

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CARLOS AGUSTIN OTERO NOVOA,

Petitioner,

v.

SECRETARY, U.S. DEPARTMENT
OF HOMELAND SECURITY, et al. (all
official capacity),

Respondents.

Case No. 2:26-cv-753-SPC-NPM

A No. 

Cuba

Response to Petition for Writ of Habeas Corpus

Petitioner Carlos Agustin Otero Novoa challenges his detention by U.S. Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”). While this case is not moot, the facts changed significantly since the Petition. *See Salmeron-Salmeron v. Spivey*, 926 F.3d 1283, 1290 (11th Cir. 2019) (“In the immigration context, this Court has held previously that a habeas petition filed by a subsequently deported alien who challenges not only his detention, but also his final order of removal, may survive a mootness challenge.”).

Otero Novoa has been removed. The Federal Respondents agree that removal was improper at that time. And the parties have been working on Otero Novoa’s return for his removal proceedings to continue. The Federal Respondents ask the Court to withhold ruling on the Petition and Order them to provide a status update

by 5 p.m. on March 30.

Below is the entire timeline of events that were known to the US Attorney's Office ("USAO") leading up to receiving notice of removal. On March 16, Otero Novoa filed his Petition. (Doc. 1). On March 18, the Court issued its Order to Show Cause. (Doc. 2). On March 19, the USAO received the Petition. On March 20, the USAO sent the Petition to ICE Office of Principal Legal Advisor ("OPLA"). On March 23, OPLA informed the USAO that Otero Novoa had been removed and ICE was working on possible return.

At that point, the USAO received more context. Otero Novoa was removed on March 19 via an ICE charter flight from Miami to Havana, Cuba. ICE removed on an expedited removal order despite a pending appeal to the Board of Immigration Appeals ("BIA"). (Doc. 1-2 at 14). Otero Novoa also had a pending credible fear claim when ICE removed. Given the BIA appeal and pending fear determination, removal was improper at that time.

Since it received the Petition on March 20, OPLA began working to determine if return could occur. By early afternoon on March 23, a deportation officer ("DO") contacted Otero Novoa's attorney to determine if he was willing to return. After learning this, the USAO contacted Otero Novoa's attorney to explain its limited understanding of the facts and offer any assistance facilitating communications between Otero Novoa and ICE. Counsel responded to confirm Otero Novoa wishes to return to the United States to continue with his immigration proceedings. The

USAO forwarded that notification to OPLA. Separately, Otero Novoa's counsel relayed that message to the DO too. By late afternoon on March 23, ICE Enforcement and Removal Operations ("ERO") was working toward plans for return.¹ ERO coordinates return in Otero Novoa's circumstances.

The USAO did not receive any updates on March 24. So on March 25, the USAO separately contacted OPLA and Otero Novoa's counsel. OPLA did not have any specific updates regarding return. Otero Novoa's counsel had communicated with the DO—who stated notice was provided to the appropriate unit to coordinate return. But the DO did not yet have a response. Since the only direct point of contact at ICE for Otero Novoa's counsel is the DO, the USAO inquired with OPLA whether there were any other points of contact who may be able to help coordinate with Otero Novoa's counsel. The USAO is still working to determine who, if anyone, at ICE could help assist in streamlining communications.

At this time, the USAO has no further information. It escalated this matter at ICE and requested return on the earliest possible date. The USAO will continue following up with ICE and providing any updates to Otero Novoa when received. As the parties coordinate Otero Novoa's return, the Federal Respondents ask the Court to allow until March 30 to provide a status update. By that time, the USAO hopes to have more concrete information to provide the Court as it relates to Otero Novoa's return. Should any significant developments occur in the interim, the USAO would

¹ ERO is the ICE component where DOs work.

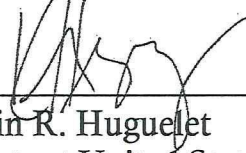
provide the Court with that information.

For those reasons, the Federal Respondents ask the Court to withhold ruling on the Petition and Order them to provide a status update by 5 p.m. on March 30.

Date: March 25, 2026

Respectfully submitted,

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