

to state a claim upon which relief can be granted because Respondent-Sheriff is not Ortiz Soto's custodian in this case. (Doc. 7, at 27). Respondent's argument is well taken.

The Butler County Sheriff, Richard K. Jones, is not a proper Respondent in this matter. Title 28 U.S.C. § 2243 requires the writ or order to show cause to be "directed to the person having custody of the person detained." In the context of a habeas corpus petition filed by a noncitizen detained in a local detention facility contracted by Immigration and Customs Enforcement ("ICE"), it is the Department of Homeland Security ("DHS") Field Director, and not the head of the contracted detention facility, that "has power over" the noncitizen petitioner within the meaning of 28 U.S.C. § 2243. *Roman v. Ashcroft, et al.*, 340 F.3d 314, 320 (6th Cir. 2003) (citing *Henderson v. INS*, 157 F.3d 106, 122 (2d Cir. 1998)). *See also Mbaye v. Price*, No. 2:11-cv-1015, 2012 WL 787017, at *2 (S.D. Ohio Mar. 9, 2012), *objections to Report and Recommendation sustained on other grounds*, 2012 WL 4364256 (S.D. Ohio Sep. 24, 2012) (denying motion to dismiss by ICE District Director because *Roman* holds that the [ICE] District Director for the district where a detention facility is located has power over noncitizen habeas corpus petitioners). That being so, Sheriff Richard K. Jones is not a properly named Respondent in this action.

Accordingly, it is **RECOMMENDED** that the Motion to Dismiss by Respondent Sheriff Richard K. Jones **be GRANTED** and that Sheriff Richard K. Jones **be DISMISSED** as Respondent in this action. It is **further RECOMMENDED** that the instant Petition be permitted to **proceed** against the remaining named Respondents.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO RECOMMENDED.

November 25, 2025


KAREN L. LITKOVITZ
United States Magistrate Judge