IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

BADAR KHAN SURI, *Petitioner*, v. DONALD J TRUMP, *et al* , *Respondents.*	Case No 1.25-cv-00480 (PTG/WBP)

FEDERAL RESPONDENTS' OPPOSITION TO PETITIONER'S MOTION TO COMPEL RESPONDENTS TO RETURN PETITIONER TO THIS DISTRICT

INTRODUCTION

Petitioner Badar Khan Suri ("Suri"), a citizen and national of India, seeks relief pursuant to the All Writs Act, 28 U S C § 1651, and "the Court's inherent equitable authority" to compel U S Immigration and Customs Enforcement ("ICE") to detain him at his preferred location in Virginia during immigration removal proceedings The Court lacks authority to circumvent jurisdictional bars to consider Suri's request Suri entered on a non-immigrant J-1 visa in December 2022, and he is not a lawful permanent resident He alleges he was arrested by ICE and charged with removability under 8 U.S.C. § 1227(a)(4)(C) due to his support for Hamas—a designated Tier I foreign terrorist organization He filed a "Petition for a Writ of Habeas Corpus" seeking his immediate release from ICE custody *See generally*, Petition (ECF #1)

As explained in the accompanying motion to dismiss or transfer, this Court lacks habeas jurisdiction over this action. *See* Federal Respondents' Memorandum of Law in Support of Motion To Dismiss, or in the Alternative, Transfer Venue ("Gov't's Mot.") (ECF #26). But even putting that to the side, the Court should deny the petitioner's motion compel his return to Virginia. In short, the INA bars the requested relief, and, in any event, the motion fails on the merits.

BACKGROUND

I. Suri's Immigration History and Detention.

Suri, a citizen and national of India, entered the United States on an exchange visitor visa in December 2022. *See* Declaration of Deputy Field Office Director, ERO Virginia Field Office, Joseph Simon ("Simon Decl.") (ECF #26-1) ¶ 5 Suri is a nonimmigrant visitor, and is not a lawful permanent resident of the United States. *Id.* On March 17, 2025, ICE Special Agents from Homeland Security Investigations ("HSI") arrested Suri at 9:30 p.m. in Arlington, Virginia pursuant to an I-200, Warrant of Arrest. *Id* ¶ 7 HSI transported Suri to the ICE Enforcement and

Removal Operations ("ERO") Washington office in Chantilly, Virginia for the purpose of initial processing *Id.*

ICE's ERO Washington office made detention arrangements while Suri was in Virginia *Id.* ¶¶ 9-12 Due to the lack of detention space available at the Farmville Detention Center or the Caroline Detention Facility, those arrested by ICE in that area of responsibility (AOR) are often detained at facilities in other AORs, which is an operational necessity to prevent overcrowding at ICE facilities *Id* ¶¶ 8-9. On the evening of March 17, 2025, while processing Suri, ERO Washington requested and obtained bedspace for Suri from the ERO Dallas. *Id.* ¶ 9. Upon confirmation that bedspace was available at the Prairieland Detention Facility in Alvarado, Texas, ERO Washington determined that Suri would be detained there. *Id.*

While at the ERO Washington office, Suri was issued a Notice to Appear ("NTA"), which charged him as removable pursuant to 8 U.S.C § 1227(a)(4)(C)(i) *Id.*; *see also* NTA (exhibit to Simon Decl.). HSI also served Suri with a Notice of Custody Determination, notifying him that his detention was governed by 8 U.S.C. § 1226(a) (immigration custody during removal proceedings) *Id* ¶¶ 6-7. The NTA also notified him that he would be detained at the Prairieland Detention Center, located at 1209 Sunflower Lane, Alvarado, Texas and that his removal proceedings would take place while at that facility Simon Decl , Exh. 1 The NTA indicates his first hearing will take place remotely from Prairieland Detention Center on May 6, 2025 at 8 30 a.m. before an immigration judge from the Post Isabel Immigration Court *Id.*

At approximately 2:35 a.m. on March 18, 2025, Suri arrived at the Farmville Detention Center ahead of his flight to Louisiana On March 18, 2025, Suri was transported from the Farmville Detention Center to the ERO Washington office in Chesterfield, Virginia *Id.* ¶ 11 He arrived at that office at approximately 7.50 a.m that day. *Id* Suri was brought to the airport in

Richmond, Virgina to be transported to Alexandria, Louisiana *Id* The flight departed Richmond, Virginia at 2:47 p m on Tuesday, March 18, 2025 *Id* He arrived in Alexandria, Louisiana at approximately 5.03 p.m. Eastern Daylight Time (4.03 p.m. Central Daylight Time) on March 18, 2025. *Id.*

Suri was then transported to the Alexandria Staging Facility in Alexandria, Louisiana *Id* at ¶¶ 11-12 The Alexandria Staging Facility holds male detainees at various security classification levels for less than 72 hours [1] Suri spent transit time at the Alexandria facility because it is on the standard flight path of the transporting aircraft. From Alexandria he was transported by ground transport to the Prairieland Detention Facility Simon Decl. ¶ 12.

