United States District Court
Western District of Texas
Waco Division

Franheli Segundo Morales Barrios, Petitioner, v. Marcos Charles, *et al*, Respondents.	No. 6:26-CV-00088-ADA-DNM

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND APPLICATION FOR PRELIMINARY INJUNCTION

Respondents[1] respectfully submit this response in opposition to the Petition for a Writ of Habeas Corpus.

I. TPS Designation for Venezuela Was Terminated by Federal Register Notice, And *NTPSA* Has No Preclusive Effect in this District.

Petitioner's filings primarily allege that Petitioner cannot be detained under the Immigration and Nationality Act ("INA") as a Temporary Protected Status ("TPS") beneficiary, but Petitioner is no longer protected by the TPS designation. *See* https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela (last accessed Feb. 17, 2026).

[1] The United States Attorney's Office represents only federal employees in this action.

A. Temporary Protected Status

Congress has authorized the Secretary of Homeland Security to designate foreign countries for TPS under certain conditions. 8 U.S.C. § 1254a(b)(1).[2] TPS allows nationals of designated countries suffering from war, natural disasters, or other "extraordinary and temporary conditions" to seek temporary protection against removal. 8 U.S.C. § 1254a. While TPS protects recipients from removal while the designation is valid; it does not afford any pathway to family reunification, permanent residency, or citizenship. *Dhakal v. Sessions*, 895 F.3d 532, 537 (7th Cir. 2018).

Those found eligible for the TPS program are entitled to certain benefits, including temporary protection from removal and authorization to engage in employment in the United States. *See* 8 U.S.C. § 1254a(a)(1). But immigrants from designated countries are not automatically entitled to TPS benefits; they must submit a registration application for processing and approval. 8 U.S.C. § 1254a(c)(1)(A); *see also* 8 C.F.R. § 244.6. The alien's TPS application must establish three basic criteria for eligibility: (1) he must have "been continuously physically present in the United States since the effective date of the most recent designation" of the foreign country; (2) he must have "continuously resided in the United States since such date as the [Secretary] may designate;" and (3) he must be "admissible as an immigrant" and "not ineligible for temporary protected status" based on his criminal history or other delineated conduct (e.g., terrorist activity or religious persecution of others). 8 U.S.C. § 1254a(c)(1)(A); *see also* 8 C.F.R. § 244.2.

The statute also provides for temporary benefits during the pendency of a TPS application, but only after the alien "establishes a prima facie case of eligibility." 8 U.S.C. § 1254a(a)(4)(B). This prima facie eligibility requirement distinguishes the TPS program from other immigration

[2] Although the Immigration and Nationality Act originally granted this authority to the Attorney General, Congress later transferred it to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Public Law No. 107-296, 116 Stat. 2135 (2002).

programs where the filing of a benefits application is itself sufficient to trigger temporary benefits. Compare 8 U.S.C. § 1154(a)(1)(D) (granting employment authorizations to aliens who "filed a petition") with 8 U.S.C. § 1254a(a)(4)(B) (making temporary benefits available only once the alien "establishes a prima facie case of eligibility").

Federal regulations explain that "temporary treatment benefits" under TPS are available during the pendency of full review of the application only "if the application establishes the alien's prima facie eligibility for Temporary Protected Status." 8 C.F.R. § 244.5(b).[3] To establish prima facie eligibility, the applicant must file "a completed application ... containing factual information that if unrebutted will establish a claim of eligibility." 8 C.F.R. § 244.1. Over thirty years ago, during the public notice-and-comment proceedings concerning these regulations, regulators considered and expressly rejected commenters' suggestion "that temporary treatment benefits should be issued immediately upon the completion of an application which, on its face, establishes the alien's eligibility." 56 Fed. Reg. 23491-02, at 23493 (May 22, 1991). Instead, regulators concluded that a prima facie eligibility determination by immigration officials was necessary because such officials "must be able to make use of evidence that effectively rebuts the alien's claim to eligibility" before awarding temporary TPS benefits. *Id.* There currently exists no statute or regulation that requires USCIS to determine the prima facie eligibility of a TPS application within a particular timeframe.

