

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

WILBER ALISANDRO FUENTES MORENO,)

Petitioner,

V.

Civil Action No. 1:26-cv-00229

PAMELA JO BONDI,
United States Attorney General;

KRISTI LYNN NOEM,
Secretary of Homeland Security;

SYLVESTER M. ORTEGA,
San Antonio Acting Field Office Director
For Detention and Removal, U.S.
Immigration and Customs Enforcement;
and,

CHARLOTTE COLLINS,
Warden, T. Don Hutto Detention Center;

in their official capacities;

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

Respondents are detaining Petitioner Wilber Alisandro Fuentes Moreno even though he holds valid immigration status and Congress has declared that noncitizens like Petitioner cannot be detained. Petitioner is a Salvadoran 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). 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); 8 U.S.C. 1254a(g) (TPS statute constitutes the exclusive authority for affording nationality-based protection to “otherwise deportable” non-citizens).

Despite this unambiguous statutory command, Respondents have unlawfully detained Petitioner since on or about December 8, 2025.

Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment. Petitioner respectfully requests that this Court grant him a writ of habeas corpus and order Respondents to release him immediately from custody.

CUSTODY

1. Petitioner is in the physical custody of Respondent SYLVESTER M. ORTEGA, Acting Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement (“ICE”), DHS, and Respondent CHARLOTTE COLLINS, warden of the T. Don Hutto Detention Center in Taylor, Texas. At the time of the filing of this petition, Petitioner is detained at the T. Don Hutto Detention Center. Core Civic, Inc., which owns and operates the T. Don Hutto Detention Center, contracts with the DHS to detain noncitizens, such as Petitioner, pending their removal proceedings. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION AND VENUE

2. The Court has jurisdiction over this petition under 28 U.S.C. §§ 2241(c)(1) and (c)(3), Art. I, § 9, Cl. 2 of the United States Constitution (“Suspension Clause”).

3. Venue properly lies within the Western District of Texas because all of the events or omissions giving rise to this action occurred in the district. 28 U.S.C. § 1391(c)(1)(B).

4. No petition for habeas corpus has previously been filed in any court to review Petitioner's case.

REQUIREMENTS OF 28 U.S.C. § 2243

5. The Court should grant the petition for writ of habeas corpus "forthwith," as there is no question concerning Petitioner's illegal detention.

6. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

7. Wilber Alisandro Fuentes Moreno is a national and citizen of El Salvador. He holds and has been in TPS status since 2001. He is currently detained at the T. Don Hutto Detention Center located at 1001 Welch St., Taylor, Texas 76574.

8. Respondent PAMELA JO BONDI is the Attorney General of the United States and the most senior official in the United States Department of Justice ("DOJ"). She has the authority to interpret the immigration laws and adjudicate removal cases. 8 U.S.C. § 1103(g). The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA" or

“Board”). Respondent is named in her official capacity. Respondent’s address is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

9. Respondent KRISTI LYNN NOEM is the Secretary of the U.S. Department of Homeland Security (“DHS”), an agency of the United States. Respondent is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a). The Secretary is a legal custodian of the Plaintiff-Petitioner. Respondent is named in her official capacity. Her address is Department of Homeland Security, Washington, D.C. 20528.

10. Respondent SYLVESTER M. ORTEGA is the Acting Field Office Director for Detention and Removal (ERO), ICE, DHS, for the San Antonio ERO Office. He is a custodial official acting within the boundaries of the judicial district of the United States Court for the Western District of Texas. Pursuant to Respondent’s orders, Petitioner remains detained. Respondent is sued in his official capacity. Respondent can be served with process at U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisory, 500 12th St., SW, Mail Stop 5900, Washington, DC 20536-5900.

11. Respondent CHARLOTTE COLLINS is the Warden of the T. Don Hutto Detention Center in Taylor, Texas. She is Petitioner’s immediate custodian and resides in the judicial district of the United States Court for the Western District of Texas. Respondent is named in her official capacity. Respondent Collins can be served with process at CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

FACTS

12. Petitioner came to the United States at some point prior to 2001. He applied for Temporary Protected Status in 2001. His application was granted and he has been timely re-

registering every time the Department of Homeland Security (DHS) has extended the TPS designation for El Salvador.

13. Most recently, the DHS extended El Salvador's TPS designation on January 17, 2025. Petitioner timely re-registered on March 12, 2025. Exh. A (TPS Re-registration Receipt).

14. On or about December 8, 2025, Petitioner was driving south on I-35 when he was stopped by a Texas Department of Public Safety (DPS) trooper. The DPS trooper questioned Petitioner and his passenger. The trooper did not issue a warning or ticket but instead called the Immigration and Customs Enforcement (ICE).

15. ICE agents arrived at the scene, detained Petitioner, and initiated removal proceedings against him. Exh. B (Notice to Appear). ICE then delivered him to Respondent Collins pending Petitioner's removal proceedings.

16. On information and belief, Respondents Noem and Ortega confirmed that Petitioner holds TPS status but continue to detain him in plain violation of federal law.

17. Petitioner has no other remedy at law but to seek relief from this Court.

TEMPORARY PROTECTED STATUS FOR SALVADORANS REMAINS IN EFFECT

18. Salvadorans living in the United States first received temporary protection from removal on March 9, 2001, when the Attorney General determined that conditions in El Salvador warranted that country's designation under the TPS program. Designation of El Salvador Under Temporary Protected Status Program, 66 Fed. Reg. 14214 (March 9, 2001). On January 13, February 13, and 17, 2001, El Salvador suffered devastating earthquakes causing thousands of deaths and injured and missing persons. The Attorney General concluded that "due to the environmental disaster and substantial disruption of living conditions caused by the earthquakes. El Salvador is 'unable, temporarily, to handle adequately the return' of its nationals." *Id.*

19. Since then, El Salvador's designation has been extended 11 times.

20. El Salvador's TPS designation was most recently extended on January 17, 2025. The extension (not the designation) expires on September 9, 2026. Extension of the Designation of El Salvador for Temporary Protected Status, 90 Fed. Reg. 5953 (January 17, 2025).

LEGAL FRAMEWORK

21. The Court need analyze only one statutory provision to resolve this habeas petition. The TPS statute unambiguously 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). It is hard to imagine a clearer statutory mandate proscribing detention.¹

22. 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.>").

23. 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-

¹ "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.

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).

24. 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).

25. 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.

26. 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.

27. 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). Where federal law explicitly prohibits an individual's detention, their detention also violates the Due Process Clause.

28. It is irrelevant for purposes of this case that Petitioner's TPS status may expire in several months. The TPS statute's unambiguous command applies so long as the TPS holder's status remains in effect. It contains no exception for people whose TPS status may soon expire.

CLAIMS FOR RELIEF

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

29. Petitioner re-alleges and incorporates herein by reference every allegation set forth in the preceding paragraphs.

30. 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.

31. 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.

32. Thus, Petitioners' detention violates Section 1254a, and he is entitled to immediate release from custody.

**COUNT II
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

33. Petitioner re-alleges and incorporates herein by reference every allegation set forth in the preceding paragraphs.

34. 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).

35. 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, Petitioner 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 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 TPS for Salvadorans remains in effect and he continues to hold TPS status;

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: January 29, 2026

Respectfully submitted,

/s/ Javier N. Maldonado
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ATTORNEY FOR PLAINTIFF-PETITIONER

VERIFICATION OF COUNSEL

I, Javier N. Maldonado, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

s/ Javier N. Maldonado
Javier N. Maldonado