Chief Judge David G. Estudillo
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MUHAMMAD ZAHID CHAUDHRY, Petitioner, v. PAMELA BONDI, ATTORNEY GENERAL, Respondent.	Case No. 2:25-cv-02339-DGE-MLP RESPONDENT'S RETURN MEMORANDUM AND MOTION TO DISMISS Noted for Consideration: Not Available

I. INTRODUCTION

The bottom line up front is that Petitioner Muhammad Zahid Chaudhry's own infusion treatment provider—the Olympia clinic, and *not* ICE—determined that the Teprotumumab (Tepezza) infusions Petitioner was receiving caused Petitioner to experience severe side effects, and therefore Petitioner's clinic (again, not ICE) placed his infusions on hold. Wang Decl., ¶ 8. And pending ongoing efforts by ICE to obtain an ophthalmology assessment so that Petitioner's treatment plan may be updated and he may continue to obtain appropriate treatment, ICE's medical care providers have repeatedly provided access to medical care and will continue to do so while he is detained. *Id.* ¶¶ 8, 11-12.

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For that reason and the reasons shown below, the Court should deny the TRO and dismiss the case. First, habeas relief is inappropriate for Peitioner's conditions of confinement claim, which must be brought under the Civil Rights Statute. Petitioner is subject to a final order of removal. And he does not contest that his detention is unlawful. Second, Petitioner's due process claim lacks merit because he is receiving constitutionally sufficient medical care, and the balance of equities and public interest tilt against granting a temporary restraining order. Accordingly, the government respectfully requests that this Court deny the TRO motion and dismiss the case.[1]

II. FACTUAL BACKGROUND

Petitioner's motion paints a picture of being an upstanding member of the community, but the situation is, in fact, complicated. Petitioner is a native and citizen of Pakistan who was admitted into the United States in 2000 as a visitor and who later adjusted his status to that of a lawful permanent resident. *See* Ex. at 2-3 (Form I-213), 7 (Notice to Appear). Since arriving in the United States, Petitioner is no stranger to federal court litigation. *See, e.g.*, *Chaudhry v. Napolitano*, 749 F. Supp. 2d 1184, 1185 (E.D. Wash. 2010), *aff'd*, 542 F. App'x 570 (9th Cir. 2013) (affirming denial of application for naturalization based on active-duty service in the U.S. armed forces), *cert denied*, 574 U.S. 935 (2014); *Chaudhry v. Astrue*, No. CV-09-3089-JPH, 2010 WL 5018140, at *1 (E.D. Wash. Dec. 1, 2010), *aff'd*, 688 F.3d 661 (9th Cir. 2012) (affirming denial of social security disability benefits); *Chaudhry v. United States Citizen & Immigr. Servs.*, No. 2:19-CV-01097-RAJ, 2020 WL 60273, at *1 (W.D. Wash. Jan. 6, 2020) (granting the

[1] The government does not seek a hearing on this matter. If the Court determines to schedule a hearing, undersigned counsel who is located in Washington, DC, respectfully requests that the hearing be held via Zoom.

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government's motion to dismiss Petitioner's challenge to USCIS's denial of his application for naturalization).

1. Removal Proceedings. In 2008, the Department of Homeland Security ("DHS") initiated removal proceedings against Petitioner by serving him with a Notice to Appear and filing that notice with the Immigration Court.[2] *See* Ex. at 7. The Notice to Appear, as amended, charged Petitioner as removable under 8 U.S.C. § 1227(a)(1)(A), as an alien who, at the time of entry or adjustment of status, was inadmissible under 8 U.S.C. § 1182(a)(6)(C)(i), as an alien who procured his admission, visa, adjustment of status, or other documentation or benefit under the Immigration and Nationality Act ("Act") by fraud or by willfully misrepresenting a material fact by claiming no arrests, citations, charges, fines, or violations of any laws when, in fact, he had been convicted of crimes in Australia before entering the United States. Ex. at 7. Specifically, DHS alleged that, in 1996, at the Downing Centre Local Court in Australia, Petitioner was convicted of (1) two charges of making false instrument, (2) two charges of using false instrument, (3) three charges of use of the passport issued to another person, (4) one charge of goods in custody, and (5) two charges of obtaining financial advantage by deception. *Id.* DHS also charged Petitioner as removable under 8 U.S.C. § 1227(a)(1)(A), as an alien who, at the time of entry or adjustment of status, was inadmissible under 8 U.S.C. § 1182(a)(2)(A)(i)(I), as an alien who had been convicted of a crime involving moral turpitude. *Id.*

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[2] A detailed description of proceedings in Immigration Court, including descriptions of master calendar and individual hearings, is available in the Immigration Court Practice Manual. *See* U.S. Dep't of Justice, Exec. Off. for Immigr. Review, *Immigration Court Practice Manual*, Chap. 4 – Hearings before the Immigration Judge, available at https://www.justice.gov/eoir/reference-materials/ic/chapter-4 (visited Nov. 23, 2025).

