

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JACINTO CRUZ MUNOZ,

Petitioner,

v.

JOHN TSOUKARIS, *et al.*,

Respondents.

Civil No. 4:25-cv-350-CDL-AGH

RESPONSE TO MOTION FOR TRO

On Friday, October 31, 2025, Petitioner filed a habeas petition (ECF No. 1) and Motion for Temporary Restraining Order (TRO) (ECF No. 2). His habeas petition raises arguments about his detention under § 1225(b), violations of due process based on the lack of a bond hearing, judicial estoppel, alleged violations of the INA, and alleged violations of the Administrative Procedures Act. *See* ECF No. 1 at ¶¶ 93 – 104. Petitioner’s substantive claims raised in his habeas petition will be addressed at a later date. Petitioner’s Motion for TRO, however, is briefly addressed here in advance of today’s hearing.

In his Motion for TRO, Petitioner alleges that he has experienced “serious neurological symptoms,” yet he claims that he has “not received any diagnostic imaging or blood testing and has not been evaluated by a specialist.” ECF No. 2 at ¶ 3. As explained more fully below, as an initial matter, these types of allegations are not appropriately raised in a habeas petition. Beyond that, however, these allegations are misleading. Petitioner has been diagnosed with Bell’s palsy, which he knows and

understands, and there is no additional treatment necessary at this time. For these reasons, the Motion for TRO should be denied.

FACTUAL BACKGROUND

On information and belief,¹ Petitioner is a native and citizen of Mexico. Petitioner was arrested by ICE/ERO on July 18, 2025, during a joint operation conducted with Jefferson Police Department in Jackson County, Georgia. He has been at Stewart Detention Center since July 24, 2025.

On August 23, 2021, USCIS approved an I-130 petition filed on Petitioner's behalf by his wife who at the time was a lawful permanent resident (LPR); she has since naturalized. On April 23, 2025, USCIS approved a provisional unlawful presence waiver (Form I-601A) filed by Petitioner. On July 23, 2025, ICE issued Petitioner a Notice to Appear (NTA) charging him with inadmissibility under INA 212(a)(6)(A)(i) for having entered the United States without admission or parole. The NTA was amended on August 14, 2025, with the additional charge of inadmissibility under INA 212(a)(7)(A)(i)(I). Petitioner has had several hearings before an immigration judge and filed a motion to terminate removal proceedings as well as an application for Cancellation of Removal under INA 240A(b). Petitioner is currently detained under INA 235(b)(2)(A).

¹ Respondents first became aware of Petitioner's Motion for TRO on Friday, October 31 at 9:00 p.m. Since then, Respondents have worked to understand the factual allegations but have not had sufficient time to obtain a formal declaration from ICE including these background facts. Thus, the facts included here are based on informal communications with ICE and are included to provide the Court as much context as possible; a signed declaration including these facts will be included in Respondents' response to the habeas petition.

At a bond hearing on July 30, 2025, the immigration judge determined he did not have authority to reconsider Petitioner's custody. At a bond hearing on August 22, 2025, the immigration judge determined Petitioner had not demonstrated a material change in circumstances warranting reconsideration of the prior decision and alternatively found that he did not have the authority to reconsider custody.

The case was scheduled for a merits hearing on October 16, 2025, but was continued at Petitioner's counsel's request in part due to concerns about Petitioner's medical situation. A subsequent hearing on October 24, 2025, was also continued due to medical concerns. The case was reset to November 5, 2025, for a master hearing.

ARGUMENT

I. Petitioner's conditions of confinement claims are not cognizable in habeas.

As an initial matter, Petitioner's Motion for TRO should be denied because it is not cognizable in the context of a habeas case. "[T]he 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." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). "[W]here an inmate seeks injunctive relief challenging the fact of his conviction or the duration of his sentence . . . [s]uch claims fall within the 'core' of habeas corpus[.]" *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). "By contrast, constitutional claims that merely challenge the conditions of a prisoner's confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core[.]" *Id.* For these reasons, in the immigration context, the Eleventh Circuit has held that a "§ 2241 petition is not the appropriate vehicle for raising . . . a claim challeng[ing] the conditions of confinement, not the fact or duration

of that confinement.” *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015) (per curiam) (affirming dismissal of immigration detainee’s habeas petition alleging the denial of inadequate medical care because the claim was not cognizable in habeas).

In reliance on these principles, courts throughout the Eleventh Circuit have held that immigration detainees’ claims concerning their conditions of confinement are not cognizable in habeas. *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 3839938, at *4 (S.D. Ga. July 8, 2020); *Louis v. Martin*, No. 2:20-cv-349-FtM-60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020); *A.S.M. v. Warden, Stewart Cnty. Det. Ctr.*, 467 F. Supp. 3d 1341, 1348-49 (M.D. Ga. 2020); *Archilla v. Witte*, No. 4:20-cv-00596-RDP-JHE, 2020 WL 2513648, at *12 (N.D. Ala. May 15, 2020); *Matos v. Lopez Vega*, 614 F. Supp. 3d 1158, 1167-68 (S.D. Fla. 2020).

