

TABLE OF CONTENTS

INTRODUCTION.....1
TABLE OF AUTHORITIES.....3
PROCEDURAL HISTORY AND STATEMENT OF FACTS.....4
MEMORANDUM IN SUPPORT.....4
CONCLUSION.....6
CERTIFICATE OF SERVICE7

TABLE OF AUTHORITIES

CASES

Bassett v. National Collegiate Athletic Ass’n, 528 F.3d 426, 430 (2008).....6
Bell Atl. Corp. v. Twombly, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed 2d 929 (2007).....6
Braden v. 30th Judicial Circuit Ct. of Ky., 410 U.S. 484, 93 S.Ct. 1123, 35 L.Ed.2d 443 (1973).....5
Henderson v. INS, 157 F.3d 106, 122 (2d Cir.1998).....5
Roman v. Ashcroft et al., 340 F.3d 314, 319 (2003).....5
Vasquez v. Reno, 233 F.3d 688, 696 (1st Cir. 2000).....5

STATUTES

Fed. R. Civ. P. 12(b)(6).....5,6

PROCEDURAL HISTORY AND STATEMENT OF FACTS

Petitioner filed a Petition for Writ of Habeas Corpus Pursuant to U.S.C. § 2241, and Declaratory Judgment with the United States District Court for the Southern District of Ohio on November 25, 2025. Petitioner named “Beau Sneddon Warden, Butler County Correctional Complex” as Respondent. Upon investigation by counsel for Warden, it is believed that Beau Sneddon is the Warden of the Correctional Complex in Butler County, Pennsylvania. Warden files this Motion to Dismiss assuming Relator meant to name Captain Kevin Grathwohl, who is the Warden of the Butler County Correctional Complex in Ohio as Warden does not wish to risk a default judgment against him.

On November 26, 2025, this case was transferred from the USDC at Columbus to the Cincinnati Division. Counsel for Warden filed his Appearance of Counsel on December 3, 2025. Warden does acknowledge that a contract exists between Butler County and United States Immigration and Customs Enforcement (“ICE”) for the housing of aliens awaiting deportation process by ICE and that Warden does hold such persons at the Butler County Jail. Warden does admit there is an inmate being held in the Butler County Jail whose name is Sarun Ouch.

MEMORANDUM IN SUPPORT

This matter should be dismissed pursuant to Fed. R. Civ. P. 12(b)(4), 12(b)(5). Petitioner had summons issued on November 26, 2025 to “Beau Sneddon, Butler County Correctional Complex 705 Hanover Street NA.” (Summons, ECF Doc # 3, PageID # 24) As pointed out above, Beau Sneddon is not an employee of the Butler County Ohio Jail but appears to be the Warden of a jail located in Butler County, Pennsylvania. Furthermore, unlike the other summons issued in this case, no full address was provided by Petitioner to complete service. Finally, Warden has not been

served with any summons in this matter. Warden became aware of this matter through a courtesy email from the Department of Justice. Therefore, even if the correct party had been named, both insufficient process and insufficient service of process are present here and this matter should be dismissed.

This matter must also be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) due to the fact that Warden, despite Petitioner's (assumed) claims, is not Petitioner's custodian in this case. Therefore, the Petition for Habeas Corpus must be dismissed against Warden pursuant to Fed. R. Civ. P. 12(b)(6). "As a general rule, a Plaintiff should name as a respondent to his habeas corpus petition 'the individual having day-to-day control over the facility in which [the alien] is being detained.'" Roman v. Ashcroft et al., 340 F.3d 314, 319 (2003), quoting in part, Vasquez v. Reno, 233 F.3d 688, 696 (1st Cir. 2000). A "writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody." Roman at 319, quoting, Braden v. 30th Judicial Circuit Ct. of Ky., 410 U.S. 484, 495, 93 S.Ct. 1123, 35 L.E.d.2d 443 (1973).

The Sixth Circuit Court of Appeals has ruled in the case of aliens detained by United States Immigration and Customs Enforcement (ICE) (previously Immigration and Naturalization) 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 petitions." Roman at 320, citing, Henderson v. INS, 157 F.3d 106, 122 (2d Cir.1998). Where local law enforcement contract with ICE to hold aliens detained by the federal government the

wardens of all these facilities act pursuant to INS Detention Standards and are considered agents of the INS District Director in their district. It is clear that the INS does not vest power over detained aliens in the wardens of detention facilities because the INS relies on state and local governments to house federal

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was electronically filed on December 8, 2025, and will automatically be served on all the parties for whom counsel has entered an appearance.

Michael T. Gmoser
Prosecuting Attorney of Butler County, Ohio

By s/ Kevin J. Gerrity
Kevin J. Gerrity, 0085771
Chief Assistant Prosecuting Attorney