

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LORENA TORRES MENDEZ,	)	
	)	
Petitioner,	)	
v.	)	Civil Action No. 4:25-cv-5752
	)	
FIELD OFFICE DIRECTOR, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**WARDEN MARTIN L. FRINK’S RESPONSE TO HABEAS PETITION [DKT # 1] AND  
MOTION SEEKING DISMISSAL OF NON-HABEAS CLAIMS**

Respondent Martin L. Frink, Warden of the Houston Contract Detention Facility (HCDF), files this response to Lorena Torres Mendez’s Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Dkt # 1] (“Petition”), and Motion seeking dismissal of all non-habeas claims under Federal Rules of Civil Procedure 12(b)(1) or 12(b)(6) or, alternatively, Federal Rule 56.

Warden Frink is one of four (4) named respondents, the others being federal government defendants identified in the Petition as the Field Office Director, ICE Houston, the U.S. Department of Homeland Security, the U.S. Immigration and Customs Enforcement (collectively “Government Respondents”). *See* Petition [Dkt # 1] at p. 1 of 7.

The warden of the facility in which a petitioner is held is a proper respondent in a habeas proceeding. 28 U.S.C. §§ 2242 and 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435, 125 S.Ct. 2711, 159 L.Ed.2d 513 (2004). However, it is the Government Respondents, not Warden Frink, who make custodial decisions regarding noncitizens detained in immigration custody at the HCDF. Warden Frink therefore has no position on the habeas relief sought.

**I. SUMMARY OF THE ARGUMENT**

In addition to seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (“Habeas Claim”), the Petition purports to assert claims for allegedly unsafe conditions of confinement (“Conditions of Confinement Claims”) and allegedly inadequate medical and/or mental health care (“Medical Claims”). Warden Frink is entitled to dismissal on the Conditions of Confinement and Medical Claims.

*Habeas Claim.* While Petitioner Lorena Torres Mendez is being detained by ICE at HCDF, Warden Frink does not make custodial decisions relating to Ms. Torres Mendez, and he does not take a position on the legal grounds asserted for habeas relief, nor on the government’s legal grounds for her continued detention. Warden Frink stands ready to comply with any ruling made by the Court regarding Ms. Torres Mendez’s habeas claims and her continued detention or release.

*Conditions of Confinement Claims.* To the extent the petition is construed to contain a claim for relief other than habeas relief, such as claims relating to petitioner’s conditions of confinement or medical care, Warden Frink moves to dismiss such claims on the grounds that such claims are not properly asserted in a habeas action. Alternatively, Warden Frink is entitled to dismissal of Petitioner’s Conditions of Confinement Claims pursuant to Federal Rule of Civil Procedure 12(b)(6). Petitioner fails to plead specific facts showing the existence of an extensive or pervasive rule, restriction, custom, or practice at the HCDF not reasonably related to a legitimate governmental objective that has caused or is causing a violation of her constitutional rights. A complaint that alleges nothing more than isolated incidents or makes conclusory statements, instead providing sufficient factual content to make the claim plausible on its face, fails to satisfy minimum pleading standards for a conditions of confinement claim.

**Medical Claims.** Warden Frink is entitled to dismissal of Petitioner's Medical Claims pursuant to Federal Rule of Civil Procedure 12(b)(6) or, alternatively, Federal Rule 56. Warden Frink and his employer, CoreCivic, Inc., are not responsible for providing, nor involving in providing, medical, dental or mental health care at the HCDF, nor participating in decisions regarding such care. Rather, ICE Health Service Corps (IHSC), a division of U.S. Immigration and Customs Enforcement, is responsible for medical, dental and mental health care at the HCDF.

