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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ROBERT JOSE MORA ORIA,

Petitioner,

v.

WARDEN, BROWARD TRANSITIONAL CENTER; and

GARRET RIPA, in his official capacity as Miami Field Office Director, for U.S. Immigration and Customs Enforcement; and

DAVID VENTURELLA, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE); and

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security (DHS), and

TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; and

Respondents.

Case No.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

COMES NOW, Robert Jose Mora Oria ("Petitioner), by and through undersigned counsel, and brings this petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1651, and Article I, Section 9, Clause 2, of the Constitution of the United States. Petitioner has been illegally and inhumanely detained in Immigration and Customs Enforcement ("ICE") custody since June 19, 2026, in violation of the law. Petitioner, a valid TPS holder and *NTPSA* class member, challenges his detention under the plain reading of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment. For the reasons stated below, the Court should grant the petition.

INTRODUCTION

1. This matter involves the unlawful detention of a Venezuelan national who has been physically present in the United States for more than four (4) years without any incident and is now being subjected to mandatory detention under 8 U.S.C. § 1225(b)(2), a statute that applies only to individuals who are actively seeking admission.

2. Petitioner lawfully entered the United States on Venezuelan Humanitarian Parole (VHP) on or about December 5, 2022. Petitioner also has continuously held Temporary Protected Status (TPS) under 8 U.S.C. § 1254a since 2024.

3. For the next four (4) years, Petitioner complied with all the conditions of his parole and established a life with strong community ties.

4. Nonetheless, on June 19, 2026, Petitioner was pulled over by the Osceola County Police Department during a traffic stop and ultimately transferred to ICE custody. Since his unlawful arrest, Petitioner has been transferred to the Broward Transitional Center in Pompano Beach, FL, where he remains confined to this day in violation of U.S. law.

5. TPS holders may not be 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).

6. 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).

7. While former DHS Secretary, Kristi Noem, purported to rescind TPS for Venezuela on February 5, 2025, that effort was halted by a federal court.

8. On December 10, 2025, the federal district court of the Northern District of California granted declaratory relief and declared unlawful former DHS Secretary 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").

9. The December 10 Order in *NTPSA* has a 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 is unlawful because it violates the plain language of the Immigration and Nationality Act ("INA")

despite the unambiguous statutory command under 8 U.S.C. 1254a(d)(4) that TPS holders, like Petitioner, may not be either detained or deported.

10. Petitioner's detention also violates 8 U.S.C. § 1225(b)(2), which does not apply to individuals like Petitioner who have already entered without inspection and been residing in the United States for an extended period of time. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), which allows for release from custody on conditional parole or bond and was previously applied that way by the government. Petitioner, who has already been residing in the U.S. for four years following his parole in 2022, can necessarily only be subject to § 1226(a) because he is not an "applicant for admission;" he's already here.

11. Lastly, Petitioner's detention violates the due process clause of the Fifth Amendment. When the government granted Petitioner humanitarian parole in 2022, it found that his release into the United States served humanitarian or public interests. Since then, nothing has changed to undermine that determination. On the contrary, support for it has only strengthened: Petitioner has built strong ties to the United States, complied with his immigration obligations, and has established a weighty liberty interest. Petitioner has never been arrested or convicted of a crime. Therefore, due process requires that the government show, in some pre-deprivation process, materially changed circumstances *before* detaining him.

12. Thus, Petitioner's detention without any pre-deprivation process or individualized assessment that he no longer warrants humanitarian parole violates his procedural due process rights, as well as the humanitarian parole statute and regulations. This alone warrants his immediate release.

13. Accordingly, Petitioner seeks a Writ of Habeas Corpus, pursuant to the All Writs Act, 28 U.S.C. § 1651, and U.S. Const. art. I, § 9, cl. 2, ordering his immediate release, that

Petitioner shall remain in the State of Florida and shall not be transferred outside the State of Florida until further order of the Court, grant an order requiring Respondents to show cause within three (3) days, and prevent transfer out of this jurisdiction while this petition is pending.

14. In the alternative, if this Court does not order Respondent's release, Petitioner requests a constitutionally adequate bond hearing with the burden on Respondents to show that his detention is warranted under § 1226(a). *Espinoza v. Kaiser*, 2025 WL 2675785 (E.D. Cal., Sept. 18, 2025) ("the immigrant's initial release reflected a determination by the government that the noncitizen is not a danger to the community or a flight risk. Since it is the government that initiated re-detention, it follows that the government should be required to bear the burden of providing a justification for the re-detention.").