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In lieu of removal, Petitioner filed applications for relief and protection, including an application for adjustment of status. In 2018, an Immigration Judge ("IJ") granted Petitioner's application for adjustment of status. Ex. at 3 (Form I-213). DHS appealed the IJ's decision. *Id.* The Board of Immigration Appeals ("Board") sustained DHS's appeal, denied Petitioner's application for adjustment of status, and ordered him removed from the United States. *Id.* In March 2020, Petitioner filed a petition for review of the Board's decision with the Ninth Circuit. *See* Dkt. No. 20-70877 (9th Cir.). In May 2020, he filed a motion to reopen his removal proceedings with the Board. *See* Ex. at 3 (Form I-213). The Board denied the motion, and Petitioner filed another petition for review with the Ninth Circuit. *See* Dkt. No. 21-1160 (9th Cir.). The Ninth Circuit has consolidated the petitions for review, which are fully briefed.

2. DHS Custody and Medical Treatment at NWIPC. On August 21, 2025, Petitioner came into the custody of DHS and was transported to the Northwest ICE Processing Center ("NWIPC"). Ex. at 3 (Form I-213). Petitioner thereafter requested a change in custody status with the IJ; the IJ denied his request because he was subject to a final order of removal and the IJ lacked authority under the regulations. *See* 8 C.F.R. §§ 1241.1 (defining final order of removal), 1236.1(d) (providing the IJ's authority regarding an alien's custody before a removal order becomes final). Ex. at 8-9 (IJ order, Aug. 29, 2025).

NWIPC is a level 4 facility, meaning that it can provide a higher level of medical care. Wang Decl., ¶ 4. Medical, dental, and mental health care at NWIPC is provided by the ICE Health Service Corps ("IHSC"), which comprises of a multidisciplinary workforce consisting of U.S. Public Health Service Commissioned Corps officers, federal civil servants, and contract health professionals. *Id.* The medical clinic includes family medicine and emergency medicine physicians, physician aids, advanced nurse practitioners, nurses, record technicians, pharmacists

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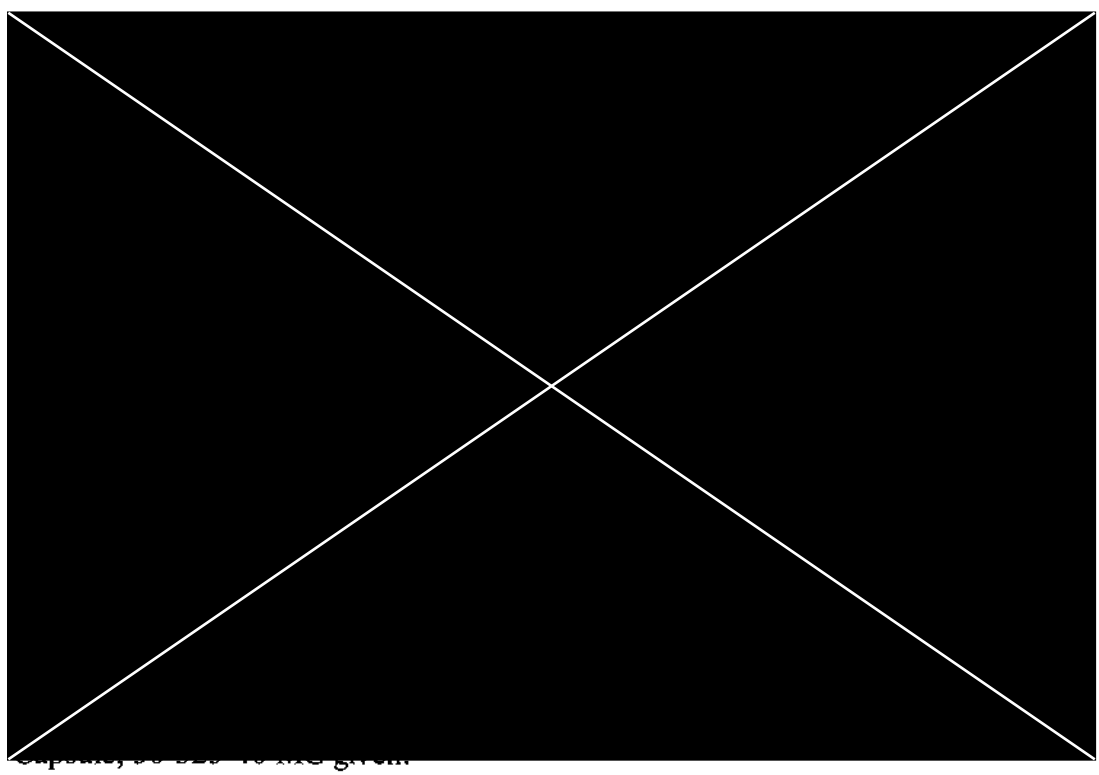
and pharmacy technicians, psychiatrists and behavioral health specialists, and dentists and dental technicians. *Id.* NWIPC can manage patients with complex medical issues and collaborates with multiple nearby emergency departments that can assist in assessing critical patients and hospitalize unstable patients. *Id.* NWIPC also has collaborative agreements with local specialty services that covers all aspects of medical specialties. *Id.*

Since arriving at NWIPC, Petitioner saw medical staff on the following dates:



Wang Decl., ¶ 7. The record also shows that, daily, from October 3 through October 6, 2025, and from November 4 through November 7, 2025, Petitioner refused to take nortriptyline, a tricyclic antidepressant used for depression, chronic pain, and migraine prophylaxis. *Id.* ¶ 7.