## II. STANDARDS OF REVIEW

### A. Federal Rule of Civil Procedure 12(b)(1)

When considering a Rule 12(b)(1) motion challenging subject matter jurisdiction, the court "is free to weigh the evidence and resolve factual disputes in order to satisfy itself that it has power to hear the case." *Montez v. Dep't of the Navy*, 392 F.3d 147, 149 (5th Cir. 2004); *Krim v. Pcorder.com*, 402 F.3d 489, 494 (5th Cir. 2005). The court may consider any of the following to resolve a Rule 12(b)(1) motion: "(1) the complaint alone; (2) the complaint supplemented by the undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts." *Lane v. Halliburton*, 529 F.3d 548, 557 (5th Cir. 2008); *see also Schaeffler v. United States*, 889 F.3d 238, 242 (5th Cir. 2018). The plaintiff bears the burden of establishing subject matter jurisdiction. *Exelon Wind 1, L.L.C. v. Nelson*, 766 F.3d 380, 388 (5th Cir. 2014). If the plaintiff fails to meet his burden, the case must be dismissed. *Id.*

### B. Federal Rule of Civil Procedure 12(b)(6)

Pursuant to Fed. R. Civ. P. 12(b)(6), a court takes all well-pleaded facts as true. *Randall D. Wolcott, MD, PA v. Sebelius*, 635 F.3d 757, 763 (5th Cir. 2011). However, legal conclusions are not entitled to the same assumption. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In order to show that a plaintiff is entitled to relief, a complaint requires more than labels and conclusions, and a

formulaic recitation of the elements of a cause of action will not suffice. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Factual allegations must be enough to state a claim that is not just speculative, but plausible. *St. Germain v. Howard*, 556 F.3d 261, 263 n.2 (5th Cir. 2009). A claim has facial plausibility when the factual content in the pleading allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Montoya v. FedEx Ground Package System, Inc.*, 614 F.3d 145, 148 (5th Cir. 2010) (citing *Iqbal*, 556 U.S. at 678). “[T]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice” under Rule 12(b). *Iqbal*, 556 U.S. at 678. When the allegations in a Complaint, even if true, could not raise a claim of entitlement to relief, “this basic deficiency should ... be exposed at the point of minimum expenditure of time and money by the parties and the court.” *Cuvillier v. Taylor*, 503 F. 3d 397, 401 (5th Cir. 2007) (internal citations omitted).

**C. Federal Rule of Civil Procedure 56**

Summary judgment is appropriate under Rule 56 of the Federal Rules of Civil Procedure only if the pleadings, along with evidence, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *see also* Fed. R. Civ. P. 56(c). Once a motion has been made, the nonmoving party may not rest upon mere allegations or denials in the pleadings but must present affirmative evidence, setting forth specific facts, to show the existence of a genuine issue for trial. *Celotex Corp.*, 477 U.S. at 322-23. If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Id.* at 322. Furthermore, “only reasonable inferences can be drawn from the evidence in favor of the nonmoving party.” *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 469 n.14 (1992) (emphasis in original) (quoting *H.L. Hayden Co. of N.Y., Inc. v. Siemens Med. Sys., Inc.*, 879 F.2d 1005, 1012 (2d Cir. 1989)).

### III. ARGUMENT

#### A. Conditions of Confinement Claims and Medical Claims are not Properly Asserted in a Habeas Petition

Petitioner alleges generally that her conditions of confinement are unsafe and she is not receiving adequate medical or mental health care. There is no factual support for such claims, as addressed below, but the Court need not reach the merits because her claims fail as a matter of law. A habeas petition is an improper vehicle to challenge the conditions of Petitioner's confinement.

Habeas corpus is not available to persons complaining of mistreatment during detention. A civil rights action, rather than a habeas petition, is the proper vehicle for challenging alleged civil rights violations. *Melot v. Bergami*, 970 F.3d 596, 599 (5th Cir. 2020) (“We have noted that a habeas petition is the proper vehicle to seek release from custody, while a civil rights suit ... is the proper vehicle to attack unconstitutional conditions of confinement and prison procedures.”); *see also Burk v. Rios*, No. EP-25-CV-199-LS, 2025 WL 2524138, at \*3 (W.D. Tex. Sept. 3, 2025) (same). Accordingly, district courts dismiss § 2241 petitions challenging conditions of confinement for lack of subject matter jurisdiction. *See Boyle v. Wilson*, 814 F. App'x 881, 882 (5th Cir. 2020) (per curiam) (affirming dismissal of § 2241 petition challenging conditions of confinement for lack of jurisdiction). Petitioner is therefore not entitled to habeas relief on her Conditions of Confinement Claims or Medical Claims.

