

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

**CHRISTIAN AZAEL
ALVAREZ GARCIA**

Petitioner

v.

ROBERT CERNA, Acting Field Office
Director of Dallas Field Office, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States, in their official capacities

Respondents.

Case No. 5:26-cv-00165

**PETITIONER'S REPLY TO RESPONDENT'S OBJECTION TO EMERGENCY
MOTION FOR TEMPORARY RESTRAINING ORDER**

Petitioner, **CHRISTIAN AZAEL ALVAREZ GARCIA**, respectfully submits this Reply to Respondent's Opposition to Petitioner's Emergency Motion for Temporary Restraining Order. (Doc. 13)

For the reasons set forth below, nothing in Respondent's opposition actually defeats the arguments set forth in Petitioner's Emergency Motion for Temporary Restraining Order. In fact, the dates and times provided support Petitioner's position that Respondents had actual notice of the Motion and the underlying Habeas Petition and chose to move Petitioner regardless. Therefore, jurisdiction should attach in the Western District of Oklahoma.

I. JURISDICTION ATTACHED WHEN THE HABEAS PETITION WAS FILED

It is well established in the Tenth Circuit that **jurisdiction attaches at the moment a habeas petition is filed, and it is not destroyed by a subsequent transfer of the petitioner.** *Santillanes v. U.S. Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985). Once jurisdiction attaches, the Government may not defeat judicial review through post-filing custodial movement. See *Ex parte Endo*, 323 U.S. 283, 306 (1944).

Here, Respondents expressly concede that they transferred Petitioner after the Habeas Petition was filed. (Doc. 13) Accordingly, jurisdiction indisputably attached while Petitioner was physically present within the Western District of Oklahoma.

II. THE TRANSFER DOES NOT DEFEAT JURISDICTION WHERE RESPONDENTS HAD ACTUAL NOTICE AND EFFECTUATED A RUSHED TRANSFER

Respondents argue that this Court lacks jurisdiction because Petitioner was transferred to Texas “prior to receiving notice of this suit.” (Doc. 13) That assertion ignores critical facts demonstrating that **ICE and DHS had actual notice of this action and the emergency motion well before Petitioner was moved**, and that the transfer was executed despite that notice.

Courts routinely reject attempts to defeat habeas jurisdiction through rushed transfers once the government has notice of impending judicial review. See *Ex parte Endo*, 323 U.S. 283 (1944); *Padilla v. Rumsfeld*, 542 U.S. 426 (2004) (recognizing limits where transfer is used to manipulate jurisdiction).

Respondents’ reliance on *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), is misplaced. *Padilla* addressed a circumstance in which the habeas petition was filed **after** the petitioner had already been transferred outside the district and where no respondent with legal authority over the detention remained subject to the court’s jurisdiction. The Supreme Court expressly

acknowledged, however, that jurisdictional limits do not apply where a transfer is used to **manipulate jurisdiction** or defeat judicial review. *Id.* at 441–42. That is precisely the circumstance presented here. Unlike in *Padilla*, Respondents had **actual notice** of Petitioner’s pending habeas action and Emergency Motion for Temporary Restraining Order before effectuating the transfer, and Petitioner was moved while Respondents retained—and continue to retain—legal authority over his detention through ICE and DHS officials subject to this Court’s jurisdiction. Under *Ex parte Endo*, 323 U.S. 283 (1944), this Court therefore retains jurisdiction and may direct the writ to a proper respondent within the district notwithstanding Respondents’ post-notice transfer.

III. TIMELINE ESTABLISHING ACTUAL NOTICE TO ICE AND DHS BEFORE TRANSFER

The following timeline demonstrates that ICE had actual notice before moving Petitioner to Texas.

- February 1, 2026 at 9:12 a.m. Petitioner was at the Oklahoma City Hold room within the Western District of Oklahoma. (Doc. 13-1)
- February 1, 2026 at 10:21 a.m. The Petition for Writ of Habeas Corpus was e-mailed to the “New Cases” e-mail for the Western District of Oklahoma. Counsel for petitioner also stated that an emergency motion would be included and asked for it to be opened as soon as possible. (Exhibit 1)
- February 1, 2026 at 11:15 a.m. Petitioner was taken to Garvin County Jail to be housed overnight in the Western District of Oklahoma. (Doc. 13-1)
- February 1, 2026 1:39 p.m. Counsel for Petitioner e-mailed Civil Division Chief Scott Maule of the U.S. Attorney’s Office for the Western District of Oklahoma informing him that the Petition for Writ of Habeas Corpus and accompanying Emergency Motion

were submitted to the Western District of Oklahoma for filing and included courtesy copies of the motions attached to the e-mail. (Exhibit 2)