On March 21, 2025, Suri was transported to the Prairieland Detention Facility in Alvarado, Texas, where he remains *Id* ¶ 13. As noted previously, he is scheduled to appear in a remote hearing from Prairieland Detention Center on May 6, 2025 at 8:30 a.m before an immigration judge from the Post Isabel Immigration Court Simon Decl., Exh 1.

II. Access at the Prairieland Detention Facility

The Prairieland Detention Facility provides robust access to detainees for legal representatives *See generally* Declaration of Assistant Field Office Director Yousuf Khan (ECF #28-1) at ¶¶ 6-9 The facility allows legal representatives to visit their clients in-person, telephonically, and virtually Khan Decl. ¶ 6 In-person visits are conducted in a confidential setting without prior arrangement on weekdays, Monday to Friday, from 8:00 a m to 5:00 p m., and while visits on weekends or holidays are available, they must be scheduled ahead of time. *Id* Detainees have access to confidential legal phone calls *Id* at ¶ 9 Legal representatives can also utilize the Virtual Attorney Visitation, which allows legal representatives to meet with their clients

[1] https //www ice gov/doclib/foia/odo-compliance-inspections/alexandriaStagingFac_AlexandriaLA_Aug27-29_2024 pdf

virtually using video technology in private rooms or booths to ensure confidentiality of communications during remote legal visits *Id* ¶¶ 7, 9. Furthermore, confidential electronic exchange of legal documents is permitted when timely communication through mail is not possible. *Id.* ¶ 8

III. Suri's Habeas Petition

According to Suri, on Tuesday, March 18, 2025 at 5:59 p m., Suri's counsel filed the instant habeas petition under 28 U.S.C. § 2241 (Petitioner's Memorandum in Support (ECF #6) ("Pet'i Mot.") at 6), while Suri was physically present in Louisiana *en route* to Texas. Simon Decl. ¶¶ 9-11; Simon Decl., Exh. 1. Suri's petition challenges his current immigration detention as unlawful, and he seeks an order from this Court requiring ICE to immediately release him Petition (ECF #1)

On March 20, 2025, Suri filed a "Motion to Compel Respondents to Return Petitioner to this District." ECF #5 He brings that motion "pursuant to the All Writs Act, 28 U S.C. § 1651, and the Court's inherent equitable authority," and he seeks an order from the Court compelling ICE to return him to Virginia. Pet'r Mot. at 1 He argues that such relief is necessary because ICE allegedly intentionally sought to interfere with and disrupt the habeas court's jurisdiction and because his detention anywhere other than Virginia interferes with his access to counsel, the Court, and his wife. *Id* at 1, 9.

Concurrently with this filing, the Government filed a motion to dismiss the case without prejudice for lack of jurisdiction/venue, or alternatively, to transfer it ECF #24-26 As set forth in the motion, because the petitioner was detained in Louisiana *en route* to, ultimately, a Texas facility at the time he filed his habeas petition, the Court lacks habeas jurisdiction over this matter and venue is not proper in the Eastern District of Virginia Gov't Mot. at 5-14.

ARGUMENT

I. THE COURT SHOULD DEFER DECISION ON THIS MOTION

The Court should defer decision on this motion until it decides the government's pending motion to dismiss or transfer The government has raised a threshold issue concerning the proper venue for this action (and this Court's lack of habeas jurisdiction), and therefore a decision on those threshold challenges should precede a decision on this motion. *See* Gov't Mot. at 4-10. That is because a habeas petition brought under 28 U.S.C. § 2241 challenging detention must be brought against the immediate custodian and filed in the district in which the petitioner is detained. *See, e.g., Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004). Venue is improper in the Eastern District of Virginia because Suri was not detained in this district at the time that he filed his habeas petition; rather, Suri was physically present in Louisiana and ultimately en route to Prairieland Detention Facility in Alvarado, Texas, where he is presently detained. Simon Decl. ¶¶ 9-13, Simon Decl., Exh. 1. Thus, for all of the reasons set forth in the government's motion to dismiss or transfer, the Court lacks habeas jurisdiction over the petition and the Eastern District of Virginia is not the proper venue for this action *See* Gov't's Mot at 4-14. Consequently, without jurisdiction over the case, the Court lacks the power to compel ICE to detain the petitioner in Virginia.