#### B. Alternatively, Petitioner's Conditions of Confinement Claims and Medical Claims Are Properly Dismissed for Failure to Plead Sufficient Facts in Support of These Claims

Petitioner purports to assert claims for “Unsafe and Traumatic Conditions of Confinement” and “Extreme Hardship and Medical Neglect.” *See* Petition [Dkt # 1] at p. 4 of 7.

ICE detainees' rights are protected by due process guarantees under the Fifth Amendment. *See Rroku v. Cole*, 726 F. App'x 201, 205 (5th Cir. 2018) (“We consider a person detained for deportation to be the equivalent of a pretrial detainee; a pretrial detainee's constitutional claims are considered under the due process clause instead of the Eighth Amendment”), citing *Edwards v. Johnson*, 209 F.3d 772, 778 (5th Cir. 2000). A “conditions of confinement” claim is a challenge to the “general conditions, practices, rules, or restrictions of pretrial confinement.” *See Toure v. Huron*, 2021 WL 75698 at \*3 (W.D. Tex., Cause No. SA-20-cv-1036, January 8, 2021), citing *Hare v. City of Corinth, Miss.*, 74 F.3d 633, 644 (5th Cir. 1996) (en banc). In such a case, “the proper inquiry is whether those conditions amount to punishment of the detainee.” *Id.*, citing *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). If the analysis reveals that “a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to ‘punishment.’” *Id.*, citing *Bell*, 441 U.S. at 539.

“[A] detainee challenging [an institution's] conditions must demonstrate a pervasive pattern of serious deficiencies in providing for his basic human needs; any lesser showing cannot prove punishment in violation of the detainee's Due Process rights.” *Shepherd v. Dallas Cty.*, 591 F.3d 445, 454 (5th Cir. 2009). “Proving a pattern is a heavy burden, one that has rarely been met in our caselaw.” *Id.* at 452.

In this case, Petitioner has not shown a pervasive pattern of serious deficiencies in providing for her basic human needs and therefore fails to state a legally cognizable claim for a lack of substantive due process based on conditions of confinement. Although she alleges she experienced an assault while detained at HCDF, she provides limited facts and does not provide any facts to demonstrate a pervasive pattern of serious deficiencies. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007) (providing that a conclusory complaint—one that fails to state

material facts or merely recites the elements of a cause of action—may be dismissed for failure to state a claim). Petitioner also fails to show that officials acted with deliberate indifference to her medical needs or safety. *See Baughman v. Garcia*, 254 F. Supp. 3d 848, 868–69 (S.D. Tex. 2017) *aff'd sub nom. Baughman v. Seale*, 761 F. App'x 371 (5th Cir. 2019) (applying deliberate indifference standard to a due process claim). Torres Mendez did not inform CoreCivic staff of the alleged assault on June 25, 2025, and no grievance was filed by Torres Mendez. *See Frink Declaration*, attached as Exhibit A, at ¶ 8.

Although Petitioner complains the access to medical and mental health care she has been provided is insufficient to address her medical needs, she fails to plead facts suggesting Respondents subjectively knew or believed the measures taken were inadequate so as to demonstrate Respondents were deliberately indifferent to Petitioner's medical needs or safety. *See Valentine v. Collier*, 956 F.3d 797, 801–03 (5th Cir. 2020). Indeed, the Petition and its exhibits establish on their face that Plaintiff has received medical care.

