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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 QUOC ANH TRAN,
12 Petitioner,
13 v.
14 MARKWAYNE MULLIN; et al.,
15 Respondents.

Case No.: 26-cv-2773-DMS-VET

**MOTION TO DISMISS FOR
IMPROPER VENUE**

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18 Respondents respectfully request that this matter be dismissed or transferred as
19 Petitioner was not within this District when his habeas petition was filed.

20 District courts are limited to granting habeas relief “within their respective
21 jurisdictions.” 28 U.S.C. § 2241(a). For habeas petitions challenging present physical
22 confinement, venue is appropriate only in the district in which a petitioner is confined,
23 as “the district of confinement is synonymous with the district court that has territorial
24 jurisdiction over the proper respondent” because “[b]y definition, the immediate
25 custodian and the prisoner reside in the same district.” *Rumsfeld v. Padilla*, 542 U.S.
26 426, 444 (2004). “The rule that the proper venue for a challenge to present physical
27 custody lies only in the district of confinement is based on the requirement that the court
28 issuing the writ have jurisdiction over the entity capable of effecting the relief sought

1 in the petition; in the context of a challenge to physical custody, that entity is the
2 petitioner's custodian.” *Ramirez v. United States*, No. 108CV00633OWWJMDHC,
3 2009 WL 2044782, at 3 (E.D. Cal. July 9, 2009); *see, e.g., Braden v. 30th Judicial*
4 *Circuit Court*, 410 U.S. 484 (1973) (“The important fact to be observed in regard to the
5 mode of procedure upon [a writ of habeas corpus], that it is directed to, and served upon
6 . . . [the] jailer . . . compelling the oppressor to release [the petitioner's] constraint”). In
7 order to determine the proper venue for a petition under 28 U.S.C. § 2241 the court must
8 first determine which district has jurisdiction over the entity capable of effecting
9 relief. *See Padilla*, 542 U.S. at 445–47 (discussing requirement that district court have
10 jurisdiction over proper respondent capable of effecting relief in order to entertain
11 petition); *see also Wheeler v. United States*, 640 F.2d 1116, 1121 n. 7 (9th
12 Cir.1998) (stating that a court must have a respondent over whom it can assert
13 jurisdiction in order to entertain a habeas petition).

14 Petitioner filed his petition for writ of habeas corpus on May 1, 2026. However,
15 Petitioner was not in the Southern District of California when the petition was filed. On
16 April 27, 2026, Petitioner was transferred out of the Southern District of California to
17 Louisiana, for purposes of executing his final order of removal. *See Declaration of*
18 *Christopher Lowry*. Petitioner remains detained in Louisiana. *See id.*

19 Because the habeas petition is not in a proper venue, the Court may either dismiss
20 the petition or transfer it to the correct venue, if transfer is “in the interest of justice.”
21 *See* 28 U.S.C § 1406(a).

22 DATED: May 5, 2026

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