

irreparable harm, and violated his Fifth Amendment Right to Due Process and Sixth Amendment Right to Counsel. The Petitioner seeks an emergency order to prevent the Respondents from moving him to a facility outside Florida. The Petitioner further asserts his continued detention is violative of the Fifth Amendment Due Process Clause to the U.S. Constitution and seeks his immediate release from custody.

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 because Petitioner is detained at Krome Detention Center which is located at 18201 SW 12th St, Miami, FL 33194. A substantial part of the events or omissions giving rise to his claims occurred in this Honorable Court's District.

PARTIES AND FACTS ALLEGED

5. The Petitioner, **Jose Guerra-Castro**, is a native and citizen of Cuba who entered the United States on or about 2002. He has remained in the United States and has resided in Miami, Florida, with his U.S. Citizen wife whom he married in 2022. He has a 15 year old U.S. citizen daughter.

6. Respondent, **Charles Parra**, is the Assistant Field Office Director of the Krome Detention Center, the facility where the Petitioner is currently detained. He is the highest supervisor directly on site at Krome.

7. Respondent, **Garret Ripa**, is the Field Office Director for ICE Enforcement and Removal Operations (ERO) in Miami, Florida. The Miami Office oversees immigration enforcement activities across Southern Florida, including facilities such as the Krome Detention Center.

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

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

10. All respondents are named in their official capacities.

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

12. On information and belief, the Petitioner was detained without cause by ICE agents on or about May 29, 2025. This occurred while Petitioner conducting his annual reporting to Enforcement and Removal (ERO) office in Miramar, Florida, pursuant Order of Supervision (OSUP).

13. He has obliged with all reporting requirements since 2014.

14. In the case of Cuban nationals like Petitioner, transfer out of Krome, followed by deportation to a third country, that is not Cuba, is imminent.

<https://www.nytimes.com/2025/05/26/world/africa/trump-deportations-south-sudan.html>;¹

<https://www.miamiherald.com/news/local/immigration/article303000904.html>;

¹ Notably, reports indicate Cubans are destined for Syria, Sudan or Rwanda.

<https://en.cibercuba.com/noticias/2025-03-17-ul-e129488-s27061-nid299069-crece-lista-cubanas-220a-dettenidas-ice-florida-donde>.

15. The relocation of the Petitioner to a detention facility outside Florida will cause devastating and irreparable harm by obstructing meaningful access to undersigned counsel who is local to South Florida, thereby interfering with his right to legal representation and violating his due process rights, as well as support of his family, which includes one minor child, with advanced mental disabilities. All of his family require his unwavering financial and familial support.

16. Respondent has retained the undersigned immigration counsel to file a motion to reopen his removal proceeding. This could include but is not limited if ICE acts to remove Petitioner to a third country.

17. Although not a named-class member, 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, is a Cuban national with a final removal order, currently detained, facing imminent removal to a third country not Cuba. Therefore, it would be a usurpation of a fellow Honorable District Court's authority for DHS/ICE to transfer and deport Petitioner while the litigation is pending.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

18. 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-order detention statute, and found six months or longer of ICE detention after a removal order was entered 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. Continued detention 11 years after the removal order is unconstitutional unless removal is imminent.

19. Removal is not imminent 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 due-process guarantees.. .”

20. Petitioner has been in the United States since 2002 and has resided in Miami, Florida. He has been on an Order of Supervision since 2014, and has complied with all requirements, including annual reporting to ERO. There is no reason why ICE cannot continue to monitor Petitioner, including through intensive supervision tools like electronic monitoring, until such time that he reopens his removal case, and if reopening is denied, is indeed formally and finally accepted to Cuba or a third country. At this time, ICE is simply detaining Petitioner for no good reason.

21. Although presently detained at Krome Detention Center in Miami, Florida, strong and credible evidence demonstrates that he could be transferred at any moment, and without prior notice to Petitioner or his counsel. This transfer would deprive Petitioner of a meaningful opportunity to challenge his detention or removal, and deny him effective access to the legal process at a critical moment.

22. 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. Only this Court can provide adequate relief.

COUNT TWO
Violation of Sixth Amendment Right to Counsel

23. On clear and reliable information and belief, the Petitioner may be moved to another facility without notice, in violation of his Sixth Amendment Right to Counsel.

24. Relocation would significantly disrupt ongoing legal representation by obstructing counsel's access to the Petitioner, impairing access to in-person confidential communication, frustrating the timely submission of filings, and preventing Petitioner from meaningfully participating in his defense and in the pursuit of immigration relief.

25. 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.

26. Respondents' forthcoming actions will cause 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 not be transferred outside the Southern District of Florida until further notice from this Honorable 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 Petitioner 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; and
- h. Grant any further relief this Court deems just and proper.

Respectfully submitted on this day 2nd of June, 2025.

Jose Guerra-Castro

By his attorneys,

/s/ Mary E. Kramer

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