

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

JAIME HERNANDEZ SARMIENTO,

Petitioner,

v.

KEVIN RAYCRAFT, Acting Field  
Office Director of Enforcement and  
Removal Operations, Detroit Field  
Office, Immigration and Customs  
Enforcement; KRISTI NOEM,  
Secretary, U.S. Department of Homeland  
Security; U.S. DEPARTMENT OF  
HOMELAND SECURITY; PAMELA  
BONDI, U.S. Attorney General;  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW,

Respondents.

Case No. 25-cv-13486

Hon. Robert J. White

Mag. Judge Elizabeth A. Stafford

**PETITIONER'S RESPONSE TO THE COURT'S ORDER TO SHOW  
CAUSE**

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### **ISSUES PRESENTED**

1. In *Roman*, the Sixth Circuit held that the “immediate custodian” in a habeas petition for a noncitizen who is detained pending removal is the ICE Field Office Director with jurisdiction over the place of confinement. Does *Roman*, which continues to be relied upon by the District Courts and the government in the Sixth Circuit, remain good law in a habeas petition like this one?
2. If the immediate custodian in this case is the ICE Detroit Field Office Director, does the Court have jurisdiction over this habeas petition?

## **INTRODUCTION**

The Court should not transfer this habeas petition to the Western District of Michigan because the Sixth Circuit's *Roman* decision remains good law within the Sixth Circuit. *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003). The Field Office Director for Immigration and Customs Enforcement (ICE) is the "immediate custodian" and proper Respondent in an immigration habeas petition. Because the ICE Field Office Director with jurisdiction over Petitioner Jaime Hernandez Sarmiento's place of confinement is in Detroit, the Court has jurisdiction over this Petition.

First, the Supreme Court explicitly declined to overturn *Roman*'s application of the immediate custodian rule to habeas petitions filed by noncitizens detained pending removal. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 n.8 (2004). Second, the Sixth Circuit has recognized the continued viability of *Roman*'s immediate custodian rule for habeas petitions like this one. *See Stanifer v. Brannan*, 564 F.3d 455, 458 (6th Cir. 2009). Other Circuits have also acknowledged that the Sixth Circuit continues to adhere to *Roman*'s immediate custodian rule, although those other Circuits have declined to adopt it. *See Kholyavskiy v. Achim*, 443 F.3d 946, 950 (7th Cir. 2006). Third, District Judges within the Eastern District of Michigan have consistently held that they have jurisdiction over immigration habeas petitions filed by noncitizens located in the Western District of Michigan because the ICE

Field Office Director is located in Detroit. Fourth, other District Courts within the Sixth Circuit continue to adhere to *Roman*'s immediate custodian rule. Fifth, the Government's position in this and numerous other similar habeas petitions filed inside and outside of the Eastern District of Michigan is that the Detroit ICE Field Office Director is the only proper Respondent.

**I. Under *Roman*, the Immediate Custodian of a Detained Noncitizen is the ICE Field Office Director With Jurisdiction Over the Detention Facility**

In *Roman*, the Sixth Circuit addressed the question of the proper respondent when a detained noncitizen challenges their detention through a petition for writ of habeas corpus. *Roman*, 340 F.3d at 319-20. Recognizing that the warden of a facility is usually the immediate custodian, the Court held that these types of immigration habeas petitions are different. *Id.* at 320. While "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." *Id.* (internal citation omitted).

As a result, the court remanded because the noncitizen habeas petitioner was detained in Louisiana but filed the habeas petition in the Northern District of Ohio. *Id.* at 317, 327. In reaching this conclusion, the court also recognized that the Attorney General might be a proper respondent to a detained noncitizen's habeas petition under certain circumstances. *Id.* at 324-25.

The takeaway from *Roman* is that, at least within the Sixth Circuit, the ICE Field Office Director for the district where the noncitizen is detained is the “immediate custodian” and therefore a proper respondent.

