

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

TRUC BA TRINH )  
A# [REDACTED] )  
Petitioner, )  
vs. ) CASE NO.:  
GEORGE STERLING, *Field Office Director of* )  
*ICE Atlanta Field Office, and* )  
TODD LYONS, *Acting Director of* )  
*Immigration and Customs Enforcement, and* )  
KRISTI NOEM, *Secretary of Homeland* )  
*Security, and* )  
PAMELA BONDI, *U.S. Attorney General* )  
Respondents. )  
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)

**PETITIONER'S RESPONSE TO COURT'S ORDER FOR  
JURISDICTIONAL BRIEFING**

Petitioner, Truc Ba Trinh, hereby responds to the Court's order (Doc. 12) for additional briefing addressing the Court's jurisdiction to hear this matter.

**Background**

Petitioner was detained by ICE on or about October 17, 2025, following a routine check-in as he was complying with his Order of Supervision (OSUP) and taken into custody at the Atlanta ICE Field Office. (Doc. 1 ¶¶ 2, 3, 23). From the time of his arrest until after the time of filing of his Petition,

Petitioner's location was unknown. (*Id.* ¶¶ 1-2, 6, 18, 20-21; Doc. 1-1). According to Respondents, on October 21, 2025, Petitioner was transferred from the Atlanta Detention Center to the Stewart Detention Center, which is in the Middle District of Georgia and outside this Court's jurisdiction. At 3:57 p.m. EDT on October 21, 2025, counsel for Petitioner looked up Petitioner in the ICE online detainee locator and no location was listed for Petitioner. (Doc. 1-1). Also on October 21, 2025, counsel for Petitioner filed his petition for writ of habeas corpus and supporting documents at 11:23 p.m. EDT.

On October 29, 2025, a legal assistant for Petitioner's counsel contacted Stewart Detention Center to obtain information about when Petitioner arrived at the facility. Cantu Decl. ¶ 2. Stewart Detention Center staff informed the assistant that Petitioner was processed into the facility on October 21, 2025, at 11:42 p.m. EDT (23:42), which is **after** his petition was filed. *Id.* ¶ 3.

On October 31, 2025, a paralegal for Petitioner's counsel contacted Stewart Detention Center to obtain information about when Petitioner arrived at the facility. Vera Decl. ¶ 2. Stewart Detention Center staff informed the paralegal that Petitioner was processed into the facility on October 21, 2025, at 11:42 p.m. EDT (23:42), which is **after** his petition was filed. *Id.* ¶ 3. This time the call was recorded. In support, Petitioner also submits an audio recording of the paralegal's phone call which was submitted with the notice of filing via USB drive to be physically filed with the Court today. *See id.* ¶ 4.

Despite this, Respondents have submitted to the Court an affidavit from Deportation Officer Jeffrey Knowles in which he states, “ICE records demonstrate that Petitioner . . . was booked into [Stewart Detention Center] at 10:18 p.m.” (Doc. 14-1 ¶ 4) (before the Petition was filed). However, Respondents have not submitted any documentation supporting this claim, including the aforementioned ICE records. However, it is clear from the other evidence that Petitioner was booked into Stewart Detention Center at 23:42, which is after the Petition was filed. Since the Stewart Warden had not yet received physical custody over the Petitioner, this Court has jurisdiction.

### Argument

#### **I. Relevant Law on Habeas Jurisdiction**

Ordinarily, a habeas petition seeking to challenge present physical custody should be filed “in the district of confinement” and “the proper respondent to a habeas petition is ‘the person who had custody over [the petitioner].’” *Rumsfeld v. Padilla*, 542 U.S. 426, 434, 447 (2004) (alteration in original) (quoting 28 U.S.C. § 2242). However, important exceptions exist to these default rules, *see id.* at 435, because “[t]he very nature of the writ [of habeas corpus] demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

First, “when the Government moves a habeas petitioner after she

properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release." *Padilla*, 542 U.S. at 441 & n.14; *see Ex parte Endo*, 323 U.S. 283 (1944).

Second, when a petitioner "is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules," and the unknown-custodian exception applies. *Padilla*, 542 U.S. at 450 n.18. "The unknown custodian exception provides that a habeas writ does not need to be served on the individual with day-to-day control over the prisoner and instead, the writ is properly served on the prisoner's ultimate custodian." *Suri v. Trump*, 785 F. Supp. 3d 128, 141 (E.D. Va. 2025) (internal quotation marks omitted) (citing *United States v. Moussaoui*, 382 F.3d 453, 464-65 (4th Cir. 2004)). "The unknown-custodian exception is critical because a detainee must always have an available forum for a habeas petition, even if the government doesn't disclose their location." *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at \*5 (4th Cir. July 1, 2025); *accord Ozturk v. Trump*, 136 F.4th 382, 392 (2d Cir. 2025). Thus, when "the government moves a detainee from a district and their attorney cannot discover their location with reasonable inquiry, that attorney must be able to file a habeas petition in the detainee's **last-known location** against their ultimate custodian." *Suri*, 2025 WL 1806692, at \*6. Without this critical exception,

detainees such as Petitioner “would lack the ability to seek habeas relief as long as the government kept their location and custodian a secret, thus granting the political branches the power to switch the Constitution on or off at will, leading to a regime in which the President, not the Supreme Court, says what the law is.” *Id.* (cleaned up) (quoting *Boumediene v. Bush*, 553 U.S. 723, 765 (2008)).

Finally, in a concurring opinion in *Padilla*, Justice Kennedy, joined by Justice O’Connor, outlined another situation warranting an exception: where “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, or where the Government was not forthcoming with respect to the identity of the custodian and the place of detention,” jurisdiction would lie with “the district court from whose territory the petitioner had been removed.” *Padilla*, 542 U.S. at 454 (Kennedy, J., concurring). At least the First and Fourth Circuits have adopted this exception. *See Suri*, 2025 WL 1806692, at \*6 n.6; *United States v. Moussaoui*, 382 F.3d 453 (4th Cir. 2004); *Vasquez v. Reno*, 233 F.3d 688, 696 (1st Cir. 2000).

## **II. The Court May Exercise Habeas Jurisdiction Here**

The Court may exercise jurisdiction over the Petition because, at the time of filing, Petitioner was still in the custody of Respondent Sterling, the Atlanta

ICE Field Office Director<sup>1</sup>. Petitioner is believed to have been detained at the Atlanta ICE Field Office on October 17, 2025. The Petition was filed at 11:23 p.m. on October 21, 2025, (Doc. 1), but Petitioner was not processed into the Stewart Detention Center until 11:42 p.m. that day, Vera Decl. ¶¶ 3–4, after his petition was filed, and therefore remained in Respondent Sterling's custody until that time. Under the immediate-custodian rule and *Ex parte Endo*, the Petition was properly filed with this Court, and the Court may continue to exercise jurisdiction over it even though Petitioner has been transferred outside this district. *See Padilla*, 542 U.S. at 441 & n.14.

To the extent Respondents have submitted some evidence – namely, a self-serving affidavit – demonstrating that Petitioner was processed into the Stewart Detention Center at 10:18 p.m., (Doc. 14-1 ¶ 4), the Court should ordinarily hold an evidentiary hearing to resolve this issue. However, the unknown-custodian exception provides an alternative basis for the Court to exercise jurisdiction even if Petitioner had been booked into Stewart at 10:18 p.m.

Even assuming Respondents' Declaration to be true, Petitioner had been in custody at the Stewart Detention Center for a little over an hour when his habeas petition was filed. However, at that point counsel for Petitioner had no

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<sup>1</sup> Petitioner's counsel has since learned that George Sterling no longer holds that position, it is held by Ladeon Francis

information on Petitioner's whereabouts for over four days. (See Doc. 1 ¶¶ 1-2, 6, 18, 20-21). Concealing Petitioner's location until after he has been transferred to the government's preferred forum is a blatant attempt "to shop for a forum it perceived as more favorable and to make it difficult for [Petitioner's] attorney to file a habeas petition on his behalf." *Suri*, 2025 WL 1806692, at \*5. As in *Suri*, "the ICE online detainee tracker did not show [Petitioner's] location until . . . after his petition was filed." *Id.* Under the circumstances, counsel for Petitioner was diligent and conducted a reasonable inquiry but could not locate Petitioner prior to filing the petition due to ICE's tactics. *See id.* at \*5-6. Accordingly, this Court may exercise habeas jurisdiction over this matter because Petitioner's last-known location at the time of filing was in this district. *See id.* at \*6. Additionally, the petition names as a Respondent Petitioner's **ultimate** custodian, the Secretary of the Department of Homeland Security. *See Ozturk*, 136 F.4th at 392; *Suri*, 785 F. Supp. 3d at 141.

It is no answer to say that Petitioner's counsel simply should have waited an unknown amount of time until the online locator was updated, as "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." *Khalil v. Joyce*, 777 F. Supp. 3d 369, 410 (D.N.J. Apr. 1, 2025), *mot. to certify appeal granted*, 777 F. Supp. 3d 411 (Apr. 4, 2025). "[A]bsent suspension, the writ of habeas corpus remains available to every individual

detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Counsel for Petitioner did not and could not have known Petitioner’s location until after the petition was filed. *See Ozturk*, 136 F.4th at 392-93 (holding exception applied where government concealed petitioner’s location until she reached her final destination); *Suri*, 2025 WL 1806692, at \*6 (holding exception applied where petitioner’s “attorney had no way of knowing where [petitioner] was or who held immediate custody over him”); *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 393-94 (D.N.J. 2025) (holding exception applied where ICE did not provide petitioner’s location to his counsel until after the petition had been filed); *Khalil*, 777 F. Supp. 3d at 408 (holding exception applied where location of petition “was being kept confidential”). There was no reason for delay and every reason to act quickly, as Petitioner’s rights were and are in jeopardy.

Finally, Justice Kennedy’s exception also applies, as ICE “was not forthcoming with respect to the identity of the custodian and the place of detention” until after it had removed Petitioner from this district and brought him to the Middle District of Georgia, in an attempt to “make it difficult for his lawyer to know where the habeas petition should be filed” until Petitioner arrived in the government’s preferred forum. *Padilla*, 542 U.S. at 454 (Kennedy, J., concurring). The ICE online detainee locator was not updated with Petitioner’s location following his detention for over four

days, until after the petition was filed. Other district courts have found this exception applicable when considering ICE's recent tactics of moving detainees across jurisdictions and concealing information about their detention until the detainees arrive in the government's preferred forum. See *Suri*, 785 F. Supp. 3d at 148 (noting "there has been a pattern of similar movement of immigration detainees in similar cases"); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2476524, at \*6-7 (D.N.J. Aug. 28, 2025) (holding exception applied when "the information on where [the petitioner] was certainly was not available to either petitioner or her attorney until after the fact").

Indeed, anticipating such evasive tactics, the Petition sought a limited order prohibiting Respondents from removing Petitioner from this district. (See Doc. 1 ¶ 17). ICE's attempts to evade jurisdiction should be rejected by this Court, as they have been by the numerous courts cited herein.

In sum, assuming that the petition was filed after Petitioner had been transferred to the Middle District of Georgia (which Petitioner disputes), the unknown-custodian exception and Justice Kennedy's concurrence in *Padilla* provide a basis for this Court to exercise habeas jurisdiction over Petitioner because, despite their best efforts, counsel for Petitioner could not locate him before filing his petition due to ICE's efforts to conceal his location until he arrived at the government's preferred forum. Such tactics amount to

impermissible forum shopping and an attempt to deprive Petitioner of his right to seek a writ of habeas corpus. The Court must reject the government's attempt to unlawfully suspend the writ by concealing Petitioner's location, exercise jurisdiction over the petition, and order Respondents to show cause as to why Petitioner should not be immediately released from custody within the next 3 days as the statute provides for. (See Doc. 15).

Respectfully Submitted,

This 5<sup>th</sup> day of November, 2025.

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*Security, and* )  
PAMELA BONDI, *U.S. Attorney General* )  
Respondents. )  
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**CERTIFICATE OF COMPLIANCE**

I hereby certify, pursuant to Local Rules 5.1 and 7.1(D), that the filing(s) filed herewith have been prepared using Century Schoolbook, 13 point font.

/s/ Karen Weinstock  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of November, 2025, this PETITIONER'S RESPONSE TO COURT'S ORDER FOR JURISDICTIONAL BRIEFING was served, via electronic delivery to Respondents' counsel via CM/ECF system which will forward copies to Counsel of Record.

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