UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-CV-25426-LEIBOWITZ

JOHN WILLIAM TORRES CHAVEZ,

Petitioner,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents.

_____/

RESPONDENT'S RETURN TO WRIT OF HABEAS CORPUS

United States Immigration and Customs Enforcement ("Respondent"). through the undersigned counsel. maintain that John William Torres Chavez's ("Petitioner") Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 ("Petition") (ECF No. 1) should be dismissed or transferred to the Northern District of Texas where he is currently detained. Further. the immigration judge properly denied bond under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) because Petitioner is in expedited removal proceedings.

I. BACKGROUND

Petitioner is a native and citizen of Colombia. *See* (Exhibit A. Form I-213. Record of Deportable/Inadmissible Alien. at 1).

On or about May 22. 2022, Petitioner was encountered at or near Yuma, Arizona. by U.S. Customs and Border Patrol ("CBP"). (*Id.* at 2). CBP determined that Petitioner was inadmissible to the United States after having unlawfully entered the United States from Mexico without inspection or admission by an immigration officer with no right to be present or remain in the United States legally. (*Id.*).

On May 29, 2022, CBP issued a Form I-860, Notice and Order of Expedited Removal, pursuant to 8 U.S.C. § 1225(b). *See* (Exhibit B, Form I-860, Notice and Order of Expedited Removal).

On or about May 30, 2022, Petitioner expressed a fear of return to Colombia and was referred to the U.S. Citizenship and Immigration Services' ("USCIS") Asylum Pre-Screening Officer ("APSO") for a credible fear interview pursuant to 8 C.F.R. § 208.30. *See* (Exhibit C, Declaration of Deportation Officer Rosado at ¶ 9). Before the credible fear interview was scheduled, Enforcement and Removal Operations ("ERO") released Petitioner on his own recognizance. (*Id.* at ¶ 10).

On or about October 29, 2025, ERO detained Petitioner at their Miramar sub-office. (*Id.* at ¶ 11). On that same date, APSO determined that Petitioner had not proven a credible fear of return to Colombia. (*Id.* at ¶ 14). Thereafter, Petitioner requested that an immigration judge review APSO's negative credible fear finding pursuant to 8 C.F.R. § 208.30. *See* (Exhibit D, Form I-863, Notice of Referral to the Immigration Judge).

On October 30, 2025, Petitioner was transferred to the Florida Soft-Sided Facility South (colloquially known as Alligator Alcatraz) located in Ochopee, Florida. *ee* (Exhibit C at ¶ 12).

On November 12, 2025, the immigration judge denied Petitioner's bond request, finding that the court has no jurisdiction to grant bond pursuant to *Matter of M-S-*, 27 I&N Dec. 509 (BIA 2019). *See* (Exhibit E, Order of Immigration Judge, at 1). Petitioner waived appeal of the immigration judge's bond denial. (*Id.* at 2).

On November 29, 2025, Petitioner was transferred to the T. Don Hutto Detention Center located in Taylor, Texas, where he remains today, pending a credible fear review hearing before an immigration judge. *See* (Exhibit C at ¶ 17)

II. ARGUMENT

A. The Petition should be denied for lack of jurisdiction, or in the alternative, transferred to the Northern District of Texas where Petitioner is detained.

Petitioner is currently detained in the T. Don Hutto Detention Center located in Taylor, Texas. *Id.* Taylor, Texas is in the Northern District of Texas. *See* Taylor County, United States District Court https://www.txnd.uscourts.gov/city-data/taylor-county (last accessed December 5, 2025).

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); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (finding that that even for habeas petitions filed by immigration detainees, "jurisdiction lies in only one district: the district of confinement."). Even if "a district court has proper jurisdiction when a habeas petition has been filed…a subsequent transfer of the prisoner will not defeat habeas jurisdiction, but only 'so long as an appropriate respondent with custody remain[s]' in the district.'" *Copley v. Keohane*, 150 F.3d 827, 830 (8th Cir. 1998) (citing *Jones v. Cunningham*, 371 U.S. 236, 243-44 (1963)). The appropriate respondent is the immediate custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004) ("In challenges to present physical confinement…the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.")

