

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

R.O.A.,

PETITIONER

v.

CIVIL ACTION NO. 4:25-cv-00164-GNS

MIKE LEWIS, *in his official capacity as
Hopkins County Jailer, and*
SAMUEL OLSON, *Field Office Director ICE
Chicago Field Office, and*
TODD LYONS, *in his official capacity as Acting
Director of Immigration and Customs Enforcement, and*
KRISTI NOEM, *Secretary of Homeland Security*
PAMELA BONDI, *U.S. Attorney General,*

RESPONDENTS

RESPONSE TO ORDER TO SHOW CAUSE

Federal Respondents, Pamela Bondi, Todd Lyons, Kristi Noem, and Samuel

Olson,¹ respond to the Court's order to show cause:

Aliens subject to orders of removal are mandatorily detained under 8 U.S.C.

§ 1231. *Johnson v. Guzman Chavez*, 594 U.S. 523, 544 (2021). Petitioner is such an alien and

thus must be detained under 8 U.S.C. § 1231 and its corresponding regulations at 8

C.F.R. § 241.

¹ This response is filed on behalf of Federal Respondents in their official capacities. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition also names Mike Lewis, Hopkins County Jailer in his official capacity, as a respondent.

I. Relevant facts

Petitioner entered the United States in April 2000. [Exhibit 1, I-213, at 2.] In 2007, Petitioner was first indicted on two counts of bribery and one count of introducing contraband into a penal institution. [Exhibit 2, Motion to Dismiss Writ of Habeas Corpus filed in E.D. Va., at 2.] Petitioner then fled from the United States to Canada, where he was apprehended and extradited to the United States. [Id.] Petitioner then pled guilty to one count of bribery and was sentenced to incarceration for eight months. [Id. at 1.] This conviction constituted a crime involving moral turpitude. [Id.]

After Petitioner was released from custody in 2007, he entered the custody of the Department of Homeland Security so removal proceedings could adjudicated. [Id. at 2.] In 2008, the immigration judge issued a final order of removal and denied Petitioner's claims for relief and withholding. [Id.] Petitioner's appeals were denied, and his final order of removal was affirmed. [Id.] The order of removal was not able to be timely enforced, so Petitioner was released on an order of supervision in 2009. [Id.] In June 2025, Petitioner was detained so his 2008 order of removal could be enforced. [Exhibit 3, Warrant of Removal/Deportation.] Petitioner then filed petitions for relief from removal, and those applications remain pending with USCIS. Petitioner filed in the District of Vermont a motion for preliminary injunction related to those pending petitions, and his removal is currently stayed pending adjudication of those petitions. [Doc. 1-3, PageID.66-84.]

² This motion and the exhibits are publicly available through LexisNexis's CourtLink website.

II. Petitioner bears the burden to establish that her custody is in violation of the Constitution or laws or treaties of the United States, and habeas relief is limited to custody.

To obtain habeas relief, Petitioner must not merely show that she is “in custody,” but rather that she is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); see *Dickerson v. United States*, 530 U.S. 428, 439, n. 3 (2000) (“Habeas corpus proceedings are available only for claims that a person ‘is in custody in violation of the Constitution or laws or treaties of the United States’”, quoting 28 U.S.C. § 2254(a). “[I]n a habeas proceeding the petitioner ‘has the burden of establishing his right to federal habeas relief and of proving all facts necessary to show a constitutional violation.’” *Caver v. Straub*, 349 F.3d 340, 351 (6th Cir. 2003) (quoting *Romine v. Head*, 253 F.3d 1349, 1357 (11th Cir. 2001)). Habeas relief is limited to “simple release,” and habeas is not a vehicle through which an alien can challenge other aspects of their immigration proceedings or determinations. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 117–20 (2020). Further, relief under the Administrative Procedure Act is unavailable because of the “habeas-channeling rule.” See *J.G.G. v. Trump*, 2025 U.S. App. LEXIS 7131, at *106 n.78 (D.C. Cir. Mar. 26, 2025) (Walker, J. dissenting) (citing *Nance v. Ward*, 597 U.S. 159, 142 S. Ct. 2214, 2222 (2022); *Preiser v. Rodriguez*, 411 U.S. 475, 489-90 (1973); *Dufur v. U.S. Parole Comm’n*, 34 F.4th 1090, 1095 (D.C. Cir. 2022)).

III. Specific response to the Petitioner’s allegations

Petitioner was not timely removed after his order of removal was issued, and he was thus released and issued an order of supervision. [Ex. 2 at 23-25.] Since the

Respondents received notice of the Petition, they have attempted to identify and locate all relevant records, but a notice of revocation of supervision issued at the time of Petitioner's detention has not been located. *See* 8 C.F.R. § 241.4(l). A revocation of supervision was issued and served on Petitioner by ICE on December 4, 2025. [Exhibit 4, Notice of Revocation of Release.]

Respectfully submitted,

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United States Attorney

/s/ Timothy D. Thompson

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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Timothy D. Thompson
Timothy D. Thompson
Assistant United States Attorney