

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

2009 FEB 23 PM 2:13

CLERK, U.S. DISTRICT COURT
OCALA, FLORIDA

RITA COTE, previously known as
RITA ENRIQUEZ-PERDOMO,

Petitioner,

v.

STONE M. LUBINS, in his official
capacity as City of Tavares Police Chief,

GARY S. BORDERS, in his official
capacity as Lake County Sheriff,

Respondents.

Case No. 5:09-CV-91-DC-10 GRS

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

This action is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, in which Petitioner asks this Court to order her release from the custody of Respondent Stoney M. Lubins, Police Chief of the City of Tavares, because such custody is in violation of the Constitution and laws of the United States and the State of Florida. Petitioner has been held in the Lake County jail, a facility under the control of the other Respondent, Lake County Sheriff Gary S. Borders, since February 16, 2009, without charge, without a warrant, without probable cause and without review of her detention by a judicial officer.

PARTIES

1. Petitioner is a 23-year old mother of three children, ages seven, four and two. She lives in Tavares, Florida with her children and husband.

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2. Respondents are Stoney M. Lubins, Police Chief of the City of Tavares, whose office unlawfully arrested Petitioner and is housing her at the Lake County Detention Center, a facility controlled by Respondent Gary S. Borders, Lake County Sheriff.

JURISDICTION AND VENUE

3. The Court has jurisdiction over the petition based upon 28 U.S.C. §§ 1331 and 2241.

4. Venue is proper in the Ocala Division of the United States District Court for the Middle District of Florida because Petitioner is being unlawfully detained in Lake County, Florida.

FACTS

5. Petitioner is being held at the Lake County Detention Center without charge and without appearance before a judicial officer. Rita Cote Dec. (RC) ¶ 9. She has been there since 2:52 p.m. on February 16, 2009. Katon Dec. (attachment).

6. Earlier on February 16, Petitioner was at her home with her three children, her father, her sister, and her sister's boyfriend. RC ¶ 4. Her husband was at work at Publix. Robert Cote Dec. ¶ 6.

7. At approximately 1:30 p.m., her sister Sonia began to have an argument with her boyfriend. Sonia Enriquez Perdomo Dec. (SEP) ¶ 2: Cecilio Enriquez Perdomo ¶ 2. The boyfriend was shouting at her and grabbed her by the neck so that she couldn't breathe and almost passed out. SEP ¶ 2. Sonia thought he was going to kill her and called the police. Id.

8. Sonia had the mistaken belief that if she called the police they would

investigate the assault on her by her boyfriend and arrest him.

9. When the police arrived, they immediately asked everyone for identification. RC ¶ 6. Petitioner's father and sister did not have any. Id. Rita told the officers she had a passport but she was more concerned with resolving the issue of the assault on her sister. Id. She showed the officers a bankcard with her photo and asked to call her husband but the officers would not allow her to do so. Id. The officers kept insisting that she get her passport.

10. Sonia told the officers twice she wanted to press charges against her boyfriend and that they should take him to jail. SEP ¶ 3. Although she made clear that he had just choked her and her neck was red and swollen, the officers said she would have to go down to the police station to file charges. Id. The officers were trying to intimidate her so they would not have to deal with the domestic violence crime that had just been committed and did not comply with the requirements of Florida law that protect victims of such crime (see Florida Statute 741.29).

11. After awhile, Rita found her passport and showed it to the officers. RC ¶ 7. Soon thereafter, the officers said they found a warrant for her relating to immigration. Id. They handcuffed her in front of her children and family. Id. The children were screaming and crying. Id. Getting arrested in front of her children was the most painful thing Rita has ever felt. Id.

12. Rita could not understand why the police were arresting her when the reason the police were there was because Sonia's boyfriend was beating her. Id. ¶ 8. Although Rita was born in Honduras, she was brought to the United States as a minor in 2000 and has lived here ever since. Id. She recalls being stopped by immigration

authorities when she was traveling with her mother in 2001, but had not heard anything about that encounter since. Id.