A complaint “must contain sufficient factual matter ... to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Because the Petition fails to state a legally cognizable claim that Petitioner's conditions of confinement violate her due process rights, her Conditions of Confinement Claims are properly dismissed under Federal Rule of Civil Procedure 12(b)(6).

**C. Alternatively, Claims for Inadequate Medical and Mental Health Care at HCDF Are Not Properly Asserted Against Warden Frink**

Warden Frink is not a proper defendant with regard to any Medical Claims Petitioner may assert, and Petitioner has pled no facts to suggest that he is.

As warden of the HCDF, Warden Frink oversees the HCDF's physical structure, equipment and facilities, which includes adequate space for health services to be rendered to detainees. *See*

Frink Declaration, attached as Exhibit A, at ¶ 4. However, neither Warden Frink nor his employer, CoreCivic, Inc. (“CoreCivic”) has any responsibility for, or role in, rendering health care services to ICE detainees at the HCDF, and Warden Frink and CoreCivic do not participate in any detainee’s medical, dental or mental health care or decisions regarding any such care. *Id.*

Effective August 18, 2020, CoreCivic entered into a contract with ICE to provide comprehensive Detention and Transportation Services at HCDF (“HCDF Contract”). *Id.* at ¶ 5. Incorporated into the HCDF Contract as Section C is a Performance Work Statement for Detention Services Texas-Wide (“PWS”). *Id.* at ¶ 5. The HCDF Contract provides that CoreCivic “shall house detainees and provide the necessary physical structure, equipment, and facilities on a 24 hours a day, 7 days per week, 365 day per-year basis.” *Id.* at ¶ 6. It also specifies that CoreCivic “shall provide services in accordance with the PWS ...” *Id.* The PWS states that CoreCivic “**shall not be responsible for the provision of health care services for ICE detainees at the facility. Such services shall be provided by ICE Health Services Corps (IHSC).**” *Id.* at ¶ 7.

IHSC is a division of ICE that provides and oversees medical, dental, and mental health care for non-citizens detained in ICE custody and ensures compliance with national health care standards in detention facilities. *Id.* As such, CoreCivic, and Warden Frink rely on IHSC’s determination of what medical and mental health care a detainee (including Petitioner Torres Mendez) may require and whether any accommodation is needed for a detainee’s health condition(s), including Petitioner Torres Mendez’s. *Id.* Warden Frink and CoreCivic also rely on IHSC to provide or arrange any necessary care, assisting only with transportation and logistics as directed by ICE. *Id.*

Because IHSC, not Warden Frink or CoreCivic, has the responsibility to provide necessary medical, dental and mental health care to detainees at the HCDF, including to Petitioner Torres

Mendez, neither Warden Frink nor other CoreCivic employees have participated in Torres Mendez's medical or mental health care, nor in any decisions about such care. *Id.*

For these reasons, Warden Frink is entitled to dismissal of Petitioner's Medical Claims pursuant to Federal Rule of Civil Procedure 12(b)(6) or, alternatively, Federal Rule of Civil Procedure 56.

#### IV. CONCLUSION

For the reasons stated above, Respondent Warden Martin Frink takes no position on the habeas relief requested, and asks the Court to dismiss all claims for relief other than habeas relief, including any conditions of confinement and medical/mental health care claims brought by Petitioner Lorena Torres Mendez against Warden Martin Frink under Federal Rules 12(b)(1) and 12(b)(6) or, alternatively, Federal Rule 56.

Dated December 24, 2025.

Respectfully submitted,

By: /s/ Danya W. Blair  
Danya W. Blair – Attorney in Charge  
Texas Bar No. 00790315  
AKERMAN LLP  
7550 I-10, Suite 800-1469  
San Antonio, TX 78229  
Telephone (210) 582-0221  
Facsimile (210) 582-5721  
[danya.blair@akerman.com](mailto:danya.blair@akerman.com)

**ATTORNEY FOR RESPONDENT  
WARDEN MARTIN FRINK**

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served on all counsel of record by ECF on December 24, 2025.

/s/ Danya W. Blair