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July 28, 2026

VIA CM/ECF
Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse, New York 13261-7336

RE: *Escobar Clavijo v. Lyons, et al.*
Civil Action No. 9:26-cv-01438 (BKS)

Dear Chief Judge Sannes:

I represent the Respondents in this habeas corpus action, in which Petitioner Jonathan Escobar Clavijo ("Petitioner") challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). I respectfully request that the Court modify its Text Order, dated July 26, 2026, to permit Petitioner's detention within either the Northern District or Western District of New York during the pendency of this action.

On July 26, 2026, Petitioner filed a Petition for an Emergency Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 ("Petition"). Dkt. 1. The Court subsequently issued a Text Order enjoining Respondents from transferring Petitioner outside the jurisdiction of the Northern District of New York until this civil action is resolved. Dkt. 2.

Modification is warranted because there is no federal detention facility located within the Northern District of New York. According to agency counsel, ICE has temporarily housed Petitioner in the Montgomery County Jail, which is not a federal detention facility. The nearest federal detention facility is the Buffalo Federal Detention Facility in Batavia, New York, located within the Western District of New York. As a result, the current restriction effectively prevents Petitioner's detention in a federal detention facility, notwithstanding the availability of a nearby federal facility in Batavia.

Modification also would not affect this Court's jurisdiction. In the habeas context, jurisdiction is determined by the petitioner's place of custody at the time the petition is filed and is not defeated by a subsequent transfer. *See Walker v. Searls*, No. 23-CV-140-LJV, 2024 WL 1735213, at *7 (W.D.N.Y. Apr. 23, 2024); *Shaikh v. Barr*, No. 20-CV-6300 CJS, 2020 WL 7021443, at *3 (W.D.N.Y. Nov. 30, 2020). Because Petitioner was detained within the Northern District when the

Petition was filed, subsequent transfer to Batavia would not impair this Court's authority to adjudicate the Petition.

Nor does the Petition identify any basis for restricting Petitioner's transfer to facilities within the Northern District of New York. Although some courts have found it problematic for habeas petitioners to have to litigate their claims from many states away, *see, e.g.*, *Ozturk v. Trump*, 779 F. Supp. 3d 462, 495 (D. Vt.) (requiring habeas petitioner's return to Vermont from immigration detention in Louisiana, where the petitioner had been transported during habeas proceedings, due to concerns about petitioner's ability to present her claims), *amended sub nom. Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025); *see also Rodrigues v. Brackett*, 822 F. Supp. 3d 255, 256 (D.N.H. 2026) (denying request to permit transfer of habeas petitioner from New Hampshire to Arizona during habeas proceedings), such difficulties are not obvious from requiring Petitioner to litigate his claims from the district that immediately neighbors the Northern District of New York.

In sum, because jurisdiction attached upon filing and will remain intact notwithstanding a transfer to Buffalo Federal Detention Facility in Batavia, New York, extending the Court's transfer restriction to include the Western District of New York would preserve the status quo while allowing ICE to house Petitioner in the nearest federal detention facility.

I have conferred about the proposed modification with Petitioner's counsel, who states that Petitioner opposes the proposed modification of the Court's Text Order enjoining transfer from this district.

Thank you for your consideration of this request.

Respectfully Submitted,

TODD BLANCHE
Acting Attorney General

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First Assistant United States Attorney

By: *s/ Emer M. Stack*
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Assistant United States Attorney
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CC: All Counsel of Record (via ECF)