory withdrawal procedure (*see* 8 § U.S.C. 1254a(c)(3); 8 C.F.R. § 244.14); or (2) in accordance with

statutory requirements, the government terminates an entire country's TPS designation (*see* 8 U.S.C. § 1254a(b)(3)(B)).

19. On information and belief, the Government has not sought to individually withdraw Ms. Aponte Reyes' TPS; neither has it permissibly terminated the Venezuela TPS Designation, as the December 10 Order declared.
20. Ms. Aponte Reyes is a member of the National TPS Alliance. *See* Exh. C, Aponte Reyes NTPSA Confirmation.
21. On November 14, 2025, Ms. Aponte Reyes was detained by ICE and transferred to Stewart Detention Center from Effingham County Jail, where she was being held after being arrested during a traffic stop. Those charges were dismissed on November 18, 2025. *See* Exh. D, Aponte Reyes Dismissal of Warrant. Ms. Aponte Reyes has now been unlawfully detained in immigration custody for over 160 days.
22. TPS holders cannot lawfully be detained by ICE or deported. *See* 8 U.S.C. § 1254a.

B. RECENT HISTORY OF TEMPORARY PROTECTED STATUS FOR VENEZUELA

23. On the last day of her 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. 6845, 6845 (Jan. 19, 2021). President Trump's action permitted approximately 300,000 Venezuelan refugees to live and work in the United States for 18 months. *See* Memorandum re Deferred Enforced Departure for Certain Venezuelans, 86 Fed. Reg. 6845 (Jan. 19, 2021).
24. 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. 13574 (Mar. 9, 2021) (“2021 Designation”). 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. 55024 (Sept. 8, 2022); 88 Fed. Reg. 68130 (Oct. 3, 2023).
25. Then-Secretary Mayorkas designated Venezuela for TPS again on October 3, 2023, allowing more recently arrived Venezuelans to apply. 88 Fed. Reg. 68130 (Oct. 3, 2023) (“2023 Designation”).
26. On January 17, 2025, the DHS Secretary extended the 2023 Venezuela Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5961 (Jan. 17, 2025) (“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 5963 (citation omitted).
27. In the 2025 Extension notice, 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 5962.
28. On February 3, 2025, just days after she took office, former Secretary Noem purported to “vacate” DHS’ 2025 Extension of TPS for Venezuela. 90 Fed. Reg. 8805 (Feb. 3, 2025). That decision was the first attempted vacatur of a TPS extension in the 35-year history of the TPS statute.
29. 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).
30. 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).

C. THE LEGAL CHALLENGE TO VENEZUELA’S TPS TERMINATION

31. On February 19, 2025, the National TPS Alliance and seven individual Venezuelan TPS holders sued the federal government, alleging that both the vacatur of the 2025 Extension and the

¹ The termination of Venezuela’s 2021 Designation is not at issue in this case because Ms. Aponte-Reyes holds TPS under Venezuela’s 2023 Designation.

subsequent termination of the 2023 Designation violated the Administrative Procedure Act and the Fifth Amendment. *Nat'l TPS All. v. Noem*, No. 25-CV-01766 (N.D. Cal.) (“*NTPSA*”).

32. On December 10, 2025, the district court in *NTPSA* issued a final judgment declaring the vacatur of the 2025 Extension and termination of the 2023 TPS designation unlawful. *NTPSA*, No. 25-CV-01766, 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 seek an extension of the stay, *id.*, but it did not.

33. Prior to ordering declaratory relief, the district court in *NTPSA* postponed and subsequently set aside former Secretary Noem’s attempts to rescind the Venezuela TPS 2025 Extension and 2023 Designation. *Nat'l TPS All. v. Noem*, 773 F. Supp. 3d 807 (N.D. Cal. 2025), *aff'd*, 150 F.4th 1000 (9th Cir. 2025) (“*NTPSA* Postponement Order”); *Nat'l TPS All. v. Noem*, 798 F. Supp. 3d 1108 (N.D. Cal. 2025) (“*NTPSA* Summary Judgment Order”). Those orders were eventually stayed by the Supreme Court. *See Noem v. Nat'l TPS All.*, 145 S. Ct. 2728 (2025); *Noem v. Nat'l TPS All.*, 146 S. Ct. 23 (2025). The Ninth Circuit has since affirmed the district court’s order setting aside Respondent Noem’s vacatur and termination decisions and denied a rehearing en banc. *See Nat'l TPS All. v. Noem*, 166 F.4th 739 (9th Cir. 2026); *Nat'l TPS All. v. Noem*, 169 F.4th 796 (9th Cir. 2026).

