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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 MARVIN ROCAEL GODINEZ GARCIA,

11 Petitioner,

12 v.

13 JEREMY CASEY, Warden, Imperial
Regional Detention Center, Calexico,
14 California, et al.,

15 Respondents.

Case No.: 26-cv-00187-JES-DEB

RESPONSE TO PETITION

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17 Petitioner appears to be a member of the Bond Eligible Class certified in
18 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---,
19 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). The *Bautista* court has entered final
20 judgement as to the Bond Eligible Class. *Bautista*, ECF No. 94. Accordingly,
21 Respondents acknowledge that Petitioner is detained under 8 U.S.C. § 1226(a) and are
22 entitled to an order from this Court directing a bond hearing be held pursuant to 8 U.S.C.
23 § 1226(a).¹

24 Respondents reserve the right to supplement this response in the event of a stay
25 of enforcement of the *Bautista* final judgment, appellate relief, or a change in DHS
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28 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.

1 policy.

2 To the extent Petitioner asserts a claim regarding his access to his legal counsel
3 while confined, ECF No. 1 at ¶¶ 38-40, the Court lacks jurisdiction over such claims
4 because they do not challenge the lawfulness of his confinement. An individual may
5 seek habeas relief under 28 U.S.C. § 2241 if he is “in custody” under federal authority
6 “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §
7 2241(c). But habeas relief is available to challenge only the legality or duration of
8 confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*,
9 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591
10 U.S. 103, 117 (2020) (The writ of habeas corpus historically “provide[s] a means of
11 contesting the lawfulness of restraint and securing release.”). The Ninth Circuit squarely
12 explained how to decide whether a claim sounds in habeas jurisdiction: “[O]ur review
13 of the history and purpose of habeas leads us to conclude the relevant question is
14 whether, based on the allegations in the petition, release is *legally required* irrespective
15 of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles*
16 *v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on
17 the petitioner’s claim would “necessarily lead to immediate or speedier release.”). Here,
18 Petitioner’s claim regarding his access to his counsel while confined do not arise under
19 § 2241. *See Nettles*, 830 F.3d at 933 (“We have long held that prisoners may not
20 challenge mere conditions of confinement in habeas corpus.”); *Giron Rodas v. Lyons*,
21 No. 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in
22 *Pinson*, the Court lacks jurisdiction over Petitioner’s § 2241 habeas petition since it
23 cannot be fairly read as attacking ‘the legality or duration of confinement.’”) (quoting
24 *Pinson*, 69 F.4th at 1065); *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL
25 2300873, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners’ claims did not arise under
26 § 2241 because they were not arguing they were unlawfully in custody and receiving
27 the requested relief would not entitle them to release). Thus, Petitioner’s claim does not
28 arise under § 2241 and the petition should be dismissed.

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Respectfully submitted,

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s/ Tom Merritt
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