II. THIS COURT LACKS AUTHORITY TO REVIEW ICE'S DETERMINATIONS REGARDING PLACE OF DETENTION

This Court also lacks jurisdiction over ICE's discretionary decisions concerning where to detain aliens, and thus lacks authority to issue an injunction compelling ICE to transfer the petitioner from a detention facility in Texas to a detention facility in Virginia. Four separate jurisdictional bars apply here §§ 1252(a)(2)(B)(ii), 1252(b)(9), 1252(g), and 1226(e).

A. Section 1252(g) Bars Review of Where to Commence Removal Proceedings.

Petitioner's requested relief is precluded by 8 U.S C. § 1252(g) The Supreme Court has

explicitly held that the Attorney General's "decision to commence proceedings falls squarely within § 1252(g)" *Reno v American-Arab Anti-Discrimination Committee* ("*AADC*"), 525 U S. 471, 487 (1999) (cleaned up); *see also* 8 U S.C. § 1252(g) ("no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings against any alien under this chapter"). In reaching this conclusion, the Court noted that the provision had no effect on review of other actions that may be taken before, during, and after removal proceedings—"such as the decisions to open an investigation, to surveil the suspected violator, to reschedule the deportation hearing, to include various provisions in the final order that is the product of the adjudication, and to refuse reconsideration of that order" *Id* at 482.

Thus, although *AADC* provides that § 1252(g) does not bar review of other actions before, during, and after removal proceedings, the provision does bar actions and decisions relating to commencement of proceedings, which necessarily includes the method by which they are commenced. *See Alvarez v ICE*, 818 F 3d 1194, 1202 (11th Cir. 2016) (recognizing that the three actions listed "represent the initiation or prosecution of various stages in the deportation process," and "[a]t each stage the Executive has discretion to abandon the endeavor" for any number of reasons (citing *AADC*, 525 U.S at 483)) Accordingly, considering that the commencement of proceedings requires DHS to determine whether, when, and where to commence such proceedings, § 1252(g) bars review of DHS's decision where to initiate removal proceedings *See, e g , Alvarez*, 818 F.3d at 1203 ("The challenge to ICE's decision, made by its counsel, Defendant Emery, essentially asks this Court to find that the agency should have chosen a different method of commencing proceedings. The district court was correct to find that § 1252(g) strips us of the power to entertain such a claim"); *Ali v Mukasey*, 524 F.3d 145, 150 (2d Cir. 2008)); *Jimenez-*

Angeles v Ashcroft, 291 F 3d 594, 599 (9th Cir 2002) ("We construe § 1252(g) to include not only a decision *whether* to commence, but also *when* to commence a proceeding") (cleaned up) (emphases in the original).

B. Section 1252(b)(9) Funnels Review of Such Questions to the Court of Appeals.

If there were any doubt about this Court's lack of jurisdiction over Suri's challenges to the commencement of proceedings, the REAL ID Act's amendments to § 1252(b)(9) should dispel them Those amendments provide that "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section." 8 U.S C § 1252(b)(9) "This section, known as the 'zipper' clause, consolidates review of matters arising from removal proceedings 'only in judicial review of a final order under this section,' and strips courts of habeas jurisdiction over such matters" *Afanwi v. Mukasey*, 526 F 3d 788, 796 (4th Cir 2008), *vacated on other grounds*, 558 U.S 801 (2009). By law, "the sole and exclusive means for judicial review of an order of removal" is a "petition for review filed with an appropriate court of appeals," that is, "the court of appeals for the judicial circuit in which the immigration judge completed the proceedings" 8 U.S C. §§ 1252(a)(5), (b)(2) "In fact, Congress has specifically prohibited the use of habeas corpus petitions as a way of obtaining review of questions arising in removal proceedings" *Johnson v Whitehead*, 647 F.3d 120, 124 (4th Cir. 2011) ("Petitions for review are the appropriate vehicle for judicial review of legal and factual questions arising in removal proceedings."), *cert denied*, 565 U.S. 1111 (2012); *see also Nasrallah v Barr*, 590 U.S. 573, 580 (2020) (the REAL ID Act "clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals."). These provisions sweep more broadly than § 1252(g) *See AADC*, 525 U S at 483

