

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

**FRANHELI SEGUNDO MORALES
BARRIOS**

Petitioner,

v.

MARCOS CHARLES, Acting Executive Associate Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; DEVERY MOONEYHAM, Limestone County Detention Center,

Respondents.

Case No. 6:26-CV-00088-ADA-DNM

**PETITIONER'S REPLY TO
RESPONDENT'S RESPONSE TO
THE HABEAS PETITION AND
OPPOSITION TO MOTION TO
DISMISS**

INTRODUCTION

1. Petitioner Franheli Segundo Morales Barrios respectfully submits this Reply in response to Respondents' Response to the Petition for Writ of Habeas Corpus and Motion to Dismiss. [Dkt. 4].

2. Petitioner replies to the issues and arguments made by the Respondents. The absence of any rebuttal is not, however, a waiver or abandonment of any claim or argument made previously. For arguments not addressed herein, Petitioner stands on the arguments presented in his Petition of Writ of Habeas Corpus, the motion for issuance of an order to show cause, and on the arguments presented in his emergency motion for temporary restraining order and/or preliminary injunction relief.

3. Respondents' arguments rest on a misreading of the Temporary Protected Status ("TPS") statute, a mischaracterization of the evidentiary record, and an incorrect understanding of the controlling effect of the district court's final judgment in *National TPS Alliance v. Noem*.

4. Petitioner is opposed to the motion to dismiss.

5. Respondents ask this Court to terminate this case permanently, despite the fact that Petitioner remains in custody under authority that has been declared unlawful in a final, unstayed federal judgment. Their motion rests on a legally flawed premise: that the Executive Branch may disregard a binding judicial determination and continue detaining Petitioner as if that ruling never occurred.

6. The December 10 declaratory judgment is a final judgment on the merits. It has not been stayed. Under settled federal law, a final judgment retains full preclusive effect unless and until reversed. *Comer v. Murphy Oil USA, Inc.*, 718 F.3d 460, 467 (5th Cir. 2013). Respondents'

attempt to characterize the judgment as “non-final” conflates interlocutory orders with final adjudications and is legally incorrect.

7. Beyond the preclusion defect, this case presents an independent constitutional violation. Petitioner was arrested without a valid warrant grounded in lawful authority and is now detained without statutory basis. The Fourth and Fifth Amendments prohibit precisely this form of executive overreach. Civil detention must rest on valid statutory authorization. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When the statutory predicate for detention has been set aside by a final judgment, continued confinement becomes arbitrary and unconstitutional.

8. Moreover, Petitioner’s detention violates procedural due process under the Fifth Amendment. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Government cannot deprive an individual of physical liberty without constitutionally adequate procedural safeguards. Here, Petitioner has received none.

9. No genuine dispute of material fact exists. Respondents’ position rests entirely on legal theories that contradict the TPS statute and a controlling federal judgment. The question before the Court is purely legal: whether DHS may detain an individual whose TPS remains in effect notwithstanding an unlawful termination. The answer is no. Because federal law prohibits the detention of individuals granted TPS, Respondents’ continued custody of Petitioner is ultra vires and unconstitutional. Because Respondents’ motion depends on ignoring binding precedent, mischaracterizing the finality doctrine, and sidestepping constitutional protections, dismissal with prejudice is unwarranted. The Petition states a valid claim for habeas relief, and the writ should be issued.

STANDARD OF REVIEW

10. A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of the petition. The Court must accept all well-pleaded factual allegations as true and draw reasonable inferences in Petitioner's favor. Dismissal is appropriate only if the petition fails to state a plausible claim for relief. (*Ashcroft v. Iqbal*; *Bell Atlantic v. Twombly*). Habeas petitions challenging the legality of detention are properly brought under 28 U.S.C. § 2241. *Zadvydas*, 533 U.S. at 687–88.

