UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Luis Humberto Pilatuna Gualoto, Petitioner, v. Pamela Bondi, Attorney General, Kristi Noem, Secretary, U.S. Department of Homeland Security, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement, and David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement. Respondents.	Case No. 26-cv-625 **PETITIONER'S MEMORANDUM OF LAW IN OPPOSITION TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

The basis for Mr. Pilatuna Gualoto's petition is simple: he is being detained pursuant to a stubborn misreading of 8 U.S.C. § 1225. Mr. Pilatuna Gualoto resides in Minnesota, was arrested in Minnesota, and has a pending asylum application and a case in immigration court in Minnesota.

His detention was part of "Operation Metro Surge," which is ongoing in Minnesota and is referred to by Respondents as "the largest immigration operation ever."[1]

[1] https://sahanjournal.com/immigration/noem-visits-minnesota-immigration-east-side-st-paul-payne-avenue/

There are more than double the amount of federal agents operating in the Twin Cities than total police officers employed by the City of Minneapolis and St. Paul combined.[2]

Respondents are also engaged in a concerted effort to whisk detainees outside of Minnesota as quickly as possible, often to Texas, Nebraska, and New Mexico. *See, e.g.*, Ellie Roth, *Observer: ICE Detainee Flights Increase at MSP as Enforcement Action Ramps Up*, MPR NEWS (Jan. 14, 2026 4:00 A.M.), https://www.mprnews.org/story/2026/01/14/ice-detainee-flights-leaving-msp-increase-as-surge-continues. This tactic severely impairs detainees' ability to obtain legal counsel and to challenge the legality of their detention.

People detained as part of Operation Metro Surge are being brought to the Whipple Building at Fort Snelling, where they are detained in cramped quarters and then frequently sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas, or New Mexico in a matter of mere minutes or hours. Respondents' agents on two separate occasions admitted to the undersigned counsel that detainees are not permitted access to counsel until they are finished being "processed," which processing may not be complete until detainees are transported out of state. *Oscar O.T. v. Bondi et al*, 26-cv-167 (JWB/JFD) Dkt. 13 Kelley Aff. ¶¶ 16(e), 19 (D Minn. Jan. 21, 2026).

Despite this matter's overwhelming ties to Minnesota, Respondents insist that their lightning fast–albeit unverified[3]–transfer of Petitioner outside of Minnesota categorically divested this Court of jurisdiction to hear the merits of the petition. Respondents' position

[2] https://www.startribune.com/how-ice-numbers-compare-to-twin-cities-largest-police-forces/601562617

[3] While Petitioner filed a verified petition to support his factual allegations, Respondents have provided no evidence of when Petitioner was transferred, or where Petitioner is currently located, aside from asserting in their Response that he was flown to Texas the day after being taken into custody. ECF 5, 2.

is inconsistent with the law and a bare attempt to obstruct the interests of substantive justice.

As explained herein, habeas doctrine, the case law, and traditional venue principles permit this Court to retain jurisdiction. Respondents' motion should be denied.

II. ARGUMENT

A. When Adjudicating Habeas Petitions, Courts Must Prioritize the Interests of Justice Over Procedural Barriers.

The habeas mechanism serves the critical interest of a human's physical liberty from unlawful detention, and as such Supreme Court precedent requires that habeas doctrine be applied in a flexible manner that prioritizes the interests of justice over formalistic procedural concerns:

> The scope and flexibility of the writ -- its capacity to reach all manner of illegal detention -- its ability to cut through barriers of form and procedural mazes have always been emphasized and jealously guarded by courts and lawmakers.
>
> The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.

Harris v. Nelson, 394 U.S. 286, 291 (1969). *See also Jones v. Cunningham*, 371 U.S. 236, 243 (1963) ("[habeas] is not now and never has been a static, narrow, formalistic remedy; its scope has grown to achieve its grand purpose -- the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty.").

For this reason, Courts should be reluctant to permit the government to capitalize on procedural gamesmanship unrelated to the merits of the petition. *See Ogburn v. Fed. Bureau of Prisons,* CV-22-108-GF-BMM 2023 U.S. Dist. LEXIS 83929, *5 (D. Mont.

May 12, 2023) (noting that the flexibility of habeas to be the "animating" principle which justified rejecting the government's "invitation to impose 'barriers of form and procedural mazes'" on a habeas petition).

