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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF CALIFORNIA**

Y.G.H,

*Petitioner–Plaintiff,*

v.

DONALD J. TRUMP, in his official capacity as President of the United States, *et al.*,

*Respondents–Defendants.*

1:25-cv-00435-KES-SKO

**PETITIONER-PLAINTIFF'S OPPOSITION TO RESPONDENTS' MOTION TO DISMISS OR TRANSFER**

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## PRELIMINARY STATEMENT

As the dust settles on the extraordinary rapid-fire events of this case, it has become clear that were it not for this Court's orders or an unprecedented Supreme Court order in the wee hours of the Saturday that followed, the United States government would have summarily expelled twenty-two-year-old Petitioner Y.G.H.—a farmworker and asylum seeker who has never been charged with any crime—and likely would be confining him incommunicado, indefinitely, in a cramped 100-man cell inside a Salvadoran prison, while disclaiming any ability to reverse his lawless removal. The government does not claim otherwise. In response to Petitioner's motion for a temporary restraining order arguing that the unprecedented March 2025 Presidential Proclamation (the "Proclamation") giving rise to this case is unlawful because, *inter alia*, the Alien Enemies Act is a wartime measure that cannot be used in the absence of an "invasion or predatory incursion" by a "foreign nation or government," ECF 4-1 at 9-14, the government offers no substantive defense.

The government rests entirely on the unsupported claim that its incommunicado transfer of Y.G.H. from this Court's jurisdiction—as the ICE San Francisco Field Office continued to hold itself out as Y.G.H.'s custodian and while undersigned counsel scrambled to open this case in what by all appearances was the district of confinement—deprives this Court of the power to impose lawful restraint on its co-equal branch. No judicial decision supports that position. To the contrary, the Supreme Court has explained that when "a prisoner is held in an undisclosed location by an unknown custodian," the default rules that otherwise govern habeas venue do not apply. *Rumsfeld v. Padilla*, 542 U.S. 426, 450 n.18 (2004). That holding accords with the centuries-long Anglo-American tradition, embraced by the Framers through the Suspension Clause and the First Judiciary Act, of courts guarding against jailers' use of location to manipulate and thwart access to the Great Writ.

The Court should deny the motion to dismiss. And, on the strength of Y.G.H.'s unrebutted arguments, as well as the analysis of judges that have considered and preliminarily rejected the lawfulness of the Proclamation, *see, e.g.*, *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *5–10 (D.C. Cir. Mar. 26, 2025) (Henderson, J., concurring) (finding no "invasion" or "predatory incursion"); *D.B.U v. Trump*, No. 1:25-cv-01163, 2025 WL 1163530, at *9-11 (D. Colo. Apr. 22, 2025) (same and finding that TdA is not a "foreign nation or government"), the Court should issue a temporary restraining order continuing to prevent Y.G.H.'s removal from the United States under the Proclamation and an order to show cause why that order should not be converted into a preliminary injunction pending the final adjudication of this case.

## BACKGROUND

### Petitioner-Plaintiff Y.G.H.

Y.G.H. is a twenty-two-year-old asylum seeker from Venezuela. Decl. of Y.G.H. (Y.G.H. Dec.), ¶ 1. On September 13, 2023 he entered the United States lawfully with humanitarian parole that granted him permission to remain here at least until April 8, 2025. *Id.* at ¶ 5. He was issued a Notice to Appear in immigration court on August 6, 2026. *Id.* While awaiting his proceedings, Y.G.H. spent the majority of his time performing stoop labor in the fields of California's Central Valley. *Id.* On February 15, 2025, ICE detained Y.G.H. after he was released without charge following his arrest—for reasons still unknown to him—by the Fresno County Sheriff's Office. *Id.* at ¶ 6. ICE brought him to Golden State Annex in Kern County. *Id.* On March 25, 2025, ICE posted a photograph of Y.G.H. on the social media platform X (formerly known as "Twitter") with the text "TdA Arrest" and "Tren de Aragua." *Id.* at ¶ 8. Y.G.H. is not a member of the criminal gang, Tren de Aragua. *Id.* Y.G.H.'s immigration proceedings remain pending before the Adelanto Immigration Court. Decl. of Victoria Petty

