UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

David BUCKINGHAM, *Petitioner.* **v.** JOHN TSOUKARIS, *et. al.,* *Respondents*	HON. ESTHER SALAS Civil Action No. 25-14601 (ES)

PLAINTIFF'S MEMORANDUM OF LAW
IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR TRANSFER

INTRODUCTION

The government moves to dismiss or transfer David Buckingham's habeas petition by characterizing it as a straightforward case in which this Court is devoid of jurisdiction due to the "simple rule" of the immediate custodian plus the district of confinement. However, it is not.

The continued detention and transfer of David Buckingham, a lawful permanent resident, is unique in that he managed to call his wife just before the phones at the Elizabeth detention center cut off at 11 p.m. Eastern Time, he was forced to spend 7-8 hours in a processing room at the Elizabeth detention center without access to counsel or the ability to make phone calls, and then transferred to four different states between two different time zones in the span of roughly twenty hours.

Mr. Buckingham's attorney filed a habeas petition on his behalf in this District at 4:43 p.m. Eastern Time. At that point, based on the information contained in the official ICE online detainee locator, it was represented that Mr. Buckingham was being detained at the Elizabeth Contract Detention Facility in Elizabeth, New Jersey. That is where the ICE detainee locator continued to state he was being held until the following day. Even by the government's own argument, their logic collapses —because, as they state, when Mr. Buckingham's plane touched down in Louisiana at 3:55 p.m. Central Time, it was in fact 4:55 p.m. Eastern Time. In other words, at the moment his habeas petition was filed at 4:43 p.m. Eastern Time, Mr. Buckingham was still in transit and jurisdiction properly vested with this Court. Based on the law and principles that there is no gap in the fabric of habeas, neither dismissal or transfer is available or warranted in this case, and the Court should deny Respondents' motion.

FACTUAL BACKGROUND

Petitioner, David Buckingham, is a native and citizen of the United Kingdom and became a lawful permanent resident on April 3, 2019. Exh. 1, Decl. of Petitioner at ¶ 1. Prior to his arrest and detention, Mr. Buckingham was working as dispatcher at Elizabethtown Gas. *Id.* at ¶ 31. He is married to a U.S. citizen, with whom he has one child, Eliza, and one stepchild, Zachary. *Id.* at ¶ 32. Mr. Buckingham has now been separated from his family for almost a month due to his current detention. This has caused his family harm, as Mr. David Buckingham has lost his job and is unable to financially assist his family. *Id.* at ¶ 31. The family was set to close on a home on August 15, however, due to the detention, they could no longer move forward. *Id.* Further, the children, both of whom suffer from an anxiety disorder, have suffered the most. In Mr. David Buckingham's absence, Zachary is not able to attend therapy for his torn ligament because his Petitioner is not there to take him. *Id.* at ¶ 32. He will also miss their first day of school and Zachary's 16th birthday. *Id.*

ICE's Decision Not to Proceed and Travel Authorization

On August 2, 2023, the Federal Bureau of Prisons sent the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations (ERO), a Detainer Action Letter concerning Mr. Buckingham. *See* Exh 8. On August 28, 2023, ICE's Supervisory Detention and Deportation Officer confirmed that the Office of the Principal Legal Advisor (OPLA) had reviewed Mr. Buckingham's file and determined that his conviction did not warrant "initiation of removal proceedings." *Id.* ICE communicated that no further action would be taken. *Id.*

Relying on this determination, Mr. Buckingham sought and received permission from his probation officer and the supervising probation office to travel internationally to visit a

sick family member. *See* Exh.7. On June 10, 2025, his probation officer approved travel to Headcorn, United Kingdom, and the U.S. District Court authorized the travel the following day. *Id.* Mr. Buckingham traveled to the United Kingdom with his eight-year-old daughter, Eliza, without incident.

Mr. Buckingham's Arrest and Detention

Despite ICE's initial determination not to pursue removal proceedings, upon return to the United States and arrival to the Newark International Airport on August 6, 2025, Customs and Border Protection ("CBP") officers were "specifically waiting" for him as he disembarked the aircraft. *See* Exh. 1, Decl.of Petitioner at ¶ 1. When Mr. Buckingham asked why he and his eight-year-old daughter were being escorted to secondary, he was told that "something in his paperwork did not match."

