

District Judge James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PETRA ARIAS PEREZ,

Petitioner,

v.

BRUCE SCOTT, *et al.*,

Respondents.

Case No. 2:25-cv-02558-JLR

FEDERAL RESPONDENT'S
RETURN MEMORANDUM

Noted for Consideration:
January 5, 2026

Petitioner seeks habeas relief based on an unsupported claim that she is unlawfully detained. The petition is deficient and must be denied.

I. Petitioner Has Not Met Her Burden in Establishing a Claim for Relief

Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, Petitioner “must show [she] is in custody in violation of the Constitution or laws or treaties of the United States.” *Doe v. Bostock*, No. C24-0326-JLR-SKV, 2024 WL 3291033, at *5 (W.D. Wash. Mar. 29, 2024), report and recommendation adopted, No. C24-0326JLR-SKV, 2024 WL 2861675 (W.D. Wash. June 6, 2024) (citing 28 U.S.C. § 2241). Because habeas proceedings are civil in nature, the “[p]etitioner ‘bears the burden of proving that [she] is being held contrary to law, . . . [and] [she] must satisfy

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[her] burden of proof by a preponderance of the evidence.” *Makuey v. Scott et al.*, No. 2:25-CV-02135-DGE-BAT, 2025 WL 3640900, at *3 (W.D. Wash. Dec. 16, 2025) (citing *Aditya W. H. v. Trump*, No. 25-cv-1976, 2025 WL 1420131, at *7 (D. Minn. May 14, 2025) (quoting *Freeman v. Pullen*, 658 F. Supp. 3d 53, 58 (D. Conn. 2023) (citations omitted)). Petitioner has not met this burden.

Petitioner alleges that she is “unlawfully detained in violation of the Due Process Clause of the Fifth Amendment.” Pet. at 4. However, Petitioner provides no facts and no legal argument or citation supporting this assertion. She does not describe any factual circumstance that would render her custody unlawful, nor does she identify any law allegedly violated. “Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief.” *Boehme v. Maxwell*, 423 F.2d 1056, 1058 (9th Cir.1970) (citing *James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994)). Petitioner’s bare claim that she is “unlawfully detained,” standing alone, is a legal conclusion, not a cognizable habeas claim, and this petition must be denied.¹

II. Petitioner’s Request for a Bar on District Transfer is Defective

Petitioner also requests that this Court prohibit her transfer outside of the Western District of Washington while her removal proceedings are pending. Pet. at 4. This request is also not justified by any citation to relevant law or authority. In any event, this is not a remedy that this available through the instant petition.

The government may detain aliens pending their removal pursuant to a removal order. Under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where to detain aliens.

¹ Any arguments that Petitioner may raise for the first time in her reply should be deemed waived. See *Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th Cir.1991) (refusing to reach argument raised for the first time in reply brief that petitioner’s claim was not cognizable on federal habeas corpus); *Romero-Aguilar v. Holder*, 397 Fed.Appx. 399, 2010 WL 3825644 (9th Cir. Sept. 29, 2010) (issues raised for the first time in a reply brief are waived).

1 The INA precludes review of “any . . . decision or action of the Attorney General . . . the authority
2 for which is specified under this subchapter to be in the discretion of the Attorney General”
3 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore, § 1252(a)(2)(B)(ii) bars relief that would impact where
4 and when to detain Petitioner. *See Van Dinh v. Reno*, 197 F.3d 427, 433–34 (10th Cir. 1999)
5 (citing *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985)) (finding that judicial review of
6 decision to transfer a detainee is inappropriate due to lack of jurisdiction).

7 In *Van Dinh*, the noncitizen-plaintiffs were incarcerated at a facility in Colorado, where
8 they were notified of the “distinct possibility” that they would be transferred to another facility.
9 *See* 197 F.3d at 429. Plaintiffs filed a Bivens class action complaint requesting injunctive relief
10 restraining all noncitizen transfers until local counsel had an opportunity to interview their clients
11 and injunctive relief restraining transfer outside the area of those noncitizens with an established
12 attorney-client relationship. *See id.* There, the Tenth Circuit concluded that “the district court had
13 no jurisdiction to review the Attorney General’s discretionary decision to transfer and detain
14 appellants in another INS facility under § 1252(a)(2)(B)(ii)” and thus no Bivens class action was
15 available. *Id.* at 435. In reaching this conclusion, the Court found that “[t]he Attorney General is
16 mandated to ‘arrange for appropriate places of detention for [noncitizens] detained pending
17 removal.’” *Id.* at 433 (citing 8 U.S.C. § 1231(g)(1)). “The Attorney General’s discretionary power
18 to transfer [noncitizens] from one locale to another, as [he or] she deems appropriate, arises from
19 this language.” *Id.* Thus, it is “apparent that a district court has no jurisdiction to restrain the
20 Attorney General’s power to transfer [noncitizens] to appropriate facilities by granting injunctive
21 relief in a Bivens class action suit.” *Id.*

22 Moreover, in *Rios-Berrios*, the petitioner was apprehended in California, charged with
23 entry without inspection, and moved to Florida for a deportation hearing that was scheduled to
24 begin effectively five working days from the time of his apprehension. *See* 776 F.2d at 860-61.

1 The immigration judge twice continued the hearing for a total of two working days, first after the
2 petitioner stated that he needed time to find an attorney and again after being informed that the
3 petitioner had called a friend who had been in contact with an attorney and bail bondsman. *See*
4 *id.* After the immigration judge granted the continuances, he also advised that the hearing would
5 proceed with or without counsel. *See id.* When the petitioner appeared without counsel, there was
6 no inquiry regarding the petitioner's expressed wish to be represented by counsel and the hearing
7 went forward. *See id.* The Ninth Circuit found a violation of the petitioner's right to be represented
8 by counsel of his own choice at his own expense. *See id.* at 862-63. However, the Ninth Circuit
9 clarified that there was no right to block his transfer to another district:

10 We wish to make ourselves clear. We are not saying that the petitioner should not
11 have been transported to Florida. That is within the province of the Attorney
12 General to decide. We merely say that his transfer there, combined with the
13 unexplained haste in beginning deportation proceedings, combined with the fact of
14 petitioner's incarceration, his inability to speak English, and his lack of friends in
15 this country, demanded more than lip service to the right of counsel declared in
16 statute and agency regulations, a right obviously intended for the benefit of aliens
17 in petitioner's position.

18 *Id.* at 863 (citations omitted). Accordingly, judicial intervention is not proper with respect to the
19 government's decision about where to detain Petitioner her his removal proceedings are pending,
20 and therefore Petitioner's request should be denied.

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1 **III. Conclusion**

2 For the foregoing reasons, Federal Respondents respectfully request that Petitioner's
3 claims for relief be denied.

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5 DATED this 30th day of December, 2025

6 Respectfully submitted,

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20 *I certify that this memorandum contains 1,063*
21 *words, in compliance with Local Civil Rules*