

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Josue Daniel Cruz Banos v. Sergio Alberran, et al.

Cruz Banos v. Alberran · No. 1:25-cv-01634-DC-CSK (HC) · Decided November 28, 2025

OPINION

Alberran

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 JOSUE DANIEL CRUZ BANOS, No. 1:25-cv-01634-DC-CSK (HC)

12 Petitioner,

13 v. ORDER DENYING PETITIONER’S MOTION

FOR A TEMPORARY RESTRAINING

14 SERGIO ALBERRAN, et al., ORDER, WITHOUT PREJUDICE

15 Respondents. (Doc. No. 3) 16 17 This matter is before the court on Petitioner’s motion for a
temporary restraining order 18 (Doc. No. 3), which Petitioner concurrently filed with a petition for
a writ of habeas corpus 19 brought under 28 U.S.C. § 2241 challenging his ongoing immigration
detention. (Doc. No. 2.) 20 Respondents filed an opposition to Petitioner’s motion on November
26, 2025. (Doc. No. 7.) For 21 the reasons explained below, the court will deny Petitioner’s
motion for a temporary restraining 22 order, without prejudice, and refer this case to the assigned
magistrate judge for further 23 proceedings. 24 Pursuant to 28 U.S.C. § 2241, “[w]rits of habeas
corpus may be granted by the Supreme 25 Court, any justice thereof, the district courts and any
circuit judge within their respective 26 jurisdictions.” 28 U.S.C. § 2241(a). Further, “[t]he writ, or
order to show cause shall be directed 27 to the person having custody of the person detained.” 28
U.S.C. § 2243. Petitions for a writ of 28 habeas corpus must therefore “allege the facts concerning
the [petitioner’s] commitment or 1 detention, the name of the person who has custody over [the
petitioner] and by virtue of what 2 claim or authority, if known.” 28 U.S.C. § 2242. “The
consistent use of the definite article in 3 reference to the custodian indicates that there is generally
only one proper respondent” to a 4 habeas petition. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).
“[I]n habeas challenges to present 5 physical confinement—‘core challenges’—the default rule is
that the proper respondent is the 6 warden of the facility where the [petitioner] is being held, not
the Attorney General or some other 7 remote supervisory official.” *Id.* at 435. In sum, “[w]henEVER
a § 2241 habeas petitioner seeks to 8 challenge his present physical custody within the United

States, he should name his warden as 9 respondent and file the petition in the district of confinement.” Id. at 447. 10 The Ninth Circuit has recently “affirm[ed] the application of the immediate custodian and 11 district of confinement rules to core habeas petitions filed pursuant to 28 U.S.C. § 2241, including 12 those filed by immigrant detainees.” Doe v. Garland, 109 F.4th 1188, 1199 (9th Cir. 2024); see 13 Singh v. Field Off. Dir., S.F. Field Off., U.S. Immigr. & Customs Enf’t, No. 24-cv-03472-RMI, 14 2024 WL 4454824, at *1 (N.D. Cal. Sept. 9, 2024) (finding the court lacked jurisdiction over 15 § 2241 petition where the immigration detainee “failed to name his immediate custodian as the 16 respondent, and he filed his petition outside the district of his confinement”). 17 Here, Petitioner alleges in his petition that venue is proper in this district “because [he] is 18 physically detained within this District at the California City Detention Center,” a detention 19 facility that is located in Kern County, California. (Doc. No. 2 at ¶ 20.) Petitioner is correct that 20 his petition was filed in the proper district. 21 However, as Respondents emphasize in their opposition to the pending motion (Doc. No. 22 7 at 2–3), Petitioner did not name as a respondent the warden of the facility where he is detained, 23 the California City Detention Center. Instead, Petitioner names as respondents: Attorney General 24 Pam Bondi, Department of Homeland Security Secretary Kristi Noem, Immigration and Customs 25 Enforcement (“ICE”) Acting Director Todd M. Lyons, and ICE San Francisco Field Office 26 Director Sergio Alberran. (Doc. No. 2 at ¶¶ 24–27.) Indeed, Petitioner does not mention a 27 warden, by name or title, in his petition at all. 28 For this reason, Petitioner has not shown he is likely to succeed on the merits of his 1 | § 2241 habeas petition, which requires Petitioner to have named his immediate custodian for this 2 | court to have jurisdiction over his petition. Thus, the court will deny Petitioner’s motion for a 3 || temporary restraining order, without prejudice, and refer this matter to the assigned magistrate 4 | judge for further proceedings, including consideration of any request filed by Petitioner seeking 5 | leave to file an amended petition to name the proper respondent.

6 CONCLUSION

7 For the reasons explained above: 8 1. Petitioner’s motion for a temporary restraining order (Doc. No. 3) is DENIED; and 9 2. This matter is referred to the assigned magistrate judge for further proceedings. 10

IT IS SO ORDERED. □

12 | Dated: _November 28, 2025 _ DUC Dena Coggins 13 United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28