Here, flexibility and justice would encourage this Court to keep jurisdiction, notwithstanding the potential–again, unverified–that Respondents may have flown Petitioner to Texas within 24 hours of his detention.

B. The Determining Factor of Jurisdiction is Whether This Court Has the Authority to Command the Requested Relief

This Court has jurisdiction over Petitioner's case, even if Respondents' unsupported allegation that he was transferred out of state the day after being taken into custody is credited. ECF 5 at 2. Courts commonly refuse to transfer venue in precisely this situation: "the [post-habeas-filing] revelation that Petitioner was not actually in the district at the time of filing does not require the Court to dismiss or transfer the action, provided that it is still capable of awarding the relief sought. … The Court is able to grant the Petition as long as there remains a person within this judicial district to whom the writ can be directed." *Van Tran v. Hyde*, No. 25-cv-12546-ADB 2025 U.S. Dist. LEXIS 223408, *12 (D. Mass. Nov. 13, 2025).

Courts in Minnesota look to whether at least one Respondent actually has "the legal authority to effectuate Petitioner's release." *Redding v. Thompson*, No. 17-CV-2740 (JRT/TNL), 2018 WL 850147, at *5 (D. Minn. Jan. 23, 2018), report and recommendation adopted, No. CV 17-2740 (JRT/TNL), 2018 WL 847764 (D. Minn. Feb. 13, 2018). Arguably, Bondi, Noem, or Lyons are subject to jurisdiction in D. Minn. and

at least one has the authority to require Major General Curtis Taylor to release the Petitioners. *Beltran v. Bondi*, No. 25-04604 (MJD/DTS), 2025 WL 3719856, at *2 (D. Minn. Dec. 23, 2025) (finding this court to retain jurisdiction over a habeas case despite the fact that "petitioner was transferred out of the jurisdiction." The Respondents are still operating in Minnesota, and therefore, unlike in *Redding* where this Court found that it lacked jurisdiction over the warden of an Illinois federal prison in which the petitioner was detained, this Court does actually have jurisdiction over Respondents, who can order the release of Petitioner.

C. Traditional Principles of Venue Apply to Habeas Jurisdiction.

In analyzing the proper District to hear a habeas petition, equitable principles of venue apply. *See Braden v. 30th Judicial Circuit Court of Kentucky,* 410 U.S. 484, 495-500 (1973) (rejecting an "inflexible jurisdictional rule" and holding that as "long as the custodian can be reached by service of process, the court can issue a writ within its jurisdiction even if the prisoner himself is confined outside the court's territorial jurisdiction."); *Gallego v. Decker*, 2020 U.S. Dist. LEXIS 163548, *21 (S.D.N.Y. Sep. 8, 2020) (applying traditional venue principles to find that an immigrant habeas petitioner was entitled to have his petition heard in the District because he was a longtime resident, it was where all his immigration proceedings were heard, and where he was arrested).

Courts routinely reject forum shopping in favor of applying traditional venue rules in these circumstances:

> [transferring venue] would ratify an attempt at forum shopping. When it is possible to apply the immediate custodian rule, that rule serves the important

> purpose of preventing forum shopping by a habeas petitioner. Just as a habeas petitioner should not be permitted to forum shop, neither should the United States Government. …
>
> Moreover, because Petitioner has strong connections to this District, this District has an interest in the adjudication of Petitioner's habeas claims, whereas the Northern District of Texas and the Western District of Louisiana do not.

Suri v. Trump, 785 F. Supp. 3d 128, 148 (E.D. Va. 2025**)** *aff'd on appeal* No. 25-1560 2025 U.S. App. LEXIS 16172, at *26 ("To allow the government to undermine habeas jurisdiction by moving detainees without notice or accountability reduces the writ of habeas corpus to a game of jurisdictional hide-and-seek.").

