



U.S. Department of Justice

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April 27, 2026

By ECF

The Honorable Mary Kay Vyskocil
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Gomez-Gomez v. Mullin*, No. 26-cv-3427 (MKV)

Dear Judge Vyskocil:

This Office represents the government in the above-referenced habeas corpus action, which was filed yesterday, April 26, 2026. Earlier today, the Court ordered the government to respond to the petition by May 1. ECF No. 2. In advance of that deadline, I write respectfully to advise the Court that venue is improper in the Southern District of New York, and to request that the case be promptly transferred to the Eastern District of New York, for the reasons set forth below.

On February 14, 2026, U.S. Immigration and Customs Enforcement ("ICE") arrested the petitioner, after which he was taken to ICE's New York Field Office at 26 Federal Plaza, New York, New York for post-arrest processing. On February 19, 2026, Petitioner was transferred to the Metropolitan Detention Center in Brooklyn, New York, where he remains detained today. Thus, it is undisputed that the petitioner was not present in the Southern District of New York at the time his lawyer filed his habeas petition on April 26. Petitioner acknowledges this in his habeas petition. *See, e.g.*, Pet. ¶ 7 ("He is currently detained at Metropolitan Detention Center (MDC Brooklyn), located at 80 28th St, Brooklyn, NY 11232." (citing Ex E., ICE Detainee Locator showing Petitioner as detained at MDC in Brooklyn)); ¶ 11 (naming as a party "Respondent Heriberto Tellez is the Warden of Metropolitan Detention Center (MDC), Brooklyn, Federal Department of Corrections, where Petitioner is currently detained. As the immediate physical custodian of Petitioner, he is sued in his official capacity."); ¶ 13 ("Petitioner is currently being held at the MDC Brooklyn, located at 80 29th St, Brooklyn, NY 11232."); ¶ 18 ("On February 19, 2026, Petitioner was detained by ICE during a work break. He was subsequently transferred to MDC Brooklyn, where he remains in custody.").

Notwithstanding the foregoing, Petitioner incorrectly asserts that venue is proper in this Court. Pet. ¶ 13. He asserts that "[v]enue is proper in the United States District Court for the Southern District of New York because a substantial part of the events and omissions giving rise to this action occurred in the District. 28 U.S.C. § 1391(b)(2)." *Id.* He further states that "[n]o Supreme Court or Second Circuit precedent applicable to immigration detainees, nor the habeas statute, indicate that venue is not proper in the Southern District Court of New York." *Id.* That is a blatant misstatement of the law.

Both the Supreme Court and the Second Circuit have issued decisions deciding that for habeas petitions filed by aliens challenging their detention, “jurisdiction lies in only one district: the district of confinement.” *Trump v. J.G.G.*, 604 U.S. 670, 674 (2025); accord *Öztürk v. Hyde*, 136 F.4th 382, 391 (2d Cir. 2025) (same). This is the same rule that the Supreme Court announced more than two decades ago (albeit in a non-immigration case) that in “core” habeas petitions—*i.e.*, petitions like the instant one that challenges the petitioner’s present physical confinement—the petitioner must file the petition in the district in which he is confined (*i.e.*, the district of confinement) and name his warden as the respondent.¹ See *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004); see also *id.* at 447 (“Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement.”).

It is undisputed that Petitioner was not present in this District at the time he filed his habeas petition. He was detained in Brooklyn at the MDC, *i.e.*, within the Eastern District of New York. See Pet. ¶¶ 7, 11, 13, 18 & Ex. E. Thus, this Court lacks habeas jurisdiction over this matter, as venue is improper in the Southern District of New York. See *Padilla*, 542 U.S. at 43; accord *J.G.G.*, 604 U.S. at 674; *Öztürk*, 136 F.4th at 391; *Khalil v. Joyce*, 771 F. Supp. 3d 268, 280–86 (S.D.N.Y. 2025) (holding that court lacked habeas jurisdiction where petitioner was transferred from 26 Federal Plaza to a facility in the District of New Jersey prior to filing of the petition). Venue for this case is proper only in the Eastern District of New York.

Accordingly, to avoid delay in having this matter heard by the proper court, I respectfully request that the Court promptly transfer this case to the U.S. District Court for the Eastern District of New York, and waive the seven-day waiting period in Local Civil Rule 83.1, or otherwise order Petitioner to show cause why this matter should not be transferred or dismissed.²

¹ Even before the rulings in *J.G.G.* and *Öztürk* in 2025, a “clear majority of district courts” within the Second Circuit applied “the immediate custodian rule to habeas petitions filed by incarcerated aliens challenging their physical detention prior to deportation.” *Guo v. Napolitano*, No. 09 Civ. 3023 (PGG), 2009 WL 2840400, at *3 (S.D.N.Y. Sept. 2, 2009) (collecting cases); see also, *e.g.*, *Andoh v. Barr*, No. 19 Civ. 8016 (PAE), 2019 WL 4511623, at *2 (S.D.N.Y. Sept. 18, 2019) (“The substantial majority of judges in this District to consider this question have reached the same conclusion, holding that a [petitioner] detained in New Jersey who seeks to challenge his detention, even if under the supervision of ICE personnel in this District, must bring a habeas action in the District of New Jersey.”). This Court was in that clear majority. See *Collado v. DHS Sec.*, No. 20 Civ. 2824 (MKV), 2020 WL 5640060, at *1 (S.D.N.Y. Apr. 6, 2020) (applying *Padilla* to immigration habeas case).

² I emailed Petitioner’s counsel about the venue issue earlier this morning, but as of the time of this filing, I have not received a response.

I thank the Court for its consideration of this submission.

Respectfully submitted,

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