

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

AYMAN SOLIMAN

Petitioner

v.

KRISTI NOEM, SECRETARY, UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY, ET AL.

Respondents

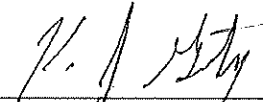
Civil Action No. 1:25-cv-556
Judge Jeffery P. Hopkins
Magistrate Judge Michael R. Merz

RESPONDENT SHERIFF RICHARD JONES' MOTION TO DISMISS PETITIONER'S
EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

Now comes Respondent Butler County Sheriff Richard Jones, by and through undersigned counsel and respectfully requests this Court dismiss Petitioners' Writ of Habeas Corpus pursuant to Fed. R. Civ. P. 12(b)(6). A memorandum in support is attached.

Respectfully submitted.

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Prosecuting Attorney of Butler County, Ohio

By 
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PROCEDURAL HISTORY AND STATEMENT OF FACTS

On July 11, 2025, Petitioner filed an Emergency Petition for Writ of Habeas Corpus and Request for a Temporary Restraining Order with the United States District Court for the Southern District of Ohio that was docketed as Case No. 1: 25-cv-00480. On July 18, 2025, undersigned Counsel for Respondent Butler County Sheriff Richard Jones, (“Respondent Jones”) filed a Motion to Dismiss Petitioner’s Emergency Petition for Writ of Habeas Corpus. On July 24, 2025, Respondent Jones’ Motion to Dismiss was granted as journalized in this Docket Text:

Minute Entry and Notation Order for proceedings held before Judge Michael R. Barrett: Status Conference held on 7/24/2025; Robert Ratliff, Freda Levenson, Catherine Brady, and Franchel Daniel appeared for Petitioner; William King appeared for the Defendant Immigration and Customs Enforcement; Patrick Oelrich appeared for Defendant Butler County Sheriff; [7] **Defendant Butler County Sheriff’s Motion to Dismiss is GRANTED with no objection**; Court to extend [5] Soliman’s motion for a temporary restraining order, Order to follow; a follow up Status Conference is set for 7/30/2025 at 10:00 AM by Teleconference before Judge Michael R. Barrett. (emphasis added.)

Then on July 29, 2025, Petitioner filed an Unopposed Motion for Voluntary Dismissal, which was granted by this Court on the same day.

On August 7, 2025, Petitioner filed this current Emergency Petition for Writ of Habeas Corpus and Request for Temporary Restraining Order again naming Respondent Jones. Respondent Jones acknowledges Ayman Soliman (“Petitioner”) is in custody at the Butler County Correctional Complex as an alien awaiting deportation process by United States Immigration and Customs Enforcement (“ICE”). Respondent Jones hereby requests this Court dismiss the Petition for Writ of Habeas Corpus pursuant to Fed. R. Civ. P. 12(b)(6).

MEMORANDUM IN SUPPORT

Respondent Jones, despite Petitioner’s claims, is not the Petitioner’s custodian in this case. Therefore, the Petition for Habeas Corpus must be dismissed against Respondent Jones pursuant to

Fed. R. Civ. P. 12(b)(6). “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.’” Roman v. Ashcroft et al., 340 F.3d 314, 319 (2003), quoting in part, Vasquez v. Reno, 233 F.3d 688, 696 (1st Cir. 2000). A “writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.” Roman at 319, quoting, Braden v. 30th Judicial Circuit Ct. of Ky., 410 U.S. 484, 495, 93 S.Ct. 1123, 35 L.E.d.2d 443 (1973).

The Sixth Circuit Court of Appeals has ruled in the case of aliens detained by United States Immigration and Customs Enforcement (ICE) (previously Immigration and Naturalization) that, “although the warden of each detention facility technically has day-to-day control over alien detainees, the INS District Director for the district where a detention facility is located ‘has power over’ alien habeas corpus petitions.” Roman at 320, citing, Henderson v. INS, 157 F.3d 106, 122 (2d Cir.1998). Where local law enforcement contract with ICE to hold aliens detained by the federal government the

wardens of all these facilities act pursuant to INS Detention Standards and are considered agents of the INS District Director in their district. It is clear that the INS does not vest power over detained aliens in the wardens of detention facilities because the INS relies on state and local governments to house federal INS detainees. Whatever daily control state and local governments have over federal INS detainees, they have that control solely pursuant to the direction of the INS. Roman at 320.

Federal Rule of Civil Procedure 12(b)(6) requires dismissal of an action if the Petitioner 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).

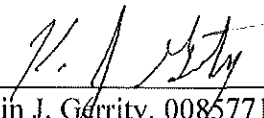
While Petitioners may or may not be entitled to the relief they seek, such relief cannot be granted by Respondent Jones as he is not the immediate custodian of Petitioner but merely a contractual agent of ICE.

CONCLUSION

Wherefore, for the reasons stated above, Respondent prays this Honorable Court grant his motion to dismiss the Petition for Writ of Habeas Corpus pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted.

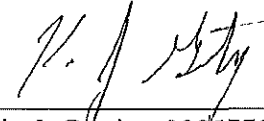
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was electronically filed on August 15, 2025, and will automatically be served on all the parties for whom counsel has entered an appearance.

Michael T. Gmoser
Prosecuting Attorney of Butler County, Ohio

By 
Kevin J. Gerrity, 0085771
Chief Assistant Prosecuting Attorney