UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

YEISON EDUARDO MOLINA TREJO, Petitioner, v. PATRICIA H. HYDE, *ET AL.* Respondents.	)	Case No. 2:25-cv-842

FEDERAL RESPONDENTS' OPPOSITION TO PETITION FOR HABEAS CORPUS AND RESPONSE TO ORDER TO SHOW CAUSE

Patricial H. Hyde, in her official capacity as Acting Boston Field Office Director, Immigration and Customs Enforcement ("ICE"); Todd M. Lyons, in his official capacity as Acting Director of ICE; Pete R. Flores, in his official capacity as Acting Commission for U.S. Customs and Border Protections; Kristi Noem in her official capacity as Secretary of the United States Department of Homeland Security; Marco Rubio, in his official capacity as Secretary of State; Pamela Bondi, in her official capacity as United States Attorney General; and David W. Johnston, in his official capacity as Vermont Sub-office Director of Immigration and Customs Enforcement (collectively, "Federal Respondents"), respectfully submit this memorandum of law in opposition to Petitioner Yeison Eduardo Molina Trejo's Petition for a Writ of Habeas Corpus, ECF No. 1, and in response to this Court's Order to Show Cause, ECF No. 6.

PRELIMINARY STATEMENT

Petitioner Yeison Eduardo Molina Trejo is presently being held at the Northwest State Correctional Facility ("Northwest") in St. Albans, Vermont. Petitioner admits to being subject to a final order of removal but seeks release from ICE custody on the ground that the detention is

allegedly unlawful and the conditions of confinement at Northwest violate Petitioner's constitutional rights. With these claims, Petitioner fails to establish an entitlement to a writ of habeas corpus. Subject to a final order of removal, Petitioner is being lawfully held pursuant to 8 U.S.C. 1231, and Petitioner has not demonstrated that the alleged issues with medications or non-binary gender identity give rise to Fifth Amendment claim.

FACTUAL BACKGROUND

Petitioner is a citizen of Honduras who admits to entering the United States unlawfully in 2022. *See* Pet. ¶ 2. Petitioner was ordered removed in absentia that same year. *See id.* Petitioner was taken into custody by United States Customs and Border Protection at the Canadian border on October 9, 2025 and is currently being held at Northwest. *See id.* ¶ 25. While Petitioner recently moved to reopen the immigration case and stay removal, *see id.* ¶ 2, Petitioner's final order of removal remains in place, and Petitioner is detained pursuant to 8 U.S.C. § 1231. *See* Ex. A, Declaration of Keith Chan dated October 27, 2025, ¶¶ 11-13.

On October 17, 2025, Petitioner filed this habeas petition seeking immediate release or access to a bond hearing. *See* Pet. ¶ 6. Petitioner claims that detention and the lack of a bond hearing violate the Immigration and Nationality Act ("INA") and the Fifth Amendment, while also claiming constitutional violations stemming from an alleged lack of certain medications and sexual harassment and a fear of sexual assault due to Petitioner's nonbinary gender identity. *See id.* ¶¶ 47-69.

In response, the Court issued a temporary restraining order (TRO) directing that Petitioner not be removed from the State of Vermont pending further order from the Court, as well as an Order to Show Cause directing Federal Respondents to respond to the Petition by October 24, 2025. ECF No. 6. The Court also noted that the TRO would terminate on October 21, 2025 if

Petitioner did not provide further information on the claims related to potential sexual assault and missing medications. *See id.* On October 21, 2025, Petitioner submitted a document entitled "Request to Maintain Temporary Restraining Order and Extend Filing of Support for Preliminary Injunctive Relief." ECF No. 9. In that document, counsel indicated that the required supplemental information had not been obtained and sought additional time. *See id.* The Court granted the motion and extended the TRO until October 28, 2025. ECF No. 10. Upon Federal Respondents' motion, the Court then ordered that Petitioner's supplemental filing be submitted by October 24, 2025 and extended Respondents' deadline to October 27, 2025. ECF No. 12. Petitioner then filed an additional memorandum in support of the Petition, medical records from Northwest, a declaration from Petitioner, and several documents relating to generalized concerns about the detention by ICE of people who are transgender and nonbinary. ECF No. 13.

