

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

CASE NO. 25-cv-23037-MARTINEZ

SHAUN O'BRIAN COKE,

Petitioner

v.

E.K. CARLTON et al.

Respondents.

RESPONDENTS' RETURN AND MEMORANDUM OF LAW

Respondents, by and through the undersigned Assistant U.S. Attorney, hereby respond to the Court's Order to Show Cause (ECF No. 6). As set forth fully below, the Court should deny the "Petition for Writ of Habeas Corpus" (ECF No. 1) ("Petition").

I. BACKGROUND

Petitioner Shaun O'Brian Coke ("Petitioner") is a native and citizen of Jamaica. Declaration of Deportation Officer ("DO") Juan H. Martinez ("Declaration"), attached hereto as Exhibit "A," at ¶ 5. On June 03, 2015, U.S. Customs Border Protection (CBP) admitted the Petitioner at Fort Lauderdale, FL International Airport as a Conditional Resident (CR-1), Spouse of a U.S. citizen (USC). On May 1, 2017, the Petitioner filed a Petition to Remove Conditions on Residence (Form I-751) with the U.S. Citizenship & Immigration Services (USCIS). On April 14, 2020, USCIS denied Petitioner's Form I-751. On March 22, 2021, USCIS issued the Petitioner a Notice to Appear (NTA/Form I-862), and charging removability under section 237(a)(1)(D)(i) of

the of the Immigration and Nationality Act (INA), as an alien whose conditional permanent residence has been terminated. This NTA was never filed with the immigration court.

On April 04, 2025, ICE ERO Miami encountered the Petitioner at the Broward County Main Jail in Fort Lauderdale, Florida after being arrested on a warrant for a battery offense. On the same date, ICE ERO Miami lodged an immigration detainer (Form I-247) with the jail and issued the Petitioner an NTA charging him with removability under section 237(a)(1)(D)(i) of the INA, as an alien whose conditional permanent residence has been terminated. On April 9, 2025, Broward County Jail turned Petitioner's custody over to ICE ERO Miami, transporting him to the Krome SPC for detention pending his removal proceedings.

On April 12, 2025, ICE ERO Maimi filed Petitioner's NTA with the Executive Office for Immigration Review (EOIR), placing him in removal proceedings as per section 240 of the INA. On April 25, 2025, Petitioner attended his first master hearing in front of the Immigration Judge (IJ) at Krome SPC, where the IJ denied his bond request, finding that Petitioner is both a danger to the community and a flight risk. Petitioner is currently scheduled for a removal hearing on July 17, 2025.

On July 7, 2025, ICE ERO Miami transferred Petitioner to the FDC in Miami, Florida. Aliens detained at FDC Miami on behalf of ICE who are scheduled for immigration court appear remotely before the immigration judges via Video Teleconference/WebEx.

II. ARGUMENT

The Court should deny the Petition. The Petitioner asks this Court to order his transfer from the Miami Federal Detention Center to Krome and/ or enjoin his transfer outside of the District to allow him to appear for his scheduled removal hearing on July 17, 2025. (ECF No. 1 at p. 9).

A. **The Relief Petitioner Seeks is Not Available in a Habeas Proceeding.**

Petitioner's request for injunctive and declaratory relief is not available in a habeas proceeding because it is not subject to the Suspension Clause, U.S. Const. Art. 1, § 9, cl. 2. Caselaw makes explicitly clear that "the Suspension Clause is not implicated where [a] [p]etitioner is seeking injunctive relief." *Bumu v. Barr*, 2020 U.S. Dist. LEXIS 205380, *6 (W.D.N.Y. Nov. 3, 2020). The Supreme Court reaffirmed this principle in *Dep't. of Homeland Sec. v. Thuraissigiam* when it held that the Suspension Clause does not apply when a non-core habeas petition seeks relief beyond "simple release." 140 S. Ct. 1959 (2020). In *Thuraissigiam*, the respondent was seeking relief beyond the simple release contemplated by the common-law habeas writ. *Id.* Respondent in that case was seeking vacatur of his removal order and an order directing the agency to provide him with a new opportunity to apply for asylum and other relief from removal. *Id.* The Supreme Court held "habeas is at its core a remedy for unlawful executive detention" and that what this individual wanted was not "simple release" but an opportunity to remain lawfully in the United States. *Id.* (quoting *Munaf v. Geren*, 553 U.S. 674 (2008)). The court went on to note that "[c]laims so far outside the 'core' of habeas may not be pursued through habeas." *Id.* (internal citations omitted).