## **II. The Supreme Court’s *Padilla* Decision Left *Roman* Intact**

In *Padilla*, the Supreme Court clarified that the “immediate custodian” and proper respondent for a habeas petition is usually the warden of the detention facility. *Padilla*, 542 U.S. at 434-35. However, the Court recognized that there are some exceptions to this general rule. In a footnote, the Court acknowledged that it previously “left open the question whether the Attorney General is a proper respondent to a habeas petition filed by an alien detained pending deportation.” *Id.* at 435 n.8. The Court noted a circuit split on this question, specifically citing to *Roman* as an example of how different Courts of Appeals have defined the “immediate custodian” in the context of habeas petitions filed by detained noncitizens. *Id.* As it had before, the Supreme Court “again decline[d] to resolve it.” *Id.*

Thus, in setting forth the general rule for identifying the immediate custodian in habeas petitions, the Supreme Court declined to overturn the specific rule announced in *Roman* for habeas petitions filed by noncitizens detained pending their removal.

**III. The Sixth Circuit and Other Circuits Recognize the Continued Viability of *Roman* in the Sixth Circuit**

After *Padilla*, the Sixth Circuit continued to cite to *Roman* with approval despite having opportunities to overturn it. For example, in *Stanifer*, the Sixth Circuit engaged in a lengthy discussion of *Roman* to explain why the habeas petitioner in *Stanifer* filed in the wrong place. *Stanifer v. Brannan*, 564 F.3d 455, 458 (6th Cir. 2009); see also *U.S. v. Garcia-Echaverria*, 374 F.3d 440, 448 (6th Cir. 2004) (decided three days after *Padilla*). The power to overturn *Roman* rests with the Sixth Circuit and the Supreme Court, yet neither have done so.

Furthermore, other circuits recognize that *Roman* continues to answer the question of the proper respondent in an immigration habeas petition in the Sixth Circuit. *Kholyavskiy v. Achim*, 443 F.3d 946, 950 (7th Cir. 2006). There, the Seventh Circuit noted that within the Sixth Circuit, the wardens of a detention facility are acting as agents of the ICE Field Office Director in their district and, therefore, the ICE Field Office Director is the immediate custodian and proper respondent. *Id.* That the Seventh Circuit reached a contrary conclusion does not undermine *Roman* within the Sixth Circuit.

**IV. Judges Within the Eastern District of Michigan Continue to Apply *Roman*'s Immediate Custodian Rule**

Since *Roman* and *Padilla*, District Judges within the Eastern District of Michigan continue to apply *Roman* to habeas petitions filed by detained noncitizens



by identifying the ICE Detroit Field Office Director as the proper respondent even for individuals detained within the Western District of Michigan.

*Parlak* raised the same question posed by the Court in this case. *Parlak v. Baker*, 374 F.Supp.2d 551 (E.D. Mich. 2005). Parlak, who was detained in Calhoun County in the Western District of Michigan, named the ICE Detroit Field Office Director as the respondent and filed his habeas petition in the Eastern District. *Id.* at 553, 556. The government challenged jurisdiction and venue. The Court rejected those challenges. *Id.* at 556-58. The Court noted that *Padilla* explicitly left open the question of the proper respondent to a habeas petition filed by noncitizens detained pending removal. *Parlak*, 374 F.Supp.2d at 556 *citing to Padilla*, 542 U.S. at 435 n.8. Because the Supreme Court did not address that type of situation, *Roman* remained controlling law within the Sixth Circuit. *Parlak*, 374 F.Supp.2d at 556-57.

The “District Director is the proper respondent in an immigration habeas case involving a challenge to confinement, *i.e.* a core challenge.” *Id.* at 557. ICE Field Office Directors oversee the confinement of noncitizens in all three kinds of ICE detention facilities: service processing centers, contract facilities (like North Lake), and state/local facilities used by ICE. *Id.* at 557 *citing to Roman*, 340 F.3d at 320. Similarly, in *Khodr*, the Court dismissed the warden of the Monroe County Jail because, under *Roman*, the ICE Detroit Field Office Director is the proper respondent. *Khodr v. Adduci*, 697 F.Supp.2d 774, 776 (E.D. Mich. 2010); *see also*

*Naresh v. Klinger*, 2:19-cv-12800 at \*4 and \*5 n.2 (E.D. Mich. Oct. 24, 2019) (same).

