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

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

MUHAMMAD ZAHID CHAUDHRY, Petitioner, v. BRUCE SCOTT, *et al.*, Respondents.	Case No. 2:25-cv-02339-DGE-MLP FEDERAL RESPONDENTS'[1] OPPOSITION TO PETITIONER'S SECOND AMENDED MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION **Noted for consideration: December 5, 2025**

I. INTRODUCTION

Petitioner Muhammad Zahid Chaudhry fails to make a clear showing that he is entitled to the extraordinary remedy of a temporary restraining order ("TRO"). Dkt. No. 27, Second Am. Mot. For TRO ("Motion" or "Mot."). United States Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner pursuant to Section 241 of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1231, pending the Ninth Circuit's adjudication of his Petitions for Review ("PFR"), which are fully briefed. *See* Dkt. No. 20-70877 (9th Cir.); Dkt. No. 21-1160 (9th Cir.). While Petitioner asserts that his detention is unlawful, his detention claims are not

[1] Respondent Bruce Scott is not a Federal Respondent.

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appropriate for the emergency injunctive relief requested here and cannot support his burden of demonstrating irreparable harm. These claims would equally apply to any person in immigration detention challenging their arrest and detention. *See Taha v. Bostock*, No. C25-649-RSM, 2025 WL 1126681, at *3 (W.D. Wash. Apr. 16, 2025) ("The Court agrees with Defendants that Petitioner's 'irreparable harm-based argument begs the constitutional questions presented in his petition by assuming that [P]etitioner has suffered constitutional injury[,]' and his emotional harm from this 'loss of liberty' is 'common to all' like Petitioner.").

Nor does Petitioner's medical conditions of confinement claim provide a basis for mandatory injunctive relief. Petitioner asserts that the medical care at the Northwest ICE Processing Center ("NWIPC") is inadequate and that he risks both vision loss and neural injury. But medical providers have not "cut off access" to treatment. Petitioner's own infusion treatment provider, not medical providers at the NWIPC, determined that Teprotumumab ("Tepezza") infusions for treatment of his Thyroid Eye Disease caused Petitioner to experience severe side effects and placed his infusions on hold. Declaration of Dr. Eddie Wang ("Wang Decl."), ¶ 8. Medical providers at NWIPC continue to provide and seek treatment for Petitioner. *Id.*, ¶¶ 11-12. Petitioner alleges that he requires to be seen by "his treating specialist," but the fact that he has not been seen by his preferred treatment provider does not establish a basis for emergency injunctive relief.

Accordingly, Federal Respondents respectfully request that this Court deny the Motion. This Opposition is supported by the Declaration of Brett Booth ("Booth Decl.") and the Declaration of Dr. Eddie Ling-Tse Wang ("Wang Decl.").

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II. FACTUAL BACKGROUND

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. Booth Decl., ¶¶ 4-5. Since arriving in the United States, Petitioner has litigated various actions in federal court. *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. 09-cv-3089, 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, 2020 WL 60273, at *1 (W.D. Wash. Jan. 6, 2020) (granting the government's motion to dismiss Petitioner's challenge to USCIS's denial of his application for naturalization).

A. 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. Booth Decl., ¶ 6. 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 INA by fraud or by willfully misrepresenting a material fact. Booth Decl., ¶ 6. 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. *See* Booth Decl., ¶ 6.

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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. Booth Decl., ¶ 7. DHS appealed the IJ's decision. *Id.*, ¶ 8. The Board of Immigration Appeals ("BIA") sustained DHS's appeal, denied Petitioner's application for adjustment of status, and ordered him removed from the United States. *Id.*, ¶¶ 10-11. In March 2020, Petitioner filed a petition for review of the BIA'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 BIA. The BIA 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.

B. DHS Custody

On August 21, 2025, U.S Citizenship and Immigration Services ("USCIS") interviewed Petitioner and informed ICE that his Form N-400 had been denied. Booth Decl., ¶ 14. ICE arrested Petitioner at the USCIS office in Seattle, Washington and transported him to the NWIPC. *Id.* Eight days later, an IJ denied his request for a change in custody status 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); Lambert Decl., Ex. A, IJ Order, Aug. 29, 2025. Petitioner appealed this order to the BIA. Booth Decl., ¶ 17. On November 7, 2025, an IJ denied Petitioner's Motion for Subsequent Bond Redetermination. Lambert Decl., Ex. B, IJ Order, Nov. 7, 2025. The IJ again denied Petitioner's request based on lack of jurisdiction. In addition to the reasons for the previous denial, the IJ also noted that the previous bond denial was before the BIA.

