

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

DANE LASHLEY,

Petitioner,

v.

Warden of Folkston ICE Processing Center; George STERLING, in his official capacity as Director of the Atlanta Field Office, Immigration and Customs Enforcement, Todd LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; and Pamela BONDI, in her official capacity as Attorney General, United States Department of Justice,

Respondents.

Case No. _____

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT**

INTRODUCTION

1. This case concerns the Government's detention of Dane Lashley, a young man with significant special needs.

2. Mr. Lashley, who lived in a state-funded group home for mentally disabled persons prior to being taken into custody, has long been diagnosed with a mental health disease that requires daily care, significant medications, and connective support through ACT providers.

3. ACT is an intensive program geared toward providing support for those who have mental disabilities and need support to maintain independent life. A letter from his Psychiatrist Elissa Lapide, MD is attached describing his diagnosis and his support system.

4. The letter from the doctor confirms his diagnoses and that his incarceration is posing a threat of serious harm to his health and well-being.

5. Mr. Lashley has never received an NTA nor is there any pending case in EOIR against him.

6. Mr. Lashley has legal permanent residency in the United States.

7. His incarceration is causing irreparable harm, both to his constitutional rights as well as to his actual health and well being, due to his special needs and protected mental health issue.

8. We pray this court for a writ of habeas corpus accordingly and will be seeking an emergency TRO simultaneously with the filing of this petition, for this immediate release so he can rejoin his ACT therapeutic community, doctors, and his mother.

PARTIES

9. Petitioner is a lawful permanent resident, detained at the Folkston ICE Processing Center in Folkston, Georgia.

10. Respondent George Sterling is named in his official capacity as the Director of the Atlanta Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security ("DHS"). In this capacity, he is responsible for the administration of immigration laws and the execution of detention determinations and is a custodian of Petitioner. Respondent Sterling's address is 180 Ted Turner Dr SW, Ste 522, Atlanta, GA 30303.

11. Respondent Warden is named in his official capacity as the Warden of the Folkston ICE Processing Center. As Warden, he is responsible for the operations of the

Folkston ICE Processing Center, including overseeing the people in the facility's custody, and as such he is a custodian of the Petitioner. Respondent Warden's address is 3026 GA-252 E, Folkston, GA 31537.

12. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Southern District of Georgia; is legally responsible for any effort to detain Petitioner; and as such is a custodian of the Petitioner. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

13. Respondent Kristi Noem is named in her official capacity as the Secretary of the Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a); routinely transacts business in the Southern District of Georgia; is legally responsible for any effort to detain Petitioner; and as such is a custodian of the Petitioner.

Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

14. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In this capacity, she routinely transacts business in the Southern District of Georgia; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g); and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

JURISDICTION & VENUE

15. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); and Article I, § 9, cl. 2 (Suspension Clause) of the U.S. Constitution.

16. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

17. Venue is proper in the Southern District of Georgia under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is physically detained in this District at the ICE Processing Center in Folkston, Georgia. Respondent Warden is the Director of the Folkston ICE Processing Center.

FACTS

A. Background

18. Mr. Lashley is a lawful permanent resident of the United States.

19. He is a young man with special needs, confirmed by doctors, with a significant mental health diagnosis; one that requires daily care, medication, and ACT therapeutic community supervision.

20. He is very active with his ACT community and thrives under their care. See attached.

21. Before being taken into custody, he resided in a group home for adults with special needs in the State of New York. See attached.

22. He requires regular medication, administered in the modality of a shot, as well as other therapeutic support in order to maintain his general health and mental stability. See attached letter from his doctor.

23. His incarceration is posing a threat to his safety and well being. See attached letter from his doctor.

24. To date, we are unaware of any NTA and he is not found within the EOIR system.

25. He was arrested at JFK airport upon returning from a family trip to Barbados with his mother.

26. Presumably, his arrest is related to a low-level criminal conviction out of the state of New York, presently being constitutionally challenged, as it clearly and unambiguously was the result of constitutional error and was triggered by his mental health disability.

27. Incarceration is catastrophic for a person of this disability and poses a legitimate threat to his health and ability to be mentally stable.

28. Since his arrest, Petitioner has been detained and denied adequate mental health care that is therapeutically equivalent to that which he had been receiving prior to his arrest.

