

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JOSE MANUEL LEMA LEMA,	§	
	§	
Petitioner,	§	
	§	
	§	CAUSE NO. EP:26-CV-00268-KC
v.	§	
	§	
PAMELA BONDI et al.,	§	
	§	
Respondents.	§	

RESPONDENT OSCAR UGARTE’S MOTION TO DISMISS

COMES NOW, Respondent OSCAR UGARTE, the duly elected Sheriff of El Paso County, Texas, (“Defendant Ugarte”) and files this Motion to Dismiss Petitioner Jose Manuel Lema Lema’s (“Mr. Lema”) Petition for Writ of Habeas Corpus. Respondent Ugarte files this motion pursuant to Federal Rule of Civil Procedure 12(b)(1) because he does not have Mr. Lema in his custody. Thus, this Court, lacking jurisdiction over Respondent Ugarte, should dismiss Respondent Ugarte from this case. Respondent Ugarte will show the Court as follows:

1. On January 30, 2026, Mr. Lema filed his Petition for Writ of Habeas Corpus (“Petition”) claiming he was being unlawfully held in the custody of United States Immigration and Customs Enforcement (“ICE”). ECF No. 1, ¶ 1.

2. At the time Mr. Lema filed his Petition he was being in ICE custody at Camp East Montana, an immigration detention facility, in El Paso, Texas (“Camp East Montana”). *Id.*, ¶ 7.

3. Mr. Lema asserts he has been in ICE’s custody since on or about January 15, 2026. *Id.*

4. Mr. Lema names Respondent Ugarte in his official capacity as Sheriff of El Paso County, Texas. *Id.*, ¶ 14. Mr. Lema mistakenly asserts Camp East Montana is an El Paso County facility under Respondent Ugarte's control. *Id.*

5. This Court ordered all respondents named in the Petition to be served with the Petition and Show Cause by February 10, 2026, why the Petition should not be granted. ECF No. 2.

STANDARDS FOR DISMISSAL

Federal Rule of Civil Procedure 12(b)(1)

Federal courts are courts of limited jurisdiction and may only adjudicate claims when jurisdiction is granted by statute or the United States Constitution. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). "A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate the case." *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.*, 143 F.3d 1006, 1010 (5th Cir. 1998) (quoting *Nowak v. Ironworkers Local 6 Pension Fund*, 81 F.3d 1182, 1187 (2d Cir. 1996)). When the court's subject matter jurisdiction is challenged, the party asserting jurisdiction bears the burden of proof. *Life Partners Inc., United States*, 650 F.3d 1026, 1029 (5th Cir. 2011). A district court must dismiss a plaintiff's complaint if the district court does not possess subject matter jurisdiction over the claims. Fed. R. Civ. P. 12(b)(1); *see also U.S. v. Morton*, 467 U.S. 822, 828 (1984). A motion to dismiss under Rule 12(b)(1) should be granted only if it appears that the plaintiff cannot prove any set of facts in support of their claim that would entitle them to relief. *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001) (citation omitted).

ARGUMENT AND AUTHORITY

28 U.S.C. § 2241

A petition for a writ of habeas corpus is a request by a person in custody for the Court to review the legality of their detention. 28 U.S.C. § 2241(c). United States District Courts may grant a writ of habeas corpus. *Id.*, § 2241(a). A writ of habeas corpus shall name the person who has custody over the petitioner. *Id.*, § 2242. The person to whom the writ is directed shall make a return certifying to true cause of the detention. *Id.*, § 2243. Respondent Ugarte responds to Mr. Lema's Petition by asserting he does not have custody over Mr. Lema. Respondent Ugarte further asserts he does not control Camp East Montana.

Defendant Ugarte does not have custody of Mr. Lema

As Sheriff of El Paso County, Texas, Respondent Ugarte is responsible for the operations of El Paso County jails. Tex. Loc. Gov't Code § 291.005(e). *See also* Ex. A, ¶ 2, Affidavit of Bulmaro Zamudio. The County of El Paso has two jail facilities, the El Paso County Detention Facility (commonly referred to as the "Downtown Jail") and the El Paso Jail Annex (commonly referred to as the "Jail Annex"). *See* Ex. A, ¶ 3. Camp East Montana is not a county jail. *Id.*, ¶ 4. A review of El Paso County jail records shows Mr. Lema has not been detained in either the Downtown Jail or Jail Annex at any time between January 15, 2026, and February 9, 2026. *Id.*, ¶ 5. Simply put, Mr. Lema is not in the custody of Respondent Ugarte. Mr. Lema incorrectly named Respondent Ugarte as a respondent to his Petition. Respondent Ugarte should therefore be dismissed.

PRAYER

This Court lacks subject matter jurisdiction over Respondent Ugarte because Mr. Lema is not in his custody. Respondent Ugarte should be dismissed for all things relating to Mr. Lema's Petition.

Date: February 9, 2026

Respectfully Submitted,

CHRISTINA SANCHEZ
EL PASO COUNTY ATTORNEY
320 S. Campbell St., 2nd Floor, Suite 200
El Paso, Texas 79901
Telephone: (915) 273-3238
Telecopier: (915) 273-3238
Email: m.romero@epcountytexas.gov

/s/ Manuel Romero

MANUEL ROMERO

Assistant County Attorney

Texas Bar No. 24041817

Attorneys for Respondent Oscar Ugarte

CERTIFICATE OF SERVICE

This is to certify that on the 10th day of February 2026, I electronically filed the foregoing document with the clerk of the court for the United States District Court, Western District of Texas, using the court's electronic case filing system.

/s/ Manuel Romero

MANUEL ROMERO