11. Dismissal with prejudice is an extraordinary remedy appropriate only where amendment would be futile and no viable legal claim exists. That is plainly not the case here. Here, Respondents' motion fails because (1) the record establishes Petitioner's TPS eligibility and protection as a matter of law, and (2) even accepting Respondents' version of the facts, detention is statutorily prohibited under 8 U.S.C. § 1254a(d)(4) and declaratory judgment in *National TPS Alliance v. Noem*.

ARGUEMNTS

**THE DECEMBER 10 DECLARATORY JUDGMENT IS FINAL, BINDING, AND
ENTITLED TO PRECLUSIVE EFFECT**

12. Respondents' jurisdictional argument mischaracterizes both the nature of Petitioner's claim and the effect of the December 10, 2025, declaratory judgment. Petitioner is not asking this Court to enforce habeas relief issued by another district court. He is invoking this Court's undisputed habeas jurisdiction under 28 U.S.C. § 2241 in the district of confinement to determine whether his present custody is lawful. The Northern District of California did not purport to order Petitioner's release, nor did it exercise habeas jurisdiction over him. Instead, it entered declaratory relief holding that (1) the January 17, 2025, vacatur of Venezuela's TPS extension and (2) the February 5, 2025, termination of Venezuela's 2023 TPS designation were unlawful. *See National*

TPS Alliance v. Noem, No. 25-cv-01766-EMC, Order Granting Declaratory Relief (N.D. Cal. Dec. 10, 2025). That judgment adjudicated the legality of agency action under the APA; it did not issue a writ of habeas corpus.

13. Padilla’s “district of confinement” rule governs who may issue a writ of release—not who may adjudicate the legality of federal agency action under the APA. The NTPSA court exercised federal question jurisdiction over DHS’s nationwide TPS actions and declared those actions unlawful as to the parties before it. Petitioner does not seek to transform that judgment into a free-standing writ; he relies on it as controlling law establishing that the statutory predicate for his detention is invalid. This Court, sitting in habeas, must independently assess whether there exists lawful authority for continued custody. If the underlying agency action has been adjudicated unlawful, detention predicated on that action lacks a statutory foundation.

14. Respondents’ suggestion that the NTPSA court lacked jurisdiction to enter declaratory relief is directly contradicted by the order itself. The district court explained that the declaratory judgment was derivative of its prior merits ruling and did not materially alter the posture of the appeal.

15. The court expressly declared the Venezuelan vacatur and termination unlawful and entered judgment accordingly. *Id.* That is not an advisory opinion; it is a merits adjudication under 28 U.S.C. § 2201(a), which provides that a declaratory judgment “shall have the force and effect of a final judgment.” The fact that Petitioner’s immediate custodian was not a party to NTPSA is immaterial. Preclusion principles do not require identity of custodians in successive litigation when the operative legal question, whether DHS lawfully terminated TPS, has already been adjudicated against the agency officials responsible for that action.

16. Respondents further argue that the Supreme Court's stay of the earlier partial final judgment somehow nullifies the December 10 declaratory judgment or restores the "status quo" in their favor. That conflates distinct rulings. The December 10 order entered declaratory relief after the Supreme Court's earlier stay and expressly addressed jurisdiction notwithstanding the pending appeal.

17. A stay preserves appellate review; it does not erase a district court's legal conclusions or transform unlawful agency action into lawful authority. At minimum, the declaratory judgment confirms that the legality of the TPS termination has been conclusively adjudicated on the merits and cannot simply be presumed valid for purposes of detention.

18. Finally, Respondents' reliance on cases dismissing separate declaratory actions filed by detainees is misplaced. Petitioner has not filed a collateral declaratory suit; he has properly invoked § 2241 in the district of confinement. The question before this Court is straightforward: Does DHS presently possess valid statutory authority to detain a Venezuelan national whose TPS termination has been declared unlawful? If the statutory basis for termination has been set aside, continued detention predicated on that termination is ultra vires. Civil immigration detention must rest on lawful statutory authorization. Where that authorization has been invalidated, custody violates both the statute and the Fifth Amendment.

