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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATEO VARGAS ROS, Petitioner, v. MARKWAYNE MULLINS, in his official capacity as Secretary of Homeland Security, *et al.*, Respondents.	Case No.: 26-cv-03941-LL-GC **RESPONSE TO PETITION**

I. Introduction

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. For the reasons set forth below, the Court should deny Petitioner's requests for relief and dismiss the petition.

II. Argument

A. Petitioner Fails to Plead Sufficient Information

The Constitution limits federal judicial power to designated "cases" and "controversies." U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a "case" or "controversy" within the meaning of Article III). "Absent a real and immediate threat of future injury there can be no case or controversy, and thus no Article III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) ("[I]n a lawsuit brought to force compliance, it is the plaintiff's burden to establish standing by demonstrating that, if unchecked by the litigation, the defendant's allegedly wrongful behavior will likely occur or continue, and that the threatened injury is certainly impending.") (simplified)). At the "irreducible constitutional minimum," standing requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the United States and (3) likely to be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Moreover, an individual may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody" under federal authority "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically "provide[s] a means of contesting the lawfulness of restraint and securing release."). The

Ninth Circuit squarely explained how to decide whether a claim sounds in habeas jurisdiction: "[O]ur review of the history and purpose of habeas leads us to conclude the relevant question is whether, based on the allegations in the petition, release is *legally required* irrespective of the relief requested." *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on the petitioner's claim would "necessarily lead to immediate or speedier release."); *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners' claims did not arise under § 2241 because they were not arguing they were unlawfully in custody and receiving the requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) ("Like in *Pinson*, the Court lacks jurisdiction over Petitioner's § 2241 habeas petition since it cannot be fairly read as attacking 'the legality or duration of confinement.'") (quoting *Pinson*, 69 F.4th at 1065).

Moreover, the Supreme Court has held that "[h]abeas Corpus Rule 2(c) is more demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition must 'specify all the grounds for relief available to the petitioner' and 'state the facts supporting each ground.'" *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules Governing Section 2254 Cases in the United States District Court ("Federal Habeas Rules"); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."). As stated by the Advisory Committee's Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, "notice pleading is not sufficient, for the petition is expected to state facts that point to a real possibility of constitutional error.") (internal quotation marks omitted).

Here, Petitioner's habeas petition fails to persuasively argue the illegality of his detention. He has not supplied sufficient information for the Court to adjudicate his claims. His brief spends an inordinate amount of time explaining the applicability of the

Refugee Act to his circumstances, which the Respondents do not dispute, but that has no bearing on the question before this Court - whether the Petitioner's detention is lawful. [1]

Petitioner further fails to identify the correct category of detention. He writes that the Respondents are "detain[ing] him unlawfully under 8 U.S.C. § 1225(b)(1), INA § 235(b)(1), without due process", *see* Petition at page 2, line 4-5, yet he presents no evidence to show he expressed a fear of return to his country, that he was given a credible fear review, or that he has a pending application for asylum. Ironically, if subject to (b)(1) then the argument for his detention favors the Respondents because arriving aliens seeking asylum who are found to have a credible fear are subject to *mandatory* detention. 8 C.F.R. § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that an alien has a credible fear of persecution. . . the alien shall be detained for further consideration of the application for asylum"). If Petitioner's mislabeling of the authority used to detain him were correct, then the Respondents are within their right to keep the Petitioner detained.

Petitioner also fails to demonstrate that the length of confinement has turned unlawful, nor could he as he was only detained on June 27, 2026, a mere 19 days ago. *See* Petition, page 1, line 8.

Inasmuch as the Petitioner has failed to articulate with any clarity why his detention is unlawful or prolonged, the Court should deny the petition. *See Alonso Velasquez v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without prejudice habeas petition that failed to allege sufficient factual information).

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[1] Additionally, the Petitioner's 1) inconsistent use of pronouns, addressing himself as "her" *see* page 2, line 12, page 6, line 9 and page 16, line 7, combined with, 2) the wholesale copying of "Count Three" at page 13 and pasting it as "Count Four" at page 14, without further distinction, comment or argument suggests haste in its preparation and a choice to tolerate errors.

B. Petitioner's Fourth Amendment Claims Fail

In Count Three at page 13, the Petitioner attempts to raise Fourth Amendment violations. He repeats the same alleged violations in Court 4, page 14. [2] However, he fails to explain in either count why release is the remedy for such alleged violations. *United States v. Crews*, 445 U.S. 463, 474 (1980) (noting, in the criminal context, that Fourth Amendment's "exclusionary principle" "delimits what proof the Government may offer against the accused at trial, closing the courtroom door to evidence secured by official lawlessness," but an individual "is not himself a suppressible 'fruit'"); *Cruz v. Barr*, 926 F.3d 1128, 1146 (9th Cir. 2019) (releasing petitioner on Fourth Amendment grounds because fruits of the regulatory violation were the only evidence of petitioner's alienage).

Moreover, Fourth Amendment claims related to alienage "belong in front of an Immigration Judge, not a federal district court." *See Marvan v. Slaughter*, No. CV 25-49-H-DLC, 2025 WL 1940043, at *3 (D. Mont. July 15, 2025) (denying habeas petition challenging detention based on Fourth Amendment violations for lack of subject matter jurisdiction). Petitioner cannot simply "'bypass the immigration courts and proceed directly to district court. Instead, [he] must exhaust the administrative process before [he] can access the federal courts.'" *Id.* at *4 (quoting *J.E.F.M.*, 837 F.3d at 1029). To the extent Petitioner desires to bring such claims, this district court does not have jurisdiction. Under 8 U.S.C. § 1252(b)(9), "[j]udicial review of all questions of law and fact . . . *arising from any action taken or proceeding brought to remove an alien from the United States* under this subchapter shall be available only in judicial review of a final order under this section." Further, judicial review of a final order is available only through "a petition for review filed with an appropriate court of appeals." 8 U.S.C. § 1252(a)(5).

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[2] Literally cuts and pastes.

C. Ultimately, The Respondents Defer

Although not it's burden, it is the government's position that Petitioner is subject to mandatory detention under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), not 8 U.S.C. § 1225(b)(1) as alleged by the Petitioner. That said, if the Court is not inclined to deny this Petition, then the government acknowledges that this Court, and Courts in this District, have repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g.*, *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 225); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025). The government acknowledges that this Court's prior decisions will control the result here if the Court adheres to its prior decisions, as the facts are not materially distinguishable for purposes of the Court's decision,[3]

[3] Petitioner also challenges his detention citing violations of the Administrative Procedure Act. Should the Court grant the petition, it should decline to address these additional arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

III. Conclusion

The Court should deny this Petition as improperly pled, and for failure to articulate a legal, actionable basis for its position.

In the alternative, the government defers to the Court on the appropriate relief.[4]

DATED: July 16, 2026

Respectfully submitted,

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[4] To the extent the Court issues an order directing a bond hearing under 1226(a), considering heavy caseloads and staffing levels, Respondents respectfully request that such order provide the government 14 days from issuance to hold such bond hearing. Respondents also respectfully note that the Ninth Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the burden is on the detainee to demonstrate by a preponderance of the evidence that he is not a flight risk or danger to the community. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022); *see also Dos Santos v. Becerra*, No. 26-cv-01423-GPC-VET, 2026 WL 800201 (S.D. Cal. Mar. 23, 2026).