B. TPS Designation for Venezuela

The Immigration and Nationality Act (INA) authorizes the Secretary of Homeland Security to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country

[3] Congress has delegated to the Department of Homeland Security (of which USCIS and ICE are component agencies) the authority to establish regulations to implement and administer the Immigration and Nationality Act. *See* 8 U.S.C. § 1103(a)(3).

conditions exist. INA 244(b)(1), 8 U.S.C. 1254a(b)(1). The determination whether to designate any foreign state for TPS is discretionary, and there is no judicial review of "any determination of the [Secretary] with respect to the designation, or termination or extension of a designation, of a foreign state" for TPS. INA 244(b)(5)(A), 8 U.S.C. 1254a(b)(5)(A). In fact, the Secretary must continue to review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the conditions in the foreign state continue to meet the specific statutory criteria for TPS designation, TPS will be extended. *See* INA 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated), or any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid on the date TPS terminates. *See Id.*

On March 9, 2021, then Secretary of Homeland Security designated Venezuela for TPS based on his determination that there existed "extraordinary and temporary conditions" in Venezuela that prevented nationals of Venezuela from returning in safety and that permitting such aliens to remain temporarily in the United States is not contrary to the U.S. national interest (Venezuela 2021 designation). *See Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure*, 86 FR 13574 (Mar. 9, 2021). On September 8, 2022, the Secretary extended the

Venezuela 2021 TPS designation for 18 months. *See Extension of the Designation of Venezuela for Temporary Protected Status*, 87 FR 55024 (Sept. 8, 2022). On October 3, 2023, the Secretary extended the Venezuela 2021 TPS designation for another 18 months with an expiration date of September 10, 2025, and separately newly designated Venezuela for 18 months, (2023 designation) with an expiration of April 2, 2025, resulting in two separate and concurrent Venezuela TPS designations. *See Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 FR 68130 (Oct. 3, 2023).

With the designations of TPS for Venezuela set to expire, the Secretary determined that the country no longer met the conditions for TPS designation in 2025. *Notice of Termination of the October 3, 2023, Designation of Venezuela for Temporary Protected Status*, CIS No. 2804-25. Among the reasons for TPS termination, the Secretary noted that TPS has allowed a significant population of inadmissible individuals without a path to lawful immigration status to settle in the United States, and the sheer numbers were resulting in inadequate local resources to meet the demands caused by the increased numbers. *Id.* In total, DHS estimates that 348,202 Venezuelan nationals have been registered under the 2023 TPS designation alone. *See id.*

On February 19, 2025, the National Temporary Protected Status Alliance and seven individual TPS holders sued the federal government in the Northern District of California, alleging that termination of Venezuela's 2023 TPS violated the Administrative Procedure Act (APA) and the Fifth Amendment. *See* ECF 1 at. ¶ 48. On September 5, 2025, the district court granted the plaintiffs' motion for summary judgment on their APA claims, setting aside the vacatur of the January 17, 2025, extension and the termination of Venezuela's 2023 Temporary Protected Status. On October 3, 2025, the Supreme Court of the United States granted the defendant's motion for an emergency stay. That stay, per the Court's order, remains in effect pending the disposition of any petition for writ of certiorari the government may wish to file. *National TPS Alliance v. Noem*, 145 S. Ct. 2728 (Mem.) (2025). It is likely such review will be sought. On December 10, 2025, the Northern District of California entered declaratory judgment, declaring the vacatur and termination unlawful. *See* ECF 1 at. ¶ 49. The district court stayed its declaration for two weeks to permit an appeal or a stay. *Id.* The government appealed, but it did not seek a stay, and the declaration went into effect on December 25, 2025, in that district. *But see id.* (alleging that the government did not appeal or seek a stay).

C. NTPSA Has No Preclusive Effect in this District.

Petitioner argues that he is entitled to release from detention because he may not be removed nor detained as a TPS beneficiary. *See generally* ECF No. 1. Petitioner appears to base the claim that he has TPS solely based on the order entered by the *NTPSA* court on December 10, 2025. This order, entered while the *NTPSA* court's prior order vacating the Venezuela TPS revocation was stayed by the Supreme Court and was on appeal to the Ninth Circuit, declared that the Venezuela TPS revocation was unlawful. *NTPSA*, No. 25-CV-01766-EMC, 2025 U.S. Dist. LEXIS 256153, at *8. Petitioner argues that the December 10 Order conclusively established that Petitioner's TPS status protects against detention. ECF No. 1 at 12-13. That order, however, does not entitle Petitioner to habeas relief because Petitioner's claim is a core habeas claim that must be brought in the district where he is confined. Further, the parties in both actions were not the same—in fact, the only proper respondent to this Petition (his custodian) was not a party to the *NTPSA* action—and in any case, the *NTPSA* court's orders cannot have preclusive effect against parties over whom the *NTPSA* court lacked jurisdiction.