Regarding the infusion treatment for Grave's disease, IHSC has and continues to make efforts to continue Petitioner's infusion treatments. Wang Decl., ¶¶ 8, 12. IHSC does not provide

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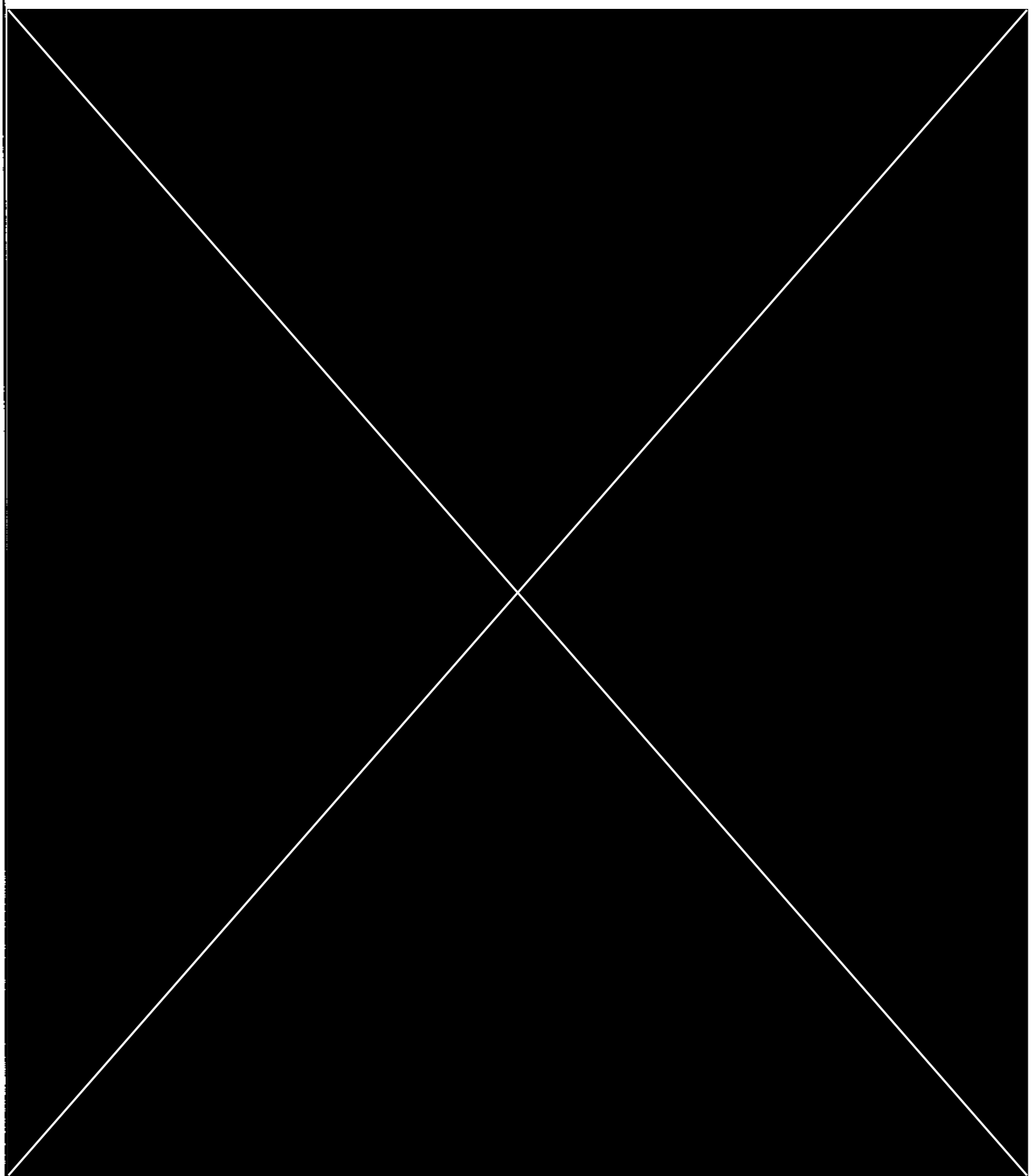

On November 20, 2025, Petitioner filed an emergency motion for release pending a decision with the United States Court of Appeals for the Ninth Circuit. *See* Dkt. Nos. 20-70877

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& 21-1160 (9th Cir.). He alleges that his detention has prevented his receiving infusion therapy to treat his Thyroid Eye Disease. Mot. at 2. The Ninth Circuit construed Petitioner's emergency motion as a petition for habeas corpus pursuant to 28 U.S.C. § 2241 and transferred it to this Court for consideration in the first instance. *See* Dkt. #1-1.