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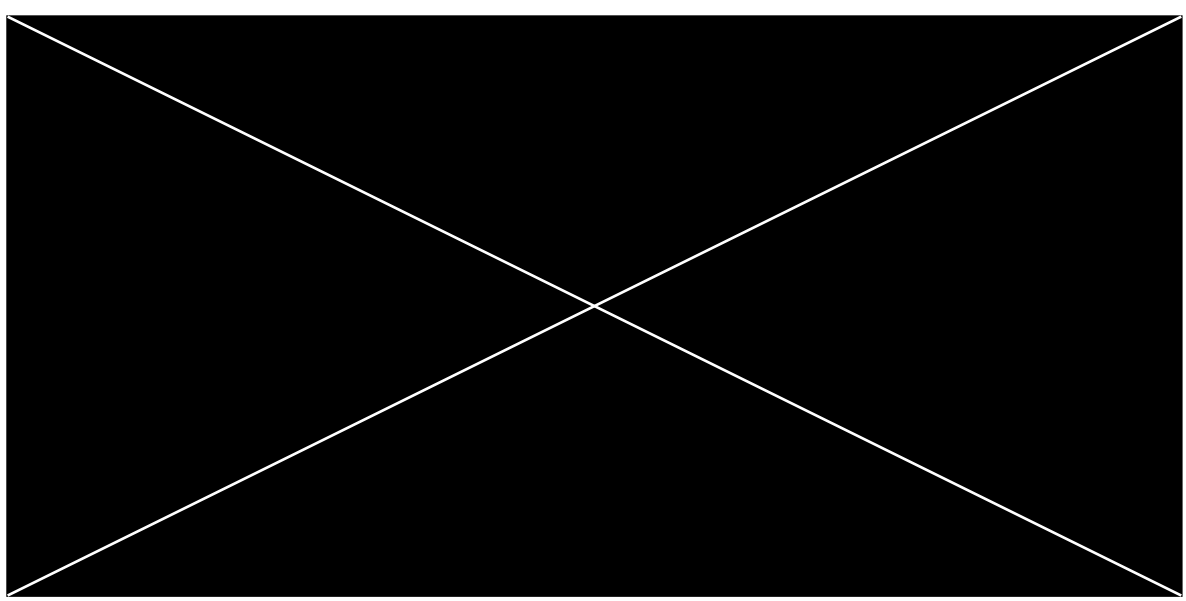
Id. If Petitioner's PFRs are denied and the Ninth Circuit stay is lifted, ICE anticipates that Petitioner will be removed to Pakistan.

C. Medical Treatment at NWIPC

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 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:



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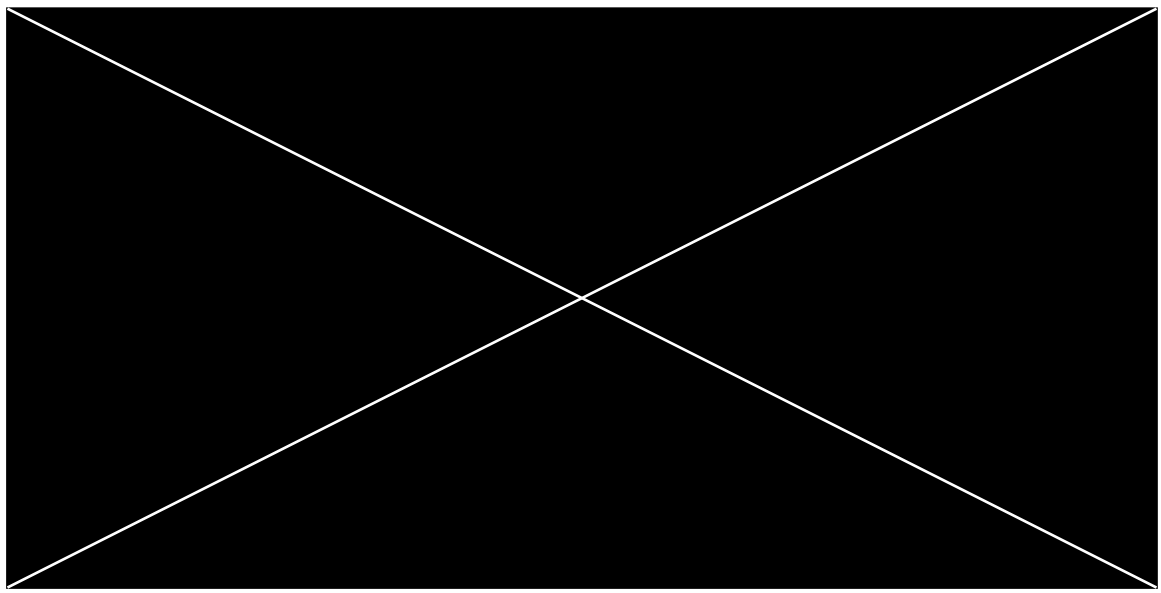
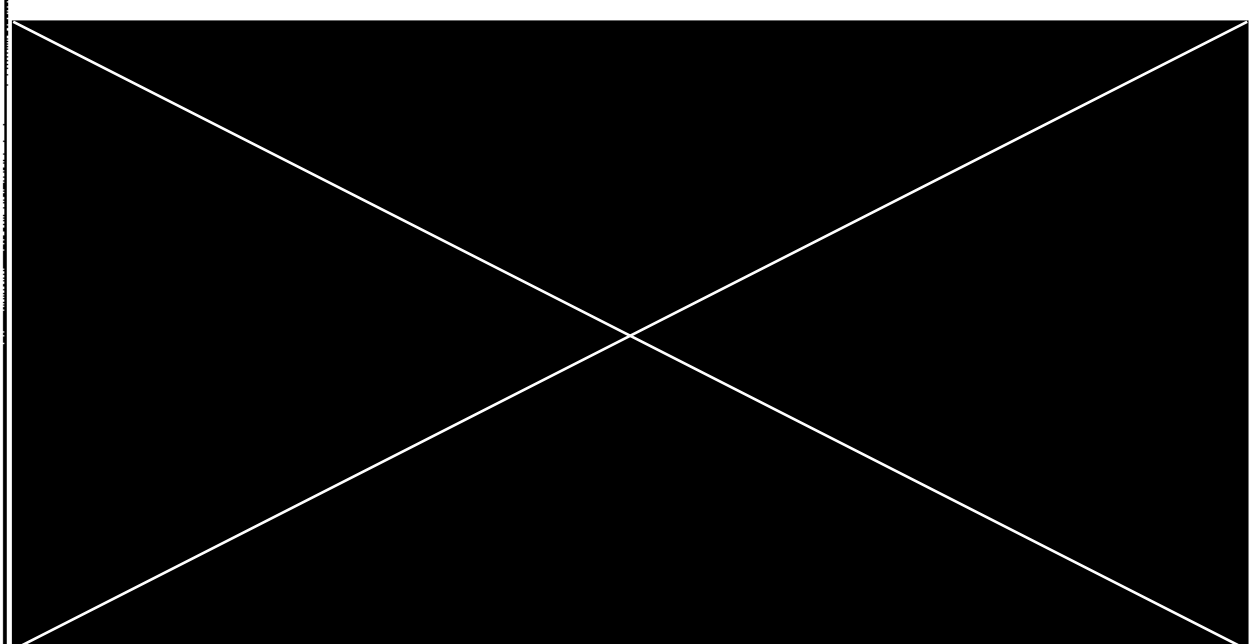


Wang Decl., ¶ 7.[2] The record also shows that, daily, from October 3 through October 6, 2025, and from November 4 through November 7, 2025, Petitioner refused to take nortriptyline, a tricyclic antidepressant used for depression, chronic pain, and migraine prophylaxis. *Id.*, ¶ 7.



