

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Henry Antonio Villeda Posada,

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.

Civ. No. 26-cv-1121 (MJD/JFD)

**REPLY TO
FEDERAL
RESPONDENTS'
RESPONSE TO
PETITION FOR
WRIT OF HABEAS
CORPUS**

Petitioner, Henry Antonio Villeda Posada, (“Mr. Villeda Posada”), by and through the undersigned attorney, respectfully submits this Reply in support of the Petition for a Writ of Habeas Corpus. This Reply will not rehash what the District of Minnesota has ruled repeatedly: “Respondents’ broad reading of § 1225(b)(2) has been often rejected in this District, regardless of whether the petitioner entered without inspection, or was initially detained at the border and released.” *Ivan R. v. Bondi*, Case No. 26-CV-485 (JWB/EMB) Doc. No. 8, 1-2 (D. Minn. Jan. 24, 2026) (gathering cases). Instead this Reply will address the dispute over this Court’s jurisdiction and the issue of whether 8

U.S.C. § 1226(a) applies as an alternate basis for detaining Petitioner, given the purported existence of a warrant.

JURISDICTION AND VENUE

Respondents seek dismissal or transfer of the case by asserting that Petitioner was in Texas at the time that this Petition was filed. However, the Court has jurisdiction because: the Habeas Doctrine favors equity over procedural barriers; equitable concerns favor jurisdiction in Minnesota, where Respondents are subject to service of process and where Petitioner resides; and at a minimum, Petitioner's location was unknown at the time that the petition was filed and remains unverified by any evidence.

1. Habeas Doctrine Requires Justice to Prevail Over Procedural Barriers

As an overarching principle, habeas is flexible and must be applied in a manner designed to achieve its purpose—equitable relief from unlawful detention.

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 jealousy guarded by the courts and lawmakers. **The very nature of the writ demands that it be administered within the initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected.**

Harris v. Nelson, 394 U.S. 286, 291 (1969) (emphasis added). *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.”).

2. Equitable Notions of Personal Jurisdiction Determine Habeas Jurisdiction

A core consideration in habeas jurisdictional analysis is whether the custodian can be reached by service of process in the district. *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.”). Similarly, traditional principles of jurisdiction and venue apply, such as Petitioner’s residence and the location of arrest. *Suri v. Trump*, 785 F. Supp. 3d 128, 148 (E.D. Va. 2025) (“[i]t strains credulity, however, that a habeas petition that properly named the petitioner's ultimate custodian and was filed in the district where the petitioner resides, was arrested, and was detained cannot be heard in that same district.”).

Courts recognize that ICE’s ability to easily forum shop through unilateral detainee transfers bears on habeas jurisdiction. *Anariba v. Dir. Hudson Cty. Corr. Ctr.*, 17 F.4th 434, 447-448 (3d Cir. 2021) (ICE 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.”).

Applying these principles to an analogous habeas matter, Judge Bryan very recently found jurisdiction was proper in Minnesota:

Here, the equitable factors weigh in favor of this District as the appropriate venue to adjudicate the Petition. The decision to arrest and detain Jose A. was directed to personnel within this District, and therefore witnesses and information about the manner of his arrest would also be found in this

District. Jose A. was, for at least some time, actually detained within this District. Jose A. has lived in Minnesota for many years and Respondents have given no response as to the basis of his detention or what the length of his detention would be. Transferring venue would prolong both Jose A.'s detention and the adjudication of his claims. Further, venue should not be transferred simply because a petitioner was unable to file their petition prior to transfer, particularly when that transfer was not at a Petitioner's request, is wholly outside of their control, and occurs in a very short time after arrest. Transferring venue solely on the basis that a petitioner was transferred, and thereby currently detained elsewhere, could also have the effect of incentivizing forum shopping, as Respondents could quickly transfer detained individuals to a district of their choosing.

Jose A. v. Noem, No. 26-CV-480 (JMB/ECW) 2026 U.S. Dist. LEXIS 11489, *3 (D. Minn. Jan. 22, 2026). Similarly, Judge Davis found in another analogous habeas matter that:

habeas jurisdiction attached at the time of Petitioner's apprehension in this District. That jurisdiction is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, not on the Government's unilateral post-seizure movement of the detainee. The position that jurisdiction lies exclusively in the district to which Respondents transfer a petitioner would permit the Government to determine the forum for judicial review through its own logistics. Federal courts may not be divested of jurisdiction in that manner.

Jorge M. v. Bondi, Doc. 3, No. 26-CV-0609 (MJD/JFD) (D. Minn. Jan. 24, 2026). *See also Van Tran v. Hyde*, No. 25-cv-12546-ADB 2025 U.S. Dist. LEXIS 223408, *12 (D. Mass. Nov. 13, 2025) ("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."); *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).

