

1 Joshua J. Schroeder (304992)
2 SchroederLaw
3 PO Box 82
4 Los Angeles, CA 90078
5 (510) 542-9698
6 josh@jschroederlaw.com

7 Attorney for Nou Xiong next friend of V.L. and V.L.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF TEXAS

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11 NOU XIONG next friend for V.L.; V.L.,
12 on his own behalf and on behalf of all
13 others similarly situated

14 *Petitioner-Plaintiff,*

15 vs.

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

19 *Respondents-Defendants.*

Case No.: 4:25-cv-558-O

**PETITIONER-PLAINTIFF'S REPLY
TO RESPONDENTS-DEFENDANTS'
OPPOSITION TO EMERGENCY
MOTION TO TRANSFER VENUE**

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ARGUMENT

The Government appears to argue that venue is necessarily determined at the time of filing, and that changes the Government makes to the actual venue of a case—including by invalidating jurisdictionally essential Respondents-Defendants (“Respondents”) is irrelevant to this emergency motion. They are wrong. This Court ordinarily has the power and discretion to change venue “[f]or the convenience of parties and witnesses” and “in the interest of justice” to transfer a case to where it might have been brought. 28 U.S.C. § 1404(a). This discretion does not encompass transfers to the District Guam. *Id.* at § 1404(c).

However, in 28 U.S.C. § 1406(a), this Court “shall” dismiss or “if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” For purposes of 28 U.S.C. § 1406(b), Petitioner-Plaintiff (“Petitioner”) now objects to venue in the Northern District of Texas and requests the Court to see Petitioner’s motion to transfer venue as an duly lodged objection. Under § 1406(c), transfers in the interest of justice *do* encompass the District of Guam.

Here, Government fixates upon the phrase “could have been brought.” 28 U.S.C. § 1406(a). The reality is, even from the Government’s perspective, this matter *could have* been brought in Guam if Respondent was open with Petitioner-Plaintiff (“Petitioner”) here about its plans to land its plane in Guam and to offload Petitioner at the Guam Department of Corrections, Hagåtña Detention Facility in Guam. In fact, if Petitioner knew that an order of this court would not functionally stop the Government from removing Petitioner from the Northern District of Texas, but that it would apparently cause the Government to offload Petitioner in Guam, then it appears that Petitioner should have filed in the District of Guam in the first place.

Petitioner's lack of supernatural foresight does not make Guam a place he could not have brought his petition.¹

The Government depends upon subterfuge to argue that the petition could not have been brought in Guam. Indeed, they appear to be arguing that this petition cannot have properly been brought at all. If so, it appears that they are admitting that the president and/or Congress has suspended the writ of habeas corpus, which gives rise to the federal court's jurisdiction to determine, at a minimum, whether the Suspension Clause was violated. V.L. clearly satisfies the jurisdictional critical factor test from *Eisentrager* that was extended with modifications in *Boumediene v. Bush*.

The basic issue here is that the words "could have been brought" is not fixed to the exact moment of filing. That reading would be arbitrary. Here, the Government chose to arrest and detain Petitioner in Oklahoma, then move him to Bluebonnet in the Western District of Texas, then to Prairieland in the Northern District, then put him in transfer to Bluebonnet again where his international flight appears to have taken off. His flight landed in Honolulu, and then Guam where he now resides. This means, for purposes of 28 U.S.C. § 1406(a) this action could have presumably been filed habeas corpus in the Northern District of Oklahoma, which is governed by the Tenth Circuit, the Western and Northern Districts of Texas, which are governed by the Fifth Circuit, the Districts of Hawaii and Guam, which are governed by the Ninth Circuit, or in the District of D.C., which is governed by the D.C. Circuit during the times he was on an international flight, in an airport. Under § 1406(a), the Court is authorized in the interest of justice to transfer venue to any of these districts, where, at one point, Petitioner's habeas corpus could have been brought. As the Government notes, venue is effective upon filing, which means as a matter of strategy Petitioner

¹ The only reason counsel for Petitioner became aware that Petitioner was in Guam was that he received a call from Petitioner in which Petitioner told counsel that Petitioner was separated from his proposed class and was then in Guam. The Government never opened up about its plans, and remains closed to counsel, which is in part what this suit was about—the Government's constitutional imperative to give notice and an opportunity to be heard. Petitioner's Counsel remains available to contact if the Government decides to start giving notice and an opportunity to be heard.