19. The December 10 declaratory judgment is not an extraterritorial habeas writ; it is binding federal law adjudicating the illegality of the TPS revocation. This Court has jurisdiction to grant habeas relief. Because Respondents' custody rests on agency action already declared unlawful, their motion to dismiss should be denied and the writ granted.

DETENTION BASED ON A DECLARED-UNLAWFUL AGENCY

ACTION IS ULTRA VIRES

20. Executive detention must rest on valid statutory authorization. The Supreme Court has made clear that immigration detention is permissible only to the extent Congress has conferred such authority. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“The power to detain is limited by the statute.”). When the statutory predicate for detention is removed, the Executive’s authority to confine a person necessarily collapses with it. Civil detention cannot exist in a legal vacuum; it must be anchored to a lawful congressional grant of power.

21. Here, the statutory predicate on which Respondents rely has been adjudicated unlawful. The Northern District of California expressly declared that (1) the vacatur of the January 17, 2025, TPS extension for Venezuela and (2) the February 5, 2025, termination of Venezuela’s 2023 TPS designation were unlawful. *See National TPS Alliance v. Noem*, No. 25-cv-01766-EMC, Order Granting Declaratory Relief (N.D. Cal. Dec. 10, 2025).

22. Those agency actions were the sole mechanism by which DHS purported to extinguish Venezuelan TPS. With those actions declared unlawful, the legal landscape reverts to the status that existed before the invalid revocation, namely, that TPS for Venezuela remains operative pursuant to its prior designation and extension.

23. That conclusion has direct statutory consequences. Congress has expressly provided that a noncitizen granted Temporary Protected Status “shall not be detained ... on the basis of the alien’s immigration status.” 8 U.S.C. § 1254a(d)(4). The statute withdraws detention authority that would otherwise exist under general removal provisions. Once TPS is operative, DHS may not treat the individual as removable or detainable solely on the basis of immigration status.

24. Respondents' position requires this Court to assume the continuing validity of agency actions that a federal court has already declared unlawful. But detention predicated on an invalidated legal theory is, by definition, ultra vires. The Executive cannot manufacture detention authority from agency action that no longer carries legal force. Because the TPS termination and vacatur have been declared unlawful, and because TPS recipients are statutorily protected from detention on the basis of immigration status, Respondents lack any valid statutory foundation for Petitioner's continued confinement. Under *Zadvydas* and the plain text of § 1254a(d)(4), that detention is unauthorized and unconstitutional.

**PETITIONER'S DETENTION VIOLATES PROCEDURAL DUE PROCESS
UNDER THE FIFTH AMENDMENT**

25. The Due Process Clause of the Fifth Amendment prohibits the Government from depriving any "person" of liberty without due process of law. U.S. Const. amend. V. Civil immigration detention, although authorized by statute, remains subject to constitutional limitations. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, there is no question that the government has deprived Petitioner of his liberty.

26. To determine whether a particular detention scheme comports with procedural due process, courts apply the three-factor balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under *Mathews*, courts consider: (1) the private liberty interest affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used and the probable value of additional or substitute safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens of additional procedural requirements. *See also Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *8 (W.D. Tex. Oct. 21, 2025).

27. Applied here, each *Mathews* factor weighs decisively in favor of immediate release or, in the alternative, requiring an individualized custody determination for Petitioner.

The Private Liberty Interest at Stake Is Fundamental and Substantial

28. The first *Mathews* factor examines “the private interest that will be affected by the official action.” 424 U.S. at 335. The Supreme Court has made clear that “[t]he interest in being free from physical detention” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Federal courts within Texas have repeatedly reaffirmed that this liberty interest extends to noncitizens physically present within the United States, regardless of their immigration status. *See Martinez v. Noem*, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025).

29. District courts within the Fifth Circuit have consistently recognized that noncitizens who have lived, worked, or supported families in the interior of the United States possess a constitutionally protected liberty interest in remaining free from arbitrary detention. *See, e.g., Lopez Miranda v. Flores*, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025); *Hernandez-Fernandez*, 2025 WL 2976923, at *9.

