

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

RICARDO ABEL VELEZ CORONEL

Petitioner,

v.

Case No.: 2:26-cv-719-SPC-NPM

KEVIN GUTHRIE, et al.

Respondents.

**PETITIONER'S REPLY TO RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS**

1. Section 1226 is not at issue.
2. Petitioner challenges the constitutionality of his arrest and continued detention because the I-200 warrant upon which he was arrested was invalid and because his warrantless arrest was made without proper probable cause. (Dkt. 1, ¶¶ 4, 28).
3. Respondent's proposed remedy of a bond hearing is no remedy at all. It is an exacerbation of the Constitutional violations imposed upon Petitioner. Requiring Petitioner to undergo a bond determination hearing and pay a bond amount to be liberated from his unconstitutionally unjust detention only compounds the unconstitutional nature of Petitioner's confinement.
4. As such, Petitioner has no administrative remedies available to address the violation of his Constitutional rights other than the subject Petition.

5. Should Petitioner's April 1, 2026, bond hearing proceed prior to the adjudication of the Petition, Petitioner will undergo further violation of his constitutional rights. As such, Petitioner respectfully requests the Court adjudicate this matter prior to the April 1, 2026, bond hearing.

6. Petitioner was arrested on March 7, 2026, by color of authority of an invalid I-200 warrant.

7. The I-200 warrant issued on March 7, 2026, is invalid because it was issued before the issuance of the March 9, 2026, Notice to Appear, in violation of immigration regulations.

8. Because the I-200 warrant was invalid, Petitioner's March 7, 2026, arrest was a warrantless arrest.

9. Petitioner's arrest was made without proper probable cause that Petitioner would likely escape before a warrant could be obtained.

10. Petitioner's warrantless arrest violated his Constitutional right to due process, and his detention is a continued violation of his rights, making immediate release the only appropriate remedy.

ARGUMENT

The I-200 warrant is invalid because it was issued before the notice to appear was issued.

Nava v. Dep't of Homeland Sec. concerned an ICE operation in Chicago involving in-field issuances of I-200 warrants for collateral undocumented immigrants encountered during the execution of warrants for other targeted immigrants. *Nava v.*

Dep't of Homeland Sec., 806 F. Supp. 3d 823, 39-40 (N.D. Ill. 2025). When ICE encountered a collateral undocumented immigrant that was not a target of the operation, a supervisor would issue an I-200 warrant for that collateral and then the collateral would be arrest pursuant to that warrant. *Id.* As these encounters with collaterals were by nature unexpected, the warrants issued for their arrest were often issued before a Notice to Appear had been issued. *Id.*

The *Nava* court provided a detailed overview of the statutory and regulatory requirements regarding the issuance of I-200 warrants. First, an arrest pursuant to §1226 requires an I-200 warrant. *Id.* at 42:

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.

8 U.S.C. §1226(a).

Next and importantly, the rules regarding the issuance of I-200 warrants are expressly addressed by two parallel regulations, 8 C.F.R §§236.1(b) and 1236.1(b).

Nava, 806 F. Supp. 3d at 42. The regulations state:

(b) Warrant of arrest —

(1) In general. At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of 8 CFR chapter I and may be served only by those immigration officers listed in § 287.5(e)(3) of 8 CFR chapter I.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation.

8 C.F.R §§236.1(b) and 1236.1(b).

The *Nava* court collected decades' worth of cases, including one from the Supreme Court, recognizing that 8 C.F.R §§236.1(b) and 1236.1(b), and their predecessor regulation (8 C.F.R. § 242.2), require that an I-200 warrant be issued *after* or *concurrently* to the issuance of a Notice to Appear. *Nava*, 806 F. Supp. 3d at 42 – 44. Thus, I-200 warrants issued without the concurrent or prior issuance of a Notice to Appear are invalid warrants, and any arrest conducted pursuant to an invalid I-200 warrant constitutes a warrantless arrest. *Id.* at 53-54.

Courts encountering arrests made pursuant to invalid I-200 warrants that precede the issuance of Notice to Appear have found that such warrantless arrests violated the petitioner's right to due process and have ordered immediate release. *Landaverde Ardon v. Mina*, No. 6:26-cv-313-JSS-LHP, 2026 WL 530199 (M.D. Fla. Feb. 26, 2026) (collecting cases). *See also Arellano v. Quinones*, No. 6:26-cv-00512-GAP-DCI, (M.D. Fla. Mar. 9, 2026).

The I-200 warrant executed on Petitioner was issued on March 7, 2026. (Dkt. 4-1 at 7). The Notice to Appear was issued on March 9, 2026, two days after the warrant was issued. (Dkt. 4-1 at 8). The issuance of the I-200 warrant preceded the issuance of the Notice to appear, rendering the warrant invalid. Petitioner's warrantless arrest was made without proper probable cause and constituted a violation of his Constitutional

right to due process. Forcing Petitioner to undergo a bond determination hearing and pay a monetary amount to free himself of from his unjust deprivation of liberty would perpetuate and amplify Respondents' violation of his rights. As such, immediate release is the only appropriate remedy.