1 would need to have timed his filing appropriately, and the timing of now requires the
2 transfer to the District of Guam and no other.

3 The Government is correct that at the time of filing, Petitioner's venue was
4 proper and jurisdiction sound. At that time, Petitioner maintained confidence in the
5 Northern District to maintain its jurisdiction and venue through its powers asserted
6 through orders and injunctions. Petitioner's confidence was broken by Government's
7 actions in contravention of, if not the word then the spirit, of this Court's properly
8 issued order. ECF 2. The Order was properly issued even if the Government is correct
9 that these flights around the world to South Sudan, Djibouti, El Salvador, and
10 apparently Laos and elsewhere are "traditional" Title 8 removals. This is so, because
11 if Petitioner is given up to a nation that will likely kill him, detain him indefinitely, or
12 torture him, or if the Government devises other fates like death by firing squad,
13 marooning people on desert islands, or drowning them in the sea that it dares to call a
14 "removal" that *is* an illegal and unconstitutional non-removability issue that sounds in
15 this writ, here and now, and the Court should have and correctly did issue its order
16 when it did to review the Government's compliance with relevant laws including
17 whether its present definition of "removal" comports with the law. Even traditional
18 orders of removal regarding individuals with criminal histories are not licenses to
19 murder or maim, and the Government's apparent belief to the contrary fully
20 vindicates Justice Sotomayor's recent arguments about Trump's king-like behavior.
21 *Trump v. United States*, 603 U.S. 593, 685 (2024) (Sotomayor, J., dissenting) ("The
22 relationship between the President and the people he serves has shifted irrevocably.
23 In every use of official power, the President is now a king above the law."); *see also*
24 *id.* at 686–87 (Jackson, J., dissenting).

25 Moreover, the Government intentionally debilitated this District by destroying
26 jurisdiction in this case over the immediate custodian of Petitioner and several non-
27 immediate custodians by moving Petitioner to Guam. These custodians include
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1 Respondents Josh Johnson, Jimmy Johnson, and Marcello Villegas, who are no
2 longer relevant to this case. ECF 1. If an order was issued upon them under habeas
3 corpus it would be dead on arrival, impotent, and unable to accomplish the function
4 of the writ mandated by *Boumediene v. Bush*. *Boumediene v. Bush*, 553 U.S. 723,
5 786 (2008). If Petitioner does not file a suit with his instant and actual custodians,
6 that suit “shall” be immediately dismissed for lack of venue *and* jurisdiction. Had
7 Petitioner the foresight of God, regarding the practical effect of the order of the
8 Northern District of Texas and the actions of Respondents, then Guam would have
9 been the right venue to file and he could have poised himself in the right position to
10 file at the right moment. As it happens, human beings learn from experience—and
11 future similar cases may be raised first in Guam as the Government’s favored stop-
12 over point prior to removal. *Boumediene* actually appears to require the Government
13 to file the paperwork to transfer venue in such situations where it states: “If, in a
14 future case, a detainee files a habeas petition in another judicial district in which a
15 proper respondent can be served, *see Rumsfeld v. Padilla*, 542 U.S. 426, 435–36
16 (2004), the Government can move for change of venue to the court that will hear
17 these petitioners’ cases.” *Boumediene*, 553 U.S. at 796. In *Boumediene*, which
18 involved individuals detained in a foreign black site Guantanamo Bay, the court with
19 venue was “the United States District Court for the District of Columbia.” *Id.*

20 Again, the U.S. Supreme Court recently decided in a similar case as this one:
21 “[W]e hold that venue lies in the district of confinement.” *Trump v. J.G.G.*, 145
22 S. Ct. 1003, 1006 (2025); *see also Padilla*, 542 U.S. at 449–50; *cf. Boumediene*, 553
23 U.S. at 796. If the Government wanted to maintain venue in the Northern District of
24 Texas it should have kept Petitioner in the Northern District while this matter is
25 pending. The power to maintain or destroy venue was in the Government’s hands
26 and it intentionally did not.

