UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

Alberto Jose FLORES SALAS,

Petitioner,

v.

Allan Crosby, Jail Administrator at Liberty County Jail; Garrett Ripa, Miami Field Office Director, Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland Security; Executive Office for Immigration Review; Pamela BONDI, U.S. Attorney General; each in their Official capacities.

Respondents.

Case No. 4:26-cv-140

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Alberto Jose Flores Salas, (hereinafter "Petitioner" or "Mr. Flores") by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to compel his release from custody, as his current civil immigration detention violates the Due Process Clause of the United States Constitution and the Immigration and Nationality Act.

INTRODUCTION

1. Petitioner Alberto Jose Flores-Salas brings this Petition for a Writ of Habeas Corpus to challenge his ongoing unlawful civil immigration detention by Respondents.

2. Petitioner is currently in the physical custody of Respondents at Liberty County Jail at 12499 NW Central Avenue Bristol, Florida 32321, pursuant to an immigration hold issued by U.S. Immigration and Customs Enforcement ("ICE").

3. Petitioner is a native and citizen of Venezuela. ***See Exhibit A.***

4. Petitioner entered the United States at or near Del Rio, Texas, on or about January 22, 2022. ***See Exhibit B.***

5. On January 24, 2022, the Department of Homeland Security ("DHS") issued a Notice to Appear placing Petitioner in removal proceedings under section 240 of the Immigration and Nationality Act. The Notice to Appear charges Petitioner as a noncitizen "present in the United States who has not been admitted or paroled," and not as an arriving alien. ***See Exhibit B.***

6. That classification is dispositive. It places Petitioner within the detention framework of 8 U.S.C. § 1226(a), which governs noncitizens already present in the United States and authorizes discretionary detention subject to individualized custody determinations.

7. Consistent with that framework, DHS exercised its discretionary authority under section 236 of the Act and released Petitioner on his own recognizance on January 24, 2022. ***See Exhibit C***. That prior custody determination confirms that Petitioner has been treated by the Government as a § 1226(a) detainee, not as an arriving alien subject to mandatory detention under § 1225(b).

8. Petitioner has also been granted Temporary Protected Status ("TPS") pursuant to 8 U.S.C. § 1254a. Federal law provides that a TPS beneficiary "shall not be detained … on the basis of the alien's immigration status in the United States," and "shall not [be] remove[d] … during the period in which such status is in effect." 8 U.S.C. §§ 1254a(d)(4), 1254a(a)(1)(A). ***See Exhibit D.***

9. Petitioner is a member of the National TPS Alliance, a nationwide organization of TPS beneficiaries. In Nat'l TPS All. v. Noem, a federal district court issued a final declaratory judgment invalidating the Government's attempt to terminate TPS protections for Venezuelan nationals. That judgment remains in effect and must be treated as operative unless and until it is reversed. ***See Exhibit E.***

10. Notwithstanding these statutory protections, Petitioner remains detained based solely on his immigration status and pending removal proceedings, in a manner inconsistent with both the Immigration and Nationality Act and the Constitution.

11. Petitioner challenges his detention as unlawful under the INA and the Due Process Clause of the Fifth Amendment. Petitioner respectfully requests that this Court grant a Writ of Habeas Corpus under 28 U.S.C. § 2241 and order his immediate release. In the alternative, Petitioner requests that the Court order Respondents to ensure that Petitioner is

recognized as subject to the § 1226(a) custody framework and permitted to seek an individualized bond hearing before an Immigration Judge within a fixed and prompt period.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the at the Liberty County Jail, 12499 NW Central Avenue Bristol, Florida 32321. ***See Exhibit F.***

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA).

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

15. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Northern District of Florida, the judicial district in which Petitioner currently is detained.

17. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district and are directly responsible for the confinement of Petitioner. *Rumsfeld v. Padilla, 542 U.S. 426, 430 (2004).*

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an

order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

19. 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 modified).

