

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ROSAURA GONZALEZ-RUCCI IN
REPRESENTATION OF TEOFILO AVILA,

Petitioner

v.

REBECCA GONZALEZ, ET ALS.,

Respondents.

CIVIL NO. 26-1045 (SCC)

**MOTION TO DISMISS FOR FAILURE TO NAME
AND SERVE PROPER RESPONDENTS**

Respondents, by and through counsel, appear in their official capacities, and without subjecting themselves to this Court's jurisdiction, and respectfully move the Honorable Court to dismiss the instant Petition for a writ of habeas corpus, because Petitioner has failed to name and serve process on the proper Respondent.

I. AVILA'S DETENTION AND CUSTODIAN

Teófilo Avila (Petitioner or Avila) was detained on January 19, 2026, by United States Border Patrol (BP) agents, assigned to the Ramey Sector, who were conducting roving patrol operations in Barrio Obrero, Puerto Rico, as part of "Operation Northern Door". See *Exhibit 1*, Record of Deportable/Inadmissible Alien. See also Docket No. 1-1, Declaration of Rosaura González-Rucci. At the time of detention, BP agents identified themselves to Avila, who subsequently admitted to his illegal presence in the United States as a citizen of the Dominican Republic, dating back to May 13, 2011 (*Exhibit 1*). After failing to produce legal documentation to enter, pass through, or remain in the United States, BP agents proceeded to place Avila under arrest (*Exhibit 1*).

Avila was transported to the Ramey Border Patrol Station in Aguadilla for processing and was placed into removal proceedings (*Exhibit 1*). He was subsequently transferred to the custody of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO), and has remained in their custody since that time. Subsequently, on January 27, 2026, Avila improperly filed a Petition for Writ Habeas Corpus against defendants/respondents Rebecca González-Ramos, Garret Ripa, Todd Lyons, Kristi Noem, Pamela Bondi, W. Stephen Muldrow and Roberto Vaquero, all in their official capacity.

Even though the BP, ERO, Homeland Security Investigations (HSI) and Customs and Border Protection (CBP) fall under the umbrella of the Department of Homeland Security (DHS), these agencies and directorates, however, are distinct one of the other, with distinct and different legal authorities and missions. CBP operates at and between ports of entry (airports, border crossings). They are the first to encounter individuals crossing the border. BP specifically handles illegal entry between ports of entry. The ICE/ERO focuses on the arrest, detention, and removal of individuals already inside the United States. The San Juan, Puerto Rico Sub-Office within the ICE/ERO Miami Field Office has these responsibilities in the ERO Miami – San Juan area. While HSI handles criminal investigations, such as human trafficking, drug smuggling, and intellectual property theft.

Contrary to Avila's erroneous assertions, he was never in custody of CBP or HSI. Neither agency was involved in the patrolling, detention, or arrest of Avila in Barrio Obrero, Puerto Rico, on the morning of January 19, 2026. Any and All actions regarding Avila's apprehension, detention and ulterior processing of Avila for having entered and stayed in the United States, without inspection or parole by an immigration officer, were conducted exclusively by BP and ICE/ERO.

Accordingly, HSI Special Agent in Charge, Rebecca Gonzalez-Ramos¹, and San Juan Field Office Director of CBP, Roberto Vaquero, have been improperly named as Respondents by Petitioner.

¹ The Court should note that at the time of Avila's detention, Special Agent Rebecca Gonzalez-Ramos was and is currently detailed in Washington, D.C., serving as Assistant Director for HSI's the Office of Administrative Operations.

Neither of these Respondent, including United States Attorney W. Stephen Muldrow, can be deemed as proper parties or immediate custodians of the Petitioner.

CLAIMS AGAINST NON-CUSTODIAN RESPONDENTS MUST BE DISMISSED.

The claims against the non-immediate custodians in this case must be dismissed for lack of subject matter jurisdiction.

One jurisdictional limitation on a district court’s authority to grant writs of habeas corpus is the “immediate-custodian rule.” *Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004). The immediate-custodian rule provides that the proper respondent in a habeas challenge to physical confinement is “the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Id.* at 435. “For a person being detained in connection with an immigration matter, the immediate custodian is the warden of the detention center.” *López Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *5 (W.D. Tex. Sept. 2, 2025) (citing *Aguilar v. Johnson*, No. 25-cv-1904, 2025 WL 2099201, at *2 (N.D. Tex. July 25, 2025)). “And ‘the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.’” *Id.*

The petitioner incorrectly named several federal officials in Puerto Rico—including leaders from HSI; the San Juan Field Office of the CBP, and the U.S. Attorney’s Office—as respondents. Additionally, while the Petitioner has named the heads of ICE and DHS as defendants, proof of service for them and the U.S. Attorney General, has not yet been filed with this Court.² Nevertheless, none of the named defendants are proper respondents for this Petition. See Docket No. 1 at 3-5.³ “The statutes and rules governing habeas actions reflect ‘that there is generally only one proper respondent to a given prisoner’s habeas petition.’ *Padilla*, 542 U.S. 426, 435 (2004). The petitioner muddied the waters here

² See *Exhibit 2*, email from the DOJ Justice Management Division (JMD), Facilities and Administrative Services Staff (FASS), advising that as of February 2, 2026, the U.S Attorney General has not yet been served in the instant case, contrary to the provisions of Fed. R. Civ. P. 4(i)(1)-(2).

³ Garret Ripa is no longer the Director of the ICE/ERO’s Miami Field Office.

by naming [five] officials as respondents.” *Perera v. Bondi*, No. 2:25 CV-01054-SPC-NPM, 2025 WL 3282521, at *1 (M.D. Fla. Nov. 24, 2025).

As stated above, upon detention, custody of the aliens is transferred to ICE/ERO that “manages the enforcement initiatives and components through which ERO identifies and arrests aliens subject to removal from the U.S.” <https://www.ice.gov/about-ice/ero>. Hence, the only proper respondent in these cases is the ICE/ERO Miami Field Office, which oversees operations in Puerto Rico as one of its areas of responsibility.

WHEREFORE, the claims against all respondents not identified as the Director of the ICE/ERO Miami Field Office, in his official capacity, should be dismissed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

Respectfully submitted, in San Juan, Puerto Rico, this 3rd day of February 2026.

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