[2] Dr. Wang's declaration was executed on November 23, 2025 as it was used in reference to Federal Respondent's Return. (Dkt. No. 9). Federal Respondents will provide an updated declaration with their return to the Second Amended Petition. Dkt. No. 28.

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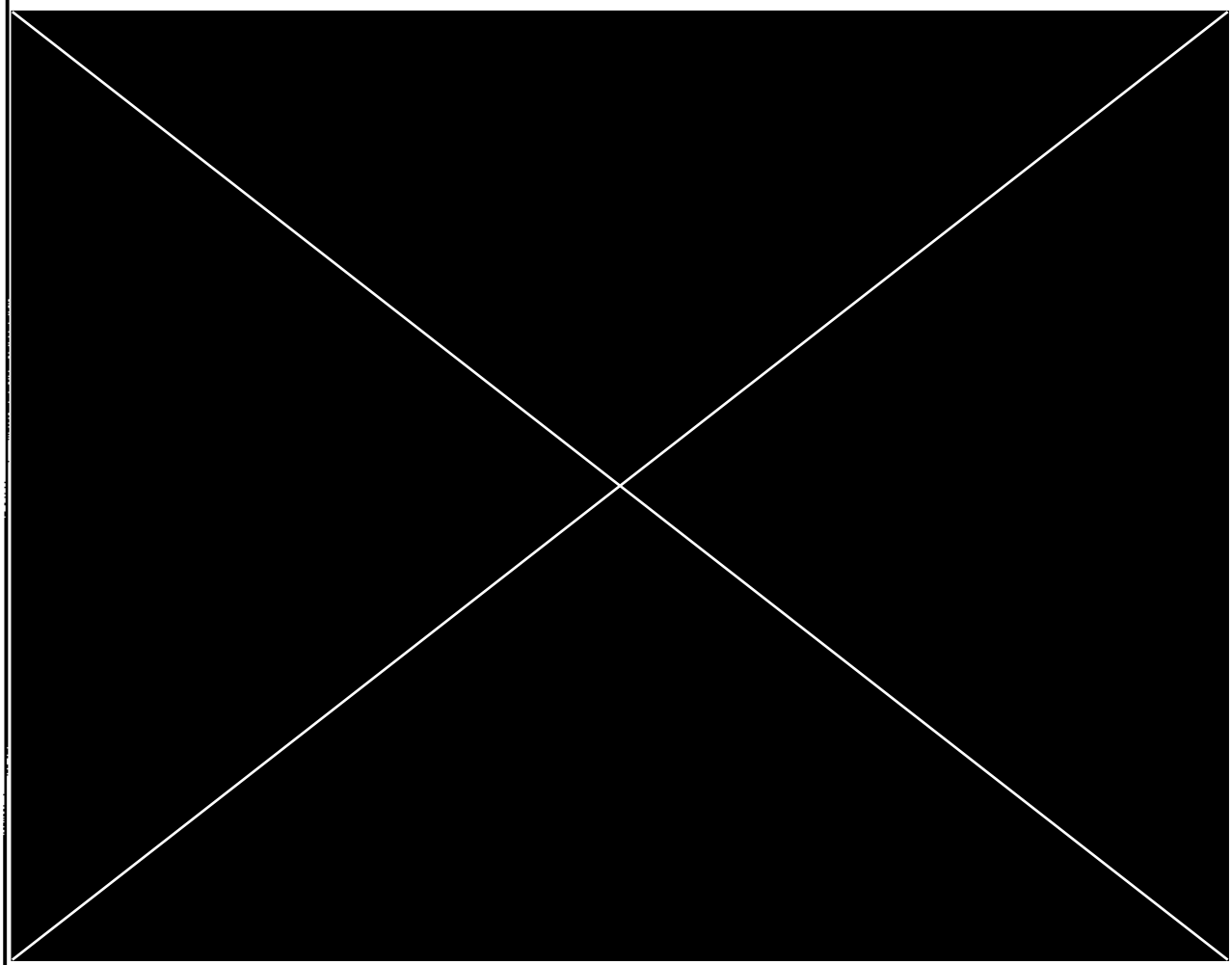

III. LEGAL STANDARD

"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,

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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).

