

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division**

Case No.: 1:10-cv-22829-JAL

JOSE BERNABE, AKA "JOSE
FORTUNATO PEREZ"

A Florida Resident

Petitioner,

v.

CIVIL COMPLAINT

CAPTAIN SUSAN KRONBERG, in her
official capacity as Facility Supervisor of
Metro West Detention Center,
and THE STATE OF FLORIDA,
MARC J. MOORE in his
official Capacity as Field
Office Director for Detention
and Transportation,
U.S. Immigration and Customs
Enforcement ("ICE")

Respondents.

STATUS OF AMENDED EXPEDITED 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 his release from the custody of Respondent, Marc J. Moore, Field Director, Krome Service Processing Center, 18201 S.W. 12th Street, Miami, FL 33194, and/or that Respondent, Captain Susan Kronberg, Facility Supervisor of the Metro West Detention Center, be prohibited from detaining anyone beyond a 48 hour period on an "ICE ["Immigration and Customs Enforcement"] Detainer" because such custody is in violation of the Constitution and laws of the United States and the State of Florida. The Miami-Dade

Department of Corrections held Jose Bernabe since 7:10 PM on July 31, 2010, on the basis of an expired 48-hour immigration detainer pursuant to 8 C.F.R. 208.7 at the order of the Government of the United States pursuant to the aforementioned and constitutionally infirm "immigration detainer". Subsequent to that period, Mr. Bernabe's custody was transferred to the Government of the United States on August 11, 2010.

Habeas corpus is the proper remedy to challenge detention without lawful authority. *See* § 79.01, Fla. Stats. (2003). "The purpose of the ancient and high prerogative writ of habeas corpus is to inquire into the legality of a prisoner's present detention." *McCrae v. Wainright*, 439 So. 2d 868, 870 (Fla. 1983).

STATUS

Mr. Bernabe has been released from the custody of both the Krome Service Processing Center and the Miami Dade County Department of Corrections. Additionally, the Miami Dade County Department of Corrections has issued a new written directive directing all relevant detainees be released, consistent with their interpretation of the federal guideline, and not be held longer than 48 hours.

Therefore, the Petitioner agrees, at this time, to a dismissal of his Petition for Relief.

Respectfully Submitted,

September 17, 2010

/s/

John de Leon

Attorney for Petitioner

Florida Bar No. 650390

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