



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

October 30, 2025

BY ECF

The Honorable Ronnie Abrams
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Valerio v. Joyce, No. 25 Civ. 8714 (RA)

Dear Judge Abrams:

This Office represents the government in the above-referenced habeas corpus action, in which the petitioner challenges his detention by U.S. Immigration and Customs Enforcement (“ICE”). This Court is not the proper forum for this habeas action, and the Court should transfer this action to the U.S. District Court for the District of New Jersey, or alternatively, dismiss it without prejudice for refiling in the proper court.¹ As described below, this Court lacks habeas jurisdiction because, at the time that this action was filed, the petitioner was physically present and detained at the Delaney Hall Detention Facility (“Delaney Hall”) in Newark, New Jersey. He was not present or detained in the Southern District of New York at the time of filing. Thus, venue is improper in this district.

Background. On October 20, 2025, ICE officers encountered Petitioner Andres Valerio (“Valerio”) and arrested him. *See* Ex. A., Declaration of Maurice Williams ¶ 3 (“Williams Decl.”). Valerio was transported to ICE’s New York City Field Office located at 26 Federal Plaza, New York, New York (“26 Federal Plaza”), for further processing. *Id.* ¶ 3. Valerio was booked into ICE’s temporary hold room at 26 Federal Plaza at approximately 7:30 pm on October 20, 2025. *Id.* On October 21, 2025, at 10:45 a.m., ICE booked Valerio out of the temporary hold room at 26 Federal Plaza. *Id.* ¶ 4. ICE then transported Valerio from 26 Federal Plaza to Delaney Hall in Newark, New Jersey. *Id.* Valerio was booked into Delaney Hall at 11:30 am on October 21, 2025. *Id.* Valerio remains detained at Delaney Hall. *Id.*

¹ The Government is filing this letter motion ahead of its deadline to respond to the Petition so that the Court may adjudicate the request and petitioner’s claim may then be promptly heard in the appropriate forum without delay. The Government is, of course, willing to also submit formal briefing on this matter if that is the Court’s preference.

On October 21, 2025, at 3:52 pm, Valerio, proceeding *pro se*, filed the Petition by having it emailed to the Court's Pro Se Intake Unit.² See ECF No. 10. Thus, Valerio had been housed at Delaney Hall in New Jersey for over four hours prior to the filing of the Petition.

Argument. A habeas petition brought under 28 U.S.C. § 2241 challenging detention must be brought against the immediate custodian and filed in the district in which the petitioner is detained. Venue is improper in the Southern District of New York because Valerio was not detained in this district at the time he filed his habeas petition. Williams Decl. ¶ 4. Rather, Valerio filed the habeas petition in this Court while he was physically present in and confined at Delaney Hall in Newark, New Jersey. *Id.*; ECF No. 10 (setting forth filing time for the Petition). Consequently, this Court lacks habeas jurisdiction over this action, as venue is improper in Southern District of New York. The Court should thus either dismiss this action without prejudice or transfer this action to the U.S. District Court of the District of New Jersey.

The Supreme Court has made clear that in “core” habeas petitions—*i.e.*, petitions like the instant one that challenges the petitioner’s present physical confinement—the petitioner must file the petition in the district in which he is confined (*i.e.*, the district of confinement) and name his warden as the respondent. See *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004). Although *Padilla* addressed a habeas petition outside of the immigration context, the Supreme Court recently applied *Padilla* to a case within the immigration context in *Trump v. J.G.G.*, 604 U.S. 670 (2025). There, the Supreme Court held that for actions challenging immigration detention, they must be brought in habeas and filed in the district of confinement. *J.G.G.*, 604 U.S. at 672 (“For core habeas petitions, jurisdiction lies in only one district: the district of confinement.” (cleaned up)). Even before this ruling, “a clear majority of courts in this circuit,” including this Court, “have held that the ‘immediate custodian’ rule applies’ to ‘core’ immigration habeas cases in which a petitioner challenges his or her detention pending removal ‘and that jurisdiction [in such cases] lies only in the district of confinement.’” *Khalil v. Joyce*, 771 F. Supp. 3d 268, 280 (S.D.N.Y. 2025) (citing additional authorities); see also, *e.g.*, *Sanchez v. Decker*, No. 19 Civ. 8354 (RA), 2019 WL 6311955 (S.D.N.Y. Nov. 25, 2019) (transferring habeas action to District of New Jersey, applying *Padilla*’s district-of-confinement and immediate-custodian rules). That rule remains the case when a petitioner was transferred “in the hours before” that a petition was filed. *Khalil*, 771 F. Supp. 3d at 282.

Consequently, the Court should either transfer the petition forthwith to the U.S. District Court for the District of New Jersey, or alternatively, dismiss the action without prejudice. Lastly, should the Court transfer the case, to minimize any delay in having the case heard in the proper

² In the Petition, Petitioner alleges that he placed the petition “in the prison mail system” on October 20, 2025. See Pet., ECF No. 1 at 10. But that allegation is contradicted by the Court’s own records, which reflect that the petition was filed by email on October 21, 2025, at 3:52 pm. See ECF No. 10. Further, the Petition is also signed by “Armando Valerio, on behalf of father Andres Valerio.” *Id.*

forum, the government respectfully requests that the Court waive the seven-day waiting period contained in Local Civil Rule 83.1.

We thank the Court for its consideration of this request.

Respectfully submitted,

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cc: *Pro se* Petitioner (by U.S. mail)