3. **The Unknown Custodian Rule Allows for Jurisdiction**

Respondents contend that the “district of confinement” rule—which holds the district in which the petitioner is physically present is proper—universally governs habeas jurisdiction. Even assuming this to be true, the rule has exceptions. As applicable to this case, Courts recognize that where the location of the petitioner is not known at the time of filing, the district of confinement rule does not apply. *See Rumsfeld v. Padilla*, 542 U.S. 426, 450 n. 18 (2004) (“When . . . a prisoner is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules.”); *Adriana M.Y.M. v. Easterwood*, No. 26-213 (JWB/JFD) 2026 U.S. Dist. LEXIS 13188, *5 (D. Minn. Jan. 25, 2026) (retaining jurisdiction based on the unknown custodian rule and noting its applicability to situations where “the petitioner’s location is unknown at the time of filing—such as when the petitioner is in transit—or where immigration authorities have not disclosed where the petitioner is being detained or by whom, and circumstances have prevented or precluded contact with counsel.”).

Here, Respondents have not offered any record evidence or affidavits to support their counsel’s assertion in its Response that Petitioner was in Texas at the time the petition was filed. Respondents’ counsel simply notes, without citations or an explanation

of where this knowledge came from, that Petitioner was transferred out of Minnesota three days after his detention and was transferred again to a third location the following day. There is no record evidence to support any of this, however even if it were true, this would indicate that Petitioner likely spent those three days at the Bishop Henry Whipple Building—where counsel has been told they cannot speak to clients at, since it is a “temporary detention facility” *Hernandez v. Easterwood*, No. 26-cv-162-MJD, ECF No. 7 at 16 (D. Min. Jan. 12, 2026). (Incidentally, this facility also does not have beds, functioning bathrooms, or kitchen facilities so as to provide safe and edible food to detainees). From there, Respondents claim that Petitioner was transferred twice in the next two days, during which time this habeas petition was filed.

As Petitioner’s verified affidavit shows, Petitioner’s location was unknown at the time the petition was filed. ECF 1, ¶19. At a minimum, Respondents’ control over Petitioner’s location, lack of transparency, and prevention of attorney visits kept counsel and Petitioner’s family from being able to know where he was or to even contact him at the time the petition was filed.

It is unclear whether Petitioner will remain in Texas, or be transferred back to Minnesota. A similar venue challenge was made by Respondents in another one of the undersigned counsel’s cases, that a Petitioner was transferred out of state to Texas, however that client was later located in the Minnesota by an eyewitness and later corroborated by the ICE Detainee Locator—it is unclear whether he had been brought back, or whether the government’s information had been incorrect all along. *Luis H.P.G.*

v. Bondi, Doc. 13, pp. 3-4 and Doc. 14, ¶¶ 3-7, 26-cv-00625-DMT-EMB (D. Minn. Jan. 31, 2026). *See also Edita M.S.C. v. Noem*, 26-650 (DWF/DJF) 2026 U.S. Dist. LEXIS 18003, *1 (Jan. 30, 2026) (declining to transfer/dismiss case where Petitioner was transferred from Minnesota to Texas, filed her Petition while in Texas, and was then transferred back to Minnesota).

Respondents have admitted on multiple occasions to the undersigned counsel that noncitizen detainees are not fully booked until they are put on a plane and transferred to Texas: **ICE does not complete initial processing or allow for attorney contact before flying detainees out of state.** These practices are the subject of a class action lawsuit, *See Advocates for Human Rights, et al v. U.S. Dep't of Homeland Security*, Doc. 19, pp. 3-9, 26-cv-00749 (NEB/DLM (D. Minn. Jan. 28, 2026)). Attorney declarations in the case indicate that ICE—including its internal counsel—refuses to allow detainees access to counsel before flying them out of state. *Id.*, Doc. 22 ¶¶ 26-33 (decl. of attorney Hannah Brown); Doc. 29 (decl. of attorney Kira Kelley). Declarations also illustrate that ICE does not finish processing detainees, including inputting information into ICE's online tracking tool, before flying them out of state. *See id.*, Doc. 29, ¶¶ 16(c)-(e); Doc. 25 ¶ 6, (decl. of attorney Kevin Heinz). Accordingly, under the unknown custodian rule, jurisdiction in Minnesota is appropriate.