PARTIES

20. Petitioner **Alberto Jose Flores Salas** is a citizen of Venezuela.

21. **Allan Crosby, Jail Administrator at Liberty County Jail**, is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

22. Respondent **Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement (ICE). Respondent Lyons is responsible for Petitioner's detention and is sued in his official capacity.

23. Respondent **Garrett Ripa** is the Field Office Director for the Miami Field Office for ICE within DHS. In that capacity, Field Director Ripa exercises authority over Petitioner's detention, transfer, and potential release. He is sued in his official capacity.

24. Respondent **Markwayne Mullin** is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

25. Respondent **Pamela Bondi** is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

26. Respondent **Department of Homeland Security** (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

27. Respondent **Executive Office for Immigration Review** (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

EXHAUSTION

28. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. Any exhaustion requirement in this context is therefore judicially imposed and discretionary.

29. Courts routinely excuse exhaustion in habeas proceedings where requiring administrative review would be futile, where the issues presented are purely legal, or where the petitioner raises constitutional claims that the agency lacks authority to resolve.

30. Exhaustion would be futile here because Petitioner's claims turn on a legal determination that the agency is not positioned to revisit in any meaningful way, namely, whether his detention is governed by 8 U.S.C. § 1226(a) rather than § 1225(b), and whether Respondents are applying the correct statutory framework.

31. Immigration Judges and the Board of Immigration Appeals are bound by existing agency interpretations and lack authority to depart from the Government's classification of detention authority in a manner that would provide meaningful relief in this context. See, e.g.,

Monestime v. Reilly, 704 F. Supp. 2d 453, 456–57 (S.D.N.Y. 2010) (excusing exhaustion where challenge to detention classification would be futile in light of the agency's position).

32. Exhaustion is independently excused because Petitioner raises constitutional due process claims that fall outside the adjudicative authority of the agency. The Board of Immigration Appeals does not have jurisdiction to decide constitutional questions or to grant habeas-type relief. See United States v. Gonzalez-Roque, 301 F.3d 39, 48 (2d Cir. 2002). Requiring Petitioner to pursue administrative remedies where the agency cannot provide the relief sought would serve no purpose. See Booth v. Churner, 532 U.S. 731, 736 (2001).

33. Finally, requiring exhaustion would be inappropriate where, as here, Petitioner challenges the legality of his present detention and seeks immediate judicial review of that custody. Habeas corpus exists precisely to provide prompt review of unlawful detention, and delay through administrative proceedings would undermine that purpose.

STATEMENT OF FACTS

34. Petitioner, Alberto Jose Flores-Salas, is a native and citizen of Venezuela.

35. Petitioner entered the United States on or about January 22, 2022, at or near Del Rio, Texas.

36. On January 24, 2022, the Department of Homeland Security ("DHS") issued a Notice to Appear placing Petitioner in removal proceedings under section 240 of the Immigration and Nationality Act.

37. The Notice to Appear charges Petitioner as a noncitizen "present in the United States who has not been admitted or paroled," and does not classify him as an arriving alien.

38. On that same date, DHS exercised its discretionary authority under section 236 of the Immigration and Nationality Act and released Petitioner on his own recognizance pursuant to an Order of Release on Recognizance (Form I-220A). ***See Exhibit B.***

39. Petitioner complied with the terms of his release and remained present in the United States while his immigration proceedings were pending.

40. Petitioner was subsequently granted Temporary Protected Status ("TPS") pursuant to 8 U.S.C. § 1254a. TPS authorizes beneficiaries to remain in the United States and prohibits their removal during the period in which such status is in effect.

41. Petitioner is also a member of the National TPS Alliance, a nationwide organization composed of TPS beneficiaries advocating for the preservation and enforcement of TPS protections.

42. In Nat'l TPS All. v. Noem, a federal district court issued a final declaratory judgment invalidating the Government's attempt to terminate TPS protections for Venezuelan nationals. That judgment remains in effect and has not been stayed or reversed.

