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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Wuanerge ALBERTO-ALVARENGA, [redacted]

Petitioner,

v.

RICHARD A. AUMILLE, in his official capacity as Warden of Seneca County Jail; **MERRICK GARLAND**, Attorney General of the United States; **ALEJANDRO MAYORKAS**, Secretary of the Department of Homeland Security; **TROY MILLER**, Acting Commissioner, U.S. Customs and Border Protection; **SEAN G. SMITH**, Ohio Field Office Director, U.S. Immigration and Customs Enforcement,

Respondents.

Civil Action No.: 3:25-cv-02644-JRK

JUDGE JAMES R. KNEPP II

MAG. JUDGE GREENBERG

PETITIONER'S EMERGENCY REPLY IN SUPPORT OF MOTION TO SUBSTITUTE PROPER RESPONDENT AND ALTERNATIVE MOTION TO AMEND CAPTION AND/OR SUBSTITUTE RESPONDENT

Petitioner, by and through undersigned counsel, respectfully submits this Emergency Reply in support of Petitioner's Motion to Substitute Proper Respondent (ECF No. 15), and in response to Respondents' Opposition (ECF No. 16). In an abundance of caution, and to ensure that the proper custodian is before the Court for purposes of habeas jurisdiction and effective relief,

Petitioner also moves, in the alternative, for leave to amend the caption and/or substitute the proper respondent pursuant to Federal Rules of Civil Procedure 15 and 21, and applicable habeas principles.

I. INTRODUCTION

Respondents' Opposition confirms that substitution of the proper custodian is appropriate and that any alleged caption defect is curable without dismissal. Respondents argue that substitution of the current facility warden is insufficient because, under Sixth Circuit authority, the "proper respondent" is the ICE Field Office Director with authority over Petitioner's detention, and Respondents expressly identify that official as **Kevin Raycraft, Director of the Detroit ICE Field Office**. (ECF No. 16, PageID# 219–220).

Accordingly, Petitioner respectfully requests that the Court grant the Motion and direct substitution of the proper respondent(s), including the warden and/or Director Raycraft, and update the caption accordingly.

Dismissal on technical grounds would be inconsistent with judicial economy and the equitable nature of habeas corpus, particularly where Respondents have now clearly identified the individual they contend is the proper custodian and where Petitioner seeks only to ensure that the Court can grant effective relief.

II. BACKGROUND

Petitioner filed the underlying Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 challenging the lawfulness of Petitioner's continued detention. (ECF No. 1). At the time of filing, Petitioner was detained in Ohio and within the jurisdiction of this Court. (ECF No. 15, PageID# 211–212).

Petitioner thereafter filed a Motion to Substitute Proper Respondent (ECF No. 15),

requesting substitution of the warden of Petitioner's current detention facility, Kenneth Hoover, Warden of Northeast Ohio Correctional Center, Youngstown, Ohio. (Id.).

Respondents oppose substitution of the warden, contending that substitution does not cure Respondents' jurisdictional arguments and asserting that the proper respondent is instead the ICE Field Office Director with authority over Petitioner's detention. (ECF No. 16). Respondents identify the allegedly proper respondent as **Kevin Raycraft**, Director of the Detroit ICE Field Office. (Id. at PageID# 219).

III. ARGUMENT

A. Substitution and/or Amendment Is the Proper Remedy, Not Dismissal.

Respondents' Opposition demonstrates that the dispute here is not substantive, but technical and procedural: namely, which government official is the proper custodian for purposes of habeas jurisdiction and effective relief.

Respondents contend that substitution of the warden is insufficient because "the correct Respondent here is Kevin Raycraft, Director of the Detroit ICE Field Office." (ECF No. 16, PageID# 219).

Petitioner does not oppose naming the correct custodian. To the contrary, Petitioner seeks precisely that: ensuring the Court has the appropriate custodian before it so that the Court may order effective relief if warranted.

Thus, the appropriate course is substitution and/or amendment of the caption—not dismissal.

Courts routinely permit amendment or substitution of habeas respondents to avoid dismissal based on technical pleading issues, especially where the petitioner remains in government custody and the identity of the custodian is readily ascertainable. Habeas proceedings

are equitable in nature, and procedural rules should be applied to promote resolution on the merits rather than dismissal based on technicalities.

Here, Respondents have now clearly identified the individual they contend is the proper respondent. There is no prejudice to Respondents in permitting substitution, amendment, or correction of the caption.

