

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-03307-RMR

HUMBERTO ROMEU-PEREZ,

Petitioner,

v.

WARDEN, Aurora Detention Center

Respondent.

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**RESPONDENT'S RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 13)**

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Respondent hereby responds to the Court's December 5, 2025, Order to show cause why "Warden Port Isabel Detention Center' should not be substituted as the respondent to this case and the case be transferred to the United States District Court for the Southern District of Texas." ECF No. 13 at 3. Because Petitioner Humberto Romeu-Perez's new custodian is the Warden at Port Isabel Service Processing Center in Los Fresnos, Texas, that Warden should be substituted as the proper respondent in this action. However, this case should not be transferred to the United States District Court for the Southern District of Texas because at the time the habeas petition was filed, Petitioner was in the custody of Immigration and Customs Enforcement ("ICE") in the District of Colorado. Thus, jurisdiction over this action lies only in the District of Colorado.

## BACKGROUND

**Petitioner's detention in ICE custody.** Petitioner is a native and citizen of Cuba. See Ex. A, Declaration of Aaron Johnson (December 11, 2025) ¶ 4. On June 15, 2009, an Immigration Judge ("IJ") ordered Petitioner removed from the United States to Cuba. *Id.* ¶ 5. On June 21, 2025, ICE arrested and detained Petitioner to execute the final order of removal. *Id.* ¶ 6. From June 21, 2025, through July 5, 2025, Petitioner was detained at the Krome Service Processing Center in Miami, Florida. *Id.* ¶ 7.

On July 6, 2025, Petitioner was transferred to the Denver Contract Detention Facility ("CDF") in Aurora, Colorado. *Id.* ¶ 8.

A few days later, on July 9, 2025, Petitioner was transferred to the El Paso Service Processing Center in El Paso, Texas, so that he could be removed from the United States to Mexico. *Id.* ¶ 9. On July 18, 2025, Petitioner was transferred back to the Denver CDF because his removal to Mexico was not executed. *Id.* ¶ 10.

On August 29, 2025, Petitioner was transferred to the Florence Service Processing Center ("Florence SPC") in Florence, Arizona, so that he could be removed from the United States to Mexico. *Id.* ¶ 11. On August 31, 2025, Petitioner was transferred back to the Denver CDF because his removal to Mexico was not executed. *Id.* ¶ 12.

Petitioner remained at the Denver CDF until November 12, 2025, when he was transferred to the Florence SPC for removal to Mexico. Ex. A ¶ 13. On November 16, 2025, Petitioner was transferred back to the Denver CDF because his removal to

Mexico was not executed. *Id.* ¶ 14.

On November 28, 2025, Petitioner was again transferred to the Florence SPC for removal to Mexico. *Id.* ¶ 15.

On December 3, 2025, Petitioner was transferred to the Port Isabel Service Processing Center (“Port Isabel”) in Los Fresnos, Texas for removal to Mexico. *Id.* ¶ 15. To date, Petitioner remains at Port Isabel.<sup>1</sup> *Id.* ¶ 17.

**The Application.** Petitioner filed an Application for Writ of Habeas Corpus (“the Application”) pursuant to 28 U.S.C. § 2241 on October 20, 2025 in the District of Colorado, while he was detained at the Denver CDF. See ECF No. 1. In the Application, Petitioner alleges that he is a Cuban national with a final order of removal as of June 15, 2009. ECF No. 1-1 (Petitioner’s Memorandum of Law in Support of Habeas Petition) at 2. He further claims that he has been detained by Immigration and Customs Enforcement (“ICE”) since June 21, 2025. *Id.* at 1. Petitioner alleges a violation of due process under *Zadvydas v. Davis*, 533 U.S. 678 (2001), asserting that his removal is not likely in the foreseeable future since both Cuba and Mexico have refused to accept him, and no other third country has accepted him. *Id.* He seeks either a bond hearing or release from ICE custody. ECF No. 1 at 7.

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<sup>1</sup> On December 11, 2025, undersigned counsel was informed, through Petitioner’s counsel, that Petitioner believed he would be removed from the United States to Mexico that night. As of December 12, 2025, undersigned counsel has confirmed that Petitioner was not removed to Mexico, and he remains in the custody of ICE at Port Isabel. Pursuant to the Court’s December 11, 2025, Order, Respondents will not remove Petitioner from the United States until the Order is vacated. See ECF No. 18.

## ARGUMENT

### I. The Warden of Port Isabel should be substituted as Respondent.

Because Applicant's new custodian is the Warden at Port Isabel in Los Fresnos, Texas, that Warden should be substituted as the proper respondent in this action. See; 28 U.S.C. § 2242 (providing that a habeas petition under 28 U.S.C. § 2241 shall include "the name of the person who has custody"); see also *Mitchell v. Story*, 68 F.3d 483 (Table), 1995 WL 610879, \*2 n.5 (10th Cir. Oct. 18, 1995) (unpublished) (substituting warden of new institution as respondent where habeas petitioner was transferred to a different institution).

### II. Jurisdiction over this habeas action lies only in the District of Colorado.

"For 'core habeas petitions,' 'jurisdiction lies in only one district: the district of confinement.'" *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)). As a result, there is "a simple rule" that "[w]henver a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States," the petitioner must "file the petition in the district of confinement." *Padilla*, 542 U.S. at 447.

The Supreme Court has held that in determining the district of confinement, the court must assess the facts at the time of filing of the habeas petition, as habeas jurisdiction "attaches on the initial filing." See *Padilla*, 542 U.S. at 448–49 (ruling that the Southern District of New York did not have jurisdiction over a habeas petition filed there where "both the petitioner and his immediate custodian were outside of the district at the

*time of filing*") (emphasis added)). Moreover, a district court retains jurisdiction over a habeas petition if the petitioner is transferred to another district. *See id.* at 441 ("when the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction") (emphasis added).

Here, at the time the Application was filed, Petitioner was confined at the Denver CDF in Aurora, Colorado, which is in the District of Colorado. Therefore, the habeas petition was required to be filed in the District of Colorado. This action cannot be transferred to the Southern District of Texas, where Petitioner is currently detained at Port Isabel, because the Southern District of Texas did not have jurisdiction when Petitioner initially filed this action. Further, the general transfer statute does not apply because it would have been improper for Petitioner to bring this action in the Southern District of Texas at the time it was filed, since was he detained in the District of Colorado. *See* 28 U.S.C. § 1631 (explaining that where a "court finds that there is a want of jurisdiction" it may transfer the case to "any other such court ... in which the action .... could have been brought at the time it was filed").

### **CONCLUSION**

For the foregoing reasons, the Warden of Port Isabel should be substituted as Respondent, and this action should remain in the District of Colorado.

Dated: December 12, 2025.

PETER MCNEILLY  
United States Attorney

s/ Erika A. Kelley \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which provided notice to the following email addresses:

Kevin Charles Hirst  
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*Counsel for Petitioner*

*s/ Erika A. Kelley*  
U.S. Attorney's Office