

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

CARLOS HIDALGO¹,
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, **CARLOS HIDALGO**, is in federal immigration custody and is currently detained at the Everglades Detention Facility, also known as “Alligator Alcatraz”, partially within the jurisdiction of the Middle District of Florida District Court.

The Petitioner seeks, *inter alia*, relief from unlawful and unwarranted detention at this Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) at the Everglades Detention Facility.

JURISDICTION

¹ See note 2, *infra*, for alias.

This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* 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). 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

Venue is proper in the U.S. District Court, Middle District of Florida, as Petitioner is detained at the Everglades Detention Center, at 54575 Tamiami Trail, Ochopee, Florida 34141.

PARTIES AND FACTS ALLEGED

The Petitioner, **CARLOS HIDALGO**², is a native of Cuba, who entered the United States on or about April 24, 1979, as a refugee based on his father's Cuban political refugee status.

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.

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 Everglades Detention Center.

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

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

² The DHS has identified Mr. Hidalgo also as Mario Orlando HILDALGO-PEREZ. The Federal Bureau of Prison reflects the Petitioner's being assigned register # [REDACTED] to Mr. Hidalgo. Mr. Hidalgo was born in 1970; presently age fifty-five.

All respondents are named in their official capacities.

Procedural History Relevant to this Petition for Writ of Habeas Corpus

1. On _____, 1970, the Petitioner was born in Havana, Cuba.
2. On or about May 1, 1979, the Petitioner was admitted into the United States as a “refugee”.
3. The legacy INS assigned agency #  7 to him.
4. The Petitioner ultimately adjusted status to Lawful Permanent Resident (“LPR”).
5. On April 13, 1999, the Petitioner was convicted of Conspiracy to possess with intent to distribute cocaine in the Southern District of Florida.

The DHS’ Prior Custody of the Petitioner

6. After serving his term of imprisonment the Federal Bureau of Prisons released the Petitioner from its custody in or about March, 2006, at which time DHS-ICE took Petitioner into its custody for the purpose of securing an order of removal against the Petitioner.
7. On March 23, 2006, the U.S. Immigration Court, Oakdale Louisiana, ordered the Petitioner removed to Cuba, thereby commenced the “removal period”. 8 U.S.C. §
8. Because ICE was unable to execute the outstanding order of removal by removing the Petitioner to Cuba, on or about June 23, 2006, ICE released the Petitioner under an Order of Supervision (“OSUP”). See 8 U.S.C. § 1231(a)(3).
9. Throughout this period, ICE detained the Petitioner approximately ninety (90) days.

The DHS’ Current Custody of the Petitioner

10. The Petitioner last reported to ICE-Miramar on **December 16, 2025**, at which time ICE detained the Petition without cause or reason.

11. The Petitioner is currently in the custody of the Respondents at the Everglades Detention Facility, also known as “Alligator Alcatraz”, and, as such, the Respondents are the immediate and legal custodian.

12. ICE’s apprehension of the Petitioner occurred while he was residing with his United States citizen wife and children.

13. Despite being in compliance with the terms of ICE’s Order of Supervision, on **December 16, 2025**, ICE arrested the Petitioner, when he presented himself for a check-in at ICE-ERO, Miramar, Florida.

14. Multiple credible sources report that non-citizens, like Petitioner, are briefly held locally and then transferred outside of Florida to be “staged” for deportation.

15. Publicly available knowledge and current ICE practice demonstrates that ICE is seeking to relocate Petitioner to another facility outside of the State of Florida.

16. Petitioner’s present detention is devoid of proper notice and reason by a government agency.

17. Any forthcoming relocation of the Petitioner to a facility outside Florida will cause him and his family ³ irreparable harm and violate his Fifth Amendment Right to Due Process including the right to counsel in deportation proceedings. ⁴

³ The Petitioner is the husband of a U.S. Citizen and the father of five (5) U.S. Citizen children; three sons, ages 13, 31, and 32 and two daughters, ages 16 and 29. The Petitioner is also the Grandfather of two grandsons ages 7 and 9.

⁴ 8 U.S.C. § 1229a(b)(4), titled, “Alien’s rights in proceeding”, provides, in relevant portion,

“(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings”

18. The Petitioner seeks an emergency order to prevent the Respondents from relocating him to a facility outside the jurisdiction of the U.S. District Court, Middle District of Florida to ensure that the Petitioner's right to and availability to counsel is preserved.

19. The Petitioner further asserts that his continued detention is violative of the Fifth Amendment Due Process Clause to the U.S. Constitution, and, as such, implores this U.S. District Court to order his immediate release from custody.

20. The relocation of the Petitioner to another 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.

21. Petitioner's family require his unwavering financial and familial support.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

22. The Respondents are detaining the Petitioner for the purpose of executing the outstanding order of removal to Cuba.

23. However, and in violation of the March 23, 2006, order of removal to Cuba, the Respondents are alternately seeking to deport the Petitioner from the U.S. to a random third country which not designated in the Petitioner's outstanding order of removal.

24. Seeking a noncitizen's removal to another country not designated in the March 23, 2006, order of removal to Cuba is unlawful because the Immigration Court must designate a particular country to which a noncitizen is ordered to.