Mr. David Buckingham was held in secondary inspection for about 48 hours with minimal food and without access to proper medical needs, including contact lenses or glasses he requires to see clearly. Decl.of Petitioner at ¶ 11. He was denied access to his wife and not provided any written notice of the basis for his detention, the charges, or the commencement of removal proceedings until August 8, 2025. *Id.* at ¶ 12. Mr. David Buckingham affirms that while he was held in custody at the airport, he was not given any documentation to sign until August 8, the day he departed for the Elizabeth Center. *Id.* Notably, he also states that the officer who witnessed and served the Notice to Appear on him was not CBP Officer Miller, as is stated on the Notice to Appear. *Id.*

Detention in Elizabeth, New Jersey

On August 8, 2025, ICE transferred Mr. David Buckingham to the Elizabeth Detention Center in New Jersey. *Id.* at ¶ 12. He was booked the following day. *Id.* Counsel promptly entered an appearance and requested bond. *See* Exh. 2 Decl. of Jayson DiMaria. A bond hearing was scheduled for August 21, 2025, and a removal hearing was calendared for August 26, 2025, both to be held before the Elizabeth Immigration Court. The Notice to Appear (both versions) is consistent in that it lists the Elizabeth Immigration Court.

When Mr. Buckingham's transfer from the Elizabeth detention center began on August 13, it prevented his access to counsel. On August 20, 2025, the government filed a Notice to Appear dated August 6, 2025. Exh. 4. This NTA was not signed by Mr. David Buckingham. While the bond hearing continued, off the record as is the practice for bond proceedings, Mr. Buckingham was not produced. *See* DiMaria Decl. ¶ 15. Although Mr. Buckingham's attorney wanted to proceed, the immigration judge indicated that it could not go forward without him. DiMaria Decl. *Id.* Mr. David Buckingham's attorney was prevented from making any arguments about the defects of the Notice to Appear that could have led to a dismissal in this case. *Id.*

During this period at the Newark airport or at the Elizabeth detention center, no individualized parole assessment was conducted in accordance with applicable DHS directives.

Transfer to Mississippi

On August 12, 2025, Mr. Buckingham learned from a Core Civic officer that he was to be transferred in the middle of the night. Exh. 1, Decl of Petitioner at ¶ 18. He knew that the phones in the Elizabeth facility would cut off at 11:00 p.m[1]., and he quickly managed to call his wife to tell him that he believed he would be transferred to Adams County, Mississippi. *Id.* He however,

[1] All time zones are mentioned in Eastern Time unless specifically mentioned.

was not transferred that night. Instead, he went back to his dorm room and at approximately 1:30 a.m. on August 13, 2025, Core Civic staff escorted him out of his dorm and to a processing room. *Id.* at ¶ 19. He was held there for seven to eight hours without phone access before being transported to Newark Airport at around 9:45 a.m. *Id.* at ¶ 20.

ICE placed Mr. David Buckingham on a charter flight in New Jersey with approximately ten ICE officers at around 10:40 a.m. *Id.* at ¶ 19. The flight stopped in Richmond, Virginia, where detainees boarded, but Mr. Buckingham never disembarked. *Id* at ¶ 23. Mr. David Buckingham was never processed into an ICE facility and remained aboard the aircraft on the tarmac. *Id.* After departing Richmond, the flight continued to the Alexandria Staging Facility (ASF) in Alexandria, Louisiana, where it landed, by the government's count, at approximately 3:55 p.m. Central Time (which is 4:55 p.m. Eastern). At that exact time, Mr. Buckingham's habeas petition had already been filed in this District (4:43 p.m. Eastern Time). Mr. David Buckingham remained in flight aboard the aircraft during the critical jurisdictional window.

At the ASF, Mr. Buckingham was forced to remain shackled overnight without access to a phone to contact his attorney or family. *Id.* at ¶ 24. On August 14, 2025, he was transported by bus to the Adams County Detention Center in Mississippi, where he was booked later that day. *Id.* at ¶ 26.

Removal Proceedings and Contradictory ICE filings

On August 23, 2025, about ten days after the filing of the instant Habeas petition, ICE filed a Form I-830, Notice to EOIR, indicating that Mr. Buckingham would be released from custody under an Order of Supervision. ECF 12-5. When Mr. David Buckingham's immigration lawyer reached out to ERO to inquire whether he would be released, ICE officer Callaway stated that he wasn't able to explain how this Order of Supervision was written out and uploaded into the immigration court's filing system. DiMaria Decl. at ¶ 18. Further, ICE stated that it would not be

releasing Mr. David Buckingham. *Id.* ICE did not honor its own filing stating that it would release the Petitioner, nor did it ever assess the Petitioner for an individualized parole.

