District Judge Tana Lin

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

GREGGY SORIO, Petitioner, v. LAURA HERMOSILLO, *et al.*, Respondents.	Case No. 2:25-cv-02492-TL FEDERAL RESPONDENTS'[1] OPPOSITION TO PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER Noted for Consideration on: December 15, 2025

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

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I. INTRODUCTION

Petitioner Greggy Sorio fails to make a clear showing that he is entitled to the extraordinary remedy of a temporary restraining order ("TRO"). Dkt. No. 2, TRO Motion ("Motion" or "Mot."). Section 241 of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1231, mandates Petitioner's detention pending his removal. 8 U.S.C. § 1231(a)(2)(A). U.S. Immigration and Customs Enforcement ("ICE") attempted to execute Petitioner's removal order on December 7, 2025. After Petitioner had boarded his flight to the Philippines, unknown individuals informed airline staff that Petitioner was not fit to travel. Although Petitioner had been medically cleared to travel, the escorting officers at the airport did not have documentation of this clearance. As a result, the airline did not allow Petitioner to remain on the flight. Petitioner was returned to the Northwest ICE Processing Center ("NWIPC").

The Petition contests that he is medically fit to travel. It asks this Court to (1) enjoin his removal until he is medically stable, and (2) order Respondents to "allow Petitioner to seek adequate medical care and stabilize until such a time as he can be safely removed to the Philippines." Dkt. No. 2-1, Proposed Order.[2] This Court should deny these requests.

First, the issue of removal is no longer an issue to be decided on an emergency basis. ICE agreed not to remove Petitioner from the United States or transfer him to another facility during the pendency of this litigation before this Court. Dkt. No. 10. This Court included this stipulated provision in its Order. Dkt. No. 11. As a result, there is no imminent risk of Petitioner's transfer or removal. Thus, the issue of his removal beyond this litigation would be more appropriately addressed in the Court's decision on the habeas petition.

[2] While Petitioner does not explicitly ask to be released from detention as part of the Motion, his request to "seek adequate medical care" implies that he is seeking release as his Motion is based on his claim that medical care at the NWIPC is inadequate. As described below, release is not an appropriate remedy even if he were to prevail here.

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1 Second, Petitioner's medical treatment and conditions of confinement claim does not
2 provide a basis for mandatory injunctive relief. Petitioner incorrectly asserts that he was denied
3 adequate medical care at the NWIPC in violation of Fifth Amendment substantive due process.
4 Not only was Petitioner afforded adequate medical care while at the NWIPC, but he was also
5 referred to outside specialists for treatment not available within the NWIPC. Now that Petitioner
6 has been returned to NWIPC, he continues to have access to and obtain medical treatment.
7 Moreover, Petitioner provides no legal basis for this Court's ability to order that Petitioner be
8 seen by a specific medical provider. Rather, even if his Court were to find that Petitioner's
9 medical care at the NWIPC is not adequate, the appropriate remedy would be for this Court to
10 order that Petitioner receive the appropriate medical care – not care by a specific provider.
11 Accordingly, Federal Respondents respectfully request that this Court deny the Motion.
12 This Opposition is supported by the Declaration of Yralees Melendez Diaz ("Melendez Diaz
13 Decl.") and the Declaration of Dr. Eddie Ling-Tse Wang ("Wang Decl.").

14
II. FACTUAL BACKGROUND

15
A. Immigration Background

16 Petitioner is a native and citizen of the Philippines who was admitted into the United
17 States in 2007 as a lawful permanent resident. Melendez Diaz Decl., ¶¶ 4-5. Since 2010,
18 Petitioner has been convicted of numerous crimes, including violation of a domestic violence
19 protection order in 2019 and assault in 2024. *Id.*, ¶¶ 6-7. ICE took custody after he was released
20 from the Anchorage Correctional Complex in Anchorage, Alaska in February 2025. *Id.*, ¶ 8. He
21 was transferred to the NWIPC shortly thereafter. *Id.*, ¶ 10.
22 In February, U.S. Department of Homeland Security ("DHS") issued Petitioner with a
23 Notice to Appear, charging him as removable pursuant to 8 U.S.C. § 1227(A)(2)(E)(ii). *Id.*, ¶ 9.
24 On October 2, 2025, an immigration judge ordered Petitioner to be removed to the Philippines.

