UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-CV-61758-RKA

DANIEL CUERVO GONZALEZ,

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND SECUIRTY, et al.,

Respondents.
_____/

RESPONDENTS RESPONSE TO ORDER TO SHOW CAUSE

Respondents, by and through the undersigned Assistant United States Attorney responds to the Court's Order requiring the following question be answered: (1) whether transfer of this case to the Western District of Texas is now appropriate. [ECF No. 12, p. 1]. Respondent submits that transfer of this case to the Western District of Texas is proper and states in support thereof as follows:

A. Petitioner's Current Confinement

Petitioner, Daniel Cuervo Gonzalez ("Petitioner"), is currently confined at El Paso Processing Center in El Paso, Texas as reflected in Petitioner's Notie of Change of Address. [ECF 9]. Respondent further provides a detention history to the Court, which confirms Plaintiff's current place of confinement is El Paso Processing Center. *See* Exhibit A, Detention History.

B. This Petition May Be Transferred to the Western District of Texas.

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.").

Here, Petitioner was detained at the Broward Transitional Center in Broward County, Florida at the time of filing which was June 23, 2026. Because the Petitioner's immediate custodian, Assistant Field Office Director ("AFOD"), Juan Agudelo for the Broward Transitional Center located in the Southern District of Florida, this Court has jurisdiction over the Petition.

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 (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"), report and recommendation adopted, 2024 WL 200899 (N.D. Fla. Jan. 18, 2024). Respondent advises the Court that the respondent who has the authority to comply with the issuance of a writ and/or effectuate release should such relief be granted is the Field Office Director, Mary B. De Anda-Ybarra, for the El Paso Processing Center in the Western District of

Texas. Additionally, Respondent is mindful that the transfer of a habeas petition every time a petitioner is relocated may cause 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. Fla. Aug. 18, 2006). However, as noted there is a respondent in the Western District of Texas who has the authority to comply with any order issued by the Court, thus allowing for the Petition to ultimately be adjudicated. In sum, Respondent defers to the Court's discretion on this matter.

DATED: July 15, 2026.

Respectfully submitted,

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