- February 2, 2026 at 7:00 a.m. Petitioner was booked out the Garvin County jail.
- February 2, 2026 at 8:48 a.m. The Western District of Oklahoma assigned a case number and judge to the Habeas Petition. (Exhibit 3)
- February 2, 2026 at 9:25 a.m. Counsel for Petitioner e-mailed Mr. Maule confirming that the case was opened by the Western District of Oklahoma and the petition and motion had been filed. (Exhibit 4)
- February 2, 2026 at 9:20 a.m. Counsel for Petitioner e-mailed the Dallas Field Office for ICE informing them that the petition and emergency motion had been filed and included copies of each attached to the e-mail. (Exhibit 5)
- February 2, 2025 at 9:24 a.m. Counsel for Petitioner uploaded the filed Petition and emergency motion to ICE's e-service system and received a confirmation e-mail that it had been received and was being reviewed. (Exhibit 6)
- February 2, 2026 at 11:04 a.m. ICE's e-service system confirmed that the petition and emergency motion were "Accepted for Service of Process." (Exhibit 7)
- February 2, 2026 at 11:34 a.m. Petitioner was booked into the Oklahoma Hold Room again, in the Western District of Oklahoma. (Doc 13-1)
- February 2, 2026 at 2:10 p.m. Officer Hilbun states that Petitioner was booked out of the Oklahoma City hold room. (Doc. 13-1)
- February 2, 2026 at 3:39 p.m. Petitioner's daughter received a call from Petitioner while he was still at the Oklahoma City field office stating that they were preparing to transfer him to Texas. (Exhibit 8)

IV. THE WESTERN DISTRICT OF OKLAHOMA IS THE PROPER JURISDICTION

The Hilbun Declaration (Doc. 13-1) does not state that ICE lacked notice of the filing, that the transfer decision was reconsidered after notice, or that placement officials were unaware of the Court's involvement. At most, it establishes that Oklahoma City is a temporary hold location. None of that negates the jurisdictional consequence of transferring a detainee after federal court proceedings have been initiated.

Further, Respondents argue that this Court lacks authority to effectuate relief because Petitioner named a custodian located in Texas. (Doc. 13) That argument fails as a matter of law and ignores the operational reality of ICE detention.

First, jurisdiction attached before the transfer, when Petitioner was detained within the Western District of Oklahoma. *Santillanes v. U.S. Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985). A post-filing transfer cannot divest this Court of jurisdiction.

Second, at all relevant times, including while Petitioner was physically present in Oklahoma, custody over Petitioner was exercised by the **Dallas Office of ICE Enforcement and Removal Operations**, which has supervisory authority over ICE operations in Oklahoma. (Exhibit 9) The Acting Field Office Director of the Dallas Field Office therefore constituted Petitioner's immediate custodian for habeas purposes. There is no alternative known local custodian to name while Petitioner is being held within Oklahoma City in the local ICE field office which is under the control of the Dallas Office of ICE Enforcement and Removal Operations.

V. RESPONDENT'S MOOTNESS ARGUMENT FAILS

Respondents' claim that the emergency motion is "moot" ignores the nature of the relief sought. Petitioner seeks:

1. Judicial review of detention without a bond hearing; and

2. Injunctive relief preventing transfer that interferes with access to counsel and meaningful judicial review.

The injury here is **capable of repetition yet evading review**, particularly where ICE transfers detainees immediately after notice of litigation. Respondents contend that Petitioner's Emergency Motion for Temporary Restraining Order is moot because Petitioner has already been transferred. (Doc. 14 at 6–7.) That argument is circular. The Emergency Motion seeks to address the very harm caused by a post-notice transfer: interference with access to counsel and meaningful judicial review. **A respondent cannot moot a TRO by accomplishing the challenged conduct after notice and then claiming the Court is powerless to respond.**

VI. EQUITABLE CONSIDERATIONS STRONGLY FAVOR THIS COURT RETAINING THE CASE

Petitioner was detained in Oklahoma, communicated with counsel in Oklahoma, and sought emergency relief in Oklahoma. Respondents' after-the-fact transfer—executed despite actual notice—should not be rewarded by divesting this Court of jurisdiction. Allowing such conduct would incentivize agencies to **move detainees immediately upon learning of judicial filings**, undermining habeas review and due process.

s/Melissa M. Henry

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