

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

OZGUR ALCAN,

Petitioner,

v.

KRISTI NOEM, Secretary, United States
Department of Homeland Security, *et al.*,

Respondents.

Case No. 1:25-cv-00961

District Judge Douglas R. Cole

Magistrate Judge Chelsey M. Vascura

PETITIONER'S REPLY TO RESPONDENT'S RETURN OF WRIT

INTRODUCTION

COMES NOW, the Petitioner, OZGUR ALCAN, by and through undersigned counsel and hereby submits this Reply to the Government's Return of Writ to Mr. Alcan's Petition for Writ of Habeas Corpus. Petitioner will not reply to every issue and argument made by the Government. The absence of any rebuttal is not, however, a waiver or abandonment of any claim or argument made previously. For arguments not addressed herein, Petitioner stands on the arguments presented in his Petition for Writ of Habeas Corpus.

I. ISSUE ONE THE COURT HAS JURISDICTION TO CONSIDER PETITIONER'S WRIT.

28 U.S.C. § 2241 grants district courts broad jurisdiction to issue a writ of habeas corpus "as law and justice require." *Jones v. Hendrix*, 599 U.S. 465, 473 (2023). § 2241(c)(3) provides that a prisoner can bring a writ of habeas corpus when "[h]e is in custody in violation of the

Constitution or laws or treaties of the United States.” *Id.* And habeas jurisdiction, once granted, is not easily revoked; there is a “longstanding rule requiring a clear statement of congressional intent to repeal habeas jurisdiction.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 298 (2001). “At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *Id.* at 301.

A district court may grant a writ of habeas corpus if a petitioner is in federal custody in violation of the Constitution or federal law. 28 U.S.C. § 2241. “At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Section § 2241(c)(3) authorizes “any person to claim in federal court that he or she is being held ‘in custody in violation of the Constitution or laws. . . of the United States.’” *Zadvydas*, 533 U.S. at 687. Accordingly, § 2241 confers jurisdiction upon the federal courts to hear challenges to the lawfulness of immigration-related detention. *Id.* (citing 28 U.S.C. § 2241(c)(3)); *see also Demore v. Kim*, 538 U.S. 510, 517 (2003); *Baez v. Bureau of Immigr. & Customs Enft*, 150 F. App’x 311, 312 (5th Cir. 2005) (unpublished); *Oyelude v. Chertoff*, 125 F. App’x 543, 546 (5th Cir. 2005) (unpublished).

Habeas is “the basic method for obtaining review of continued *custody after* a deportation order had become final” and is available “as a forum for statutory and constitutional challenges to post-removal-period detention.” *Zadvydas*, 533 U.S. at 687 (citation omitted). “Whether a set of particular circumstances amounts to detention within, or beyond, a period reasonably necessary to secure removal is determinative of whether the detention is, or is not, pursuant to

statutory authority. The basic federal habeas corpus statute grants the federal courts authority to answer that question.” *Id.* at 699 (citing 28 U.S.C. § 2241(c)(3)).

Here, jurisdiction is proper and the Court can rule on Respondent’s Writ of Habeas Corpus under *Zadvydas* and 28 U.S.C. § 2241.

II. ISSUE TWO THERE IS NO REQUIREMENT TO EXHAUST ADMINISTRATIVE REMEDIES.

There is no statutory exhaustion requirement in 28 U.S.C § 2241. However, exhaustion may be judicially required. This type of exhaustion is known as prudential exhaustion. Courts may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)). *Dunn v. U.S. Parole Commission*, 818 F.2d 742, 744 (10th Cir. 1987). “So long as the petitioner names as respondent a person or entity with power to release him, there is no reason to avoid reaching the merits of his petition.” quoting *Lee v. United States*, 501 F.2d 494, 502-03 (8th Cir. 1974) (Webster, J. concurring)).

Here, the Court should not exercise prudential exhaustion as there are no administrative remedies available to Petitioner.

CONCLUSION AND RELIEF SOUGHT

For the reasons discussed herein and in Mr. Alcan's petition for writ of habeas corpus, Petitioner respectfully urges this Court to grant habeas corpus relief.

Respectfully Submitted,

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Dated: February 9, 2026

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2026, the foregoing *Petitioner's Reply to Respondent's Return of Writ* was served on the following through the CM/ECF system:

**KRISTI NOEM, SECRETARY
U.S. DEPARTMENT OF HOMELAND
SECURITY,**

**U.S. DEPARTMENT
OF HOMELAND SECURITY,**

**PAM BONDI, ATTORNEY GENERAL
OF THE UNITED STATES**

**KEVIN RAYCRAFT, DIRECTOR OF
THE FIELD OFFICE OF ICE**

**KEVIN GRATHWOHL, WARDEN OF THE
BUTLER COUNTY CORRECTIONAL
COMPLEX**

Respectfully Submitted,

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