The Supreme Court has imposed two fundamental limits on federal court jurisdiction over core habeas claims. *First*, "jurisdiction lies in only one district: the district of confinement."

Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004); *see also Trump v. J.G.G.*, 604 U.S. 670, 672 (2025). *Second*, a habeas petitioner must name the petitioner's *immediate* custodian—*i.e.*, the custodian who has actual custody over the petitioner and can produce the "corpus." *Padilla*, 542 U.S. at 435. "Failure to name the petitioner's custodian as a respondent deprives federal courts of personal jurisdiction" needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined, and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And "[a] judgment entered without jurisdiction over the defendant is void." *S.E.C. v. Ross*, 504 F.3d 1130, 1139 (9th Cir. 2007).

Given that a challenge to the legality of detention is a core habeas claim, declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address "validity of a defense the State may, or may not, raise in a habeas proceeding" in part because "the underlying claim must be adjudicated in a federal habeas proceeding"); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. *See Calderon*, 523 U.S. at 747; *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the "availability of a habeas remedy in another district ousted us of jurisdiction over an alien's effort to pose a constitutional attack . . . by means of a suit for declaratory judgment"); *Monk v. Sec'y of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) ("In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is 'in custody in violation of the Constitution . . . of the United States,' . . . . This specific determination must override the general terms of the declaratory judgment . . . statute.").

Here, Petitioner is confined *outside* of the Northern District of California by an immediate custodian who is also *outside* the Northern District of California and who was not named in the *NTPSA* litigation. Therefore, the *NTPSA* court lacked jurisdiction to issue habeas relief to any petitioner, including this Petitioner, confined in the Western District of Texas by an immediate custodian outside that District, and a court's judgment cannot be binding and preclusive against a party over which it lacked jurisdiction. *Burnham v. Superior Court of Cal.*, 495 U.S. 604, 608 (1990). Indeed, another federal district court has already held that orders granting declaratory relief without vacatur "are advisory opinions because they do not redress the alleged harm and are not preclusive," and other courts have likewise declined to apply such declaratory judgments in habeas actions brought outside the district where those judgments were issued. *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, --- F. Supp. 3d ----, 2025 WL 3683918, at *1 (N.D. Tex. Dec. 19, 2025); *see also Rodriguez v. Jeffreys,* No. 8:25-CV-714, 2025 WL 3754411, at *8-10 (D. Neb. Dec. 29, 2025); *Falcon v. Wofford,* No. 1:26-cv-00181-WBS-EFB, 2026 U.S. Dist. LEXIS 12056, at *4–7 (E.D. Cal. Jan. 22, 2026); *Morales v. Noem,* No., 2026 U.S. Dist. LEXIS 21488, at *22–24 (S.D. Fla. Jan. 29, 2026); *Godos v. Bondi,* No. 4:26-cv-00020-TWP-KMB, 2026 U.S. Dist. LEXIS 16643, at *5 (S.D. Ind. Jan 29, 2026); *J.A.S.V. v. Warden,* No. 4:26-cv-00132-CDL-CHW, 2026 U.S. Dist. LEXIS 21227, at *1 n.1 (M.D. Ga. Jan. 30, 2026); *Quintero v. Francis,* No. 25-CV-10107 (MKV), 2026 U.S. Dist. LEXIS 21584, at *18 (S.D.N.Y. Feb. 2, 2026).

In sum, the *NTPSA* court's declaratory judgment purporting to grant relief that is habeas at its core is a legal nullity outside the Northern District of California. At the time of filing this habeas petition, Petitioner was detained at the Limestone County Detention Center, which is in the Western District of Texas, not the Northern District of California. And Petitioner's immediate custodian is not a party to *NTPSA*. Subjecting Petitioner's immediate custodian to the judgment of the Northern District of California would be inconsistent with the immediate-custodian rule. *See Padilla,* 542 U.S. at 439-40; Doe, 109 F.4th at 1196.

Further, in finding that it had jurisdiction to issue declaratory relief notwithstanding that the matter was on appeal, the *NTPSA* court posited that granting a declaratory judgment for the same reasons it granted the order that was on appeal would "simply preserve[] the status quo (pending at the time of the appeal)[.]" *NTPSA,* No. 25-CV-01766-EMC, 2025 U.S. Dist. LEXIS 256153, at *8. Because the Supreme Court stayed the *NTPSA* court's original order pending appeal (and has since stayed it again pending further proceedings), the *NTPSA*'s declaratory judgment order, which Petitioner argues provides relief functionally identical to that provided in the original (stayed) order, appears to be an attempt to evade the effect of the Supreme Court's stay. The status quo was not that Petitioner was entitled to relief at the time the *NTPSA* court granted declaratory judgment—the status quo was that he was not so entitled, pursuant to the Supreme Court's stay.

