

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

KAREN MARIELA AGUAYO MONTES,	)	CASE NO. 1:26-CV-919
	)	
Petitioner,	)	
	)	JUDGE SOLOMON OLIVER JR.
vs.	)	
	)	MAGISTRATE JENNIFER
	)	DOWDELL ARMSTR
SCOTT A. HILDENBRAND, et al.	)	
	)	<u>MOTION TO DISMISS</u>
Respondents.	)	<u>RESPONDENT SHERIFF</u>
	)	<u>SCOTT A HILDENBRAND,</u>
	)	<u>GEAUGA COUNTY</u>
	)	<u>SHERIFF</u>
	)	

Now comes Respondent, Scott A. Hildenbrand, Geauga County Sheriff, by and through the undersigned counsel, and hereby moves this Honorable Court for an Order dismissing Sheriff Hildenbrand in his official capacity, from this action pursuant to Federal Rule 12(b)(6) for failure to state a claim upon which relief can be granted. Petitioner fails to state any claim for relief available to her as to this Respondent.

For the reasons stated herein, Respondent Hildenbrand should be dismissed from the present action with prejudice.

Respectfully submitted,

/s/ Susan T. Wieland
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CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Dismiss was served electronically. Notice of this filing was sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Susan T. Wieland

Susan T. Wieland (#0076309)

Assistant Prosecuting Attorney

BRIEF IN SUPPORT

Petitioner alleges that she has been detained in U.S. Immigration and Customs Enforcement custody since September 3, 2025. (Petition, Addendum to Ground One, ¶1). Petitioner was arrested and detained following an allegation of domestic violence. (Petition, Addendum to Ground One, ¶7). She is currently housed at the Geauga County Safety Center while in ICE custody. (Petition ¶2).

In her petition, Petitioner alleges that her detention has become prolonged. (Petition, Addendum to Ground One, ¶1). Petitioner alleges that ICE has ignored less restrictive alternates to detention and has failed to respond to follow up by her legal counsel. (Petition, Addendum to ground One, ¶ 3). Petitioner requests a Writ of Habeas Corpus ordering her release or that she be provided with an individualized bond hearing. (Petition ¶11). However, Sheriff Scott A. Hildenbrand, in his official capacity, is not a proper Respondent in this action. Additionally, Petitioner alleges no set of facts that would entitle her to relief against this Respondent. As such, this Respondent respectfully requests dismissal of this action against him. This Respondent has a contract to provide detention services for ICE, and ICE has had control over Petitioner at all times relevant to this action.

LAW AND ARGUMENT

It is clearly established that the proper respondent to a petition for a writ of habeas corpus is the person who has custody over the petitioner. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). This custodian is the body with the ability to produce the detainee before the habeas court. *Id.* The Sixth Circuit and the U.S. District Court, Northern District of Ohio, have established that, in this jurisdiction, the proper respondent in relation to an alien seeking a writ of habeas corpus is the District Director of Immigration and Customs Enforcement (ICE) in the district in which the alien

in being detained. *Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). *Ashqar v. Larose*, Case No. 4:18 CV 1141 (March 4, 2019), U.S. District Court, Northern District of Ohio, Eastern Division. Other than appearing as a respondent in the caption of the Petition, Respondent Sheriff Hildenbrand is not mentioned anywhere else in the Petition, and neither is the Geauga County Safety Center. Based on the relevant legal precedent, and the allegations in the Petition, it is clear that Sheriff Hildenbrand is not the proper Respondent in this action, and accordingly, the Petition should be dismissed as to him.

Furthermore, at all times relevant to this matter, Respondent Sheriff Hildenbrand, in his official capacity, was acting under a written agreement with ICE for the detention of aliens. Detainees held by local officials “pursuant to such an agreement remain under ICE custody and control.” *Abriq v. Hall*, 295 F.Supp.3d 874 (M.D. Tenn. 2018). Respondent ICE, not Sheriff Hildenbrand, has had custody and control of Petitioner at all times relevant to his Petition for Writ of Habeas Corpus.

As such, Respondent Sheriff Hildenbrand is without any knowledge or information to form a belief as to the truth of the allegations contained in Petitioner’s Petition, and therefore denies all allegations in the Petition.

This Respondent is entitled to dismissal, as Petitioner has failed to allege any factual allegations that would entitle her to relief against Respondent Sheriff Hildenbrand in his official capacity. Petitioner has failed to allege any facts that would support a position that this Respondent has the ability to provide the relief sought.

CONCLUSION

Based on the foregoing, Respondent, Scott A. Hildenbrand, Geauga County Sheriff, in his official capacity, is not the proper Respondent relative to Petitioner’s Petition for Writ of Habeas

Corpus and should be dismissed from the within action. The Petition lacks any factual allegations that would entitle any of the relief sought from this Respondent. This Respondent lacks any ability to provide the relief sought, as Petitioner is under the complete custody and control of ICE. As such, this Respondent requests that this Honorable Court issue an Order dismissing the petition as to him with prejudice.