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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE NEFTALI ALEGRIA PALMA,

Petitioner-Plaintiff,

v.

POLLY KAISER et al,¹

Respondents-Defendants.

CASE NO. 1:25-CV-02088-DJC-SCR

MOTION TO DISMISS FOR LACK OF
JURISDICTION OR, ALTERNATIVELY, TO
TRANSFER TO DISTRICT OF CONFINEMENT

Hereby, Respondents move to dismiss without prejudice, or to transfer, the underlying petition and associated motion for temporary restraining order (TRO) filed under 28 U.S.C. § 2241 and 28 U.S.C. § 1651(a).² ECF 1, 3. By his petition and TRO motion, Petitioner demands orders of declaratory and injunctive relief. However, as a threshold matter, this Court has no jurisdiction over Petitioner,

¹ Respondents also move to strike and to dismiss all unlawfully named officials under 28 U.S.C. § 2241 and 28 U.S.C. § 1651(a). A petitioner seeking “core” habeas corpus relief is limited to name only the officer having custody of him as the respondent to the petition. *Riego v. Current or Acting Field Office Director*, Slip Op., no. 1:24-cv-1162-SKO-HC, 2024 WL 4384220, (E.D. Cal. Oct. 3, 2024) (ordering § 2241 petitioner, an alien, to file a motion to amend his petition to “name a proper respondent” and setting forth that “[f]ailure to amend the petition and state a proper respondent will result in dismissal of the petition for lack of jurisdiction”); *see also* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024); *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996). Petitioner’s immediate custodian is the facility administrator of the Otay Mesa Detention Center located in San Diego, California.

² In submitting this filing, Respondents do not waive, and specifically preserve, any defenses related to service of process and jurisdiction.

Petitioner's immediate custodian, or otherwise to issue the relief demanded. Indeed, Petitioner is not confined in the Eastern District of California, and he was not confined in this district at the time his petition and TRO motion were filed.

BACKGROUND

Petitioner is an alien, whose country of origin is Nicaragua. In December of 2021, he was placed in removal proceedings after being detained by ICE and charged with removability based on entry without admission or parole after inspection by an immigration officer. ECF 1 at 6. As a condition of his release, Petitioner was enrolled into the alternative detention program ISAP, where he was required to complete a photo "check-in" from his Stockton, CA residence once a month. *Id.* Petitioner is an applicant for Asylum, with an individual merits hearing scheduled for July 7, 2027, before Immigration Judge Roberta Wilson at the Concord Immigration Court. *Id.* at 7.

In April of 2025, Petitioner failed to complete this photo check in. *Id.* On April 21, 2025, Petitioner was fitted with a GPS ankle monitor because of his failure to complete his photo check in. *Id.* On July 26, 2025, Petitioner was detained by ICE. Exhibit 1 (Declaration) at 2. Petitioner was taken to the Stockton, California ERO Office and then transferred to an ICE facility in Bakersfield, California. *Id.* The Stockton ERO Office and the Bakersfield ICE facility are located in the Eastern District of California. On July 27, 2025, Petitioner departed the Eastern District of California and was transferred to the Otay Mesa Detention Center in San Diego, California. *Id.* Specifically, Petitioner was booked into the Otay Mesa Detention Center in San Diego, California at approximately 5:30 a.m. Pacific Standard Time ("PST"). *Id.* Petitioner is still detained at the Otay Mesa Detention Center. *Id.* The Otay Mesa Detention Center is located in the Southern District of California.

On July 27, 2025 at 9:23 a.m. PST, Petitioner's counsel Anuar Ramirez-Medina filed the underlying petition, ECF 1. Exhibit 2 (Email). On July 28, 2025, this Court filed a minute order setting a briefing schedule and motion hearing. ECF 5.

ARGUMENT

As a threshold matter, this Court must assess its habeas jurisdiction "before proceeding to any other issue." *Hernandez v. Campbell*, 204 F.3d 861, 865 (9th Cir. 2000). Indeed, a federal district court generally is barred from entertaining an action over which it has no jurisdiction. *Id.* Also, as a matter of

1 well-established federal law, a district court is without jurisdiction over habeas claims concerning
2 petitioners and custodians outside the judicial district. *Doe*, 109 F.4th at 1197–99. This is true in part
3 because a district court proceeding under habeas without jurisdiction cannot provide relief. *Id.*; *see also*
4 *Brown v. United States*, 610 F.2d 672, 677 (9th Cir. 1990).

