UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSE ANTONIO VASQUEZ MEJIA, Petitioner, v. WARDEN, BUTLER COUNTY CORRECTIONAL COMPLEX, ET AL. Respondents	)	Civil Action No. 1:26-cv-711 Judge Jeffery P. Hopkins

PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENT BUTLER COUNTY SHERIFF RICHARD K JONES'S 12(B)(6) MOTION TO DISMISS PETITTION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Now comes Petitioner, Jose Antonio Vasque Mejia ("Plaintiff"), who by and through undersigned counsel, respectfully requests this Court to deny the instant motion to dismiss pursuant to Federal Rules of Civil Procedure ('Fed. R. Civ. P.") 12(b)(6), filed by Respondent Butler County Sheriff Richard K. Jones ("Respondent Jones"). In support of his opposition to dismissal, Plaintiff submits this combined memorandum of law.

Respondent Jones's Motion to Dismiss should be denied because the Complaint alleges sufficient facts to state plausible claims for relief and Respondents were properly joined in the Writ. Respondent Jones argues that he is not a proper habeas respondent because, under *Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003), the immigration official with legal authority over a detainee, not the local facility operator holding the detainee under contract with ICE, is the

proper respondent. ECF No. 6 at 4-5. Respondent Jones's reading of Roman is not compelled by that decision. *Roman* recognized that the identity of the proper habeas custodian turns principally on who has "power over" the petitioner, while also acknowledging that the warden of a detention facility exercises "day-to-day control" over an alien detainee. 340 F.3d at 319-20. The Supreme Court subsequently reaffirmed the traditional rule that, where habeas petitioner challenges his present physical confinement, the proper respondent is the person with custody over him, and that a § 2241 petitioner ordinarily should name his warden and file in the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 434, 447 (2004).

Petitioner accordingly opposes dismissal of Respondent Jones. Repsondent Jones identifies no defect in the substantive claims for relief; his motion challenges only his own status as a party, and the Petition already names the ICE and DHS officials—including Robert Lynch, Director of the ICE Detroit Office, who indisputably has authority over ICE detentions in Ohio and Michigan, including Petitioner's detention, and ability to grant the relief sought.

PROCEDURAL HISTORY

Petitioner is a civil immigration detainee held at the Butler County Correctional Complex since May 13, 2026, pursuant to a contractual arrangement between Butler County and ICE for the housing of immigration detainees. ECF No. 6 at 4 and ECF No. 1 at 2. Respondent Jones, the Butler County Sheriff responsible for that facility, moved to dismiss the Petition as to himself, arguing that he is not Petitioner's "immediate custodian" for habeas purposes because he holds Petitioner "solely pursuant to the direction of" ICE, and that the ICE Field Office Director is instead the proper respondent. ECF No. 6 at 4-5 (citing *Roman*, 340 F.3d 314, and *Vasquez v. Reno*, 233 F.3d 688 (1st Cir. 2000)).

The Petitioner already named that official. Respondent Robert Lynch is named in his official capacity as the Director of the ICE Detroit Field Office of Enforcement and Removal Operations (ERO), which has jurisdiction over ICE detention operations in Ohio, including at Butler County Correctional Complex, and is alleged to be a legal custodian of Petitioner with authority to release him. ECF No. 1 at 7. The Petition also names Respondent David Venturella, Acting Director of ICE (ECF No. 1 at 7) and Respondent Markwayne Mullin, Secretary of the Department of Homeland Security (ECF No. 1 at 8), both in their official capacities.

MEMORANDUM IN SUPPORT

A motion under Fed. R. Civ. P. 12(b)(6) tests the legal sufficiency of the complaint. To overcome such motion, the Complaint must contain sufficient factual allegations, which if accepted as true, makes the claim for relief plausible on its face. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). In deciding such a motion, the Court accepts the facts pleaded in the Complaint as true and draws reasonable inferences in the Plaintiff's favor. *Id.* Federal Rule of Civil Procedure 12(b)(6) requires dismissal of an action if the Plaintiff has failed, "to state a claim upon which relief can be granted." "Factual allegations contained in a complaint must 'raise a right to relief above the speculative level." *Bassett v. National Collegiate Athletic Ass'n*, 528 F.3d 426, 430 (2008), quoting in part, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed 2d 929 (2007).