On November 21, 2025, this Court received Petitioner's TRO motion, alleging that ICE is denying him access to his infusion treatment and requesting release from detention. *See* Dkt. #2 at 1-3. For the following reasons, the government opposes Petitioner's motion.

III. 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. Allopath 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*, 140 S. Ct. 1959, 1974 n. 20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

A TRO is "an extraordinary remedy that may only be awarded upon a clear slowing that the Petitioner is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). For a TRO to issue, the moving party must demonstrate: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *See id.* at 20. "In exercising their sound discretion, courts of equity should pay particular regard for the public

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consequences in employing the extraordinary remedy of injunction." *Id.* at 24 (cleaned up). A district court should enter a preliminary injunction only "upon a clear showing that the [movant] is entitled to such relief." *Winter*, 555 U.S. at 22.

The Ninth Circuit has adopted a "sliding scale" test for issuing TROs, under which "serious questions going to the merits and a hardship balance that tips *sharply* towards the plaintiff can support issuance of an injunction, assuming the other two elements of the *Winter* test are also met." *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011) (emphasis added). Thus, Petitioner must show that the TRO is in the public interest and that there is a likelihood, not merely a possibility, of irreparable injury. *See Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009). However, "[w]here a party seeks mandatory preliminary relief that goes well beyond maintaining the status quo pendente lite, courts should be extremely cautious about issuing a preliminary injunction." *Martin v. Int'l Olympic Committee*, 740 F.2d 670, 675 (9th Cir. 1984); *see also Committee of Cent. American Refugees v. Immigration & Naturalization Serv.*, 795 F.2d 1434, 1442 (9th Cir. 1986). For mandatory preliminary relief to be granted Plaintiffs "must establish that the law and facts *clearly favor* [thei]r position." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis in original).

IV. ARGUMENT

The Court should deny the TRO motion and dismiss this matter. The threshold problem with this case is that Petitioner does not contest that his detention is unlawful and only alleges that he is not receiving his needed medical treatment. Accordingly, this case sounds in a civil rights action, not a habeas corpus petition challenging immigration detention. But even considering the gravamen of the factual allegations, Petitioner has failed to establish any of the factors to warrant injunctive relief, especially where he is receiving medical care and his own chosen care provider—

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not ICE—determined to place on hold his requested infusion treatments given the severe side effects, and efforts are underway to update Petitioner's treatment plan so that he can continue to receive appropriate care.

A. Petitioner fails to establish a likelihood of success on the merits.

Likelihood of success on the merits is a threshold issue: "[W]hen 'a plaintiff has failed to show the likelihood of success on the merits, [the court] need not consider the remaining three [elements].'" *Garcia*, 786 F.3d at 740 (quoting *Ass'n des Eleveurs de Canards et d'Oies du Quebec v. Harris*, 729 F.3d 937, 944 (9th Cir. 2013)) (quotation marks omitted). Here, this Court lacks jurisdiction to hear a conditions of confinement challenge arising from a habeas petition filed pursuant to 28 U.S.C. § 2241, and moreover, Petitioner's conditions of confinement does not violate the due process clause. Because Petitioner cannot show a likelihood of success on the merits, this Court should deny the motion for TRO and dismiss the case without more.

1. Petitioner's conditions of confinement claim is not properly brought pursuant to habeas because it is outside the core of habeas.

This Court should not consider the conditions of confinement as part of a 28 U.S.C. § 2241 habeas corpus petition. *See Pinson v. Carvajal*, 69 F.4th 1059, 1069 (9th Cir. 2023), *cert. denied sub nom. Sands v. Bradley*, 144 S. Ct. 1382 (2024). The Court should thus dismiss this case for lack of jurisdiction. "[T]he writ of habeas corpus is limited to attacks upon the legality or duration of confinement." *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979). In *Crawford*, the Ninth Circuit held that "release from confinement" was not the appropriate remedy to address the petitioner's claims "alleg[ing] that the terms and conditions of [petitioner's] incarceration constitute[d] cruel and unusual punishment" and "violated his due process rights." *Id.* at 891-92. Such a claim must be brought as a civil rights claim, *Dohner v. Seifert*, 5 F.3d 535 (9th Cir. 1993),

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that if proven, would be remedied by "a judicially mandated change in conditions and/or an award of damages." *Crawford*, 599 F.2d at 892.

The Ninth Circuit's decision in *Pinson v. Carvajal* solidified the rule that a habeas claim is one challenging the fact of confinement, rather than the conditions of confinement. 69 F.4th at 1072-73. There, two inmates sought habeas relief, arguing that the conditions of their incarceration during the COVID-19 pandemic violated the Eighth Amendment. *Id.* at 1062. The Ninth Circuit rejected claimant Sands' argument that only habeas relief could ameliorate the harm inflicted on him by the government's ongoing failure to sufficiently treat his underlying illnesses and protect him from exposure to the coronavirus. *Id.* at 1063, 1065-66, 1075. In so doing, the Ninth Circuit affirmed the District Court's dismissal of Sands' habeas petition for lack of jurisdiction, delineating that "the relevant question is whether, based on the allegations in the petition, release is *legally required* irrespective of the relief requested." *Id.* at 1072. In dismissing the petition, the Court concluded that Sands challenged only the conditions of his confinement and not the underlying legal basis for that confinement, and therefore his claim was "outside the core of habeas." *Id.* at 1073. Consequently, pursuant to *Pinson*, an individual's claim is at "the core of habeas corpus" if it "(1) goes directly to the constitutionality of the physical confinement itself and (2) seeks either immediate release from that confinement or the shortening of its duration." *Id.* at 1069 (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973)) (cleaned up); *see also Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (reiterating *Pinson*'s holding).