LEGAL BACKGROUND

With the INA, Congress enacted a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. "Detention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)).

Following a final order of removal, detention is statutorily authorized under 8 U.S.C. § 1231(a); *see, e.g.*, *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022) ("8 U.S.C. § 1231(a), governs the detention, release, and removal of individuals 'ordered removed.'"); *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (noting that 8 U.S.C. § 1231(a)'s "basic purpose [is], namely, assuring the alien's presence at the moment of removal").

STANDARD OF REVIEW

It is axiomatic that "[t]he 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. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions unless Congress has separately stripped the court of jurisdiction to hear the claim. *Zadvydas*, 533 U.S. at 687-88. A petitioner bears the burden of proving that his custody violates the Constitution, laws, or treatises of the United States such that a writ of habeas corpus should be granted. *See Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011) ("it is the petitioner who bears the burden of proving that he is being held contrary to law").

ARGUMENT

A. PETITIONER'S DETENTION IS AUTHORIZED BY STATUTE.

Petitioner's claims are based on a fundamental inaccuracy—that the government purports to derive detention authority from Section 1225(b) of the INA (individuals who have not been admitted to the United States). Petitioner insists that Section 1226 governs, which provides for bond hearings. In fact, Petitioner is being held pursuant to Section 1231 of the INA, which provides for the detention and removal of individuals with final orders of removal. *See* 8 US.C. § 1231(a); *see* also Ex. A. at ¶ 11. Under Section 1231, ICE is required to detain an individual during the removal period, which by statute lasts for 90 days post-removal order. *See* 8 U.S.C. § 1231(a)(1)(A).

Despite acknowledging the existence of a final order of removal, Petitioner rejects the application of Section 1231 on the grounds that Petitioner's removal order went into effect in December 2022, and the "'removal period' in which DHS shall detain a person ordered removed

only lasts for 90 days after a removal order becomes administratively final." Pet. ¶ 33. Yet, Section 1231 allows ICE to arrest and detain an individual with a removal order beyond the removal period when that person is inadmissible. *See* 8 U.S.C. § 1231(a)(6) ("An alien ordered removed who is inadmissible under section 1182 of this title . . . may be detained beyond the removal period."). Petitioner was inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i), having entered the United States without admission or inspection as the Petition admits. Pet. ¶ 2; Ex. A at ¶ 9. Accordingly, that 90 days have elapsed since Petitioner's final order of removal does not remove Petitioner from the authority of Section 1231. Indeed, in its recent decision in *Portillo Vasquez v. Turek*, this Court held that the detention of the petitioner nineteen years after she was ordered removed *in absentia* "does not violate Section 1231(a) because she is inadmissible under Section 1182." No. 2:25-CV-741, 2025 WL 2733631, at *4 (D. Vt. Sept. 25, 2025).

Moreover, that Petitioner has filed a motion to reopen removal proceedings does not vitiate the final order of removal or convert the applicable detention authority; indeed, Petitioner has not alleged that the immigration court has granted the motion or taken other action that would impact removal status, *see generally* Petition, and the final order of removal remains in effect. *See* Ex. A at ¶¶ 11-13. Therefore, Petitioner's discussion of Sections 1225 and 1226 and the right to a bond hearing under the latter statute is wholly irrelevant, as Petitioner cannot establish either as the governing statute.

In *Johnson v. Arteaga-Martinez*, the Supreme Court confirmed that Section 1231 does not include the right to a bond hearing. 596 U.S. at 581. The Court noted:

> [T]here is no plausible construction of the text of § 1231(a)(6) that requires the Government to provide bond hearings before immigration judges after six months of detention, with the Government bearing the burden of proving by clear and convincing evidence that a detained noncitizen poses a flight risk or a danger to the community. Section 1231(a)(6) provides only that a noncitizen ordered removed "may be detained beyond the removal period" and if released, "shall be subject to [certain] terms of supervision." On its face, the

> statute says nothing about bond hearings before immigration judges or burdens of proof, nor does it provide any other indication that such procedures are required.

