

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
(at COVINGTON)

PARAMJIT SINGH

Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

Case No.: 2:25-161-DCR

ELECTRONICALLY FILED

JAILER MARC FIELDS'S RESPONSE TO PETITIONER'S PETITION AND MOTION

This memorandum is filed on behalf of Jailer Fields in his *official* capacity in accordance with the Court's order. [R. No. 6]

Respectfully submitted:

OFFICE OF THE KENTON COUNTY ATTORNEY

/s/ Christopher S. Nordloh

Christopher S. Nordloh (85716)

Drew Harris (95566)

ASSISTANT COUNTY ATTORNEYS

1840 Simon Kenton Way, STE 4200

Covington, KY 41011

p 491-0600

cnordloh@kentoncoatty.com

dharris@kentoncoatty.com

CERTIFICATION

I hereby certify that a true and exact copy of the foregoing answer has been served electronically upon counsel of record using ECF.

/s/ Christopher S. Nordloh

Christopher S. Nordloh (85716)

I. INTRODUCTION

Petitioner Paramjit Singh, through counsel, recently filed a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and a motion for a temporary restraining order. [Record Nos. 1– 2] Singh is married to a United States Citizen and has been a legal permanent resident for over thirty years. [Record No. 1] Singh alleges that he is being detained in violation of his due process rights by United States Immigration and Customs Enforcement at the Kenton County Detention Center in Covington, Kentucky. *Id.* More specifically, he claims that the Department of Homeland Security manufactured a fake 2008 criminal conviction in its brief to the Board of Immigration Appeals which triggered the Immigration Judge’s unlawful sua sponte reversal of its prior order granting bond. *Id.* Among other things, he requests that this Court order his immediate release. *See id.*

Singh claims that each Respondent is his/her legal custodian. This is the only claim against Jailer Fields. Accordingly, Jailer Fields will address only this issue and will defer to the United States Government to address the merits of the writ and right to intermediate relief.

II. JAILER FIELDS IS NOT SINGH’S LEGAL OR IMMEDIATE CUSTODIAN

The Jail is a county detention facility overseen and operated by the elected Jailer, Marc Fields. The Jail contracts with the U.S. Marshall’s Office to house ICE detainees. Pursuant to its contract, the Jail houses Petitioner who is being detained by the federal government. The relevant provision of the contract is as follows.

The Local Government agrees to accept Federal prisoners only upon presentation by a Law Enforcement Officer (LEO), USMS Task Force Officer (TFO) or a USMS designee with proper credentials.

The Local Government shall not relocate a Federal prisoner from one facility under its control to another facility not described in this agreement without permission of the Federal Government. Additional facilities within the same agreement shall be identified in a modification.

The Local Government agrees to release Federal prisoners only to LEOs of the authorized Federal Government agency initially committing the Federal prisoner (e.g., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE)) or to a Deputy United States Marshal (DUSM) or USMS designee with proper credentials. Those Federal prisoners who are remanded to custody by the USMS may only be released to the USMS or an individual specified by the USMS in the Judicial District.

...

See Ex. 1., p. 8 ¶ 10.

Because Petitioner is an ICE detainee housed in the Jail overseen by Jailer Fields as an agent of the federal government, Jailer Fields is not Petitioner's legal or immediate custodian, and, therefore, not a proper party to the Petition. *Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003); see also, *Malam v. Adducci*, 452 F. Supp. 3d 643 (E.D. Mich. 2020), as amended (Apr. 6, 2020).