13. The officers took Rita to the Lake County Jail, where she has been held since Monday, February 16, 2009. Id. ¶ 9. She has not been told of any criminal charges against her and she has not been taken to appear before a judge. Id. The booking sheet for Petitioner indicates that the offense she is alleged to have committed is "Courtesy Hold/ICE." Katon Dec. (attachment). The statute cited is Florida Statute § 38.22, which provides power to a court to punish contempt, although Petitioner has never been before a court and has never been charged with contempt.

14. Petitioner currently has an internal infection for which she has been prescribed two medications, but she has not had access to her medication in jail. RC ¶ 10. The infection causes her pain even with the medication and is worse without it. Id. She has not had any pain medication in jail and can only get two aspirin from the jail if she pays ten dollars. Id.

15. Petitioner had never been to jail in her life before last week and getting arrested and jailed has been very traumatic for her. Id. ¶ 11. The worst part for her is being away from her three young children and knowing they are in pain because they miss her. Id. They are not even able to visit her because they are too young. Id.

16. Neither the Tavares Police Department nor the Lake County Jail has any contract with ICE by which they are authorized to hold prisoners in ICE custody. Petitioner has not otherwise been in ICE custody.

17. The Lake County Jail received from the Immigration and Naturalization

Service¹ a Form I-247 that requests the jail detain Petitioner for 48 hours beginning 11:27 a.m. on January 18, 2009. Barry Dec. (attachment). No such detainer is known to exist for the period between Petitioner's arrest and January 18, 2009, nor is one known to exist for the period after 11:27 a.m. on January 20, 2009.

LEGAL AUTHORITIES

Habeas Corpus Remedy

"[H]abeas corpus is an appropriate remedy for one held in custody in violation of the Constitution." *Stack v. Boyle*, 342 U.S. 1, 6 (1951). "Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." 28 U.S.C. § 2241.

Although 28 U.S.C. § 2241 does not include an express requirement that a petitioner exhaust administrative remedies, federal courts impose such a requirement when administrative remedies are available. *Skinner v. Wiley*, 355 F.3d 1293, 1295 (11th Cir. 2004). Similarly, when a prisoner challenges the basis for his conviction, courts require him to exhaust his state court remedies. *Thomas v. Crosby*, 371 F.3d 782, 809 (11th Cir. 2004).

Petitioner in the instant case has no such remedy available. There is no administrative process to challenge her detention, since she has not been charged, tried, or sentenced – or even appeared before a judicial officer. In addition, the jail purports to have the authority to detain pursuant to a written request by the Immigration and Naturalization Service issued on February 18, 2009. See Barry Dec. (attachment). Petitioner cannot challenge the validity of her detention in state court because the Fourth

¹ The INS was abolished on March 1, 2003. We assume that the detainer was actually issued by Immigration and Customs Enforcement (ICE), one of the successor agencies to INS.

District Court of Appeal, which is the only court in the state to address the issue, has held that state courts do not have jurisdiction to pass upon the validity of an individual's detention pursuant to a request by the federal government. *Ricketts v. Palm Beach Co. Sheriff*, 985 So.2d 591, 592-593 (Fla. 4th DCA 2008).

Arrest in Violation of Fourth Amendment

The Fourth Amendment is violated when an individual is unlawfully seized. *Florida v. Bostick*, 501 U.S. 429, 434 (1991) (holding that the Fourth Amendment is violated by an unlawful seizure). The Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest. *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). The Fourth Amendment applies to the states through the Fourteenth Amendment. *Baker v. McCollan*, 443 U.S. 137, 142-143 (1979).

The City of Tavares police officer who arrested Petitioner was apparently under the impression that an immigration removal order had been issued against her. The existence of such an order would not, however, authorize the officer to arrest her. Florida Statute § 901.15 enumerates the basis upon which an officer may lawfully effect an arrest without a warrant. An outstanding removal order is not among them. Notably, an order of removal is neither an arrest warrant nor evidence that a crime has been committed.

Deprivation of Liberty Without Due Process in Violation of Fourteenth Amendment

The Fourteenth Amendment to the United States Constitution states in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . ." U.S. Const. am. XIV. See e.g., *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (holding that the Due Process Clause "applies to all persons within the United

States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”); Mathews v. Diaz, 426 U.S. 67, 77 (1976) (“The Fifth Amendment . . . protects every one [of the millions of aliens within the jurisdiction of the United States] from deprivation of life, liberty, or property without due process of law.” including even those “whose presence in this country is unlawful.”)