ARGUMENT

Venue is proper in the District Court of New Jersey, and this Court has jurisdiction over the Petitioner's habeas petition and complaint. For a court to entertain a habeas petition, usually the petition must be filed in the district of confinement and name his immediate custodian. *Rumsfeld v. Padilla,* 542 U.S. 426, 434-35 (2004); *Anariba v. Dir. Hudson Cnty. Corr. Ctr.* 17 F.4th 434, 444 (3d Cir. 2021); see also 28 U.S.C. § 2242. However, a critical exception to the default habeas jurisdictional rules in *Rumsfeld v. Padilla,* 542 U.S. 426 (2004) was articulated when the default rule would prevent the petitioner's lawyer from accessing their whereabouts to exercise the petition right. *Padilla,* U.S. at 454 (Kennedy, J., concurring)(In addition, I would acknowledge an exception if there is an indication that the Government's purpose in removing a prisoner were to make it difficult for his lawyer to know where the habeas petition should be filed..."). It cannot be that the government wields the insurmountable authority to take a person into custody, deliberately sever contact with counsel, family, and friends, to conceal his transfer across state lines and time zones, and thereby circumvent his ability to maintain a properly filed habeas petition.

Courts, including this District, have recognized exceptions to the default rule in extreme cases. As the Third Circuit explained, "[w]hen continuous transfer permeates the reality of ICE detention, it suggests that the Government has the machinery already in place to permit extensive forum shopping." *Anariba v. Hudson County Correctional Center*, 17 F.4th 434, 448 (3d Cir. 2021). Those exceptions are present here: Mr. Buckingham was held in a processing room from 1:30 a.m. until after 9:45 a.m. at the Elizabeth Detention Center; denied the ability to communicate

with his lawyer, friends, or family; transferred by bus and plane through Richmond, Virginia, the Alexandria Staging Center in Louisiana, and ultimately to Adams County Correctional Center in Natchez, Mississippi the following day. Critically, his habeas petition was filed in this Court at 4:43 p.m. Eastern Time—3:43 p.m. Central—while he was still in transit and under ICE Newark's custody.

I. This District Has Jurisdiction to Hear Mr. Buckingham's Habeas Claims

In *Padilla*, the Supreme Court set out the "default rule" in habeas cases, which are derived from the terms of the habeas statute and serve the purpose of preventing forum shopping by petitioners. Those rules provide "that the proper respondent is the warden of the facility where the prisoner is being held" at the time the petition was filed, and that the petition must be filed in the petitioner's district of confinement. 542 U.S. at 436-36.

Courts have consistently recognized that a prisoner in transit is still confined within the custody of the transferring district until formally delivered to the receiving facility. See *Griffin v. Ebbert*, 751 F.3d 288, 290 (3d Cir. 2014) ("jurisdiction is determined at the time the habeas petition is filed, and subsequent transfers do not divest the court of jurisdiction"); *Santillanes v. U.S. Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985) (filing in original district proper even though prisoner was transferred the same day); *United States v. Plain*, 748 F.2d 620, 621 n.3 (11th Cir. 1984) (jurisdiction attaches when the petition is filed, notwithstanding later transfer).

Applied here, when Mr. Buckingham's habeas petition was filed at 4:43 p.m.[2] Eastern Time, he was still airborne under ICE Newark's chain of custody and not yet booked into Louisiana. Once the plane landed, the Petitioner remained on the tarmac for another 45 minutes. Decl. of

[2] Although the government states that the Petitioner landed in Louisiana at 3:55 p.m., it interchanges Central Time and Eastern Time. The Petitioner landed at 3:55 p.m. Central Time, which is 4:55 p.m. Eastern Time.

Petitioner at ¶ 24. The ICE locator continued to show that Mr. Buckingham was detained in the Elizabeth Detention Center in New Jersey. That night, Mr. Buckingham remained shackled and was forced to sleep in a waiting area until a bus arrived the next morning, August 14, and he was driven to the Adams Correctional Center in Mississippi. *Id.*

Further, the facts here take this case to an extreme where the government has transferred the Petitioner with such consistency and through time zones to evade jurisdiction over Mr. Buckingham's § 2241 claims. Nothing prevents the government from flying a detainee across the country, gaining or losing hours with each transfer, and then invoking those time shifts to argue that a properly filed habeas petition is untimely or misfiled. Habeas rights cannot turn on the government's ability to manipulate geography and clocks. *See Ozturk v. Hyde,* 136 F.4th 382, 392 (2d Cir. 2025)(a detainee would be unable to file a habeas petition at all, anywhere."); Khalil v. Joyce, No. 25-01963, 2025 WL 972959 at *37(D.N.J. Apr. 1, 2025)(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.").

