

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

Case No.: 25-cv-22671-GAYLES

JESUS M. RODRIGUEZ-DELGADO,

Petitioner,

v.

KRISTI NOEM, Secretary, Department of Homeland Security; TODD LYONS, Acting Director U.S. Immigration and Customs Enforcement (ICE) Department of Homeland Security; GARRETT J. RIPA, ICE Miami Field Office Director; ANGELICA ALFONSO-ROYALS, Acting Director, U.S. Citizenship and Immigration Services (USCIS) Department of Homeland Security; RUTH DOROCHOFF, USCIS District Director (District 10); SHELLY RANDALL, USCIS Field Office Director (Fort Myers, FL); and PAMELA BONDI, Attorney General of the United States, U.S. Department of Justice,

Respondents.

**RESPONDENTS' EXPEDITED MOTION FOR RECONSIDERATION OF
THE COURT'S ORDER STAYING REMOVAL**

Respondents, Kristi Noem, Secretary, Department of Homeland Security; Todd Lyons, Acting Director U.S. Immigration and Customs Enforcement ("ICE") Department of Homeland Security; Garrett J. Ripa, ICE Miami Field Office Director; Angelica Alfonso-Royals, Acting Director, U.S. Citizenship and Immigration Services ("USCIS") Department of Homeland Security; Ruth Dorochoff, USCIS District Director (District 10); Shelly Randall, USCIS Field Office Director (Fort Myers, FL); and Pamela Bondi, Attorney General of the United States, U.S. Department of Justice, (together, "Respondents"), by and through the undersigned Assistant

United States Attorney, and pursuant to Federal Rule of Civil Procedure 60(b)(4) and (6), hereby file their Motion for Reconsideration of the Court's Order Staying Removal (the "Order") (D.E. 4), and in support thereof, state as follows:

INTRODUCTION

Petitioner, Jesus M. Rodriguez-Delgado, filed his Petition for Writ of Habeas Corpus Under Title 28 U.S.C. § 2241 and Title 28 U.S.C. § 1983 (the Bivens Act), and Other Relief (Emergency-Noncitizen Detained for Removal from US) (the "Petition") (D.E. 1). In the Petition, Petitioner asserts, *inter alia*, that he has been unlawfully detained while he is subject to expedited removal proceedings. Pet. On June 13, 2025, the Court entered its Order. Order. Therein, the Court ordered as follows:

1. Petitioner's Removal shall be **STAYED** until Respondents respond to the Petition and the Court holds a hearing.
2. Respondents shall file a response to the Petition on or before June 23, 2025.
3. Respondents shall provide Petitioner with reasonable access to his attorneys.
4. Respondents and all their respective officers, agents, servants, employees, attorneys, and persons acting in concert or participation with them are immediately **ENJOINED** from deporting or removing Petitioner until further order of the Court.
5. Petitioner shall not be required to post a bond.
6. Th[e] Order is effective immediately and shall remain in effect through 11:59 p.m. on June 30, 2025.
7. The parties shall appear before this Court on June 30, 2025, at 1:30 p.m. (Eastern Time), before Judge Darrin P. Gayles at the Wilkie D. Ferguson Jr. U.S. Courthouse, 400 North Miami Avenue, Courtroom 11-1, Miami, Florida, to address the Petition.

Id. at 2.

Respondents respectfully request that the Court reconsiders its Order, as it lacks subject matter jurisdiction over the Petition because Petitioner was not detained in the Southern District of Florida when the Petition was filed. Accordingly, the Petition should be dismissed or, in the alternative, transferred to the District of Arizona.