Indeed, only when the action is unrelated to any removal action or proceeding is it within the district court's jurisdiction *Johnson*, 647 F.3d at 124; *Mapoy v Carroll*, 185 F 3d 224, 230 (4th Cir 1999). And when analyzing limits on review, courts do not simply take a litigant's word that the limits do not apply, *e.g.*, *Matushkina v. Nielsen*, 877 F 3d 289, 295 (7th Cir 2017), nor do courts allow styling to prevail over substance *Arellano v Barr*, No. 2:19-cv-1233-RMG, 2019 U.S Dist. LEXIS 207399, at *7 (D S.C May 13, 2019) ("...an individual may not seek to avoid these provisions by fashioning their motion as a TRO or a stay of removal instead of an appeal to the BIA or circuit court Therefore, this Court does not have jurisdiction to issue any order to compel ICE to grant a stay of removal, to grant a stay of removal, or to grant a TRO."), *aff'd*, 785 F App'x 195, 196 (4th Cir. 2019) ("[W]e affirm for the reasons cited by the district court."). "[T]he substance of the relief that a plaintiff is seeking" will dictate. *Delgado v Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011) Where the proceedings occur and whether he had proper access to counsel at those proceedings are issues to be decided in a petition for review. *See, e.g.*, *Nolasco v Holder*, 637 F.3d 159, 163-64 (2d Cir. 2011), *Aguilar v ICE*, 510 F 3d 1, 13 (1st Cir. 2007). Therefore, Suri's request for a transfer to Virginia is "inextricably linked" to his removal proceedings and its conclusion. *Delgado*, 643 F 3d at 55

C. Section 1252(a)(2)(B)(ii) Applies to § 1231(g) Place of Detention Determinations.

"A principal feature of the removal system is the broad discretion exercised by immigration officials." *Arizona v United States*, 567 U.S. 387, 396 (2012). Decisions where to detain an alien pending removal proceedings are within the discretion of the Secretary of Homeland Security *See* 8 U.S C. § 1231(g)(1) ("The Attorney General shall arrange for *appropriate* places of detention for aliens detained pending removal or a decision on removal.") (emphasis added);[2] *see also* 8

[2] Although the statute and regulations refer to the "Attorney General," these references should, in light of the Homeland Security Act of 2002, be read as references to the Secretary of

U.S.C. § 1252(a)(2)(B)(ii) (barring district courts from exercising subject matter jurisdiction over "any.. decision or action of the Attorney General . the authority for which is specified under this subchapter [8 U.S.C. §§ 1151-1381] to be in the discretion of the Attorney General....") Under § 1231(g), DHS "necessarily has the authority to determine the location of detention of an alien in deportation proceedings[ ]" *Gandarillas-Zambrana v Bd Immigration Appeals*, 44 F 3d 1251, 1256 (4th Cir 1995).

The Executive's broad discretion to determine appropriate places of detention pending removal has repeatedly been recognized as unreviewable by federal courts after careful review of § 1231(g). *See, e.g., Wood v United States*, 175 F. App'x 419, 420 (2d Cir. 2006) (holding that the Secretary "was not required to detain [Plaintiff] in a particular state" given the Secretary's "statutory discretion" under § 1231(g)), *Van Dinh v Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (holding that "a district court has no jurisdiction to restrain the Attorney General's power to transfer aliens to appropriate facilities by granting injunctive relief"); *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir 1985) ("We are not saying that the petitioner should not have been transported to Florida. That is within the province of the Attorney General to decide ").

While it is true that the Fourth Circuit held that "§ 1252(a)(2)(B)(ii) does not strip courts of jurisdiction to review transfer decisions" in *Vega Reyna v Hott*, 921 F 3d 204, 210 (4th Cir 2019), this case is distinguishable from *Vega Reyna* because the Secretary's *original* decision was to conduct Suii's removal proceedings in Texas and to detain him in Texas. Simon Decl. ¶ 9,

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Homeland Security *See* Homeland Security Act § 471, 6 U S C § 291 (abolishing the former Immigration and Naturalization Service), *id.* § 441, 6 U S C. § 251 (transferring immigration enforcement functions from the Department of Justice to the Department of Homeland Security); 8 U S C. § 1103(a)(1) ("The Secretary of Homeland Security shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens... ")

Simon Decl , Exh. 1. The *Vega Reyna* decision dealt exclusively with *transfers*, and the *Vega Reyna* court explicitly noted that it was not dealing with a dispute, such as the one presented by Suri's motion, that challenges "their place of detention." *Vega Reyna*, 921 F.3d at 208 ("We begin by noting what the plaintiffs are not challenging. They do not challenge their arrest and ICE's right to detain and [to] continue to detain [and] they do not challenge their place of detention[.]") *Vega Reyna* discussed only transfers—there, in the context of those detained in one location for over a month—and did not discuss initial place-of-detention determinations. *See id.* Here, Suri asks the Court to determine that his detention is more "appropriate" in Virginia over the decision of the Secretary—whom Congress exclusively entrusted with such determinations—who determined that Texas was the "appropriate" place for Suri's detention 8 U S.C § 1231(g); *see also FDIC v Chi Title Ins. Co.*, 12 F.4th 676, 683 (7th Cir. 2021) ("[T]he word 'appropriate' is a deliberately vague indication that some degree of discretion and judgment is called for "). Therefore, *Vega Reyna* does not compel the conclusion that § 1252(a)(2)(B)(ii) does not apply to original place-of-detention determinations under § 1231(g)(1). Furthermore, *Vega Reyna* was decided before *Patel v Garland*, 596 U S. 328 (2022), which—as the Fourth Circuit has recognized—undermined the Fourth Circuit's constrained application of § 1252(a)(2)(B) in pre-*Patel* cases. *Shaiban v Jaddou*, 97 F.4th 263, 268 (4th Cir 2024) Consequently, the Court should find § 1252(a)(2)(B)(ii) bars review of the discretionary decision to detain Suri in Texas under § 1231(g).