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction over this Petition, pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause). Additionally, the Court has jurisdiction to grant declaratory relief in this case pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

21. Federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018); *Demore v. Hyung Joon Kim*, 538 U.S. 510, 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Oscar v. Ripe*, 751 F. Supp. 3d 1324, 1329 (S.D. Fla. 2024) ("Title 28 U.S.C. § 2241 grants federal courts the authority to issue writs of habeas corpus whenever an individual is [i]n custody in violation of the Constitution or laws or treaties of the United States.").

22. This Court is not stripped of jurisdiction 8 U.S.C. § 1252(g) to consider Petitioner's claim, which is premised on challenging the lawfulness of Petitioner's detention. See *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) ("We did not interpret [section 1252(g)] to sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves.") (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

23. Venue is proper because Petitioner is detained at the Broward Transitional Center in Pompano Beach, Florida, which is within the jurisdiction of this District, his immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District. *See* 28 U.S.C. § 1391(e); 28 U.S.C. § 2241(d).

REQUIREMENTS OF 28 U.S.C. § 2243 AND APPLICATION FOR AN ORDER TO SHOW CAUSE

24. The Court must grant the petition for writ of habeas corpus or issue an Order to Show Cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC cause is issued, the Court must require respondents to file a return "within ***three days*** unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

25. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

26. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus should not be granted.

27. Furthermore, pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of Florida or the Orlando Field Offices of the Immigration & Customs Enforcement ("ICE") Office of Enforcement and Removal Operations ("ERO").

PARTIES

28. **Petitioner** is currently detained at the Broward Transitional Center, located at 3900 N. Powerline Road, Pompano Beach, FL 33073. Petitioner was arrested and detained on June 19, 2026, by ICE/ERO without a warrant or probable cause, and is presently in custody under color of authority of the United States by Respondents.

29. Respondent, **WARDEN,** is sued in their official capacity as Warden of Broward Transitional Center, where Petitioner is currently detained. They have immediate physical custody of Petitioner and have the authority to release Petitioner.

30.

31. Respondent **David Venturella** sued in his official capacity as the Acting Director of the U.S. Immigration and Customs Enforcement (ICE). Respondent Venturella is a legal custodian of Petitioner and has the authority to release him.

32. Respondent **Markwayne Mullin** is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent is responsible for the administration of the immigration laws, pursuant to 8 U.S.C. § 1103(a); oversees U.S. Immigration and Customs Enforcement ("ICE"), the component agency

responsible for Petitioner's arrest and detention; and he is legally responsible for the pursuit of Petitioner's detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.

33. Respondent **Todd Blanche** is sued in his official capacity as the Acting Attorney General of the United States. In this capacity, Respondent Blanche is responsible for representing the United States in legal matters, supervising and directing the administration and operation of the Department of Justice's many agencies, which include the Executive Office of Immigration Appeals ("EOIR") and the Office of Immigration Litigation ("OIL").

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. Petitioner has no administrative remedies to exhaust.

21. A petitioner need not exhaust administrative remedies if "the administrative body is shown to be biased or has otherwise predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992). "A petitioner need not exhaust administrative remedies if "the administrative body is shown to be biased or has otherwise predetermined the issue before it."

22. Administrative exhaustion of Petitioner's claim that he is unlawfully subject to mandatory detention pursuant to § 1225 would be futile in light of the Board of Immigration Appeals' (BIA) decisions in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which held that under the "plain language" of INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), IJs *categorically* lack jurisdiction to conduct bond hearings for noncitizens deemed "present in the United States without admission," even in cases where DHS has elected to place such individuals into removal proceedings under INA § 240. *Id.* at 229 (emphasis added); and *Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025), which held that upholds mandatory detention for an

alien who is **released into the U.S. on *parole and re-detained* under Section 235(b) of the INA years later without cause)** (emphasis added).