In this case, Petitioner attempts to challenge his conditions of confinement in immigration custody through a habeas petition by arguing that the medical treatment being provided to him is insufficient. The Court should deny this claim because it is not cognizable in this habeas action.

II. Petitioner’s medical condition is being appropriately handled.

Though legally unnecessary, if the Court chooses to evaluate the Petitioner’s claims regarding his medical condition, the facts demonstrate that any possible claims lack merit.

Dr. Susan Tiona, the Clinical Director for CoreCivic, Inc., has reviewed Petitioner's medical file. *See* Declaration of Susan M. Tiona (Tiona Decl.), attached as Exhibit 1.² Petitioner, who arrived at Stewart Detention Center on July 24, 2025, showed no symptoms or medical issues upon his initial assessment. Tiona Decl. ¶¶ 2 – 4. On October 9, 2025, Petitioner submitted a sick call request complaining about cold symptoms, and he was treated for those symptoms on October 13, 2025. *Id.* ¶ 5. On October 14, 2025, Petitioner was seen in the medical clinic in response to an urgent request for medical attention related to neurological status changes. *Id.* ¶ 6. After examination on October 14, 2025, the nurse practitioner diagnosed Petitioner with Bell's palsy. *Id.*

Bell's palsy is a temporary condition that affects the facial nerve and is thought to be caused by a viral infection, though the exact cause remains elusive. *Id.* ¶ 10. The condition results in temporary paralysis and numbness of one side of the face, and the symptoms may mimic a stroke. *Id.* The difference between a stroke and Bell's palsy is determined by having the patient raise his or her eyebrows to furrow their brow. *Id.* If the patient is unable to raise his or her eyebrows on the affected side, then the patient has Bell's palsy. *Id.* If the patient is able to furrow his or her brow on the affected side, then the patient may be having a stroke. *Id.* The diagnosis can be made clinically and definitively by this test at the time of presentation. *Id.* No further diagnostic tests are indicated if a diagnosis of Bell's palsy is made. *Id.* Furthermore, there are no proven

² Dr. Tiona plans to join the November 3, 2025 hearing on the Motion for TRO to answer any questions from the Court regarding Petitioner's medical condition.

treatment options for Bell's palsy. *Id.* It resolves on its own over the course of a few weeks, and only a very small percentage of patients have any residual neurologic effects. *Id.*

Importantly, a review of Petitioner's medical chart demonstrates that an interpreter was used during Petitioner's visits to the medical department and that an interpreter identification number is documented. *Id.* ¶ 12. The progress notes for these visits state that Petitioner understood what was explained to him regarding his medical issues and that he had no further questions. *Id.* ¶ 12.³

Following his diagnosis of Bell's palsy, Petitioner was treated with Prednisone and scheduled for a follow-up visit and told to return to the clinic if his symptoms progressed or did not improve. *Id.* ¶ 8. Then, on October 29, 2025, Petitioner was seen again in the medical clinic by the nurse practitioner for a two-week follow-up visit for symptoms stemming from his Bell's palsy diagnosis. *Id.* ¶ 9. The nurse practitioner noted that Petitioner's facial paralysis was greatly improved. *Id.* Petitioner also complained of right-sided groin area pain that had started three weeks prior. *Id.* Petitioner denied rash, lesion or infection in his groin area and denied penile discharge or dysuria. *Id.* Petitioner was diagnosed and treated for Varicocele and started on Motrin 800mg for pain. *Id.* He was advised to follow up as needed if the pain continued. *Id.*

Dr. Tiona has indicated from her review of the medical records that the Bell's palsy diagnosis is definitive and does not require any further testing, imaging, or lab work, nor

³ Respondent acknowledges that this is in contrast with Petitioner's October 24, 2025 statement that "no one has explained what [his] condition is, and no one has followed up." ECF No. 2-1 at ¶ 7. But Respondents contend that the medical records support their position that the condition was explained to Petitioner and he is continuing to receive care as appropriate.

does it require referral to a specialist. *Id.* ¶ 13. Petitioner is recovering as expected and the medical care being provided meets the standard of care in all respects. *Id.*

In light of Dr. Tiona's review, Respondents contend that—to the extent the Court reaches the merits of the claim—the Motion for TRO should be denied and Petitioner's care at Stewart Detention Center should continue as prescribed by his medical providers.

Respectfully submitted this 3rd day of November, 2025.

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