VII. LEGAL ANALYSIS

A. THE TPS STATUTE AND *NTPSA* DECLARATORY ORDER CONTROL

34. The TPS statute unequivocally prohibits the detention of persons with valid TPS. *See* 8 U.S.C. § 1254a(a)(1)(A), (d)(4) (“An 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.

35. Courts have consistently required that the Government release unlawfully detained TPS-holders. *See, e.g., Jean-Francois v. Soto*, No. CV 26-0522, 2026 WL 241860 (D.N.J. Jan. 29, 2026) (prohibiting the government from detaining a Haitian TPS-holder while Haiti’s TPS designation is valid); *J.G. M.F. v. Wofford*, No. 1:26-CV-00068, 2026 WL 88985 (E.D. Cal. Jan. 12, 2026) (granting petitioner’s habeas petition, ordering her release, and enjoining the government from detaining him on the basis of his immigration status while he maintains TPS); *Echeverria v. Janecka*, No. 1:25-CV-01832, 2026 WL 44896 (E.D. Cal. Jan. 7, 2026) (ordering release of petitioner because, as a TPS-holder, his detention was unlawful under 8 U.S.C. § 1254a); *Sanchez Puentes v. Garite*, 780 F. Supp. 3d 682 (W.D. Tex. 2025) (ordering the release of petitioners held unlawfully under 8 U.S.C. § 1254a, because even though TPS had been withdrawn, petitioners were still within appeal period).
36. The *NTPSA* December 10 Order, which declared the vacatur and termination of Venezuelan TPS unlawful, controls as to whether Ms. Aponte Reyes retains her protected status.
37. 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[.]”).
38. 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) (noting “the point of a declaratory judgment ‘is to establish a binding adjudication that enables the parties

² “Attorney General” in § 1254a now applies to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

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)).

39. “‘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).
40. In a recent response to a similar petition, the Government conceded that the *NTPSA* December 10 Order provides relief to all *NTPSA* members. In that case, the Government took the position that the petitioner’s membership in *NTPSA* was determinative of whether she retained TPS. *See* Federal Respondents’ Return at 7, *Rozo v. Hernandez*, 2:26-cv-00692 (Mar. 13, 2026, W.D. Wash.), (“The declaratory judgment only relates to members of the *NTPSA* and the seven named plaintiffs. Therefore, Petitioner’s claim of eligibility for TPS benefits should be adjudicated by this Court with Petitioner having the burden to establish that she is a plaintiff to the *NTPSA* litigation.”), ECF No. 6. In other words, the Government has conceded that once a petitioner has established her membership in the *NTPSA*, her TPS is governed by the December 10 Order.