Petitioner has been held for one week and counting without charge, without a warrant, without probable cause and without review of her detention by a judicial officer. It would be difficult to conceive of a more egregious due process violation.

Form I-247 Detainer Does Not Provide Lawful Basis to Detain Petitioner

The Lake County Jail apparently received a Form I-247 at 11:27 a.m. on February 18, 2009 requesting that Petitioner be held because an “[i]nvestigation has been initiated to determine whether this person is subject to removal from the United States.” Barry Dec. (attachment). Even if that form provides a valid basis to hold Petitioner, which it does not, it expired at 11:26 a.m. on February 20, 2009. Since that time, there is not even a colorable basis upon which Lake County jail may hold Petitioner.

Even if the time period specified in the form itself had not expired, depriving Petitioner of her liberty based upon a form filled out by a law enforcement agent would violate the Fourth and Fourteenth Amendments. ICE issues these forms pursuant to a federal regulation that exceeds the scope of authority granted by Congress. The language of the regulation, 8 C.F.R. § 287.7,² allows ICE to request detention of any alien in the

² The regulation provides, in pertinent part, that “A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible.”

custody of a state or local law enforcement agency. The statute under which the regulation purports to be authorized, however, only provides for detention of noncitizens who have been arrested for drug offenses. See 8 U.S.C. § 1357(d). Thus, ICE has expanded its power to seek detention by local law enforcement beyond that authorized by Congress. Indeed, it is not clear how a local law enforcement agency can ever hold someone lawfully under the Fourth Amendment, whether or not an ICE detainer has been issued, absent probable cause for arrest.

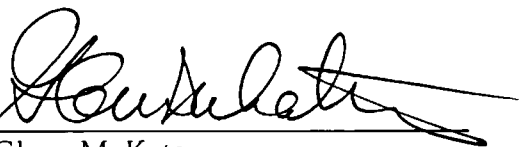
Moreover, even if ICE could lawfully arrest and detain Petitioner, local law enforcement cannot. See Fla. Stat. § 901.15 (bases upon which Florida law enforcement officer may effect arrest). The Supreme Court has explained that the “[p]ower to regulate immigration is unquestionably exclusively a federal power.” *De Canas v. Bica*, 424 U.S. 351, 354 (1976); see also *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (“[T]he authority to control immigration is...vested solely in the Federal Government, rather than the States”). Congress has enacted an entire statutory scheme enumerating the limited circumstances under which local law enforcement is permitted to act in the area of immigration enforcement. See, e.g., 8 U.S.C. §§ 1252c and 287(g). If local law enforcement had authority to enforce all federal immigration laws, then the numerous statutory provisions granting specific authority would be superfluous. Congress need not have bothered to authorize direct state and local arrests of immigrant smugglers or felons who had illegally reentered the country (as it did in INA § 274(c) and 8 U.S.C. § 1252c(a), respectively), nor have created emergency and nonemergency procedures for the Attorney General to authorize state and local immigration enforcement (as it did in INA § 103(a)(8) and § 287(g)).

Finally, Petitioner is not in the custody of ICE while held in the Lake County jail. “The filing of the detainer, standing alone, d[oes] not cause [Petitioner] to come within the custody of the INS.” *Orozco v. U.S. I.N.S.*, 911 F.2d 539, 541 (11th Cir. 1990). Nor does the jail have a contract or other basis to hold ICE prisoners. *Barry Dec.* ¶ 5. Because Petitioner is in the custody of the Tavares Police Department and not in the custody of ICE, she is unable to take any positive action regarding her immigration case. Petitioner has separate immigration counsel who has already prepared motions and other documents for her case, but the attorney cannot act until she is in ICE custody.

PRAYER FOR RELIEF

WHEREFORE, this Court should grant Petitioner a writ of habeas corpus that orders Respondents to release her from custody forthwith, and should award such additional relief in favor of Petitioner as is just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Glenn M. Katon', with a long horizontal line extending to the right.

