

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JORGE DARÍO D.R.,

Civil File No. 26-CV-946 (NEB/JFD)

Petitioner,

v.

PAMELA BONDI, in her official capacity as U.S. Attorney General; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; DAVID EASTERWOOD, in his official capacity as Field Office Director, Director of Enforcement and Removal Operations, St. Paul Field Office, U.S. Immigration and Customs Enforcement; and the Warden of El Paso Camp East Montana,

Respondents.

PETITIONER'S REPLY
MEMORANDUM IN SUPPORT OF
EMERGENCY PETITION FOR WRIT
OF HABEAS CORPUS

INTRODUCTION

Respondents detained Petitioner—in Minnesota, his state of residence—without any legal basis for doing so. The very day he was unlawfully apprehended, Respondents then transferred him from Minnesota to Texas. Although Respondents deny forum shopping or an effort to evade jurisdiction, courts under similar circumstances have concluded otherwise. Moreover, the same-day transfer eliminated any possibility for Petitioner to obtain counsel or commence legal action in the place where he resides and where the unlawful detention began before he was forcibly relocated.

Respondents' arguments seeking to evade jurisdiction are meritless. The Court has jurisdiction over this petition and should order Petitioner's immediate release.

ARGUMENT

Respondents here do not even attempt to defend the lawfulness of Petitioner's detention. Instead, they assert that this Court cannot consider the matter because jurisdiction and venue are only proper in the Western District of Texas, where Petitioner is currently detained. Respondents rely on the "immediate custodian rule" established in *Rumsfeld v. Padilla*, in which the Supreme Court declared the "default rule" of habeas cases "is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." 542 U.S. 426, 430 (2004).

But the immediate custodian rule is only the "default" and not applicable in all cases, contrary to Respondents' assertions. *Id.* at 454 (Kennedy, J., concurring). Exceptions to the immediate custodian rule exist and a court should deviate from the default rule when circumstances call for it, including where "there is an indication that the Government's purpose in removing a prisoner [was] to make it difficult for his lawyer to know where the habeas petition should be filed." *Id.* In such a case, "habeas jurisdiction would be in the district court from whose territory the petitioner had been removed." *Id.* Indeed, the *Padilla* majority acknowledged that the default rule might not apply where there exist "unique facts," such as an "indication that there was any attempt to manipulate." *Id.* at 441 (majority opinion).

Furthermore, the immediate custodian rule “is a venue rule and not a jurisdictional one” and, accordingly, the Court may consider equitable factors in deciding whether to retain a case. *See Jose A. v. Noem et al.*, No. 26-CV-480 (JMB/ECW), at 2 (D. Minn. Jan. 22, 2026). And as this Court has recently held, “habeas jurisdiction attache[s] at the time of Petitioner’s apprehension in this District.” *Sue H. v. Trump et al.*, No. 26-CV-0416 (MJD/ECW), at 2 (D. Minn. Jan. 20, 2026).

This case, which arises in the context of an unprecedented surge of frequently unlawful immigration enforcement activity, is a perfect example of the government apparently attempting to manipulate jurisdictional rules: Petitioner was transferred out of state the same day he was unlawfully detained. The Department of Homeland Security, through its agency the Immigration and Customs Enforcement (“ICE”), has made a practice of transferring detainees out of state within extraordinarily short timeframes. *See, e.g., Jose A.*, No. 26-CV-480 at 2 (petitioner transferred from Minnesota to Texas); *Jose Y.L.*, No. 26-CV-807 (KMM/JFD) (D. Minn. Feb. 1, 2026) (same). ICE then invokes the immediate custodian rule, preventing petitioners from obtaining relief in the state where they have the most connections, a support system, access to counsel, and other resources.

Indeed, federal courts in this district and elsewhere have concluded that similar conduct by ICE reflects an effort to avoid jurisdiction and have accordingly declined to apply the immediate custodian rule. The Southern District of New York, for example, wrote:

[T]he Court notes ICE’s tendency to detain aliens in remote custodial facilities and then insist on applying the immediate custodian rule. For example, children separated from their

parents at the Mexican border are transported to New York where they are held. The Court does not believe that this is accidental or random. Rather, the Court believes ICE may be attempting to take advantage of the immediate custodian rule to frustrate detainees' connections to their support system of families and friends; retention of competent immigration counsel; and effective participation in the proceedings. This is not an appropriate application of the immediate custodian rule.

Calderon v. Sessions, 330 F. Supp. 3d 944, 953 (S.D.N.Y. 2018) (internal citations omitted); *see also Luis E. M. C. v. Bondi*, No. 26-333 (JRT/DTS), 2026 WL 184538, at *6 (D. Minn. Jan. 23, 2026) (finding that “government-controlled [immigration] transfers” executed shortly after detention and before the detainee can communicate with counsel “risk[] defeating timely judicial review”). (quoting *E.E. v. Bondi*, No. 26-314, at 5 (D. Minn. Jan. 17, 2026)); *Doe v. Barr*, 2020 U.S. Dist. LEXIS 74650, *16-17 (N.D. Cal. Apr. 27, 2020) (“Respondents may be attempting to take advantage of the immediate custodian rule to frustrate Petitioner’s effective access to habeas corpus litigation. In short, Respondents’ argument . . . seeks to place Petitioner in a catch-22, where he can neither find habeas corpus jurisdiction in the district in which he is confined, nor elsewhere.”) (finding jurisdiction appropriate in district of initial detention).

An exception to the immediate custodian rule makes sense in cases like this one because the rule is ultimately intended to discourage forum shopping. *See Padilla*, 542 U.S. at 447 (“This rule...serves the important purpose of preventing forum shopping by habeas petitioners.”). By transferring detainees to other states, ICE is attempting to forum shop for judges more favorable to their arguments as to the lawfulness of the underlying detention. *See, e.g., De Jesus Paiva v. Aljets*, No. 03-6075 (DWF/AJB), 2003 U.S. Dist.

LEXIS 21933, at *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.”) (finding personal jurisdiction over agency respondents even if they were not the immediate custodians of petitioners).

Finally, jurisdiction is proper in this district because habeas petitions may consider equitable factors, such as the residence of the petitioner before his detention, the place where the decision to detain the petitioner took place, and the location of witnesses and information about his detention. *See Jose A.*, No. 26-CV-480 (JMB/ECW), at 4. Indeed, the habeas statute “requires nothing more than that the court issuing the writ have jurisdiction over the custodian. So long as the custodian can be reached by service of process, the court can issue a writ ‘within its jurisdiction’...” *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 495 (1973). Here, those equitable factors weigh in favor of this district: Petitioner resided in Minnesota before his detention; he was apprehended at a scheduled check-in with ICE in Fort Snelling, Minnesota; and any witnesses to his arrest would be located in this district.

The Court should therefore conclude, as it has in similar cases, that this district is the appropriate forum for deciding Petitioner’s habeas petition. Jurisdiction being proper in this district, the Court may reach the merits and should grant the petition.

CONCLUSION

For these reasons and those stated in his petition, Petitioner respectfully asks this Court to order his immediate transfer back to Minnesota and then humane release.

Dated: February 6, 2026

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