

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISON

Case No.: 1:25-cv-22487-GAYLES

JOSE GUERRA-CASTRO,

Petitioner,

v.

**CHARLES PARRA, Assistant Field Office
Director; GARRETT RIPA, Field Office
Director, Miami Field Office; TODD LYONS,
Acting Director, Immigration and Customs
Enforcement; KRISTI NOEM, U.S. Secretary
of Homeland Security,**

Respondents.

**PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO
PETITIONER'S WRIT OF HABEAS CORPUS AD TESTIFICANDUM AND
PETITIONER'S MOTION FOR ISSUANCE OF SUBPOENAS**

Respondents' Opposition (See Dkt. 49) only underscores why this Court should grant Petitioner's motions relating to witnesses and the Petitioner himself. The genesis of this habeas claim four months ago was that Respondents had illegally arrested and detained Petitioner in violation of the law. Regulations require, based on changed circumstances, that removal be significantly likely in the reasonably foreseeable future. 8 CFR § 241.14(i)(2). Regulations also require an informal interview with the noncitizen's opportunity to respond to the revocation. 8 CFR § 241.14(i)(3). With today's filing, Respondents seek to assure this Court that there is a new procedure in place for casually transporting people to Mexico, across the border. Witnesses are not necessary, per Respondent.

In reply, Petitioner urges this Court to move forward with a genuine evidentiary hearing. A hearing that bares the facts, and does not permit Respondents to sweep aside the fact that the May 29, 2025 arrest was unlawfully conducted, based on a false premise (removal to Cuba), and the illegality continues through this very day because there *still* has been no interview, no notice, no opportunity to respond, and no showing that Mexico will accept Petitioner into that country. 8 U.S.C. § 241(b)(2)(E)(vii); 8 CFR § 241.13(i)(2), (3).

This Court has already addressed nearly identical conduct in *Grigorian v. Bondi*, No. 25-CV-22914-RAR (S.D. Fla. Sept. 9, 2025). There, Judge Ruiz made clear that “discretion is not a license to cut corners. When effectuating immigration policy, immigration officials must comply with the requirements of applicable regulations, statutes, and the Constitution.” *Id.* at *1. In *Grigorian*, ICE attempted to revoke supervision and justify re-detention with bare declarations, but this Court rejected that approach, granted habeas relief, and ordered immediate restoration of supervision.

Like *Grigorian*, the Government’s position here rests on affidavits from ICE officers, yet it simultaneously resists producing those very declarants for cross-examination. Petitioner has separately moved to strike or preclude reliance on such affidavits absent live testimony. *See* Pet’r’s Mot. to Strike, Dkt. 48. Without cross-examination, these declarations cannot withstand judicial scrutiny.

Moreover, the affidavits already filed in this case have proven unreliable. Respondents’ declarants swore under penalty of perjury that Petitioner’s supervision was revoked to effectuate removal to Cuba and that such removal was “reasonably foreseeable.” That representation turned out to be demonstrably false: Cuba did not accept Petitioner,

and the country never had any intention of doing so. As Respondents well knew. A habeas proceeding cannot rest on untested and ultimately inaccurate assertions.

Respondents cannot avoid the evidentiary consequences of the hearing this Court has already set. If they wish to rely on testimony as evidence, they must produce the witnesses for questioning. They must answer Petitioner's claim that his initial arrest was unlawful and the potential, ad hoc transport to Mexico is likewise unlawful. And because this is a habeas proceeding, the production of Petitioner himself is not discretionary — it is the essence of the writ. 28 U.S.C. § 2243. Accordingly, the Court should either compel production of Petitioner and Respondents' affiants at the evidentiary hearing, strike, or disregard any affidavit not subject to cross-examination.

Respectfully Submitted on this 2nd Day of October, 2025,

/s/ Jose W. Alvarez

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