

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
NORTHERN DIVISION  
COVINGTON

MUKUN PATEL, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 2:25-cv-00182-SCM  
 )  
 PAM BONDI, et al. )  
 )  
 Defendants. )  
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**RESPONSE TO  
PETITION FOR WRIT OF HABEAS CORPUS**

Respondents Pamela Bondi, in her official capacity as Attorney General of the United States; Kristi Noem, in her official capacity as the Secretary of the Department of Homeland Security; and Todd M. Lyons, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement, respond to the petition for writ of habeas corpus [R. 1] filed by Petitioner Mukund Patel, consistent with this Court’s December 9, 2025 Order [R. 5].<sup>1</sup>

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<sup>1</sup> This Court should dismiss the Secretary of Homeland Security and the Attorney General because a party “‘must demonstrate standing for each claim that they press’ against each defendant, ‘and for each form of relief that they seek.’” *See Murthy v. Missouri*, 603 U.S. 43, 61 (2024). That rule dictates dismissal of the Respondents Noem and Bondi since a writ of habeas corpus may be issued only “to the person having custody of the person detained.” 28 U.S.C. § 2243. Thus, except in extraordinary circumstances, the only proper respondent in a habeas case is the detainee’s immediate custodian. *See, e.g., Trump v. J.G.G.*, 604 U.S. 670, 672 (2025); *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Because Petitioner was detained at a local facility at the time of filing, only the ICE Field Office Director is the proper respondent. *See Kholyavskiy v. Achim*, 443 F.3d 946, 953 (7th Cir. 2006).

On consideration of a petition for a writ of habeas corpus, the burden rests on the person in custody to prove their detention is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941); *Caver v. Straub*, 349 F.3d 340, 351 (6th Cir. 2003).

**Factual Background**

Petitioner was previously removed from the United States under a Final Order of Removal dated May 20, 2015. [*See, e.g.,* Exhibit 1: Certification of Reinstatement at 3; *see also* R. 1: Petition at 2 (¶2) (noting deported 2015).] His removal papers show that he was charged as removable under:

- a. 8 U.S.C. § 1182(a)(6)(C)(i) (“Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this chapter is inadmissible.”); and
- b. 8 U.S.C. § 1182(a)(7)(A)(i)(1) (“Any immigrant at the time of application for admission--(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General . . .”).

[Ex. 1: Certification of Reinstatement at 4.] Those charges were sustained. [*See id.*]

Petitioner re-entered the United States—without authority to do so—on or about November 13, 2023, at the southern border. [*See* Exhibit 2: Warrant of Removal/Deportation at 1; *see also generally* R. 1: Petition at 3 (¶8) (noting Petitioner reentered United States “without valid documentation”).] Accordingly, on July 2, 2025, Petitioner’s 2015 final order of removal was reinstated. [*See* Ex. 1: Certification of Reinstatement at 1; Exhibit 3: Notice of Intent/Decision to Reinstate Prior Order at 1.] *See also* 8 U.S.C. § 1231(a)(5) (The prior order is “not subject to being reopened or reviewed, [and] the alien is not eligible and may not apply for

any relief under this chapter.”). A warrant was issued to remove Petitioner as an inadmissible alien under 8 U.S.C. § 1182(a)(9)(A)(i). [See Ex. 2: Warrant of Removal/Deportation at 1.]

### Argument

Generally, “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the ‘removal period’).” 8 U.S.C. § 1231(a)(1)(A). “During the removal period, the Attorney General *shall* detain the alien.” 8 U.S.C. § 1231(a)(2) (emphasis added); *see also Johnson v. Guzman Chavez*, 594 U.S. 523, 526 (2021) (holding “§ 1231, not § 1226, governs the detention of aliens subject to reinstated orders of removal, meaning those aliens are not entitled to a bond hearing while they pursue withholding of removal.”).

