

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CATALINA FRANCO CUBIDES,	)	CASE NO.: 3:26-cv-00406
	)	
Petitioner,	)	
	)	
v.	)	JUDGE BRIDGET MEEHAN BRENNAN
	)	
KEVIN RAYCRAFT, Field Office Director,	)	
U.S. Immigration and Customs Enforcement,	)	<u>ANSWER AND RETURN OF WRIT</u>
	)	
Respondent.	)	
	)	

Petitioner Catalina Franco Cubides (“Petitioner”) is not entitled to a writ of habeas corpus because she is lawfully detained under the immigration laws, pending her voluntary departure to Colombia. Moreover, she fails to make a viable claim that her detention deprives her of due process. Accordingly, her Petition should be denied.

BACKGROUND

Catalina Franco Cubides (“Petitioner”) is a citizen and national of Columbia. (Declaration of Steven Hackett (“Hackett Decl.”), Ex. A, ¶ 3.) She entered the United States without being inspected, admitted or paroled. (Id.) She is currently in custody at the Richwood Correctional Center in Richwood, Louisiana, where she has been since March 2, 2026. (Id. ¶ 4.) *See also* Online Detainee Locator System, <https://locator.ice.gov/odls/#/search> (enter “A-Number”  enter “County of Birth,” Colombia, select “Search by A-Number”) (last accessed Apr. 3, 2026).

In September of 2021, United States Border Patrol encountered Petitioner in Texas. (Id. ¶ 5.) Border a Notice and Order of Expedited Removal, Form I-860, pursuant to Section

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (codified at 8 U.S.C. § 1182(a)(7)(A)(i)(I)). (Id.) On September 29, 2024, following a credible fear interview, Petitioner was placed into non-expedited removal proceedings and issued a Notice to Appear (NTA); she was subsequently released from ICE custody. (Id. ¶ 6.)

On January 12, 2026, the Warren Police Department located petitioner in Warren, Michigan, and arrested Petitioner for driving without a license. (Hackett Decl. ¶ 8.) Petitioner alleges that she paid a bond and was released from state custody. (Supp. to Pet., ECF No. 3, PageID #15.) A few days later, on January 19, 2026, Immigration and Customs Enforcement (ICE) arrested Petitioner at the Macomb County Jail in Mt Clemens, Michigan. (Hackett Decl. ¶ 9.)

On February 17, 2026, the Immigration Court in Cleveland, Ohio granted Petitioner voluntary departure under safeguards. (Id. ¶ 10.) Petitioner is currently scheduled to depart the United States and return to Colombia on April 16, 2026. (Id.)

Petitioner filed this petition challenging her detention, among other claims, in habeas. She alleges that she was improperly detained in Ohio, even though Immigration and Citizenship Enforcement (“ICE”) authorities apprehended her in Detroit. (Petition, ECF No. 1, PageID # 1.). Cubides challenges her allegedly “unlawful detention and interstate transfer from Michigan to Ohio” without “any criminal conviction, warrant, ICE detainer, or final order of removal.” (Supp.to Pet. ECF No. 3, PageID # 7.) She claims her transfer was “retaliatory, unconstitutional, and void” but offers no facts to support this contention. (Id.)

ARGUMENT

Petitioner raises myriad claims in her petition, including challenges to her underlying traffic offense in Warren, Michigan and challenges to her removal. The only claim properly

cognizable in habeas is the legality of her detention. She is not entitled to relief on this claim because she is properly detained pending her voluntary departure from the United States. This Court should thus dismiss her petition.

I. LEGAL STANDARD

The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

“District courts are limited to granting habeas relief ‘within their respective jurisdictions.’” *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004) (quoting 28 U.S.C. § 2241(a)). “The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.” *Id.* at 443.

II. THIS COURT SHOULD DISMISS THE PETITION OR TRANSFER TO DISTRICT OF CONFINEMENT

The Court should dismiss or transfer the Petition because “a § 2241 petition must be filed in the judicial district where the prisoner is confined.” *United States v. Stanley*, No. 22-1500, 2022 WL 17881554, at *1 (6th Cir. Dec. 20, 2022) (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004)). This is because, with respect to habeas petitions under § 2241, “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld*, 542 U.S. at 443; *see also* 28 U.S.C. § 2241(a) (providing that writs of habeas corpus may be granted by district courts “within their respective

jurisdictions”). Here, Petitioner was detained in the Northern District of Ohio when he filed his Petition. She is now confined, pending her voluntary departure, in Richwood, Louisiana. (Hackett Decl. ¶ 4.) Therefore, the Court should either dismiss the Petition without prejudice or transfer it to the district of confinement, the Western District of Louisiana. *See Duncan v. Vantell*, No. 1:21-cv-01106-STA-jay, 2021 WL 5099600, at * 1 (W.D. Tenn. Nov. 2, 2021) (court makes jurisdictional determination and, if necessary, transfers rather than dismisses the action); *Rumsfeld*, 542 U.S. at 442–43.