23. Requiring Petitioner to administratively appeal a decision denying bond based on jurisdiction to the BIA or make any further administrative request for a bond hearing would be futile. District courts around the country have reached this same conclusion and declined to dismiss similar cases based on the alleged failure to exhaust. *See, e.g., Patel v. Hardin,* No. 2:25-cv-870-JES-NPM, 2025 WL 3442706, at *3 (M.D. Fla. Dec. 1, 2025) (collecting cases);[1] *see also Mohammed v. Olson*, No. 1:25-CV-02404- TWP-MKK, 2025 WL 3541819, at *2 (S.D. Ind. Dec. 10 2025) (rejecting the respondents' argument that the petitioner must exhaust his administrative remedies by requesting a bond hearing; reasoning that "[b]ecause [the p]etitioner entered the country without inspection, if he were to move for a bond hearing, an [immigration judge] would have to decline jurisdiction over the issue" based on binding BIA precedent).

24. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S.C. 936, 142 L. Ed. 2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

25. As such, Petitioner's continued detention in ICE custody cannot be challenged by way of bond proceedings before an Immigration Judge. Therefore, a writ of habeas corpus is Petitioner's sole avenue to vindicate his constitutional, statutory, and regulatory rights and restore his liberty.

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[1] Although decisions of other district courts are not binding, they may be cited as persuasive authority. *See Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004) (noting that, "[a]lthough a district court would not be bound to follow any other district court's determination, the decision would have significant persuasive effects.").

STATEMENT OF FACTS

TEMPORARY PROTECTED STATUS FOR VENEZUELA

34. 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 (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).

26. 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). On October 3, 2023, the TPS designation was extended for 18 months and ***separately redesignated*** for 18 months based upon the same factual circumstances and legal considerations pursuant to section 244 of the INA, 8 U.S.C. 1254a. 88 Fed. Reg. 68, 130 ("2023 Designation"). Under the 2023 designation, "individuals who currently do not have TPS may submit an initial application during the initial registration period that runs from October 3, 2023, and runs through the full length of the redesignation period ending April 2, 2025." *Id.* at 68, 131.

27. On January 17, 2025, the DHS Secretary extended the 2023 Venezuela Designation by 18 months, through October 2, 2026. 90 Fed. Reg. 5961 ("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 5963 (citation omitted).

28. 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 5962 (emphasis added).

29. On February 3, 2025, just days after she took office, former DHS Secretary Noem purported to "vacate" DHS's 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.

30. On February 5, 2025, DHS published a notice in the Federal Register purporting to terminate the 2023 Venezuela Designation. 90 Fed. Reg. 9040 (Feb. 5, 2025). On September 8, 2025, DHS published a notice in the Federal Register purporting to terminate the 2021 designation of TPS for Venezuela. 90 Fed. Reg. 43225 (Sept. 8, 2025).

31. "While DHS Secretary Kristi Noem purported to terminate the 2023 TPS designation for Venezuela, that termination has been set aside by declaratory judgment in *Nat. TPS Alliance v. Noem*, *supra*." *Perez v. Noem*, No. 2:26-cv-00107-SPC-NPM, 2026 U.S. Dist. LEXIS 14717, at *4 (M.D. Fla. Jan. 27, 2026).

32. On February 19, the National TPS Alliance and seven Venezuelan TPS holders sued the federal government, challenging former DHS Secretary Noem's vacatur of the January 17, 2025, extension of TPS for Venezuela and subsequent termination of Venezuela's 2023 TPS designation, as 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).

33. On December 10, 2025, the district court in *NTPSA* issued a final judgment declaring *unlawful* both the vacatur of the January 2025 Extension **and** the termination of the 2023 TPS designation. *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.* Nonetheless, the government did not seek a stay; it must now sleep in the bed it made.

34. By its terms, the *NTSPA* order entered into effect on December 25, 2025, after no stay was filed. Although the government has filed an appeal, ***unless or until*** the December 10 order is actually reversed on appeal, it remains in effect.

35. Pursuant to the *NTPSA* December 10 Order, Petitioner retains TPS because Respondents' actions purporting to deprive him of his TPS status—*i.e.*, the vacatur of the January 17, 2025 extension and the termination of Venezuela's 2023 designation—have been deemed unlawful under a final judgment issued by a District Court judge. And, "That judgment has preclusive effect" *Perez v. Noem*, No. 2:26-cv-00107-SPC-NPM, 2026 U.S. Dist. LEXIS 14717, at *4 (M.D. Fla. Jan. 27, 2026) (*quoting Haaland v. Brackeen*, 599 U.S. 255, 293, 143 S. Ct. 1609, 216 L. Ed. 2d 254 (2023) ("After all, 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. Without preclusive effect, a declaratory judgment is little more than an advisory opinion." (internal citations and quotation marks omitted).Thus, the *NTPSA* December 10 Order, which has not been stayed, controls as to the question of whether members (***privies***)

36. A declaratory judgment is a final judgment on the merits. *See* 28 U.S.C. § 2201 ("Any such declaration shall have the force and effect of a final judgment[.]").