(Petty Dec.), ¶ 7. He is scheduled for a "master hearing" before Immigration Judge Patrick Barrett on May 8, 2025 at 1:00pm. *Id.*

On the morning of April 14, 2024, at or about 9:14 a.m., Y.G.H.'s counsel performed a periodic check of Y.G.H's location on the ICE Online Detainee Locator System (available at https://locator.ice.gov/odls/#/search). Petty Dec., ¶ 3. The Locator showed Golden State Annex as Y.G.H.'s location. *Id.* Later that day, at or about 3:01pm, Y.G.H.'s counsel again checked the Locator, at which point Y.G.H.'s location was listed as "CALL FIELD OFFICE Visitor Information: (415) 844-5512." *Id.* at ¶ 4. The Locator also instructed as follows: "Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office: BAKERSFIELD, CA, IHP, Phone Number: (661) 328-4500." *Id.* Y.G.H.'s counsel repeatedly called the phone numbers listed in an attempt to obtain Y.G.H.'s then-present location. *Id.* at ¶ 5. Calls placed to the phone numbers either did not go through at all or were automatically disconnected. *Id.*

Unable to obtain any information about Y.G.H.'s location other than what was available via ICE's Online Locator, and wary of possible erroneous summary expulsion under the Proclamation, including to the notorious Terrorism Confinement Center (in Spanish, "Centro de Confinamento del Terrorismo," abbreviated as "CECOT") in El Salvador, Y.G.H.'s counsel immediately began rapidly drafting a habeas petition. *Id.* at 6. By 6:39 PM, undersigned counsel logged on to ECF for the Eastern District of California in preparation for opening the case. *Id.* By 7:20 PM, undersigned counsel had inputted the necessary information to open the case and thereby obtained a docket number under which to file the petition. *Id.*

Unbeknownst to counsel, according to ICE's declarant, the agency had removed Y.G.H. from the Eastern District some eleven hours prior to the case being opened. Decl. of Yousuf ("Khan Decl"), ECF 16-1, ¶ 6. Counsel now knows that Golden State Annex guards, who

perform their duties under ICE supervision, rousted Y.G.H. from his bed in the pre-dawn hours of Monday, April 14, seized all of the possessions he had in his bunk, and abruptly removed him from the facility without providing any information about where he was being taken. *See* Y.G.H. Dec, ¶¶ 10-14.

Keen on informing and consulting with counsel, Y.G.H. asked the guards for permission to access his personal belongings, which included a page that he thought might enable him to reach counsel. *Id.* at 11. The page states: "This is a notification establishing that . . . if ICE plans to remove me to a third country where I am not a citizen, I wish to have legal representation. I wish for DHS/ICE to contact my attorneys, Lawyers Committee for Civil Rights of the San Francisco Bay Area and the California Collaborative for Immigrant Justice, including via the email address transfer@LCCRSF.org, so that I may speak with them." *Id.*; Petty Dec. Ex. C. The guards rejected Y.G.H.'s request. *Id.* Y.G.H. asked where the guards were taking him, but they either did not respond or directed him to "ask ICE." *Id.* at ¶ 10. Y.G.H. received the same response from guards at the airport and on the flight when he asked about his destination and the reason for his transfer. *Id.* at ¶ 14.

The government does not disclaim that Y.G.H.'s transfer was for the purpose of effectuating his summary removal under the Proclamation, and that accords with the fact that while the removal proceedings of an individual in ICE San Francisco Office custody are ongoing, ICE's practice is to keep the individual detained in contract facilities in Kern County. Decl. of Kathleen Kavanagh ("Kavanagh Dec."), ¶ 8. There are instances when ICE transfers an individual before removal proceedings have concluded, including for the provision of medical or mental health services that are not available at Golden State Annex, but it is irregular for ICE to transfer a person in the middle of their immigration proceedings to another detention facility. *Id.*

Moreover, to counsel's knowledge, a transfer from Golden State Annex to Bluebonnet Detention Facility in Anson, Texas ("Bluebonnet") is unprecedented. *Id.* at ¶¶ 7, 9.