This Court should dismiss the petition for a second reason: Respondent Kevin Raycraft is no longer Petitioner’s immediate custodian, and none of the other named Respondents are proper in a habeas action. A writ of habeas corpus may only be issued “to the person having custody of the person detained.” 28 U.S.C. § 2243. This is known as the “immediate custodian” rule. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (citing *Wales v. Whitney*, 114 U.S. 564, 574 (1885)). Under this rule, “the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Id.* at 435. Thus, in the immigration context, ICE Field Office Director “for the district where a detention facility is located” is the only proper respondent to Petitioner’s petition. *Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Because Petitioner is no longer located in Detroit or Northeast Ohio, Respondent Raycraft herein is no longer Petitioner’s immediate custodian. The additional officers named as Respondents herein are not Petitioner’s immediate custodians. So, Petitioner’s claims are not properly before this Court.

III. PETITIONER IS LAWFULLY DETAINED UNDER 8 C.F.R. § 240.25 AS A CONDITION OF HER VOLUNTARY DEPARTURE.

Because Petitioner was granted voluntary departure in lieu of removal, Petitioner is lawfully detained pending her voluntary departure. According to the regulations, DHS “may

attach to the granting of voluntary departure any conditions it deems necessary to ensure the alien's timely departure from the United States, including the posting of a bond, **continued detention pending departure**, and removal under safeguards." 8 C.F.R. § 240.25(b)(emphasis added); *see also Matter of M-A-S-*, 24 I&N Dec. 762, 765-68 (BIA 2009); *Matter of Arguelles*, 22 I&N Dec. 811, 814-15 (BIA 1999). As explained in *Matter of M-A-S-*, the use of the "term 'voluntary departure with safeguards' is commonly used to characterize that an alien remain in custody until he or she departs from the United States." *Id.* at 766 (citations omitted).

In *Al-Siddiqi v. Achim*, 531 F.3d 490, 495 (7th Cir. 2008), the Seventh Circuit upheld the denial of a habeas petition seeking release after being granted voluntary departure. The Court ruled that "the regulations governing voluntary departure applications empower the IJ to impose 'such conditions as he or she deems necessary to ensure the alien's timely departure from the United States.'" *Id.* quoting 8 C.F.R. § 1240.26(c)(3). The Seventh Circuit ruled that the authority provided in § 1240.26(c)(3) includes continuing detention as part of the "right to impose conditions" when issuing a voluntary departure order. *Id.* Thus, the Seventh Circuit denied the alien's habeas petition and affirmed his continued detention. *Id.*

Other courts have reached the same conclusion. *See El-Badrawi v. United States*, 787 F. Supp. 2d 204, 230-32 (D. Conn. 2011) (finding that 8 C.F.R. §§ 240.25(b) and 1240.26(b)(3)(i) authorized continued detention after granting voluntary departure); *Akinruntan v. Holder*, No. 4:13-cv-0010, 2013 WL 5999982, at * 6 (N.D. Ala. Sept. 30, 2013) (stating that 8 C.F. R § 1240.26(b)(3)(i) authorizes an IJ who grants voluntary departure to impose conditions including continued detention); *Hernandez v. Warden*, No. 6:26-cv-0053, 2026 WL 593532, at * 4 (N.D.TX Mar. 3 2026) (upholding the continued detention of an alien after the granting of voluntary departure "with safeguards"). In this case, Petitioner's custody is lawful as the IJ has

ordered that her voluntary departure be “under safeguards” and DHS may detain her in custody until she voluntarily departs. Thus, her habeas petition should be dismissed.

Respondents note that this Court lacks jurisdiction to review the IJ’s discretionary decision to impose continued detention during the voluntary departure period. It is clear that the IJ’s decision to continue an alien’s detention until the voluntary departure date is discretionary. 8 C.F.R. § 1240.26(c)(3). This regulation permits IJ’s to impose “conditions” that the IJ “deems necessary” to a voluntary departure order, and an IJ has broad discretion to impose such restrictions. The IJ used discretion to determine that Petitioner should be granted voluntary departure with continued detention. Importantly, the law is clear that the merits of such discretionary decisions are not subject to judicial review. Specifically, 8 U.S.C. § 1226(e) states that “no court may set aside any action or decision under this section regarding the detention or release of any alien....” District courts therefore lack jurisdiction “to review discretionary decisions made by an IJ regarding bond.” *Fuentes v. Lyons*, 808 F. Supp. 3d 733, 737 (S.D. Texas Oct. 29, 2025) (citations omitted).

