

PETITIONER'S REPLY TO RESPONDENTS' RETURN OF WRIT

(28 U.S.C. § 2241)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CHRISTINA MARTINEZ,
Petitioner (Pro Se),

v.

RICHARD K. JONES, et al.,
Respondents.

I. INTRODUCTION

Respondents' Return of Writ rests on a **mischaracterization of Petitioner's claim, an overbroad reading of jurisdiction-stripping statutes, and a failure to confront the undisputed fact that Petitioner's custody is the direct product of an unconstitutional arrest.**

Petitioner does **not** challenge the merits of removal proceedings.

Petitioner challenges **unlawful arrest and detention** in violation of the **Fourth Amendment**, which remains reviewable in habeas.

II. THE GOVERNMENT MISSTATES THE NATURE OF THIS HABEAS ACTION

Respondents assert that this Court lacks jurisdiction under **8 U.S.C. §1252** because Petitioner allegedly seeks to interfere with removal.

That is false.

Petitioner seeks relief **solely because her detention originated from an unlawful arrest as a passenger without probable cause, followed by an ICE seizure unsupported by a valid or timely warrant.**

The Supreme Court has repeatedly held that habeas jurisdiction survives jurisdiction-stripping where constitutional detention claims are raised.

“A serious Suspension Clause issue would arise if a federal statute were construed to deny any judicial forum for a colorable constitutional claim.”
— *INS v. St. Cyr*, 533 U.S. 289, 300 (2001)

III. PETITIONER’S ARREST AS A PASSENGER VIOLATED THE FOURTH AMENDMENT

A. Mere Presence Does Not Establish Probable Cause

The Supreme Court has long held that **passenger status alone cannot justify arrest**:

- *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979)
- *United States v. Di Re*, 332 U.S. 581, 593 (1948)

Ohio courts apply the same rule:

“Mere presence at the scene of a crime is insufficient to establish probable cause for arrest.”
— *State v. Morrison*, 138 Ohio App.3d 512, 519 (Ohio Ct. App. 2000)

Petitioner was **not the driver**, committed **no independent act**, and was arrested without individualized suspicion. The arrest was unconstitutional.

IV. ALL SUBSEQUENT DETENTION IS TAINTED AS FRUIT OF THE UNLAWFUL ARREST

Respondents attempt to sever ICE custody from the illegal Montgomery County arrest. The law does not allow that.

“Verbal evidence which derives so immediately from an unlawful arrest is no less the fruit of official illegality.”
— *Wong Sun v. United States*, 371 U.S. 471, 485 (1963)

- Executing removal orders

“Section 1252(g) applies only to these three discrete actions.”

— *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)

Petitioner challenges **none** of those.

She challenges **false arrest and unlawful detention**, which remains reviewable under §2241.

The Sixth Circuit recognizes habeas jurisdiction over unlawful detention claims:

“District courts retain jurisdiction over habeas petitions challenging the legality of detention.”

— *Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018)

VII. PETITIONER POSES NO FLIGHT RISK, NO DANGER, AND NO THREAT

Respondents repeatedly label Petitioner a “danger” or “flight risk” without evidence.

Facts:

- **No criminal history**
- **No convictions**
- **No violent conduct**
- **No threat to homeland security**

Detention without probable cause **cannot be justified by conclusory labels**.

“Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

— *United States v. Salerno*, 481 U.S. 739, 755 (1987)

VIII. RELIEF REQUESTED

Because Petitioner's custody stems from an **unconstitutional arrest**, and because ICE lacked lawful authority at the moment of seizure, this Court should:

1. **Reject Respondents' jurisdictional arguments;**
2. **Find that Petitioner is in custody in violation of the Fourth Amendment;**
3. **Order immediate release;**
4. **Grant any other relief this Court deems just.**

Respectfully submitted,

Christina Martinez

Petitioner, Pro Se
Butler County Jail
Hamilton, Ohio

Date: January 30, 2026