

confinement. When the original petition was filed, Petitioner was confined in the District of Wyoming, and he was never confined in the District of Utah when this Court was considering this case. This Court never had jurisdiction over this case and it should be dismissed.

Factual and Procedural Background¹

Petitioner is a citizen of Mexico, who entered the United States illegally at least by February 2003.² An Immigration Judge entered a final order of removal on March 12, 2003. Petitioner was removed from the United States pursuant to that order first in March 2003 and again in January 2005.³ Sometime after he again entered the United States without inspection. He was arrested by ICE in Orem, Utah on Friday, December 19, 2025.⁴ ICE detained Petitioner pursuant to the immigration judge's prior final order of removal and under authority of 8 U.S.C. § 1231(a)(5).⁵ Petitioner was issued a Form I-871, Notice of Intent/Decision to Reinstate Prior Order. He signed the form, acknowledging that he “[did] not wish to make a statement contesting” the removability determination.⁶ After processing at ICE ERO's Salt Lake City office, Petitioner was transferred on December 19th to

¹ Only those facts most relevant to the Court's initial jurisdiction are recited here. All previously submitted facts, exhibits, and arguments are incorporated by reference. *See* Fed. R. Civ. P. 10(c).

² ECF No. 10, 10-1 ¶ 5 (“Randall Decl.”).

³ Randall Decl. at ¶¶ 9-14.

⁴ Evan Tjaden Decl. ¶ 8 (Exhibit A) (“Tjaden Decl.”).

⁵ Randall Decl. at ¶ 15; Tjaden Decl. at ¶ 9.

⁶ ECF No. 21, 21-1 (Form I-871).

the Uinta County Detention Center in Wyoming and detained there.⁷ He was booked into the jail in Wyoming at 1:37 pm (13:47 hours).⁸

At 5:13 pm on Friday, December 19, 2025, Petitioner's counsel filed a Verified Petition for Habeas Corpus ("petition").⁹ The petition requested a declaration that Petitioner's detention without an opportunity for a bond was unlawful, and an order that he be given an immediate bond hearing. The case was docketed and ECF notices were provided by the clerk of court on Monday, December 22, 2025, at 9:24 am,¹⁰ and assigned to this Court at 2:15 pm.¹¹

Meanwhile, on Monday, December 22, 2025, the Petitioner was in transit from Uinta County, Wyoming, to ICE's removal staging facility in Florence, Arizona pending removal.¹² He left the Uinta County (Wyoming) facility about 6:00 am, transited Salt Lake City, and departed Salt Lake City by plane at approximately 2:45 pm.¹³ After a stop in El Paso, Texas, Petitioner arrived in Phoenix, Arizona at 7:30 pm.¹⁴ He was booked into the Florence, Arizona facility at about 1:55 am on December 23, 2025.¹⁵ He was booked out at 8:30 am and

⁷ ECF No. 10, 10-1 (Randall Decl.) at ¶ 15; ECF No. 29, 29-1 (Tjaden Decl.) at ¶ 10.

⁸ ECF No. 29, 29-5 (USCO jail booking sheet).

⁹ ECF Nos. 1, 2; ECF No. 21, 21-2 (NEF email).

¹⁰ *Id.*

¹¹ ECF No. 29, 29-2 (NEF email).

¹² ECF No. 10, 10-1 (Randall Decl.) at ¶ 16; ECF No. 29, 29-1 (Tjaden Decl.) at ¶ 12.

¹³ Tjaden Decl. at ¶12.

¹⁴ *Id.*

¹⁵ *Id.*

taken to the U.S.-Mexico border and removed from the United States to Mexico pursuant to the Immigration Court's reinstated final order of removal.¹⁶

The Court issued an OSC on Monday, December 22, 2025, at 3:36 pm.¹⁷

The Court held a Show Cause Hearing on December 31, 2025. At the hearing, the Court questioned whether it had jurisdiction over the case based on the location of Petitioner at the time of the filing of the petition. Respondent's counsel advised that he did not have sufficient information at the time to challenge jurisdiction.¹⁸

Legal Standard

“The 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.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *accord. Trump v. J. G. G.*, 604 U.S. 670, 672 (2025); *see also Garcia Morao v. Noem*, No. 2:25-CV-00838-JNP, 2025 WL 2772181 (D. Utah Sept. 26, 2025) (unpublished) (citing *Padilla, id.*) (court did not have jurisdiction over a petition filed in the District of Utah when the petitioner was confined in Wyoming).

¹⁶ *Id.* at ¶ 13.

¹⁷ ECF No. 4 at 3-4.

¹⁸ ECF No. 29, 29-4 (Hearing Tr. pp. 9-10).

Argument

The Court lacked jurisdiction to consider this case from its inception. The petition was filed in the District of Utah at 5:13 pm on December 19, 2025. Petitioner was confined in the District of Wyoming as of 1:37 pm on that same day, and therefore jurisdiction in the District of Utah was improper at the time of filing. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *accord. Trump v. J. G. G.*, 604 U.S. 670, 672 (2025); *see also Garcia Morao v. Noem*, No. 2:25-CV-00838-JNP, 2025 WL 2772181 (D. Utah Sept. 26, 2025) (unpublished) (citing *Padilla, id.*) (court did not have jurisdiction over a petition filed in the District of Utah when the petitioner was confined in Wyoming). Temporary transportation through the District of Utah the next day was not sufficient to confer jurisdiction, and by the time the Court entered its first order in the case, Petitioner was already on a flight out of Utah on his way to Texas and Arizona.

The case should be dismissed with prejudice. Under 28 U.S.C. § 1631, if a civil action is filed in a district lacking jurisdiction over the matter, “the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court ... in which the action or appeal could have been brought at the time it was filed.” The Tenth Circuit has identified several factors for consideration in deciding whether to dismiss or transfer an improperly filed case, including whether

the claims are likely to have merit, whether a new action would be time-barred, and whether the original action was filed in good faith. *Trujillo v. Williams*, 465 F.3d 1210, 1223 n.16 (10th Cir. 2006).

Here, as Respondents have argued elsewhere, the original detention claims Petitioner advanced were without merit and subsequently were abandoned. The original petition was filed without sufficient investigation and thus were not in good faith. His pending claims are also without merit. He is not a victim of any crime, and he is not entitled to a certification as a crime victim for purposes of applying for a U-Visa. His pending claims are implausible on their face and are also not filed in good faith.

Conclusion

For the foregoing reasons, Respondents request that Petitioner's case be dismissed.

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Pursuant to D. Utah Civ. R. 7-1(a)(4)(A), the undersigned certifies that this Motion does not exceed 25 pages and contains 1,1767 words, which does not exceed the 7,750-word limit.

DATED: January 24, 2026.

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/s/ *Michael Kennedy*
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