

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**Lioarge Del Nodal**

**Petitioner,**

**v.**

**WAYMON BARRY, Warden;**

**DANIEL SUBIA, Assistant Field Office Director;**

**SYLVESTER ORTEGA, Acting Field Office Director**

**CRAIG LARRABEE, HSI San Antonio SAC;**

**TODD LYONS, Acting Director USCIS Enforcement;**

**KRISTI NOEM, U.S. Secretary of Homeland Security,**

**Respondents.**

**Case No.: 5:25-cv-00606**

**PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR EMERGENCY  
INJUNCTIVE RELIEF**

**INTRODUCTION**

The Petitioner, **LIOARGE DEL NODAL**, is in federal custody and is currently detained at the Karnes Immigration Processing Center in Karnes, Texas where he was improperly relocated to on or about May 25, 2025, following detention at the Krome Detention Center, Miami, Florida, where he had been held in custody since May 13, 2025. The Petitioner was not informed by U.S. Immigration and Customs Enforcement (ICE) that he was being relocated to another facility, nor did he receive information on where he may be relocated to. His Counsel, with a notice of appearance on record, was not provided advance notice. The Petitioner has lived in Miami since 2008 and is married to a U.S. Citizen. Prior to being detained, the Petitioner was given

misinformation by an individual engaged in the unauthorized practice of law, which ultimately led to his unprovoked and unnecessary ICE arrest. The detention and relocation of the Petitioner to a facility outside Florida has caused him and his family irreparable harm, violated his Fifth Amendment Right to Due Process and Sixth Amendment Right to Counsel. The Petitioner seeks an emergency order to be released from ICE custody and the reinstatement of supervision because he is a protected class member, and his re-detention, 17 years since the removal order, is unconstitutional. In the alternative, he seeks an order that he be returned to Florida, to prevent further harm to Petitioner by Respondents.

### **JURISDICTION**

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

4. Venue is proper as Petitioner is detained at Karnes County Immigration Processing Center at 409 FM 1144 Karnes City, TX 78118. A substantial part of the events or omissions giving rise to his claims occurred in this District.

### **PARTIES AND FACTS ALLEGED**

5. The Petitioner, **Lioarge Del Nodal**, is a native and citizen of Cuba who entered the United States on or about 1996 when he was 18 years old. He has remained in this country since then.

Prior to his detention, he resided in Miami, Florida, with his U.S. Citizen wife, whom he married on October 5, 2018, and U.S. Citizen minor children.

6. Respondent, **Waymon Barry**, is the Warden of Karnes Detention Center, a private for-profit GEO prison, the facility where the Petitioner is currently detained.

7. Respondent, **Daniel Subia**, is the Assistant Field Office Director (AFOD) who has been involved in activities at the Karnes County Immigration Processing Center for U.S. Immigration and Customs Enforcement which is the agency that apprehended and detained the Petitioner.

8. Respondent, **Sylvester Ortega**, is the Acting Field Office Director for ICE Enforcement and Removal Operations (ERO) in San Antonio, Texas. The San Antonio Field Office oversees immigration enforcement activities across Central and South Texas, including facilities such as the Karnes County Immigration Processing Center.

9. Respondent, **Craig Larrabee**, is the Special Agent in Charge (SAC) for Homeland Security Investigations (HSI) in the San Antonio Field Office—which oversees operations in Karnes County, Texas.

10. Respondent, **Todd Lyons**, is the Acting Director for U.S. Immigration and Customs Enforcement.

11. Respondent, **Kristi Noem**, is the U.S. Secretary of Homeland Security.

12. All respondents are named in their official capacities.

13. Petitioner is currently in the custody of the Respondents and one of the Respondents is his immediate custodian.

14. On information and belief, the Petitioner was detained without cause by ICE agents on May 13, 2025.

15. ICE arrested and detained Petitioner at the Miami USCIS Field Office where he was attending an I-130 petition (marriage) interview on the deception and false advice of an unlicensed practitioner, or “notary.”

16. Although Petitioner is currently detained at the Karnes County Immigration Processing Center, at 409 FM 1144 Karnes City, TX 78118 he was originally detained at Krome County Correctional Facility which is located at 18201 SW 12th St, Miami, FL 33194.

17. The presumption is that his arrest came as a result of a removal order issued on August 22, 2008, by the Immigration Court in Elizabeth, New Jersey.

18. However, Petitioner was not deported to Cuba. Instead, ICE released him on an Order of Supervision (OSUP), and he has reported annually since then to Enforcement and Removal (ERO) office in Miramar, Florida for the past 16 years. He has never again violated the laws of the United States, Florida, or the terms of his supervision.

19. At the Krome Detention Center in Miami, Florida, Petitioner, through counsel, made a timely and proper request for his release by appearing at the facility file a formal stay on May 20, 2025. ICE ERO refused to accept the stay request based on the department’s speculation that Petitioner, “did not have a current passport or expired passport and birth certificate.”<sup>1</sup>

20. On Memorial Day weekend, without notice to counsel, ERO transferred Petitioner to Karnes County Immigration Processing Center in Karnes, Texas. This recently reopened detention facility serves as a staging location for removals. <https://www.texastribune.org/2025/03/14/texas-immigration-migrant-detention-centers/>

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<sup>1</sup> Specifically, An ERO officer who refused to provide counsel his name and position queried, “How do we know he’s even Cuban?” To which counsel replied, “you adjusted him under the Cuban Adjustment Act; check your file,” to which the officer responded, “We do not have anything on file.”