41. Per the Government's concession, Ms. Aponte Reyes, as an NTPSA member, retains TPS under the December 10 Order and is therefore detained unlawfully under 8 U.S.C. § 1254a's clear prohibitions.
42. For this reason alone, this Court should grant the writ and order Ms. Aponte Reyes's immediate release. *See* 28 U.S.C. § 2241(c)(3) (authorizing writ for an individual detained in violation of federal law); *Gonzalez v. Noem*, No. 5:26-CV-00357, 2026 WL 837139 (C.D. Cal. Mar. 23, 2026) (report and recommendation finding that Venezuelan petitioner retained TPS in accordance with the December 10 Order and granting habeas petition after district judge had previously ordered petitioner released pursuant to a TRO on the same ground); *Rozo v. Hernandez*, 2:26-CV-00692, 2026 WL 746580 (W.D. Wash. Mar. 17, 2026) (determining TPS-holder met burden of proving NTPSA membership, ordering the government to release her within 24 hours and return any personal property, and enjoining DHS from re-detaining her so long as the December 10 Order remains in effect); *Camacho Montero v. Chestnut*, No. 1:26-CV-01448, 2026 WL 604421 (E.D. Cal. Mar. 4, 2026) (granting TRO and requiring that petitioner be immediately released from custody because the December 10 Order had set aside the vacatur and termination of Venezuela's TPS and therefore petitioner still had TPS); *Alvarez v. Chestnut*, 1:26-CV-01293 2026 WL 604195 (E.D. Cal. Mar. 4, 2026) (granting preliminary injunction and requiring DHS to immediately release petitioner and not re-detain him while the 2025 Extension is in effect and he remains eligible for TPS); *Armada v. Chestnut*, No. 1:26-CV-01449, 2026 WL 555480 (E.D. Cal. Feb. 27, 2026) (granting preliminary injunction and ordering immediate release of petitioner because the vacatur and termination of TPS had been set aside by the December 10 Order and petitioner likely retained TPS); *Osorio Ortega v. Chestnut*, No. 1:26-CV-01085, 2026 WL 539377 (E.D. Cal. Feb. 26, 2026) (same); *Salas Leon v. Chestnut*, No. 1:26-CV-01080, 2026 WL 523231 (E.D. Cal. Feb. 25, 2026) (same).

43. No other aspect of Ms. Aponte Reyes's immigration status is relevant, 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).

B. THE VACATUR AND TERMINATION OF VENEZUELAN TPS WAS UNLAWFUL

44. Even if this Court disagrees as to the preclusive impact of the *NTPSA* December 10 Order, it can and should find independently that the former Secretary's attempted vacatur and subsequent termination of TPS for Venezuela was invalid and that, consequently, Ms. Aponte Reyes retains her TPS, making her continued detention unlawful.

45. The unlawfulness of the former Secretary's attempted vacatur and subsequent termination of TPS for Venezuela has been affirmed by the Ninth Circuit Court of Appeals. *See NTPSA*, 166 F.4th at 768–69 (9th Cir. 2026) ("At bottom, this case comes down to the Secretary's failure to conform to the strictures of the TPS statute. The Secretary attempted to exercise powers Congress simply did not provide under the statute.").

1. The DHS Secretary Lacked Authority to Vacate the 2025 Extension

46. In her decision to vacate the 2025 Extension, former Secretary Noem asserted that DHS has the implicit authority to "revisit its prior decisions," including to "vacate or amend the determination." 90 Fed. Reg. at 8806.

47. “It is well settled that an agency may only act within the authority granted to it by statute. This principle is a recognition of the nature of an administrative agency as a creature of statute, having no constitutional or common law existence or authority, but only those authorities conferred upon it by Congress.” *NRDC v. Nat’l Highway Traffic Safety Admin.*, 894 F.3d 95, 108 (2d Cir. 2018) (internal citations and quotation marks omitted); *see also W. Virginia v. Env’t Prot. Agency*, 597 U.S. 697, 723 (2022) (“Agencies have only those powers given to them by Congress.”).
48. If a statute explicitly provides procedures for reversing agency decisions, the agency cannot bypass that process. A federal agency “cannot rely on any inherent authority here, where Congress has provided specific statutory procedures[.]” *Alabama Envtl. Council v. Adm’r, U.S. E.P.A.*, 711 F.3d 1277, 1290 (11th Cir. 2013) (noting that the Court’s conclusion is consistent with *New Jersey v. E.P.A.*, 517 F.3d 574, 582-83 (D.C. Cir. 2008), “where the D.C. Circuit recognized that ‘[a]n agency can normally change its position and reverse a decision. . . . Congress, however, undoubtedly can limit an agency’s discretion to reverse itself’”). In *New Jersey v. E.P.A.*, the Court concluded that because Congress included express delisting provisions in the Clean Air Act, the EPA was precluded from claiming inherent authority to delist a regulated unit without following the statutory procedure. *Id.*
49. Here, Congress has provided specific procedures for reviewing, terminating, and extending a TPS designation. *See* 8 U.S.C. § 1254a(b)(3).
50. First, at least 60 days before the end of a period of designation, the Attorney General is required to consult with appropriate agencies, review country conditions, and “determine whether the conditions for such designation” continue to be met. 8 U.S.C. § 1254a((b)(3)(A).
51. If the Attorney General determines that the country no longer meets the conditions for designation, then the Attorney General shall terminate the designation by publishing notice in the Federal Register. 8 U.S.C. § 1254a((b)(3)(B). Such a termination shall not be effective earlier than 60 days

after the date the notice is published, or when the most recent previous extension expires, whichever is later. *Id.*

