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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN SANCHEZ-RIVERA,
Petitioner,
v.
GREGORY J. ARCHAMBEAULT et al.,
Respondents.

Case No.: 21cv1654-LL-MSB

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

[ECF No. 1]

On September 20, 2021, Petitioner Juan Sanchez-Rivera (“Petitioner”) filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, requesting that the Court order the immediate release of Petitioner from the custody of Immigration and Customs Enforcement (“ICE”) at the Imperial Regional Detention Facility (“IRDF”) on the ground that continued detention of Petitioner under current conditions violates the Due Process Clause of the Fifth Amendment. ECF No. 1. On January 1, 2022, Respondents filed a return in opposition. ECF No. 11. On February 11, 2022, Petitioner filed a reply. ECF No. 13. Having reviewed the petition and the materials submitted, the petition is **DENIED**.

I. LEGAL STANDARD

To succeed on a habeas petition, a petitioner must show that he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241.

1 Due process imposes a duty on the government “to assume some responsibility for [the]
2 safety and general well-being” of persons it takes into its custody. *DeShaney v. Winnebago*
3 *Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200 (1989) (citation omitted). Consequently,
4 the government can be held liable for a due process violation where a government official
5 affirmatively places individuals, with deliberate indifference to their health or safety, in a
6 position of known danger “which he or she would not have otherwise faced.” *Kennedy v.*
7 *City of Ridgefield*, 439 F.3d 1055, 1061 (9th Cir. 2006) (citing *DeShaney*, 489 U.S. at 197,
8 201). A plaintiff in custody must show that government officials acted in an objectively
9 unreasonable manner such that: “(1) [t]he defendant made an intentional decision with
10 respect to the conditions under which the plaintiff was confined; (2) [t]hose conditions put
11 the plaintiff at substantial risk of suffering serious harm; (3) [t]he defendant did not take
12 reasonable available measures to abate that risk, even though a reasonable officer in the
13 circumstances would have appreciated the high degree of risk involved—making the
14 consequences of the defendant's conduct obvious; and (4) [b]y not taking such measures,
15 the defendant caused the plaintiff's injuries.” *Castro v. Cty. of Los Angeles*, 833 F.3d 1060,
16 1071 (9th Cir. 2016). The Supreme Court has held that prison officials cannot “ignore a
17 condition of confinement that is sure or very likely to cause serious illness and needless
18 suffering the next week or month or year.” *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

19 **II. DISCUSSION**

20 Petitioner seeks release from ICE custody for violation of his Fifth Amendment
21 rights. He alleges that IRDF is placing him at extraordinary and unreasonable risk of
22 contracting COVID-19 and that he is medically vulnerable due to his obesity. ECF No. 1
23 ¶¶ 33–34. He has not been released pending his removal proceedings because he has been
24 deemed to pose a threat to public safety due to his criminal history, which includes a violent
25 felony. *See* ECF No. 11-1 at 2–78 (Petitioner’s admitted felony convictions include
26 evading a peace officer, assault with a deadly weapon upon a peace officer, and possession
27 of a controlled substance for sale).

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1 Here, Petitioner has not shown that conditions at IRDF are unconstitutional,
2 primarily because he was vaccinated on March 30, 2021, offered the booster on January
3 10, 2022, and tested positive for COVID-19 on January 17, 2022. ECF No. 11 at 3; ECF
4 No. 13 at 2–3. Courts have been refusing to grant release from custody to inmates or
5 detainees with similar medical conditions who have been vaccinated and previously
6 infected. *See e.g., United States v. Willis*, 541 F. Supp. 3d 1185, 1190–91 (D. Or. 2021)
7 (concluding that federal prisoners who have been fully vaccinated but suffer from chronic
8 medical conditions that would put them at serious risk of severe illness from COVID-19
9 do not satisfy the extraordinary and compelling standard for compassionate release);
10 *United States v. Smith*, 538 F. Supp. 3d 990, 996 (E.D. Cal. 2021) (“Although no federal
11 court of appeal appears to have considered the question, district courts across the country,
12 including within this Circuit, have held almost uniformly that a defendant's vaccination
13 undercuts any claims of ‘extraordinary and compelling reasons’ based on a high risk of
14 infection.”); *United States v. Grummer*, 519 F. Supp. 3d 760, 763 (S.D. Cal. 2021)
15 (“Although Defendant suffers from several chronic medical conditions, his vaccination
16 significantly mitigates the risk that he will contract COVID-19. Other courts to address the
17 issue have reached similar conclusions.”); *Gavilanes-Curiel v. Archambeault*, 2021 WL
18 4895222, at *1–2 (S.D. Cal. Sept. 21, 2021) (petitioner who was medically vulnerable due
19 to his obesity denied release from IRDF because he was vaccinated); *United States v.*
20 *Martinez*, 2021 WL 927360, at *3 (S.D. Cal. Mar. 10, 2021) (denying compassionate
21 release because although “[o]besity and hypertension are among the conditions identified
22 by the CDC as potentially increasing an individual's risk of serious illness from the virus .
23 . . Defendant's vaccination significantly mitigates the risk that she will contract COVID-
24 19, much less become seriously ill.”) (internal citations omitted).