21. Public reports and pending court cases regarding non-U.S. citizen at the Karnes facility demonstrate that it is used as a staging point to deport individuals. Notably, reports indicate Cubans are destined for Syria, Sudan or Rwanda.

<https://www.nytimes.com/2025/05/26/world/africa/trump-deportations-south-sudan.html>.<sup>2</sup>

22. The relocation of the Petitioner to a detention facility outside Florida without notice to him or counsel has caused irreparable harm to him by obstructing meaningful access to undersigned counsel, thereby interfering with his right to legal representation, violating his due process rights, as well as support of his family including two minor children and parents of advanced-aged who require his unwavering financial support.

23. Additionally, Petitioner is a member of the certified class for the Federal District Court's injunction in *D.V.D. v. U.S. Department of Homeland Security*, 1:25-cv-10676 (D. Mass. May 18, 2025). Petitioner, like other members of the class, are a Cuban national with a final removal orders, currently detained, facing imminent removal to a third country not Cuba. Therefore, it would be unlawful and a usurpation of the Court's authority for DHS/ICE to deport Petitioner while the litigation is pending.

24. Further, Petitioner has moved the Honorable Immigration Court in New Jersey to reopen and terminate his 2008 proceeding on the grounds that he is indeed not removable.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

25. On information and belief, Petitioner is currently being detained by federal agents without cause and in violation of his constitutional rights to due process of law. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court reviewed 8 U.S.C. § 1231(a), the post-

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<sup>2</sup> At least one Cuban national similarly situated to Petitioner is presently detained in Djibouti, Africa.

order detention statute, and found six months or longer of detention post-removal order violates the Fifth Amendment Due Process Clause. Only if removal is imminent (or for safety concerns) may ICE continue to detain past the six-month period. For this reason, Petitioner was on an order of supervision and monitored.

26. Removal is not imminent at this time because Petitioner is a protected class member under *D.V.D. v. U.S. Department of Homeland Security*, 1:25-cv-10676 (D. Mass. April 18, 2025). On April 18, 2025, the Federal District Court for Massachusetts certified a class and entered a preliminary injunction that states: Defendants are ENJOINED from deporting any alien with a final order of removal to any country not explicitly provided for on the alien's order of removal without first providing to that alien the due-process guarantees set forth in pages 46-47 of the accompanying Memorandum and Order.

26. Respondents have produced no evidence that after 17 years, the Cuban Government has suddenly determined to accept Petitioner. Therefore, it is clear that Respondents have the intention of removing Respondent to a third country, such as Rwanda, Sudan, or Libya, but not Cuba. This, the Respondents cannot do because of the nation-wide injunction. Under the injunction, Petitioner has a right to reopen his removal proceedings and seek additional relief after all this time.

26. Petitioner has been in the United States since 1996 and has resided in Miami, Florida, for over 15 years. He has been on an Order of Supervision since 2008, and has complied with all requirements, including annual reporting to ERO.

27. Following his initial detention at the Krome Detention Center in Miami, Florida, Petitioner and his counsel made formal efforts to request release and to submit a stay of removal. Officials refused to consider these requests, citing the apparent absence of certain identity documents

despite Petitioner's longstanding compliance, past status as a legal permanent resident, and present supervised status.

28. Without prior notice to Petitioner or his counsel, Respondents transferred Petitioner during Memorial Day weekend to the Karnes County Immigration Processing Center in Texas. This abrupt and unannounced transfer deprived Petitioner of a meaningful opportunity to challenge his detention or removal, and denied him effective access to the legal process at a critical moment.

29. At the time of filing, Petitioner is not in active removal proceedings before an immigration judge and is thus unable to request bond or seek release through the ordinary procedural channels available to detainees.

30. There is no justification or reason that ICE cannot continue to monitor Petitioner effectively as they have been for 17 years, or even impose conditions of intensive supervision (i.e., electronic monitoring) during the time that he seeks reopening of his removal order.

**COUNT TWO**  
**Violation of Sixth Amendment Right to Counsel**

30. On clear and reliable information and belief, the Petitioner may be moved again to another facility without notice, or deported at any moment, as has already occurred, in violation of his Sixth Amendment Right to Counsel.

31. On or about May 25, 2025—without notice to Petitioner or counsel—Respondents abruptly transferred Petitioner to a detention facility in Karnes County, Texas, more than 1,200 miles away from his counsel, family, and community. Karnes is well known as a “staging” area for removals.

32. The present relocation significantly disrupted ongoing legal representation by obstructing counsel's access to the Petitioner, impairing access to confidential communication, frustrating the

timely submission of filings, and preventing Petitioner from meaningfully participating in his defense and in the pursuit of immigration relief.

33. Further, Petitioner is a member of a certified class, that has been granted a preliminary injunction before another federal district court, and would face further irreparable harm.

34. Respondents' actions have caused irreparable harm to Petitioner by effectively denying him access to his retained counsel during a critical period of detention and legal challenge, thereby interfering with his constitutional right to legal representation.

### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- a. Assume jurisdiction over this matter;
- b. Order, on an emergency basis, that Petitioner shall be returned and not be transferred outside the Southern District of Florida until further notice from this Court;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Declare that the Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- e. Declare that the Petitioner's transfer violates the Sixth Amendment Right to Counsel;
- f. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- g. Award reasonable costs and attorney's fees in this action as provided by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute;
- h. Grant any further relief this Court deems just and proper.



Respectfully submitted on this 30<sup>th</sup> day of May, 2025.

**Lioarge Del Nodal**

**By his attorneys,**

/s/ Mary E. Kramer

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