

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

JORGE LUIS GONZALEZ FERRER,

Petitioner,

v.

WARDEN, GLADES COUNTY
DETENTION CENTER, ET AL.,

Respondents.

Case No. 2:26-cv-1680-SPC-KRH

**RESPONDENTS' OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner Jorge Luis Gonzalez Ferrer ("Petitioner") seeks an order compelling his release from immigration custody. *See* Petition for Writ of Habeas Corpus, ECF No. 1, ("Petition"). He challenges his detention on Due Process and statutory grounds and additionally suggests that he retains Temporary Protected Status ("TPS"). But Petitioner has been afforded three bond hearings at this point. The immigration court has considered the factors set forth in *Matter of Guerra* but concluded that his release is inappropriate. Any challenge to those decisions must be made through the appeal process, not through habeas proceedings. Furthermore, Petitioner does not retain TPS at this time. For these reasons, the Petition must be denied.

BACKGROUND

Petitioner is a native and citizen of Venezuela. Petition, ¶¶ 3, 6, 11. He was

admitted to the United States on May 1, 2018 as a B-1 visitor for a period not to extend beyond October 31, 2018. *See* ECF No. 1-1, p. 23 (Form I-94 Admission Record). Petitioner did not depart the United States as required. *See generally* Petition. Records reflect that Petitioner applied for—and was granted—TPS in 2024. *Id.* at pp. 118 (TPS Approval Notice). His initial grant of TPS was set to expire on April 2, 2025. *Id.* Petitioner applied for TPS again on January 24, 2025, but that application was never approved. *Id.* at 121; *see also* USCIS Case Status Online Record for Receipt Number IOE9780632702, attached as “Exhibit A.”

On March 12, 2026, Petitioner was detained by immigration enforcement. Petition, ¶ 2. He was placed in removal proceedings with the issuance of a Notice to Appear and those proceedings remain pending at this time. *See* EOIR Automated Case Information, attached as “Exhibit B”; *see also* Notice to Appear, attached as “Exhibit C.” On April 21, 2026, Petitioner was heard at a bond hearing before immigration judge Stuart Siegel. ECF No. 1-1, pp. 2-3. At that hearing, the judge denied bond finding that Petitioner had not met his burden in establishing that he was not a danger to the community or public safety risk. *Id.* at 2. In the alternative, the immigration judge found that Petitioner was not a suitable bail risk under the *Matter of Guerra* factors. *Id.* A second bond hearing was conducted on April 21, 2026 at which the immigration court reached the same conclusion. *See* Order of the Immigration Judge, attached as “Exhibit D,” at p. 1. On May 16, 2026, Petitioner received a third bond hearing. *Id.* There, the immigration judge considered Petitioner’s 91-page

evidentiary submission but ultimately concluded that Petitioner had not met his burden. *Id.* at 1-2. Appeal of that decision has been reserved with the appeal deadline set for June 15, 2026. *Id.* at 2.

On May 18, 2026, Petitioner filed the instant action in the U.S. District Court seeking habeas relief. ECF No. 1. The Court issued an order to show cause no later than May 28, 2026 why the Petition should not be granted. ECF No. 2. Federal Respondent now timely responds in opposition to the Petition.

Certified Habeas Return

The Court has power to grant writs of habeas corpus where (among other instances) a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears the burden of proof in establishing that his detention violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021). Petitioner is a B-1 visitor visa overstay who is in active immigration removal proceedings. He is currently detained under the discretionary authority set forth at 8 U.S.C. § 1226.

Discussion

I. Petitioner Has Failed to Exhaust Appeal Before the BIA.

Petitioner is not subject to mandatory detention but rather has been discretionarily detained subject to 8 U.S.C. § 1226. *See* ECF No. 1-1, p. 23 (reflecting B-1 admission); *see also* Exhibit C. He may thus seek review of ICE’s discretionary bond determination, which he done on three separate occasions. Petition, ¶ 2; ECF

No. 1-1, pp. 2-3; Exhibit D.

Petitioner fails to demonstrate why this Court should disturb the immigration court's decision on bond when Petitioner has available to him means through which he may challenge the judge's bond order. *See* 8 C.F.R. § 1003.1(b)(7) (allowing Board of Immigration Appeals jurisdiction over appeals of bond determinations made under 8 C.F.R. § 1236); *see also* Exhibit D (reflecting that immigration judge Siegel considered Petitioner for bond under 8 C.F.R. § 1236). Petitioner remains within the appeal period, as his bond appeal is due by June 15, 2026. Exhibit D, p. 2. The record lacks any indicia that Petitioner sought appeal of either of the two prior bond decisions. *See generally* Petition. Petitioner may also seek a new bond hearing before the immigration judge if he can demonstrate a material change in circumstances. *See* 8 C.F.R. § 1003.19(e). Put simply, Petitioner's request for Court intervention is inappropriate here where he has failed to exhaust his appeal rights through the proper procedural avenues.

II. Petitioner Does Not Have TPS.

Petitioner asserts that he has current TPS. *See* Petition, ¶¶ 8, 11. If true, ICE would not be permitted to detain Petitioner at this time. 8 U.S.C. § 1254a(a)(1)(A). However, Petitioner no longer benefits from the protection against detention that TPS allows.