D. Section 1226(e) Bars Review of ICE's Decisions "Regarding" 1226(a) Detention.

Finally, § 1226(e) provides that "[n]o court may set aside any action or decision by [ICE] under [§ 1226] regarding the detention or release of any alien," 8 U S C. § 1226(e) Thus, this Court lacks authority to overturn ICE's decision to detain Suri in Texas under § 1226(a), as the place of detention is quite plainly a "decision or action . regarding the detention" of Petitioner.

See Palacios v Sessions, No. 3·18-cv-00026-RJC-DSC, 2018 U.S Dist. LEXIS 168861, at *15 (W.D.N.C Sep 29, 2018) ("An IJ's decision regarding where and when to hold bond hearings falls within the purview of the agency's discretionary judgment" and "[t]hus, those decisions are shielded from judicial review" by § 1226(e)), *appeal dismissed*, 2020 U.S. App. LEXIS 9410 (4th Cir Mar 25, 2020) The request to overturn ICE's "decision or action" to detain Suri in Texas, which is plainly one "regarding the detention" of Suri, falls within the ambit of § 1226(e) *See, e.g* , *Sardella v Holder*, 380 F. App'x 432, 434 (5th Cir. 2010) ("Insofar as Sardella raises a challenge to the decision of the Department of Homeland Security concerning the location in which he was detained, this challenge is unavailing because such decisions are not amenable to judicial review." (citing 8 U S.C. § 1226(e)). For any of the foregoing reasons, the Court cannot overturn ICE's determination to detain Suri in a Texas facility, nor should it do so even if it could

III. PETITIONER'S MOTION FAILS ON THE MERITS

A. The Court May Not Circumvent Applicable Jurisdictional Bars Governing Immigration Proceedings by Recourse to General or Equitable Authority

The petitioner brings this motion to compel ICE to transfer him to a particular detention location (in Virginia as opposed to anywhere else) under two sources of authority· the All Writs Act, 28 U.S.C. § 1651(a), and the Court's inherent equitable authority *See* Pet'r Mot. at 1 Neither authority supports petitioner's request.

The All Writs Act permits federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). The All Writs Act is a residual source of authority that permits courts to issue writs to issue effective judgments, *Pa Bureau of Corr v. U S Marshals Serv* , 474 U.S. 34, 41-43 (1985), and to "protect the jurisdiction they already have." *SAS Inst , Inc v World Programming Ltd* , 952 F.3d 513, 521 (4th Cir. 2020). "Although that Act empowers federal courts to fashion

extraordinary remedies when the need arises, it does not authorize them to issue ad hoc writs whenever compliance with statutory procedures appears inconvenient or less appropriate." *Pa Bureau of Corr.*, 474 U.S. at 43. Notably, the All Writs Act is one of the statutes specifically included in the jurisdictional bar in § 1252(g). *See* 8 U.S.C. § 1252(g) ("[N]otwithstanding any other provision of law (statutory or nonstatutory), *including . . . sections* 1361 and *1651 of such title*, no court shall have jurisdiction . . ." (emphasis added)). The All Writs Act cannot be used to circumvent jurisdictional bars or perform an end-run around procedural rules, as Suri demands here. *See Shoop v. Twyford*, 596 U.S. 811 (2022).

As to the Court's inherent equitable authority, it is undisputed that the jurisdiction of the federal courts is presumptively limited. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Sheldon v. Sill*, 49 U.S. 441, 448 (1850) ("Congress, having the power to establish the courts, must define their respective jurisdictions."). Federal courts "possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree." *Kokkonen*, 511 U.S. at 377 (internal citations omitted), *Sheldon*, 49 U.S. at 449 ("Courts created by statute can have no jurisdiction but such as the statute confers."). And while "[c]ourts invested with the judicial power of the United States have certain inherent authority to protect their proceedings and judgments in the course of discharging their traditional responsibilities," "[i]n many instances the inherent powers of the courts may be controlled or overridden by statute or rule." *Degen v. United States*, 517 U.S. 820, 823 (1996) (citing, *inter alia*, *Carlisle v. United States*, 517 U.S. 416, 426 (1996), *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-46 (1962)), *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327–28 (2015) ("The power of federal courts of equity to enjoin unlawful executive action is subject to express and implied statutory limitations. Courts of equity can no more disregard statutory and constitutional requirements and provisions than can courts of law.")