A. Venue is Proper in this District Because the Immediate Custodian at the Time of the Filing of the Habeas Petition Was and Remains Unknown

Even if the government were correct that Mr. Buckingham's "district of confinement" shifted the moment his plane crossed into Louisiana airspace, this Court would still retain jurisdiction under the "unknown custodian" exception. As the District of New Jersey recently explained in *Muñoz-Saucedo v. Pittman*, No. 1:25-cv-02258, slip op. at *__ (D.N.J. June 24, 2025), habeas jurisdiction cannot be extinguished simply because the government's transfer machinery places a detainee in transit, cuts off communication, and prevents counsel from knowing where he is being held. Strict application of the immediate custodian rule in Mr. Buckingham's case is inapplicable and unworkable.

At the time Mr. Buckingham filed his habeas petition, his lawyers reasonably believed that he was still in Newark, New Jersey. Despite being the attorney of record for Mr. Buckingham since August 13, Mr. Jayson DiMaria was not informed that Mr. Buckingham was being transferred. DiMaria Decl. at ¶ 10-11. In fact, Mr. Buckingham's immigration lawyer did not receive a Detainee Transfer notification on the ERO E-file system until August 18, 2025. *Id.* at ¶ 11. Similarly, the immigration court, where Mr. Buckingham had a pending bond and removal hearing set, was not notified of his transfer until August 24, 2025. ECF 12-5. And Mr. Buckingham was prevented by the government from providing any information to the contrary until well after the petition was already filed, both because the government's agents failed to inform him where he was or where he was going, and also because they did not permit him any means of contacting his legal counsel. David Buckingham Decl. at ¶¶ 18-25. Nor was his location ascertainable through the ICE online detainee locator, in which Mr. Buckingham's location in Elizabeth, New Jersey, did not change until August 14, a day after the filing of the petition to reflect he was in Louisiana. ECF 7-1. That Mr. Buckingham's attorneys acted swiftly to file a petition challenging his detention in the only place they could reasonably file it is sufficient by itself for this District to apply the unknown custodian exception.[3]

But here, not only did Mr. David Buckingham's lawyers have no way to know where he was at the time they filed his petition, but his immediate custodian at the time of the petition's filing, if not one of the named Respondents, remains unknown today. In the government's answer, Respondents fail to address relevant questions as to the timing of Mr. Buckingham's movements in the hours around the time his petition was filed, and whether he had an immediate custodian at the Alexandria Staging Facility, a private for-profit facility run by The GEO Group, who could

[3] Mr. David Buckingham's original and amended petitions named both his last known custodian and his ultimate custodian, the Secretary of the Department of Homeland Security.

have been named as a respondent. Instead, the Respondents summarily conclude that "...all parties agree that he was in the Western District of Louisiana." ECF 12. The government fails to address how Mr. Buckingham, who was still in transit at the time the habeas was filed, so clearly falls within the Western District of confinement, and not this Court's jurisdiction.

The government relies on a declaration from the Supervisory Detention and Deportation Officer ("SDDO") Alexander Cabezas. *See* ECF 12-1. However, SDDO Cabezas fails to establish that Mr. Buckingham's immediate custodian was anyone other than the named Respondents. Notably, the declaration is silent on key facts that should be disclosed in order for the government to establish who Mr. Buckingham's immediate custodian would have been. For example, the declaration fails to provide any precise time for which the government alleges that Mr. Buckingham's custody was transferred out of ICE-Newark's area of responsibility, and who would have been the custodian at the time. Mr. Buckingham's destination, and the district of ultimate confinement, was to be the Adams County Correctional Center in Natchez, Mississippi, to which Mr. Buckingham did not arrive until August 14, and the ICE locator system did not display until August 15. *See* ECF 12-1. According to Mr. Buckingham, he was not processed or booked at the Alexandria Staging Center in Louisiana until several hours after his plane landed, which accounts for when the location appeared in the ICE detainee locator. These omissions by Mr. Cabezas and the timeline described by Mr. Buckingham lead to an inference that Mr. Buckingham was not in fact in the custody of the Alexandria Staging Center in Louisiana at the time his habeas petition was filed. *See Grayson v. Anderson*, 816 F.3d at

268 (in ruling on motion to dismiss without an evidentiary hearing, courts are required to draw inferences in the light most favorable to the plaintiff).

