

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

K-S-

Petitioner,

v.

Civil No. 1:25-cv-288-SE-AJ

E.L. TATUM, JR.,¹ Warden of the Federal Correctional Institute, Berlin; **PATRICIA H. HYDE**, Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Boston Field Office; **TODD LYONS**, Acting Director, U.S. immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security; **PAMELA BONDI**, U.S. Attorney General;

Respondents.

**RESPONDENTS' MOTION TO DISMISS OR,
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Respondents move the Honorable Court to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim on which relief may be granted, or alternatively, grant Respondents judgment as a matter of law pursuant to Fed. R. Civ. P. 56(a). In support of this motion, Respondents refer the Court to the memorandum filed in support of the motion, the exhibits, and the record of this litigation.

¹ So named in the Petition; the current Acting Warden of FCI Berlin is Andrew Ackley. See Fed. R. Civ. P. 25(d) (“[W]hen a public officer who is a party in an official capacity . . . ceases to hold office while the action is pending[, t]he officer’s successor is automatically substituted as a party.”)

DATE:
September 16, 2025

Respectfully submitted,

ERIN CREEGAN
United States Attorney

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