52. If, during this review, the Attorney General does not determine that the country no longer meets the conditions for designation—or, in other words, if the Attorney General does not find that the designation should be terminated—the designation period is extended for 6 months (or for 12 or 18 months, at the discretion of the Attorney General). 8 U.S.C. § 1254a((b)(3)(C).
53. The TPS statute provides clear and specific terms according to which TPS decisions can be made and prescribes timetables and procedural rules for doing so. The legislative history of TPS underscores the fact that DHS does not have the authority to terminate TPS designations without following the set process. Congress created TPS in 1990 in response to the discretionary extended voluntary departure (“EVD”) program. By creating TPS, Congress sought to constrain executive discretion by “standardiz[ing] the procedure for granting temporary stays from deportation” with decisions based on “identifiable conditions” rather than “the vagaries of our domestic politics.” 135 Cong. Rec. 25838 (1989) (statement of Rep. Sander Levin) (debating Central American Studies and Temporary Relief Act of 1989, immediate precursor to the TPS statute). TPS was intended to replace the “ad hoc, haphazard . . . procedures” that existed before and provide beneficiaries with certainty about “what [their] rights are, how the Justice Department determines what countries merit EVD status [and] how long they will be able to stay.” *Id.* at 25837 (statement of Rep. William Richardson).
54. The statute does not provide the option to vacate an extension. *See Nat’l Res. Def. Council v. Regan*, 67 F.4th 397, 404 (D.C. Cir. 2023) (“Congress did not create a process for [DHS] to withdraw [an extension] because it seemingly did not want [DHS] to have the power to do so.”). The former Secretary had no authority to annul a valid TPS extension.

55. Because Congress neither explicitly nor implicitly authorized the Secretary of the Department of Homeland Security to vacate an existing TPS designation or extension, former Secretary Noem did not have the authority to vacate the 2025 Extension of the 2023 Designation, and so the Designation and Extension are still in effect.

2. Even if the Secretary Had the Authority to Vacate the Designation, the Vacatur Was Arbitrary and Capricious and Therefore Unlawful

56. Even if former Secretary Noem did have the authority to vacate the 2025 Extension, her decision to do so was unlawful because it was arbitrary and capricious in violation of the APA.

57. An agency decision is set aside as arbitrary and capricious if “the agency relied on factors not intended by Congress, ignored an important aspect of the issue, or offered an explanation for its decision that contradicts the evidence before it.” *Ashraf v. United States Drug Enf’t Admin.*, 153 F.4th 1161, 1167 (11th Cir. 2025); *cf. Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020) (the APA “requires agencies to engage in reasoned decision-making and directs that agency actions be set aside if they are arbitrary or capricious”) (internal quotation marks omitted). DHS did all of those things.

a. The Purported Vacatur Was Arbitrary and Capricious Because the Agency Ignored Important Aspects of the Issue and Misunderstood the Law

58. In its purported vacatur of the 2025 Extension, DHS raised concerns that the 2025 Extension was “novel” and “confusing” because it created a consolidated process for both 2021 and 2023 TPS holders to re-register for the 2025 Extension. *See* 90 Fed. Reg. at 8807. By allowing individuals who held TPS under both designations to register for the 2025 Extension, DHS asserted that the 2025 Extension “implicitly negat[ed] the 2021 Venezuela TPS designation by effectively subsuming it within the 2023 Venezuela TPS designation.” *Id.* This reasoning makes little sense.