30. Petitioner’s liberty interest is neither speculative nor attenuated, it is concrete, substantial, and uniquely compelling. He is eighteen years old and entered the United States at just fifteen, as a child. He voluntarily presented himself to DHS and was affirmatively released on his own recognizance under INA § 236 after the Government determined that he posed neither a danger to the community nor a flight risk. Since his release in 2023, he has complied fully with all immigration requirements and has lived openly and responsibly in the community.

31. Petitioner is now a senior at Klein High School. He has no criminal history whatsoever. He is a varsity soccer player and maintains strong ties to his school and community. He is also an

approved TPS holder and a registered member of the National TPS Alliance, directly benefiting from the December 10 declaratory judgment declaring the TPS vacatur and termination unlawful. For nearly three years, DHS permitted him to reside in the community, attend school, and pursue his education while his immigration proceedings progressed. That prolonged release, based on an individualized government determination, created settled expectations and reliance interests that heighten the constitutional weight of his liberty interest.

32. The Government now seeks to incarcerate an eighteen-year-old high school senior, who has never been accused of any crime, without any new individualized finding that he poses a danger or flight risk. Such detention would not serve a regulatory purpose grounded in present facts; it would instead disrupt an established, lawful status quo created by DHS itself. Continued confinement under these circumstances strikes at the core of the liberty protected by the Fifth Amendment, physical freedom from arbitrary executive restraint.

33. Under the first factor of *Mathews v. Eldridge*, the private interest affected is the most fundamental interest recognized in our constitutional system: freedom from physical detention. Given Petitioner's youth, spotless record, demonstrated compliance, community integration, and reliance on DHS's prior release determination, the first *Mathews* factor weighs overwhelmingly in his favor.

The Risk of Erroneous Deprivation Is High, and Bond Hearings Provide Critical Safeguards

34. The second *Mathews* factor requires the Court to evaluate "the risk of an erroneous deprivation" under the procedures currently in place and the probable value of additional safeguards. 424 U.S. at 335. Under the existing framework applied here, that risk is exceptionally high.

35. Petitioner was previously released under INA § 236 after DHS determined that he posed neither a danger to the community nor a flight risk. There has been no new individualized assessment reversing that determination. He is also an approved TPS holder, and Congress has expressly provided that a noncitizen granted TPS “shall not be detained ... on the basis of the alien’s immigration status.” 8 U.S.C. § 1254a(d)(4). In addition, the December 10 declaratory judgment held unlawful the TPS vacatur and termination on which DHS relies, and that judgment remains operative. Despite these circumstances, Petitioner was arrested without presentation of a warrant and is categorically denied a bond hearing based solely on DHS’s interpretation of § 1225(b)(2).

36. The procedures currently afforded are insufficient to guard against error. Removal proceedings address removability, not whether detention is necessary. Without a custody redetermination hearing, no neutral adjudicator evaluates whether continued confinement is justified. The Government bears no evidentiary burden to demonstrate danger or flight risk. No individualized factual findings are required. Petitioner has no meaningful opportunity to contest the legal and factual basis for his detention. This absence of procedural safeguards creates a substantial likelihood that individuals who do not warrant incarceration remain detained unnecessarily.

37. The value of additional safeguards is obvious and substantial. A bond hearing would require the Government to present evidence justifying detention, would place the decision before a neutral adjudicator, and would ensure that custody determinations are grounded in individualized facts rather than categorical assumptions. Such a safeguard would significantly reduce the risk of erroneous deprivation while imposing minimal procedural burden. Under these circumstances, the second *Mathews* factor strongly favors Petitioner.

The Government's Interests Are Fully Protected Through Individualized Bond Hearings

38. The third *Mathews* factor considers the Government's interests and the burdens associated with additional procedural safeguards. The Government undoubtedly has legitimate interests in ensuring that noncitizens appear for removal proceedings and do not pose a danger to the community. However, courts in this Circuit have repeatedly recognized that these interests are fully addressed through individualized bond hearings. *See Martinez v. Noem*, 2025 WL 2598379, at *4; *Rojas*, 2025 WL 3038262, at *4.