Here, even construed liberally, Petitioner's TRO motion only challenges the conditions of his confinement, and not the legality of his detention. *See, e.g.*, Mot. at 2 ("Mr. Chaudhry's detention has cut him off from critical, authorized medical care for **thyroid eye disease (TED)**"), 9 ("Every day of continued detention worsens his condition and increases the risk of irreversible

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blindness."). Nowhere in the motion does Petitioner argue that DHS lacks authority to detain him, or that his detention is otherwise unlawful. *See generally* Mot. The fact that Petitioner is seeking immediate release is insufficient to invoke habeas jurisdiction. *See Pinson*, 69 F.4th at 1072-73 ("[A] successful claim sounding in habeas necessarily results in release, but a claim seeking release does not necessarily sound in habeas."). Rather, Petitioner must show that his detention is without legal authorization, but he has not alleged, let alone argued, that his detention is unlawful. *See id.* at 1070; *see, e.g.*, *Luedtke v. Ciolli*, No. 21-15670, 2023 WL 6060605, at *1 (9th Cir. Sept. 18, 2023) (unpub.) (affirming dismissal of a habeas petition where the claimant's allegations were that his medical conditions require his immediate release from confinement). Indeed, Petitioner makes no attempt to challenge "the legality or duration of confinement," *Pinson*, 69 F.4th at 1065; instead, he requests release based on alleged withholding of medical treatment, *see* Mot. at 9-10. His claim is thus "a garden-variety Eighth Amendment claim based on the deliberate failure to deliver adequate medical care, which is a standard civil rights claim." *Pinson*, 69 F.4th at 1073 (citing *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 78 (2001) (Stevens, J., dissenting) (explaining that Eighth Amendment claims based on inadequate medical care "fall[] in the heartland of substantive *Bivens* claims"); *Estelle v. Gamble*, 429 U.S. 97, 105 (1976) ("Regardless of how evidenced, deliberate indifference to a prisoner's serious illness or injury states a cause of action under § 1983.")); *see Cutsinger v. Ducharme*, 944 F.2d 908 (9th Cir. 1991) ("A challenge to conditions of confinement should be presented in a section 1983 lawsuit rather than in a habeas corpus petition.") (citing *Crawford.* 599 F.2d at 891-92).

While courts in this District have adjudicated conditions of confinement claims related to the COVID-19 pandemic, those cases were decided under unique circumstances not present here. *See, e.g.*, *Dawson v. Asher*, No. 20-cv-0409, 2020 WL 1704324, at *8-9 (W.D. Wash. Apr. 8,

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2020) (explaining the circumstances under which the Court undertook consideration of COVID-19-related conditions of confinement claims in petitions brought under 28 U.S.C. § 2241). And though the Supreme Court has left open the question of whether there are circumstances when a challenge to the conditions of confinement is properly brought in a habeas petition, Petitioner's claim ultimately "neither goes to the fact of [his] confinement nor would require immediate release if successful," so "it is outside the core of habeas." *Pinson*, 69 F.4th at 1073; *see Ziglar v. Abbasi*, 582 U.S. 120, 144-45 (2017) ("[W]e leave to another day the question of the propriety of using a writ of habeas corpus to obtain review of the conditions of confinement, as distinct from the fact or length of confinement.") (quoting *Bell v. Wolfish*, 441 U.S. 520, 526, n.6 (1979)); *see, e.g.*, *Dinkins v. United States*, No. 22-56089, 2024 WL 1253789, at *1 (9th Cir. Mar. 25, 2024) (unpub.) (applying *Pinson* and concluding that an incarcerated petitioner cannot challenge the conditions of his confinement through a habeas petition filed under 28 U.S.C. § 2241); *Grigsby v. Gutierrez*, No. 22-16734, 2024 WL 811024, at *1 (9th Cir. Feb. 27, 2024) (unpub.) (same). Accordingly, this Court should decline to extend such consideration to the claim in this case, and dismiss this action without more.

2. Regardless, Petitioner is receiving constitutionally adequate medical care, and Petitioner's conditions of confinement do not violate due process.