37. "The doctrine of *res judicata* is one of finality, providing that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights and responsibilities of the parties and their privies." *Waldrip v. City of Gainesville*, No. 2:20-CV-00285-SCJ, 2021 U.S. Dist. LEXIS 121777, at *7-8 (N.D. Ga. Apr. 27, 2021) (*quoting Baptiste v. IRS*, 29 F.3d 1533, 1539 (11th Cir. 1994)). As to the parties in a prior proceeding and their privies, *res judicata* constitutes an absolute bar to a subsequent judicial proceeding involving the same cause of action. *Id.*

38. of the National TPS Alliance—the lead plaintiff in *NTPSA*—retain their TPS status. Accordingly, the issue of whether Petitioner has TPS has already been litigated.

PETITIONER IS DETAINED DESPITE HAVING TEMPORARY PROTECTED STATUS FROM VENEZUELA.

35. Petitioner is a 48-year-old national and citizen of Venezuela who has resided in the United States since December 5, 2022, when he was paroled into the United States under the Venezuelan Humanitarian Parole (VHP) program. *See* Exh. B, VHP Stamp.

36. Since being paroled in 2022, Petitioner applied for asylum due to his fear of return to Venezuela and has obtained gainful employment as a drywall finisher pursuant to a work permit. *See* Exh. C, Asylum Application Receipt.

37. Petitioner also applied for and was granted Temporary Protected Status (TPS) in the United States pursuant to the 2023 designation of TPS for Venezuela. *See* Exh. D, TPS Approval. Petitioner has consistently made efforts to renew TPS since his initial registration, including pursuant to the most recent January 17, 2025, extension, which extended protection for Venezuelan TPS beneficiaries through October 2, 2026. *See* Exh. E, TPS 2025 Re-

Registration. Petitioner is a member of the National TPS Alliance. Exh. F, Proof of Petitioner's National TPS Alliance Membership.

38. On June 19, 2026, Petitioner was driving on his way to work. Petitioner was pulled over by an officer from the Osceola County Police Department in Florida. As officers approached the vehicle, they informed Petitioner that the reason for the stop was that he had allegedly used his cell phone while driving. The officers asked for Petitioners driver's license and returned to the patrol car to run a check. A few minutes later, a second patrol car arrived. The officers returned to Petitioner's vehicle and proceeded to arrest him. The officers told Petitioner that he was going to be placed in immigration custody.

39. Petitioner was subsequently handcuffed, and officers began asking him questions relating to his immigration status. Petitioner's custody was then transferred from the police department to ICE, which transferred Petitioner to various locations until finally transferring Petitioner to the Broward Transitional Center in Pompano Beach, FL, where he remains detained. *See* Exh. A, ICE Detainee Locator.

40. In the 4 years that Petitioner has resided in the United States following his parole, he has managed to have no criminal record, no history of violence or dangerous behavior, and has consistently demonstrated compliance with immigration authorities throughout his detention. Petitioner has no negative criminal history that would constitute a change in circumstances to merit his arrest and removal outside of the Court's jurisdiction.

41. As an *NTPSA* class member with valid TPS, Petitioner's ongoing detention—based solely on a contested jurisdictional classification and without any opportunity for an individualized determination of his eligibility for release—violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and fundamental

constitutional protections against arbitrary and indefinite detention. The Court need analyze only one statutory provision to resolve this habeas petition. The TPS statute unequivocally prohibits the detention of persons with valid TPS, and Petitioner must be released. *See* 8 U.S.C. § 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).[2] It is hard to imagine a clearer statutory mandate proscribing detention.

LEGAL BACKGROUND

Petitioner's arrest and detention are per se unlawful under § 1254a.

42. 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."). 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-citizens). For that reason alone, this Court should grant the writ and order Petitioner's immediate release. *See* 28 U.S.C. 2241(c)(3) (authorizing writ for people detained in violation of federal law).

[2] "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.

39. Should the Court rule, despite the *NTPSA* December 10 Order, that Petitioner does not have valid TPS and is therefore, not protected by the TPS statute, Petitioner posits that he can only be detained under 8 U.S.C. § 1226(a). Respondents will likely and incorrectly argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b).

Petitioner cannot be subject to § 1225(b).

