

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

EURIALO LOSADA DIAZ,

Petitioner,

V.

CHARLES PARRA, in his official capacity as Assistant Field Office Director;

GARRETT RIPA, in his official capacity as
Field Office Director, Miami Field Office;

TODD LYONS, in his official capacity as
Acting Director, Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as
U.S. Secretary of Homeland Security;

Respondents.

Case No.:

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

INTRODUCTION

The Petitioner, **EURIALO LOSADA DIAZ**, alien number of A [REDACTED] is in federal immigration custody and is currently detained at Krome Detention Center in Miami, Florida. ICE arrested Petitioner on June 7, 2025. There is no room at Krome for the multiple persons arrested, and Petitioner has slept on the floor three nights in a row, in a conference room (not a housing unit). Publicly available knowledge and current agency practice demonstrates that U.S. Immigration and Customs Enforcement (ICE) will soon relocate Petitioner to another facility outside of the state. Multiple credible sources report that Cuban nationals, like Petitioner, are being briefly held locally and then transferred outside of Florida to be “staged” for deportation. Petitioner

however cannot be removed to Cuba because was awarded protection from removal to Cuba under the Convention Against Torture in the year 2021, and no such action has been brought before a court to terminate said protection. Further, no such action has commenced before a court that would allow Petitioner the occasion to exercise his constitutional right and contest removal to a third country.¹ Petitioner's present detention is devoid of proper notice and violates both procedural and due process. Petitioner is a born-again Christian, and is married to a United States Citizen spouse. They have a ten month old baby girl. The forthcoming relocation of the Petitioner to a facility outside Florida will cause him and his family irreparable harm and violate 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 another detention facility. 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

¹ At the time of his arrest, an ICE officer told him that notwithstanding CAT protection, there "might be" another country that can take him now. This however bears no actual substantive weight; it is speculative hearsay, and Petitioner has yet been formally given documentation supporting this statement.

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, **Eurialo Losado Diaz**, is a native and citizen of Cuba who entered the United States on December 21, 1988. He has remained in the United States and has resided in Miami, Florida.

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 or reason by ICE agents on or about June 7, 2025. This occurred while Petitioner was residing at his United States citizen mother's home with his infant United States citizen daughter and United States citizen wife. On that day, they were preparing to move to their own very first home.

13. This arrest transpired despite the fact that on May 24, 2021, before the Honorable Immigration Court, Petitioner was granted protection under the regulations implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Treaty (CAT).

14. An alien who is granted deferral of removal may be subject to immigration detention. However, the Department of Homeland Security (DHS) has taken the position that ICE policy favors the release of an alien who has been granted protection so long as the alien presents no exceptional concerns, such as national security or danger to the community, and absent any detention requirement.² For this reason, Petitioner was released and placed on an order of supervision (OSUP).

15. Petitioner has not committed an acts or failed to act pursuant to OSUP, and has obliged with all reporting requirements. Indeed, Petitioner's last reporting date was in January of 2025, and was next scheduled to report on or about June 18, 2025.

16. Further, termination of deferral of removal has not yet occurred in any capacity. As such, Petitioner cannot be deported to Cuba.³

17. Cuban nationals living in South Florida, like Petitioner, are being preemptively detained and then expeditiously transferred from Krome to other, more remote detention facilities for eventual removal to third countries.⁴ This is occurring without proper notice from any government agency that a third country has been designated—let alone that such a country has accepted the

² Memo, Garcia, Asst. Sec. DHS (Feb. 9, 2004), published on AILA InfoNet at Doc. No. 04022462.

³ In the case of individuals with deferral of removal, deferral can only be terminated by: (1) motion by USCIS followed by a hearing. 8 C.F.R. 208.17(d); (2) at the request of the alien. 8 C.F.R. 208.17(e); (3) and after consultation between the Secretary of State and the Attorney General. 8 C.F.R. 208.17(f).

individual—and without affording Cuban nationals the opportunity to contest their removal or seek relief before a court.

<https://www.nytimes.com/2025/05/26/world/africa/trump-deportations-south-sudan.html>;⁵

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

<https://en.cibercuba.com/noticias/2025-03-17-u1-e129488-s27061-nid299069-crece-lista-cubanas-220a-detenidas-ice-florida-donde>.

18. 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 a minor child. All of his family require his unwavering financial and familial support.

19. Further, and 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

20. 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-

⁵ Notably, reports indicate that ICE is seeking deportation of Cubans to Syria, Sudan or Rwanda.

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.

21. Petitioner's removal is not imminent. He was on an order of supervision and monitored. Reintroducing detention after passage of the statutory removal period⁶, when the text clearly calls for supervision⁷ is unconstitutional unless removal is imminent, notwithstanding the fact that Petitioner was granted relief under CAT, and deferral has not yet terminated.

22. 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.. ."

23. Petitioner has been in the United States since 1988 and has resided in Miami, Florida. He has been on OSUP and has complied with all requirements, including reporting requirements to ERO. At this time, ICE is simply detaining Petitioner prematurely and without cause. Petitioner has received no documentation to indicate a third country has accepted him for removal. And assuming there is or would be one day, he is entitled to reopen his removal proceedings to contest said designation. 8 C.F.R. § 1240.10(f) (an immigration judge *shall* identify for the record a country, or countries in the alternative).

24. 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

⁶ See 8 USC § 1231(a)(1)(A)

⁷ See 8 USC § 1231(a)(3)

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.

25. 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

26. 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.

27. 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.

28. 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.

29. 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 10th of June, 2025.

Eurialo Losado Diaz

By his attorneys,

/s/ Mary E. Kramer

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