Indeed, courts have recognized that ICE's power to forum shop imposes unique considerations to the jurisdiction and venue analysis. *See Anariba v. Dir. Hudson Cty. Corr. Ctr*., 17 F.4th 434, 447-448 (3d Cir. 2021) ("forum-shopping concerns intensify when the § 2241 petitioner is an ICE detainee. According to Argueta, the Government has broad authority to move ICE detainees, which occurs often without notice. The frequency and circumstances surrounding such transfers can have negative repercussions on ICE detainees, ***particularly those seeking federal habeas relief.")*** (cleaned up) (emphasis added); *Vasquez v. Reno*, 233 F.3d 688, 696 (1st Cir. 2000) ("Another example of an extraordinary circumstance might be a case in which the INS spirited an alien from one site to another in an attempt to manipulate jurisdiction."); *De Jesus Paiva v. Aljets,* Civil No. 03-6075 (2003 U.S. Dist. LEXIS 21933, *13 (D. Minn. Dec. 1, 2003). ("The Court finds that the practical effect of ICE's decision to transport Petitioners from Minnesota to Pennsylvania was to prevent them from filing their Petition while they were present in this state. To now hold that Petitioners may only file their

Petition in the state that the ICE determines to send them would be to allow the ICE to forum shop, intentionally or not.").

Venue is proper here pursuant to 28 U.S.C. § 1391(e)(1)(A-B), because Respondents are operating in this district and the events giving rise to the petition–the unlawful detention–occurred in Minnesota.

D. The Law Contemplates Respondents' Proclivity to Forum Shop.

Respondents are in the unique position of having full custodial control over Petitioner's physical location. Respondents' habit of using this power to legally disadvantage those in their custody—particularly in habeas proceedings—has drawn considerable academic scrutiny. *See, e.g.*, Rosa S. Felibert, Shopping on Thin ICE: Venue Limits on ICE Detention Transfers to Prevent Forum Shopping, BOSTON COLLEGE LAW REVIEW; Rocher Grantham, Detainee Transfers and Immigration Judges: ICE Forum-Shopping Tactics in Removal Proceedings, GEORGETOWN LAW REVIEW (recommending increased awareness of "ICE's forum-shopping tactics and the outcome-determinative effect they have on detainees' cases" and that "district court judge who hear detainees' habeas cases … should take note of this problem and emphasize that such departures from justice must never be permitted …").

Courts have also recognized the problem. The Third Circuit recently identified that Respondents' custodial transfers "can have negative repercussions on ICE detainees … ***particularly those seeking habeas relief***" and that when "continuous transfer permeates the reality of ICE detention, it suggests that the Government has the machinery already in place to permit extensive forum shopping." *Anariba v. Dir. Hudson Cty. Corr. Ctr.*, 17

F.4th 434, 447-448 (3d Cir. 2021) (reversing district court's finding that it lacked jurisdiction over habeas petitioner's Rule 60(b) motion); *Rosendo-Ramirez v. INS,* 32 F.3d 1085, 1092 (7th Cir. 1994) (noting that ICE's predecessor agency may have "the upper hand" in forum shopping).

III. PETITIONER IS WRONGFULLY DETAINED

The mandatory detention provisions of 8 U.S.C. § 1225(b)(2) do not apply to noncitizens similarly situated to Petitioner. *See Roberto M. F. v. Olson*, No. 25-cv-4456 (LMP/ECW), 2025 WL 3524455, at *4 (D. Minn. Dec. 9, 2025); *Victor Hugo D. P. v. Olson*, No. 25-cv-4593 (LMP/DTS), 2025 WL 3688074, at *2–3 (D. Minn. Dec. 19, 2025).Nor can Respondents attempt to retroactively claim that Petitioner could also be detained pursuant to 8 U.S.C. § 1226(a), and thus can be held so long as a bond hearing is provided. The Government must present an administrative warrant as a prerequisite to detaining someone under § 1226(a), which here they did not do. *See Joaquin Q. L. v. Bondi*, No. 26-cv-233, 2026 WL 161333, at *2–3 (D. Minn. Jan. 21, 2026); see also 8 U.S.C. § 1226(a) (stating that a noncitizen "may be arrested and detained" pending removal "[o]n a warrant issued by the Attorney General").

CONCLUSION

Because Respondents have offered no evidentiary support as to Petitioner's location, and because Respondents' pattern of rapid transfers appears to be in part an attempt to frustrate this Court's jurisdiction, and creates in fact a major impediment to Petitioner's and others' access to counsel, and because venue is otherwise proper in a jurisdiction

where Respondents are operating and where the events giving rise to the petition occurred, this Court has jurisdiction to hear this petition, which should be granted.

Date: Jan. 29, 2026

/s/ Kira A. Kelley

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