

United States District Court
Western District of Texas
El Paso Division

Orlando Imbert-Marrero,

Petitioner,

v.

Warden, ERO Camp East Montana, *et al.*,

Respondents.

No. 3:26-cv-00349-LS

Advisory to the Court for a Potential Change in Venue

Petitioner filed a writ of habeas corpus under 28 U.S.C. § 2241, seeking relief from confinement in El Paso, Texas, within the jurisdiction of the Western District of Texas. *See* ECF No. 1. Because Petitioner is now detained in the Southern District of Florida, it is possible that venue may be changed to the that District.

BACKGROUND

Petitioner, a Cuban national, was ordered removed from the United States on January 12, 2006. ECF No. 1, ¶¶ 1, 2. Following the decision in his removal proceedings, Petitioner was held in U.S. Immigration and Customs Enforcement (ICE) custody for the duration of the 90-day removal period pursuant to 8 U.S.C. § 1231(a)(1)(A)-(B)(i). *Id.* ¶ 53. ICE was unable to secure a travel document or otherwise effectuate Petitioner's removal, thus Petitioner was released. *Id.* Petitioner was re-detained by ICE agents on or about July 29, 2025. On the date he filed the Petition (i.e., February 5, 2026), Petitioner was confined in El Paso. On February 13, 2026, Petitioner was transferred to the Alexandria Staging Facility in Alexandria, Louisiana. On February 21, 2026, Petitioner was transferred again to the Florida Soft Side South Detention Facility, in Ochopee,

Florida, where he remains detained. See Exhibit (“Exh.”) A (ICE Online Detainee Locator) (<https://locator.ice.gov/odls/#/results>) (last accessed on February 26, 2026).

DISCUSSION

There is published Fifth Circuit precedent that holds “[j]urisdiction attache[s] on [the] initial filing for habeas corpus relief, and it [is] not destroyed by the transfer of petitioner and accompanying custodial change.” *Griffin v. Ebbert*, 751 F.3d 288, 290 (5th Cir. 2014) (collecting cases). Petitioner filed his Petition on February 5, 2026, and he was still detained in the Western District on that day. Thus, this Fifth Circuit decision provides a rationale under which the Court may retain jurisdiction.

However, since Petitioner is no longer detained in the Western District of Texas, there is earlier U.S. Supreme Court precedent that provides authority to transfer jurisdiction. “District courts are limited to granting habeas relief within their respective jurisdictions.” See *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004) (citation modified) (quoting 28 U.S.C. § 2241(a)). In other words, this requires “that the court issuing the writ have jurisdiction over the custodian.” See *id.* (quoting *Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 495 (1973)). “Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States,” the default rule is that “he should . . . file the petition in the district of confinement.” See *id.* at 446 (citing *Al-Marri v. Rumsfeld*, 360 F.3D 707, 710, 712 (7th Cir. 2004)).

Because this rule is merely a default, there are exceptions. See *Ozturk v. Trump*, 777 F. Supp. 3d 26, 35–37 (D. Mass. Apr. 4, 2025) (collecting cases). As is relevant here, the Supreme Court has recognized that “the district court from whose territory the petitioner had been removed”¹ can exercise jurisdiction when “a prisoner is held in an undisclosed location by an

¹ *Padilla*, 542 U.S. at 454 (Kennedy, J., concurring).

unknown custodian, [and] it is impossible to apply the immediate custodian and district of confinement rules.” *Padilla*, 542 U.S. at 450 n.18 (majority opinion). Unless a petitioner can establish an exception to the district of confinement rule, however, that default will apply. *See, e.g., Y.G.H. v. Trump*, 787 F. Supp. 3d 1097, 1109 (E.D. Cal. May 27, 2025) (dismissing petition where “[petitioner] failed to establish an exception to the district of confinement rule”).

In this case, Petitioner’s current place of confinement is known (i.e., the Florida Soft Side South Detention Facility in Ochopee, Florida). Thus, it could be argued the default rule applies.

CONCLUSION

Since Petitioner is now detained in the Southern District of Florida, it is not clear where venue properly lies. While Petitioner was detained in the Western District of Texas on the date he filed his Petition, it can also be argued that Court has no jurisdiction over the custodian of the facility in which Petitioner is detained, thus venue should be transferred to the Southern District of Florida.

Respondents respectfully request an additional five days from the date the Court rules on whether venue is proper in the Western District of Texas or the Southern District of Florida to submit their response to the Petition.

Dated: February 26, 2026.

Respectfully submitted,

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