

**United States District Court
Western District of Texas
El Paso Division**

Faustino Pablo Pablo
Petitioner,

v.

Todd M. Lyons, *et al*,
Respondents.

No. 3:25-CV-00566-DCG

Federal¹ Respondents' Response to Petition of Writ for Habeas Corpus

Federal Respondents provide this response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied.

Since Petitioner filed his habeas petition [ECF No. 1], Respondents filed their advisory that Petitioner was removed from the United States to Guatemala [ECF No. 6]. The Court has scheduled a status conference on Petitioner's motions for a temporary restraining order ordering Petitioner's return to the United States and for civil contempt and sanctions against respondents. ECF No. 8.

I. Relevant Facts

Petitioner is a citizen of Guatemala who was ordered removed from the United States and granted withholding of removal under the Convention Against Torture (CAT). ECF No. 1-1 at 19; 8 C.F.R. § 1208.16. Petitioner was thereafter released on an order of supervision (OSUP). *See* ECF No. 1 at 8. On November 20, 2025, Respondents removed Petitioner to Guatemala. ECF No. 6 at 1.

¹ The named warden in this action is not a federal employee. The Department of Justice does not represent him in this action.

II. Argument

Despite being granted relief from removal, referred to as CAT, 8 C.F.R. § 1208.16, such relief extends only to the country where Petitioner was found to have a reasonable fear of being persecuted: Guatemala. *See* 8 C.F.R. §§ 208.16–208.17, 1208.16; 1208.17; 208.31(a); 1208.31(a); 8 U.S.C. § 1231(b)(3)(A). In other words, nothing prevents DHS from removing Petitioner to a third country if such a country is willing to accept him. *See e.g., Guzman Chavez v. Johnson*, 594 U.S. at 531–32, 535–36 (2021); 8 U.S.C. § 1231(b)(1)(c)(iv); 8 C.F.R. §§ 208.16(f); 1208.16(f); 208.17(b)(2); 1208.17(b)(2). There are numerous removal options for ICE to consider under this statute, including any country willing to accept the alien. *Guzman Chavez*, 594 at 536–37; 8 U.S.C. § 1231(b)(2).

As Respondents argued in their advisory, Petitioner’s removal and his subsequent filed motions cannot extend the writ of habeas corpus to order Respondents to return Petitioner because they do not challenge the *custody* or *detention* of Petitioner and, therefore, are not cognizable under the plain language of 28 U.S.C. § 2241. It is axiomatic that, to state a cognizable claim for relief under 28 U.S.C. § 2241, a petitioner “must challenge the ‘fact or duration’ of their confinement and seek relief in the form of immediate release.” *Seth v. McDonough*, 461 F. Supp. 3d 242, 256 (D. Md. 2020) (quoting *Vazquez Barerra v. Wolf*, 455 F. Supp. 3d 330, 336–38 (S.D. Tex. 2020)); *see also, e.g., Rowsey v. Warden, FCI Cumberland*, No. BAH-24-2989, 2025 WL 1797935, at *3 (D. Md. June 30, 2025).

Here, it is undisputed that Petitioner seeks federal habeas corpus relief pursuant to 28 U.S.C. § 2241. *See* ECF No. 1 at 1 (petitioning this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy alleged unlawful detention). It is also undisputed that Petitioner is no longer within the custody or control of Respondents given that he was removed to Guatemala on

November 21, 2025. *See* ECF Nos. 5 at 2; 6 at 1. Thus, his claims sounding in habeas are moot and his continued invocation of habeas jurisdiction is improper.

The Fifth Circuit recognized the Supreme Court has taken a narrow view of habeas relief in immigration context, which supported the Court of Appeals reluctance to extend habeas relief to aliens who are released from detention but may suffer ‘collateral consequences.’ *See Bacilio-Sabastian v. Barr*, 980 F.3d 480 (citing *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020)). This narrow reading further supports Respondents’ argument that because Petitioner is no longer in Respondents custody, this habeas is moot.

III. Conclusion

Petitioner cannot extend habeas in the fashion he now seeks. This Court should deny the petition.

Respectfully submitted,

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