Glenn M. Katon
Florida Bar No. 636894
ACLU Foundation of Florida, Inc.
P.O. Box 18245
Tampa, FL 33679-8245
(813) 254-3314
(813) 254-0926 fax
gkaton@aclufl.org

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RITA COTE, previously known as
RITA ENRIQUEZ-PERDOMO,

Petitioner,

v.

STONE M. LUBINS,
GARY S. BORDERS,

Respondents.

Case No. _____

DECLARATION OF RITA COTE

I, Rita Cote, am over 21 years of age and make this declaration based upon my personal knowledge.

1. I live at 1303 Dora Avenue in Tavares, Florida, with my husband Robert Cote, and our three children, Robert Cote, Jr. who is seven years old, Dezmon who is four, and Tyler who is two. My husband and I were married in 2002 in Tavares.

2. My maiden name is Rita Enriquez-Perdomo and I am also known as Fany.

3. I work as a waitress in a restaurant and my income is necessary to maintaining our household.

4. On Monday, February 16, 2009, I was at home with my three children, my father, my sister, and my sister's boyfriend. Around 1:30 p.m. my sister was having an argument with her boyfriend in another room. I heard loud screaming and crying.

5. My sister called the police, who arrived about 30 minutes later.

6. When the police arrived, they immediately asked everyone for identification. My father and sister did not have any. I told the officers I had a passport but I was more concerned

with resolving the issue of Isai assaulting my sister. I showed the officers a bankcard with my photo and asked to call my husband but they would not allow me.

7. After awhile, I found my passport and showed it to the officers. Soon after that, the officers told me they found a warrant for me relating to immigration. They handcuffed me in front of my children and family. My children were screaming and crying. Getting arrested in front of my children was the most painful thing I have ever felt.

8. I could not understand why the police were arresting me when the reason the police were there was Isia beating my sister. Although I was born in Honduras, I came to the United States in 2000 and have lived here ever since. I recall being stopped by immigration authorities when I was traveling with my mother in 2001 but have not heard anything about that since.

9. The officers took me to the Lake County Jail, where I have been held since Monday, February 16, 2009. I have not been told of any criminal charges against me and I have not been taken to appear before a judge.

10. I currently have an internal infection for which I have been prescribed two medications but I have not had access to my medication in jail. The infection causes me pain even with the medication and is worse without it. I have not had any pain medication and can only get two aspirin from the jail if I pay ten dollars.

11. I have never been to jail in my life before last week and getting arrested and jailed has been very traumatic. As bad as it has been, though, the worst part is being away from my three young children and knowing they are in pain because they miss me. They are not even able to visit me because they are too young.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2009.

Rita A. Enriquez Perdomo
RITA COTE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RITA COTE, previously known as
RITA ENRIQUEZ-PERDOMO.

Petitioner,

v.

STONE M. LUBINS,
GARY S. BORDERS,

Respondents.

Case No. _____

DECLARATION OF ROBERT COTE

1. I, Robert Cote, am over 21 years of age and make this declaration based upon my personal knowledge.

2. I live at 1303 Dora in Tavares, Florida, with my wife Rita Cote, and our three children, Robert Cote, Jr. who is seven years old, Dezmon who is four, and Tyler who is two.

3. My wife Rita is known as Fany. We were married in 2002 in Tavares.

4. I work in the butcher shop at Publix to support my family.

5. Fany works as a waitress in a restaurant and her income necessary to our maintaining our household.

6. On Monday, February 16, 2009, my son Robert Jr. called me at work crying around 2:15 p.m. and told me the police came to our house and were taking away his mother in handcuffs. I rushed home as quickly as I could but by the time I got there the police had already left, taking Fany with them.

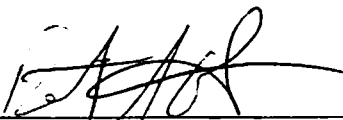
7. Fany has an internal infection for which she has been prescribed two medications

medication and is worse without it.

8. The arrest was very traumatic for our children and it has been made worse for them that their mother has been taken away for the last week. The kids have been acting out and crying more during this last week their mother has been detained. They ask often why the police took their mother away and why they put her in handcuffs. At night they ask to see her often and ask for her to kiss them good night. They ask to visit her but the jail will not let them because they are too young. My two older sons have said they hate the police for taking their mother away.

