

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

MELVI SAMUEL PEREZ PEREZ,	)	
	)	Case No. 2:26-cv-730-SPC-NPM
Petitioner,	)	
	)	
v.	)	
	)	
KEVIN GUTHRIE et al.	)	
	)	
Respondents.	)	

**PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENT KEVIN GUTHRIE'S
MOTION TO DISMISS**

Petitioner, Melvi Samuel Perez Perez ("Petitioner"), by and through undersigned counsel, respectfully submits this Response in Opposition to Respondent Kevin Guthrie's Motion to Dismiss and states as follows:

I. INTRODUCTION

Respondent Kevin Guthrie seeks dismissal on the ground that he is not a proper respondent to this habeas action under 28 U.S.C. § 2241. The motion oversimplifies the governing law and ignores the unique structure of immigration detention at state-operated facilities under federal authority.

Because Respondent Guthrie exercises significant control over Petitioner's confinement and functions as a custodian within the meaning of the habeas statute, the motion should be denied.

II. LEGAL STANDARD

The federal habeas statute provides that a petition must name "the person who has

custody over the petitioner.” 28 U.S.C. § 2242.

In *Rumsfeld v. Padilla*, the Supreme Court described the “default rule” that the proper respondent is the petitioner’s immediate custodian. However, the Court expressly declined to decide how this rule applies in the immigration detention context.

Accordingly, courts have adopted a functional approach, focusing on who exercises actual custody and control, rather than rigidly limiting the respondent to a single official.

III. ARGUMENT

A. The “Immediate Custodian” Rule Is Not Rigidly Applied in Immigration Detention Cases

Respondent’s argument relies heavily on a rigid application of *Padilla*. But *Padilla* itself expressly left open its application to immigration detention. Courts addressing immigration habeas petitions have recognized that detention in this context often involves multiple actors exercising overlapping authority, particularly where detention occurs in non-federal facilities pursuant to federal contracts or agreements. As a result, courts have permitted habeas petitions to proceed against officials beyond a single “warden,” including those who exercise legal or operational control over detention.

B. Respondent Guthrie Exercises Sufficient Custody and Control to Qualify as a Proper Respondent

Respondent Guthrie is the Executive Director of the Florida Division of Emergency Management, the entity that operates the facility where Petitioner is detained.

As acknowledged in Respondent’s own motion, the Division:

- Operates the detention facility;

- Oversees contracts for essential services, including medical care and food;
- Maintains authority over the conditions of confinement; and
- Manages the day-to-day functioning of the facility

These responsibilities establish that Respondent Guthrie exercises direct, physical, and operational control over Petitioner's confinement.

Habeas jurisdiction extends to those who have the ability to produce the petitioner and who exercise control over the conditions and fact of confinement. Respondent Guthrie meets that standard.

C. Custody Under § 2241 Includes Joint and Constructive Custody

Respondent's argument improperly assumes that only one official may be considered a "custodian." That is not the law. Courts have recognized that custody may be shared or joint, particularly where federal and state actors collaborate in detention. Here, while U.S. Immigration and Customs Enforcement may control ultimate release decisions, Respondent Guthrie physically detains Petitioner, controls the facility, and implements the detention on a daily basis. This constitutes, at minimum, joint custody, which is sufficient under § 2241.

D. Dismissing Guthrie Would Undermine Habeas Review

Accepting Respondent's position would create a significant gap in habeas review by allowing state officials who actively detain individuals to avoid judicial scrutiny. Habeas corpus is intended to provide a meaningful mechanism to challenge unlawful detention. Limiting proper respondents only to federal officials, while state actors physically confine detainees, would undermine that purpose. Courts have rejected such formalistic approaches in favor of a

functional analysis that ensures effective judicial review.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Deny Respondent Kevin Guthrie's Motion to Dismiss; and
2. Grant such further relief as the Court deems just and proper.

Dated this 27th day of March, 2026.

Respectfully submitted,

/s/Alice Carmen Burgos

Alice Carmen Burgos
BURGOS LAW
Florida Bar No. 302882
16475 Silversaw Palm Dr.
Winter Garden, FL 34787
Tel: 407-378-4660
Email: alice@myburgoslaw.com
Attorney for Petitioner Filing
Reply on behalf of Attorney
Felipe Alexandre

/s/Felipe Alexandre

Felipe Alexandre
ALEXANDRE LAW FIRM & ASSOCIATES
New York Bar No. 5013909
13620-38 Avenue, Suite 10F
Flushing, NY 11354
Tel: 718-305-1660
Email: felipe@alexandrelaw.com
Attorney for Petitioner
Pending and Unopposed Pro Hac Vice

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2026, I electronically filed the foregoing Petitioner's Response in Opposition to Respondent Kevin Guthrie's Motion to Dismiss pursuant to F.R.C.P. 41(a)(1)(A)(i) with the Clerk of the Court by using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Alice Carmen Burgos

Alice Burgos
Attorney for Plaintiff