Id. at 581; *see also J.L. v. Decker*, No. 1:22-CV-2853-MKV, 2024 WL 232115, at *3 (S.D.N.Y. Jan. 22, 2024) ("[U]nlike Section 1226, Section 1231 does not have the same provisions regarding the necessity of a bond hearing."). As set forth above, Petitioner is detained pursuant to Section 1231, and because that section does not require a bond hearing, Petitioner's claims of unlawful detention based on the lack of such hearing necessarily fail.

B. PETITIONER'S DETENTION DOES NOT VIOLATE THE FIFTH AMENDMENT.

Petitioner's claim that detention violates the Fifth Amendment's Due Process Clause is similarly without merit. The Supreme Court has made clear that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523; *Wong Wing v. U.S.*, 163 U.S. 288, 235 (1896) (holding deportation proceedings "would be [in] vain if those accused could not be held in custody pending the inquiry into their true character").

Even after the initial 90-day removal period set forth in Section 1231(a)(2)(A), "the Government 'may' continue to detain an alien who still remains here or release that alien under supervision" for a "period reasonably necessary to bring about that alien's removal from the United States." *Zadvydas,* 533 U.S. at 683, 689 (citing 8 U.S.C. § 1231(a)(6)). When evaluating "reasonableness" of post-final order detention, the touchstone is whether an alien's detention continues to serve "the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Id.* at 699. When an individual is subject to a final order of removal, the Supreme Court has recognized that detention for six months is a "presumptively reasonable period of detention." *Id.* at 701. Beyond six months, a detained individual may file a habeas petition seeking

release, but must show there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]" *Id.* at 701. If the individual does so, the burden would then shift to the government to produce "evidence sufficient to rebut that showing." *Id.* at 700-01.

Petitioner's detention plainly complies with the standards established by *Zadvydas*. First, Petitioner's detention of less than three weeks is presumptively reasonable. In *Callender v. Shanahan*, the district court, faced with similar facts, rejected the argument that the six-month period of presumptively reasonable detention began when the order of removal became final, explaining, "[the petitioner] is confusing the 90-day 'removal period' under 8 U.S.C. § 1231(a)(1)(A), which began when his order of removal became final in 2006, *see id.* § 1231(a)(1)(B), with the six-month 'presumptively reasonable period of detention' under *Zadvydas*, which could not have begun until he was detained by ICE in 2015." *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436, n.7 (S.D.N.Y. 2017) (recognizing that "most district courts" "within and outside [the Second] Circuit" have concluded that "*Zadvydas* meant what it said: six months is the presumptively reasonable period of '*detention*' after the entry of a final order of removal.") (emphasis added). Here, Petitioner concedes that a final order of removal is in place, *see* Pet. ¶ 2, and has been detained for less than three weeks. Petitioner's detention falls well within the six-month time period during which detention pursuant to 8 U.S.C. § 1231(a) is presumptively reasonable. Second, while Petitioner points to a recently filed motion to reopen, at this time the order of removal remains valid, and thus Petitioner has not alleged any "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Therefore, Petitioner's detention does not violate the Fifth Amendment's Due Process Clause, and the request for habeas relief on that basis must be denied.

C. PETITIONER'S CONDITIONS OF CONFINEMENT CLAIMS FAIL.

Petitioner also seeks release on the ground that the conditions of confinement at Northwest amount to unconstitutional punishment. *See* Pet. ¶¶ 47-49. "[I]n assessing whether restrictions on pretrial detainees comport with substantive due process, '[a] court must decide whether the [restriction] is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose.'" *Almighty Supreme Born Allah v. Milling*, 876 F.3d 48, 55 (2d Cir. 2017) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535 (1979) (original substitutions)). Yet, Petitioner is not challenging a particular restriction at Northwest but rather its provision of medical care and Petitioner's very confinement in a correctional facility. As set forth below, Petitioner cannot demonstrate that the Fifth Amendment has been violated in either regard, as medical records from Northwest demonstrate that Petitioner's medical and safety needs are being carefully considered, with no intent to punish Petitioner.

