IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

K.A.V.O.,	)	
	)	
Petitioner,	)	
	)	Case No. 1:26-cv-5105
v.	)	
	)	Judge Chang
MARKWAYNE MULLIN, Secretary of Homeland Security et al.	)	
	)	
Respondents.	)	

PETITIONER'S REPLY

K.A.V.O., the Petitioner, represented by his undersigned Pro-Bono attorneys, respectfully submits this Reply in support of his Petition for a Writ of Habeas Corpus. The Respondents offer no challenge to the substance of the complaint, arguing only that the Petition was filed in the wrong district. The Court should deny the Respondents' request to dismiss or transfer the case, and either grant the petition or order the Respondents to respond to the substance of the claims.

The Respondents' arguments rest entirely on the immediate custodian rule, but these arguments fail to account for the unique circumstances of unaccompanied immigrant children in federal custody. For the reasons set forth below, Petitioner submits that venue is proper in this District, the Petitioner has named proper respondents, and the petition should proceed here.

Respondents rely primarily on *Kholyavskiy v. Achim* to contend that for core habeas challenges, the proper respondent is the immediate custodian. 443 F.3d 946, 952 (7th Cir. 2006). *Kholyavskiy* involved an adult noncitizen convicted of crimes of moral turpitude. *Id.* at 947-48. In contrast, K.A.V.O. is an unaccompanied immigrant child in the legal custody of the Office of

Refugee Resettlement ("ORR"). Respondents cite no authority applying the immediate custodian rule to an unaccompanied immigrant child in ORR custody, and this Court should decline the invitation to extend it here.

To the contrary, habeas matters involving noncitizen immigrant children have generally not invoked the immediate custodian rule. This is presumably because "juveniles, unlike adults, are always in some form of custody." *Schall v. Martin*, 467 U.S. 253, 265 (1984). For noncitizen immigrant children, the federal immigration agencies "will normally keep legal custody of the juvenile" while a temporary physical placement is arranged. *Reno v. Flores*, 507 U.S. 292, 310 (1993).

Thus, pertinent Court of Appeals cases involving habeas petitions for immigrant children do not necessarily name the warden or foster parent. *See, e.g., Ramos v. Haig*, 716 F.2d 471, 472 (7th Cir. 1983) (habeas corpus action named Secretary of State). The Ninth Circuit recently affirmed a habeas judgment involving detained noncitizen minors that included federal agency officials, but not any more direct custodian. *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1141 (9th Cir. 2018).

The Respondents' logic would appear to require, for instance, naming particular foster parents as habeas respondents, which would be fairly unusual. The Fifth Circuit considered a knotty custody issue in *Sanchez v. R.G.L.*, 761 F.3d 495, 507 (5th Cir. 2014). In *R.G.L.*, two minors were granted asylum in the United States, but the mother sought to have the children returned to her in Mexico, pursuant to the Hague Convention. The federal government named the foster service responsible for housing the children, but it declined to name the actual foster parents. The Court of Appeals considered ORR to be "temporary legal custodian." *Id.* at 505. It ultimately remanded for further assessment of the custody issue. *Id.* at 511.

The Respondents represented that K.A.V.O. was transferred to Pennsylvania the day before this petition was filed. While they have offered no actual affidavit in support of this, Petitioner assumes it to be true. Nevertheless, K.A.V.O.'s immigration proceedings are currently pending before the Immigration Court in Chicago, and his prior placement was in Illinois. This District was not an improper venue for K.A.V.O.'s petition because it is where the decisions concerning his custody and potential removal are made, the lawfulness of which his petition challenges. Requiring K.A.V.O. to re-file in the Eastern District of Pennsylvania (a jurisdiction where he has no meaningful connection beyond the Government's last-minute transfer), a district in which his attorneys are not admitted and could not be admitted, would impose an unnecessary burden on a minor immigrant child and reward the very conduct that undermines the purpose of habeas review.

For the foregoing reasons, Petitioner respectfully requests that this Court deny Respondents' motion to dismiss or transfer and retain jurisdiction over this habeas petition.

Date: May 12, 2026

Respectfully submitted,

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