B. Jurisdiction Attached Upon Filing and Is Not Defeated by Transfer.

Petitioner filed the Petition while detained in Ohio. (ECF No. 15, PageID# 211–212). It is well-established that habeas jurisdiction generally attaches at the time of filing, and a petitioner's subsequent transfer does not defeat jurisdiction where the case was properly filed.

Respondents' Opposition seeks to elevate the identity of the respondent into a jurisdictional trap warranting dismissal. However, even if Respondents are correct that Director Raycraft is the proper respondent, the remedy is to substitute Raycraft—not dismiss the Petition.

This Court retains authority to ensure the correct custodian is named and before the Court.

C. Rule 25(d) Is Not the Exclusive Mechanism for Substitution, and the Court May Substitute or Amend Under Rules 15 and 21.

Respondents argue that Federal Rule of Civil Procedure 25(d) does not apply because wardens are not "public officers" or because Petitioner did not name the correct predecessor. (ECF No. 16, PageID# 219–221).

Even assuming arguendo that Rule 25(d) is not applicable in the manner Petitioner originally cited, that does not justify dismissal.

The Court retains authority under Federal Rule of Civil Procedure 15(a) to permit amendment of pleadings "when justice so requires," and under Federal Rule of Civil Procedure 21 to add or drop parties "at any time, on just terms."

Moreover, habeas proceedings are not rigidly confined to technical caption rules. The Court has inherent authority to correct misnomers, substitute parties, and ensure that the proper custodian is named so that relief can be granted effectively.

Accordingly, Petitioner respectfully requests that the Court substitute the proper respondent and direct the Clerk to amend the caption.

D. Petitioner Requests Substitution of Director Raycraft in the Alternative to Cure Any Alleged Defect.

Respondents' Opposition makes clear that Respondents contend the proper custodian is **Kevin Raycraft**, Director of the Detroit ICE Field Office. (ECF No. 16, PageID# 219–220).

To avoid unnecessary procedural disputes, Petitioner respectfully requests, in the alternative, that the Court substitute **Kevin Raycraft** as the proper respondent in this action, and amend the caption accordingly.

This will fully cure Respondents' asserted defect and ensure that the proper custodian is before the Court for purposes of jurisdiction and relief.

E. In the Alternative, the Court Should Transfer Rather Than Dismiss Under 28 U.S.C. § 1631.

Respondents contend that the Court lacks personal jurisdiction over the alleged proper custodian. (ECF No. 16, PageID# 221–222).

However, if the Court determines that personal jurisdiction is lacking as to the proper respondent, dismissal is not the appropriate remedy. Under 28 U.S.C. § 1631, where a court finds a want of jurisdiction, the court "shall, if it is in the interest of justice, transfer such action" to a court in which the action could have been brought.

Because Petitioner remains in custody and seeks urgent habeas relief, transfer would

plainly serve the interest of justice and avoid unnecessary delay and prejudice that would result from dismissal and refiling.

Therefore, in the alternative, Petitioner respectfully requests that the Court transfer this action pursuant to 28 U.S.C. § 1631 rather than dismiss.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Grant Petitioner's Motion to Substitute Proper Respondent (ECF No. 15);

2. Substitute **Kenneth Hoover**, Warden of Northeast Ohio Correctional Center, as Respondent;

3. Alternatively and/or additionally substitute **Kevin Raycraft**, Director of the Detroit ICE Field Office, as Respondent;

4. Direct the Clerk to amend the caption accordingly pursuant to Rules 15 and 21; and

5. In the alternative, if the Court finds jurisdiction lacking, transfer this action pursuant to 28 U.S.C. § 1631 in the interest of justice rather than dismiss.

Dated: February 16, 2026

Respectfully submitted,

/S/ Roman V. Gambourg

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(f)

I certify that this Emergency Reply complies with the page limitations set forth in Local Rule 7.1(f) of the United States District Court for the Northern District of Ohio.

Dated: February 16, 2026

Respectfully submitted,

/S/ Roman V. Gambourg

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PROOF OF SERVICE

I hereby certify that on February 16, 2026, a true and correct copy of the foregoing **Petitioner's Emergency Reply in Support of Motion to Substitute Proper Respondent and Alternative Motion to Amend Caption and/or Substitute Respondent** was served via the Court's CM/ECF system upon all counsel of record.

Date: February 16, 2026

/S/ Roman V. Gambourg

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