43. At some point thereafter, Petitioner was taken into custody by U.S. Immigration and Customs Enforcement and is currently detained at Liberty County Jail pursuant to an immigration hold.

44. Upon information and belief, there is no underlying criminal conviction forming the basis of Petitioner's detention, and no documentation has been provided reflecting any individualized custody determination or classification under a mandatory detention statute.

45. Petitioner remains detained based solely on his immigration status and pending removal proceedings.

LEGAL FRAMEWORK

I. PETITIONER'S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a), NOT § 1225(b)

46. Respondents are expected to argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he was never admitted or paroled. That argument fails. The Immigration and Nationality Act does not treat every noncitizen present in the United States without admission as though he were perpetually standing at the threshold seeking entry.

47. Section 1225(b) governs applicants for admission. Section 1226 governs arrest and detention pending a decision on removal for noncitizens already present in the United States. The Supreme Court itself has drawn that distinction, explaining that § 1225(b) "primarily applies to aliens seeking entry into the United States," while § 1226 "applies to aliens already present in the United States." Jennings v. Rodriguez, 583 U.S. 281, 298, 303 (2018).

48. That distinction controls here. Petitioner's own charging document does not classify him as an "arriving alien." It states the opposite. The Notice to Appear charges him as "an alien present in the United States who has not been admitted or paroled," and the arriving-alien box is left unchecked. That charging choice matters.

49. Where DHS elects to charge a respondent as a noncitizen "present in the United States" rather than as an "arriving alien," courts have repeatedly held that detention is governed by § 1226(a), not § 1225(b)(2). See Boffill v. Field Off. Dir., No. 25-cv-25179-JB, 2025 WL 3246868, at *6 (S.D. Fla. Nov. 20, 2025) ("[T]he NTA that DHS issued to Petitioner did not classify him as an 'arriving alien.' Instead, the NTA charged him as 'present in the United States without admission or parole.'

50. This classification places him squarely within section 1226."); Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025) (same reasoning where NTA marked "present," not "arriving"); Lopez-Campos v. Raycraft, 797 F. Supp. 3d 771,

784 (E.D. Mich. 2025) (holding § 1226(a), not § 1225(b)(2)(A), governed a noncitizen who had long resided in the country and was apprehended in the interior).

51. Those authorities reflect the better reading of the statute because they honor the INA's actual division of labor between the border-inspection provisions and the general arrest-and-detention provisions.

52. The contrary interpretation would effectively erase § 1226(a). If every noncitizen present in the United States without admission were automatically subject to § 1225(b)(2), then § 1226(a) would have little or no work left to do for a broad class of respondents placed in ordinary removal proceedings under § 1229a. Courts have repeatedly rejected that reading as structurally unsound. See Lopez v. Hardin, No. 2:25-cv-830-KCD-NPM, 2025 WL 3022245, at *5 (M.D. Fla. Oct. 29, 2025) ("[A]ccepting Respondents' argument would leave § 1226 superfluous."); Lepe v. Andrews, No. 1:25-cv-01163-KES-SKO, 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025) (rejecting Government's view because it "disregards the relationship between sections 1225 and 1226" and "would render a recent amendment to section 1226(c) superfluous"); Merino v. Ripa, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025) (holding that DHS's new interpretation "runs afoul of the statutes' legislative history, plain meaning, and interpretation by courts"); Hyppolite v. Noem, No. 25-cv-4304, 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) (describing DHS's interpretation as "novel and illogical"); Demirel v. Fed. Det. Ctr. Phila., No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025) (rejecting the argument that all noncitizens present without admission are subject to mandatory detention).