Moreover, "[p]rinciples of deference counsel restraint in resorting to inherent power, and require its use to be a reasonable response to the problems and needs that provoke it." *Id* (internal citations omitted). That is, "[a] court's inherent power is limited by the necessity giving rise to its exercise " *Id* at 829

Even assuming inherent authority encompasses the relief requested, when it comes to matters of detention administration, "[c]ourts have traditionally voiced a reluctance to intervene and enjoin custodial placement and transfer decisions" and "judicial deference to the discretion of custodial authorities regarding institutional transfer decisions is firmly rooted in the law " *Thakker v Doll*, No. 1.20-CV-480, 2020 U.S. Dist. LEXIS 250865, at *20-21 (M.D. Pa. Aug 24, 2020), *R&R adopted*, 2021 U.S. Dist. LEXIS 37317 (M.D Pa. Mar. 1, 2021). "We defer to administrators on matters of correctional facility administration 'not merely because the administrator ordinarily will. . have a better grasp of his domain than the reviewing judge, but also because the operation of our correctional facilities is peculiarly the province of the Legislative and Executive Branches of our Government not the Judicial '" *Hope v Warden York Cty. Prison*, 972 F 3d 310, 326-27 (3d Cir 2020) (*Bell v. Wolfish*, 441 U.S 520, 548 (1979)); *accord Fraihat v U S ICE*, 16 F 4th 613, 643 (9th Cir. 2021).

B. No Relief Is Justified Under Either Basis Petitioner Asserts

To justify the extraordinary relief he seeks in his motion, the petitioner primarily asserts two grounds. One concerns ICE's decision to detain him in Texas, and the other concerns his ability to access his counsel and his wife As discussed below, assuming *arguendo* that the Court has jurisdiction to grant the relief sought, neither basis justifies granting such relief.

1. ICE's Decision to Detain Him Outside of Virginia

First, Suri argues that the Court should compel ICE to transfer him to a detention facility

in Virginia instead of Texas, Louisiana, or anywhere else because such relief "is necessary to preserve the integrity of this Court's jurisdiction over [his] pending habeas corpus petition." Pet'r Mot at 1, *see also id.* at 2, 7, 9 (stating the same basis in slightly different terms) He argues, without support, that ICE "chosen to attempt to interfere with the jurisdiction of this Court" and "Court need not accept such brazen interference " *Id* at 9.

Suri's characterization of events is inaccurate. As set out above, the decision regarding where to detain the petitioner was made the day *before* any habeas petition was filed in Virginia, Suri had already left Virginia at the time the petition was filed, *see supra* at 2-3; Simon Decl ¶¶ 9-10, and therefore any allegation that ICE retaliated against the petitioner for filing a habeas petition, *see* Pet'r Mot at 3 ("seemingly retaliatory transfer"), 9 (same), 11 (similar), is simply unsupported by the facts. It is also unsupported by his own Petition, which acknowledged that he would be detained in Texas. Pet. at ¶ 5. The fact is that Suri knew *before* he filed his habeas petition that he would be detained at the Prairieland Detention Facility and that his removal proceedings would take place in Texas, specifically his NTA identified the Port Isabel Immigration Court as where his removal proceedings would take place and listed the Prairieland Detention Facility as both his place of residence and the place from which he would remotely appear at his initial hearing Simon Decl. ¶¶ 9-11, Simon Decl , Exh 1

In any event, the practical reality is that transfers are routine in immigration detention, especially on initial intake *E.g.*, *Wamala*, 2019 U.S. Dist. LEXIS 211589, *1 (transfer from facility near Charlotte to facility in Lumpkin, GA), *Tairou*, 2019 U S Dist. LEXIS 71819, *2 (transfer from Charleston County Detention Center to Folkston ICE Processing Center in Folkston, GA); *see also Khalil v. Joyce*, No. 25-CV-1935 (JMF), 2025 U S Dist LEXIS 50870, *36 (S D N.Y. Mar 19, 2025) (".. rapid transfers from one immigration detention facility to another

also appear to be common[.]") And while in many cases transfer can happen without warning, Suri was told on March 17, 2025 where his place of detention would be. Simon Decl., Exh. 1 (NTA dated March 17, 2025, listing the Prairieland Detention Facility as Suri's residence and the place from which Suri would appear remotely for his May 6, 2025 hearing before an immigration judge)