**The Proclamation and Its Aftermath**

The Proclamation authorizes the "immediate" removal, without notice or judicial review, of "all Venezuelan citizens 14 years of age or older who are members of ["Tren de Aragua (TdA)"], are within the United States, and are not actually naturalized or lawful permanent residents of the United States."[1] Prior to the Proclamation's March 15 publication, ICE moved Venezuelan nationals into position such that they could load them onto planes and quickly remove them. *J.G.G. v. Trump, et al*, 1:25-cv-00766, Dkt. 81 ("*J.G.G.* Contempt Order"), at 3-4 (D.D.C. Apr. 16, 2025). The Venezuelans summarily removed that day were taken to CECOT. *J.G.G.* Contempt Order at 1, 5-8. The government sent the men to CECOT "hours after" the District of D.C. enjoined their deportation under the Proclamation. *Id.* at 9 ("Worse, boasts by Defendants intimated that they had defied the Court's Order deliberately and gleefully.")

The government sought relief from the District of D.C.'s orders temporarily enjoining removals under the Proclamation, first from the D.C. Circuit, then from the Supreme Court. The Supreme Court vacated the District of D.C.'s orders but held that "AEA detainees must receive notice . . . that they are subject to removal under the Act . . . within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs." *Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097, at *2 (U.S. Apr. 7, 2025). Because the Supreme Court had required adequate notice, and in reliance on the government's representation that it would provide the requisite notice prior to effectuating removals, on April

[1] *See* Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua (Mar. 15, 2025), https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua.

17, the Northern District of Texas (where Y.G.H. is currently being held) denied a motion for a class temporary restraining order to prevent AEA removal without notice. *W.M.M. v. Trump*, No. 1:25-cv-00059, Dkt. 27, at 8-9 (N.D. Tex. Apr. 17, 2025).

That same evening, the government quickly distributed to Venezuelan men detained at Bluebonnet (apparently primarily those without habeas petitions on file) English-only notices stating that they were designated for removal under the Alien Enemies Act; the men were told that their removal under the Act was imminent. Petty Dec., Ex. B. According to the petitioners in *W.M.M.*, the notice form was "not provided to any attorney, nowhere mentioned the right to contest the designation or removal, much less explained how detainees could do so [and] did not provide a timeline by which designees needed to seek habeas relief." *W.M.M.*, Dkt. 30 at 1 (N.D. Tex. dated Apr. 18, 2025). Acting upon an emergency application regarding the removal of the men at Bluebonnet who had received the notices, the Supreme Court ordered the government "not to remove any member of the putative class of detainees from the United States until further order[.]" *W.M.M. v. Trump*, No. 24-A-1007 (U.S. Apr. 19, 2025).

Following the Supreme Court's order on the application for emergency review, on April 24, 2025, in a case pending before the Southern District of Texas, the government submitted a declaration explaining its notice procedures for individuals designated for removal under the AEA. *J.A.V. v. Trump*, No. 1:25-cv-00072, Dkt. 45 (S.D. Tex. filed Apr. 24, 2025); Petty Dec., Ex. A. The declarant stated, "The alien is served individually with a copy of the Notice, Form AEA 21-B, the notice is read to the alien in a language that he or she understands." Petty Dec., Ex. A, ¶ 5. After receiving the notice, the AEA designee is provided a short period of "no less than 12 hours" to "express an intent to file a habeas petition." *Id.* at ¶ 11. If the designee expresses intent to contest removal via habeas petition, the government offers 24 hours to file the

habeas petition. *Id.* If the petition is not filed within 24 hours, ICE will proceed to remove the individual under the AEA. *Id.*

## ARGUMENT

### I. THIS COURT HAS JURISDICTION OVER THE PETITION.[2]

#### A. Where the Government Removes a Detained Individual to an Unknown Location, Jurisdiction Lies in the Last-Known District of Confinement.