Petitioner was arrested on March 7, 2026, by color of authority of the invalid I-200 warrant.

Petitioner was arrested on March 7, 2026, by the Polk County Sherriff's Office solely for suspected immigration violations pursuant to the authority extended to them by an agreement entered into by the Polk County Sheriff's Office and ICE, titled the Memorandum of Agreement: 287(g) Task Force Model ("MOA"). See Exhibit 1. The I-213 confirms that Petitioner was booked at the Polk County Jail "without local charges". (Dkt. 4-1, pg. 2).¹ The citation for the civil traffic infraction that prompted Petitioner's interaction with local law enforcement is attached hereto as Exhibit 2.²

Petitioner's arrest on March 7, 2026, was made on suspicion of violating immigration laws and pursuant to the invalid I-200 warrant, which is also dated March 7, 2026. The Polk County MOA authorizes the Sherriff's Office to perform:

The power to serve and execute warrants of arrest for immigration violations under INA § 287(a) and 8 C.F.R. § 287.5(c)(2)

* * *

¹ Although Petitioner was first "encountered" by a deportation officer at the Polk County Jail on March 9, 2026, Petitioner's arrest under the authority of ICE occurred on March 7, 2026.

² A copy of this traffic citation was not available at the time of filing the underlying Petition.

The power and authority to take and maintain custody of aliens arrested by ICE, **or another State or local law enforcement agency on behalf of ICE.** (8 C.F.R. § 287.5(c)(6))

See Exhibit 1, at paragraph V.

These sections make clear that arrests performed by local law enforcement agencies solely based on suspected immigration violations are arrests performed on behalf of ICE.

Respondent, Kevin Guthrie, of the Florida Division of Emergency Management, agrees that ICE “directs arresting law enforcement officers whether to take people into custody on suspicion of immigration violations” and that deputized state agents are placed in the “role of mere functionary” during their exercise of ICE immigration enforcement functions. (Dkt. 6-0, pg. 7, 8). This functionary role is memorialized in section XI of the Polk County MOA:

Immigration enforcement activities conducted by participating Department personnel will be supervised and directed by ICE. Participating Department personnel are no authorized to perform immigration officer functions except when working under the supervision or direction of ICE.

When operating in the field, participating LEA personnel shall contact an ICE supervisor at the time of exercising the authority in this MOA . . . for guidance. The actions of participating LEA personnel will be reviewed by the ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures

For purposes of this MOA, ICE officers will provide supervision of participating LEA personnel only as to immigration enforcement functions.

The Polk County Sheriff's Office was merely the glove worn by the arresting hand of ICE when handcuffs were placed on Petitioner for suspected immigration violations. Petitioner's arrest on March 7, 2026, was made at the direction and supervision of ICE, made solely for suspected violation of federal immigration laws, and made upon color of authority of the invalid I-200 warrant, dated March 7, 2026. The warrant is invalid because it was issued before the issuance of a Notice to Appear.³ Because Petitioner was arrested pursuant to an invalid I-200 warrant, his warrantless arrest violated his right to due process rendering his continued detention unjust and unconstitutional. Immediate release is the only appropriate remedy.

Petitioner's warrantless arrest was made without proper probable cause.

Although 8 U.S.C. § 1357 (a)(2), authorizes warrantless arrests when there is probable cause⁴ to that the arrestee will likely escape before a warrant can be obtained, Respondents articulate no facts that show that such probable cause existed. Indeed, all facts weigh in favor of Petitioner not being a flight risk. Petitioner has a pending I-589 petition, is authorized to work in the United States, has no criminal history, and is the

³ The Notice to Appear was issued on March 9, 2026. (Dkt. 4-1, pg. 4).

⁴ District and Circuit courts throughout the country have interpreted "reason to believe" to equate to probable cause. *Morales v. Chadbourne*, 793 F.3d 208 at 216 (1st Cir 2015) (collecting Circuit Court cases in the 7th, 8th, and 9th Circuit); *Douglas v. US*, 796 F. Supp. 2d 1354, at 1364, (M.D. Fla. June 22, 2011); *Creedle v. Miami Dade County*, 349 F. Supp 3d 1276, at 1296 (S.D. Fla. Nov. 9, 2018); *Lyttle v. US*, 867 F. Supp 2d 156, at FN 12 (M.D. GA Mar. 31, 2012); *Alcocer v. Bulloch Cty Sherrif's Office*, CV 615-094 (S.D. GA May 21, 2019).

primary financial provider of his household. (Dkt. 1, ¶ 5, 7, 24, 25); (Dkt. 4-1, page 3).

As such, Petitioner's March 7, 2026, arrest was made without proper probable cause.

CONCLUSION

Because Petitioner was arrested by color of authority of an invalid I-200 warrant, and because his warrantless arrest was made without proper probable cause, Petitioner's due process rights were violated, making immediate release the only appropriate remedy. Petitioner respectfully requests the Court adjudicate this matter prior to the April 1, 2026, bond hearing.

Dated: March 26, 2026

Respectfully submitted,

/s/ Denisse C. Ilabaca

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