“Historically, the question of who is ‘the custodian,’ and therefore the appropriate respondent in a habeas suit, depends primarily on who has power over the petitioner and...on the convenience of the parties and the court.” *Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003) (citing *Henderson v. INS*, 157 F.3d 106, 122 (2d Cir. 1998)). In *Roman*, the Sixth Circuit held that for habeas petitions in immigration contexts, “the INS District Director for the district where a detention facility is located ‘has power over’ alien habeas corpus petitioners.” *Id.* at 320. The court, in finding that the Attorney General was not a proper respondent for a noncitizen's habeas claim and that a habeas claim could properly have only one respondent, reiterated 28 U.S.C. § 2243's requirement that a writ of habeas corpus “shall be directed to *the* person having custody of the person detained.” *Id.* at 321. Michigan only has one ICE District, located in Detroit. See *Enforcement and Removal Operations Field Offices*, <https://www.ice.gov/contact/ero>. Accordingly, Rebecca Adducci, the Detroit District Director, is the proper Respondent for Petitioner's request for a writ of habeas corpus.

Adducci at 654.

However, the Jailer recognizes that this Court determined in *M.T.B. v. Byers*, No. CV 2:24-028-DCR, 2024 WL 3881843, at *1 (E.D. Ky. Aug. 20, 2024) that jailers are a proper party in these proceedings.

But as this Court explained in some detail in *Cerimovic v. Byers*, 2: 24-CV-026 (E.D. Ky. May 8, 2024), “the federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is ‘the person who has custody over the petitioner.’ ” *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004). *See also In re Gregory*, 181 F.3d 713, 714 (6th Cir. 1999) (noting that a petition for a writ a habeas corpus under § 2241 is confined to the district court having jurisdiction over the petitioner's custodian). And as the person who has “day-to-day control over the facility in which [M.T.B.] is being detained,” Maydak is M.T.B.'s custodian. *See Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003). Accordingly, Maydak's request to dismiss him as a respondent will be denied.

Respectfully, while recognizing this Court’s prior ruling, the Jailer will preserve this issue by distinguishing *Padilla*. In that case, the Supreme Court applied the immediate custodian rule to a habeas petition filed by a U.S. citizen detained in military custody in South Carolina. The Court held that the immediate custodian rule is the “default rule” that the proper respondent to a habeas petition challenging present physical confinement “is the warden of the facility where [a] prisoner is being held, not the Attorney General or some other remote supervisory official.” *Padilla* at 435-39. However, and most relevant here, the Court declined to decide who the proper respondent should be in the immigration detention context. *Id.* at 436 n.8.

Jailer Fields’s position is that since Singh is an ICE detainee, *Padilla* does not apply. Instead, it is the jailer’s position that the decision in *Roman* is controlling for habeas relief in immigration contexts since it squarely decided that issue. “We conclude 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 petitioners. *Roman* at 320. As such, the INS District Director for the district where a detention facility is located, rather than the jailer, has custody over the person detained. The Court reiterated 28 U.S.C. § 2243's requirement that a writ of habeas corpus “shall be directed to the person having custody of the person detained,” *id.* at 321, and that “[f]or all the reasons discussed [], we conclude that a detained alien

generally must designate his immediate custodian—the INS District Director for the district where he is being detained—as the respondent to his habeas corpus petition.” *Id.* at 322. Kentucky is included in the Chicago ICE Enforcement and Removal Operations (“ERO”) District. *See Enforcement and Removal Operations Field Offices*, <https://www.ice.gov/contact/ero>. Accordingly, the Chicago Field Office Director is the proper Respondent for Petitioner's request for a writ of habeas corpus.

III. CONCLUSION

Jailer Fields’s position is based on the *Padilla* Court leaving open the specific question that *Roman* answered. The question of whether the default rule (that the jailer or warden is the immediate custodian) applies in the immigration context was answered in *Roman*. Moreover, while the *Padilla* footnote does not necessarily mean that the Supreme Court would apply a different line of reasoning in the immigration context, it recognizes a distinction nonetheless—a distinction that it did not address. The Supreme Court might in the future decide that it is a distinction without a legal difference but thus far it has not done so. Until then, *Roman* instructs that the immediate custodian in immigration habeas cases is the INS District Director for the district where the person is being detained, *id.* at 322, and that the plain meaning of 28 U.S.C. § 2243 suggests that only one individual can properly be named as the respondent to a habeas corpus petition. *Id.* at 321.

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