5 Recently, in *Trump v. J.G.G.*, the Supreme Court made clear that habeas claims, such as the ones
6 advanced by Petitioner, *see generally* ECF 1, 4, sound exclusively in habeas, and that jurisdiction over
7 them lies solely in the district of confinement. *Trump v. J.G.G.*, no. 24A931, 604 U.S. ___, 2025 WL
8 1024097, at *1 (U.S. Apr. 7, 2025) (per curiam). There, the putative class of detained Venezuelan
9 nationals initially pursued habeas relief, declaratory relief, and injunctive relief in the district court for
10 the District of Columbia, but eventually dismissed their habeas claims in favor of their other claims. *Id.*
11 They secured TROs “preventing any removal of the named plaintiffs and preventing removal under the
12 AEA of a provisionally certified class consisting of ‘[a]ll noncitizens in U.S. custody who are subject to’
13 the Proclamation.” *Id.* The Supreme Court vacated TRO motions granted by a district court on
14 jurisdictional grounds. *Id.* It held that the petitioners’ claims, which necessarily imply the invalidity of
15 their confinement and removal, “fall within the ‘core’ of the writ of habeas corpus and must be brought
16 in habeas.” *Id.* (citations omitted). In turn, jurisdiction over such a core habeas petition “lies in only
17 one district: the district of confinement.” *Id.* at *2 (citation and quotation marks omitted); *see also Doe*,
18 109 F.4th at 1197–99 (vacating grant of habeas relief where detained immigrant filed petition in judicial
19 district other than the district of confinement).

20 As an initial matter, there can be no dispute that, following *J.G.G.*, Petitioner’s claims attacking
21 his potential removal under the AEA fall within the core of habeas and sound exclusively in habeas.
22 Here, however, Petitioner was residing in the Southern District of California at the time he filed the
23 underlying action. Exhibit 1, 2. . Thus, this Court has no jurisdiction over Petitioner, has no jurisdiction
24 over Petitioner’s present custodian, and importantly, this Court lacks jurisdiction to provide a remedy.
25 *J.G.G.*, 2025 WL 1024097, at *1–*2; *see also Padilla*, 542 U.S. at 443 (the general rule for core habeas
26 petitions is that jurisdiction lies only in the district of confinement); *Khalil v. Joyce*, ___ F. Supp. 3d
27 ___, no. 25-cv-1935 (JMF), 2025 WL 849803, at *2 (S.D.N.Y Mar. 19, 2025) (rejecting counsel for
28 petitioner’s guess as to proper district court-of-custody filing as a basis for habeas jurisdiction).

1 Alternatively, this Court may transfer the instant matter to the Southern District of California.
2 *Hernandez*, 204 F.3d at 865 (recognizing that 28 U.S.C. § 1631 governs the transfer of civil habeas
3 actions to cure jurisdictional defects); *see* 28 U.S.C. § 1631 (“Whenever a civil action is filed in a court .
4 . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice,
5 transfer such action or appeal to any other such court . . . in which the action or appeal could have been
6 brought at the time it was filed or noticed . . .”).

7 Further, following 28 U.S.C. § 1406(a), while arguably limited to venue, “[t]he district court of a
8 district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in
9 the interest of justice, transfer such case to any district or division in which it could have been brought.”
10 *See e.g., Singh v. Wolf*, no. CV-20-1169-PHX-SPL (JFM), 2020 WL 8083631 (D. Ariz. Dec. 16, 2020),
11 *report and recommendation adopted in* 2021 WL 101042 (D. Ariz. Jan. 12, 2021) (in habeas
12 proceedings collateral to removal proceedings, as in this case, the Arizona district court where petitioner
13 was initially held granted the government’s motion to transfer to the Southern District of Mississippi
14 where petitioner was in fact detained upon initiation of his collateral habeas proceeding); *accord*
15 *Goldlawr, Inc. v. Heiman*, 369 U.S. 463, 466 (1962) (the Supreme Court holding that a defect in venue
16 could be solved by transfer under this provision “whether the court in which it was filed had personal
17 jurisdiction over the defendants or not”).

18 Here, dismissal is warranted because this Court does not have personal jurisdiction over the
19 Petitioner or his custodian, and without such jurisdiction, this Court lacks the authority to direct the
20 actions of the restraining authority. *J.G.G.*, 2025 WL 1024097, at *1–*2; *Doe*, 109 F.4th at 1197–99;
21 *Malone v. Calderon*, 165 F.3d 1234, 1237 (9th Cir. 1999). At least, the underlying petition and TRO
22 motion are constitutionally infirm through lack of standing. *Lujan v. Defenders of Wildlife*, 504 U.S.
23 555, 560–61 (1992) (a litigant, to establish standing, must show he suffered an injury in fact that is
24 “concrete and particularized,” can be fairly traced to the opposing party’s action, and can be redressed
25 by a favorable decision of the court); *see also Warth v. Seldin*, 422 U.S. 490, 498 (1975) (standing is
26 absent when the named litigants are not “entitled to have the court decide the merits of the dispute”).

27 In either event (transfer or dismissal), this Court must deny Petitioner’s motion for a TRO as
28 moot because it lacks the authority to preserve the status quo of an action over which it lacks

jurisdiction.

CONCLUSION

For the foregoing reasons, the Court should either dismiss the petition and complaint without prejudice, or, alternatively, transfer Petitioner's petition and complaint to the U.S. District Court for the Southern District of California. It should also deny Petitioner's motion for a TRO as moot.

Dated: July 29, 2025

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