II. Petitioner's Detention During Removal Proceedings Comports with Due Process.

He further argues that his detention violates the Due Process Clause because it is not rationally related to any legitimate immigration purpose. Petitioner's due process claim fails because he has not submitted any evidence that he is being detained for any purpose beyond the resolution of his removal proceedings.

As an initial matter, immigration detention, including detention during removal proceedings, has survived Due Process review, and detention periods of 180 days or longer have been upheld as constitutional. *See, e.g., Jennings*, 583 U.S. at 323 ("This Court has never held that detention during removal proceedings is unconstitutional. To the contrary, this Court has repeatedly recognized the constitutionality of that practice.") (Thomas, J., concurring in part and concurring in the judgment) (citations omitted); *see also Demore*, 538 U. S. at 523 (explaining that detention is 'a constitutionally valid aspect of the deportation process'); *accord, Reno*, 507 U. S. at 305–06; *Shaughnessy*, 345 U. S. at 215; *Carlson*, 342 U. S., at 538, 542; *see also Parra*, 172 F.3d at 958 (detention during removal proceedings constitutional). Petitioner is currently in removal proceedings, and this detention is neither prolonged, nor indefinite.

Congress created a detention system where applicants for admission, including those who entered the country unlawfully, are detained for removal proceedings under § 1225 and foreign nationals who have been admitted to the country are detained under § 1226. The Court has confirmed that detention pending removal proceedings do not violate due process when such proceedings have a definite end point. *See Denmore*, 538 U.S. at 531 ("Detention during removal proceedings is a constitutionally permissible part of that process."); *see also Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (even after foreign national is ordered removed and detention may be indefinite, detaining him for up to 180 days is presumptively valid). As the Court summarized in *Cirrus Rojas*:

> Given the caselaw and the well-defined procedures governing (and limiting) Cirrus Rojas's detention, the Court rejects his due process challenge. Consistent with *Zadvydas* and *Denmore*, Cirrus Rojas has a recognizable liberty interest in connection with his pre-removal detention. But as *Denmore* held, and *Parra* explains, that liberty interest is limited. Cirrus Rojas is an alien who was found in the United States without authorization and is subject to removal proceedings. Consistent with federal law, he is being provided with the opportunity to oppose removal and using that opportunity to pursue an asylum claim. As explained in *Parra*, Cirrus Rojas's liberty interest is limited, and he has the key to his release in

> his own pocket; he can choose to accept removal to his homeland under Section 1229a.

Cirrus Rojas, 2025 WL 3033967, at *12 (citing *Parra*, 172 F.3d at 958).

In this regard, Petitioner has not submitted any evidence that he is being detained for any purpose beyond the resolution of removal proceedings. *Cf. Chaviano v. Bondi*, No. 25-cv-22451, 2025 WL 1744349, at *8 (S.D. Fla. June 23, 2025) (noting how hearings before an immigration court and opportunities for credible-fear interviews, together with a one-month detention, was not a sufficient basis for finding a due process violation, particularly where "detention, even for far longer periods, pending immigration proceedings" did not violate due process).

Petitioner has been given notice of the charges against him, has access to counsel, may attend hearings with an immigration judge, and has the right to appeal any determination made by an immigration judge. Petitioner has put forth no arguments to the contrary that his detention violates the due process clause in any way, absent the protections the TPS program to which he does not qualify.

Petitioner fails to show that his detention while he awaits the conclusion of his removal proceedings violates due process. *Demore*, 538 U.S. at 531 (no due process violation in detaining foreign national pending removal proceedings); *Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999) ("The private interest here is not liberty in the abstract, but liberty *in the United States* by someone no longer entitled to remain in this country but eligible to live at liberty in his native land[.]"). Conversely, the United States has "a powerful interest in maintaining the detention in order to ensure that removal actually occurs." *Parra*, 172 F.3d at 958. As a result, the Court should deny any relief sought pursuant to argument that petitioner's right to due process has been violated.

III. Conclusion

Based on the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's habeas petition and dismiss this case with prejudice.

Respectfully submitted,

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