Y.G.H.'s petition is properly before this Court. The *Padilla* majority explained that when, as here, "a prisoner is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules." 542 U.S. at 450 n.18; *id.* at 458 (Stevens, J., dissenting) (noting unanimous agreement on this rule); *accord* Hertz & Liebman, 1 *Federal Habeas Corpus Practice & Procedure* § 10.1 (7th ed. 2015) ("The 'immediate custodian' rule . . . is inapplicable . . . where the prisoner's current whereabouts are unknown."). In such cases, at least six Justices—comprising two concurring Justices and four dissenting Justices—agreed that "habeas jurisdiction would be in the district court from whose territory the petitioner had been removed." *Padilla*, 542 U.S. at 454 (Kennedy, J., in a concurrence joined by O'Connor, J.).[3]

There was no occasion to apply the unknown-location rule in *Padilla*, because the majority found that Mr. Padilla's counsel had two days' notice, and thus was "well aware," that Mr. Padilla was detained in South Carolina and nonetheless chose to file in New York. *Id.* at 448

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[2] While the government at times adverts to subject matter jurisdiction, that is not at issue here. *See Padilla*, 542 U.S. at 434 n.7; *id.* at 451 (Kennedy, J., concurring) (explaining question is one of "personal jurisdiction or venue rules," objections to which government may waive).

[3] Where the vote of a Supreme Court Justice (in the 5-4 *Padilla* decision, two of them) is "necessary to the formation of a majority," their concurrence is "therefore . . . given particular weight." *Schmitz v Zilveti*, 20 F.3d 1043, 1045 (9th Cir. 1994). The other three members of the majority did not expressly opine on the most appropriate district in cases where the unknown-location exception applies.

& n.17; *see Ozturk v. Trump*, No. 25-CV-10695-DJC, 2025 WL 1009445, at *6 (D. Mass. Apr. 4, 2025) ("The majority in *Padilla* also acknowledged [the unknown-location] exception relied upon by the dissent, but disagreed that it was applicable."). Likewise, there was no occasion to apply the unknown-location rule in *Trump v. J.G.G.*, No. 24A931, 604 U.S. ___, 2025 WL 1024097, at *2 (U.S. Apr. 7, 2025), because counsel was fully aware that the habeas petitioners were detained in Texas but nonetheless chose to file in the District of D.C., or in *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024), where there was no dispute that counsel was aware of the petitioner's location at the time of filing.

This month, however, the government's strategic use of rapid, incommunicado transfers of immigrants to detention centers in southern states has led to three decisions applying the unknown-location rule in cases where petitioner's counsel was unable to determine the petitioner's location at the time of filing. *See Khalil v. Joyce*, No. 25-cv-01963, 2025 WL 972959, at *28-*30 (D.N.J. Apr. 1, 2025) (analyzing *Padilla* and surveying lower court decisions to conclude that the rule, where applicable, is the "law of the land"), *motion to certify appeal granted*, 2025 WL 1019658 (D.N.J. Apr. 4, 2025); *Ozturk v. Trump*, No. 25-CV-10695-DJC, 2025 WL 1009445, at *10 (D. Mass. Apr. 4, 2025); *Ozturk v. Trump*, No. 25-CV-374, 2025 WL 1145250, at *9-*11 (D. Vt. Apr. 18, 2025). At the initial April 16 hearing on Petitioner's application for a temporary restraining order, Petitioner's counsel openly stated that Petitioner would argue that jurisdiction in the Eastern District was proper in this case because the district of confinement rule does not apply where counsel does not know where his client is or who is holding him. Transcript of Proceedings Held on Apr. 16, 2025, ECF 18, at 11-12. Despite that,

the government's argument rests entirely on the default rule and fails to discuss these directly relevant decisions.[4]

Judge Farbiarz of the District of New Jersey summed up the importance of applying the unknown-location rule when it is warranted:

> [I]f the exception does not apply, and the case is dismissed on that basis, then the implication would be that there can be a period of time during which a person can be arrested in the United States and then moved by federal officials, during which period no habeas court would have the power to hear him out—even though, as here, his lawyers and family cannot determine where he is only because they have been given inaccurate information about his whereabouts, and because he has not been allowed to correct that information by making a phone call. . . . The implication of not applying the [rule] here is that, as of March 9, the Petitioner, detained in the United States, would not have been able to call on any habeas court. Not in Louisiana, New York, or New Jersey. And not anywhere else, either. That is too far. Our tradition is that there is no gap in the fabric of habeas—no place, no moment, where a person held in custody in the United States cannot call on a court to hear his case and decide it.

