

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ARTURO MARTINEZ GAMBOA,
Petitioner,

Case No. 2:26-cv-704-SPC-DNF

v.

MATTHEW MORDANT, et al.,
Respondents.

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PETITIONER'S OPPOSITION TO MORDANT/GUTHRIE'S MOTION TO DISMISS

COMES NOW, the Petitioner, **Arturo Martinez Gamboa** by and through undersigned counsel and hereby submits this Opposition to the Motion to Dismiss filed by Respondent Mordant. The Motion is silent as to Kevin Guthrie, the Executive Director of the Florida Division of Emergency Management, which is also named in the Writ of Habeas Corpus.

The Respondents are properly named

Petitioner properly named Matthew Mordant as the warden of the facility where the Petitioner is being held, and Kevin Guthrie as Executive Director of the Florida Division of Emergency Management. In the Motion to Dismiss, Mordant requests the Court dismiss him in these proceedings as an improper respondent. He argues that ICE is the immediate custodian and director of ICE's local field office responsible for the facility not its warden. In his response, he cite the 287(g) program.

While the warden in the instant matter may technically maintain only the day-to-day control of a facility, the warden, nevertheless is the “immediate custodian” and presumably the individual who, upon ICE’s direction, opens the door to release the detainee. The court should therefore decline to find that the warden is not a proper respondent. See *Vasquez v. Reno*, 233 F.3d 688, 696 (1st Cir. 2000).

While a prisoner's immediate custodian is normally the only proper respondent in a habeas action, immigration detention is more complicated. See, e.g., *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). The Supreme Court expressly left open the question of the identity of the proper respondent(s) to a petition filed by a noncitizen “detained pending deportation.” *Id.* at 435 n.8 (recognizing circuit split on “the question whether the Attorney General is a proper respondent to a habeas petition filed by [a noncitizen] detained pending deportation” and stating “[b]ecause the issue is not before us today, we again decline to resolve it”).

While courts have recognized that immigration detainees in state-run facilities can bring habeas claims against certain federal officials, see, e.g., *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1301 (S.D. Fla. 2020), the immediate custodian is also a proper respondent. As the immediate custodian of the petitioner, Warden Mordant is a proper respondent to his habeas petition, and therefore so is Kevin Guthrie, as Executive Director of the Florida Division of Emergency Management.

The Petitioner asserts he correctly named Warden Matthew Mordant and Kevin Guthrie, both in their official capacities.

Therefore, Petitioner requests the court to deny the Motion to Dismiss.

Respectfully submitted on this 24th day of March 2026.

/s/ Juliana G. Lamardo, Esq.

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