FACTUAL AND PROCEDURAL BACKGROUND

1. On May 30, 2025, Petitioner was detained by ICE at Krome Service Processing Center (“Krome”) in Miami, Florida. Pet. at 6, ¶ 17; Declaration of Supervisory Detention and Deportation Officer (“DO”) Tobias Bencosme attached hereto as Exhibit “A,” at ¶ 3.
2. On June 1, 2025, Petitioner was transferred by ICE from Krome to a detention facility in El Paso, Texas. Decl. at ¶ 4.
3. On June 12, 2025, Petitioner was transferred by ICE from El Paso, Texas to a detention facility in Florence, Arizona by airplane. *Id.* at ¶ 5.
4. On June 12, 2025, at approximately 7:40 PM Mountain Standard Time (or 10:40 PM Eastern Standard Time), Petitioner arrived in Mesa, Arizona by airplane and was transported to the detention facility in Florence, Arizona. *Id.* at ¶ 6.
5. On June 12, 2025, at 11:00 PM, Petitioner filed his Petition. Pet.
6. Petitioner was in Arizona at the time of filing.

MEMORANDUM OF LAW

A. Standard of Review

Motions for reconsideration fall within the ambit of either Federal Rule of Civil Procedure 59 or 60. *See Region 8 Forest Serv. Timber Purchasers Council v. Alcock*, 993 F.2d 800, 805-806 (11th Cir. 1993). Rule 60(b) provides as follows:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b); *see also Am. Bankers Ins. Co. of Fla. v. Nw. Nat'l Ins. Co.*, 198 F.3d 1332, 1338 n.4 (11th Cir. 1999).

“Generally, a judgment is void under Rule 60(b)(4) ‘if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law.’” *Burke v. Smith*, 252 F.3d 1260, 1263 (11th Cir. 2001) (quoting *In re Edwards*, 962 F.2d 641, 644 (7th Cir. 1992)). “A judgment also is void for Rule 60(b)(4) purposes if the rendering court was powerless to enter it.” *Id.* (citing *Gschwind v. Cessna Aircraft Co.*, 232 F.3d 1342, 1346 (10th Cir. 2000)). Rule 60(b)(6) is a “catch all provision” and a “grand reservoir of equitable power to do justice in a particular case.” *Nisson v. Lundy*, 975 F.2d 802, 806 (11th Cir. 1992) (quoting *Compton v. Alton Steamship Co.*, 608 F.2d 96, 106-107 (4th Cir. 1979)). Under Rule 60(b)(6), the circumstances must be sufficiently extraordinary to warrant relief. *Cano v. Baker*, 435 F.3d 1337, 1342 (11th Cir. 2006).

B. The Court Lacks Subject Matter Jurisdiction Over the Petition¹

¹ There are additional bases for which the Court should deny the Petition; however, Respondents bring the lack of jurisdiction due to the location of Petitioner’s detention to the Court’s attention

Because Petitioner's claims for relief necessarily imply the invalidity of his confinement and removal under 8 U.S.C. § 1225(b), his claims fall within the "core" of the writ of habeas corpus and must be brought in habeas. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005 (2025) (quotation marks omitted).

Section 2441 allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2441(a). The Supreme Court has interpreted the "within their respective jurisdictions" language to mean that "jurisdiction lies in only one district: the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *J.G.G.*, 145 S. Ct. at 1005-006.

Petitioner has been outside of the Southern District of Florida since June 1, 2025—well before he filed his Petition. At the time the Petition was filed, Petitioner was within the territorial jurisdiction of the District of Arizona. As in *Padilla*, this is not a situation where the Petition was properly filed in the Southern District of Florida and Petitioner was subsequently moved beyond the territorial jurisdiction of the District. *See Padilla*, 542 U.S. at 441 (explaining *Ex parte Endo*, 323 U.S. 283, 306 (1944) and noting "when the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release"). The Southern District of Florida never acquired jurisdiction over the Petition.

