

Chief Magistrate Judge Theresa L. Fricke

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

MOHAMMAD HASAN HUSSAINI,

Petitioner,

v.

JULIO HERNANDEZ,¹ *et al.*,

Respondents.

Case No. 2:26-cv-00485-TLF

FEDERAL RESPONDENTS'²
RESPONSE TO THE COURT'S
ORDER TO SHOW CAUSE AT
DKT. 15

Noted for Consideration:
March 17, 2026

Federal Respondents respectfully submit this Response to the Court's Order to Show Cause at Dkt. 15. The Court directed Respondents to address (1) the basis and meaning of Petitioner's known or suspected terrorist ("KST") designation, including any limitations on disclosure, and (2) Petitioner's current medical status.

A. Petitioner's KST Designation

Petitioner's KST designation is addressed in the Declaration of Alixandria Morris ("Morris Decl.") and the Declaration of Javier Delgado ("Delgado Decl."). As set forth therein, the Federal Bureau of Investigation ("FBI") designated Petitioner as a known or suspected

¹ Pursuant to Fed. R. Civ. P. 25(d), Julio Hernandez is hereby substituted as Respondent for Laura Hermosillo.

² Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 terrorist, and ICE relies on such designations from partner agencies in making detention
2 determinations. Delgado Decl. ¶ 4.

3 The FBI requires additional time to provide the Court with its own declaration. Morris
4 Decl. ¶ 4. Even if the FBI were to provide a declaration in this matter, the FBI indicates that the
5 processes, sources, and methods by which a person is designated as a KST, as well as the basis
6 for Petitioner's designation, are classified, and disclosure of such information could harm national
7 security. Morris Decl. ¶ 3. In any event, the designation is made by the FBI not Federal
8 Respondents. Respondents simply rely on the FBI designation in making a determination on
9 detention. Thus, Respondents believe that the reasons the FBI designated the Petitioner as a KST
10 are neither relevant to nor subject to judicial review in these proceedings.

11 Federal Respondents do not assert the state secrets privilege. Federal Respondents believe
12 the instant case is distinguished from *Kasza v. Browner*, 133 F.3d 1159 (9th Cir. 1998), which
13 concerned the assertion of privilege in the context of discovery and evidentiary withholding,
14 which is not presently at issue. In any event, Respondents are not the custodians of information
15 underlying the FBI's designation. Thus, information concerning the underlying reasons for the
16 designation are not being withheld by Respondents, nor could they be compelled to provide such
17 information as it is not within their custody or control.

18 Applying the *Mathews* framework, Petitioner's conditional liberty interest is substantially
19 diminished in light of his designation as a KST and the national security concerns identified. *See*
20 Dkt. 4, pp. 6-8, 10-13. The risk of erroneous deprivation does not warrant additional pre-
21 deprivation procedures where, as here, detention is mandatory. *Id.* Petitioner's continued
22 detention is further warranted by his danger to the community based on national security
23 determinations. *Id.* And the Government's interest is at its apex, as courts afford heightened
24 deference in matters implicating national security. *Id.*

1 **B. Petitioner's Medical Status**

2 Petitioner's current medical condition and treatment are addressed in the Declaration of
3 Eddie Wang, M.D. ("Dr. Wang Decl."). The record demonstrates that Petitioner is receiving
4 ongoing and appropriate medical care, including diagnostic evaluation, monitoring, and referrals
5 as clinically indicated. Dr. Wang Decl. ¶¶ 6-15.

6 To the extent Petitioner contends that the care he is receiving is inadequate, such a claim
7 challenges the conditions of confinement rather than the legality or duration of detention.
8 Challenges to the legality or duration of confinement should be pursued in a habeas proceeding,
9 see *Crawford v Bell*, 599 F.2d 890, 891 (9th Cir. 1979), while challenges to conditions of
10 confinement should be pursued in a civil rights action. See *Badea v. Cox*, 931 F.2d 573, 574 (9th
11 Cir. 1991). Moreover, "[t]he appropriate remedy for such constitutional violations, if proven,
12 would be a judicially mandated change in conditions and/or an award of damages, but not release
13 from confinement." *Crawford*, 599 F.2d at 891.

14 The record here does not support a claim that Petitioner's detention is punitive or
15 constitutionally deficient. Civil detention is permissible where it is reasonably related to a
16 legitimate governmental objective. *Bell v. Wolfish*, 441 U.S. 535, 538-39 (1979). Petitioner
17 presents no evidence that his medical care reflects an intent to punish or that it is excessive in
18 relation to that purpose. *Id.*

19 Due process requires the Government to provide reasonable medical care and safety, not
20 a detainee's preferred course of treatment. *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*,
21 489 U.S. 189, 200 (1989). The Constitution does not require elimination of all risk or guarantee
22 optimal care. *Farmer v. Brennan*, 511 U.S. 825, 844-45 (1994). Nor do allegations of
23 disagreement with medical judgment or negligence establish a constitutional violation. *Estelle v.*
24 *Gamble*, 429 U.S. 97, 105-06 (1976).

1 Here, the medical evidence demonstrates that Petitioner is being evaluated, monitored,
2 and treated, including referral to outside specialists where appropriate. Dr. Wang Decl. ¶¶ 4-15.
3 Accordingly, Petitioner is receiving constitutionally adequate care, and any challenges to that care
4 do not provide a basis for habeas relief.

5 Dated this 17th day of March, 2026.

6 Respectfully submitted,

7 s/ Alixandria K. Morris

8 ALIXANDRIA K. MORRIS, TX No. 24095373

9 Assistant United States Attorney

10 United States Attorney's Office

11 Western District of Washington

12 700 Stewart Street, Suite 5220

13 Seattle, Washington 98101

14 Phone: 206-553-7970

15 Fax: 206-553-4067

16 Email: alixandria.morris@usdoj.gov

17 *Attorneys for Federal Respondents*

18 I certify that this memorandum contains 752
19 words, in compliance with the Local Civil Rules.