

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

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**ROBERTO MARQUEZ-DIAZ,**

**Petitioner,**

**v.**

**GARRETT RIPA**, in his official capacity as  
Field Office Director, Florida Region;

**ZOELLE RIVERA**, in his official capacity over the  
Enforcement and Removal Office, Miramar, Florida;

**CHARLES PARRA**, in his official capacity as Assistant  
Field Office Director, Krome Detention Center

**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.**

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**Case No.:**

**PETITION FOR WRIT OF HABEAS CORPUS  
AND REQUEST FOR A TEMPORARY RESTRAINING ORDER**

**INTRODUCTION**

The Petitioner, **ROBERTO MARQUEZ-DIAZ**, alien number of , is in federal immigration custody and is believed to be currently detained at ICE-ERO Center in Miramar, Florida. ICE arrested Petitioner on July 21, 2025, and current agency practice demonstrates that U.S. Immigration and Customs Enforcement (ICE) will soon relocate Petitioner to the recently opened Everglades Detention Center or 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 because he was granted asylum before an immigration judge. No such action has been brought before a court to terminate said protection, nor has Petitioner committed any action that would violate and upend his asylum status. Petitioner’s present detention is devoid of proper notice and violates both procedural and substantive due process. The forthcoming relocation of the Petitioner to a facility outside Florida, or the State of Florida’s Everglades Detention Center in Collier County, will cause him and his family irreparable harm and violate his Fifth Amendment Right to Due Process and Sixth Amendment Right to Counsel. As such, the Petitioner seeks an emergency order to prevent the Respondents from moving him to another detention facility other than Krome. The Petitioner further asserts his arrest and 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 believed to be detained at ICE-ERO Miramar Center which is located at 2805 SW 145th Ave, Miramar, FL 33027. A substantial part of the events or



omissions giving rise to his claims occurred in this Honorable Court's District.

### **PARTIES**

5. The Petitioner, **Roberto Marquez-Diaz**, is a native and citizen of Cuba who entered the United States on May 25, 2014. He has remained in the United States and has resided in Miami, Florida.

6. Respondent, **Zoelle Rivera**, is the Assistant Field Office Director of the ICE-ERO Miramar Center, the facility believed to be where Petitioner is currently detained. He is the highest supervisor directly on site at Miramar.

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 ICE-ERO Miramar Center.

8. Respondent, **Charles Parra**, is the Assistant Field Office Director over the Krome Detention Facility, where detainees from the Miramar Office are initially transferred for brief processing and assignment elsewhere.

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

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

11. All respondents are named in their official capacities.

### **PROCEDURAL HISTORY**

12. This matter originates as a complex asylum case out of the Krome Detention Center in Miami, Florida.

13. Respondents originally arrested Petitioner and commenced removal proceedings on August 25, 2015.



14. On February 9, 2016, the Honorable Immigration Judge (IJ) Opaciuch found past persecution and a well-founded fear of future persecution in Cuba, and granted Petitioner asylum.

15. The Department of Homeland Security (DHS) appealed, and on July 15, 2016, the Honorable Board of Immigration Appeals (BIA) remanded for additional findings of fact regarding the potentiality of a particularly serious crime bar; the BIA did so without making any statement as to whether there are serious reasons to believe a particularly serious crime transpired. The BIA further asked the IJ to provide further analysis regarding whether the incidents in Cuba amounted to persecution.

16. On December 16, 2016, IJ Opaciuch issued an order denying asylum and withholding of removal (and protection under the CAT) and ordering removal to Cuba and in the alternative Ecuador. However, in regards to a particularly serious crime bar, the IJ found that “the evidence is insufficient to conclude that there may be probable cause to find Petitioner committed said serious crime.” Petitioner appealed.

17. Concurrently during the pendency of Petitioner’s immigration matter on August 16, 2016, Petitioner through the undersigned, filed a Petition for Writ of Habeas Corpus before this Honorable District Court based on his unlawful, 19-month detention without due process.

18. On February 15, 2017, the Honorable Magistrate Judge Otazo-Reyes submitted a Supplemental Report and Recommendation. See *Supplemental Report and Recommendation* attached hereto as Exhibit “A.” The Honorable Judge Ungaro adopted on March 2, 2017, see *Order Affirming R&R* attached hereto as Exhibit “B,” and affirmed on March 6, 2017, directing the Immigration Court to afford Petitioner due process, and contest his detention. See *Order Affirming R&R (Post-Reconsideration)* attached hereto as Exhibit “C.”



19. On March 16, 2017, before IJ Opaciuch, Petitioner was granted bond and released from ICE custody. By this time, Respondents had held Petitioner in custody for approximately 19 months. See *Order Granting Bond* attached hereto as Exhibit "D."

20. Then on April 16, 2018, the BIA sustained Petitioner's appeal. The BIA determined that the events that transpired in Cuba amounted to past persecution. Further, the Board found the IJ properly found that the lack of evidence and inconsistencies and contradictions meant that there was no probable cause to find commission of a particularly serious crime. The Board remanded for further evidentiary hearings on whether country conditions had changed in Cuba and whether Ecuador was appropriately designated as a country of removal.

