

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 26-cv-22371-Martinez

CARLOS ANDRES SUAREZ FERNANDEZ,

Petitioner,

v.

**ATTORNEY GENERAL OF THE
UNITED STATES, *et al.*,**

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Respondents¹ hereby respond to the Court's Order to Show Cause ordering the parties to answer where Petitioner is currently confined and the appropriate respondent to comply with the writ. *See* D.E. 6.

A. Petitioner's Current Confinement

Petitioner Carlos Andres Suarez Fernandez is currently confined at the Central Arizona Florence Correctional Center in Florence Arizona. *See* Declaration of Deportation Officer Dylan W. Gonzales ("Gonzales Decl."), ¶ 7, attached as Exhibit A and Petitioner's Detention History, attached as Exhibit B.

¹ A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). At the time of filing the Petition, Petitioner was detained at Krome North Service Processing Center. *See* Petition at ¶ 2(a). All respondents should be dismissed since none are the warden of that facility.

B. This Petition May Be Transferred to the District of Arizona

Section 2441 allows “the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge” to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2441(a). The Supreme Court has interpreted the “within their respective jurisdiction language to mean that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004) (“In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.”); *see also United States v. Kinsey*, 393 Fed. Appx. 663, 664 (11th Cir. 2010) (“Petitions under § 2241 may be brought only in the district in which the inmate is incarcerated.”); *United States v. Lassiter*, 812 Fed. Appx. 896, 900 (11th Cir. 2020) (“under the plain language of § 2241, jurisdiction lies in only one district: the district of confinement.”). Because the Petitioner was at the Miami Staging Facility at Krome Detention Center at the time of filing (April 6, 2026) and the Petitioner’s immediate custodian (the warden of Krome Detention Center) was in the Southern District of Florida, this Court has jurisdiction over the Petition. *See Exhibit B.*

Nevertheless, transfer of a 2241 petition upon the relocation of a petitioner is permissible. *See Vasquez Vega v. United States Attorney General*, Case No. 25-cv-61632-RAR, Doc. 14 (S.D. Fla. Jan 22, 2026) (transferring petition in the interest of justice to the Southern District of Texas where Petitioner was relocated from Broward Transitional Center); *Gardner v. United States*, No. 23-cv-10077, 2023 WL 9316848, at *2 (N.D. Fla. Oct. 25, 2023) (listing cases in which courts “have recognized where a [28 U.S.C.] § 2241 petitioner has been redesignated to a prison facility in another jurisdiction, a court may transfer the petition to the jurisdiction in which the petitioner is being held”); *Perez v. Breckon*, No. 9:17-cv-00353-JKS, 2019 WL 652410, at *2 (N.D.N.Y.

Deb. 15, 2019). Respondents respectfully advise the Court that there is an appropriate respondent in the District of Arizona. That respondent would be Luis Rosa, Jr, Warden of the Central Arizona Florence Correctional Facility. Thus, the Court may transfer this petition to the District of Arizona. Respondents defer to the Court's discretion on this subject.

Respondents are mindful that the transfer of a habeas petition every time a petitioner is relocated may cause perpetual delay in a petition's adjudication, as the Court acknowledged in *Tang v. Gonzales*, Case 4:06cv277/MP/WCS; 2006 WL 3628061, *2 (N.D.Fl. Aug. 18, 2006). Still, in this case, the instant Petition can be adjudicated by the District of Arizona, in that Petitioner is now detained in that district. The Petitioner's transfer to Arizona was not to avoid adjudication by this Court. Similarly, there would be no benefit to the government if the Petition were to be adjudicated by the District Court of Arizona.

Dated: April 30, 2026

Respectfully submitted,

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