53. The facts of this case reinforce that Petitioner belongs in § 1226(a). DHS itself previously released Petitioner on his own recognizance under § 236, the very detention authority

codified at 8 U.S.C. § 1226. The Order of Release on Recognizance states on its face that Petitioner was arrested and placed in removal proceedings and was being released "[i]n accordance with section 236 of the Immigration and Nationality Act." That prior custody decision is wholly inconsistent with any suggestion that Petitioner has always been a mandatory-detention case under § 1225(b). It also confirms what the NTA already shows: DHS originally treated Petitioner as a person in ordinary removal proceedings subject to discretionary custody under § 1226, not as an arriving alien detained under the border-inspection provisions.

54. Nor does Petitioner's TPS history weaken this conclusion. To the contrary, it underscores that this case has never fit a mandatory-detention framework. USCIS approved Petitioner for Temporary Protected Status effective August 22, 2024 through April 2, 2025, and that approval notice states that while under TPS he "will not be removed from the United States." Petitioner also filed a TPS-related employment authorization application in category A12. Whatever disputes Respondents may attempt to raise about present TPS consequences, those filings and approvals further demonstrate that Petitioner has long been processed by the Government as a noncitizen already present in the United States and engaged with DHS and USCIS through ordinary domestic adjudicatory channels, not as an arriving alien at the border.

55. For all of those reasons, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). Because Respondents lack authority to treat him as a mandatory-detention detainee under § 1225(b), his custody must be evaluated under the discretionary detention framework established by § 1226(a).

II. DETENTION UNDER § 1226(a) REQUIRES AN INDIVIDUALIZED BOND HEARING

56. Once detention is properly classified under § 1226(a), the legal consequence follows from the statute and regulations. Section 1226(a) authorizes discretionary detention

pending a decision on removal, not categorical detention insulated from individualized review. The governing regulations provide that noncitizens detained under § 1226(a) are subject to custody determinations and may seek bond redetermination before an Immigration Judge. See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1); Jennings v. Rodriguez, 583 U.S. 281, 306 (2018).

57. That is precisely why courts resolving this same statutory dispute have not merely rejected DHS's effort to apply § 1225(b); they have recognized that the proper detention framework is § 1226(a), under which individualized custody review is available. See Gonzalez v. Noem, No. 0:25-cv-62261, 2025 WL 4053421, at *4 (S.D. Fla. Dec. 23, 2025), report and recommendation adopted, 2026 WL 115211 (S.D. Fla. Jan. 15, 2026); Sanchez v. Noem, No. 25-62677-CV, 2026 WL 222556, at *1 (S.D. Fla. Jan. 28, 2026); Boffill v. Field Off. Dir., No. 25-cv-25179-JB, 2025 WL 3246868, at *6 (S.D. Fla. Nov. 20, 2025); Merino v. Ripa, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025). The logic of those decisions applies with full force here.

58. Petitioner is presently detained in Liberty County Jail, and according to the information presently available, there is no arrest report, no criminal charge, and no documented custody determination beyond the existence of an ICE hold. Yet Respondents are detaining him as though he were subject to mandatory detention, even though the applicable detention authority is § 1226(a). That is impermissible. The Executive cannot treat a § 1226(a) detainee as if he were categorically ineligible for individualized custody review.

59. The equities of this case make the need for individualized process even more apparent. DHS previously released Petitioner on recognizance under § 236. He was charged as a noncitizen "present in the United States," not as an arriving alien. He later obtained TPS and pursued related work authorization through USCIS.

60. Those facts do not themselves decide the statutory question, but they underscore why individualized review matters here: the record reflects repeated Government treatment of Petitioner as someone amenable to discretionary supervision and ordinary removal-proceeding procedures, not summary mandatory detention.

61. Accordingly, because Petitioner is detained under § 1226(a), he must be treated under the individualized custody framework that governs § 1226(a), including access to bond proceedings, before an Immigration Judge.

62. The appropriate relief is an order directing Respondents to ensure that Petitioner is treated in accordance with that statutory framework, including access to bond proceedings, or else release him from custody.

