

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARCELINO AGUILAR REYES,

Petitioner,

v.

KEVIN RAYCRAFT, Field Office Acting
Director of Enforcement and Removal
Operations, Detroit Field Office, Immigration
and Customs Enforcement; KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; PAMELA BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; THE GEO
GROUP INC., facility operators; John DOE,
Warden of North Lake Correctional Facility (or
his/her successors),

Respondents.

Case No. 1:25-cv-1416

Hon. Hala Y. Jarbou
Chief U.S. District Court Judge

Hon. Phillip J. Green
U.S. Magistrate Judge

RESPONSE TO PETITIONER'S MOTION TO DISMISS

Federal Respondents, Kevin Raycraft, Field Office Acting Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland Security; Pamela Bondi, U.S. Attorney General; and Executive Office for Immigration Review (collectively,

Federal Respondents), submit their response to Petitioner's motion to dismiss and for a limiting order.¹

DISCUSSION

On November 17, 2025, U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), released Petitioner from custody. Accordingly, his Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 is moot. Petitioner concedes this and requests dismissal. (*See* ECF No. 4, PageID.19.) However, Petitioner also asks the Court to enter affirmative injunctive orders barring future detention. (*Id.* at PageID.20-21.) The Court should deny this request for two reasons.

First, the Court no longer has subject-matter jurisdiction over this case due to the absence of a live case or controversy under Article III of the United States Constitution. *See Friends of the Earth, Inc. v. Laidlaw Env't. Servs. (TOC), Inc.*, 528 U.S. 167, 180 (2000) (when a case becomes moot, an Article III case or controversy no longer exists); *Prieto v. Gluch*, 913 F.2d 1159, 1162–63 (6th Cir. 1990) (“for the District Court to have jurisdiction over petitioners’ habeas claims, petitioners must be in the custody of the INS.”); *Merlan v. Holder*, 667 F.3d 538, 539 (5th Cir. 2011) (holding that a petitioner who had been removed from the United States was no longer “in custody” for purposes of a habeas petition and dismissing the petition as moot).

¹ A writ of habeas corpus may only be issued “to the person having custody of the person detained.” 28 U.S.C. § 2243. Except in extraordinary circumstances, the only proper respondent in a habeas corpus case is the detainee’s immediate custodian. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). In the immigration context, that is the ICE Field Office Director. *Id.* Here, the petition names additional Federal Respondents, but they are not proper respondents to this habeas action. *See Roman*, 340 F.3d at 322 (reasoning that “adopting a broader definition of ‘custodian’” that encompasses any official with control over an alien’s detention and release “would complicate and extend the duration of habeas corpus proceedings”); *Escobar-Ruiz v. Raycraft*, No. 1:25-CV-1232, 2025 WL 3039255, at *8 (W.D. Mich. Oct. 31, 2025) (dismissing the Attorney General as an improper respondent to a habeas petition).

Second, there is no decision on the merits here—Federal Respondents did not file a response to the Petition and the Court did not issue a judgment—so there is no basis for issuing a limiting order prospectively restraining hypothetical future detention in this case.

CONCLUSION

For the foregoing reasons, Federal Respondents request that the Court dismiss the Petition as moot without any limiting orders.

Respectfully submitted,

TIMOTHY VERHEY
United States Attorney

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