39. Importantly, a habeas petitioner's "constitutional interest in his liberty exists above and apart from the INA." *Rojas*, 2025 WL 3038262, at *4 (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.")).

40. Requiring an individualized process does not eliminate detention authority. It merely requires that continued confinement be justified in an individualized manner. The administrative burden of conducting bond hearings is minimal, as immigration courts routinely conduct such hearings under § 1226(a). Indeed, for decades prior to the Government's recent reinterpretation, similarly situated interior detainees routinely received bond hearings.

41. Accordingly, the Government's interests do not outweigh Petitioner's fundamental liberty interest, particularly where a modest procedural safeguard, released under supervision, or a prompt bond hearing, adequately protects both sides' concerns. The third *Mathews* factor also favors Petitioner.

42. When all three *Mathews* factors are balanced, the conclusion is unavoidable. Petitioner's liberty interest is fundamental and substantial. The risk of erroneous deprivation under a

categorical detention regime is high. The Government's interests can be fully protected through individualized bond hearings without significant administrative burden. Under *Mathews v. Eldridge*, continued detention without an individualized custody determination violates procedural due process. At a minimum, the Fifth Amendment requires that Petitioner receive a prompt bond hearing before a neutral Immigration Judge at which the Government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary to prevent flight or danger to the community. Because Petitioner has been deprived of that process, his continued confinement is unconstitutional, and habeas relief is warranted.

**PETITIONER'S WARRANTLESS RE-ARREST AND RECLASSIFICATION
UNDER 8 U.S.C. § 1225(b) ARE UNCONSTITUTIONAL**

43. The Fourth Amendment applies to civil immigration arrests. *Arizona v. United States*, 567 U.S. 387, 413 (2012). Even in the immigration context, seizures must be authorized by statute and must be reasonable. Petitioner entered the United States in June 2023. Critically, however, he did not evade authorities, he voluntarily presented himself to CBP, was processed, and was placed into removal proceedings. After that processing, DHS exercised discretionary detention authority under INA 8 U.S.C. § 1226(a), 8 U.S.C. § 1226(a), and affirmatively released him on his own recognizance pursuant to a Form I-220A.

44. That release determination was not provisional or accidental. It represented DHS's formal exercise of discretionary custody authority after evaluating Petitioner's case. DHS made no finding that he posed a danger to the community or a flight risk. Petitioner thereafter complied fully with all conditions of release for nearly three years.

45. On January 1, 2026, ICE officers arrested Petitioner in the interior of Texas without presenting a warrant and without any intervening change in circumstances. He was not accused of

any crime. He had not violated any release condition. He had not absconded. He remained a compliant TPS beneficiary and high school senior. Following this arrest, DHS now seeks to reclassify him under 8 U.S.C. § 1225(b)(2) as subject to mandatory detention. That reclassification is unlawful.

a. DHS Cannot Convert a § 236 Release into Retroactive 8 U.S.C. § 1225(b)

Mandatory Detention

46. Section 235(b) of the Immigration and Nationality Act governs the inspection and detention of applicants for admission at or near the time of entry. *See* 8 U.S.C. § 1225(b); 8 C.F.R. §§ 235.3, 1235.3. By contrast, Section 236(a) governs the arrest and detention of noncitizens placed in removal proceedings within the United States and authorizes DHS to release such individuals on bond or recognizance pending those proceedings. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8) (authorizing release on bond or recognizance); 8 C.F.R. § 1236.1(d)(1) (same).

47. In this case, DHS affirmatively exercised its 8 U.S.C. § 1226(a) discretionary authority when it issued Petitioner an Order of Release on Recognizance. By doing so, DHS necessarily determined that Petitioner was not subject to mandatory detention and that he was an appropriate candidate for release into the community while his removal proceedings were pending. That determination placed Petitioner squarely within the statutory framework of 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). The governing regulations confirm that release under 8 U.S.C. § 1226(a) reflects an exercise of discretionary custody authority following arrest and initiation of proceedings. *See* 8 C.F.R. § 236.1(c)(8).