The standard for issuing a temporary restraining order is "substantially identical" to the standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). "It frequently is observed that a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing,* carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

A plaintiff seeking a preliminary injunction must show that: (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. *Winter*, 555 U.S. at 20. Alternatively, a plaintiff can show that there are "serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted).

"A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009) (internal quotation omitted). Where a plaintiff seeks mandatory injunctive relief, "courts should be extremely cautious." *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). Thus, in a mandatory injunction request, the moving party "must establish that the law and facts *clearly favor* [his] position, not simply that

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[he] is likely to succeed." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis in original).

Here, rather than preserving the status quo, Petitioner seeks mandatory injunctive relief in the form of an order requiring his immediate release or, in the alternative, an order requiring that he be transferred to his medical treatment provider within 24-48 hours. Petitioner requests other forms of relief, including the prohibition of redetention without certain procedures, prohibition of transfer outside of the NWIPC without this Court's approval, and an order for Federal Respondents to preserve his records as well as not interfere with his communications with "family, medical providers, and prospective legal counsel." While the Motion should be denied in its entirety because Petitioner has failed to meet his burden for such injunctive relief, this briefing focuses on his requests concerning release from detention.

IV. ARGUMENT

A. Petitioner has not established that the law and facts clearly favor injunctive relief.

1. Petitioner has failed to exhaust his administrative remedies.

Petitioner incorrectly claims that he is being detained pursuant to 8 U.S.C. § 1225(b). Mot., at 8. However, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1231. The IJ has recently denied Petitioner's two requests for change in custody status because of a lack of jurisdiction because he is subject to a final order of removal. *See* Lambert Decl., Exs. A & B. Petitioner appealed the IJ's August denial, and that appeal is pending before the BIA. Booth Decl., ¶ 17. This Court should require Petitioner to exhaust his administrative remedies concerning his custody status before seeking habeas relief in this Court.

Although exhaustion of administrative remedies is not a jurisdictional prerequisite for habeas petitions, courts generally "require, as a prudential matter, that habeas petitioners exhaust

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available judicial and administrative remedies before seeking [such] relief." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006)). The exhaustion requirement is subject to waiver because it is not a "'jurisdictional' prerequisite.'" *Id.*

Courts may require prudential exhaustion where: "(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

This case meets the elements requiring prudential exhaustion. The BIA "has a special expertise in reviewing the question of whether the bond record as a whole makes it substantially unlikely that the Department w[ill] prevail on [the petitioner's] challenge to removability." *Francisco Cortez v. Nielsen*, No. 19-CV-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019) (internal quotation marks omitted). Also, allowing a "relaxation of the exhaustion requirement" would promote the avoidance of an appeal of similar IJ orders to the BIA. Finally, the outcome of the BIA appeal may provide Petitioner with the relief sought here – an individualized bond hearing and ultimately release.

Petitioner's claim that his detention is authorized by Section 1226(a) does not provide this Court with a basis to release him from detention. Mot., at 8. Even if the Court were to find that he was detained under Section 1226(a), then the appropriate remedy would be a bond redetermination hearing – not release from detention.

2. Petitioner's detention comports with procedural due process.

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"Due process is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that Petitioner's detention is consistent with his due process rights. Under *Mathews*, "[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis of (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards," and (3) the Government's interest. *Id.*, at 334-35.

Federal Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). However, Petitioner's interest in his liberty *generally* does not mean that he possesses a separate or heightened liberty interest in the continuation of his conditional release while his removal has been stayed by the Ninth Circuit. The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'" *Rodriguez Diaz*, 53 F.4th at 1206 (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976).

Petitioner claims that his detention is "in direct violation of an active Ninth Circuit stay." Mot., at 8. While his removal may be stayed, the Ninth Circuit's order does not address the issue of detention. *See* No. 20-70877, Dkt. No. 30 (9th Cir. Dec. 7, 2021).[3]

[3] The Government has moved to lift the Ninth Circuit's stay of removal/deportation. Dkt. No. 79.

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Although Petitioner's removal may be stayed, the Government has a strong interest in being prepared to effect his removal, if the Ninth Circuit denies the PFRs. The PFRs are fully briefed, and a decision may be issued soon. USCIS has denied Petitioner's N-400 and Petitioner's PFRs are his last pathway to relief from removal. The Ninth Circuit has emphasized that the *Mathews* test "must account for the heightened government interest in the immigration detention context." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Invoking the Supreme Court's 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz* recognized that "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). Thus, the Government's strong interest in detaining Petitioner for removal outweighs his interest in continued liberty.

