

SCOTT E. BRADFORD, OSB #062824

United States Attorney

District of Oregon

ARIANA N. GAROUSI, CSB #347758

Assistant United States Attorneys

1000 SW Third Ave., Suite 600

Portland, Oregon 97204-2936

Telephone: (503) 727-1000

Email: Ariana.Garousi@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

M-J-M-A-,

Case No.: 6:25-cv-02011-MTK

Petitioner,

v.

**RESPONDENTS' RETURN TO
PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C.
§ 2241**

**CAMMILLA WAMSLEY; TODD
LYONS; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
KRISTI NOEM; U.S. DEPARTMENT
OF HOMELAND SECURITY;
PAMELA BONDI,¹**

Respondents.

¹ For “core” habeas challenges brought under 28 U.S.C. § 2241, that is, challenges to present physical custody, the only proper respondent is the immediate custodian of the habeas petitioner, “not the Attorney General or some other remote supervisory official.” *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Thus, the United States Attorney General, the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”), and the Secretary of the Department of Homeland Security (“DHS”) are not proper respondents to this core habeas petition, because none of those officials has any immediate responsibility for Petitioner’s detention. *See id.* at 440 n.13 (“[T]he proper respondent is the person responsible for maintaining—not authorizing—the custody of the prisoner.”).

Respondents, through counsel, submit this return to the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, ECF 1. This return is supported by the Declaration of Matthew Cantrell (“Cantrell Decl.”).

BACKGROUND

Petitioner is a native and citizen of Mexico. Cantrell Decl. ¶ 3. On January 19, 2025, Petitioner was admitted to the United States on a B2 visa. *Id.* ¶ 4. That visa was valid through March 21, 2025. *Id.* Since March 21, 2025, Petitioner has remained in the United States without lawful status. *Id.*

On October 30, 2025, Petitioner was detained in Woodburn, Oregon, by ICE. *Id.* ¶ 5. She was transferred to the Northwest ICE Processing Center in Tacoma, Washington. ECF 4. That same day, Petitioner filed a Petition for Writ of Habeas Corpus challenging her unlawful stop and arrest. ECF 1.

On November 1, 2025, Petitioner was released from detention and returned to Oregon. *See* Cantrell Decl. ¶ 5. Petitioner has no conditions on her release. *Id.* A Notice to Appear (“NTA”) was never filed by DHS, *id.*, thus Petitioner is not in removal proceedings, *see* 8 C.F.R. § 1239.1(a). Petitioner will not be placed in removal proceedings based on the October 30th arrest. *See* Cantrell Decl. ¶ 5.

LEGAL STANDARD

“The district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute[.]” *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been tightly regulated by statute, from the

Judiciary Act of 1789 to the present day[.]” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). To warrant a grant of habeas corpus, a petitioner must demonstrate that his custody violates the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

ARGUMENT

Petitioner’s claim for unlawful arrest does not sound in habeas. The writ of habeas corpus “simply provide[s] a means of contesting the lawfulness of restraint and securing release.” *Thuraissigiam*, 591 U.S. at 117; *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (“It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.”). “A writ of habeas corpus is not like an action to recover damages for an unlawful arrest or commitment, but its object is to ascertain whether the prisoner can lawfully be detained in custody; and if sufficient ground for his detention by the government is shown, he is not to be discharged for defects in the original arrest or commitment.” *U.S. ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 158 (1923).

The principle that defects in an arrest do not warrant habeas relief extend to immigration arrests. As the Supreme Court has made clear, “regardless of how the [immigration] arrest is effected, deportation will still be possible when evidence not derived directly from the arrest is sufficient to support deportation.” *I.N.S. v. Lopez-Mendoza*, 468 U.S. 1032, 1043 (1984). This is because “[t]he ‘body’ or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible

as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.” *Id.* at 1039. As such, “[t]he mere fact of an illegal arrest has no bearing on a subsequent deportation proceeding.” *Id.* at 1040.

It follows that claims of unlawful immigration arrest “are not appropriately raised in a habeas petition.” *L-J-P-L- v. Wamsley*, No. 3:25-cv-01390-IM, 2025 WL 2430268, at *6 n.3 (D. Or. Aug. 22, 2025); *see also Streeter v. Craven*, 418 F.2d 273, 274 (9th Cir. 1969) (“[D]efects in an arrest are not cognizable in habeas corpus”); *H.N. v. Warden, Stewart Det. Ctr.*, No. 7:21-CV-59-HL-MSH, 2021 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (finding that Petitioner was not entitled to habeas relief even if his immigration stop was unlawful because identity is never suppressible in immigration proceedings); *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291-LEW, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) (“Petitioner’s argument that an illegal arrest automatically results in an illegal detention is misguided.”).

Yet, here, Petitioner seeks immediate release based on allegations that she was detained without reasonable suspicion and arrested without probable cause. *See* Pet. ¶¶ 56, 61, 68, 73, 80, 85. Such claims do not dictate immediate release and thus are not cognizable in a habeas action. *Buriev v. Warden, GEO, Broward Transitional Ctr.*, No. 25-cv-60459, 2025 WL 2763202, at *3 (S.D. Fla. Sept. 26, 2025) (denying habeas petition for claim that immigration officials unlawfully arrested petitioner “without issuing a warrant”).

Rather, the appropriate remedy for an unlawful immigration arrest would be suppression of evidence in removal proceedings. *Lopez-Mendoza*, 468 U.S. at 1040–

41; *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131–32 (9th Cir. 2006) (contemplating suppression as the appropriate remedy for an unlawful arrest but ultimately holding that identity obtained after illegal police action is not suppressible); see *Sanchez v. Sessions*, 904 F.3d 643, 649 (9th Cir. 2018) (explaining the two exceptions to the well-established principle that the exclusionary rule generally does not apply to removal proceedings). Such a remedy—suppression—appropriately addresses the consequence of an unlawful immigration arrest—being found removable in removal proceedings.

Despite Petitioner having overstayed her visa and having no lawful status to remain in the United States, Petitioner has not been placed in removal proceedings and therefore has not been found removable by an immigration judge. See Cantrell Decl. ¶ 5. Nor will she be placed in removal proceedings as a result of the October 30th arrest. *Id.* Petitioner is in the same position as before her October 30th arrest. Indeed, Petitioner has not suffered an actionable injury as the result of her immigration arrest because removal proceedings have not and will not be brought against her based on the October 30 arrest. See *id.*

In sum, the claim Petitioner seeks to be vindicated must be cognizable in habeas. Case law makes it abundantly clear that an unlawful immigration arrest is not remedied by release from detention through a habeas petition. Therefore, Petitioner’s claim based on an unlawful stop and arrest is not cognizable under a writ of habeas corpus, and the Petition must be denied.

CONCLUSION

Respondents respectfully request the Court deny the Petition for Writ of Habeas Corpus.

Respectfully submitted this 5th day of November 2025.

SCOTT E. BRADFORD
United States Attorney
District of Oregon

/s/ Ariana N. Garousi
ARIANA N. GAROUSI
Assistant United States Attorney
Attorneys for Respondents