1. Medical Claims

To state a Fifth Amendment due process claim for deliberate indifference to the medical needs of civil detainees, the conduct at issue must be "egregious enough to state a substantive due process claim[.]" *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998). That requires two showings: first, that petitioner has serious, unmet medical needs; and second, that the government acted with deliberate indifference to those needs. *See Charles v. Orange Cnty.*, 925 F.3d 73, 85-86 (2d Cir. 2019). A petitioner establishes a claim for deliberate indifference by "prov[ing] that the defendant-official acted intentionally to impose the alleged condition, or recklessly failed to act with reasonable care to mitigate the risk that the condition posed to the pretrial detainee even though the defendant-official knew, or should have known, that the condition posed an excessive risk to health or safety." *Darnell v. Pineiro*, 849 F.3d 17, 35 (2d Cir. 2017).

Petitioner claims to require medications to manage neuropathy, specifically gabapentin, [redacted] and alleges, "Petitioner is currently not receiving all their medications and the medications they are receiving are not on the correct schedule." Pet. ¶ 27. Petitioner further claims to be "in significant physical and emotional pain due to not being on their correct medication schedules" and that Northwest staff awaited a psychiatrist appointment for Petitioner to establish the medication schedule. Pet. ¶ 28. In the supplemental filing, Petitioner stated, "I am now mostly getting my correct prescribed medications, except that the doctor here lowered my Gabapentin dosage for no clear reason." ECF No. 13-7 ¶ 21.[1] These allegations do not suggest the type of condition found to state a constitutional claim, nor deliberate indifference on the part of medical staff.

Indeed, the medical records demonstrate that on the date Petitioner entered Northwest, staff noted Petitioner's prescribed medications and took action to procure them. *See* ECF No. 13-8 at 27-28. The medical records indicate that Petitioner reported taking [redacted] *See id.* at 25. Accordingly, medical staff initially prescribed [redacted] *See id.* Yet, the medical records reflect that

[1] The supplemental filing adds that Petitioner seeks an appointment with a pain specialist due to an ankle injury and anticipates needing to go to the emergency room for "intense painkillers for 3-5 days." ECF No. 13-7 ¶ 23. This allegation was not included in the Petition, and in any event, the need for this type of medication and treatment is based upon an anticipated future event, not the current conditions of confinement. Therefore, this allegation is not properly before the Court. Further, the medical records do not appear to reflect any demand by Petitioner for different medication than the Tylenol provided, *see generally* ECF No. 13-8, and even if Petitioner had voiced such a request, "it is well-established that mere disagreement over the proper treatment does not create a constitutional claim . . . [and] negligence, even if it constitutes medical malpractice, does not, without more engender a constitutional violation." *Chance v. Armstrong*, 143 F.3d 698, 703 (2d Cir. 1998) (internal citations omitted).

as of October 17, 2025, [redacted], *see id.* at 14, and subsequent records reflect that same, higher level. *See id.* at 8.

Thus, the medical records establish that Petitioner's medications are being appropriately prescribed. To the extent Petitioner experienced a delay in receiving all medications or the dosage sought, courts routinely have rejected constitutional claims based on several doses of missed medication. *See, e.g., Smith v. Carpenter*, 316 F.3d 185-86 (2d Cir. 2003) (finding no constitutional violation because of two alleged episodes of missed HIV medication where the plaintiff failed to present evidence of permanent or on-going harm or an unreasonable risk of future harm stemming from missed doses); *Porter v. Bunch*, No. 16-CV-5935, 2019 WL 1428431, at *7 (S.D.N.Y. Mar. 29, 2019) ("[W]here denial or delay in dispensing of medication is at issue, courts have found such bare allegations of pain and suffering insufficient to establish serious harm in the deliberate indifference context."); *Bumpus v. Canfield*, 495 F. Supp. 2d 316, 322 (W.D.N.Y. 2007) (dismissing deliberate indifference claim based on "a delay of several days in dispensing plaintiff's hypertension medication" absent evidence "the delay gave rise to a significant risk of serious harm"). Under this standard, Petitioner's allegations related to missing medications fall far short of the serious, unmet medical need required for a constitutional violation, and Northwest medical staff's close attention to Petitioner's medication needs in no way constitutes deliberate indifference or punishment. Thus, Petitioner cannot establish a violation of substantive due process rights, and habeas relief cannot be granted on this ground.[2]