*Khalil*, 2025 WL 972959, at *37 (citing Blackstone's *Commentaries* for the proposition that "the sovereign is at all times entitled to have an account, why the liberty of any of her subjects is restrained, wherever that restraint may be inflicted"); *see also Ozturk*, 2025 WL 1145250, at *9 (D Vt.) (applying this reasoning). This rationale applies with even greater force to this case, as discussed below.

**B. Under the Facts of This Case, the Unknown-Location Rule Governs.**

Habeas jurisdiction in this case lies in the Eastern District, "from whose territory the petitioner had been removed" to an unknown location in the hours prior to this case's commencement. *Padilla*, 542 U.S. at 454 (Kennedy, J., concurring). This case is a paradigmatic

[4] In other litigation, the government has conceded that the unknown-location exception is binding law and only has argued against it based on "the facts of a particular case." *Khalil*, 2025 WL 972959, at *29 (collecting government briefs). Should the government's reply introduce arguments regarding the unknown location rule that Petitioner has not had the opportunity to address, he respectfully would ask for the opportunity to file an appropriate sur-reply.

example of circumstances in which the unknown-location rule applies. Counsel did everything possible to ascertain the location of Y.G.H. before filing in what, by all appearances, remained the district of confinement. Had ICE updated the Online Detainee Locator to reflect Y.G.H.'s actual location rather than holding out the San Francisco Field Office as the custodian throughout all of April 14; or had ICE informed Y.G.H. of his location or intended destination and permitted him to contact counsel; or had ICE given Y.G.H. access to the document within his belongings that requests that ICE contact the Lawyers' Committee for Civil Rights of the San Francisco Bay Area in the event the agency initiates removal to a country other than Venezuela, the issue of habeas jurisdiction in this case would look much different. Indeed, if ICE had done one or more of those things, undersigned counsel would have filed in the then-present district of confinement. But ICE did none of those things, leaving counsel with no choice but to file in the Eastern District of California—the last place counsel knew Y.G.H. to have been confined by ICE and the place that by all indications likely remained his district of confinement. On these facts, as in *Khalil* and *Ozturk*, *Padilla*'s default rule does not apply. Instead, the unknown-location rule governs and permits filing in the last-known district of confinement.

**C. The Government's Efforts to Avoid Judicial Review Heighten the Impetus for Applying the Unknown-Location Rule.**

The government elsewhere has argued that the unknown-location rule should not "snap into effect the minute counsel wishes to file, and is unable to track down the petitioner's exact whereabouts on moment's notice." *Khalil v. Joyce*, No. 25-8019, Dkt. 1-1, Petition for Permission to Pursue Interlocutory Appeal at 18 (3d Cir. filed April 14, 2025). That chilling position suggests that the right of habeas corpus—"the precious safeguard of personal liberty [for which] there is no higher duty than to maintain it unimpaired," *Bowen v. Johnston*, 306 U.S. 19, 26 (1939)—does not exist for some government-controlled period after the government

effectuates a person's incommunicado removal from his place of confinement. The Suspension Clause forecloses such a rule. *See, e.g. Boumediene, v. Bush*, 553 U.S. 723, 745 (2008) ("It ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ, to maintain the delicate balance of governance that is itself the surest safeguard of liberty.") (cleaned up); *id.* at 765 (Executive lacks "power to switch the Constitution on or off at will"); *accord Khalil*, 2025 WL 972959, at *37 ("[T]here is no gap in the fabric of habeas.").