9. The county's detention of my wife has been especially difficult for everyone because we don't know how long she is going to be held in jail. I do not know how I am going to continue to care for our children, maintain the house, and pay the bills with her in jail. The stress and pain my wife's absence is causing the kids and me has been overwhelming.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2009.



ROBERT COTE

AFFIDAVIT OF SONIA ENRIQUEZ PERDOMO

I, Sonia Enriquez Perdomo, am the sister of Rita "Fany" Enriquez Perdomo and I state the following with regards to the case of my sister:

On Monday, February 17⁶, 2009, I was at home at 1303 Dora Avenue in Tavares, Florida 32778 with my boyfriend, Isai Ramirez, my 17-month-old child, Angie Nicole Enriquez, my father, Cecilio Enriquez Rivera, my sister, Rita "Fany" Enriquez Perdomo, and my sister's three children.

At approximately 1:30pm, I began to have an argument with my boyfriend, Isai. Isai is very jealous and he was accusing me again of being unfaithful, although I am not. The day before, we had been arguing about the same thing. When we have arguments, Isai is very abusive. He shouts obscenities and is generally threatening. On several occasions he has told me that he will kill me. On two prior occasions Isai had physically hurt me. On this day, I could not stand his jealousy any more and asked him to leave. When I asked Isai to leave, we were in our bedroom together, and Isai immediately became violent and grabbed me by the neck. He grabbed my neck so hard that I almost passed out. I couldn't breathe. I fought against him, but I couldn't speak. Finally, Isai let go of my neck and began asking me for forgiveness. I told Isai that I could not forgive. We then left the bedroom, Isai packed his things and went outside. I then called the police.

When the police arrived, there were two female officers. I don't speak English, but my sister, Rita (Fany) does. Rita (Fany) translated for me and one of the female officers. The officer asked me for my ID, but I explained that I did not have any ID. The officer asked me how many times Isai had been violent before. I was scared and I told the police officer that this was the first time Isai had been violent with me. The officer asked me if I wanted to press charges against Isai. She asked me if I wanted him to go to jail. I told her twice that, yes, this is what I wanted. However, the officer then told me that I had to go to the police station to file charges against Isai. I do not know why the officers did not take Isai to jail, especially when my neck was red and swollen and when Isai admitted that he had grabbed my neck and choked me.

At about this time, the two officers let Isai go and the female officer who was asking me questions began to ask my sister, Rita (Fany) questions. The officer asked Rita (Fany) for ID, and after awhile Rita (Fany) showed the officer her passport. I went in the house to take care of the children. A few minutes later I saw the two female officers take Rita (Fany) away in handcuffs. I overheard the officers telling Rita (Fany) that she was being arrested because of immigration problems. I did not do anything.

Rita's (Fany's) children were playing outside at the time and they began to cry.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2009.

sonia Enriquez Perdomo

SONIA ENRIQUEZ PERDOMO

AFFIDAVIT OF CECILIO ENRIQUEZ RIVERA

I, Cecilio Enriquez Rivera, am the father of Rita "Fany" Enriquez Perdomo and I state the following with regards to the case of my daughter:

On Monday, February 1⁶, 2009, I was at home at 1303 Dora Avenue in Tavares, Florida 32778 with my two daughters, Sonia Enriquez Perdomo and Rita "Fany" Enriquez Perdomo and my five grandchildren.

At approximately 1:30pm, I heard an argument between my daughter, Sonia and Isai Ramirez, her boyfriend. Sonia asked Isai to leave the house and to take his belongings with him. Isai left the house and I saw him waiting by the tree in the front yard of the house. After Isai left the house, Sonia called the police.

Approximately one-half hour later, at 2:00pm, two female officers arrived in a Tavares Police Department SUV. One of the female officers went to speak with Isai, who had gone behind the house when he saw the police arrive. When the police arrived, I went outside with my two daughters to the backyard. None of the female officers spoke Spanish. My daughter, Sonia and I do not speak English. My daughter, Rita (Fany) was the only adult able to speak English. One of the female officers asked my daughter, Sonia, for her ID. Although Sonia does not speak English, she understood the female officer's request and was able to answer that she, Sonia, did not have any ID.