The Immigration Act of 1990 established a program for providing temporary shelter in the United States on a discretionary basis for aliens from designated countries experiencing ongoing armed conflict, environmental disaster, or

“extraordinary and temporary conditions” that temporarily prevent those aliens’ safe return or, in the case of environmental disasters, temporarily render the country unable to handle adequately the return of its nationals. Pub. L. No. 101-649, 104 Stat. 4978. The statute authorizes the Secretary of Homeland Security, “after consultation with appropriate agencies of the Government,” to designate countries for TPS if he finds:

(C) . . . there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the [Secretary] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

8 U.S.C. § 1254a(b)(1)(C). When the Secretary designates a country for TPS, eligible aliens who are granted TPS may not be removed from the United States and are authorized to work for the duration of the country’s TPS designation, so long as they remain in valid temporary protected status. 8 U.S.C. § 1254a(a), (c); *see Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021).

Venezuela was first designated for TPS in March 2021. 86 Fed. Reg. 13,574 (Mar. 9, 2021). This designation was extended twice: on September 8, 2022 and October 3, 2023. *See* 87 Fed. Reg. 55,024 (Sept. 8, 2022); 88 Fed. Reg. 68130 (Oct. 3, 2023). The 2023 extension also purported to re-designate Venezuela for TPS anew, opening up registration to Venezuelan nationals who up until that point would not have been otherwise eligible. 88 Fed. Reg. at 68130 (“initial applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since October 3, 2023, the effective date of this redesignation of Venezuela for TPS.”). The result of the 2023 Federal Registration was two separate

designations: the 2021 designation (which was extended by way of the FRN) and the 2023 designation (which served as a redesignation under the FRN). *Id.*

On January 10, 2025, former DHS Secretary Alejandro Mayorkas issued a federal register notice (“FRN”) extending the 2023 Venezuela Designation for 18 months and allowing for a consolidated filing processes such that all eligible Venezuela TPS beneficiaries (whether under the 2021 or 2023 designations) could obtain TPS through October 2, 2026. 90 Fed. Reg. 5,961 (Jan. 17, 2025). The Executive Branch administration changed shortly thereafter with the inauguration of President Trump and former Secretary Kristi Noem replaced Mayorkas. Former Secretary Noem then purported to (1) vacate the January 2025 extension and consolidation and restore the status quo that existed prior to its publication, namely the two-track 2021 and 2023 designations; and (2) terminate the 2023 TPS designation for Venezuela. 90 Fed. Reg. 8,805 (Feb. 3, 2025); 90 Fed. Reg. 9,040 (Feb. 5, 2025). Litigation ensued and as a result of that litigation—as well as subsequent action taken by former Secretary Noem—TPS for Venezuela has been terminated. *See Nat’l TPS All. v. Noem*, 798 F. Supp. 3d 1108, 1131 (N.D. Cal. 2025), *aff’d*, 166 F.4th 739 (9th Cir. 2026) (order granting partial summary judgment); *Nat’l TPS All. v. Noem*, No. 25-cv-1766-EMC (N. D. Cal. May 30, 2025), Dkt. 162 at 10 (granting relief to those TPS holders who received TPS documentation based on the 2023 Mayorkas extension/re-designation up to and including February 5, 2025); *see also* 90 Fed. Reg. 43,225 (Sept. 8, 2025). However, a small subset of TPS recipients retain their status through October 2, 2026. This group includes individuals who both (1) filed applications to register or reregister

for TPS after Secretary Mayorkas's extension FRN published (January 25, 2026) but before Secretary Noem's February termination was published (February 5, 2025); and (2) who—on or before February 5, 2025—were issued TPS-related EADs, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates.

This is accurately reflected in United States Citizenship & Immigration Service's¹ ("USCIS") TPS landing page which provides that for 2023 designation recipients, "TPS beneficiaries who received TPS-related employment authorization documents (EADs), Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026, expiration dates on or before February 5, 2025 will maintain work authorization and their documentation will remain valid until October 2, 2026, pursuant to the U.S. District Court for the Northern District of California's order dated May 30, 2025."²

Here, the validity of Petitioner's prior TPS grant expired no later than April 2, 2025. *See* ECF No. 1-1, p. 121. Though he filed seeking reregistration in 2025, his application was never approved as the underlying TPS designation was terminated. *See* Exhibit A. As discussed above, only those who (1) filed applications to register or reregister for TPS after Secretary Mayorkas's extension FRN published (January 25, 2026) but before Secretary Noem's February termination was published (February 5, 2025); and (2) who—on or before February 5, 2025—were issued TPS-related EADs,

¹ USCIS is the government agency responsible for processing applications for TPS.

² *See* <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last accessed May 26, 2026).

Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates benefit from TPS through October 2, 2026. Petitioner does not meet those criteria because his reregistration application was filed before January 25, 2025 and he was not issued TPS-related EADs, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates.

CONCLUSION

The Petition should be denied. Critically, Petitioner has failed to pursue an appeal to the BIA before turning to this Court for intervention. He does not have TPS and may be detained at this time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 26, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system and will ensure service via mail to Plaintiff at the following address:

Jorge Luis Gonzalez Ferrer

A 

Glades County Detention Center

1297 E SR 78

Moore Haven, FL 33471

Dated: May 26, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney