

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Alexander HERRERA ACOSTA,
Petitioner,

vs.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,
Respondents.

Case No.: 25-25380-CIV-MORENO

Petitioner's Response to Respondents' Motion to Transfer Venue

On November 20, 2025, Respondents filed a motion to seek to transfer venue of these proceedings to the District of Arizona because Petitioner is currently detained in Florence, Arizona. *See generally* [ECF No. 4]. Respondents claim this Court “lacks subject matter jurisdiction” over this matter due to the logistic of Petitioner’s transfer to Arizona. See [ECF No. 4 at 1]. Petitioner respectfully disagrees with Respondents’ position.

First, this Court does not lack subject matter jurisdiction. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434 n.7 (2004) (“The word ‘jurisdiction’ ... is capable of different interpretations. We use it in the sense that it is used in the habeas statute, 28 U.S.C. § 2241(a), and not in the sense of subject-matter jurisdiction of the District Court.”); *see id.* at 451 (KENNEDY, J., concurring) (regarding the rules of where to file a habeas petition: “These rules, however, are not jurisdictional in the sense of a limitation on subject-matter jurisdiction.”); *see also id.* at 463 (STEVENS, J., dissenting) (“It bears emphasis that the question of proper forum to determine the

legality of Padilla's incarceration is not one of federal subject-matter jurisdiction."). "Rather, the question is one of venue, i.e., in which federal court the habeas as inquiry may proceed." *Id.* at 463 (STEVENS, J., dissenting). Which federal court should hear the matter "center[s] on the most convenient and efficient forum for resolution of a case, ... and on the placement most likely to minimize forum shopping by either party" *Id.*

Second, the habeas statute establishes a territorial limit on the proper forum for habeas petitions. *See* 28 U.S.C. § 2241(a) ("Writs of habeas corpus may be granted by ... the district courts and any circuit judge within their respective jurisdictions."). But this does not mean that a habeas petition can only be filed in the district court where the petitioner is held, since long-arm jurisdiction is permitted. *See, e.g.,* *Mojica v. Reno*, 970 F. Supp. 130, 166 (E.D.N.Y. 1997); *Yesil v. Reno*, 958 F. Supp. 828, 835–36 (S.D.N.Y. 1997). The Supreme Court in *Rumsfeld v. Padilla* explicitly declined to resolve this issue for immigration cases. *See Rumsfeld v. Padilla*, 542 U.S. at 435 n.8 ("[T]he issue is not before us today [and] we again decline to resolve it.").

The general rule is that a habeas petition must be filed in the venue where the "immediate custodian" is located. The immediate custodian, here, is in Krome Service Processing Center ("Krome"), Miami, Florida, within this Court's jurisdiction. "The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is the person who has custody over the petitioner." *Id.* at 434. "The proper respondent for purposes of a habeas corpus petition is the 'immediate custodian,' the person with 'the ability to produce the prisoner's body before the habeas court.'" *Masingene v. Martin*, 424 F.Supp.3d 1298, 1300–1301 (S.D. Fl. 2020)

(citing to *Rumsfeld v. Padilla*, 542 U.S. at 434). In cases where the immigrant detainee is housed in a contract facility—here, Petitioner is housed at facility owned by Core Civic—¹the proper respondent is “the federal official most directly responsible for overseeing the contract facility.” *Masingene v. Martin*, 424 F.Supp.3d at 1301. “Federal immigration detainees are detained pursuant to the power and authority of the federal government and not the warden of the non-federal facility where they are detained.” *Masingene v. Martin*, 424 F.Supp.3d at 1302. Transferring venue does not serve any purpose as “the local warden cannot release ICE detainees without ICE’s express authorization.” *Id.* Therefore, in this case, the “immediate custodian” is the official located at Krome in Miami, Florida, i.e., the Miami Field Office Director. *See* Gov’t Exh. A [ECF No. 4-1] (statement from Officer Caraballo from ICE at Krome). Because the “immediate custodian” is located at Krome in Miami, Florida, jurisdiction resides with this Court.

This approach to the “immediate custodian” rule respects the “venue principles,” which focus is on “the most convenient and efficient forum for resolution of ac case” and “on the placement most likely to minimize forum shopping by either party.” *Rumsfeld v. Padilla*, 542 U.S. at 463 (STEVENS, J., dissenting).

Even assuming, in arguendo, the best approach would be to transfer venue where Petitioner is physically located, an exception applies to this rule when there is difficulty in knowing where the habeas petition should filed. In *Rumsfeld v. Padilla* two members of the majority noted that an exception might be warranted “if there is

¹ Petitioner has since been moved, again, to another facility, i.e., in Eloy, AZ, a facility ran ban Core Civic, named Eloy Federal Center Facility.

an indication that the Government's purpose in removal 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." *Rumsfeld v. Padilla*, 542 U.S. at 454 (KENNEDY, J., joined by O'CONNOR, J., concurring). In such case, the habeas petition could be filed in the district court from whose territory the petitioner had been removed," in this case, Petitioner was removed from Krome, Miami, Florida. *Id.*

This exception is important because the habeas writ is "an indispensable mechanism for monitoring the separation of powers" and the writ "must not be subject to manipulation by those whose power it is designed to restrain." *Boumediene v. Bush*, 553 U.S. 723, 765-66 (2008).

Prior to filing this petition with this Court, undersigned diligently attempted to ascertain where Petitioner was being held by ICE. The only information available was via ICE's online detainee locator system, which at the time of filing this petition, only stated "Call ICE for Details" and that Petitioner's custodian was at "KROME, MIAMI, FL, DOCKET CONTROL OFFICE." [ECF No. 1-3] [Pet'r's App. at 1]. Although undersigned called ICE at the phone number provided, it was fruitless as no one ever answers the phone there. Thus, the reason why the petition was filed with the court that holds jurisdiction over Krome at Miami, Florida.

For these reasons Respondent's motion to change venue should be denied.

Dated: December 4, 2025

Respectfully submitted,

s/Mario R. Urizar
Mario R. Urizar

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Certificate of Service

I HEREBY CERTIFY that on December 4, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that all participants in the case are registered CM/ECF users and that service will therefore be accomplished through the CM/ECF system.

Dated: December 4, 2025

Respectfully submitted,

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