[2] Even if the Court found that Petitioner has established a constitutional violation, which it cannot based on the record, the appropriate remedy would be to ensure the provision of treatment, not release. *See, e.g, Reynolds v. Petrucci*, No. 20-CV-3523, 2020 WL 4431997, at *2 (S.D.N.Y. July 29, 2020) ("While *habeas* relief may be available to petitioners making claims based on conditions of confinement, the appropriate remedy in that context is relief from those conditions, not release from custody.").

2. Safety Concerns

The Petition also fails to set forth a constitutional violation due to inadequate safety measures, as the medical records establish that Petitioner's safety has been carefully considered. The Constitution requires correctional officials "to protect prisoners from violence at the hands of other prisoners." *Farmer v. Brennan*, 511 U.S. 825, 832-33 (1994). A constitutional violation in this context requires a "substantial risk of serious harm" and for officials to have exhibited "deliberate indifference" to inmate safety. *Id.* at 834. Here, that standard cannot be met.

Petitioner alleges that "[t]hey have already suffered from sexual harassment at the hands of men in NWSCF because of their non-binary appearance, including men making unwanted and threatening sexual advances towards them." Pet. ¶ 26. Yet, "[i]t is well-settled that verbal harassment and threats do not rise to the level of a constitutional violation." *Trowell v. Theodarakis*, No. 3:18CV446, 2018 WL 3233140, at *2 (D. Conn. July 2, 2018). In fact, this Court in its initial TRO noted that "Petitioner's allegations of potential physical harm from potential sexual assault are vague, speculative, and conclusory at this time and appear to consist primarily of verbal harassment." *See* ECF No. 6 at 3; *see also Boddie v. Schnieder*, 105 F.3d 857, 860-61 (2d Cir. 1997) (affirming district court's dismissal of an inmate's claim for sexual harassment because the isolated episodes of harassment and touching alleged did "not involve a harm of federal constitutional proportions").

Moreover, staff at Northwest have taken Petitioner's physical and mental health seriously from the time of arrival. For example, based on Petitioner's answers to a screening tool, staff ordered a meeting with mental health professionals before Petitioner was placed in general population. *See* ECF No. 13-8 at 41. At that meeting, staff reassured Petitioner of the facility's safety and explained the Prison Rape Elimination Act ("PREA"). *Id.* at 30. According to the

records, when Petitioner relayed to staff sexuality-based questions from other people detained in the unit, "DOC was notified and working on moving the patient to an area where he can be secluded and feel safer." *Id.* at 26. On October 21, 2025, medical staff met with Petitioner as part of the PREA referral, at which point Petitioner "report[ed] that he is no longer experiencing his reported concern as the individual he identified was transported out of the facility yesterday." *Id.* at 6. Petitioner informed staff that "he feels safe on the unit." *Id.*

In the supplemental filing, Petitioner claims to have been "repeatedly harassed" and approached in the shower, with "past traumas mak[ing] this whole experience extremely upsetting." ECF No. 13-7 ¶ 16, 17. But the medical records do not reflect that Petitioner has complained of any additional threats. *See generally* ECF No. 13-8. Further, while a congregate setting may be difficult for Petitioner given past experiences, Petitioner admits to having declined a secluded living arrangement and confirms that the key aggressor at issue is no longer in the facility. ECF No. 13-7 ¶¶ 16, 27. Accordingly, it is clear that Petitioner's safety has been carefully considered, and there is no viable claim of a substantive due process violation or punitive conditions. As set forth above, Petitioner is lawfully detained pursuant to Section 1231, and Petitioner's position that any confinement, rather than a specific condition at Northwest, qualifies as a constitutional violation, cannot be credited. Thus, the habeas petition should be denied.