29. Petitioner has not been receiving necessary medications prescribed by his treating physicians.

30. His mental health continues to deteriorate as he decompensates while in custody.

EXHAUSTION OF REMEDIES DOES NOT APPLY

31. In general, a § 2241 petitioner must exhaust available administrative remedies before he can obtain relief in federal court. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75 (11th Cir. 2015). However, the exhaustion requirement in § 2241 cases is “judge-made,” rather than jurisdictional, *id.*, and the Supreme Court has described “three broad sets of circumstances” where “the interests of the individual weigh heavily against requiring administrative exhaustion.” *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992).

32. At least two of those circumstances apply here.

33. First, “requiring resort to the administrative remedy” would cause petitioner “undue prejudice” due to the “irreparable harm” he would suffer if “unable to secure immediate judicial consideration of his claim.” *Id.* at 146–47. As set forth *infra*, Respondents are causing petitioner irreparable harm by detaining him in violation of his First and Fifth Amendment rights as briefed *infra*. See also *FF Cosms. FL, Inc. v. City of Miami Beach*, 866 F.3d 1290, 1298 (11th Cir. 2017) (citing *Elrod v. Burns*, 427 U.S. 347, 373–74 (1976)). Delaying this Court’s review of his unlawful detention would only prolong his constitutional injuries. In addition, Mr. Guevara is suffering several other irreparable harms from his detention, including the deprivation of his liberty, separation from his family, ACT therapy community, and the routine of medication and community supervision that keeps him well and stabilized.

34. Second, the administrative remedy here is inadequate because the BIA “lacks institutional competence to resolve the particular type of issue presented,” *McCarthy*, 503 U.S. at 147–148—namely, the constitutionality of petitioner’s detention. See *Vargas v. U.S. Dep’t of Immigr. & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987) (“the BIA does not have jurisdiction to adjudicate constitutional issues”); *Matter of C-*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) (BIA is powerless to address *ex post facto* claim, since “it is settled that the [IJ] and this Board lack jurisdiction to rule upon the constitutionality of the [INA] and the regulations”). The Board’s limited jurisdiction generally bars review of as-applied constitutional challenges of the kind petitioner raises here. See, e.g., *Matter of Ramos*, 15 I. & N. Dec. 671, 675 (B.I.A. 1976) (powerless to address respondent’s “as applied” equal protection and due process challenges); *Matter of H-*, 3 I. & N. Dec. 411, 419, 456 (B.I.A. 1949) (powerless to address First Amendment and retroactivity arguments “as applied to the respondent”).

33. Further, since no removal matter has begun, the BIA has no jurisdiction.

34. Nor do any of the other factors that warrant exhaustion apply here. *See Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023, 1034–35 (5th Cir. 1982) (listing factors). There is no need for the agency to develop the factual record to aid this Court’s review, and petitioner’s constitutional claims do not require the agency’s expertise, as those claims fall squarely within the purview of this Court. Nor would this Court’s review encourage the circumvention of agency procedures in the future, as petitioners will have occasion to raise First and Fifth Amendment challenges to retaliatory detention only in extraordinary cases like Mr. Lashley’s. And finally, agency review would not eliminate the need for this Court’s review, as the BIA cannot hear Mr. Lashley’s constitutional claims regardless.

Constitutional Violations Based Upon Deprivation of Necessary Medical Treatment

35. In *Estelle v. Gamble*, 429 U.S. 97, 103 (1976), the Supreme Court held that a prisoner is entitled to medical treatment. A failure to provide medical treatment violates the Eighth Amendment’s prohibition on cruel and unusual punishment.

36. Those protections were subsequently extended to civil detainees under the Due Process Clause of the Fourteenth Amendment, the reasoning that such persons deserve at least as much protection as those criminally incarcerated. *See Youngberg v. Romeo*, 457 U.S. 307, 312–22 (1982); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983).

37. Being apart from his regular medication, course of treatment, and his supportive therapeutic treatment environment is posing a daily risk to his health according to his licensed physician and psychiatrist. See letter attached.

38. ICE is aware of his need for treatment through Mr. Lashley, his mother, and the undersigned. The notifications resulted in a transfer from the New York detention center to his current detention center. However, incarceration remains problematic due to his lack of access to his regular course of treatment and intensive outpatient supporting environment. When government actors are deliberately indifferent to the medical needs of detainees, that point of conscience shocking is reached. *Estelle* at 104-06.