In cases where "it is impossible to apply the immediate custodian and district of confinement rules" because "a prisoner is held in an undisclosed location by an unknown custodian," those

rules do not apply. *Padilla, 542 U.S. at 450, n.18(citing Demjanjuk v. Meese, 784 F.2d 1114 (D.C. Cir. 1986); see also 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 cases like Mr. David Buckingham, the writ can properly be served on an "ultimate custodian" with the power to release the prisoner. *See Moussaoui,* 382 F.3d at 464, 64(holding that if the immediate custodian is unknown, the habeas petition can name the "ultimate custodian" with the authority to release the prisoner). Padilla, 542 U.S. at 439 (explaining that the "identification of the person exercising legal control only comes into play when there is no immediate physical custodian with respect to the challenged 'custody'"); see also Ming Hui Lu v. Lynch, No. 1:15-cv-1100, 2015 WL 8482748, at *3 (E.D. Va. Dec. 7, 2015) (recognizing that if an immediate custodian is unknown, the habeas can name an ultimate custodian with power to release); Khalil II, 2025 WL 972959, at *26(allowing petitioner to name Secretary of Homeland Security when immediate custodian was unknown); United States v. Paracha, No. 03 CR. 1197 (SHS), 2006 WL 12768, at *6 (S.D.N.Y. Jan. 3, 2006), aff'd, 313 F. App'x 347 (2d Cir. 2008); 28 U.S.C. § 2242 (at the pleading stage, requiring the naming of a petitioner's warden "if known").

B. Even If Mr. David Buckingham Were Physically Located at the ASF At the Time of Filing, the Appropriate Respondent is the Ultimate Custodian.

The Alexandria Staging Facility in Louisiana is a "72-hour holding facility" run by The GEO Group, Inc. under contract with ICE. Respondents fail to identify the person in charge of this privately-run facility, and offer no evidence or suggestion that such person, who is not an employee of the federal government, would have the authority to execute any relief granted by this Court without additional instruction provided by a supervisory government official. In similar cases, courts have found that the immediate custodian rule does not apply, and it is therefore appropriate to name as respondent the Secretary of the Department of Homeland Security and the Attorney

General, as Petitioner has done here. *See*, e.g., *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 724–25 (D.Md. 2016) ("The DHS Secretary possesses statutory authority to affect the detention and removal of noncitizen detainees, and thus, possesses legal authority over Mr. Jarpa. Likewise, the Attorney General possesses complete statutory authority to detain noncitizens, remove convicted noncitizens, and grant or deny any discretionary relief." (citations omitted)); *Calderon v. Sessions*, 330 F. Supp. 3d 944, 952 (S.D.N.Y. 2018) ("[T]he detention facility here is merely providing service to ICE . . . ICE, and only ICE, may authorize release of any detainee."); *Santos v. Smith*, 260 F. Supp. 3d 598, 607–08 (W.D. Va. 2017) (holding that the Director of the Office of Refugee Resettlement is a proper respondent in habeas action challenging minor's continued detention in a contract facility); *Saravia v. Sessions*, 280 F.Supp. 3d 1168, 1185 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Instead of naming the individual in charge of the contract facility—who may be a county official or an employee of a private nonprofit organization—a petitioner held in federal detention in a non-federal facility pursuant to a contract should sue the federal official most directly responsible for overseeing that contract facility when seeking a habeas writ.").

Mr. David Buckingham named the Secretary of Homeland Security and the Attorney General as Respondents in this action, both of whom had the ultimate legal authority over the Petitioner's detention with the power to release him from the ASF, and effectuate any relief granted by this Court. Accordingly, they are the appropriate respondents to any habeas petition that Mr. Buckingham would have filed from the ASF. Because this Court can exercise personal jurisdiction over those officials, it need not dismiss or transfer this petition to any other court.

II. At a minimum, Petitioner Should be Entitled to Discovery on These Issues

The Petitioner argues that the existing factual record and allegations set forth herein, taken in the light most favorable to plaintiff, establish far more than a prima facie showing that

Mr. Buckingham's petition and complaint should remain before this Court. To the extent that the Court is not persuaded, the Petitioner further argues that it should allow Petitioner to conduct limited and expedited jurisdictional discovery before deciding that dismissal or transfer is appropriate. *See Grayson*, 816 F.3d. at 268-69 (noting that where a court requires a plaintiff to establish facts supporting personal jurisdiction by a preponderance of the evidence prior to trial, it must conduct an evidentiary hearing affording the parties a fair opportunity to present relevant evidence and legal arguments, and has broad discretion to receive live testimony or other evidence in the form of depositions, interrogatory answers, admissions, or other appropriate forms).