At least two courts of appeals have subsequently followed *Thuraissigiam* and found the

Suspension Clause inapplicable where petitioner sought something other than “simple release.” *See Gicharu v. Carr*, No. 19-1864, 2020 U.S. App. LEXIS 39536, at *5 (1st Cir. Dec. 16, 2020) (“the Suspension Clause is not implicated where, as here, the relief sought by the habeas petitioner is the opportunity to remain lawfully in the United States rather than the more traditional remedy of simple release from unlawful executive detention.”); *Huerta-Jimenez v. Wolf*, No. 19-55420, 2020 U.S. App. LEXIS 38237, at *1 (9th Cir. Dec. 8, 2020) (holding petitioner’s Suspension Clause argument failed under *Thuraissigiam* where “petitioner does not want simple release but, ultimately, the opportunity to remain lawfully in the United States” because such relief fell “outside the scope of the writ.”).

Here, Petitioner is clearly seeking something other than “simple release.” He is asking the Court to order that he be transferred back to Krome from the Miami Federal Detention Center and/ or enjoin his transfer outside of the District. (ECF No. 1 at p. 9). This relief falls squarely within the examples that the Supreme Court laid out in the *Thuraissigiam* decision, a request beyond simple release, to remain in the United States. The Supreme Court has clearly established that the Suspension Clause does not apply to such claims.

Accordingly, Plaintiff’s claim should be denied.

B. The Court Lacks Jurisdiction to Review Discretionary Decisions Regarding Where an Alien is to be Detained

In this matter, Petitioner requests the Court order that he be transferred back to Krome from the Miami Federal Detention Center and/or prevent his transfer outside of the Southern District of Florida until his removal proceedings have been completed. The Court lacks jurisdiction under 8 U.S.C. §1252(a)(2)(B)(ii) to enjoin Respondents from transferring Petitioner to another district.

§1252(a)(2)(B) states that “no court shall have jurisdiction to review any action of the Attorney General the authority for which is specified under this subchapter to be in the discretion of the Attorney General.” § 1252(a)(2)(B)(ii).

Specifically, 8 U.S.C. § 1231(g)(1) falls within the subchapter and states the “Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal.” 8 U.S.C. § 1231(g)(1). *See Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (“§ 1252(a)(2)(B)(ii) provides that no court has jurisdiction to review any decision or action the Attorney General has discretion to make ‘under this subchapter’ except for ‘the granting of relief under section 1158(a).’ ‘This subchapter,’ which is subchapter II of Chapter 12 of Title 8, covers §§ 1151-1378, including § 1231.”). “[T]he place of detention is left to the discretion of the Attorney General.” *Kapiamba v. Gonzalez*, No. 07-CV-335, 2007 WL 3346747, 2007 U.S. Dist. LEXIS 82767, *2-3 (W.D. Mich., Nov. 7, 2008) (citing, *Sinclair v. Attorney General of the United States*, 198 Fed. Appx. 218, 222 n. 3 (3rd Cir. 2006) (listing cases). *See also, Marogi v. Jenifer*, 126 F. Supp. 2d 1056, 1066 (E.D. Mich. 2000) (“Congress has placed the responsibility for determining where aliens are to be detained within the sound discretion of the Attorney General”). *Vasquez-Ramos v. Barr*, No. 20-CV-6206-FPG, 2020 U.S. Dist. LEXIS 266756, 2020 WL 13554810, at *4 (W.D.N.Y. June 26, 2020) (citing, *Salazar v. Dubois*, No. 17-CV-2186 (RLE), 2017 U.S. Dist. LEXIS 146957, 2017 WL 4045304, at *1 (S.D.N.Y. Sept. 11, 2017) (discretion referred to in § 1252(a)(2)(B)(ii) “encompasses the Attorney General’s authority to ‘arrange for appropriate places of detention for aliens detained pending removal or a decision on removal.’”)

III. CONCLUSION

For the reasons set forth above, the Court should deny the Petition.

Respectfully submitted,

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