3. Petitioner's condition of confinement claim is not properly brought pursuant to habeas because it is outside of core habeas.

Petitioner's claim concerning his medical care and living conditions at the NWIPC challenges the conditions of his confinement. 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 Petitioner's medical care claim 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), that if proven, would be remedied by "a

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judicially mandated change in conditions and/or an award of damages." *Crawford*, 599 F.2d at 892. The appropriate remedy is not a writ of habeas corpus ordering the detainee's release.

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, while Petitioner's Motion challenges ICE's authority for his detention, those claims are wholly separate from his challenge to the condition of his confinement. His medical claims do not overlap factually with his detention claims. The fact that Petitioner is seeking immediate release is insufficient to invoke habeas jurisdiction for his condition of confinement claim. *See*

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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, as described above, his detention is lawful and he cannot demonstrate that his release is warranted. *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). His withholding of medical treatment 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, 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

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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.

4. Petitioner is receiving constitutionally adequate medical care and his conditions of confinement do not violate due process.

Petitioner's 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 by the treatment provider that he prefers. 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 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

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requirements of due process, Petitioner's confinement is thus "reasonably related" to a legitimate government interest. *Bell v. Wolfish*, 441 U.S. 535, 538-39 (1979).

a. Petitioner cannot show that 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 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

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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). 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

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Performance-Based National Detention Standards ("PBNDS") concerning medical care. *See* PBDNS, *available at* https://www.ice.gov/detain/detention-management/2011 (last visited Dec. 7, 2025). 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. 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 contractors to try and secure an appointment for Petitioner's infusion treatment. *Id.*, ¶¶ 8, 11. Thus, contrary to Petitioner's claim that ICE is 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.

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, 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

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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 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 has not demonstrated 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

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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). Further, Petitioner falls well short of demonstrating that his 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 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.

Even if Petitioner could demonstrate a Fifth Amendment violation concerning his conditions of confinement, this Court should not grant his request for release from detention. Petitioner does not claim that he would be unable to obtain appropriate medical care at any facility. He limits his claims to the NWIPC and does not address the treatment that will be provided by the medical specialists with whom ICE contracts. 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

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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. Petitioner has not clearly demonstrated that the law or facts – even if this Court were to find a violation – clearly supports his immediate release.

5. Petitioner has not established that the law and facts clearly favor his position that his conditions of confinement violate the Rehabilitation Act or the American with Disabilities Act ("ADA").

Petitioner likewise fails to establish the required showing of a Rehabilitation Act or ADA violation necessitating mandatory injunctive relief. *See* Mot., at 11-12. Petitioner alleges that "ICE's refusal to allow his PCA, housing him in bright-light isolation, obstructing access to specialist care, and imposing sensory-dangerous conditions constitute disability discrimination." Mot., at 11. Petitioner does not plead that he was denied a benefit due to his disabilities.

The Rehabilitation Act and the ADA prohibit federal agencies from discriminating against people with disabilities. Under Title II of the ADA, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C § 12132. Likewise, Section 504 of the Rehabilitation Act provides that "no otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a).

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A plaintiff has the burden of showing that the defendant violated Section 504 of the Rehabilitation Act[4] and must show that: (1) the plaintiff needed the accommodation to enjoy meaningful access to benefits, (2) the government was on notice that the plaintiff needed the accommodation but did not provide it, and (3) there was a specific reasonable accommodation available. *Mark H. v. Hamamoto*, 620 F.3d 1090, 1097 (9th Cir. 2010).