40. The INA prescribes three basic forms of detention for most noncitizens. First, 8 U.S.C. § 1226 "authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a) –1236.1(d). However, by regulation at 8 C.F.R. § 1003.19(h)(2)(i)(B), "arriving aliens" are prohibited from seeking release from an Immigration Judge and are limited to seeking release through the humanitarian parole process at 8 U.S.C. § 1182(d)(5)(A). Additionally, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). See 8 U.S.C. § 1226(c).

41. Second, the INA provides for brief mandatory detention of noncitizens with final orders of removal. *See* 8 U.S.C. § 1231.

42. Third, the INA also provides for mandatory detention of two groups of noncitizens encountered "at the Nation's borders and ports of entry." *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second

group consists of anyone alleged to be an "applicant for admission" who is "seeking admission" and whom an "examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A).

43. On July 8, 2025, Respondents adopted an expansive interpretation of who is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) via an internal memo. This memo, now leaked to the public, states that "effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole.

44. This case concerns the detention provisions at §§ 1226(a) and 1225(b). The Eleventh Circuit Court of Appeals recently ruled that § 1225(b) applies primarily to people seeking lawful entry at borders and ports of entry. *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami,* No. 25- 14065, 2026 WL 12,43395 (11th Cir. May 6 2026).

45. Thus, 8 U.S.C. § 1225(b)(2) cannot apply to Petitioner because he is not a recent arrival and was not actively seeking admission at the time he was taken into custody. No amount of logic can reasonably stretch the phrase "seeking admission" to encompass someone who lawfully entered the United States years ago, established a life here, and was lawfully earning a living until his arrest. At the time of his detention on June 19, 2026, while driving to work, Petitioner was not "seeking" anything apart from making it to work on time.

46. Accordingly, Petitioner's current detention is unlawful because he is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a).

Despite Petitioner's parole, he is still subject to § 1226

47. The statutory authority for the Venezuelan Humanitarian Parole (VHP) process resides in Section 212(d)(5) of the INA. 8 U.S.C. § 1182(d)(5). *See* Federal Register, "Implementation of a Parole Process for Venezuelans," 87 FR 63507 at fn. 23 (Oct. 19, 2022).

48. The INA has an immigrant parole system in which "the government can permit non-citizens to enter the United States without being legally 'admitted'" while they await the resolution of their immigration proceedings. 8 U.S.C. § 1182(d)(5)(A). 8 U.S.C. § 1182(d)(5)(A) authorizes the government to parole a noncitizen "temporarily under such conditions as he may prescribe." *Id.*

49. An immigration enforcement official has the discretionary authority to parole individuals out of detention and into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) on a case-by-case basis for urgent humanitarian reasons or significant public benefit. This form of parole is commonly called "humanitarian parole" in light of the eligibility criteria.

50. 8 C.F.R. § 212.5(b) provides five categories of noncitizens whose parole into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) would generally be justified only on a case-by-case basis for "urgent humanitarian reasons" or "significant public benefit." The fifth category includes noncitizens whose continued detention is not in the public interest as determined by an immigration enforcement official, provided that the noncitizen presents "neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b)(5).

43. Although Petitioner was not detained upon his entry with parole, courts have found that even if someone was detained upon entry and granted parole, it does not mean that they were originally detained pursuant to § 1225(b). *See Chanaguano Caiza v. Scott*, No. 1:25-cv-00500, 2025 U.S. Dist. LEXIS 211907, 2025 WL 3013081, at *6 (D. Me. Oct. 28, 2025) ("[I]t does not necessarily follow that all those paroled under [8 U.S.C. § 1182(d)(5)(A)] were

detained under § 1225 in the first instance."); *Usmonov v. Soto*, No. 26-1108 (SDW), 2026 U.S. Dist. LEXIS 44146, at *5 n.2 (D.N.J. Mar. 4, 2026).

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

Petitioner's unlawful arrest anddetention violate the Fifth Amendment

45. 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 remove Petitioner from the United States, his arbitrary detention cannot be reasonably related to a lawful immigration purpose. It is evident that Petitioner's detention is not on the right side of the Constitution because his detention no longer serves "a legitimate immigration purpose" and is "acting as a punitive measure." *Gomez-Alcina v. Noem,* No. 2:25-cv-1164-KCD-DNF, 2026 U.S. Dist. LEXIS 43879, at *6 (M.D. Fla. Mar. 4, 2026) (citing to *United States v. Salerno*, 481 U.S. 739, 747, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 917 (E.D. Va. 2024) ("[A]liens . . . have a substantive due process right to be free of arbitrary confinement pending deportation proceedings.")).