48. Nothing in the INA or its implementing regulations authorizes DHS, years later and absent any new facts, violation, or changed circumstance, to retroactively reclassify a noncitizen previously processed and released under 8 U.S.C. § 1226(a) as though he were subject to 8 U.S.C.

§ 1225(b)'s mandatory detention scheme. The Government's current position amounts to a unilateral re-characterization of Petitioner's statutory posture long after his release, without any intervening conduct that would justify a new custody determination. The regulations contemplate custody review and revocation of release based on changed circumstances or violation of conditions, see 8 C.F.R. § 236.1(c)(9), but they do not authorize serial "release-and-re-detain" tactics based solely on a revised legal interpretation of statutory classification.

b. The Warrantless Interior Arrest Was Unreasonable

49. Under 8 U.S.C. § 1357(a), immigration officers may effect a warrantless arrest only when the statutory prerequisites are satisfied. Even when statutory authority exists, however, the Fourth Amendment independently requires that the seizure be reasonable. Civil immigration enforcement is not exempt from constitutional constraints; the Government must demonstrate both legal authority and objective reasonableness at the time of arrest.

50. Here, the re-arrest was unreasonable. Petitioner had already been processed, placed in removal proceedings, and affirmatively released under 8 U.S.C. § 1226(a). DHS determined at that time that he posed neither a danger to the community nor a flight risk and permitted him to reside in the community for years without incident. He remained fully compliant with all reporting requirements and conditions of release. No new factual development, violation, or intervening conduct supplied a fresh basis for custody. No warrant was presented. The only change was the Government's revised legal interpretation of the same underlying facts.

51. Re-arresting a fully compliant noncitizen years after discretionary release—without changed circumstances—converts regulatory detention into arbitrary executive imprisonment. The Fourth Amendment does not permit the Government to re-seize an individual simply because it has adopted a new litigation position about statutory classification. Reasonableness requires more

than a shift in legal theory; it requires a present, lawful basis for restraint. Absent new facts or a valid warrant grounded in statutory authority, Petitioner's arrest was constitutionally unreasonable.

52. Permitting such authority would render 8 U.S.C. § 1226(a)'s discretionary release framework illusory. If DHS may simply disregard its prior custody determination and re-detain individuals years later without new factual justification, then discretionary release would carry no legal significance. The INA does not empower the Executive to nullify its own prior custody decisions at will.

c. Continued Detention Magnifies the Constitutional Violation

53. Even assuming arguendo that the initial arrest could be characterized as technically authorized, Petitioner's continued detention under a purported mandatory framework pursuant to 8 U.S.C. § 1225(b) is constitutionally untenable. Petitioner was previously released under 8 U.S.C. § 1226(a) after DHS determined he posed neither a danger to the community nor a flight risk. He has no criminal history, has complied with all conditions of release for nearly three years, and is a lawful TPS holder as well as a direct beneficiary of the December 10 declaratory judgment declaring the TPS vacatur and termination unlawful. Despite these facts, he was re-detained without any new individualized custody determination and without any opportunity to seek bond.

54. The Government now seeks to reclassify him as subject to mandatory detention under § 1225(b), thereby eliminating individualized review and disregarding its prior discretionary release decision under § 1226(a). This retroactive statutory shift—unsupported by new evidence, changed circumstances, or misconduct, effectively nullifies DHS's earlier finding that detention was unnecessary. The Constitution does not permit the Executive to release an individual under § 1226(a), permit years of compliance, and then unilaterally subject that same individual to mandatory detention under § 1225(b) solely to avoid providing a bond hearing. Such conduct

offends both the Fourth Amendment's requirement that seizures be reasonable and the Fifth Amendment's protection against arbitrary executive detention. Continued confinement under these circumstances is not regulatory in nature; it is constitutionally infirm.