Petitioner's ostensible claim under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), fails to save the day. Under *Bivens*, an individual may,

in light of the entry of the Order. Should the Court decline to reconsider its Order, Respondents reserve their right to file a response to the Petition detailing all bases for denial of the Petition.

in limited circumstances, recover money damages “against a federal agent who, while acting under the color of federal law, has violated the constitutional rights of [the] individual.” *Hardison v. Cohen*, 375 F.3d 1262, 1264 (11th Cir. 2004). As understood, Petitioner purports to assert a *Bivens* claim, but does not seek money damages, for “depriving [him] of his right to be free from detention” against ICE employees for placing him in expedited removal proceedings. Pet. at 9. Instead, the relief sought in the Petition relates to the core habeas claim, namely Petitioner’s release from detention. Indeed, the Eleventh Circuit has found that “*Bivens* does not extend to ‘claims arising from civil immigration apprehensions and detentions, other than those alleging unconstitutionally excessive force.’” *Alvarez v. U.S. Immigration & Customs Enforcement*, 818 F.3d 1194, 1207 (11th Cir. 2016) (quoting *De La Paz v. Coy*, 786 F.3d 367, 375 (5th Cir. 2015)).

The Immigration and Naturalization Act is an elaborate remedial system that has been constructed step by step, with careful attention to conflicting policy considerations. Indeed, Congress has provided for a host of review procedures tailored to the differently situated groups of aliens that may be present in the United States. The Act sets out numerous avenues for aliens to obtain review of ICE decisions by an immigration judge or federal court, as well as opportunities for aliens to seek discretionary relief. . . . Additionally, the Supreme Court has made it abundantly clear that a detained alien can seek a petition for a writ of habeas corpus to challenge his detention in the event that the statute’s review procedures are insufficiently protective. . . . Surely Congress was aware of the habeas rules it had crafted in 28 U.S.C. § 2241 when it repeatedly legislated in the area of immigration law. Moreover, we have previously held that the availability of habeas relief when paired with a detailed regulatory scheme constitutes a special factor counseling against recognizing a new *Bivens* cause of action. In fact, habeas corpus provides a litigant like [Petitioner] with the most speedy, direct, and powerful remedy from wrongful detention.

Id. at 1208-209 (internal citations and quotations omitted).

When a court finds that there is want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action to any other court in which the action could have been brought at the time it was filed. 28 U.S.C. § 1631. Numerous courts in this District have transferred habeas petitions to the proper district of confinement. *Diarra v. Dep’t of Homeland Sec.*, No. 1:21-CV-

24468-ROSENBERG, 2022 U.S. Dist. LEXIS 2013, at *1-2 (S.D. Fla. Jan. 5, 2022); *Deveaux v. Dep't of Homeland Sec.*, No. 20-CV-24746-WILLIAMS, 2020 U.S. Dist. LEXIS 225071, at *2 (S.D. Fla. Nov. 25, 2020); *Martinez v. Dep't of Homeland Sec.*, No. 1:20-cv-22688-KMM, 2020 U.S. Dist. LEXIS 136494, at *2 (S.D. Fla. July 30, 2020); *Garcia-Boyer v. Dep't of Homeland Sec.*, No. 18-24923-CIV-SCOLA, 2018 U.S. Dist. LEXIS 203380, at *1 (S.D. Fla. Nov. 29, 2018), *report and recommendation adopted*, 2018 U.S. Dist. LEXIS 215037 (S.D. Fla. Dec. 19, 2018). Therefore, in the interest of justice, the Petition should be dismissed or transferred to the District of Arizona.

This motion is designated as “expedited” under Local Rule 7.1(d)(2) of the Southern District of Florida because Respondents’ response to the Petition is due on or before June 23, 2025.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court reconsider its Order, vacate the Order upon reconsideration, and dismiss the Petition or, in the alternative, transfer the Petition to the District of Arizona.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3) for the Southern District of Florida, the undersigned certifies that she attempted to confer with Petitioner’s counsel, Steven Goldstein, via e-mail on June 17, 2025, but has been unable to ascertain his position to the instant motion. Previously, on June 13, 2025, the undersigned inquired as to whether Petitioner would seek to transfer the case to the District of Arizona. Petitioner’s counsel said, “This is not only a habeas petition. It is also a 42 USC 1983 action.”

Respectfully submitted,

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