

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

JUANA GONZALEZ MORALES,
ABDALLAH KHAMIS,
DWIGHT MUNDLE,
and EDINAH ZACARIAS CABRERA

PETITIONERS

V.

CIVIL ACTION NO: 5:20-cv-181-DCB-MTP

SHAWN GILLIS, in his official capacity
as Warden;
DIANNE WITTE, in her official capacity
As Interim New Orleans Field Officer Director;
TONY PHAM, in his official capacity as
Senior Official Performing the Duties of the
Director of the U.S. Immigration and Customs Enforcement;
and IMMIGRATION AND CUSTOMS ENFORCEMENT

RESPONDENTS

MOTION TO DISMISS

Petitioners Juana Gonzalez Morales, Abdallah Khamis, Dwight Mundle and Edinahi Zacarias Cabrera (collectively “Petitioners”) filed a petition for habeas relief pursuant to 28 U.S.C. § 2241 and a complaint for injunctive and declaratory relief seeking the release of all petitioners from the custody of the Adams County Detention Center (ACDC), where they are being housed as detainees of the Immigration and Customs Enforcement (ICE). Petitioners argue that their continued detention, in light of the COVID-19 pandemic, violates their Fifth Amendment rights and/or the Rehabilitation Act because they have underlying health conditions and/or age that make COVID-19 a serious health and safety risk. In the alternative, they ask that the Court order a health inspection and order Respondents to comply with a reform plan to be determined after the inspection.

The habeas case should be dismissed for lack of subject matter jurisdiction. Further, Respondents respectfully move the Court to dismiss Petitioners' claims because (1) they have failed to demonstrate a constitutional violation of their Fifth Amendment rights and (2) they have failed to demonstrate that they have been denied additional safety measure they demand because of their disability as required under the Rehabilitation Act.

In support of this motion, Respondents submit a memorandum and the Declaration of Robert Hagan, Exhibit 1.

Dated: October 13, 2020

Respectfully submitted,

D. MICHAEL HURST, JR.
United States Attorney

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