59. First, it is not novel, or even unusual, to streamline registration processes for countries with multiple designations. *See, e.g.*, 79 Fed. Reg. 52027, at 52028-29 (Sept. 2, 2014) (extending

Sudan's TPS designation and establishing one process for re-registration, regardless of which designation individual initially registered under); 88 Fed. Reg. 5022, at 5028 (Jan. 26, 2023) (permitting "[i]ndividuals who [initially registered for TPS under Haiti's 2010 or 2011 designation and] currently retain their TPS [through June 30, 2024] under the Ramos injunction" to "re-register" under a later redesignation to receive TPS through August 3, 2024).

60. Second, the consolidated process was implemented to *avoid* confusion by eliminating varying end dates and other differences between Venezuelan TPS holders. *See NTPSA* Summary Judgment Order, 798 F. Supp 3d at 1147 (citing to a USCIS evaluation finding consolidation would mitigate confusion).
61. Finally, the former Secretary's assertion ignored the fact that 2021 TPS holders would necessarily be eligible for TPS under the 2023 Designation, so that even if the re-registration process had not been consolidated, TPS holders under an earlier designation could re-register under a later designation. In effect, *every* earlier designation would be subsumed by a later one.
62. In short, the former Secretary's asserted purpose for vacating the 2025 Extension relied on a distortion of the facts and a misinterpretation of the TPS statute's registration requirements, making it arbitrary and capricious. Consequently, the court should find the purported vacatur of the 2025 Extension unlawful and, thus, Ms. Aponte Reyes's continued detention unlawful. *See Fed. Election Comm'n v. Akins*, 524 U.S. 11, 25 (1998) ("If a reviewing court agrees that the agency misinterpreted the law, it will set aside the agency's action[.]").

b. The Purported Vacatur Was Also Arbitrary and Because the Agency Failed to Consider Alternatives, Because Its Reasoning Was Pretextual, and Because It Was Contrary to the Evidence

63. Former Secretary Noem failed to consider alternatives short of vacatur of the 2025 Extension, as required by law. *See DHS v Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) ("[W]hen an agency

rescinds a prior policy, its reasons analysis must consider the alternatives that are within the ambit of the existing policy.”) (cleaned up).

64. For example, if the former Secretary’s purported concern was the consolidation of registration for 2021 and 2023 TPS holders, DHS could have decided to separate the processes again, as the court in *NTPSA* pointed out. *See NTPSA* Postponement Order, 773 F. Supp. 3d at 855 (“Most notably, if Secretary Noem was truly concerned about confusion arising from Secretary Mayorkas’s decision to allow 2021 TPS holders to register as 2023 TPS holders, she easily could have chosen to ‘deconsolidate’ the registration process and keep the 2021 and 2023 Designations on two different tracks But Secretary Noem did not so act – effectively demonstrating that confusion was not her concern so much as the desire to totally undo Secretary Mayorkas’s decision.”).
65. Further, as the Court found in *NTPSA*, DHS began drafting the vacatur decision within days of President Trump’s second administration, before now-former Secretary Noem had even been confirmed. *See NTPSA* Summary Judgment Order at 1123. The termination decision was drafted before the vacatur had been finalized, and DHS formalized the termination within days of the vacatur’s publication. *Id.* at 1123-24. This timeline left no room for the consultation and evaluation necessary for reasoned decision-making, and indeed that did not happen.
66. The rushed process supports a finding that the proffered reason for the vacatur was merely pretext for a determination DHS desired to make in order to implement the new administration’s immigration policy. And a mere desire to shift policy is not a sufficient basis to change a standing administrative decision like a TPS determination. *See Am. Trucking Ass’ns v. Frisco Transp. Co.*, 358 U.S. 133, 145-46 (1958) (stating that “the power to correct ministerial errors may not be used as a guise for changing previous decisions because the wisdom of those decisions appears doubtful in the light of changing policies”); *see also Corus Staal BV v. U.S. Dep’t of Com.*, 27 C.I.T. 388,

391 (2003) (describing “the line of cases indicating that mere policy changes should not be allowed to alter final agency determinations”).

