

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARIA BARAJAS TORRES A.K.A
ROCIO JIMENEZ ARIAS VIZCARRA,
PETITIONER,

V.

WARDEN OF ERO EL PASO EAST,
MONTANA
ET AL.,
RESPONDENTS.

CASE NO. 3:25-CV-00717-KC

FEDERAL RESPONDENTS' RESPONSE TO PETITIONER

STATEMENT OF ISSUES

1. Whether Petitioner can be raise Habeas Issues after an immigration court has already ruled that the Petitioner can be deported.

Federal Respondents provide this response to Petitioner's Writ of Habeas Corpus..
Petitioner's writ should be denied as it is moot.

I. Relevant Facts

Petitioner is a citizen of Mexico who was ordered removed from the United States. Ex. A, Declaration; Ex. B, Warrant of Removal. On December 22, 2025, the Court issued its Order to neither remove Petitioner from the United States, nor transfer her to any facility outside the El Paso Division of the Western District of Texas until the Court ordered otherwise. ECF No. 3. The Notice was issued at around 3:35 p.m. MT. However, on December 22, 2025, Petitioner was removed at 11:55 a.m. MT before Respondents received the order. See Ex. A, Declaration ¶ 10¹.

II. Argument

Petitioner's writ of habeas corpus cannot return Petitioner because she does 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

¹ Although Respondents filed a Notice to the court on December 30, and December 31, 2025 notifying the court that the Petitioner was removed on December 12, 2025 because of the time stamp in the document, this was a mistake by the Respondents. ECF Doc Nos. 4, 5. The time stamp was related to Petitioner being removed to El Paso, Texas. *Id.* However, Respondents file *Exhibit A*, Declaration Regarding Maria Barajas Torres of Deportation Officer Alan Guevara, confirming that Petitioner was deported at 11:55 a.m. MT, a few hours before the Court issued the Order. Ex. A, Declaration ¶ 10.

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 she was removed to Mexico. *See* Ex. A, Declaration; and Ex. B Warrant of Removal. Thus, her 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.

In addition, to the extent Petitioner alleges Respondents ‘knowingly’ and ‘willfully’ removed Petitioner in defiance of the Court’s order, that is not accurate. Ex. A, Declaration. The Respondents were served with the Court’s order at approximately 3:35 p.m. MT on December 22, 2025. ECF No. 3. However, Petitioner was already removed. *Id.* That conduct was not a willful and knowing intention to violate the Court’s order. To the extent Petitioner’s rely on the Ninth Circuit’s Opinion in *Sanchez v. Sessions* to support their request for this Court to order Respondents to return Petitioner, that Court of Appeals reviewed the case through a petition for review, later withdrew that opinion, and was importantly, not as an extension of habeas under § 2241. *See Sanchez v. Sessions*, 904 F.3d 643, 646 (9th Cir. 2018).

III. Conclusion

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

Respectfully submitted,

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