Petitioner's constitutional claim, even construed liberally, lacks merit (Mot. at 2, 7, 17-18). His continued detention does not violate substantive due process as the medical care at NWIPC is constitutionally adequate. He cannot establish a substantive due process violation based on the government's purported failure to provide the specific medical care he requests. ICE proactively placed Petitioner in a facility with the ability to meet his medical needs and is providing him with appropriate, necessary medical care for his medical conditions. It was Petitioner's own infusion

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clinic—and not ICE—that determined that the infusions Petitioner requests are inappropriate because of the severe side effects they cause Petitioner to experience. Further, as the Supreme Court has repeatedly recognized, detention is a constitutionally permissible aspect of the government's enforcement of the immigration laws and fulfills the legitimate purpose of ensuring that individuals appear for their removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 285 (2018); *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001). Consistent with the requirements of due process, their confinement is thus "reasonably related" to a legitimate government interest. *Bell v. Wolfish*, 441 U.S. 535, 538-39 (1979).

a. Petitioner cannot show he has been denied adequate medical care.

Due process requires the government to assume some responsibility for civil detainees' safety and well-being, such as "food, clothing, shelter, medical care, and reasonable safety." *DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989). To demonstrate a due process violation on a conditions-of-confinement claim, a petitioner must show: (1) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (2) those conditions put the plaintiff at substantial risk of suffering serious harm; (3) the defendant did not take reasonable available measures to abate that risk, even though a reasonable officer in the circumstances would have appreciated the high degree of risk involved – making the consequences of the defendant's conduct obvious; and (4) by not taking such measure, the defendant caused the plaintiff's injuries. *Castro v. Cty. of L.A.*, 833 F.3d 1060, 1071 (9th Cir. 2016) (en banc).

Petitioner cannot meet this standard. First, Petitioner cannot show that the medical care at NWIPC puts him at a substantial risk of suffering serious harm. The government does not dispute that Petitioner has various medical conditions, including Grave's disease; however, Petitioner is at

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NWIPC because IHSC can provide a higher level of medical care to address his conditions and manage patients with complex medical issues. Wang Decl., ¶¶ 4, 7. NWIPC is in a large urban center in proximity to a number of hospitals and specialists. *Id.* ¶ 4. Medical, dental and mental health care at the NWIPC is provided by IHSC. *Id.* IHSC comprises a multidisciplinary workforce that consists of U.S. Public Health Service Commissioned Corps officers, federal civil servants, and contract health professionals. *Id.* And for any treatment or issue not treated at NWIPC, there are collaborative agreements with local specialty services and numerous hospitals for treatment of critical patients. *Id.* ¶¶ 4, 8. Accordingly, Petitioner cannot show the substantial medical care available to him places him at substantial risk of sustaining serious harm.

Second, the medical care offered to Petitioner constitutes objectively reasonable measures to abate the risk of serious physical harm that Petitioner alleges. The Ninth Circuit applies an "objectively unreasonable" test to failure-to-protect claims brought under the Due Process Clause. *Castro*, 833 F.3d at 1071. "[T]he defendant's conduct must be objectively unreasonable, a test that will necessarily 'turn on the facts and circumstances of each particular case.'" *Id.* (quoting *Kingsley v. Hendrickson*, 576 U.S. 389, 396 (2015) (alterations and internal quotation marks omitted)). Litigants claiming deliberate indifference must establish that government action is "objectively unreasonable" – a standard akin to reckless disregard. *Gordon v. Cty. Of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018). "[T]he Constitution does not require that detention facilities reduce the risk of harm to zero." *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 212 (D.D.C. 2020) (quoting *Benavides v. Gartland*, No. 20-cv-46, 2020 WL 1914916, at *5 (S.D. Ga. Apr. 18, 2020) & citing *Dawson v. Asher*, No. 20-cv-0409, 2020 WL 1704324, at *12 (W.D. Wash. Apr. 8, 2020)). Neither general allegations of negligence nor a petitioner's general disagreement with treatment received is enough to show deliberate indifference. *See Estelle v. Gamble*, 429 U.S. 97, 105-06 (1976).

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Rather, that standard can be met "only when the decision by the [medical] professional is such a substantial departure from accepted professional judgment, practice, or standards as to demonstrate that the person responsible actually did not base the decision on such a judgment." *Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982).

Here, IHSC is providing Petitioner with appropriate, necessary medical care during his time at NWIPC. Wang Decl., ¶ 7. Medical care at the NWIPC is generally governed by the 2011 Performance-Based National Detention Standards ("PBNDS") concerning medical care. *See* PBDNS, *available at* https://www.ice.gov/detain/detention-management/2011 (last visited Nov. 23, 2025). Although Petitioner alleges that the PBNDS is not being met (Mot. at 7), Petitioner has been offered medical care consistent with the PBNDS. Petitioner is placed at NWIPC because of the higher level of care available in the facility. Wang Decl., ¶ 4. Petitioner's primary concern relates to access to infusion therapy to treat his Grave's disease. Mot. at 2. The day after Petitioner arrived at NWIPC, he was seen for Grave's disease, as well as other medication conditions, and a few days later, his infusion therapy treatment was approved and was being scheduled. Wang Decl., ¶ 7. However, IHSC was informed by the Olympia clinic—where Petitioner was receiving infusions—that *the clinic* had put Petitioner's infusion treatments on hold due to "patient had severe side-effects and was intolerant to infusion." *Id.* ¶ 8; *see id.* ¶ 9. IHSC therefore requested the medical records from the Olympia clinic for review. Wang Decl., ¶ 8. It also reached out to its referral contracts to try and secure an appointment for Petitioner's infusion treatment. *Id.* ¶¶ 8, 11. Thus, contrary to Petitioner's claim that ICE was withholding treatment, his own clinic had put the treatment on hold and IHSC is requesting the records to understand the clinic's decision, including the "severe side-effects" Petitioner was experiencing, and is attempting to secure another infusion appointment for Petitioner through their contracts. *Id.* ¶ 8, 12.