67. The Court should treat an agency’s decision as suspect where the record “reveal[s] a significant mismatch between the decision the Secretary [makes] and the rationale [she] provide[s].” *Dep’t of Com. v. New York*, 588 U.S. 752, 783 (2019). In fact, when “the evidence tells a story that does not match the explanation the Secretary [gives] for [her] decision,” such that the “stated reason” for a policy change “seems to have been contrived,” that action may be set aside as arbitrary and capricious. *Id.* at 784.

c. The Purported Vacatur and Termination Decisions Were Made Without Observing the Procedures Required by Law

68. Both the vacatur decision and the subsequent termination were also arbitrary and capricious because the former Secretary failed to comply with the procedures required by law. *See Alabama Envtl. Council*, 711 F.3d at 1292 (“In sum, because the 2011 disapproval was not conducted according to the statutory procedures set forth in the Clean Air Act, we must set it aside.”).

69. The TPS statute expressly requires that the DHS Secretary “consult[] with appropriate agencies of the Government” as part of the periodic review. 8 U.S.C. § 1254a(b)(3)(A). Specifically, it provides that: “[T]he [Secretary], after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state . . . and shall determine whether the conditions for such designation . . . continue to be met.” *Id.* The requirement to consult is not an empty obligation; rather, a consultation required by a statute means that there must be a “meaningful exchange of information.” *Cal. Wilderness Coalition v. U.S. DOE*, 631 F.3d 1072, 1086 (9th Cir. 2011).

70. A typical periodic review of a TPS designation takes months. *Ramos v. Nielsen* describes the process:

RAIO [the Refugee, Asylum and International Operations Directorate] (a division within USCIS) provides a Country Conditions Memo. In addition, OP&S [Office of Policy and

Strategy] (another division within USCIS) drafts a Decision Memo that contains USCIS's recommendation on what to do about the TPS designation. Once the Decision Memo is finalized, the USCIS Director passes it on to the DHS Secretary. The State Department provides further input (e.g., country conditions, recommendations). At times, input can also come from other government sources, but the above is the information consistently provided to the DHS Secretary.

336 F. Supp. 3d 1075, 1082 (N.D. Cal. 2018).

71. Here, the former Secretary did not engage in interagency consultation or a review of country conditions.
72. First, the former Secretary decided to vacate and terminate Venezuelan TPS before consulting with any government agency. The day after she was confirmed, DHS began to draft the decision to terminate. *See NTPSA Summary Judgment Order* at 1123.
73. There is no record of any statutorily required consultation conducted prior to this initial draft. *See Summary Judgement Order* at 1151.
74. DHS did not provide a country conditions report prepared contemporaneously by RAIO in conjunction with either of former Secretary Noem's decisions. *See NTPSA Summary Judgment Order* at 1124-25.
75. The vacatur CAR included only a country conditions report produced in August 2024, which was prepared in conjunction with—and provided support for—the prior 2025 Extension decision. *Id.* at 1125. Even then, the former Secretary did not cite anything specific from that 2024 report in her decisions to vacate and terminate Venezuelan TPS.
76. After it had already begun drafting the termination notice, DHS reached out to the State Department to get its input. The Secretary of State provided a brief letter, in which the analysis focused solely on national interests and did not include any information on country conditions in Venezuela. *Id.* at 1124.

77. The former Secretary failed to engage in meaningful consultation with government agencies or to even conduct a meaningful country conditions review, a basic element of the consultation the TPS statute requires. That failure to observe the procedures required by the TPS statute not only violates the statute itself but also constitutes arbitrary and capricious action.
78. For all the above reasons, the former Secretary's vacatur and termination decisions were arbitrary and capricious. They were based on legal error, contrary to the evidence before the agency, proffered as pretext for the agency's action, and because they failed to consider alternatives. Ms. Aponte Reyes's continued detention, which is predicated on the arbitrary and capricious vacatur and termination of Venezuelan TPS, cannot stand.

d. The Termination of the Venezuela TPS Designations Was Made Contrary to Law

79. The TPS statute prohibits the termination of a designation from going into effect earlier than when the most recent extension expires. *See* 8 U.S.C. § 1254a((b)(3)(B)). Thus, DHS could not terminate the Venezuela TPS Designations until after they expired on October 2, 2026.
80. By purporting to vacate the 2025 Extension, DHS attempted to circumvent that statutory requirement. However, because the purported vacatur was unlawful, it cannot serve as a predicate for the subsequent termination; the unlawful vacatur of the 2025 Extension means the former Secretary's decision to terminate TPS for Venezuela was also unlawful. *See Nat'l TPS All., v. Noem*, 150 F.4th 1000, 1024 (9th Cir. 2025) ("If the vacatur is postponed, and the prior extension is restored, the termination cannot go into effect.")
81. If the Court finds that the vacatur of the 2025 Extension was unlawful, then Ms. Aponte Reyes' 2023 TPS designation remains valid until the October 2, 2026, expiration date provided by the extension.