Moreover, while Suri claims that such an order is necessary to "preserve the Court's ability to exercise its jurisdiction over [] Suri's pending habeas petition" (Pet'r Mot at 11), what Suri actually means is that transfer is necessary for the Court to obtain jurisdiction it never had. There is a difference. Jurisdiction never vested in this district because his petition was filed when he was already in Louisiana Simon Decl. ¶¶ 9-10. Rather, he demands a transfer back to Virginia for the purpose of *establishing* habeas jurisdiction here. Pet'r Mot. at 3 The Fourth Circuit has already squarely determined that district courts cannot manipulate the district-of-detention rule through forced transfers or sequestration "to circumvent the immediate custodian rule and create jurisdiction where there was none[ ]" *United States v Poole*, 531 F.3d 263, 274 (4th Cir 2008). In *Poole*, a Maryland district court enjoined the Government from detaining Mr. Poole anywhere other than Maryland for the purpose of creating § 2241(a) habeas jurisdiction in Maryland,[3] even though Mr. Poole was regularly detained in Kentucky and was only supposed to be temporarily in Maryland to provide testimony. *Poole*, 531 F.3d at 274 The Fourth Circuit correctly recognized the posturing for what it was, rejecting the notion that "the extraordinary actions of the district court—sequestering Poole in Maryland for the sole purpose of solidifying its own jurisdiction—[was] a proper circumvention of the immediate custodian rule contemplated by statute and longstanding precedent." *Id* The *Poole* court therefore concluded that the district court could not confer habeas jurisdiction onto itself by retaining Mr. Poole in the district. *Id* ("We therefore

[3] Text Order (ECF #94), *USA v. Poole*, No. 8:96-cr-00238 (D Md May 1, 2006).

conclude that neither the issuance of the writ of habeas corpus ad testificandum nor the retention of Poole in the district conferred jurisdiction on the Maryland federal district court "). There is no meaningful difference between what Suri demands here and what the Fourth Circuit rejected in *Poole*. Here, like in *Poole*, Suri seeks an order compelling his presence in this district to artificially manufacture § 2241(a) jurisdiction in this district [4] Pet'r Mot at 7-11.

In any event, the petitioner fails to explain how an order directing ICE to transfer his detention to Virginia would preserve the Court's jurisdiction, even if this Court had jurisdiction to preserve. Although courts have generally held that for "non-core" habeas proceedings — for example, proceedings in which a petitioner seeks "a stay of deportation or an adjustment of status"—jurisdiction can be proper outside the district of confinement, that is simply not the issue here. *See* Pet'r Mot. at 1; *Khalil*, 2025 U.S Dist. LEXIS 50870, *25. Rather, Suri seeks to "preserve the integrity of this Court's jurisdiction over his pending habeas corpus petition challenging the legality of his detention[,]" Pet'r Mot. at 1, but nowhere explains why the additional step of transfer back to this district is necessary, particularly where the Court has already enjoined his removal from the United States *See* Order (ECF #7) Indeed, as Suri acknowledges, in instances (unlike this one) when habeas jurisdiction properly vested in the district court, a subsequent transfer of the petitioner's detention to a different judicial district generally would *not* impair the habeas court's jurisdiction *See* Pet'r Mot. at 9 (citing *Ex parte Endo*, 323 U.S. 283,

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[4] Section 1406(a) does not mandate a contrary outcome. That section governs the transfer of a civil case from "a district in which is filed a case laying venue in the wrong district." 28 U.S.C § 1406(a), *see Songbyrd, Inc v. Estate of Grossman*, 206 F.3d 172, 179 n.9 (2d Cir 2000) (observing that "a district court lacking both personal jurisdiction and proper venue" *may* transfer a case pursuant to "to a district where both defects [are] avoided") (emphasis added) The statute is permissive in application, providing the Court with "broad discretion " Here, however, such discretion is constrained by the binding, precedential Fourth Circuit decision in *Poole* which unequivocally establishes Suri's habeas petition was improperly filed in this district

306 (1944)) But Suri's problem—the one he seeks to cure by artificially creating § 2241(a) jurisdiction here—is that "*Endo*'s holding does not help [those]. [who were] moved . before his lawyer filed a habeas petition on his behalf." *Rumsfeld v. Padilla*, 542 U S. 426, 441 (2004) As explained in *Poole*, a court order retaining Suri in this district does not create § 2241(a) jurisdiction here *United States v Poole*, 531 F 3d 263, 274 (4th Cir. 2008) In short, the petitioner's detention in another district does not provide a basis for the Court to grant extraordinary relief directing ICE where it can and cannot detain Petitioner pending his removal proceedings.

