

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

CHRISTIAN AZAEL ALVAREZ)
GARCIA,)
Petitioner,)
) CIV-26-165-JD
v.)
)
ROBERT CERNA, *et al.*,)
Respondents.)

**RESPONDENTS' OPPOSITION TO PETITIONER'S EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER**

Respondents hereby oppose Petitioner's Emergency Motion for Temporary Restraining Order to Prevent Petitioner's Transfer Out of the Western District of Oklahoma (Doc. 4) ("Emergency Motion"). Because Petitioner currently is housed at Bluebonnet Detention Center in Anson, Texas, the Emergency Motion should be denied as moot. Respondents also submit that this suit should either be dismissed or transferred to the judicial district in which Petitioner is confined, which is the Northern District of Texas.

I. Factual Background

Petitioner filed his Writ of Habeas Corpus 28 U.S.C. § 2241 (Doc. No. 1) on February 1, 2026. On February 3, 2026, the Court entered its order directing Respondents to file a response to Petitioner's Emergency Motion for Temporary Restraining Order (Doc. No. 4) and Petition (Doc. No. 1). (Doc. 10.) The Court further ordered Respondents to promptly inform the Court if Petitioner is *not* being held within the territorial

jurisdiction of the Western District of Oklahoma. (*Id.* at 3(a).) Undersigned counsel received notification of this suit and the Court’s order on February 3, 2026.

On February 1, 2026—the day the Petition was filed—Petitioner was in transit. He briefly passed through the Immigration and Customs Enforcement, Enforcement and Removal Oklahoma City Hold Room for processing and then was transported to Garvin County Jail to be housed temporarily overnight. (Ex. 1, Hilbun Decl. ¶4.) The next day—before notice of this suit issued—Petitioner again passed through the Oklahoma City Hold Room and then was transferred to Bluebonnet Detention Center in Anson, Texas, where he currently is detained. (*Id.* at ¶7.) That detention center and Petitioner’s custodian are within the territorial jurisdiction of the Northern District of Texas.

II. The Emergency Motion is Moot

The only relief sought in the Emergency Motion Petitioner’s is to enjoin Respondents from “transferring Petition outside the Western District of Oklahoma pending resolution of the Writ of Habeas Corpus.” (Mot. at 5-6.) But Petitioner was transferred out of this District before receiving notice of this suit and currently is housed at Bluebonnet Detention Center in Texas. Accordingly, absent an order to return the Petitioner,¹ the Emergency Motion is moot and should be denied.

¹ Courts are jurisdictionally barred from ordering Petitioner to be detained in a different location. 8 U.S.C. § 1252(a)(2)(B)(ii) provides that “[n]o court shall have jurisdiction to review . . . any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subsection to be in the discretion of the Attorney General or the Secretary of Homeland Security[.]” That is, “§ 1252(a)(2)(B) bars judicial review of certain discretionary decisions of the Attorney General or the Secretary of Homeland Security.” *Green v. Napolitano*, 627 F.3d 1341, 1343-44 (10th Cir. 2010). The INA provides that “[t]he Attorney General shall arrange

III. This Case Should Be Dismissed or Transferred to the Northern District of Texas

As a general rule, a petitioner must file a habeas petition in the district in which they are confined and must name the petitioner's immediate custodian. *Rumsfeld v. Padilla*, 542 U.S. 426, 442-47 (2004). To be filed properly, both the place of confinement and the immediate custodian must be in the judicial district in which the petition is filed. *Id.* at 444 (“By definition, the immediate custodian and the prisoner reside in the same district.”). If the custodian is not within the district, the court lacks jurisdiction to grant habeas relief. *Gorbey v. Warden of Fed. Transfer Ctr.*, 580 F. App'x 682, 682-83 (10th Cir. 2014) (affirming this Court's dismissal of a § 2241 petition as moot where petitioner was transferred from the Western District of Oklahoma to Kentucky after filing the petition); *Griffin v. Kastner*, 507 F. App'x 801, 802-03 (10th Cir. 2013) (affirming this Court's dismissal of a § 2241 petition as moot where petitioner who had been transferred from the Western District of Oklahoma to Missouri was “outside the ‘district of