More recently, District Judges in the Eastern District of Michigan have consistently held that the ICE Detroit Field Office Director is the immediate custodian and proper respondent under factual scenarios identical or similar to the one presented in this case. *See, e.g., Lopez-Campos v. Raycraft*, --- F.Supp.3d. ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Sandoval v. Raycraft*, No. 25-cv- 12987 (E.D. Mich. Oct. 17, 2025); *Mayen v. Raycraft*, No. 25-cv-13056 (E.D. Mich. Oct. 17, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-12926 (E.D. Mich. Oct. 21, 2025); *Santos-Franco v. Raycraft*, 25-cv-13188 (E.D. Mich. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, 25-cv-13032 (E.D. Mich. Oct. 21, 2025); *Garcia v. Raybon*, 25-cv-13086 (E.D. Mich. Oct. 21, 2025); *Gimenez Gonzalez v. Raycraft*, No. 25-cv-13094 (E.D. Mich. Oct. 27, 2025); *Morales-Martinez v. Raycraft*, No. 25-cv-13303 (E.D. Mich. Nov. 7, 2025).

**V. Other District Courts Within the Sixth Circuit Continue to Apply Roman's Immediate Custodian Rule**

Outside the Eastern District of Michigan, other District Courts within the Sixth Circuit apply *Roman's* immediate custodian rule and hold that the ICE Field Office Director is the proper respondent. *See, e.g., Kwaning v. Garland*, 2:24-cv-

02910 at \*7 (W.D. Tenn. Sept. 10, 2025) (under *Padilla* and *Roman*, the ICE Field Office Director is the immediate custodian and proper respondent, and venue is proper where the Field Office Director is located); *Woldeghergish v. Lynch*, 1:25-cv-461 at \*3 (S.D. Ohio Aug. 5, 2025) (dismissing the wardens as respondents and proceeding only against the ICE Field Office Director); *Ali v. Byers*, 23-177 at \*7-8 (E.D. Ky. Jan. 17, 2024) (dismissing the warden of the detention facility because the ICE Field Office Director is the proper respondent); *Hango v. McAleenan*, 1:19-cv-606 at \*2-4 (N.D. Ohio Dec. 9, 2019) (rejecting petitioner's attempts to add respondents other than the ICE Field Office Director); *Orozco-Valenzuela v. Holder*, 1:14-cv-1669 at \*7 n.5 (N.D. Ohio Mar. 17, 2015) (under *Padilla* and *Roman*, the ICE Field Office Director is the immediate custodian and proper respondent, and venue is proper where the Field Office Director is located).

In *Hango*, the court considered both *Roman* and *Padilla* and agreed with the authorities cited above to conclude that *Roman*'s immediate custodian rule applies to habeas petitions filed by noncitizens challenging their detention within the Sixth Circuit. *Hango, supra*, at \*2-\*4.

#### **VI. The Government's Position in This and Similar Habeas Petitions Aligns With Petitioner's Position**

In this case and many others, the Government has argued that the only proper respondent in a habeas petition filed by a noncitizen challenging their detention is the ICE Field Office Director. As in the cases cited above, the Government

successfully moved to dismiss other respondents, including the warden of the detention facility. *See also Garcia v. Raycraft*, 1:25-cv-01281 (W.D. Mich. Nov. 7, 2025) (dismissing, on the Government's motion, the North Lake detention facility warden because the ICE Detroit Field Office Director is the immediate custodian).

In the decisions cited above in Part IV, the Government moved to dismiss all respondents other than the ICE Detroit Field Office Director because they agree that he is the immediate custodian and the proper respondent for this type of habeas petition. In

### **CONCLUSION**

The immediate custodian and proper respondent in a habeas petition filed by a noncitizen challenging their detention is the ICE Field Office Director with jurisdiction over the detention facility. *Roman*, 340 F.3d at 320-21. Although it could have rejected this holding, the Supreme Court allowed it to stand in *Padilla*. 542 U.S. at 435 n.8. Since then, the Sixth Circuit and District Courts within the Circuit have recognized that *Roman*'s immediate custodian rule survived *Padilla*. Other Circuits have also recognized that *Roman*'s holding remains valid within the Sixth Circuit.

As a result, the ICE Detroit Field Office Director is Mr. Hernandez Sarmiento's immediate custodian and the proper respondent. The Court therefore has jurisdiction over his habeas petition and venue is proper in this District. The

remaining legal issues in this case are identical to *Pizarro Reyes*, which the Court granted. *See* No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

Dated: November 12, 2025

/s/ Russell Reid Abrutyn  
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**Certificate of Service**

I hereby certify that on November 12, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Russell Reid Abrutyn

Russell Abrutyn

Attorney for Petitioner