

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

FRANCISCO PORTELA-MORA,

CASE NO. 2:26-cv-00013-JES-DNF

Petitioner,

v.

KRISTI NOEM, Secretary, United  
States Department of Homeland  
Security; *et. al.*,

Respondents.

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**PETITIONER'S RESPONSE IN OPPOSITION TO**  
**RESPONDENT GUTHRIE'S MOTION TO DISMISS**

COMES NOW the Petitioner ("Petitioner"), FRANCISCO PORTELA-MORA, by and through his undersigned counsel, and files his response to Respondent Guthrie's Motion For Extension of Time (ECF No. 20) and respectfully states as follows:

In his Motion to Dismiss, Respondent Guthrie states:

[T]he Court need not wade into this procedural thicket because the Petition's allegations demonstrate that the Director is not "the warden of the facility where the prisoner is being held." *Padilla*, 542 U.S. at 435. First, the Petition names Director Guthrie and describes him as "the Executive Director of [the Florida Division of Emergency Management]," not the warden of Alligator Alcatraz. Am. Pet. ¶ 15. Second, the Petition alleges that the Division "manages the

detention center where Mr. Martinez is being detained.” *id.*, but it acknowledges that the Petitioner is currently detained at the Krome Detention Center – a federal facility – “where he remains under the supervision/control of the US Department of Homeland Security . . . and the US Immigration and Customs Enforcement,” *id.* ¶ 6. And the Petition does not allege that the Division controls the federal Krome facility – because it does not. Thus, by naming the Director as a respondent, the Petition fails *Padilla*’s “default rule” that the “proper respondent is the warden of the facility where the prisoner is being held.” *Padilla*, 542 U.S. at 435.

See Respondent Guthrie’s Motion to Dismiss, ECF No. 20, pp.12-13.

Contrary to Respondent Guthrie’s argument in his Petition For Writ of Habeas Corpus, Petitioner pled *inter alia*, that Respondent Guthrie controlled (i.e., acted as warden) of the Florida South Side Detention facility a/k/a Alligator Alcatraz and is a custodian of the Petitioner. See ECF No. 1, ¶10. Moreover, Petitioner has never pleaded that he is being detained at the Krome Detention Center operated by Respondent ICE, has never filed an amended petition nor is Petitioner’s name “Martinez.”

Accordingly, this Court should deny Respondent Guthrie’s Motion to Dismiss.

**WHEREFORE**, Petitioner prays that this Honorable Court will deny Respondent Guthrie's Motion to Dismiss.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of the Court and that to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served electronically through the Court's ECF system to all parties of record this 28th day of March, 2026.

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