25. The Petitioner has not been afforded the opportunity to appear before any court to contest ICE's proposed removal of the Petitioner to a third country.

26. Removal to a third country violates the Petitioner's right to be notified of the country to which his removal is designated, to wit, Cuba. See 8 C.F.R. § 1240.10(f)

COUNT TWO

Violation of Fifth Amendment Right to Due Process

27. In 2006, when the Petitioner accepted an order of removal, he did so in reasonable reliance on the U.S. government's long-standing and well-documented pattern and practice of not deporting Cubans to Cuba because Cuba refuses to accept noncitizens such as the Petitioner for repatriation.

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28. At that time, it was widely understood by the government, the immigration courts, and detained Cubans themselves that removal orders against Cubans were functionally unenforceable, and that most Cubans who accepted such orders would be released from custody after 90 days under an Order of Supervision; which the Petitioner is subject to.

29. This reliance was neither speculative nor unilateral; it was grounded in decades of consistent executive practice and official policy.

30. As the Supreme Court recognized in *INS v. St. Cyr*, 533 U.S. 289 (2001), due process principles protect noncitizens who reasonably rely on the legal consequences of existing law and settled government practice when making critical decisions in removal proceedings.

31. The Petitioner's decision not to contest removability or apply for relief from removal was thus directly shaped by the government's assurances – implicit and explicit – that deportation

⁵ See ATTACHMENT to this Writ of Habeas Corpus: The Petitioner's Evidence of the U.S. Government's Designation of Cuba as a "Recalcitrant Country"; which selectively refuses to accept its own citizens for repatriation.

would not occur, particularly where returning to Cuba was never a realistic or lawful option given that he fled Cuba because his father was a political refugee having been imprisoned by the Cuban government for his anti-Cuban-Revolution beliefs coupled with the Petitioner's current risk of suffering persecution upon being returned to Cuba.

32. To now, in 2025, the Petitioner is detained and the government seeks to deport him to Cuba or a third country based on a retroactive change in enforcement policy which fundamentally upends those settled expectations and attaches severe new consequences to a past decision.

33. This bait-and-switch violates due process because it deprives the Petitioner of fair notice and fundamental fairness under the Fifth Amendment, punishing him for reasonable reliance on the government's own long-standing conduct while exposing him to the very dangers that compelled his flight from Cuba.

34. Petitioner's removal as a legal matter should not be imminent.

35. The Petitioner was on an order of supervision and being monitored.

36. Reintroducing detention after passage of the statutory removal period ⁶, when the text clearly calls for supervision ⁷ is unconstitutional unless removal is imminent.

37. Respondents' actions in the Petitioner's case demonstrates that (illegal) removal is imminent.

38. Petitioner has been in the United States since 1979 and resides in Miami, Florida.

39. He has been on OSUP and has complied with all of its requirements, including the comprehensive reporting requirements to ICE-ERO.

40. Currently, ICE is detaining Petitioner prematurely and without cause.

⁶ 8 U.S.C. § 1231(a)(1)(A).

⁷ 8 U.S.C. § 1231(a)(3).

41. The Petitioner has received no documentation to indicate a third country has accepted him for removal.

42. And assuming there is a country that would accept him, the Petitioner is entitled to reopen his deportation proceedings to contest the distinct designation. 8 C.F.R. § 1240.10(f) (“an immigration judge shall identify for the record a country, or countries in the alternative”).

43. Although presently detained at the Everglades Detention Center in Miami, Florida, strong and credible evidence demonstrates that he could be transferred at any moment, and without prior notice to Petitioner or his counsel.

44. This transfer would deprive Petitioner of a meaningful opportunity to challenge his detention, deportation and deprive him of effective access to his at this critical moment.

45. At the time of filing, the 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.

46. Only this Court can provide adequate relief.

COUNT THREE

Violation of Sixth Amendment Right to Counsel

47. 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 and full evidentiary proceedings.

48. Upon issuance of the Writ, 28 U.S.C. § 2243 requires that the Petitioner be brought before a District Court for a hearing whereat the Petitioner may present witnesses to establish that ICE’s actions and omissions are unlawful.

49. Transfer of the Petitioner results in witnesses (employees of ICE) not being readily available, obstructs justice and due process by depriving the Petitioner of his day in court, and access to such witnesses.

50. Relocation would significantly disrupt ongoing legal representation by obstructing undersigned's access to the Petitioner, impairing access to in-person confidential communications, frustrating timely submission of filings, and preventing Petitioner from meaningfully participating in his defense in the pursuit of immigration relief.

51. Relocation will cause irreparable harm to Petitioner by effectively denying him access to his retained counsel during a critical period of detention.

52. The Petitioner's circumstances represent a myriad of constitutional violations.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to:

- a. Assume jurisdiction over this matter;
- b. ORDER, on an emergency basis, that Petitioner 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 (3) 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. GRANT this 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,

/s/STEVEN A. GOLDSTEIN
STEVEN A. GOLDSTEIN
Florida Bar No. 303150
Counsel for Petitioner
3401 N. Miami Ave.
Suite 235
Miami, Florida 33127
Tel: (305) 856-0400
Fax: (305) 856-0401
E-mail: sgoldstein@pozogoldstein.com