INSUFFICIENCIES OF THE WARRANT

Until recently, the vast majority of habeas corpus petitions filed in response to Operation Metro Surge have been without factual dispute, hinging only on a legal

disagreement of whether 8 U.S.C. § 1225(b)(2) allows for mandatory detention of noncitizens apprehended while residing internally, as opposed to those seeking admission at the border. Since clear case law in Minnesota holds that an administrative warrant is a prerequisite to discretionary detention pursuant to 8 U.S.C. 1226(a), courts have been granting outright release as the remedy, as opposed to a bond hearing, in the vast majority of these habeas corpus petitions. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 961 (D. Minn. 2025); *Ahmed M. v. Bondi et al.*, 2026 WL 25627, *3 (D. Minn. Jan. 5, 2026).

Seemingly in response, about two months into Operation Metro Surge, Respondents are for the first time now alleging the existence of administrative warrants issued by DHS. *Habib D. v. Bondi et al*, Case No. 26-cv-01236 (KMM/JFD) at Doc. No. 7, 4 (“[T]he Court observes that the use of warrants at the time of arrest of people like Petitioner seems to be a new practice in this district.”) While Respondents continue to allege the authority to detain noncitizens without a warrant, and without a bond hearing, these warrants are offered instead simply to argue in the alternative that unlawfully detained noncitizens should at a minimum be held pending a bond hearing, as opposed to be released outright. See, e.g., ECF 4 at 1-2. The emergence of seemingly retro-actively and/or insufficiently filed or served administrative warrants appears to be a new tactic promoted by the Respondents to engage in *post-hoc* rationalization at best, and potential fabrication at worst.

The administrative warrant informally appended to Respondents’ brief was not validly issued and served, and thus is insufficient to support detaining Petitioner under § 1226(a).

1. A Warrant Must be Served Prior to the Detention and the Notice to Appear

Retroactively served warrants do not cure an otherwise warrantless, and thus unlawful, detention under 8 U.S.C. § 1226(a). *Alberto C.M. v. Noem*, No. CV 26-380 (DWF/SGE), 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the I-200 “was not issued until after his arrest and initial detention”). The warrant can not be served *after the detention*. Additionally, I-200 warrants cannot predate a noncitizen’s Notice to Appear. 8 C.F.R. § 236.1(b).

It is unclear whether or not Respondents understand and acknowledge that the law requires them to issue and serve warrants after a Notice to Appear but prior to detention, as many of these warrants are routinely openly served *after* the date of the arrest. *See, e.g., Alberto C.M. v. Noem*, No. 26-CV-380 (DWF/SGE), 2026 WL 184530, at *2 (D. Minn. Jan. 23, 2026) (finding warrant invalid where the I-200 “was not issued until after his arrest and initial detention”) and *Victor O. v. Bondi*, No. 26-CV-1122 (ECT/LIB), Doc. No’s 1, 5 (where a warrant shows a signature dated February 7, 2026, when the petitioner’s detention was on February 6, 2026).

Respondents could have included a declaration or affidavit by the detaining officer confirming whether the warrant was issued and served after a Notice to Appear, and prior to the time of the detention, but they did not do so, instead saying only “Respondents did have a warrant for Petitioner’s arrest.” ECF No. 5 at 13. No information or record evidence is offered to assert the validity of this warrant—it is attached as part of an affidavit submitted by counsel for Respondents, with no chain of custody or explanation

of how or when this warrant was created, or presented to the Petitioner, or subsequently provided to Assistant United States Attorney Friedrich Siekert.

Here, the warrant is signed and dated on February 3, 2026, which was the day of Petitioner's detention, but no time was specified on the warrant. ECF No. 6 at 2. The warrant lists its location of service only as "SPM," which is incredibly vague, but could possibly be a reference to "St. Paul Minnesota"-- which would indicate that this warrant was served *at the Whipple*, after Petitioner was detained.

Furthermore, the warrant is accompanied by a Notice to Appear, which is dated February 6, 2026--the date that this petition was filed, and three days after the warrant was allegedly issued. *Id.* at 2-3. An I-200 warrant, the kind used here, cannot validly be drawn up until *after* a noncitizen is issued a Notice to Appear. 8 C.F.R. § 236.1(b).

Respondents had the opportunity to attach an affidavit attesting to these facts, or to indicate whether this warrant met the requirement of having been issued after a valid notice to appear and served prior to Petitioner's detention, but for whatever reason did not do so--and in fact openly reveal that these requirements have not been met. This warrant cannot be relied upon as valid or sufficient to support arrest.

2. The Warrant Lacks Any Evidentiary Basis

In its order to show cause, the Court directed Respondents to include in their answer "such affidavits and exhibits as are needed to establish the lawfulness and correct duration of Petitioner's detention in light of the issues raised in the habeas petition." ECF 3 at 1.