for appropriate places of detention for aliens detained pending removal or a decision on removal.” 8 U.S.C. § 1231(g)(1). “The Attorney General’s discretionary power to transfer aliens from one locale to another, as she deems appropriate, arises from this language.” *Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (holding district court lacked jurisdiction to enjoin Attorney General’s discretionary transfer of noncitizens in a Bivens class action). *See also Tercero v. Holder*, 510 F. App'x 761, 766 (10th Cir. 2013) (affirming decision that Attorney General’s discretionary decision where to detain petitioner was not reviewable); *Sinclair v. Att’y Gen. of United States*, 198 F. App'x 218, 222 (3d Cir. 2006) (reaffirming Attorney General’s discretion under § 1231(g)(1) to determine place of detention); *Olola v. U.S. Att’y Gen.*, No. 18-CV-00058-GPG, 2018 WL 11446892, at *4 (D. Colo. Feb. 22, 2018) (“decisions to transfer an alien from one location to another are within the discretion of the Attorney General and therefore may not be reviewed or enjoined by the federal district courts”).

confinement’ and therefore outside the scope of [this Court’s] habeas jurisdiction” (quoting *Padilla*, 542 U.S. at 442)).

Here, the Petition names three respondents: (1) Kristi Noem, in her official capacity as Secretary, U.S. Department of Homeland Security; (2) Pamela Bondi, in her official capacity as U.S. Attorney General, Executive Office for Immigration Review; and (3) Robert Cerna, in his official capacity as Field Office Director of Enforcement Operations, ICE Dallas Field Office, Immigration and Customs Enforcement. The Petition does not name a custodian located within this Court’s jurisdiction. Instead, the Petition identifies Respondent Cerna as Petitioner’s “immediate custodian.” (Pet. at ¶17.) But Respondent Cerna is the Director of the Dallas Field Office which is in the Northern District of Texas and outside this Court’s jurisdiction. Thus, regardless of Petitioner’s location, at the time of filing this Court lacked jurisdiction over Petitioner’s named custodian.

Petitioner’s physical presence in this District at the time of filing does not change that conclusion. “[I]t is well established that jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change.” *Santillanes v. U.S. Parole Comm’n*, 754 F.2d 887, 888 (10th Cir. 1985). But there is a difference between having subject matter jurisdiction over the case and jurisdiction to effectuate relief. *See Al-Pine v. Richerson*, 763 F. App’x 717, 721 n.4 (10th Cir. 2019) (“And in *Padilla*, the Supreme Court made clear that, as relevant here, the Court was using the word ‘jurisdiction’ in the sense that it is used in the habeas statute, 28 U.S.C. § 2241(a), and not in the sense of subject-matter jurisdiction of the

District Court. Thus, while we say here that the district court did not have jurisdiction to grant § 2241 relief, the court did have subject-matter jurisdiction over the action and was able to dismiss on an alternative ground.” (cleaned up)). The Court must still have jurisdiction over the custodian to effectuate relief. *See Johnston v. United States*, No. CIV-20-980-D, 2021 WL 674018, at *1 (W.D. Okla. Feb. 22, 2021) (dismissing a § 2241 petition without prejudice as moot when petitioner was incarcerated in the Western District of Oklahoma when he filed the petition but was later transferred to an Arizona facility); *Naranjo-Delgado v. United States*, No. CIV-18-1061-R, 2019 WL 2342689, at *1 (W.D. Okla. June 3, 2019) (dismissing a § 2241 petition without prejudice as moot when petitioner was incarcerated in the Western District of Oklahoma when he filed the petition but was later transferred to a Texas facility).

The facts demonstrate that, at the time of filing, Petitioner was being moved in the ordinary course and was in transit to Texas when the Court screened the Petition and ordered a response. Indeed, when the Court’s order issued, Petitioner was already at Bluebonnet and outside this Court’s jurisdiction. Additionally, the Petition was not “properly filed” because it did not name a custodian within this District and there is no respondent within this District to which the Court may direct an order to effectuate relief. Accordingly, the Petition should be dismissed or transferred to the Northern District of Texas. *Padilla*, 542 U.S. at 441 (“When the Government moves a habeas petitioner after [he] properly files a petition naming [his] immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner’s release.” (emphasis added)).

Respectfully submitted,

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