46. 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 ongoing imprisonment obviously cannot satisfy that rigorous standard.

47. 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.

48. Petitioner may not be legally detained or deported. This Court should therefore 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).

Immediate Release is the appropriate remedy.

51. Immediate release is the only commensurate and appropriate equitable remedy to even partially restore the status quo prior to his unlawful detention. By ordering a bond hearing, the Court would essentially allow Respondents to transform Petitioner's unlawful detention into a lawful one through an alternative, retrospective, post hoc justification presented mid-litigation.

52. When courts find ongoing detention unlawful, "the typical remedy for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Ordering a bond hearing only prolongs Petitioner's unlawful detention, when the undisputed record contains no evidence that he is dangerous or a flight risk.

53. Petitioner's detention independently violates his due process rights. Many courts have found that immediate release is also appropriate for detention in violation of constitutional rights. *See , e.g., Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D.

Idaho Jan. 2, 2026) (collecting cases); *Pinchi v. Noem*, No. 25-cv-05632-RMI (RFL), 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2025) (granting preliminary relief and ordering release to restore status quo existing before unlawful detention in violation of due process rights).

54. A bond hearing is simply "no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *5 (S.D. Tex. Feb. 3, 2026). The statutory and constitutional rights implicated by continued detention without procedural protections "contemporaneous with the deprivation" can only be remedied by release. *See J.U. v. Maldonado*, 805 F. Supp. 3d 482, 498 (E.D.N.Y. 2025).

55. Respondents continue to their unlawful detention campaign without a foreseeable end, and therefore, relief short of immediate release would give Respondents a "free pass" to violate a person's statutory and constitutional rights first and search for authority later, *See Lopez-Campos v. Raycraft*, No, 25- 12486, 2025 WL 2496379, at 7 & n.4 (E.D. Mich. Aug. 29, 2025) (citing cases) ("The Court cannot credit this new position that was adopted *post-hoc*, despite clear indication that was not detained under this provision).

56. "The Constitution does not permit the United States Government to target people on the streets, arrest them without serving any papers, deny them meaningful due process, and detain them for arbitrary or indefinite periods of time while they engage in phishing expeditions to justify the arrests." *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 373 (S.D.N.Y. 2019); *see also Urquilla-Ramos v. Trump, F. Supp. 3d*, No. 2:26-cv-00066, 2026 U.S. Dist. LEXIS 34096, 2026 WL 475069, at *17 (S.D.W. Va. Feb. 19, 2026) ("Due process is not satisfied by the existence of legal authority somewhere in the United States Code. It is satisfied only through

constitutionally adequate procedure."); *Lopez Benitez*, 795 F. Supp. 3d at 486 (releasing petitioner and explaining that the court "cannot credit [*6] [r]espondents' new position as to the basis for . . . detention, which was adopted post hoc and raised for the first time in this litigation."); *Arias Gudino v. Lowe*, 785 F. Supp. 3d 27, 46 n.8 (M.D. Pa. 2025) (releasing petitioner and discussing the impropriety of allowing the government to proceed on "post hoc justifications for detention").

CLAIMS FOR RELIEF

COUNT ONE

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

57. Petitioner reallege and incorporate by reference each and every allegation contained above.

58. 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.

59. 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.

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

COUNT 2
Violation of 8 U.S.C. §§ 1226(a) and 1225(b)
Unlawful Mandatory Detention

61. Petitioner repeats and re-alleges the allegations contained in each preceding paragraph.

62. Petitioner was paroled in 2022, and the government continued to allow him to live freely for over four (4) years. Because DHS previously exercised its discretion to release Petitioner on parole under 8 U.S.C. § 1182(d)(5), the government lacks authority to re-detain him under § 1225(b)(1)'s mandatory provisions. At the time of Petitioner's re-arrest on June 19, 2026, Petitioner had already established a weight liberty interest at the government's acquiescence by virtue of the multiple ICE check-ins Petitioner reported to.

63. Therefore, Petitioner was not subject to detention pursuant to § 1225(b), as he was no longer an applicant for admission, and any custody must proceed, if at all, under § 1226(a). Petitioner's continuing re-detention is therefore unlawful.

