

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00140-LTB-RTG

HASSAN CHARA,

Petitioner,

v.

ROBERT GUARDIAN, Denver Field Office Director ICE Enforcement and Removal  
Operation,

Respondent.

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**RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

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**Richard T. Gurley, United States Magistrate Judge**

This matter comes before the Court on the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 filed *pro se* by Petitioner Hassan Chara. (ECF No. 1). Because Mr. Chara is *pro se*, the Court liberally construes his filings, but will not act as an advocate. *James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013). The matter has been referred to this Court for recommendation (ECF No. 5).

After reviewing the case file and considering the applicable law, the Court respectfully recommends that the § 2241 application and this action be dismissed without prejudice.

**BACKGROUND**

Mr. Chara is an immigration detainee at the ICE Aurora Contract Detention

Facility in Aurora, Colorado. In his habeas application, Mr. Chara names Robert Guardian, Denver Field Office Director ICE Enforcement and Removal Operation, as respondent. (ECF No. 1 at 1). However, the warden of the ICE Aurora Contract Detention Facility (or its institutional equivalent) is the respondent who has immediate physical custody over Mr. Chara. The application presents four claims for relief. The claims and allegations will be quoted verbatim—and in their entirety—without correcting or identifying errors in spelling, grammar, formatting, or punctuation:

CLAIM ONE: The fifth amendment of due process. No person should be deprived of life, liberty or property with out due process. As an alien I'am entitled to due process.

Supporting (A): The judge order from deportation to my country of origin.

Claim Two: I'am not a flight risk. There are no Indication that I would miss apperances at proedings so the continuation of my detention is excessive. supporting (A): I do not have criminal records I follow The law and I'am safe for The commity. There are evidence. That show that I will violate any rules during the processings I'am waiting for deportation after the judge order.

Claim THREE: I have been waiting for more than 180 days after the judge order from deportation to my country of origine.

Supporting (A): I do not have Information in regards to why I'am still in detention beyond the lawful time period after a judge decision 90 days. If the judge decision has power, then my detention is lawful.

Claim Four: My preexistin physical and mental health is deteriorating due to condition of detention facility and inadequate medical care.

supporting (A): I have been detained since June 2024. The lack of contact with my family worsened my physical and mental health. I was transferred to another prison and have ben held in a cell measuring 4 meters by 2 meters for the past 20 days.

(*Id.* at 2-3). As relief, Mr. Chara seeks release from immigration custody. (*Id.* at 5).

On January 21, 2026, the Court ordered Mr. Chara to file an amended § 2241

application to address several pleading deficiencies, including: the failure to name his custodian as the respondent; the failure to clearly allege the violation of a federal right; and that conditions of confinement challenges may not be raised in a habeas corpus case. (See ECF No. 3). Mr. Chara hasn't filed an amended § 2241 application that complies with the Court's order to amend, and the time to do so has passed. (See docket). The Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, filed on January 13, 2026, is therefore the operative pleading in this matter. (ECF No. 1)

The habeas application and this action should be dismissed for several reasons.

## DISCUSSION

### 1. Failure to comply with a court order and Habeas Rule 2(a).

Mr. Chara hasn't filed an amended habeas application naming as respondent the warden of the ICE Aurora Contract Detention Facility as ordered and as required by Habeas Rule 2(a). The proper respondent in a habeas corpus action is "the person who has custody over [the petitioner]." 28 U.S.C. § 2242; *see also* 28 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having custody of the person detained."). In most cases, there is "only one proper respondent to a given prisoner's habeas petition," and the proper respondent generally is "the warden of the facility where the prisoner is being held." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). Under Habeas Rule 2(a), "the petition must name as respondent the state officer who has custody."

Mr. Chara's operative habeas application does not name his custodian as

respondent. Nor has Mr. Chara filed an amended habeas application as ordered. Thus, the operative pleading violates Habeas Rule 2(a) and Mr. Chara has disregarded the Court's order to amend, making dismissal without prejudice appropriate. *U.S. ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) (holding that "dismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules").

**2. Failure to allege with particularity the violation of a federal right.**

Habeas corpus relief is warranted only if Mr. Chara "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Although the court must construe the application liberally, "the court cannot take on the responsibility of serving as the litigant's attorney in constructing arguments and searching the record." *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Under Habeas Rules 2(c)(1) and 2(c)(2), Mr. Chara must identify the specific federal claim he is asserting, and he must provide specific factual allegations in support of the claim. The Habeas Rules are more demanding than the rules applicable to ordinary civil actions, which require only notice pleading. See *Mayle v. Felix*, 545 U.S. 644, 655 (2005). "A prime purpose of Rule 2(c)'s demand that habeas petitioners plead with particularity is to assist the district court in determining whether the State should be ordered to 'show cause why the writ should not be granted.'" *Id.* at 656 (quoting 28 U.S.C. § 2243). Naked allegations of constitutional violations are not cognizable in a habeas corpus action. See *Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per

curiam).

Mr. Chara's application fails to plead a cognizable federal claim. He does not clearly explain why he is being detained or how his detention violates his federal rights—he alleges only that he has been in immigration custody for over 180 days. At most, the application includes naked allegations of constitutional violations. It is therefore subject to dismissal for failing to clearly plead a cognizable federal claim.

**3. Petitioner may not challenge the conditions of his confinement in a habeas corpus action.**

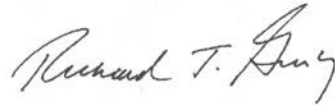
Though not clear, Mr. Chara's fourth claim alludes to inadequate medical care at the detention facility. Such claims may not be brought in a habeas corpus action. Habeas corpus and civil rights actions are separate and distinct. On one hand, "the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). On the other hand, "prisoners who wish to challenge only the conditions of their confinement, as opposed to its fact or duration, must do so through civil rights lawsuits filed pursuant to 42 U.S.C. § 1983 or *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) - not through federal habeas proceedings." *Standifer v. Ledezma*, 653 F.3d 1276, 1280 (10th Cir. 2011). Constitutional attacks that do not affect the fact or duration of confinement are not grounds for federal habeas corpus relief and therefore should not be brought in a habeas corpus petition. See *Nelson v. Campbell*, 541 U.S. 637, 643 (2004).

### RECOMMENDATION

For these reasons, it is respectfully recommended that the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (ECF No. 1) be **denied** and this action **dismissed without prejudice**.<sup>1</sup>

DATED March 19, 2026.

BY THE COURT:



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Richard T. Gurley  
United States Magistrate Judge

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<sup>1</sup> Be advised that all parties shall have fourteen (14) days after service hereof to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned. Fed. R. Civ. P. 72(b). The party filing objections must specifically identify those findings or recommendations to which the objections are being made. The District Court need not consider frivolous, conclusive or general objections. A party's failure to file such written objections to proposed findings and recommendations contained in this report may bar the party from a de novo determination by the District Judge of the proposed findings and recommendations. *United States v. Raddatz*, 447 U.S. 667, 676-83 (1980); 28 U.S.C. § 636(b)(1). Additionally, the failure to file written objections to the proposed findings and recommendations within fourteen (14) days after being served with a copy may bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted or adopted by the District Court. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).