Generally, if an alien is not removed within 90 days, they are released subject to supervision. *See* § 1231(a)(3). But “[a]n alien ordered removed who is inadmissible under section 1182 of this title . . . may be detained beyond the removal period.” § 1231(a)(6); *see also Clark v. Martinez*, 543 U.S. 371, 378 (2005) (“The operative language of § 1231(a)(6), ‘may be detained beyond the removal period,’ applies without differentiation to all three categories of aliens that are its subject.”). The statute specifies that the removal period may be extended in certain circumstances, “such that an alien remains detained after 90 days have passed.” *Guzman Chavez*, 594 U.S. at 528. It allows the Department of Homeland Security to detain a non-citizen “beyond the removal period” in certain circumstances, including where the non-citizen ordered removed is inadmissible under 8 U.S.C. § 1182. *See* § 1231(a)(6); *Guzman Chavez*, 594 U.S. at 528. Section 1231(a) does not provide for a bond hearing for the noncitizen to challenge their detention. *See Guzman Chavez*, 594 U.S. at 526.

Here, Petitioner has been ordered removed. [See Ex. 1: Certification of Reinstatement at 1; Ex. 2: Warrant of Removal/Deportation at 1.] See also *Guzman Chavez*, 594 U.S. at 526 (holding § 1231 applies.) Congress has directed that he “shall” be detained. See § 1231(a)(2). Petitioner is inadmissible under 8 U.S.C. § 1182. [See, e.g., Ex. 1: Certification of Reinstatement at 1; Ex. 2: Warrant of Removal/Deportation at 1.] Therefore, his detention may extend beyond the 90 days mentioned in § 1231(a)(3). See § 1231(a)(6). And § 1231 does not require a bond hearing. See *Guzman Chavez*, 594 U.S. at 526; *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 576 (2022) (holding “text of § 1231(a)(6) [does not] require[] the Government to offer detained noncitizens bond hearings after six months of detention”).

Although the Supreme Court has applied due process<sup>2</sup> principles to suggest that this detention may not be indefinite, it has also recognized that a detention of up to six months is presumptively reasonable. See *Zadvydas v. Davis*, 533 U.S. 678, 699, 701 (2001); *Clark*, 543 U.S. at 386.<sup>3</sup> After that, the alien must “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” in order to shift the burden to the Government to rebut that showing. *Zadvydas*, 533 U.S. at 701; see also, e.g., *Jennings v. Rodriguez*, 583 U.S. 281, 298-99 (2018) (describing *Zadvydas*). The Supreme Court

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<sup>2</sup> Petitioner raises due process concerns. [See R. 1: Petition at 3.] He also suggests that “[d]elay in scheduling a credible fear interview violates statutory procedures under 8 U.S.C. § 1225(b)(1)(B)(iii) and corresponding regulations,” but he does not explain how this allegation is either applicable to him (since he is detained under § 1231) or relevant to his *habeas corpus* petition, that is, he does not explain why it presents a reason for release. [See *id.* at 4.] See also, e.g., *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.”). Respectfully, this sentence is insufficient to meet petitioner’s burden in a habeas petition. See generally, e.g., *Kafele v. Lerner, Sampson & Rothfuss*, 161 F. App’x. 487, 491 (6th Cir. 2005) (“[T]rial and appellate courts should not have to guess at the nature of the claim asserted.”).

<sup>3</sup> As explained in a recent case, even outside of this presumption, “courts have found detentions as long as two years to be lawful.” *Karki v. Raycraft*, No. 2:25-CV-13186, 2025 WL 3516782, at \*3 (E.D. Mich. Dec. 8, 2025) (citing *Martinez v. Larose*, 968 F.3d 555, 565 (6th Cir. 2020)).

was clear to say that the government was not required to release every alien not removed within six months. *Zadvydas*, 533 U.S. at 701.

Petitioner has *not* been detained for more than six months. [*See, e.g.*, R. 1: Petition at 3 (¶11).] His detention is, presumptively reasonable, and this Court should deny his petition. *See, e.g., Aguilar v. Dunbar*, No. 1:25-CV-1439, 2025 WL 3267778, at \*5 (W.D. Mich. Nov. 24, 2025).

**Conclusion**

This Court should deny Petitioner's petition for habeas relief because he is lawfully detained.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2025, I filed this document via CM/ECF, which will automatically provide service to all counsel of record.

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