Petitioner was detained at the Florida Soft-Sided Facility South in the Middle District of Florida when he filed his Petition. *See* (ECF No. 1 at 1). Although that was the proper jurisdiction at the time of filing, the Northern District of Texas is now the correct jurisdiction since the proper

respondent, which is Petitioner's immediate custodian or warden, resides in the Northern District of Texas, and is outside of the Middle District of Florida. Accordingly, the Petition should be dismissed, or in the alternative, transferred to the Northern District of Texas.

B. Petitioner is subject to mandatory detention under § 1225(b)(1)(B)(iii)(IV) because he is in expedited removal proceedings.

(i) The expedited removal process

> An "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .)" is deemed "an applicant for admission." §1225(a)(1). An applicant is subject to expedited removal if, as relevant here, the applicant (1) is inadmissible because he or she lacks a valid entry document; (2) has not "been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility"; and (3) is among those whom the Secretary of Homeland Security has designated for expedited removal. §§ 1225(b)(1)(A)(i), (iii)(I)-(II). Once "an immigration officer determines" that a designated applicant "is inadmissible," "the officer [must] order the alien removed from the United States without further hearing or review." §1225(b)(1)(A)(i).
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> Applicants can avoid expedited removal by claiming asylum. If an applicant "indicates either an intention to apply for asylum" or "a fear of persecution," the immigration officer "shall refer the alien for an interview by an asylum officer." §§1225(b)(1)(A)(i)-(ii). The point of this screening interview is to determine whether the applicant has a "credible fear of persecution." §1225(b)(1)(B)(v).
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> If the asylum officer finds an applicant's asserted fear to be credible, the applicant will receive "full consideration" of his asylum claim in a standard removal hearing. 8 CFR §208.30(f); see 8 U. S. C. §1225(b)(1)(B)(ii). If the asylum officer finds that the applicant does not have a credible fear, a supervisor will review the asylum officer's determination. 8 CFR §208.30(e)(8). If the supervisor agrees with it, the applicant may appeal to an immigration judge, who can take further evidence and "shall make a de novo determination." §§1003.42(c), (d)(1); see 8 U. S. C. §1225(b)(1)(B)(iii)(III).

Dep't of Homeland Sec. v. Thuraissigiam, 591 U.S. 103, 109-110 (2020) (citations in original).

(ii) The immigration judge properly denied bond because Petitioner is subject to mandatory detention under § 1225(b)(1)(B)(iii)(IV).

Petitioner argues he was improperly denied bond because he is not a danger to the community or flight risk. *See* (ECF No. 1 at 1). Citing *Matter of M-S-*, the immigration judge denied bond not because Petitioner is a flight risk or danger to the community but because Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) since he is in expedited removal proceedings.

Under 8 U.S.C. § 1225(b)(1)(A)(i), the expedited removal statute, in the event that an immigration officer determines that an alien is inadmissible, "the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum... or a fear of persecution." § 1225(b)(1)(A)(i). "Any alien subject to the procedures under this clause *shall be detained* pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (emphasis added). This is consistent with *Matter of M-S-* where the Board of Immigration Appeals found that § 1225(b)(1) "provides for the detention of aliens originally placed in expedited removal", and that aliens found to have a credible fear "shall be detained for further consideration of the application for asylum" (internal quotation marks and citations omitted)). *Matter of M-S-*, 27 I & N Dec. 509, 511 (BIA 2019).

Petitioner is subject to mandatory detention under § 1225(b)(1)(B)(iii)(IV) because he is in expedited removal proceedings, which he neither contests in his Petition nor in any appeal before the Board of Immigration Appeals. Thus, the immigration judge properly denied bond under *Matter of M-S-; see also Thuraissigiam*, 591 U.S. 103, 118–19 (2020) (finding the alien could "not dispute that confinement during the pendency of expedited asylum review" was "lawful" where "he was apprehended in the very act of attempting to enter this country," was "inadmissible

because he lack[ed] an entry document. . . . and [where], under these circumstances, his case qualifi[ed] for the expedited review process, including mandatory detention during his credible-fear review" (cleaned up)).

Accordingly, the Petition should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Respondent's Return to Habeas Corpus was mailed to Petitioner at the address listed below on December 8, 2025.

John William Torres Chavez
A# [redacted]
1001 Welch St, Taylor, TX 76574

Natalie Diaz
NATALIE DIAZ
Assistant U.S. Attorney