25 In addition, Petitioner’s various allegations about the conditions at IRDF are not
26 persuasive. On July 22, 2020, Chief Judge Sabraw reviewed the conditions inside IRDF
27 and noted that IRDF has implemented heightened protocols for detainee safety including
28 testing and quarantining at intake, which have significantly reduced its occupancy, and has

1 released several dozen detainees classified as being at “high risk” for severe complications
2 of COVID-19. *See Alcantara v. Archambeault*, 2020 WL 4201665, at *1–2 (S.D. Cal. July
3 22, 2020). IRDF has also made vaccinations available facility wide. ECF No. 11 at 2; ECF
4 No. 11-1 at 80–81. In his reply, Petitioner argues *Alcantara* cannot be relied on because it
5 was “issued nearly 31 months ago” and draws the Court’s attention to the December 18,
6 2020 Department of Homeland Security’s Office of the Inspector (“OIG”) report regarding
7 IRDF’s conditions. ECF No. 13 at 4; *see also* ECF No. 1, Ex. 3 at 41. Although the OIG
8 report highlights the current confinement conditions at IRDF, a section 2241 habeas
9 petition is not the proper procedural vehicle for such claims. *See Nettles v. Grounds*, 830
10 F.3d 922, 927–34 (9th Cir. 2016) (“Challenges to the validity of any confinement or to
11 particulars affecting its duration are the province of habeas corpus; requests for relief
12 turning on circumstances of confinement may be presented in a [civil rights] action.”).
13 Petitioner’s allegations therefore fall in civil rights, not habeas.

14 Although *Nettles* involved a state prisoner, and the Ninth Circuit declined to address
15 how its holding applied to federal prisoners, most courts in this circuit subsequently have
16 applied the *Nettles* ruling to federal prisoners' section 2241 petitions. *See Brown v.*
17 *Blanckensee*, 857 F. App’x 289, 290 (2021) (held a civil rights action is the appropriate
18 vehicle for federal prisoner's claims relating to the conditions of confinement); *Smith v.*
19 *Gutierrez*, 2021 WL 4033780, at *1 (C.D. Cal. Aug. 3, 2021) (federal prisoner's claims of
20 deliberate indifference to medical needs should have been properly brought in a civil rights
21 action, not a habeas action, and cites to *Nettles*); *see also Harrison v. Broomfield*, 2020
22 WL 5797871, at *2 (E.D. Cal. Sept. 29, 2020) (“there is a risk of turning 28 U.S.C. § 2241
23 into a general civil rights statute by the mere expedient of a petitioner seeking that release
24 remedy, perhaps among other remedies, in every habeas action in which conditions of
25 confinement are at issue, e.g., poor medical treatment, unsanitary conditions,
26 overcrowding, assaultive environment, and so forth.”).

27 A habeas petition is similarly not the proper procedural vehicle for Petitioner’s
28 allegations about the alleged excessive cell and personal searches. Even if, as Petitioner

1 contends, the alleged seizure of his property and interference with his rights to file
2 grievances constituted a disciplinary action, that action did not subject him to greater
3 restrictions of his liberty sufficient to invoke habeas jurisdiction. *See Nettles*, 830 F.3d at
4 927–34.

5 A district court may construe a petition for habeas corpus as pleading a civil rights
6 claim where the complaint is amenable to conversion on its face when it names the correct
7 defendants and seeks the correct relief. *Nettles*, 830 F.3d at 936 (citations and quotations
8 omitted). Here, the petition is not amendable to conversion. Here, Petitioner has not
9 requested conversion, and, in any event, it is unclear whether Petitioner seeks civil rights-
10 type relief, as distinguished from habeas-type relief. *See id.* (a court may construe petition
11 as a civil rights claim after notifying and obtaining informed consent from the prisoner).
12 Additionally, while Petitioner names Gregory J. Archambeault, Jesus Reyna, Rolando
13 Trevino, Tae D. Johnson, and Alejandro Mayorka as Respondents, he does not allege any
14 personal conduct by the Respondents to hold them responsible as respondents in a § 1983
15 action. *See e.g., Leer v. Murphy*, 844 F.2d 628, 633 (9th Cir. 1988) (In § 1983 cases, “[t]he
16 inquiry into causation must be individualized and focus on the duties and responsibilities
17 of each individual defendant whose acts or omissions are alleged to have caused a
18 constitutional deprivation.”). Thus, the petition is not amenable to conversion on its face,
19 and Petitioner has failed to show that conditions at IRDF are unconstitutional under a
20 habeas petition.

21 **III. CONCLUSION**

22 Respondents have not acted in an objectively unreasonable manner that “put[s]
23 [Petitioner] at substantial risk of suffering serious harm” or in ways that fell “outside the
24 core of habeas corpus.” *Castro*, 833 F.3d at 1071; *Nettles*, 830 F. 3d at 931.

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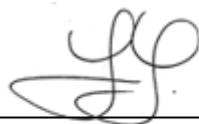
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1 The Court concludes that Petitioner’s continued detention violates neither “the
2 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. Therefore, the
3 petition is **DENIED**.

4 **IT IS SO ORDERED.**

5 Dated: August 24, 2022



Honorable Linda Lopez
United States District Judge

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