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1 *Id.*, ¶ 11. As Petitioner waived appeal, this order immediately became administratively final. As
2 a result, the 90-day removal period commenced. 8 U.S.C. § 1231(a)(1)(B)(i). Detention during
3 the removal period is mandatory.

4 On November 26, 2025, Petitioner, through counsel, filed an application for stay of
5 removal with DHS based on exceptional medical need. Pet., ¶ 27, Ex. A. On December 6, 2025,
6 ICE denied the request. *Id.*, ¶ 28, Ex. B.

7 After being medically cleared for travel, ICE attempted to remove Petitioner to the
8 Philippines on December 7, 2025. Melendez Diaz Decl., ¶¶ 12-14. ICE transported Petitioner to
9 the airport for his flight on Philippines Airlines. *Id.*, ¶ 13. U.S. Customs and Border Protection
10 ("CBP") took custody of Petitioner at the airport. CBP then escorted Petitioner onto the plane.
11 *Id.* However, two unknown individuals approached the airline after Petitioner had boarded the
12 plane and requested to conduct a medical evaluation, which delayed the flight. *Id.*, ¶ 14.
13 Ultimately, the airline removed Petitioner from the flight. *Id.* Petitioner was returned to the
14 NWIPC pending his removal. *Id.*, ¶ 15.

15 The Philippines Consulate informed ICE that Petitioner called the Consulate the day after
16 he was removed from the flight to request "the Consulate's assistance to coordinate with ICE-
17 ERO in securing the required clearance from the ICE doctor because he wants to go back to the
18 Philippines as soon as possible." *Id.*, Ex. A. Petitioner further informed the Consulate "that he is
19 able to travel to the Philippines." *Id.* The Consulate issued an updated travel document on
20 December 8, 2025, so that Petitioner can travel to the Philippines.

21 **B. Medical Treatment at NWIPC**

22 Medical care at the NWIPC is provided by the ICE Health Service Corps ("IHSC"). *See*
23 Wang Decl., ¶¶ 1-4. NWIPC also has collaborative agreements with local specialty services for
24 outside referrals. *See id.*, ¶ 11.

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1 Since arriving at NWIPC, Petitioner has been seen by IHSC medical staff on numerous
2 dates. *Id.*, ¶¶ 7, 8 9. Petitioner first interacted with IHSC on July 24, 2025, due to diarrhea. *Id.*,
3 ¶ 7. Petitioner has been diagnosed with ulcerative colitis and inflammatory bowel syndrome.
4 *Id.*, ¶¶ 8, 10. Petitioner has undergone a full medical workup at the hospital and follow up with a
5 gastroenterologist on November 26, 2025. *Id.*, ¶¶ 8, 10. Dr. Wang opines that ulcerative colitis
6 and inflammatory bowel syndrome are not conditions which necessarily medically restrict travel.
7 *Id.*, ¶¶ 8, 10.

8 In October, Petitioner underwent two amputations to his due to osteomyelitis. *Id.*, ¶ 9.
9 After having not reported any issues with his toe when he was seen by the emergency department
10 concerning gastrointestinal issues on October 16, 2025, Petitioner first reported having toe pain
11 to IHSC on October 20, 2025. *Id.*, ¶ 12. IHSC immediately initiated antibiotic treatment. *Id.* He
12 was transported to the emergency room two days later when he reported worsening pain while on
13 antibiotics. *Id.* Unfortunately, his osteomyelitis required amputations to his right fifth digit on
14 October 27 and 29, 2025. *Id.*, ¶ 9. Petitioner returned to the NWIPC from the hospital on
15 November 12, 2025. *Id.* IHSC treated his surgical wound at various appointments and removed
16 his sutures on November 20, 2025. *Id.* At subsequent appointments, various providers found
17 that his wound was healing well. *Id.* Petitioner's wound has closed. The records indicate that
18 there were no signs of discharge, redness, or infection. *Id.* Dr. Wang states that "[a] right foot
19 surgical wound with near complete healing does not necessitate a medical hold for travel. *Id.*

20 While at NWIPC, Petitioner has also been seen for chest pains. On October 20, 2025,
21 medical records indicate that Petitioner had "brief episode of chest pain, due to anxiety; no chest
22 pain at visit." *Id.*, ¶ 12. Petitioner's electrocardiogram ("EKG") was normal. *Id.* On November
23 8, 2025, Petitioner had a cardiac Echo with normal findings. *Id.*
24

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In sum, Dr. Wang opines that the Petition's general allegation that there has been a failure to provide him with necessary and appropriate healthcare is unsupported by the medical records. *Id.*, ¶ 15. In Dr. Wang's medical opinion, Petitioner is fit for travel. *Id.*, ¶ 19.