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Finally, Petitioner cannot demonstrate that his medical care at NWIPC places him in sufficiently imminent danger. "To satisfy the fourth element, a plaintiff need only prove a 'sufficiently imminent danger[ ],' because a 'remedy for unsafe conditions need not await a tragic event.'" *Roman v. Wolf*, 977 F.3d 935, 943 (9th Cir. 2020) (quoting *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993)). Petitioner alleges that he will go blind without his infusion therapy treatment (Mot. 1), but Petitioner's mere allegation is insufficient to show that he is in sufficiently imminent danger. The Court should thus find this assertion to be irrelevant here. Without any showing that he is in sufficient imminent danger due to inadequate medical care at NWIPC, his due process claims concerning the lawfulness of his detention due to alleged inadequate medical care should be dismissed. Accordingly, Petitioner's conditions of confinement do not violate his Fifth Amendment substantive due process right to reasonable safety. Indeed, as Dr. Wang notes, efforts are underway to update Petitioner's treatment plan so that a suitable course of medical treatment may be determined and then provided. Wang Decl., ¶¶ 8, 11-12.

b. Petitioner cannot show punitive conditions of confinement.

Petitioner's detention is not punitive because it is reasonably related to legitimate governmental objectives. When evaluating the constitutionality of civil detention conditions under the Fifth Amendment, a district court must determine whether those conditions "amount to punishment of the detainee." *Bell*, 441 U.S. at 535. A petitioner may show punishment through an express intent to punish or a condition that is not "reasonably related to a legitimate governmental objective." *Bell*, 441 U.S. at 539; *see also Kingsley*, 576 U.S. at 398 (noting that "a pretrial detainee can prevail by providing only objective evidence that the challenged governmental action is not rationally related to a legitimate governmental objective or that it is excessive in relation to that purpose"). "A restriction is punitive where it is intended to punish, or

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where it is 'excessive in relation to [its] non-punitive purpose.'" *See Jones v. Blanas*, 393 F.3d 918, 933-34 (9th Cir. 2004).

Petitioner does not allege that IHSC's medical treatment constitutes an express intent to punish him. "The wide range of 'judgment calls' that meet constitutional and statutory requirements [for federal detention] are confided to officials outside of the Judicial Branch of Government." *Bell*, 441 U.S. at 562. The Constitution thus leaves the government latitude in determining how it may achieve its legitimate interest in executing the immigration laws. In evaluating those determinations, courts must be careful to impose only what the Constitution requires – not "a court's idea of how best to operate a detention facility." *Id.*, at 539. Here, Petitioner's detention is justified. He is subject to a final order of removal, which arose from charges of removability under 8 U.S.C. § 1227(a)(1)(A), as an alien who, at the time of entry or adjustment of status, was inadmissible under 8 U.S.C. § 1182(a)(6)(C)(i) (alien who procured an immigration benefit by fraud or by willfully misrepresenting a material fact), and 8 U.S.C. § 1227(a)(1)(A), as an alien who, at the time of entry or adjustment of status, was inadmissible under 8 U.S.C. § 1182(a)(2)(A)(i)(I) (alien convicted of a crime involving moral turpitude). Ex. at 7. Further, Petitioner falls well short of demonstrating that this confinement at NWIPC with the medical treatment available is so excessive that it evinces "an expressed intent to punish on the part of detention facility officials." *Bell*, 441 U.S. at 538. Finally, Petitioner's detention is proportionately related to the government's non-punitive responsibilities and administrative purposes. While civil detainees retain greater liberty protections than individuals convicted of crimes, *see, e.g.*, *Youngberg*, 457 U.S. at 321-22; *Bell*, 441 U.S. at 535, Petitioner's continued immigration detention after he has been subject to a final order of removal cannot be described as

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punitive or excessive in relation to the legitimate governmental purpose of protecting the public and enforcing U.S. immigration laws.

c. Regardless, release is not an appropriate remedy.

The sole relief that Petitioner seeks is release from detention. However, he fails to demonstrate that even if the alleged due process violations were established, that they would warrant or require immediate release. Petitioner has not claimed that his detention anywhere would be unlawful. He limits his claims to NWIPC. But, Petitioner's infusion treatment was stopped by his own clinic (Olympia), not IHSC; indeed, IHSC is attempting to schedule him for another infusion treatment through their contracts. Wang Decl., ¶ 8. Thus, Petitioner fails his burden of demonstrating that release would be the appropriate form of relief here. Or, "[e]ven if Petitioner could show a Fifth Amendment violation, he does not establish that such a violation would justify immediate release, as opposed to injunctive relief that would leave him detained while ameliorating any unconstitutional conditions at the NWIPC." *Ortiz v. Barr*, No. 20-cv-497, 2020 WL 13577427, at *7 n.8 (W.D. Wash. April 10, 2020); *accord Doe v. Bostock*, No. 24-cv-326, 2024 WL 3291033, at *8 (W.D. Wash. Mar. 29, 2024). Accordingly, even if this Court were to find that due process has been violated, immediate release is not an appropriate form of relief.