21. On December 19, 2019, a new IJ, the Honorable Scott Alexander, took over this case and ultimately issued a decision finding Petitioner has a well-founded fear of persecution in Cuba, and granted asylum from Petitioner's native country of Cuba. See *Order Granting Asylum* attached hereto as Exhibit "E."

22. In the same order, however, IJ Alexander erroneously ordered Petitioner removed to Ecuador, a country with which Petitioner has no legal, national, or residential connection. Petitioner appealed the erroneous designation, and that appeal remains pending before the BIA as of this filing. See *Id.*

23. As a result, Petitioner timely appealed the matter to the BIA on January 21, 2020. See *BIA Appeal* attached hereto as Exhibit "F."

24. The appeal presently remains pending before the BIA.

25. At no time has Respondent violated the conditions of bond set by the IJ on March 16, 2017.



### FACTS AND ARGUMENT

26. Petitioner is a lawful asylee, and has no criminal record; any past accusations that occurred were already determined to have been unfounded and void of probable cause.

27. On information and belief, the Petitioner was detained without cause or reason by ICE agents on July 21, 2025.

28. Petitioner is currently in the custody of the Respondents and one of the Respondents is his immediate custodian. See *Ice Locator* attached hereto as Exhibit "G."

29. This arrest transpired despite that on December 19, 2019, before the Honorable Immigration Court in Miami, Florida, Petitioner was granted Asylum from his native country of Cuba, in addition to previously being ordered released on bond March 16, 2017.

30. Pursuant to 8 U.S.C. § 1158 and 8 C.F.R. § 208.22, Petitioner's asylum status bars removal to his country of feared persecution or any other country absent termination of asylum. No such termination has occurred, and any purported removal order is ultra vires and void as a matter of law.

31. Under 8 U.S.C. § 1231(b) removal is only permitted to a country of citizenship or nationality, or a third-country if removal to the country of citizenship is not possible. Petitioner was granted asylum from Cuba, and Petitioner is not a national or resident of Ecuador, and should not have been ordered removed to Ecuador.

32. Further, detaining Petitioner and preparing to remove him, despite his asylum grant and pending BIA appeal, constitutes a deprivation of liberty without due process of law, and risks violating the principle of non-refoulement.

33. Finally, Petitioner is under immediate threat of relocation to a detention facility away from South Florida, which will cause devastating and irreparable harm by obstructing meaningful access



to undersigned counsel who is local to South Florida. This would disrupt and interfere with his right to legal representation and violate his due process rights, as well the opportunity to be come before this Honorable Court where jurisdiction rightfully lies.

### **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. Detaining Petitioner and preparing to remove him—despite a grant of asylum (8 U.S.C. § 1158(c)(1)), binding regulatory protections (8 C.F.R. §§ 208.22, 208.24), and a pending administrative appeal (8 C.F.R. § 1003.6(a)) violates the Due Process Clause of the Fifth Amendment. It additionally risks violating the United States' obligations under the principle of non-refoulement codified in 8 U.S.C. § 1231(b)(3)(A) and international law.

21. Further, Petitioner was previously granted bond by the Immigration Court and released prior to being granted asylum. At that time, the Immigration Judge found that Petitioner was neither a flight risk nor a danger to the community. There has been no material change in circumstances since his release that would justify renewed detention. On the contrary, Petitioner's position has improved significantly: he is now a lawful asylee, and the BIA is currently reviewing the improper designation of Ecuador as a country of removal. Re-detaining him now violates his due process rights and constitutes arbitrary and unlawful deprivation of liberty.

25. The proper legal method to arrest and detain Petitioner would be to file a motion with the Immigration Judge arguing for a revocation of bond. Instead, Respondents have taken the law into their own hands, operating outside the law. Then, a neutral immigration judge—as ordered by the federal court—could determine (while Respondent is at liberty) whether the conditions of bond



have changed. At the time of filing, Petitioner has already been granted relief by an immigration judge and is before the BIA. There is an existing bond order that he has not violated. 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. Many ICE detention facilities do not have resources or facilities for confidential legal calls or video visits; they are in remote locations. For example, the Everglades facility in Collier County is currently the subject of a lawsuit because there is no attorney client visitation.

29. Respondents' forthcoming actions will cause irreparable harm to Petitioner by effectively denying him access to his retained counsel during a critical period of unlawful 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, a temporary restraining order 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 21<sup>st</sup> of July, 2025.

**Roberto Marquez-Diaz**

**By his attorneys,**

/s/ Mary E. Kramer

**Mary E. Kramer**

FL Bar No. 0831440

**Jose W. Alvarez**

FL Bar No. 1054382

Law Office of Mary Kramer, P.A.

168 SE 1st Street, Suite 802

Miami, FL 33131

(305) 374-2300

[mary@marykramerlaw.com](mailto:mary@marykramerlaw.com);

[josew@marykramerlaw.com](mailto:josew@marykramerlaw.com)