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).

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

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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 [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 emergency mandatory injunctive relief in the form of an order requiring medical care beyond what is deemed necessary and appropriate by IHSC medical. While Petitioner frames his request as seeking "adequate medical care," he is seeking an order for ICE to obtain medical care by his preferred providers – not IHSC. While this Motion should be denied in its entirety because Petitioner has failed to meet his burden for the requested injunctive relief, this briefing focuses on his claims concerning his medical care and the denial of his request for stay of removal as ICE has already agreed not to remove Petitioner from the United States while the habeas petition is pending.

IV. ARGUMENT

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

1. This Court lacks jurisdiction to review Petitioner's challenge to ICE's denial of his administrative stay of removal. (Pet., Count I)

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The INA bars this Court's review of Plaintiff's challenges to the denial of his administrative request for a stay of removal. 8 U.S.C. § 1252(g). Congress has spoken clearly, emphatically, and repeatedly, providing that "no court" has jurisdiction over "any cause or claim" arising from the execution of removal orders, "notwithstanding any other provision of law," whether "statutory or nonstatutory," including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g).

In the exercise of its constitutional power to define federal court jurisdiction, in 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which repealed the existing scheme for judicial review of final orders of deportation and replaced it with a more restrictive scheme. *See Reno v. American-Arab Anti-Discrimination Committee* (*"AADC"*), 525 U.S. 471, 474 (1999). Among the IIRIRA amendments to the INA, Congress provided in the newly-enacted Section 1252(g) that:

> Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.

8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended Section 1252(g) to clarify that the statute's proscription against jurisdiction does in fact apply to habeas and mandamus actions. *See* REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, Section 1252(g), now provides that:

> Except as provided in this section and notwithstanding any other provision of law, *(statutory or nonstatutory), including section 2241 of Title 28*, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

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1 8 U.S.C. § 1252(g) (2017) (emphasis added).

2 In *AADC*, the Supreme Court held that Section 1252(g) precludes judicial review of three
3 discrete actions that DHS may take: the "'decision or action' to '*commence* proceedings,
4 *adjudicate* cases, or *execute* removal orders.'" 525 U.S. at 482 (original emphasis). With a valid
5 order of removal, any request for this Court to enjoin Plaintiff's removal falls directly within one
6 of the discrete actions precluded from judicial review.

7 While Plaintiff fashions his claim as a procedural due process claim, the claim challenges
8 to ICE's denial of his administrative request for a stay. Pet., Claim I. Petitioner claims that he
9 lacked an opportunity to be heard and "was not able to present evidence of medical opinions
10 from non-ICE medical professionals." Pet., ¶ 82. This claim directly attacks ICE's discretionary
11 denial of his stay request, including the sufficiency of ICE's consideration. *See Rauda v.*
12 *Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) ("No matter how Matias frames it, his challenge is to
13 the Attorney General's exercise of his discretion to execute Matias's removal order, which we
14 have no jurisdiction to review.").

15 This squarely falls within ICE's decision to execute his removal order, which is
16 precluded from judicial review by 8 U.S.C. § 1252(g). *Fatty v. Nielsen*, No. 17-cv-1535, 2018
17 WL 3491278, at *2 (W.D. Wash. Jul. 20, 2018) ("Were Mr. Fatty challenging his removal or the
18 discretionary denial of his request for stay of removal, review of that challenge clearly would be
19 precluded by Section 1252(g)."). However, even if this Court had jurisdiction to review this
20 claim, it lacks merit. Petitioner had an opportunity to be heard when, through counsel, he
21 submitted his request, along with supporting evidence – medical records. Pet., Ex. A. Petitioner
22 cites to inapposite case law concerning the right to be heard by a neutral decisionmaker prior to
23 redetention. Mot., at 7. Petitioner cites to no legal support that a hearing by a neutral decision
24 maker is required in relation to an administrative stay of removal. In fact, the regulations

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1 concerning this discretionary determination explicitly provide that a denial is not
2 administratively appealable. 8 C.F.R. § 241.6(b). Accordingly, Petitioner has not demonstrated
3 that the facts and law clearly favor his claim that his procedural due process rights were violated
4 with respect to the denial of his application for an administrative stay of removal.