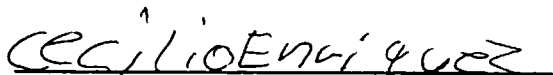
One of the female officers spoke with Rita (Fany) about what occurred and Rita (Fany) was translating for Sonia. I overheard the conversation they had. I also overheard the conversation that the other female officer was having with Isai. Sonia explained through Rita (Fany) that she and her boyfriend were having an argument and her boyfriend grabbed her by the neck and was choking her. She explained that her boyfriend was trying to kill her. She explained that her boyfriend had actually managed to block her airway for a short time. It was obvious that Sonia had been hurt and that she had been choked because her neck was all red and swollen. The female officer then asked Sonia if Sonia wanted to press charges. Sonia clearly explained twice that she did want to press charges. But then the female officer told Sonia that she, Sonia, would have to go downtown to the police station to file a complaint. Sonia then told the female officer that she, Sonia, did not want to go to the police station.

I was overhearing the conversation between the other female officer and Isai. I heard Isai admit that he had choked Sonia because Sonia was throwing Isai out of the house. After Sonia had said that she did not want to go to the police station, the female officer let Isai go.

At this point, the female officer originally questioning Sonia began to speak just with Rita (Fany). The female officer asked Rita (Fany) for identification. I understood that Rita (Fany) told the female officer that she, Rita (Fany) did not have a driver's license, but that she had a passport. The female officer asked Rita (Fany) to see her passport. Rita (Fany) did not want to show the passport. The female officer insisted on seeing Rita's (Fany's) passport. Finally, Rita (Fany) showed the female officer her passport.

In the meantime, two additional police officers arrived in separate Tavares Police Department SUV's. The female officer with my daughter, Rita (Fany), was giving information by radio to the other police officers, who were in turn relaying this information to someone else on their radios. Approximately 10 minutes later, the two female officers placed Rita (Fany) in handcuffs. I did not say anything for fear of being arrested, too. The officers took my daughter away while her three children cried and called to their mother.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2009.

A handwritten signature in black ink, reading "Cecilio Enriquez", written over a horizontal line.

CECILIO ENRIQUEZ RIVERA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RITA COTE, previously known as)
RITA ENRIQUEZ-PERDOMO,)
)
Petitioner,)
v.) Case No. _____
)
STONE M. LUBINS,)
GARY S. BORDERS,)
)
Respondents.)
_____)

DECLARATION OF JOHN BARRY

1. I, John Barry, make this declaration based upon my personal knowledge.

2. I am an attorney duly licensed to practice law in the State of Florida since 2003.

and I am representing Petitioner Rita Cote in the above-captioned case.

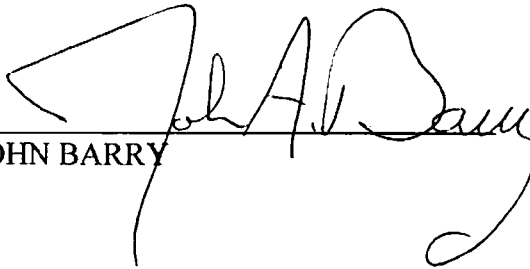
3. During my representation of Ms. Cote, I have been trying unsuccessfully to determine the legal authority under which she has been held at the Lake County Detention Center since February 16, 2009, without charge.

4. Attached as an exhibit is a Form I-247 that I received by facsimile from an ICE deportation agent named Singh in the Orlando DRO office. The form is issued under the authority of the Immigration and Naturalization Service, a federal agency that has not existed for six years. It is dated February 18, 2009, and requests that the Lake County Jail detain Ms. Cote (using her maiden name, Rita Enriquez-Perdomo) for 48 hours. The form appears to have been faxed to the jail at 11:27 a.m. on Wednesday, February 18, 2009, so even if the form provided a lawful basis to detain Ms. Cote, its validity expired at 11:26 a.m. on Friday, February 20, 2009.

5. On Friday, February 20, 2009, I spoke with Cheryl in the Records Department of

the Lake County Detention Office who told me that Lake County has no agreement for holding detainees on behalf of ICE.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2009.


