

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

HAITIAN-AMERICANS UNITED INC.;
VENEZUELAN ASSOCIATION OF
MASSACHUSETTS; UNDOCUBLACK
NETWORK, INC.; SYDNEY DOE; MARLENE
DOE; GUSTAVO DOE; and NATALIA DOE,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; U.S. DEPARTMENT
HOMELAND SECURITY; and KRISTI NOEM, in
her official capacity as Secretary of the Department
of Homeland Security,

Defendants.

Civil Action No. 25-cv-10498

**PLAINTIFFS' MOTION UNDER 5 U.S.C. § 705 TO STAY
THE EFFECTIVE DATE OF DHS' VENEZUELA AND HAITI
TEMPORARY PROTECTED STATUS (TPS) VACATURS AND 2025 VENEZUELA
TERMINATION**

Plaintiffs Haitian Americans United, Inc. (“HAU”), Venezuelan Association of Massachusetts (“VAM”), UndocuBlack Network Inc. (“UBN”) and four individual recipients of Temporary Protected Status (“TPS”) move for an order under 5 U.S.C. § 705 postponing the effective date of the unlawful Venezuela and Haiti TPS Vacatur (the “TPS Vacatur”) and the Termination of TPS for Venezuela (“2025 Venezuela Termination”) issued by Defendant Department of Homeland Security (“DHS”),¹ until the Court has determined whether the challenged conduct is lawful. In support of their motion, Plaintiffs state as follows:

¹ Vacatur of 2025 TPS Decision for Venezuela, 90 Fed. Reg. 8805 (Feb. 3, 2025). *See* ECF Doc. 1-3. Partial Vacatur of 2024 TPS Decision for Haiti, 90 FR 10511 (Feb. 24, 2025). *See* ECF Doc. 1-5. Termination of the October 3, 2023 Designation of Venezuela for TPS, 90 Fed. Reg. 9040 (Feb. 5, 2025). *See* ECF Doc. 1-4.

1. On March 3, 2025, Plaintiffs filed suit under 28 U.S.C. § 1331, 5 U.S.C. §§ 702 & 704, and 28 U.S.C. §§ 2201 & 2202, challenging the TPS Vacatur and the 2025 Venezuela Termination as unlawful under the Administrative Procedure Act (“APA”), 5 U.S.C. § 551 *et seq.*, and as a violation of the equal protection guarantee of the Fifth Amendment’s Due Process Clause.

2. Without the Court’s intervention, the 2025 Venezuela Vacatur is scheduled to take effect on **April 2, 2025**; the 2025 Venezuela Termination on **April 7, 2025**; and the 2025 Haiti Vacatur on **August 3, 2025**.

3. The Court has discretion to grant the requested order under 5 U.S.C. § 705.

4. Plaintiffs have a strong likelihood of success on their claims that DHS’ TPS Vacatur and the 2025 Venezuela Termination are invalid:

a. The TPS Vacatur is “contrary to law” within the meaning of the APA because the DHS Secretary has no authority to revoke TPS extensions that have already been granted. *See* 8 U.S.C. §1254a.

b. The 2025 Venezuela Termination is “contrary to law” within the meaning of the APA because it sets a termination date that is before the expiration of last extension, and therefore, is contrary to the TPS statute. *Id.* §1254a(b)(2)(B).

c. All three decisions are “contrary to law” within the meaning of the APA because they are motivated at least in part by racial bias.

5. Individual Plaintiffs, Organizational Plaintiffs, their members and thousands other TPS holders from Haiti and Venezuela will suffer irreparable harm if the challenged conduct is allowed to go into effect.

6. There is no legal basis to put the TPS Vacatur and the 2025 Venezuela Termination into effect, and postponing their effective date will avoid confusion and a needless waste of resources.

7. The Court should exercise its discretion to postpone the effective date of the TPS Vacatur and the 2025 Venezuela Termination until the Court has decided the case on the merits and this review proceeding is concluded.

In support of this motion, Plaintiffs rely upon the accompanying brief and the eight declarations they have submitted.

REQUEST FOR ORAL ARGUMENT

Plaintiffs request oral argument under L.R. 7.1(d). They wish to be heard and believe that oral argument may assist the Court.

Dated: March 6, 2025

Respectfully submitted,

/s/ Mirian Albert

Mirian Albert (BBO #710093)

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LOCAL RULE 7.1 CERTIFICATE

I certify that on March 6, 2025, I emailed Anne L. Dichter, attorney for Defendants, in order to meet and confer regarding this matter. We were unable to resolve or narrow the issue.

/s/Mirian Albert
Mirian Albert (BBO #710093)

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2025, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non- registered participants.

/s/Mirian Albert
Mirian Albert (BBO #710093)