III. PETITIONER'S DETENTION VIOLATES THE FIFTH AMENDMENT BECAUSE IT LACKS THE PROCEDURAL SAFEGUARDS

63. Even where Congress authorizes civil immigration detention, that detention must independently comply with the Due Process Clause of the Fifth Amendment. The constitutional requirement is not satisfied merely because a statute permits detention. Rather, the Government must provide procedures sufficient to ensure that the deprivation of liberty is not erroneous or arbitrary.

64. That constitutional requirement is violated here.

65. Petitioner is detained under a statutory framework that contemplates individualized custody review, yet Respondents are holding him as though no such process applies. The constitutional defect does not depend on whether Petitioner has already submitted a formal request for a bond hearing. It arises from the Government's failure to afford him the meaningful access to individualized custody procedures that due process requires for a detainee held under § 1226(a).

66. The Supreme Court has long recognized that "[f]reedom from physical restraint lies at the heart of the liberty protected by the Due Process Clause." Zadvydas v. Davis, 533 U.S. 678, 690 (2001). When the Government deprives an individual of that liberty, it must provide meaningful procedural safeguards.

67. Here, Petitioner remains detained without any individualized determination of flight risk or danger, without any documented custody redetermination, and without any meaningful process by which a neutral decisionmaker has evaluated or is set to evaluate whether continued detention is justified.

68. The constitutional problem is not merely the absence of a hearing in isolation. It is the Government's detention of Petitioner under circumstances where the process associated with § 1226(a) has not been meaningfully made available.

69. Petitioner has no documented custody determination, no indication that Respondents have implemented the discretionary review framework that governs his detention, and no meaningful assurance that his custody is being treated as anything other than de facto mandatory detention.

70. Habeas corpus is therefore the appropriate means of ensuring that the process required by law is actually afforded.

71. Under Mathews v. Eldridge, 424 U.S. 319 (1976), the violation is clear. Petitioner's interest in freedom from physical restraint is fundamental. The risk of erroneous deprivation is extraordinarily high where detention proceeds without meaningful implementation of individualized custody procedures and without any burden on the Government to justify confinement.

72. The Government's interest in withholding such process is minimal, because the statutory and regulatory framework already contemplates individualized custody review as a routine feature of detention under § 1226(a).

73. By withholding or failing to implement the procedural safeguards that accompany discretionary detention, Respondents have effectively converted § 1226(a) detention into de facto mandatory detention. That is precisely what Congress did not authorize and what the Constitution does not permit.

74. At a minimum, due process requires that Petitioner be afforded meaningful access to a prompt, individualized bond hearing before a neutral decisionmaker at which the Government bears the burden of justifying continued detention. Absent such process, Petitioner's detention is unconstitutional.

IV. PETITIONER'S DETENTION IS ARBITRARY AND VIOLATES THE FIFTH AMENDMENT BECAUSE IT IS NOT REASONABLY RELATED TO ANY LAWFUL GOVERNMENT PURPOSE

75. The Due Process Clause prohibits civil detention that is not reasonably related to a legitimate governmental purpose. Immigration detention is constitutionally permissible only insofar as it serves its limited regulatory objectives, namely ensuring a noncitizen's appearance at removal proceedings or effectuating removal. Demore v. Kim, 538 U.S. 510, 527 (2003); Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

76. Petitioner's detention satisfies neither purpose.

77. As set forth above, Petitioner's custody is governed by 8 U.S.C. § 1226(a), not § 1225(b). Under that framework, detention is discretionary and must rest on individualized, case-specific justification. Yet nothing in the present record reflects that Respondents have made or

documented any individualized assessment that Petitioner poses a danger to the community or presents a risk of flight sufficient to justify continued detention.

78. Nor can detention be justified as necessary to effectuate removal. Petitioner has been granted Temporary Protected Status, and federal law provides that a TPS beneficiary "shall not [be] remove[d] ... during the period in which such status is in effect." 8 U.S.C. § 1254a(a)(1)(A). Where removal is legally prohibited, detention for the purpose of effectuating removal cannot be reasonably related to its objective. Zadvydas, 533 U.S. at 690.