JOHN BARRY

U.S. Department of Justice

Immigration and Naturalization Service

Immigration Detainer - Notice of Action

CASE NO: ORLO902800209
File No. A078 927 263
Date: February 18, 2009

To: (Name and title of institution) DADE COUNTY JAIL 351 W. MAIN ST. TAVARES, FL 327783126	From: (INS office address) ORLANDO, FL, DOCKET CONTROL OFFICE 9403 TRADEPORT DR. ORLANDO, FL 32827
---	---

Name of alien: ENRIQUEZ-Pardono, Rita AKA: ENRIQUEZ-Pardono, FANY

Date of birth: 05/23/1985 Nationality: HONDURAS Sex: F

You are advised that the action noted below has been taken by the Immigration and Naturalization Service concerning the above-named inmate of your institution:

- ☒ Investigation has been initiated to determine whether this person is subject to removal from the United States.
- ☐ A Notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on _____
(Date)
- ☐ A warrant of arrest in removal proceedings, a copy of which is attached, was served on _____
(Date)
- ☐ Deportation or removal from the United States has been ordered.

It is requested that you:

Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work, and quarters assignments, or other treatment which he or she would otherwise receive.

☒ Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal holidays) to provide adequate time for INS to assume custody of the alien. You may notify INS by calling 407-816-4670 during business hours or _____ after hours in an emergency.

☐ Please complete and sign the bottom block of the duplicate of this form and return it to this office. ☐ A self-addressed stamped envelope is enclosed for your convenience. ☐ Please return a signed copy via facsimile to _____
(Name of INS office handling case)

Return fax to the attention of MARSHALL VILDT at 407 855-8653
(Name of INS officer handling case) (Area code and phone number)

- ☒ Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.
- ☒ Notify this office in the event of the inmate's death or transfer to another institution.
- ☐ Please cancel the detainer previously placed by this Service on _____

PABLO ROSALES

(Signature of INS official)

Immigration Enforcement Agent

(Title of INS official)

Receipt acknowledged:

Date of latest conviction: _____ Latest conviction charge: _____

Estimated release date: _____

Signature and title of official: _____

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RITA COTE, previously known as)
RITA ENRIQUEZ-PERDOMO,)
)
Petitioner,)
v.) Case No. _____
)
STONE M. LUBINS, in his official)
capacity as City of Tavares Police Chief,)
)
GARY S. BORDERS, in his official)
capacity as Lake County Sheriff,)
)
Respondents.)
_____)

DECLARATION OF GLENN KATON

I, Glenn Katon, make this declaration based upon my personal knowledge.

1. I am an attorney duly licensed to practice law in the State of Florida since 2003, and I am representing Petitioner Rita Cote in the above-captioned case.
2. On the morning of Monday, February 23, 2009, I retrieved the attached Booking Detail Sheet for Rita Enriquez Perdomo from the Lake County Sheriff's Office website, http://www.lcso.org/asp/inmatepublic/mugshot_booking_detail.asp?bookingnumber=0917590.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on February 23, 2009.


GLENN KATON

Booking Detail Sheet

Name/Tracking Information



First/Middle/Last:	RITA ENRIQUEZ-PERDOMO
Booking#:	0917590
Case#:	09021719
Inmate ID:	95528
Date of Birth:	5/23/1985
Race:	W
Ethnicity:	H
Sex:	F
Eye Color:	BRO
Hair Color:	BLK
Height:	404
Weight:	110lbs

Alias Information

Personal Information

Address: 1303 DORA AVE	Apartment#:	City, State, Zipcode TAVARES, FL, 32788	Birth: City, State, Country NA
US Citizen: HD	Occupation:		

Arrest Information

Arrest Date/Time: 2/16/2009 3:07:09 PM	Arresting Officer: COURSEY	Agency: TAVARES P.D.
Booked Date/Time: 2/16/2009 2:52:29 PM	Booking Officer: C705	Warrants:
Released Date/Time: n/a		

Charges

Offense Type	Degree	Offense	Statute	Bond	BondType	DocType	Next Court Date	Court Room
C	N	COURTESY HOLD / ICE	38.22-	\$0	NONE	WA	n/a	n/a

RITA ENRIQUEZ-PERDOMO

Images

FRONT

2/16/2009 3:12:50 PM



SIDE

2/16/2009 3:13:01 PM



SIDEL

2/16/2009 3:13:05 PM

