

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

Case No.: 25-CV-25380-MORENO

ALEXANDER HERRERA ACOSTA,

Petitioner,

v.

U.S. DEPARTEMENT OF HOMELAND
SECURITY; KRISTI NOEM, Secretary, et al.,

Respondents.

**RESPONDENTS' REPLY TO PETITIONER'S RESPONSE TO MOTION TO
TRANSFER VENUE**

Respondents, Kristi Noem, Secretary, Department of Homeland Security; Pamela Bondi, U.S. Attorney General, Garret Ripa, Miami Field Office Director of Immigration and Customs Enforcement; and Charles Parra, Assistant Field Office Director (together, "Respondents"), by and through the undersigned Assistant United States Attorney, hereby file their Reply to the Petitioner's Response to Respondents' Motion to Transfer Venue [ECF No. 7]. In further support of the Motion to Transfer Venue [ECF No. 4], the Respondents state as follows:

INTRODUCTION

Petitioner, Herrera Acosta filed his Complaint for Writ of Habeas Corpus Under Title 28 U.S.C. § 2241 and Title 5 U.S.C. § 701(1) (the Administrative Procedures Act), (the "Complaint") (ECF No. 1). In the Complaint, Petitioner asserts, *inter alia*, that he is unlawfully detained following entry of an order of removal while his application to adjust status is pending. *See generally* Complaint [ECF No. 1].

As the Court lacks subject matter jurisdiction to grant the relief requested, Respondents respectfully request that the Court transfer this matter to the District of Arizona.

FACTUAL AND PROCEDURAL BACKGROUND

1. On October 27, 2025, Petitioner was detained by ICE at Krome Service Processing Center (“Krome”) in Miami, Florida. *See* Declaration of Deportation Officer Alana Caraballo and Detention History Report, attached to Respondent’s Motion as Exhibit “A” [ECF No. 4-1].

2. On November 17, 2025, and through December 3, 2025, Petitioner was detained at the Florance Staging Facility in Florence, Arizona. *See* Declaration of Deportation Officer Brandy Berghouse, attached to this Reply as Exhibit “B” at ¶ 3. The Florance Staging Facility in Florence, Arizona, is a federal facility, not a contracted facility, and is under the supervision of the ICE Phoenix Field Office. *Id.*

3. On November 18, 2025, Petitioner filed his Complaint. [ECF No. 1].

4. Petitioner was in Arizona at the time of filing. *See* Berghouse Dec. at ¶ 3.

5. Petitioner is currently detained at the Eloy Federal Center Facility in Eloy, Arizona, a contracted facility under the supervision of the ICE Phoenix Field Office. Berghouse Dec. at ¶ 2.

MEMORANDUM OF LAW

I. ARGUMENT

As indicated in the government’s initial brief, section 2441 allows “the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge” to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2441(a). The Supreme Court has interpreted the “within their respective jurisdiction language to mean that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district

of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004). “In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.” *Padilla*, 542 U.S. at 435-40, 439.

The Petitioner argues that the requirement to file in the district of confinement is not jurisdictional, and that long-arm jurisdiction is permitted when proceeding under § 2241, citing *Padilla* as support [ECF No. 7 at 1-2]. However, *Padilla* stands for the exact opposite proposition. The *Padilla* decision states explicitly that “(t)he plain language of the habeas statute ... confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.” *Id.* at 443. The court also rejected the argument that the long-arm statute would permit jurisdiction in any other district, finding that the limitation “serves the important purpose of preventing forum shopping by habeas petitioners.” *Id.* at 447. Holding otherwise would permit prisoners to “name high-level supervisory” officials as respondents, and then “sue that person wherever he is amenable to long-arm jurisdiction”, which would result in forum shopping, overlapping jurisdiction, inconvenience, and extra expense, the exact issues “Congress sought to avoid when it added the jurisdictional limitation [in 1867]”. *Id.*

Petitioner cites *Padilla* at 542 U.S. at 435 n.8 for the proposition that the Supreme Court did not resolve the long-arm issue for immigration cases. However, the court recognized that the majority of courts have applied the immediate custodian rule, finding that the Attorney General is not a proper respondent. *Id.* (collecting cases). The only contrary case cited by the *Padilla* court was *Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003), and after *Padilla* was decided, the *Armentero* case was withdrawn and has no precedential value. *See* 382 F.3d 1153 (9th Cir. 2004). The Eleventh Circuit has cited cases holding that the immediate custodian rule should be followed in immigration cases, and in so doing, affirmed that “identification of the party exercising legal

control only comes into play when there is no immediate physical custodian with respect to the challenged custody” which means the custodian is the person that has “day-to-day control over the prisoner.” *See Rivas v. Warden, FCC Coleman-USP I*, 711 Fed. Appx. 585 (11th Cir. 2018) (citing *Padilla*, 542 U.S. at 439; and quoting *Robledo-Gonzales v. Ashcroft*, 342 F.3d 667, 673 (7th Cir. 2003)). As *Padilla* cannot be read to hold otherwise, and as the Defendant was in custody at a federal facility supervised by the ICE Phoenix Field Office at the time the Complaint was filed, this court lacks jurisdiction to grant the requested relief. *See Berghouse Dec.* at ¶ 3.

The Petitioner’s argument that “the federal official most directly responsible for overseeing” detention is an official at the Krome Service Process Center (Krome) fails for at least two reasons. First, the district with jurisdiction to grant habeas relief is established at the time of filing, and at the time the Petitioner filed for relief he was confined in a federal facility in the District of Arizona, not the Southern District of Florida. *See Carafas v. LaVallee*, 391 U.S. 234, 239 (1968); *Berghouse Dec.* at ¶ 3. So, at the time of filing, he was not in a contract facility, and the exception discussed in *Masingene v. Martin*, 424 F. Supp. 3d 1298 (S.D. Fla. 2020) cannot apply. Secondly, had the Defendant been at his present place of detention at the time of filing, Eloy Federal Center Facility in Eloy, Arizona, that facility is overseen by the ICE Phoenix Field Office, not by any official associated with the Krome Service Process Center, or in the Southern District of Florida.

The final argument of the Petitioner, that this Court should assume jurisdiction based upon the government’s conduct or its refusal to identify the place of detention is not supported by the record. Two days after the Petition was filed, on November 20, 2025, the government notified Petitioner’s counsel by email and by filing the Motion to Transfer Venue that his client was detained in the District of Arizona. *See Mot.* [ECF No. 4]. The government is not asking the Court

to dismiss the Petition and deny the Petitioner the right to request relief by concealing his location. Rather, the government seeks to transfer the matter to the only district that has jurisdiction to consider the request, the place of detention at the time the Petition was filed.

Accordingly, Respondents respectfully request that this habeas petition be transferred to the District of Arizona.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

By: 
Brett R. Geiger
Assistant U.S. Attorney
Court No. A5502622
99 N.E. 4th Street, Suite 300
Miami, FL 33132-2111
Telephone No. (305) 961-9190
E-mail: Brett.Geiger@usdoj.gov