

**U.S. IMMIGRATION COURT
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
26 FEDERAL PLAZA
NEWYORK, NY 10270
ATTN: HON. JUDGE ANNE FERRIS, IJ**

_____)	
MIGUEL NARANJO,)	
PETITIONER)	CASE & ALIEN NUMBER:
(UNDER ICE-DHS CUSTODY))	A-095*****
V.)	A-099*****
)	
IMMIGRATION CUSTOM)	
ENFORCEMENT)	ALIEN CURRENT LEGAL STATUS
DEPT. OF HOMELAND SECURITY;)	
(ICE & DHS))	(LEGAL PERMANENT
RESPONDENTS)	RESIDENT OR LPR)
_____)	

PETITIONERS MOTION FOR A WRIT. OF HABEAS CORPUS AND A COURT ORDER THAT HE BE RELEASED FROM UNWARRANTED CONTINUED DETENTION BY ICE AND DHS

Petitioner, Miguel Naranjo, by and through his undersigned counsel, hereby respectfully petitions this **HONORABLE IMMIGRATION COURT** to intercede, for a **WRIT. OF HABEAS CORPUS** to remedy his unlawful detention, false arrest, unwarranted apprehension, and enjoin ICE, DHS or Respondent from continuing to deny his emergency and immediate release form unlawful, unwarranted detention. In support of this emergency petition, motion, and complaint for declaratory and injunctive relief, petitioner, victim, **MR. MIGUEL NARANJO** alleges as follows, and under oath.

CUSTODY

1. Mr. Miguel Naranjo is actually in the physical custody of respondent ICE and DHS at an undisclosed detention center, located in New York City, then transferred to a secret detention center located in New Mexico, also unknown to his nuclear family members, his friends and his legal counselors. He is under direct control of respondents, and their abusive agents.

JURISDICTION AND VENUE

2. This action arises under the 4th, 5th, 6th amendments of the United States Constitution, in INA, 8 U.S.C. section 1101 et seq., the Administrative Procedure Act, 5 U.S.C 701 et seq., 28 U.S.C. 1331, as Mr. Naranjo is still in custody under color of the authority of ICE, an agency of Homeland Security; and such custody is in violation of all DHS Immigration Laws, the Constitution, or treaties of the United States. This court may even grant relief under 28 U.S.C. 2241, the APA, the Declaratory Judgment Act, 28 U.S.C. 2201 et seq., and the Writs Act, 28 U.S.C. section V.51.
3. Venue lies in the U.S. Immigration Court, located in the city of New York, the judicial district in which petitioner, and respondents reside at the time of this very unfortunate incident, including petitioner's false arrest under the doctrine of mistaken identity.

PARTIES

4. Petitioner is a native of Ecuador, Respondents abusively and unconstitutionally took the victim Miguel Naranjo, a Law-abiding "LPR", dully adjusted under his approved I-485, I-551 on or about July 14, 2008 and detained him since without warrants, due process, due course, and any constitutional hearing his release under the laws of immigration proceedings.
5. Respondents are ICE and DHS abusive agents. These agents are responsible for fair enforcement of the INA. As such, are also custodians of the victim, petitioner Mr. Naranjo, who has never been a criminal at any given time in his entire life.

EXHAUSTION OF REMEDIES

6. Petitioner has exhausted all his local administrative remedies with ICE to the extents dully required by law, and his only remedy is by way of this judicial action. **EXHIBIT A** is a rejection notice received from the BIA attesting that petitioner has not and never been under any deportation, and **EXHIBIT B** is an I-485 interview receipt from the USCIS attesting that petitioner had passed his LPR interview, and is now awaiting his Green Card in the mail from USCIS.

STATEMENT OF FACTS

7. Petitioner is an LPR who has been waiting for his green card, and also living with his beloved wife and children. He devoted his entire life to providing for his wife and children. They all resided together in a community building apartment located in the city of Spring Valley, New York until July 14, 2008 when he was unlawfully removed from his apartment and family including his U.S. Citizen

children by abusive agents of ICE, under the doctrine of Mistaken Identity, since they were looking for a different individual bearing the name of **WANDA**, who apparently was his neighbor, at the time the apartments were stormed by the agents.

