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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

RANDEEP MALIK

Petitioner,

v.

WARDEN, Imperial Regional Adult Detention Facility, et al.,

Respondents.

Case No.: **26-cv-4043-TWR-AHG**

RESPONDENTS' RETURN TO HABEAS PETITION

I. BACKGROUND AND CURRENT SETTING

Petitioner filed a petition for a writ of habeas corpus through counsel on July 14, 2026. In his petition, Petitioner alleges, without any factual support, that he was re-detained by Respondents. ECF No. 1 at ¶ 2. In fact, Petitioner illegally and surreptitiously entered into the United States without inspection by an immigration officer in Arizona on May 12, 2023. Ex. 1 (I-213). He was apprehended at the time of entry but released. He did not remain in ICE custody. He was subsequently ordered to appear before an immigration judge for removal proceedings in 2025. After failing to appear at his removal proceedings, Petitioner was ordered removed to India on December 11, 2025. Ex. 2 (IJ Order). ICE ERO encountered Petitioner on May 26, 2026, and detained him for the first time in order to execute his removal order. Ex. 1. Petitioner moved to reopen the proceedings. An immigration judge granted his motion. Petitioner is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(2) until the completion of his 8 U.S.C. § 1229a removal proceedings. Petitioner fails to identify the proper detention authority or to identify any facts or legal support for his claims for relief. Simply saying "Due Process" or referencing a statute, in this case 8 U.S.C. § 1226(a), is not sufficient to state the grounds of relief or the facts supporting that relief. Therefore, this Court should dismiss the petition.

II. Argument

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 supply any accurate information upon which the Court may rely to adjudicate his claim. As such, 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).

To the extent the Court disagrees and finds that Petitioner's factual statements and legal arguments are sufficient to raise a claim for relief, the government, to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter, submits it is the government's position that Petitioner is subject to mandatory detention under § 1225(b)(2). However, 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, and on that basis the government does not oppose the petition and requests the Court order a bond hearing pursuant to 8 U.S.C. §1226(a) at which Petitioner bears the burden of proof to show he is not a danger to the community or a flight risk.[1]

DATED: July 17, 2026

ADAM GORDON
United States Attorney

s/ Michael D. Wallace
MICHAEL D. WALLACE
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[1] 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).