39. “Deliberately indifferent conduct” is “egregious enough to state a substantive due process claim.” Lewis at 849-50. In the context of a Fourteenth Amendment due process claim, deliberate indifference does not require proof of a malicious state of mind. Something akin to recklessness is sufficient and can be established by a subjective or objective standard. Charles at 87. (referencing *Darnell v. Pineiro*, 849 F.3d 17, 32-36 (2017)).

40. Despite knowledge of his mental illness and need for medication, ICE has failed to provide any appropriate medical care, his regular medication, or his therapeutic living environment to Petitioner, much less care that is equivalent to what he received in the community.

41. “[I]t is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

42. Petitioner is being detained without access to appropriate mental health treatment or necessary prescribed medication.

43. His detention does not mitigate the risk of flight. His residential circumstances prior to his arrest demonstrate that less restrictive alternatives to detention already exist and that he is capable of complying with supervision, especially given the constant care and supervision of both his ACT team and his mother.

44. There exists no danger to the community requiring continued detention.

45. As neither of the two permissible non-punitive purposes for immigration detention are served, it is clear that Petitioner is being detained in violation of his right to due process, especially in view of the fact that as of this filing, there is no charge pending against this man; no NTA, no case in EOIR.

46. Release from detention into his group home or a comparable supervised setting with mental health treatment preserves the Government's interests while ending the ongoing harm inflicted upon Petitioner.

CLAIMS FOR RELIEF

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution

47. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

48. The Fifth Amendment to the U.S. Constitution provides that "[n]o person . . . shall be . . . deprived of life, liberty, or property, without due process of law." U.S. Const., amend. V.

49. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

50. Moreover, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690.

51. The Government's detention of Mr. Lashley, without notice or a charge violates his due process rights. Immigration detention must further the twin goals of (1) ensuring the non-citizen's appearance during removal proceedings, and (2) preventing danger to the community. *Id.*; accord *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217 (11th Cir. 2016), *vacated*, 890 F.3d 952 (11th Cir. 2018). The Government has not demonstrated that Mr. Lashley—who lived in a supervised setting in the first instance, and who is overseen by his mother closely- would be any type of flight risk or a danger to others.
52. Moreover, Mr. Lashley's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose specifically because there is no charge against Mr. Lashley at this time. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, there is every indication that his "detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons," *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy J., concurring).
53. Respondents are continually depriving petitioner of necessary medical care in further deprivation of due process.
54. Respondents are aware of his need for medical care, and to date, are not providing care or medication of the same level determined necessary and appropriate by his treating physicians and care team.
55. Respondents are thus causing this petitioner irreparable harm in the form of constitutional injury and actual injury to his health as he continues to deteriorate incarcerated without access to his regular and necessary care.

SECOND CLAIM

Humanitarian Release and Eighth Amendment Violation

56. Petitioner repeats and realleges every paragraph of the within complaint petition as if set forth at length herein.

57. In *Estelle v. Gamble*, 429 U.S. 97, 103 (1976), the Supreme Court held that a prisoner is entitled to medical treatment. A failure to provide medical treatment violates the Eighth Amendment's prohibition on cruel and unusual punishment.

58. Respondents are aware of petitioner's disability and needs for certain care and medication.

59. To date, Respondents have continuously held petitioner in custody, without a charge or NTA, and have knowingly denied him access to medical treatment determined to be necessary by his treatment providers.

60. This knowing deprivation of necessary medical care is deemed cruel and unusual and a violation of the Eighth Amendment.

61. Deprivation of medical care, in this instance, without notice, or a charge, or a right to be heard and access courts prior to the deprivation is also a violation of due process under the Fifth Amendment.

62. In the light of the unlawfulness of the continued incarceration, a writ of habeas corpus must issue; and/or a temporary restraining order for petitioner's immediate release.

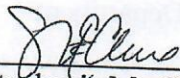
PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Issue an order assuming jurisdiction over this matter;
- (2) Issue an order for the immediate release of petitioner; including a prompt return of his property and allowing for an opportunity contact his mother in order to coordinate his safe transportation back to New York
- (3) Issue an order enjoining respondents from re-detaining petitioner, without notice and a pre-detention hearing at which the government bears the burden of proof to prove petitioner is either a risk of flight or a danger to the community and that no lesser conditions are able to be put in place to ensure his appearance in court.
- (4) Issue an order directing the government to pay petitioner's attorney's fees and cost of suit; and
- (5) Any further and additional relief this court deems appropriate and just.

Respectfully,

Dated: 2/18/26


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