UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

WILLIAM RAFAEL HERNANDEZ TORRES, Petitioner, v. **KRISTI NOEM,** Secretary, Department of Homeland Security, **TODD M. LYONS,** Acting Director, United States Immigration and Customs Enforcement (ICE), **PAMELA JO BONDI,** Attorney General of the United States, and **KEVIN RAYCRAFT,** Director, ICE Detroit Field Office, *in their official capacities*, Respondents.	Case No. Hon.

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

INTRODUCTION

1. Mr. William Rafael Hernandez Torres 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 so long as their TPS is valid. 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 Respondent DHS Secretary Kristi Noem purported to rescind TPS for Venezuela, for the purposes of this habeas petition, Petitioner's TPS status must be deemed valid. On December 10, 2025, the federal district court of the Northern District of California granted declaratory relief and declared unlawful Respondent Noem's vacatur of the January 17, 2025 extension of TPS for Venezuela and subsequent termination of Venezuela's 2023 designation in a case brought by the membership organization National TPS Alliance. *Nat'l TPS All. v. Noem*, No. 25-cv-01766-EMC, 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 in Petitioner's habeas case, controlling the legal question of whether members of the National TPS Alliance (NTPSA), such as Petitioner, retain their TPS status. This Court must thus find Petitioner's

detention unlawful and order his immediate release.

3. The *NTPSA* court stayed its December 10 Order for two weeks to permit the government to appeal and/or seek a stay. December 10 Order, at *3. The government did neither. Therefore, by its terms the *NTSPA* order entered into effect December 25, 2025.

4. The declaratory judgment order thus now controls as to the question of whether members of the National TPS Alliance—a plaintiff in *NTPSA*—retain their TPS status. 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[.]"); *AmSouth Bank v. Dale*, 386 F.3d 763, 786 (6th Cir. 2004) (declaratory judgment provides "clarification of legal duties for the future"); *Burlington Ins. Co. v. Oceanic Design & Constr., Inc.*, 383 F.3d 940, 952 (9th Cir. 2004) (cleaned up, citation omitted) ("A declaratory judgment is a binding adjudication that establishes the rights and other legal relations of the parties where those rights are in doubt."). A final merits judgment, including a declaratory judgment, has preclusive effect on future proceedings involving the same parties. *Outdoor One Commc'ns LLC v. Charter Twp. of Canton, Michigan*, 155 F.4th 776, 782 (6th Cir. 2025); *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003).

5. This Court must thus apply the December 10 Order in the context of Petitioner's habeas case. Because Petitioner is a member of the National TPS Alliance, the December 10 Order controls the question of whether Petitioner's TPS status remains valid. The December 10 Order recognizes that the decisions vacating and terminating TPS for Venezuela were illegal. December 10 Order at *3. For the purposes of this litigation, the Federal Register notice extending TPS for Venezuela through October 2, 2026, is therefore in effect, and Petitioner's TPS remains valid. 90 Fed. Reg. 5961 (Jan. 17, 2025).

6. The TPS statute unequivocally prohibits the detention of persons with valid TPS, and Petitioner must be released. See 8 USC 1254a(a)(1)(A), (d)(4) ("[a]n alien provided temporary protected status under this section *shall not be detained* by the Attorney General") (emphasis added). Whether a TPS holder has a final order of removal does not change the prohibition on their detention. 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). Further, as of March 2, 2026, Petitioner is not currently in removal proceedings. He may not be removed during the pendency of his TPS. 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").

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

8. Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for 19 days despite the unambiguous statutory command that TPS holders may not be either detained or deported.

9. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

10. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus and order Respondents to release them from custody immediately.

CUSTODY JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake

Correctional Facility in Baldwin, Michigan.

12. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. 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, Petitioner is detained in this District, Petitioner'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. *See generally Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) ("the proper respondent to a habeas petition is 'the person who has custody over the petitioner'") (citing 28 U.S.C. § 2242) (cleaned up).

PARTIES

15. Petitioner Mr. William Rafael Hernandez Torres is currently detained by Respondents at Northlake Processing Center, an immigration detention facility. Petitioner has been in ICE custody since on or about February 20, 2026, when he was arrested while sitting in an Amazon parking lot with his wife.

16. Respondent Kevin Raycraft is the Field Office Director responsible for the Detroit Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.

17. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.

18. Respondent Kristi Noem is the Secretary of the United States Department of

Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

19. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

I. PETITIONER IS DETAINED DESPITE HAVING TEMPORARY PROTECTED STATUS FROM VENEZUELA

20. Petitioner came to the United States around April 23, 2023. Petitioner applied for and was granted Temporary Protected Status in the United States initially pursuant to the 2023 designation of TPS for Venezuela. Petitioner has consistently renewed TPS since this initial registration, including pursuant to the most recent January 17, 2025, extension, which extended protection for Venezuelan TPS beneficiaries through October 2, 2026.

21. Petitioner is a member of the National TPS Alliance.

22. ICE officers took Petitioner into custody on February 20, 2026, when he was arrested while sitting in an Amazon parking lot with his wife.

23. ICE has not filed a Notice to Appear with the immigration court.

24. Because Petitioner's previous immigration proceedings were dismissed by an order granting a joint motion to dismiss in late 2023, Petitioner filed an application for asylum with the Asylum Office. That application was received on February 20, 2025, and issued receipt number [redacted] The Asylum Office has not yet adjudicated Petitioner's asylum application.

25. ICE has not served Petitioner with an expedited removal charging document or removal order.

26. Petitioner has never been ordered removed from the United States by an immigration judge.

II. TEMORARY PROTECTED STATUS FOR VENEZUELA

27. On the last day of his 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. 6,845, 6,845 (Jan. 19, 2021). President Trump's action permitted approximately 300,000 Venezuelan refugees to live and work here for 18 months. Memorandum re Deferred Enforced Departure for Certain Venezuelans, 86 Fed. Reg. 6845 (Jan. 19, 2021).

28. 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. 13,574 (Mar. 9, 2021). He did so again on October 3, 2023, allowing more recently arrived Venezuelans to apply. 88 Fed. Reg. 68,130 (Oct. 3, 2023).

29. 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. 55,024 (Sept. 8, 2022); 88 Fed. Reg. at 68,130.

30. On January 17, 2025, the DHS Secretary extended the 2023 Venezuela Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5,961 ("January 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 5,963 (citation omitted).

31. In the extension order, 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 5,962.

32. On February 3, 2025, just days after she took office, Respondent Secretary Noem purported to "vacate" DHS' January 17 extension of TPS for Venezuela. 90 Fed. Reg. 8805 (Feb. 3, 2025). That decision was the first vacatur of a TPS extension in the 35-year history of the TPS statute.

33. On February 5, 2025, DHS published a notice in the Federal Register purporting to terminate the 2023 Venezuela Designation[1]. 90 Fed. Reg. 9040 (Feb. 5, 2025).

34. On September 8, 2025, DHS published a notice in the Federal Register purporting to terminate the 2021 designation of TPS for Venezuela[2]. 90 Fed. Reg. 43225 (Sept. 8, 2025).

LEGAL CHALLENGE TO VENEZUELA'S TPS TERMINATION

35. On February 19, the National TPS Alliance and seven individual Venezuelan TPS holders sued the federal government, alleging that the vacatur of the January 17, 2025 extension of TPS for Venezuela and subsequent termination of Venezuela's 2023 TPS designation were contrary to the TPS statute in violation of the Administrative Procedure Act and unlawful under the Fifth Amendment. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC (N.D. Cal. Filed Feb. 19, 2025) ("*NTPSA*").

36. On December 10, 2025, the district court in *NTPSA* issued a final judgment declaring the vacatur of the January 17, 2025 extension of TPS for Venezuela and termination of Venezuela's 2023 TPS designation unlawful. *Nat'l TPS All. v. Noem*, No. 25-CV-01766-EMC, 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 appeal and/or seek a stay. *Id.* The

[1] The termination of Venezuela's 2021 designation is not at issue in this case because Petitioner held TPS under Venezuela's 2023 designation.

government did neither.

37. Pursuant to the *NTPSA* December 10 Order, Petitioner retains TPS because Defendants' actions purporting to deprive them of that status – *i.e.,* the vacatur of the January 17, 2025 extension and the termination of Venezuela's 2023 designation – were unlawful.