At bottom, Petitioner has not shown a likelihood of success on the merits, and this Court should deny the TRO motion on this ground without more. *See Garcia*, 786 F.3d at 740.

B. Petitioner is unlikely to suffer irreparable harm in the absence of preliminary relief.

Petitioner also fails to establish that he will suffer irreparable injury absent a TRO. The Supreme Court's "frequently reiterated standard requires plaintiffs seeking preliminary relief to demonstrate that irreparable injury is likely in the absence of an injunction." *Winter*, 555 U.S. at 22 (emphasis in original). "Issuing a preliminary injunction based only on a possibility of

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irreparable harm is inconsistent with our characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Id.* (emphasis added). Conclusory or speculative allegations are not enough to establish a likelihood of irreparable harm. *Herb Reed Enters., LLC v. Florida Entm't Mgmt., Inc.*, 736 F.3d 1239, 1250 (9th Cir. 2013); *see also Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) ("Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction."); *Am. Passage Media Corp. v. Cass Commc'ns, Inc.*, 750 F.2d 1470, 1473 (9th Cir. 1985) (finding irreparable harm not established by statements that "are conclusory and without sufficient support in facts"). Moreover, the threat of a likely injury must be "immediate." *Caribbean Marine*, 844 F.2d at 674.

Here, Petitioner has not established that "irreparable injury is likely in the absence of an injunction." *Winter*, 555 U.S. at 22. There is no immediacy here because Petitioner has been receiving the treatment he needs and Petitioner's own infusion provider—not ICE—determined to pause his treatment given the severe side effects. *See* Wang Decl., ¶¶ 7-8, 11-12. Although Petitioner claims that his "continued detention worsens his condition and increases the risk of irreversible blindness" (Mot. at 10), Petitioner is not a medical professional, and his mere allegations are insufficient to establish any harm, let alone irreparable harm. According to the Olympia clinic, Petitioner experienced "severe side-effects and was intolerant to infusion." Wang Decl., ¶ 8; *see also id.* ¶ 9. The Olympia clinic thus decided to put Petitioner's infusion treatments on hold. *Id.* IHSC, in turn, reasonably decided that an ophthalmology specialist was needed to reassess and propose other treatment plans for Petitioner. *Id.* ¶ 11. And instead of taking no other action, IHSC also reached out to its referral contracts to secure another appointment for Petitioner's infusion, notwithstanding the Olympia clinic's determination. *Id.* ¶¶ 8, 12; *see Youngberg*

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v. Romeo, 457 U.S. 307, 322-23 (1982) (urging judicial deference and finding presumption of validity regarding decisions of medical professionals concerning conditions of confinement). Thus, given Petitioner's severe reaction to the infusion treatment and because Petitioner's claim of irreparable injury is highly speculative, he has failed to make a requisite clear showing of irreparable harm needed to warrant TRO relief. *See Winter*, 555 U.S. at 22. This illustrates another way the relief Petitioner seeks is in appropriate: if Petitioner were to be released today, he still would not be able to obtain infusions from the Olympia clinic given that that clinic determined that he is not tolerant to infusion. *See* Wang Decl., ¶ 9.

C. The balance of equities and public interest support denying a TRO.

It is well-settled that the public interest in enforcement of United States immigration laws is significant. *See United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permit[s] and prolong[s] a continuing violation of United States law."). In assessing these factors, the Court must consider the public interest in Petitioner's detention. As the Supreme Court has recognized, "detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523. Petitioner relies on his lengthy residency and family ties in the United States, and he claims that he is not a flight risk and not a danger to the community (Mot. at 10-11), but Petitioner is subject to a final order of removal, and the government may detain him as a result, and it has an interest in enforcing U.S. immigration laws. At bottom, the government has a legitimate interest in the continued detention of immigration detainees that is authorized by Congress and recognized

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by the Supreme Court. Because Petitioner cannot show that the balance of hardships and public interest tips in his favor, the Court should deny Petitioner's motion for a TRO.

D. The Court should dismiss for lack of jurisdiction or, alternatively, on the merits.

For the reasons noted above, Petitioner has failed to properly invoke this Court's habeas jurisdiction and, regardless, his conditions-of-confinement challenge fails on the merits. Either is a sufficient basis upon which to dismiss this case.

CONCLUSION

For the foregoing reasons, this Court should deny the motion for TRO and dismiss the case.

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I certify that this memorandum contains 6389 words, in compliance with the Local Civil Rules.

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November 23, 2025

CERTIFICATE OF SERVICE

I certify that on November 23, 2025, I filed the foregoing with the Court's CM/ECF system. Petitioner is not a registered CM/ECF user and will instead be served by United States mail at the following address:

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