79. In addition, Congress has expressly limited the Government's authority to detain TPS beneficiaries, providing that such individuals "shall not be detained ... on the basis of the alien's immigration status." 8 U.S.C. § 1254a(d)(4). Detention in contravention of that statutory command is necessarily arbitrary and unconstitutional.

80. Taken together, these defects confirm that Petitioner's detention is not tethered to any permissible regulatory purpose. It is not supported by any identified individualized justification, it is not justified by a realistic prospect of removal, and it disregards express statutory limitations on detention authority.

81. Where detention is untethered from both statutory authorization and legitimate governmental purpose, it ceases to be regulatory and becomes arbitrary. The Fifth Amendment does not permit such confinement.

V. PETITIONER'S DETENTION VIOLATES THE TPS STATUTE AND IS CONTRARY TO FEDERAL LAW

82. Congress has expressly limited the Government's authority to detain individuals granted Temporary Protected Status. The statute provides that a TPS beneficiary "shall not be detained ... on the basis of the alien's immigration status in the United States." 8 U.S.C. § 1254a(d)(4). That command is unequivocal. It reflects Congress's determination that, during the

period in which TPS is in effect, the Government lacks authority to subject beneficiaries to immigration detention based solely on their removability.

83. Petitioner has been granted Temporary Protected Status, and that status remains legally operative. His TPS approval reflects a determination by the Department of Homeland Security that he is authorized to remain in the United States during the designation period and is protected from removal. As a result, federal law provides that the Government "shall not remove the alien from the United States" while such status remains in effect. 8 U.S.C. § 1254a(a)(1)(A).

84. Petitioner is also a member of the National TPS Alliance, a nationwide organization composed of TPS beneficiaries whose statutory protections have been the subject of federal litigation. In that litigation, a federal district court entered a final declaratory judgment invalidating the Government's attempt to terminate TPS protections for Venezuelan nationals. That judgment remains in effect and has not been stayed or reversed.

85. A final declaratory judgment has binding legal effect. It establishes the rights and legal relationships of the parties and is entitled to preclusive force unless and until it is overturned. At a minimum, the Government is bound to treat TPS protections for Venezuelan nationals, including members of the National TPS Alliance, as valid and operative in light of that judgment.

86. Accordingly, for purposes of this proceeding, Petitioner's TPS must be treated as valid and fully operative.

87. These statutory protections have direct consequences for the legality of Petitioner's detention.

88. First, nothing in the INA authorizes the Government to treat a TPS beneficiary as subject to mandatory detention or detention without individualized process.

89. Second, because removal is expressly prohibited during the TPS designation period, detention cannot be justified as serving the purpose of effectuating removal. Where removal is legally barred, detention is not reasonably related to its purpose.

90. Third, Congress has expressly prohibited detention based solely on immigration status for TPS beneficiaries. Petitioner's detention—based entirely on his immigration status and ongoing removal proceedings—falls squarely within that prohibition.

91. Taken together, these provisions foreclose any lawful basis for Petitioner's continued detention. His custody is not only unsupported by statute, but directly contrary to it.

92. Accordingly, Petitioner's detention violates 8 U.S.C. § 1254a and is unlawful.

CLAIMS FOR RELIEF

COUNT I
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
(Unlawful Detention Under Incorrect Statutory Authority – 8 U.S.C. §§ 1225(b) and 1226(a))

93. Petitioner realleges and incorporates by reference the factual allegations set forth in paragraphs 34–45 of this Petition.

94. The Immigration and Nationality Act distinguishes between noncitizens seeking admission and those already present in the United States. Section 1225(b) governs applicants for admission, while 8 U.S.C. § 1226 governs the arrest and detention of noncitizens already present in the United States pending removal proceedings.