Respondents rely on two exhibits to support their assertion that "all parties agree that [Petitioner] was in the Western District of Louisiana." ECF 12 at 7. Respondents included a declaration of SDDO Alexander Cabezas (ECF 12-1) and the Notice of Electronic Filing for the Petition for Writ of Habeas Corpus. ECF 12-3.

The declaration appears to be based on hearsay and is too vague to assess its reliability. While Mr. Alexander Cabezas recites that his declaration rests on "professional and personal knowledge, information obtained from other ICE employees, and information obtained from various records and system maintained and accessed by ICE" (ECF 12-1) he does not specify which statements fall into which. Mr. Alexander Cabezas does not identify which facts he personally observed, which were drawn from contemporaneous records he maintains in the ordinary course, which he reviewed solely for litigation purposes, or which were relayed by other ICE employees. Such vagueness prevents the Court from assessing reliability and renders the declaration inadmissible. See *Greiner v. Wells*, 417 F.3d 305, 325–26 (2d Cir. 2005), cert. denied, 546 U.S. 1184 (2006) (excluding hearsay in habeas case); *Herrera v. Collins*, 506 U.S.

390, 417–18 (1993) (hearsay affidavits in habeas proceedings are "particularly suspect"); *Rosemond v. Hudgins*, 92 F.4th 518, 523 (4th Cir. 2024).

Courts in this District and Circuit have rejected the use of similar vague ICE declarations in habeas cases. In *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 448 (3d Cir. 2021), the Third Circuit criticized ICE's reliance on generalized, conclusory statements unsupported by specific facts. Likewise, in *Khalil v. Garland*, No. 2:24-cv-05023, 2025 WL 849803, at *11 n.6 (D.N.J. Mar. 12, 2025) (Farbiarz, J.), the court emphasized that declarations lacking specificity about custody and transfer "raise serious questions about the government's conduct" and warrant closer scrutiny or jurisdictional discovery.

For example, Respondents assert through the Cabezas Declaration that Petitioner "was in the Western District of Louisiana," by reciting locations, dates, and times of transfers (without noting the time change between Eastern and Central Time). Yet Mr. Cabezas fails to state whether he observed any of these events, reviewed contemporaneous records, or simply repeated information told to him by others. Without attribution, such statements cannot "permit[] the Court to assess [their] reliability." *Sulayman v. Obama*, 729 F. Supp. 2d 26, 35 (D.D.C. 2010) (quoting *Parhat v. Gates*, 532 F.3d 834, 849 (D.C. Cir. 2008)); see also *Muñoz-Saucedo v. Pittman*, No. 1:25-cv-02258, slip op. at *__ (D.N.J. June 24, 2025) (rejecting government's reliance on vague ICE declarations where counsel was prevented from ascertaining a detainee's location during transfer).

The declaration also violates the Best Evidence Rule by purporting to summarize documents never provided to the Court, such as custody determinations (Form I-200) or warrants. Fed. R. Evid. 1002; see *United States v. De Peri*, 778 F.2d 963, 977 (3d Cir. 1985) (best evidence rule requires production of documents rather than testimonial summaries). If these

records exist, Respondents should have produced them, or at minimum offered them under seal or for in camera review. Especially considering that through the Respondent's own submission, Form I-830, used to notify the immigration court of a non-citizen's change in custody, is dated August 23, 2025, and reflects that as of August 14, 2025, the Petitioner was detained at Adams County Detention Center and would be "Released from ICE custody on the following condition(s): Other: Order of supervision." ECF 12-5.

Because the Cabezas Declaration fails to identify the basis of its statements, relies on inadmissible hearsay, and substitutes vague references for documentary evidence, it cannot establish the facts of Petitioner's detention and transfer. The Court should strike the declaration, or at a minimum accord it no evidentiary weight.

CONCLUSION

Respectfully, the Court should deny the government's motion to dismiss or transfer and proceed to deciding the important and urgent issues raised by Mr. David Buckingham's amended petition and pending motions before this Court.

Dated: September 3, 2025

Respectfully Submitted,

/S/Veronica Cardenas

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