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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL JAMES CUMMINS,

Petitioner,

v.

MOISES BECERRA, ET AL.,

Respondents.

CASE NO. 1:25-CV-01853-DC-AC

RESPONDENTS' REPLY TO PETITIONER'S
OPPOSITION TO MOTION TO DISMISS

In his opposition to Respondents' motion to dismiss, Petitioner's sole argument appears to be that his petition for writ of habeas corpus is not moot, because the Court has not resolved claims related to alleged medical neglect while in detention. ECF 34. However, concerns related to conditions of confinement are not properly raised in a habeas petition. *See Pinson v. Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023); *Shook v. Apker*, 472 Fed. Appx. 702, 702-03 (9th Cir. 2012) (finding that a petitioner's claims of "inadequate medical care" are properly brought under a *Bivens* actions); *Lockhart v. Allen*, No. 17cv1011 BEN, 2017 U.S. Dist. LEXIS 82448, at *2 (S.D. Cal. May 30, 2017); *Quiroz v. Noem*, No. 1:25-CV-00765-KES-SAB-HC, 2025 U.S. Dist. LEXIS 256855, at *15-17 (finding that the conditions of confinement portion of the petitioner's claim for relief should be dismissed). Accordingly, this Court should dismiss the habeas petition in its entirety.

Alternatively, and for the reasons stated herein and in Respondents' motion to dismiss, the Court should deny the petition on the merits. Petitioner has on several occasions since November 2025 been seen by a medical provider while in Immigration and Customs Enforcement ("ICE") custody. *See*

1 Exhibits 1-8, Medical Records. Notably, the records show Petitioner complaining generally of a sore
2 throat, sore chest, cough, chest tightness, or itchy skin, but having clear lung sounds and being cleared
3 by medical providers. *See id.* Petitioner also denied medical services at least three times since
4 November 2025. *See* Exhibits 9-11, Refusal of Health Service Records. Regardless, it is clear from the
5 records that Petitioner has been medically monitored while in ICE custody. Accordingly, Petitioner has
6 failed to establish medical neglect that would rise to the level of warranting habeas relief.

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9 Dated: February 10, 2026

ERIC GRANT
United States Attorney

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11 By: /s/ BRITTANY M. GUNTER
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12 Assistant United States Attorney
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