95. Petitioner has not been charged as an arriving alien. His Notice to Appear classifies him as a noncitizen "present in the United States who has not been admitted or paroled," placing him within the scope of § 1226(a).

96. DHS previously exercised its discretionary authority under § 1226 by releasing Petitioner on his own recognizance, confirming that Petitioner is properly treated as a § 1226(a) detainee.

97. Notwithstanding this classification, Respondents are detaining Petitioner as though he were subject to mandatory detention under § 1225(b), which does not apply to him.

98. Detention under an inapplicable statutory provision exceeds the authority granted by Congress and is unlawful.

99. Accordingly, Petitioner's continued detention violates the Immigration and Nationality Act, and he is entitled to habeas relief.

COUNT II
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
(Failure to Apply § 1226(a) Custody Framework)

100. Petitioner realleges and incorporates by reference the factual allegations set forth in paragraphs 34–45 of this Petition.

101. Even where detention is permissible, 8 U.S.C. § 1226(a) requires that custody be implemented through a discretionary framework that contemplates individualized custody determinations.

102. Federal regulations provide that noncitizens detained under § 1226(a) are subject to custody determinations and may seek bond redetermination before an Immigration Judge. See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

103. Respondents are not applying this statutory framework to Petitioner. Instead, Petitioner is being detained as though he were subject to mandatory detention, without meaningful implementation of the discretionary custody procedures that govern § 1226(a).

104. By failing to apply the governing statutory framework, Respondents are acting contrary to the INA.

105. Accordingly, Petitioner's continued detention is unlawful, and he is entitled to relief requiring Respondents to ensure access to the custody procedures mandated by § 1226(a).

COUNT III
VIOLATION OF THE FIFTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS

106. Petitioner realleges and incorporates by reference the factual allegations set forth in paragraphs 34–45 of this Petition.

107. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

108. Civil immigration detention implicates a fundamental liberty interest, freedom from physical restraint. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

109. Petitioner is detained under a statutory framework that contemplates individualized custody review, yet Respondents have failed to meaningfully implement that framework.

110. Petitioner remains detained without any documented individualized custody determination, without any meaningful assessment of flight risk or danger, and without meaningful access to procedures that ensure lawful detention.

111. Under Mathews v. Eldridge, 424 U.S. 319 (1976), due process requires balancing the private liberty interest, the risk of erroneous deprivation, and the government's interest. Each factor weighs in Petitioner's favor.

112. The private interest at stake is fundamental. The risk of erroneous deprivation is substantial where detention proceeds without meaningful implementation of individualized

custody procedures. The government's interest in withholding such process is minimal, as the statutory framework already contemplates individualized review.

113. By failing to provide constitutionally adequate procedural safeguards, Respondents have deprived Petitioner of due process.

114. Accordingly, Petitioner's detention violates the Fifth Amendment, and he is entitled to habeas relief.

COUNT IV
VIOLATION OF THE FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE PROCESS

115. Petitioner realleges and incorporates by reference the factual allegations set forth in paragraphs 34–45 of this Petition.

116. The Due Process Clause prohibits civil detention that is not reasonably related to a legitimate governmental purpose. See Demore v. Kim, 538 U.S. 510, 527 (2003); Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

117. Immigration detention is constitutionally permissible only insofar as it serves its limited regulatory purposes—ensuring appearance at proceedings or effectuating removal.

118. Petitioner's detention serves neither purpose. There is no indication that Petitioner poses a flight risk or danger sufficient to justify continued detention.

119. Nor can detention be justified as necessary to effectuate removal. Petitioner has been granted Temporary Protected Status, and federal law prohibits his removal while such status remains in effect. See 8 U.S.C. § 1254a(a)(1)(A).

120. Where removal is legally prohibited, detention cannot be reasonably related to its purpose.

121. Because Petitioner's detention is not reasonably related to any lawful governmental objective, it is arbitrary.

122. Arbitrary detention violates the Fifth Amendment.

123. Accordingly, Petitioner's continued detention is unconstitutional and must be terminated.

COUNT V
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT (TPS STATUTE)
8 U.S.C. § 1254a

124. Petitioner realleges and incorporates by reference the factual allegations set forth in paragraphs 34–45 of this Petition.