38. The *NTPSA* December 10 Order controls as to the question of whether members of the National TPS Alliance – the lead plaintiff in *NTPSA* – retain their TPS

39. 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[.]"); *Burlington Ins. Co. v. Oceanic Design & Constr., Inc.*, 383 F.3d 940, 952 (9th Cir. 2004) (cleaned up, citation omitted) ("A declaratory judgment is a binding adjudication that establishes the rights and other legal relations of the parties where those rights are in doubt.").

40. 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) ("the point of a declaratory judgment 'is to establish a binding adjudication that enables the parties 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)).

41. "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." *Comer v. Murphy Oil*

USA, Inc., 718 F.3d 460, 467 (5th Cir. 2013) (internal cites and quotations omitted); *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003).

LEGAL FRAMEWORK

42. The Court needs to analyze only one statutory provision to resolve this habeas petition. The TPS statute unequivocally prohibits the deportation and detention of persons with valid TPS. Petitioner cannot be deported and Petitioner must be released. *See* 8 U.S.C. § 1254a(a)(1)(A), (d)(4) (mandating that immigration authorities "shall not remove" a noncitizen with TPS status and that "[a]n alien provided temporary protected status under this section *shall not be detained* by the Attorney General") (emphasis added).[3] It is hard to imagine a clearer statutory mandate proscribing deportation and detention.

43. 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.").

44. Indeed, even 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-

[3] "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, and order that Petitioner cannot be deported unless and until (1) he becomes subject to a final, executable order of removal, *and* (2) his TPS status is no longer in effect.

45. Should the Court nonetheless choose to address constitutional questions, it should also find that Petitioner's detention and deportation violate the Due Process Clause of the Fifth Amendment.

46. "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). 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.

47. 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.

48. 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.

49. Petitioner's deportation without a final, executable order of removal, without a credible fear interview, and while his TPS status remains in effect would similarly violate the Due Process Clause. 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, as here, federal law explicitly prohibits an individual's removal, proceeding with that removal would also violate the Due Process Clause.

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

CLAIMS FOR RELIEF

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

51. Petitioner realleges and incorporates by reference each and every allegation contained above.

52. 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.

53. 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.

54. Thus, Petitioner's detention violates Section 1254a, and he is entitled to immediate release from custody.

55. Section 1254a(a)(1)(A) states that the Attorney General "shall not remove [an] alien from the United States during the period in which [temporary protected] status is in effect."

56. Thus, Petitioner's deportation violates Section 1254a, and he is entitled to relief from deportation unless and until his TPS status is no longer in effect and he is the subject of a final, executable, order of removal.

COUNT TWO
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT – 8 U.S.C. § 1229a

57. Petitioner realleges and incorporates by reference each and every allegation contained above.

58. Section 1229a of Title 8 of the U.S. Code provides that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States."

59. No determination has been made whether Petitioner is to be removed from the United States in such proceedings.

60. No other proceedings specified in the immigration laws for determining removability and issuing removal orders apply to Petitioner and no such removal orders have been served on Petitioner.

61. The removal of Petitioner in the absence of a final, executable order of removal violates Section 1229a. He is entitled to an order prohibiting Respondents from removing him unless and until such time as he is the subject of a final, executable order of removal and his TPS

status is no longer in effect.

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

62. Petitioner realleges and incorporates by reference each and every allegation contained above.

63. 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).

64. Petitioner'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 Petitioner; and because it lacks any statutory authorization.

65. Petitioner's deportation violates the Due Process Clause because it is prohibited by statute.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. 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;

c. Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically 8 U.S.C. § 1254a;

d. Declare that Petitioner's deportation violates the Immigration and Nationality Act, and specifically 8 U.S.C. §§ 1254a and 1229a;

e. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

f. Declare that Petitioner's deportation without a final removal order and while his TPS status remains in effect violates the Due Process Clause of the Fifth Amendment;

g. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

h. Enjoin Respondents from further detaining Petitioner so long as the December 10 Order remains in effect;

i. Enjoin Respondents from removing Petitioner unless so long as the December 10 Order remains in effect;

j. 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

k. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

VARNUM LLP
Attorneys for Petitioner

Date: March 11, 2026

By: */s/ Francesca L. Parnham*

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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Writ of *Habeas Corpus* are true and correct.

Executed this 11th of March, 2026.

By: */s/ Francesca L. Parnham*
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