DISMISSAL WITH PREJUDICE IS IMPROPER

55. Respondents seek dismissal of this habeas petition with prejudice. That request is extraordinary and legally unsupportable. Dismissal with prejudice is a "drastic remedy" appropriate only where amendment would be futile, and the petitioner can prove no set of facts entitling him to relief. *Foman v. Davis*, 371 U.S. 178, 182 (1962). The Fifth Circuit has consistently held that leave to amend should be freely granted absent a substantial reason to deny it. *Smith v. EMC Corp.*, 393 F.3d 590, 595 (5th Cir. 2004). Futility exists only where an amended pleading would fail as a matter of law. *Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 873 (5th Cir. 2000). Respondents cannot meet that demanding standard here.

56. This is a habeas petition challenging ongoing executive detention. The Supreme Court has long emphasized that habeas corpus is intended to serve as a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). Where liberty is at stake, courts are obligated to ensure meaningful judicial review rather than permanently foreclose relief. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (habeas must provide a meaningful opportunity to test the legality of detention). Dismissing this petition with prejudice while Petitioner remains in custody would effectively insulate the Government's detention decision from further judicial scrutiny, contrary to the core purpose of the writ.

57. Moreover, the Petition plainly alleges multiple substantial constitutional violations. Petitioner has alleged that DHS lacks statutory authority to re-detain him after previously releasing him under INA § 236; that his continued detention contravenes a final federal declaratory judgment

declaring unlawful the TPS vacatur and termination; that his incarceration without individualized review violates procedural due process under *Mathews v. Eldridge*, 424 U.S. 319 (1976); that his warrantless interior re-arrest violated the Fourth Amendment; and that continued detention absent meaningful review implicates the Suspension Clause. These claims are not speculative or conclusory, they are grounded in concrete facts and well-established constitutional principles. At minimum, they satisfy the plausibility standard of *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

58. In addition, the statutory and constitutional issues raised here, particularly the interplay between §§ 1225 and 1226, the limits of mandatory detention, and the constitutional constraints on re-detention after discretionary release, are actively developing areas of law. Where the legal landscape is evolving, dismissal with prejudice is especially inappropriate. *See Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 329 (5th Cir. 2002). Even if the Court were to identify a pleading deficiency, amendment would not be futile.

59. Finally, civil detention implicates the most fundamental liberty interest recognized by the Constitution, the right to be free from physical restraint. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Courts must exercise particular caution before foreclosing review of ongoing executive confinement. To dismiss this petition with prejudice would improperly shield a continuing deprivation of liberty from judicial oversight. That result is incompatible with both the Fifth Amendment and the historic role of habeas corpus. For these reasons, Respondents' request for dismissal with prejudice should be denied.

HABEAS RELIEF IS THE PROPER AND NECESSARY REMEDY

60. This case presents a direct challenge to the fact and legality of Petitioner's detention, placing it squarely within the core protections of the writ of habeas corpus. *See* 28 U.S.C. § 2241(c)(3); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001). No administrative exhaustion requirement

applies to claims challenging unlawful custody, and no alternative remedy exists that could provide timely or adequate relief. Each additional day of detention compounds the constitutional injury and inflicts irreparable harm that cannot be cured by later review.

CONCLUSION

For the foregoing reasons, and for those set forth in the Petition, Respondents' Motion to Dismiss must be DENIED, and the Petition for Writ of Habeas Corpus must be GRANTED.

This Court should order:

- a. Respondents' Motion to Dismiss should be DENIED;
- b. The Petition for Writ of Habeas Corpus should be GRANTED;
- c. Respondents should be ordered to immediately release Petitioner from ICE custody;
- d. Respondents should be enjoined from re-detaining Petitioner so long as the December 10, 2025, *NTPSA* judgment remains in effect.

Respectfully submitted,

/s/ Nelly C. Sanchez Estrada
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Franheli Segundo Morales Barrios, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Reply are true and correct to the best of my knowledge.

Dated this 19th of February 2026.

/s/ Nelly Sanchez Estrada

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on February 19, 2026, to all counsel of record.

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