125. Congress has expressly limited the Government's authority to detain individuals granted Temporary Protected Status. The statute provides that a TPS beneficiary "shall not be detained … on the basis of the alien's immigration status in the United States." 8 U.S.C. § 1254a(d)(4).

126. Petitioner has been granted TPS, which remains legally operative. Federal law further provides that the Government "shall not remove the alien from the United States" during the period in which such status is in effect. 8 U.S.C. § 1254a(a)(1)(A).

127. Petitioner is also a member of the National TPS Alliance, and TPS protections for Venezuelan nationals remain in effect pursuant to a final declaratory judgment in Nat'l TPS All. v. Noem.

128. Petitioner's detention is based solely on his immigration status and pending removal proceedings.

129. Such detention is expressly prohibited by § 1254a(d)(4).

130. Accordingly, Respondents' detention of Petitioner violates the TPS statute, and he is entitled to immediate release.

VI. CONCLUSION

131. This case presents a straightforward question of unlawful detention.

132. Petitioner is not an arriving alien. He was charged by the Department of Homeland Security as a noncitizen present in the United States, and his detention is therefore governed by 8 U.S.C. § 1226(a), not § 1225(b). Under that framework, detention is discretionary and must be accompanied by individualized custody review and meaningful access to the bond-hearing procedures that attend § 1226(a) detention.

133. Instead, Petitioner has been detained without any identified statutory basis for treating him as mandatorily detained, without any documented custody determination, and without any meaningful implementation of the individualized review framework required by law. The Government's position effectively imposes mandatory detention in a case where Congress did not authorize it.

134. That detention cannot be sustained.

135. It is inconsistent with the structure of the Immigration and Nationality Act, which distinguishes between applicants for admission and noncitizens already present in the United States. It disregards the individualized process that accompanies detention under § 1226(a). And it violates the Constitution because it is both imposed without due process and untethered from any legitimate governmental purpose.

136. Petitioner's Temporary Protected Status independently confirms the absence of any lawful basis for detention. Federal law prohibits his removal during the TPS designation period and expressly limits detention based on immigration status. In addition, the Government must treat TPS protections for Venezuelan nationals, including members of the National TPS

Alliance such as Petitioner, as valid and operative in light of the final declaratory judgment preserving those protections. Respondents' continued detention is therefore not only unsupported by statute, but contrary to it.

137. At minimum, the law requires that Petitioner be afforded meaningful access to a prompt, individualized bond hearing before a neutral decisionmaker. The Constitution does not permit Respondents to detain him under § 1226(a) while treating him as though no individualized process applies.

138. Accordingly, habeas relief is warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from custody. In the alternative, Petitioner requests that the Court order Respondents to ensure that Petitioner is afforded a bond hearing before an Immigration Judge within five (5) days, at which the Government bears the burden of justifying continued detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner not be transferred outside the Northern District of Florida while this habeas petition is pending;

c. Issue an Order to Show Cause directing Respondents to demonstrate, within three days, why this Petition should not be granted;

d. Issue a Writ of Habeas Corpus requiring Respondents to immediately release Petitioner or, in the alternative, to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful.

f. Award Petitioner attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

g. Grant such other and further relief as the Court deems just and proper.

Dated this March 27th, 2026.

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TABLE OF EXHIBITS

EXHIBIT A- Petitioner's Venezuelan passport

EXHIBIT B- Petitioner's Notice to Appear before Immigration Court

EXHIBIT C- Petitioner's DHS Order of Supervision

EXHIBIT D- Petitioner's TPS Receipts, approval and re registration 2025

EXHIBIT E- Petitioner's National TPS Alliance membership

EXHIBIT F- Petitioner's physical custody