Petitioner has not pleaded the elements of a valid claim. "[T]he Rehabilitation Act 'prohibit[s] discrimination because of disability, not inadequate treatment for disability.'" *Jacobson v. Contra Costa Cty.*, No. 19-cv-01716, 2019 WL 3555208, at *3 (N.D. Cal. Aug. 5, 2019) (quoting *Simmons v. Navajo Cty.*, 609 F.3d 1011, 1022 (9th Cir. 2019), *overruled on other grounds by Castro v. Cty. of L.A.*, 833 F.3d 1060 (9th Cir. 2016) (en banc)). "The Rehabilitation Act does not impose a general requirement on each recipient of federal funds first to evaluate the effect on disabled people of every proposed action that might touch their interests, and then to consider alternatives for achieving the same objectives with less severe disadvantage to them." *Schmitt v. Kaiser Found. Health Plan of Wash.*, 965 F.3d 945, 955 (9th Cir. 2020) (quotation marks, brackets, and ellipsis omitted). "The causal standard for the Rehabilitation Act is even stricter [than the Americans with Disabilities Act], demanding that [plaintiff] show that she was denied services 'solely by reason of' her disability." *Martin v. Cal. Dep't of Veterans Affairs*, 560 F.3d 1042, 1049 (9th Cir. 2009); *see Chadwick v. Universidad Interamericana de P.R. Inc.*, No. 18-cv-00377-TUC-RM, 2018 WL 4492286, at *4 & n.2 (D. Ariz. Sept. 19, 2018) (RA requires "but for" causation) (citing cases).

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[4] "Title II of the ADA and § 504 of the RA are 'interpreted coextensively because there is no significant difference in the analysis of rights and obligations created by' each provision." *Mayfield v. City of Mesa*, 131 F.4th 1100, 1109 (9th Cir. 2025) (quoting *Payan v. Los Angeles Cmty. Coll. Dist.*, 11 F.4th 729, 737 (9th Cir. 2021) (simplified)).

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Furthermore, to the extent that his Rehabilitation Act and ADA claims concern his medical care, claims arising from allegedly inadequate medical treatment are not cognizable under the Rehabilitation Act or the ADA, especially through a habeas petition. *See, e.g.*, *Simmons v. Navajo Cnty.*, 609 F.3d 1011, 1022 (9th Cir. 2010), *overruled on other grounds by Castro v. Cnty. of Los Angeles*, 833 F.3d 1060 (9th Cir. 2016) (en banc) ("The ADA prohibits discrimination because of disability, not inadequate treatment for disability."); *O'Guinn v. Nev. Dep't of Corr.*, 468 F. App'x 651, 653 (9th Cir. 2012) (challenges to "the adequacy of mental health care cannot be properly brought under the ADA [and Rehabilitation Act]").

Finally, the Rehabilitation Act does not require accommodations that fundamentally alter the nature of the service, program, or activity. *Mark H.*, 620 F.3d at 1098. Release from detention is a fundamental alteration. *See, e.g.*, *Siskos v. Sec'y*, 817 F. App'x 760, 765 (11th Cir. 2020) (release from detention into residential treatment facility due to mental illness would "fundamentally alter the nature" of detention services); *Wragg v. Ortiz*, 462 F. Supp. 3d 476, 514 (D.N.J. 2020) ("release . . . . goes well beyond what the Rehabilitation Act expects").

Accordingly, Petitioner has not established that the law and facts clearly favor his position that ICE has violated the Rehabilitation Act or ADA or that his immediate release would be a reasonable accommodation.

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

Petitioner has not demonstrated that he will suffer irreparable injury absent the mandatory injunctive relief he seeks. To do so, he must demonstrate "immediate threatened injury." *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum Commission v. National Football League*, 634 F.2d 1197, 1201 (9th Cir.1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555

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U.S. at 22. "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] 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." *Winter*, 555 U.S. at 22.

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 he "faces immediate, severe, and irreversible injury," 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 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 inappropriate: if Petitioner were to be released today, he still would not be able to obtain infusions from the Olympia clinic

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given that that clinic determined that he is not tolerant to infusion. *See* Wang Decl., ¶ 9.

Accordingly, Petitioner has not demonstrated that he will be subject to immediate irreparable injury if not released.

3. The balance of the equities and public interests favor the Government.

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 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.

CONCLUSION

For all of the foregoing reasons, Petitioner has not satisfied his high burden of establishing entitlement to mandatory injunctive relief, and his Motion should be denied.

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DATED this 7th day of December, 2025.

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I certify that this memorandum contains 7,683 words, in compliance with the Local Civil Rules.

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