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7 Attorneys for Respondents

8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

11 DIANA MARCELA  
AGUIRRE CALLES,

12 Petitioner,

13 v.

14 WARDEN, OTAY MESA DETENTION  
15 CENTER, et al.,

16 Respondent.

Case No.: 26-cv-00195-JO-SBC

**RETURN TO PETITION**

17  
18 The petition in this case should be dismissed or transferred. District courts are  
19 limited to granting habeas relief “within their respective jurisdictions.” 28 U.S.C. §  
20 2241(a). For habeas petitions challenging present physical confinement, venue is  
21 appropriate only in the district in which a petitioner is confined, as “the district of  
22 confinement is synonymous with the district court that has territorial jurisdiction over  
23 the proper respondent” because “[b]y definition, the immediate custodian and the  
24 prisoner reside in the same district.” *Rumsfeld v. Padilla*, 542 U.S. 426, 444 (2004).

25 The rule that the proper venue for a challenge to present physical custody lies  
26 only in the district of confinement is based on the requirement that the court issuing the  
27 writ have jurisdiction over the entity capable of effecting the relief sought in the  
28 petition; in the context of a challenge to physical custody, that entity is the petitioner's

1 custodian. *See Ramirez v. United States*, No. 108CV00633OWWJMDHC, 2009 WL  
2 2044782, at 3 (E.D. Cal. July 9, 2009); *see, e.g., Braden v. 30th Judicial Circuit*  
3 *Court*, 410 U.S. 484 (1973) (“The important fact to be observed in regard to the mode  
4 of procedure upon [a writ of habeas corpus], that it is directed to, and served upon . . .  
5 [the] jailer . . . compelling the oppressor to release [the petitioner's] constraint”).

6 In order to determine the proper venue for a petition under 28 U.S.C. § 2241 the  
7 court must first determine which district has jurisdiction over the entity capable of  
8 effecting relief. *See Padilla*, 542 U.S. at 445–47 (discussing requirement that district  
9 court have jurisdiction over proper respondent capable of effecting relief in order to  
10 entertain petition); *see also Wheeler v. United States*, 640 F.2d 1116, 1121 n. 7 (9th  
11 Cir.1998) (stating that a court must have a respondent over whom it can assert  
12 jurisdiction in order to entertain a habeas petition).

13 In attempting to respond to the petition filed in this case on January 7, 2026, it  
14 was discovered that Petitioner had already been transferred to the South Louisiana  
15 Immigration and Customs Enforcement (ICE) Processing Center on January 5, 2026.  
16 Here, where the sole respondent named in this case is not Petitioner’s immediate  
17 custodian, and where the Court lacks jurisdiction over the entity capable of affecting  
18 the relief sought, venue is not proper in the Southern District of California. Because the  
19 habeas petition is not in a proper venue, the Court may either dismiss the petition or  
20 transfer it to the correct venue, if transfer is “in the interest of justice.” *See* 28 U.S.C §  
21 1406(a).

22 DATED: February 5, 2026

ADAM GORDON  
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24 *s/ Hunter V. Norton*  
25 HUNTER V. NORTON  
26 Assistant United States Attorney  
27 Attorneys for Respondents  
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