8. Petitioner has never been a criminal, nor has he ever been charged with any crime within the scope of his life. Therefore, his arrest under section 236(c) of the INA, 8 U.S.C. 1226 (c) is unconstitutional, illegal, unlawful, abusive, and remotely unwarranted under all doctrine of jurisprudence (a very sad story and a TRAGIC TRAVESTY OF JUSTICE).
9. The Immigration Court has full vested authority to have him released without bail under Mathews v. Diaz, 426 U.S. 67 (1976) since petitioner is not under any violation of any Immigration Law, or Criminal Law of any States of the United States.

LEGAL BACKGROUND

10. Petitioner is in custody pursuant to INA section 236 (c), 8 U.S.C 1226 (c), per communications with ICE, which mandates his detention without even giving him an opportunity to show cause, or that he is not a danger or a flight risk and , therefore, that no purpose is dully served by his unlawful and unwarranted detention.
11. Section 236 (c) is congress latest attempt to impose mandatory detention to certain aliens, irrespective of their individualized circumstances. Today, majority of courts that considered earlier detention statutes found them to be extremely violative of substantive and procedural due process, and **THEREBY UNCONSTITUTIONAL**.
12. As a person legally residing in the United States, Mr. Naranjo is and must be protected by every clause of the United States Constitution that is not expressly reserved only to its own citizens. This protection includes the Due Process Clause of the 4th, 5th and 6th amendments, which provides that no person shall ever be deprived of his life, person, liberty, freedom, or property, without due process of Law.U.S. Const. amend. V. E.g., Plyer v. Doe, 457 U.S. 202, 210 (1987).
13. **FREEDOM FROM ABUSIVE DETENTION**, and **BODILY RESTRAINTS** have always be at the core of the liberty protected by the due process clause from abusive and unwarranted government actions, such as the action of certain ICE agents in this particular case against Mr. Naranjo who is not a convicted criminal; or under any order of deportation.
14. Substantive due process requires that detention authorized for non-punitive purposes not be excessive in relation to the goal that congress truly sought to achieve. See United States v. Salerno et seq, 481 U.S. 739, 747 (1987 case).

15. The 5th, 4th, 6th also create a procedural due process right to all immigrants to be heard at a fair time, and in a meaningful manner, before deprivation of his liberty or person occurs. See *Mathews v. Eldridge*, 424 U.S. 319,334 (1976).

FIRST CLAIM FOR RELEASE
(STATUTORY CLAIM)

16. Mr. Naranjo realizes and also incorporates by reference each and every allegation contained in the paragraphs 1 through 15 as if set forth herein.

17. The ICE is illegally detaining **MR. NARANJO**, because 236 (c) et seq does not apply to him and is therefore remote and unwarranted. He has never been a convicted criminal at any given time, one burden that ICE can never prove as to this very moment (this is a case of mistaken identity or false arrest due to excessive and abusive powers).

SECOND CLAIM FOR RELEASE
(DUE PROCESS VIOLATION)

18. Mr. Naranjo realizes and also repeat each and every statement contained in paragraph 1 through 17 as if set forth fully herein.

19. Section 236 (c) violates Mr. Naranjo's rights to substantive and procedural Due Process by requiring his detention without the possibility of being released pending receipt of any formal charges against him (**CRIMINAL, CIVIL, OR IMMIGRATION**), charges which have never be proven as to this moment.

PRAYER FOR EMERGENCY RELEIF IN THE WRIT. OF HABEAS
CORPUS

Wherefore, petitioner prays that this Honorable Court or agency grant the following relief with prejudice:

1. **GRANT THE WRIT. OF HABEAS CORPUS;**
2. **GRANT THE WRIT. OF MANDAMUS;**
3. Declare that ICE agents violate the 5th, 4th, 6th Amendments of the United States Constitution, and that immigrants who like Mr. Miguel Naranjo (victim), pose neither a danger or threat to society nor a risk of flight are entitled to prompt immediate release;
4. Award to Mr. Naranjo all possible reasonable costs and legal fees; and further;

5. Grant any other and further relief which this Honorable Court deems just and proper.
6. Release the victim, Mr. Naranjo from this illegal detention on his own recognizance.

Respectfully Requested,

American Corporate Society, Inc

DATED: THIS 15TH DAY OF JULY 2008

CERTIFICATION

This is to state and certify that copies of this motion has dully been mailed to DHS-ICE assistant counselors at 26 Federal Plaza, NewYork, NY 10270, on the same above date (7-15-2008).

American Corporate Society, Inc

Cc: Herbert Tan, Acs Inhouse Associate
Dr Max D Antoine, Acs Managerial Director
Eldridge Hawkins, ACS Off Counsel