COUNT 3
Violation of the Due Process Clause of the Fifth Amendment of the U.S. Constitution *(Substantive Due Process); 5 U.S.C. §§ 702, 706*

64. Petitioner repeats and re-alleges the allegations contained in each preceding paragraph.

65. Freedom from government detention is at the core of the liberty interest protected by the Due Process Clause. *See Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects."). This protection extends to noncitizens present in the United States. *See Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("It must be concluded that all persons within the territory of the United States are entitled to the protection guaranteed by [the Fifth Amendment], and that even aliens shall not ... be deprived of life, liberty, or property without due process of law.").

66. Under the civil-detention framework set out in *Zadvydas*, 533 U.S. 678, and its progeny, the Government may deprive a non-citizen of physical liberty only when the

confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose. Due process requires that the nature and duration of detention "bear some reasonable relation to the purpose for which the individual is detained." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

67. Neither the government nor the public has a significant interest in detaining a long-term resident of the United States with no criminal history. Petitioner has a constitutionally protected liberty interest after living in the United States for over four years. *See Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (finding that noncitizens present in the United States have a "weighty" liberty interest in remaining in the United States, as they stand to lose rights to "stay and live and work" in the country and "to rejoin [their] immediate family).

68. Petitioner has been deprived of his liberty, erroneously subjected to mandatory detention under § 1225 during his removal proceedings, and denied due process protections, including the right to seek bond, despite the unambiguous statutory command under § 1254a that TPS holders may not be either detained or deported. Petitioner's mandatory detention is not authorized by § 1225, serves no legitimate purpose, and amounts to punitive detention, warranting habeas relief.

69. For these reasons, it should be found that Petitioner is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment.

COUNT 4
Violation of the Due Process Clause of the
Fifth Amendment of the U.S. Constitution *(Procedural Due Process); 5 U.S.C. §§ 702, 706*

70. Petitioner repeats and re-alleges the allegations contained in each preceding paragraph.

71. To determine whether civil detention violates a detainee's due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under Mathews, courts consider (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335.

72. Here, all three factors favor Petitioner. He has a significant private interest at stake. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from physical detention is "the most elemental of liberty interests"); *see also Zadvydas*, 533 U.S. at 690 ("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 protects."). The risk of erroneous deprivation is likewise substantial because Respondents have imposed mandatory detention under the wrong statute and thereby denied Petitioner any meaningful bond hearing or individualized custody determination.

Accordingly, based on the *Mathews* factors and because § 1225 does not lawfully apply here and Petitioner holds valid TPS, Petitioner's detention violates the due process clause of the Fifth Amendment.8 U.S.C. §§ 1225(b)(1)(A)(iii)(II), 8

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court:

(1) Assume jurisdiction over this matter;

(2) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner within twenty-four (24) hours under the same conditions, if any, that existed prior to his detention.

(3) Order Respondents to return to Petitioner all personal property belonging to Petitioner - including but not limited to, any driver's license, passport, immigration documents, currency, or cellphone - that was seized at the time of detention.

(4) Permanently enjoin Respondents from rearresting or otherwise detaining Petitioner under § 1225 and for a period of 14 days, under 8 U.S.C. § 1226(a), following his release, to ensure full effectuation of this Court's judgment and to prevent circumvention of the relief granted.

(5) Enjoin Respondents from transferring Petitioner outside of the jurisdiction of this Court during the pendency of the instant action;

(6) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); 8 U.S.C. § 1254a; and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

(7) In the alternative, order a constitutionally adequate bond hearing at which DHS bears the burden of proving that Petitioner is a danger to the community or risk of flight, or release under other reasonable conditions of supervision;

(8) Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days;

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

(10) Grant any other further relief this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Dated: June 26, 2026

Respectfully submitted,

/S/ Milton Toro Marquez

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Attorney for Petitioner

COUNSEL'S VERIFICATION STATEMENT PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner as their attorney. I have reviewed relevant documentation of the events described in this Petition and Complaint reasonably available to me prior to, and at the time of, filing. On the basis of those documents, as well as discussions with Petitioner and with individuals whom Petitioner authorized to speak on his behalf, I hereby verify that the statements made in the foregoing Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated: June 26, 2026

/S/ Milton Toro Marquez
Milton Toro Marquez, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2026, I filed the foregoing petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief for an Order to Show Cause through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: June 26, 2026

/S/ Milton Toro Marquez
Milton Toro Marquez, Esq.