D. THE TRO SHOULD NOT BE EXTENDED.

In light of the legal deficiencies discussed above, extension of the Court's TRO would be improper under the Federal Rules of Civil Procedure, as Petitioner has not met the high burden of establishing entitlement to continued injunctive relief. "As the Supreme Court has explained, '[a] preliminary injunction is an extraordinary and drastic remedy' and is never awarded as of right.'" *Upsolve, Inc. v. James*, No. 22-1345, 2025 WL 2598725, at *4 (2d Cir. Sept. 9, 2025) (citing *Daileader v. Certain Underwriters at Lloyds London Syndicate 1861*, 96 F.4th 351, 356 (2d Cir.

2024)). Moreover, the Second Circuit has warned that preliminary injunctions "should not be routinely granted." *Id.*

In seeking a preliminary injunction, petitioners bear the burden of demonstrating: a likelihood of success on the merits; irreparable harm; a balance of equities in their favor; and a public interest favoring injunctive relief. *See D'Ambrosio v. Scott*, No. 2:25-CV-468, 2025 WL 1502936, at *4 (D. Vt. May 23, 2025). Here, Petitioner has not made an adequate showing as to why injunctive relief is warranted in the first place or why there is good cause for further extension of the TRO. In particular, for the reasons discussed herein, Petitioner cannot show a likelihood of success on the merits. *See D'Ambrosio*, 2025 WL 1502936, at *4 (denying request for TRO preventing removal from the United States where a Petitioner's failure to show a likelihood of success on the merits "weigh[ed] definitively against him").

Further, as to irreparable harm, the motion for a temporary restraining order claims that if transferred, Petitioner "would likely suffer much worse sexual harassment" due to a larger communal detention setting and that Petitioner's "complex medication schedule is very likely to not be administered correctly as ICE commonly does not adhere to medication schedules." ECF No. 2 at 4-5. Petitioner also claims that with a transfer "it would become more difficult for them to access their attorneys." *Id.* at 5. Yet, to meet the irreparable harm standard, petitioners must "demonstrate an injury that is neither remote nor speculative, but actual and imminent . . . ." *Shapiro v. Cadman Towers, Inc.*, 51 F.3d 328, 332 (2d Cir. 1995). Petitioner's allegations rely on speculation and thus cannot serve as the basis for injunctive relief. Further, to the extent Petitioner claims to need further access to counsel for the instant action, there is no need for injunctive relief pending resolution of Petitioner's claims, which present purely legal issues. "A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a

matter of ordinary course," *Bracy v. Gramley*, 520 U.S. 899, 904, (1997), and thus, the Court can, without delay, adjudicate the merits of the Petition itself.

Finally, extension of the TRO and the restriction on movement of Petitioner impermissibly constrains the government's removal authority under 8 U.S.C. § 1231(g). Decisions where to detain an individual pending removal proceedings are within the discretion of the Secretary of Homeland Security and therefore may not be reviewed or enjoined by the district courts. *See* 8 U.S.C. § 1231(g)(1) ("The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal."). The INA precludes judicial review over such discretionary decisions. *See* 8 U.S.C. § 1252(a)(2)(B)(ii). Here, the Executive's authority under § 1231(g) to decide the location of detention for individuals detained pending removal falls within § 1252(a)(2)(B)(ii)'s scope and is therefore barred from judicial review. That is because, under section 1231(g), DHS "necessarily has the authority to determine the location of detention of an alien in deportation proceedings," including whether to change that location during the pendency of proceedings. *Gandarillas-Zambrana v. Bd. Immigration Appeals*, 44 F.3d 1251, 1256 (4th Cir. 1995).

Courts have routinely refused to review the Executive's exercise of its broad discretion in this area. *See, e.g., Wood v. United States*, 175 F. App'x 419, 420 (2d Cir. 2006) (holding that the Secretary "was not required to detain [Plaintiff] in a particular state" given the Secretary's "statutory discretion" under § 1231(g)); *Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (holding that "a district court has no jurisdiction to restrain the Attorney General's power to transfer aliens to appropriate facilities by granting injunctive relief"). Accordingly, the Court should not extend the TRO barring Petitioner's transfer to any detention facility outside the District of Vermont.

CONCLUSION

For the reasons stated above, this Court should decline to issue a writ of a habeas corpus and terminate the temporary restraining order.

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Respectfully submitted,

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