3. Because Former Secretary Noem Did Not Lawfully Vacate or Terminate Venezuela's TPS Designations, Ms. Aponte Reyes Retains TPS

82. For the above reasons, the 2021 and 2023 Designations, as well as the 2025 Extension, could not have been vacated or terminated and thus remain valid.

83. Ms. Aponte Reyes continues to hold TPS under the 2023 Designation and 2025 Extension, and as such, her detention is unlawful.

C. THE CONSTITUTION BARS MS. APONTE REYES'S DETENTION

84. Should the Court choose to address constitutional questions, it should also find that Ms. Aponte Reyes'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).

85. Ms. Aponte Reyes's detention violates the Fifth Amendment's protection of 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 Ms. Aponte Reyes, detention is not reasonably related to its purpose.

86. Second, because Ms. Aponte Reyes is not "deportable" insofar as the TPS statute bars her deportation, the Due Process Clause requires that any deprivation of Ms. Aponte Reyes'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”). Ms. Aponte Reyes’s ongoing imprisonment obviously cannot satisfy that rigorous standard.

87. 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); *see also Foucha v. Louisiana*, 504 U.S. 71, 72 (1992) (“the substantive component of the Due Process Clause bars certain arbitrary, wrongful government actions regardless of the fairness of the procedures used to implement them”). Where federal law explicitly prohibits an individual’s detention, such a detention also violates the Due Process Clause.

88. Ms. Aponte Reyes may not be legally detained or deported, and this Court should order Ms. Aponte Reyes’s immediate release from ICE custody. *See* 28 U.S.C. § 2241(c)(3) (authorizing writ for people detained in violation of federal law).

VIII. CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT – 8 U.S.C. § 1254a

89. Ms. Aponte Reyes realleges and incorporates by reference each and every allegation contained above.

90. 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.

91. 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.

92. Because her TPS was never lawfully terminated, Ms. Aponte Reyes’s detention violates § 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

93. Ms. Aponte Reyes realleges and incorporates by reference each and every allegation contained above.
94. 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).
95. Ms. Aponte Reyes's 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 Ms. Aponte Reyes; and because it lacks any statutory authorization.

PRAYER FOR RELIEF

WHEREFORE, Ms. Aponte Reyes prays 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 Ms. Aponte Reyes's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;
4. Declare that Ms. Aponte Reyes's detention violates the Due Process Clause of the Fifth Amendment;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Ms. Aponte Reyes from custody and return all personal property to her;

6. Order Respondents to facilitate Ms. Aponte Reyes's return to where she resides near Savannah, Georgia within two days of Order.
7. Enjoin Respondents from detaining Ms. Aponte Reyes for the duration of her TPS period and, if Ms. Aponte Reyes is thereafter ordered deported, from re-detaining Ms. Aponte Reyes more than 48 hours before she is removed;
8. Enjoin Respondents from moving Ms. Aponte Reyes from the District until after the conclusion of this matter.
9. Enjoin Respondents from deporting Ms. Aponte Reyes until after the conclusion of this matter.
10. 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
11. Grant such further relief as this Court deems just and proper.

Dated: April 26, 2026

Respectfully submitted,

Raneem Ashrawi

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Georgia Bar No. 962414

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COUNSEL FOR MS. APONTE REYES

Verification by Someone Acting on Ms. Aponte Reyes's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Ms. Aponte Reyes because I am one of Ms. Aponte Reyes's attorneys. I have discussed with Ms. Aponte Reyes 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 Ms. Aponte Reyes's TPS, are true and correct to the best of my knowledge.

Ransom Ashrawi

Date: April 26, 2026

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of filing to all attorneys of record.

This 26th day of April, 2026.

Raneem Ashrawi

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