Moreover, while the government's position would be dubious in a habeas case where detention is challenged as the primary harm, in the context of this petition challenging the Proclamation's authorization of "immediate" and potentially irreversible removal, the events of the past several weeks demonstrate that even a brief period of blacking out access to habeas corpus would have grave consequences. First, the government's clandestine March 15 operation expelled at least 137 people to a brutal prison in El Salvador within hours, and the government's conscious goal was to avoid judicial review. *See* Marc Caputo, *Exclusive: How the White House ignored a judge's order to turn back deportation flights*, Axios, (Mar. 16, 2025), https://www.axios.com/2025/03/16/trump-white-house-defy-judge-deport-venezuelans ("We wanted them on the ground first, before a judge could get the case."). Second, even now, in the teeth of a Supreme Court command that that "AEA detainees must receive notice . . . that they are subject to removal under the Act . . . within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs," *J.G.G.*, 2025 WL 1024097, at *2, the government states that individuals are given only 12 hours' notice ahead of scheduled removal and that if they express an intent to file a habeas petition, they are given 24 hours to actually file a habeas petition. *See* Cisneros Decl., *J.A.V. v. Trump*, No. 1:25-cv-072 (S.D. Tex. filed Apr. 23, 2025), ECF No. 45, Ex. D ¶ 11; Petty Dec. Ex. A. Consistent with that, ICE transferred Y.G.H. to Bluebonnet for the purpose of removing him

under the Proclamation but delayed notice of that fact until after the agency had removed him far away from counsel (and ultimately eschewed such notice due to the pendency of this case). And while ICE finally placed Y.G.H. in Bluebonnet after the close of business after moving him, incommunicado, around the country throughout April 14 (while never providing his location on ICE's Detainee Locator), the agency could have continuously moved him from one judicial district to another all the way up until a final flight effectuating expulsion from the United States—such that counsel would have had no opportunity to file other than in if permitted to do so in the Eastern District, the last-known district of confinement. Third, by word and deed, the government refuses to facilitate the return of anyone erroneously removed to CECOT, thereby exponentially raising the stakes of obtaining pre-removal judicial review.[5] These highly unusual circumstances underscore the need to proceed to hear a habeas petition challenging the Proclamation in the last-known district of confinement, if the Great Writ is to fulfill its time-honored purpose of providing a judicial check on the Executive.

**D. Hearing This Petition in the Last-Known District of Confinement Is Faithful to *Padilla*'s Forum-Shopping Concerns.**

The Supreme Court has instructed that access to habeas corpus "must not be subject to manipulation by those whose power it is designed to restrain." *Boumediene*, 553 U.S. at 765-66. The Framers who codified habeas corpus in essentially the form in which it exists today modeled it on England's Habeas Corpus Act of 1679. *Id.* at 742. That Act, in turn, was specifically meant to counter practices that threatened access to the writ, in ways that reverberate through this case: "Prisoners were moved from gaol to gaol so that it was impossible to serve the proper gaoler

[5] Indeed, in response to a question about Judge Boasberg's rulings in *J.G.G.*, Attorney General Bondi said: "[T]hose violent alien enemies will remain in El Salvador. He cannot get them back, so his jurisdiction is over." Aaron Rupar, BlueSky, (Apr. 8, 2025) (Fox News), available at https://bsky.app/profile/atrupar.com/post/3lmcn3jgu7v2s.

with the writ and some prisoners were removed overseas so giving rise to practical difficulties in terms of communication (between the detained person and those acting on his behalf), service (on the relevant gaoler), and enforcement of the writ (by production of the detained person) if the writ was issued." Br. for the Commonwealth Lawyers Ass'n as Amicus Curiae, *Boumediene*, Nos. 06-1195 & 06-1196, 2007 WL 2414902, at *6 (U.S. Aug. 24, 2007).

The concerns of forum-shopping by habeas petitioners that animated *Padilla*'s district-of-confinement rule are absent here: Petitioner's counsel could not have brought this case anywhere but the last-known district of confinement (incidentally, a district of ICE's original choosing in placing Y.G.H. at Golden State Annex in Kern County). The opposite concern, however, appears abundantly present: Applying the district-of-confinement rule here would effectively condone ICE's ongoing, extraordinary attempts to transfer immigrants far from counsel to venues the Executive perceives as beneficial,[6] and to pursue removal rapidly to shield its actions from judicial scrutiny altogether. Numerous courts have warned against the possibility of such gamesmanship and explained that habeas courts should approach the application of jurisdictional rules accordingly. *See, e.g.*, *Anariba v. v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 444 (3d Cir. 2021) (warning against ratifying government strategy to "willingly transfer an ICE detainee seeking habeas relief from continued detention to a jurisdiction that is more amenable to the Government's position"); *Vasquez v. Reno*, 233 F.3d 688, 696 (1st Cir. 2000) ("[W]e can envision that there may be extraordinary circumstances in which the Attorney General appropriately might be named as the respondent to an alien habeas petition. . . . An[] example of an extraordinary circumstance might be a case in which the INS spirited an alien from one site to