Moreover, 8 U.S.C. § 1252(b)(9) strips courts of jurisdiction to review (including in habeas) any questions “of law or fact” that arise from “any action taken or proceeding brought to remove an alien from the United States.” The IJ’s decision to impose detention during the voluntary removal period arises from removal proceedings brought to remove Petitioner from the United States. Therefore, this Court does not have jurisdiction to review questions of fact related to Petitioner’s continued detention during the voluntary departure period and should deny the habeas petition.

IV. PETITIONER’S DUE PROCESS CLAIM FAILS.

Petitioner’s contention that her detention violates due process must fail. She has only been detained since, at earliest, January 19, 2026, and she is likely to voluntarily depart to

Colombia, in lieu of being removed, by April 16, 2026. The Supreme Court’s decision in *Demore v. Kim*, 538 U.S. 510 (2003), which involved a due process challenge under the INA, rejected the notion that detention pending removal proceedings violates due process because such detention has “a definitive end-point—the end of the removal proceedings.” *Coronado v. Sec’y, Dep’t of Homeland Sec.*, No. 1:25-CV-831, 2025 WL 3628229, at *12 (S.D. Ohio Dec. 15, 2025). Likewise, the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), rejected the “Ninth Circuit’s imposition of a six month limit on mandatory detention under § 1225(b).” *Id.* In so doing, the Supreme Court “concluded that deportable aliens can be detained through the pendency of removal proceedings with no suggestion that such detention runs afoul of the Due Process Clause.” *Masis Lucero v. Field Off. Dir. of Enf’t & Removal Operations, Detroit Field Off., Immigr. & Customs Enf’t*, No. 1:25-CV-823, 2025 WL 3718730, at *6 (S.D. Ohio Dec. 23, 2025).

Even viewed as a procedural due process challenge, Petitioner’s claim fails. This is because “In immigration cases ... federal courts apply a much more deferential standard of review to substantive due process challenges even where the immigration law interferes with a plaintiff’s fundamental rights.” *Bangura v. Hansen*, 434 F.3d 487, 494–95 (6th Cir. 2006) (citing *Fiallo v. Bell*, 430 U.S. 787, 798–99 (1977)). As a result, the Sixth Circuit “upholds immigration statutes so long as they are ‘conceivably related to the achievement of a federal interest.’” *Id.* at 495 (quoting *Almarino v. Att’y Gen.*, 872 F.2d 147, 152 (6th Cir. 1989)). “This standard may be even *lower than rational basis review*,” *id.* (emphases added) (citing *Fiallo*, 430 at 798–99), which will invalidate a statute only if the government’s chosen means are “so unrelated to the achievement of any combination of legitimate purposes that the court can only conclude that the government’s actions were irrational,” *Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 694 (6th

Cir. 2014) (quoting *Michael v. Ghee*, 498 F.3d 372, 379 (6th Cir. 2007)). Petitioner’s detention is indeed, “conceivably related” to a federal interest—enforcing the country’s immigration laws. *Bangura*, 434 F.3d at 495. This Court should thus dismiss her due process claims.

V. PETITIONER’S REMAINING ALLEGATIONS CANNOT BE BROUGHT IN A HABEAS ACTION.

It is black-letter law that habeas petitioners are limited to challenging the fact or duration of their confinement, not the conditions governing it. *Munaf v. Green*, 553 U.S. 674, 693 (“Habeas is at its core a remedy for unlawful executive detention.”) (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 536 (2004)); *Hamama v. Adducci*, 912 F.3d 869, 875-76 (6th Cir. 2018) (holding that habeas relief is limited to a challenge to detention); *Hernandez Meza v. LaRose*, No. 4:18-CV-2743, 2019 WL 233616, at *3 (N.D. Ohio Jan. 16, 2019)(“According to Hamama, the relief available under the common-law writ is confined to ‘release from custody.’”). Thus, to the extent that Petitioner challenges her traffic offense, her underlying removal proceedings, or any other facets of her confinement, she cannot bring those claims in a habeas petition.

CONCLUSION

For the reasons articulated above, the Court should deny the Petition and dismiss this matter in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2026, a copy of the foregoing *Return of Writ* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A true and accurate copy was sent via regular U.S. mail, postage pre-paid on April 3, 2026, to:

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