Here, Petitioner properly stated plausible claims upon which relief may be granted. ECF No. 1 at 11-20. The U.S Immigration and Customs Enforcement("ICE") on January 30, 2025 issued a policy governing its immigration enforcement action against "aliens who, like Petitioner, are beneficiaries of pending victim-based immigration benefits." *See*, ICE Policy No. 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or

Potential Beneficiaries of Victim-Based Immigration Benefits (Jan. 30, 2025) ("2025 Guidance"). *See also* ECF No. 1 at 3, 10-11. Our Writ of Habeas Corpus invokes the District Court's nation-wide preliminary injunction in *Immigration Center for Women and Children v. Noem*, No. 2:25-cv-09848-AB-AS, Dkt. No. 57 (C.D. Cal. May 20, 2026) ("*ICWC*"), enjoining the enforcement of the January 30, 2025 policy against aliens with pending victim-based immigration benefits including T and U visas, and VAWA. *Id.* at 11-15. Petitioner has a pending I-918 petition for U Nonimmigrant Status (receipt numbe[redacted] and such, is a member of the class certified by the *ICWC* Court. *Id.* at 12-13. Yet, Respondents continue to detain Petitioner in defiance of the *ICWC* order staying the enforcement of the January 2025 policy. *Id.* at 14. In other words, the factual pleadings of this Writ raised "a right to relief above the speculative level." *Bassett v. National Collegiate Athletic Ass'n*, 528 F.3d 426, 430 (2008).

The instant motion to dismiss should be denied. Respondent Jones identifies no defect in the claims the Petition states; he does not dispute that Petitioner has adequately alleged that his detention lacks a disclosed statutory basis, that Respondents have failed to establish authority under 8 U.S.C. §§ 1226 or 1231, or that his continued detention without constitutionally adequate custody review violates the Fifth Amendment. His motion, by its own terms, concedes that "[Petitioner] may or may not be entitled to the relief they seek," but contends only that such relief "cannot be granted by Respondent as he is not the immediate custodian." ECF No. 6 at 5. That is a party-joinder argument under Fed. R. Civ. P. 21, not a pleading-sufficiency argument pursuant to Fed. R. Civ. P. 12(b)(6).

The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is "the person who has custody over the petitioner." *See Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) (quoting 28 U.S.C. § 2242). The Supreme Court has held that " whenever a

§ 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement." *Id.* at 447.

Respondent Jones invokes *Roman v. Ashcroft* for the proposition that, in the immigration-detention context, this rule instead points to the ICE official with legal authority over the detention, not the local facility operator. ECF No. 6 at 4–5. But *Roman*'s own language does not compel that reading. The Sixth Circuit Court of Appeals in *Roman v. Ashcroft* has recognized that the person with the day-to-day control over the facility in which a petitioner for a Writ of Habeas is being detained is a [custodian] and as such, the jailer is a proper Respondent. *See* 340 F.3d at 319 (6th Cir. 2003) (stating "As a general rule, a petitioner should name as a respondent to his habeas corpus petition 'the individual having day-to-day control over the facility in which [the alien] is being detained.'" and quoting *Vasquez v. Reno*, 233 F.3d 688, 696 (1st Cir. 2000) *cert. denied*, 534 U.S. 816, 122 S. Ct. 43, 151 L. Ed. 2d 15 (2001)). A detained alien filing a habeas corpus petition should generally name as respondent, the person exercising daily control over his affairs. *Roman*, supra. In other words, the Sixth Circuit in *Roman* reaffirmed the immediate-custodian default for core physical-confinement challenges like this one. *Id.* at 327.

Nor does naming the ICE Field Office Director as a respondent preclude also naming the local facility operator. *Id.* at 320. A habeas petitioner may name more than one proper respondent, and a court need only find that one named respondent is proper to exercise jurisdiction over the petition. Respondent Jones's argument, at most, establishes that Respondent Lynch is also a proper respondent—not that Respondent Jones, who exercises actual day-to-day physical control over Petitioner's confinement at the facility Respondent Jones operates, is not.

District Courts within the Sixth Circuit have consistently held that the warden having day-to-day control over detainees are properly listed as Respondents in cases involving habeas corpus writs. *See Morrison v. Holder*, No. 1:12-CV-2393, 2012 U.S. Dist. LEXIS 164910 (N.D. Ohio Nov. 16, 2012) (Finding that Petitioner for Writ of Habeas Corpus properly named warden as a respondent); *see also M.T.B. v. Byers*, No. 2:24-cv-082-DCR, 2024 U.S. Dist. LEXIS 148118 (E.D. Ky. Aug. 20, 2024) (Finding that warden who had day-to-day control over facility in which Petitioner for writ of habeas corpus was properly named as respondent).

In addition, Petitioner properly implicated all Respondents in the instant Writ, including the Warden of the Butler County Jail. The Petition names Respondent Lynch, the ICE Detroit Field Office Director, in his official capacity, and alleges that he is a legal custodian of Petitioner with authority to release him. ECF. No.1 at 7. It likewise names Respondent Venturella and Respondent Mullin, in their official capacities, as officials responsible for the policies and custody determinations at issue. *Id.* at 7-8. Respondent Jones' own authority confirms that these are precisely the officials with legal authority over Petitioner's detention. *See Roman*, 340 F.3d at 320. Respondent Jones' motion does not address, let alone undermine, any of the claims asserted against them, and Petitioner does not concede, and expressly preserves, all such claims. Therefore, the instant Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) should be denied.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court DENY Respondent Jones' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this September 9, 2026, a true and correct copy of the foregoing Response in Opposition to Respondent Butler County Sheriff Richard K Jones's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) was served upon all Respondents electronically.

Respectfully submitted,

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