In this case, Respondents allege the existence of a warrant in this case by attaching a warrant to an affidavit of Respondent's counsel, who provides no detail about who issued or served the warrant, or what factual basis supports the probable cause determination upon which the warrant was based. In fact, the warrant appears not to be based on probable cause for anyone's arrest, since the field on the warrant where the noncitizen's name should be, to indicate who the subject of the arrest is, is **blank**.

Respondents know who drew up the warrant, and could presumably easily have produced an affidavit from the signatory of the warrant offering an explanation for its factual basis for probable cause, but chose not to do so.

3. The Evidence Does Not Show that the Warrant was Served by a Qualifying Individual Under 8 C.F.R. 287.5(e)(3).

Administrative warrants must be executed by immigration officers with training in enforcement of immigration law. *Arizona v. United States*, 132 S. Ct. 2492, 2505-6 (2012) and 8 C.F.R. 287.5(e)(3) (establishing who may serve an administrative arrest warrant, and requiring those officers to "have successfully completed basic immigration law enforcement training.").

ICE's own materials set forth that in order to become an ICE officer, prospective agents must complete the "Basic Immigration Law Enforcement Training Program," which is 13 weeks long. Immigration and Customs Enforcement Academy Handbook, DRO Division, *Basic Immigration Law Enforcement Training Orientation Information*, (April 2008) https://www.ice.gov/doclib/about/offices/ero/pdf/ice_d_handbook.pdf. Additionally, unless trainees are proficient in Spanish, they must take another five week

Spanish Language Training Program. *Id.* At a minimum, the Basic Immigration Law Enforcement Training as anticipated by the federal rules as a prerequisite to being able to lawfully serve an administrative warrant is 13 weeks long. *Id.*

Yet, public scrutiny following the two killings of Minnesota citizens during Operation Metro Surge exposes Respondents' own admissions that new recruits are not fully trained. AL JAZEERA, *Has US ICE Officer Training Been Reduced to 47 Days?* <https://www.aljazeera.com/news/2026/1/13/has-us-ice-officer-training-been-reduced-to-47-days> (comparing various news sources and statements from Respondents about how much or little training ICE officers receive); USA JOBS, *Deportation Officer* <https://ice.usajobs.gov/job/853993800> (the job description for ERO Deportation Officers notes that "training is [now] approximately 50 days in duration"); and Darius Radzius, *ICE Hiring Surge Triggers Capitol Hill Concerns Over Training Standards*, MILITARY.COM (Jan. 6, 2026) <https://www.military.com/daily-news/headlines/2026/01/06/ice-hiring-surge-triggers-oversight-concerns-over-training-standards.html>. Apparently, many ICE officers flown into Minnesota from around the country are receiving only approximately 47 days of training—less than half of what the law would require for someone to be able to serve a warrant.

The correlation between a decrease in training, an increase in [untrained] officers, and widespread disregard for the Constitution, court orders, and basic human rights is no coincidence.

Here, the two individuals who drew up and served the warrant are named "TIMOTHY SALAS" and "E MITCHELL." There is no information available to verify

who these people are, or whether they have been properly trained in accordance with 8 C.F.R. 287.5(e)(3) to execute and serve this warrant.

CONCLUSION

Petitioner's lightning-fast transfer out of Minnesota is a feature of Respondents' ongoing operations in Minnesota. By transferring Petitioner and those like him outside of Minnesota—where numerous similar requests for habeas relief have been granted—ICE seeks to avail itself of jurisdictions that it believes to be more advantageous. Further, ICE often conducts multiple interstate transfers, or claims to conduct interstate transfers but then does not know where detainees actually are, and it is entirely possible that Petitioner is again moved across state lines—or even back to Minnesota—before this matter is decided. To combat forum-shopping by ICE, and to prevent Petitioner from playing whack-a-mole to find the proper jurisdiction to decide the merits of his habeas claim and to deprive him of access to his legal support, the Court should retain jurisdiction.

Given that the Warrant is not valid as it was not issued after a Notice to Appear and because the warrant does not have a name on it to indicate whose arrest the warrant is for, Mr. Villeda Posada reiterates that the appropriate form of relief in this case is immediate release.

In the alternative, if the Court determines that there are no facial insufficiencies to this warrant or that the question of jurisdiction cannot be decided upon the facts on the record, Petitioner respectfully requests leave to file a motion for limited discovery to determine: the motivations and decision-making by Respondents around Petitioner's

transfer to Texas, and whether so doing was in any part for the purpose of avoiding this Court's jurisdiction, the factual basis for the administrative warrant used to justify Mr. Villeda Posada's arrest, the timing it was served in relation to Petitioner's detention, and the qualifications of the person purporting to serve it.

Respectfully submitted,

Date: Feb. 10, 2026

/s/ Kira A. Kelley

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