2. Access to Court, Counsel and His Wife

Second, the petitioner argues that the Court should compel ICE to transfer him to a detention facility in Virginia rather than anywhere else because his detention in Louisiana impedes access to habeas counsel, immigration counsel, "meaningful access to the judicial system[,]" and his wife. Pet'r Mot. at 1, 2, 3, 10, 11. But neither his access to counsel nor access to his wife aid the Court in the exercise or preservation of its jurisdiction Nor are they a problem warranting correction through extraordinary remedies

The petitioner's argument concerning access to counsel hinges on the purported "cut[ting] short" a privileged phone call at the Alexandria Staging Facility. *Id* at 5-6 However, even if petitioner's counsel had an issue on one occasion with one phone call, it does not justify the extraordinary relief he seeks here. *Crisano v Grimes*, No 1.19cv1612 (CMH/TCB), 2021 U S Dist LEXIS 6564, at *25 (E.D Va Jan. 12, 2021) (noting the constitutional right of meaningful access to the courts does not subsume a right to unlimited phone calls) Indeed, to the extent there was an access to counsel issue at the Alexandria Staging Facility—where he is no longer detained—Suri does not explain why this demands such extraordinary redress, or why anything short of release or transfer back to Virginia would be ineffective Nor does he explain how he was

prejudiced by that isolated instance in Alexandria, Louisiana where he nonetheless obtained an *ex parte* injunction prohibiting his removal from the United States.[5] Order (ECF #7) Additionally, as set forth above, the Prairieland Detention Facility allows for robust access to counsel, whether in-person, telephonically, or virtually, *see* Khan Decl. ¶¶ 6-13; accordingly, his concerns about access to counsel do not support granting the relief he seeks here

As far as his access to Court claims go, they are utterly unsupported and are obviously legally deficient. The D.C Circuit's opinion in *Muthana v. Pompeo*, 985 F.3d 893, 901 (D.C. Cir. 2021) illustrates just how deficient the claims are. If *Muthana* presented a "serious question" whether an adult in a Kurdish POW camp in Syria lacked access to court under *Whitmore v Arkansas*, 495 U.S. 149, 163 n.4 (1990), this case presents a markedly less close question By contrast, Suri is represented by several attorneys. That Suri's litigation team has already obtained *ex parte* injunctions on his behalf establishes Suri is in no way, shape, or form impeded from accessing this Court. An "access to courts" claim would be patently frivolous if brought. "It is well-established that representation by counsel negates a prisoner's claim of lack of access to the courts " *Hundley v Thomas*, No. 5·17-CT-3110-BO, 2017 U S Dist LEXIS 217657, at *3 (E.D.N C Nov. 17, 2017), *aff'd*, 719 F App'x 250 (4th Cir 2018)

For these reasons, among others, the petitioner's reliance on relief imposed by a court to prevent detention at Guantanamo Bay is quite obviously inapt *See* Pet'r Mot at 8. While the court in that case determined conditions at Guantanamo prevented ample access to counsel, the petitioner is detained at an ICE detention facility in Texas, which, as set forth above, has adequate accessibility to meet his access to counsel needs, *see supra* 3-4 & Khan Decl. ¶¶ 6-9.

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[5] As the order was already entered, Respondents will address the *ex parte* injunction enjoining his removal in a later filing.

Further, the petitioner has failed to articulate a legal basis why his personal circumstances (namely, his access to his wife) provides a justification to issue the extraordinary relief he seeks, whether under the All Writs Act or the Court's inherent equitable authority The Fourth Circuit has already considered whether an asserted right to "family unity" limits ICE's detention authority or allows detained aliens to choose their preferred place of detention, and it has answered that question in the negative. *Vega Reyna*, 921 F 3d at 210 (finding no support for "the asserted right to be detained in the same state as one's children, the right to be visited by children while in detention, or a general right to 'family unity' in the context of detention."). The claim that the Court can require transfer on family unity grounds should be dismissed out of hand.

Lastly, even assuming the Court had the authority to order such a transfer, it should not do so as a matter of discretion. "[J]udicial deference to the discretion of custodial authorities regarding institutional transfer decisions is firmly rooted in the law." *Thakker*, 2020 U S Dist. LEXIS 250865, at *20-21. "We defer to administrators on matters of correctional facility administration 'not merely because the administrator ordinarily will have a better grasp of his domain than the reviewing judge, but also because the operation of our correctional facilities is peculiarly the province of the Legislative and Executive Branches of our Government not the Judicial.'" *Hope*, 972 F.3d at 326-27 (quoting *Bell v Wolfish*, 441 U.S 520, 548 (1979)); *see Fraihat*, 16 F.4th at 643. As courts have recognized, intervening in transfer decisions would require the court to substitute its own expertise in detention management for that of the agency, which is generally inappropriate *Thakker*, 2020 U.S Dist. LEXIS 250865, at *31 (declining to "act as the arbiter of ICE detainee transfers") The Court should decline to do so here, even assuming such authority exists.

CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's motion to compel.

DATE: April 1, 2025

Respectfully Submitted,

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