[6] *See, e.g.*, Nick Miroff, *There Was a Second Name on Rubio's Target List*, THE ATLANTIC (Mar. 13, 2025), https://tinyurl.com/RubioTargetList (reporting that "[t]wo DHS officials said the government moved him to Louisiana to seek the most favorable venue for its arguments.").

another in an attempt to manipulate jurisdiction."); *accord Ozturk*, 2025 WL 1009445, at *10 (D. Mass.) (observing that applying exception to district-of-confinement rule would serve purpose of "curb[ing] forum shopping by the government").

To be clear, the unknown-location rule applies here irrespective of any forum-shopping by the government. That said, it is a fair consideration that provides further support for this Court's assertion of jurisdiction over this case.

## II. THIS COURT HAS JURISDICTION OVER THE APPROPRIATE RESPONDENT.

Counsel did not know the identity of his custodian at the time of opening this case.[7] In such circumstances, *i.e.*, where the custodian is unknown to counsel, "the writ is properly served on the prisoner's ultimate custodian." *United States v. Moussaoui*, 382 F.3d 453, 465 (4th Cir. 2004); *see also Khalil*, 2025 WL 972959, at *30-*31 (finding detained immigrant petitioner correctly named DHS Secretary, as ultimate custodian); *Ozturk*, 2025 WL 1145250, at *9-*10 (D. Vt.) (similar); *United States v. Paracha*, 2006 WL 12768, at *6 (S.D.N.Y. Jan. 3, 2006), *aff'd*, 313 F. App'x 347 (2d Cir. 2008); *accord Federal Habeas Corpus Practice & Procedure* § 10.1 ("The 'immediate custodian' rule . . . is inapplicable . . . where the prisoner's current whereabouts are unknown."); Brian R. Means, *Federal Habeas Manual* § 1:93 (2024) ("[W]here the immediate custodian is unknown, the writ may be served on the prisoner's ultimate custodian."); *cf.* 28 U.S.C. § 2242 (permitting petition to omit named custodian when custodian is unknown).

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[7] At this late date, that person's identity is still unknown. According to ICE's declarant, the plane carrying Y.G.H. arrived at Abilene Regional Airport, which appears to be located over 30 miles from Bluebonnet, at 5:10 PM Pacific, just under 90 minutes before counsel logged in to open this case. At the time the case was opened, Y.G.H. may still have been at the airport or may have been in transit to Bluebonnet. *Cf. Doe v. Unocal Corp.*, 248 F.3d 915, 922 (9th Cir. 2001) ("Where not directly controverted, plaintiff's version of the facts is taken as true for the purposes of a 12(b)(2) motion to dismiss.").

Here, the petition names, *inter alia*, the facility administrator of the Golden State Annex, the San Francisco Field Office Director, the ICE Acting Director, and the DHS Secretary. Consistent with the unknown custodian rule, as applied in *Moussaoui*, *Khalil*, and *Ozturk*, this Court has personal jurisdiction over Y.G.H.'s ultimate custodian and may proceed to adjudicate this case. *See, e.g.*, *Khalil*, 2025 WL 972959, at *26 (explaining there was no need to name warden of ICE contract facility to which petitioner had been transferred, since DHS Secretary, as "one of the warden's senior supervisors," sufficed under *Padilla*). Nor does the fact that ICE currently is holding Y.G.H. in Texas defeat habeas jurisdiction, consistent with the rule—unquestioned by any court for more than eighty years—holding "that a habeas court that otherwise has jurisdiction over a case does not lose that jurisdiction just because the habeas petitioner has been moved out of the district." *Id.*, at *20 (citing *Ex parte Endo*, 323 U.S. 283 (1944)). In sum, this Court can, and should, exercise jurisdiction over this case.

## CONCLUSION

The Court should deny the motion to dismiss or transfer and grant the temporary restraining order.

Dated: April 28, 2025

By: */s/ Jordan Wells*
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