5
6 **2. Petitioner's condition of confinement claim is not properly brought pursuant to habeas because it is outside of core habeas. (Pet., Counts II & III)**

7 Petitioner's claims concerning his medical care at the NWIPC challenge the conditions of
8 his confinement. This Court should not consider the conditions of confinement as part of a 28
9 U.S.C. § 2241 habeas corpus petition. *See Pinson v. Carvajal*, 69 F.4th 1059, 1069 (9th Cir.
10 2023), *cert. denied sub nom. Sands v. Bradley*, 144 S. Ct. 1382 (2024). The Court should thus
11 dismiss Petitioner's medical care claim for lack of jurisdiction. "[T]he writ of habeas corpus is
12 limited to attacks upon the legality or duration of confinement." *Crawford v. Bell*, 599 F.2d 890,
13 891 (9th Cir. 1979). In *Crawford*, the Ninth Circuit held that "release from confinement" was
14 not the appropriate remedy to address the petitioner's claims "alleg[ing] that the terms and
15 conditions of [petitioner's] incarceration constitute[d] cruel and unusual punishment" and
16 "violated his due process rights." *Id.*, at 891-92. Such a claim must be brought as a civil rights
17 claim, *Dohner v. Seifert*, 5 F.3d 535 (9th Cir. 1993), that if proven, would be remedied by "a
18 judicially mandated change in conditions and/or an award of damages." *Crawford*, 599 F.2d at
19 892. The appropriate remedy is not a writ of habeas corpus ordering the detainee's release.
20 The Ninth Circuit's decision in *Pinson v. Carvajal* solidified the rule that a habeas claim
21 is one challenging the fact of confinement, rather than the conditions of confinement. 69 F.4th at
22 1072-73. There, two inmates sought habeas relief, arguing that the conditions of their
23 incarceration during the COVID-19 pandemic violated the Eighth Amendment. *Id.*, at 1062.
24 The Ninth Circuit rejected claimant Sands' argument that only habeas relief could ameliorate the

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1 harm inflicted on him by the government's ongoing failure to sufficiently treat his underlying
2 illnesses and protect him from exposure to the coronavirus. *Id.*, at 1063, 1065-66, 1075. In so
3 doing, the Ninth Circuit affirmed the district court's dismissal of Sands' habeas petition for lack
4 of jurisdiction, delineating that "the relevant question is whether, based on the allegations in the
5 petition, release is *legally required* irrespective of the relief requested." *Id.*, at 1072. In
6 dismissing the petition, the Court concluded that Sands challenged only the conditions of his
7 confinement and not the underlying legal basis for that confinement, and therefore his claim was
8 "outside the core of habeas." *Id.*, at 1073. Consequently, pursuant to *Pinson*, an individual's
9 claim is at "the core of habeas corpus" if it "(1) goes directly to the constitutionality of the
10 physical confinement itself and (2) seeks either immediate release from that confinement or the
11 shortening of its duration." *Id.*, at 1069 (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973))
12 (cleaned up); *see also Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (reiterating *Pinson*'s
13 holding).

14 Here, Petitioner's medical claims are insufficient to invoke habeas jurisdiction. *See*
15 *Pinson*, 69 F.4th at 1072-73 ("[A] successful claim sounding in habeas necessarily results in
16 release, but a claim seeking release does not necessarily sound in habeas."). Rather, Petitioner
17 must show that his detention is without legal authorization, but, his detention is lawful under 8
18 U.S.C. § 1231(a) and he cannot demonstrate that his release is warranted. *See id.*, at 1070; *see,*
19 *e.g.*, *Luedtke v. Ciolli*, No. 21-15670, 2023 WL 6060605, at *1 (9th Cir. Sept. 18, 2023) (unpub.)
20 (affirming dismissal of a habeas petition where the claimant's allegations were that his medical
21 conditions require his immediate release from confinement). His withholding of medical
22 treatment claim is thus "a garden-variety Eighth Amendment claim based on the deliberate
23 failure to deliver adequate medical care, which is a standard civil rights claim." *Pinson*, 69 F.4th
24 at 1073 (citing *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 78 (2001) (Stevens, J., dissenting)

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(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).

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.

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

Petitioner's detention does not violate substantive due process as the medical care he has received at the NWIPC is constitutionally adequate. He cannot establish a substantive due

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