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

11 ISMOILJON SULTONKULOV, *by*
12 *and through his next of kin and authorized*
13 *agent, Bahora Ibragimova,*

14 **Petitioner,**

15 **v.**

16 *Kristi Noem, Secretary of the U.S.*
17 *Department of Homeland Security, et al.,*

18 **Respondents.**
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Case No.: 26-CV-171 TWR (DEB)

RESPONSE TO PETITION

1 Petitioner has filed a habeas petition pursuant to 8 U.S.C. § 2241, seeking a bond
2 hearing or immediate release from civil immigration detention. For the reasons set forth
3 below, the Court should deny the petition for lack of jurisdiction and lack of standing.

4 *First*, the petition is subject to dismissal because Petitioner has failed to name as a
5 respondent the warden of the facility where he is detained. *See* 28 U.S.C. § 2243 (“The writ,
6 or order to show cause shall be directed to the person having custody of the person
7 detained.”). Petitioner’s habeas claims challenge his current physical confinement. “[C]ore
8 habeas petitioners challenging their present physical confinement [must] name their
9 immediate custodian, the warden of the facility where they are detained, as the respondent
10 to their petition.” *Doe v. Garland*, 109 F. 4th 1188, 1197 (9th Cir. 2024) (citing *Rumsfeld v.*
11 *Padilla*, 542 U.S. 426, 435 (2004)). “[T]he Court cannot exercise jurisdiction over
12 [Petitioner’s] Petition so long as he fails to name as respondent the warden of the detention
13 facility where he is being detained.” *Mukhamadiev v. U.S. Dep’t of Homeland Security*, No.
14 25-cv-1017-DMS-MSB, 2025 WL 1208913, at *3 (S.D. Cal. Apr. 25, 2025).

15 As Petitioner has failed to name his immediate custodian, the petition should be
16 dismissed for lack of jurisdiction.

17 *Second*, the petition should be dismissed for lack of standing because it is not a proper
18 “next friend” pleading. “‘Next friends’ appear in court on behalf of detained prisoners who
19 are unable, usually because of mental incompetence or inaccessibility, to seek relief
20 themselves.” *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990). “‘[N]ext friend’ standing is
21 by no means granted automatically to whomever seeks to pursue an action on behalf of
22 another.” *Id.* at 163. There are multiple requirements for claiming “next friend” status.
23 “First, a ‘next friend’ must provide an adequate explanation—such as inaccessibility, mental
24 incompetence, or other disability—why the real party in interest cannot appear on his own
25 behalf to prosecute the action.” *Id.* (citations omitted). Second, the “next friend” “must have
26 some significant relationship with the real party in interest.” *Id.* at 164. “The burden is on
27 the ‘next friend’ clearly to establish the propriety of [her] status and thereby justify the
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1 jurisdiction of the court.” *Id.*

2 Finally, the “next friend” cannot proceed *pro se*—without a lawyer. *See, e.g., Pinzon*
3 *v. Mendocino Cnty. Sheriff’s Off.*, No. 22-CV-02388-RMI, 2022 WL 1304093, at *2 (N.D.
4 Cal. May 2, 2022). *Pro se* status is only allowed when persons are appearing on their own
5 behalf, not on behalf of others. *See* Civil Local Rule 83.11. Courts in this district have
6 recently dismissed habeas petitions filed by “next friends” who failed to meet these criteria.
7 *See Miller Leon by next friend Maynar Dona v. U.S. Dep’t of Homeland Security*, No. 26-
8 CV-00200-BAS-MMP, 2026 WL 112049, at *1 (S.D. Cal. Jan. 14, 2026); *Florez Perez by*
9 *next friend Tello v. Bondi*, No. 25-CV-3820-AGS-MSB, 2025 WL 3769995, at *1 (S.D. Cal.
10 Dec. 31, 2025).

11 Here, there is no motion on the docket seeking this Court’s approval for Ms.
12 Ibragimova to act as Petitioner’s “next friend.” The petition itself argues only in conclusory
13 fashion that “Petitioner is detained, has limited access to legal resources, and is unable to
14 meaningfully prepare or file pleadings on his own behalf.” ECF No. 1 at ¶ 2. But as another
15 court in this district recently noted, “such ‘bald assertion[s]’ are insufficient to establish
16 next-friend status,” since “every habeas case involves garden-variety detention and
17 restricted communication, as habeas petitions always involve petitioners who are in
18 custody.” *Florez Perez*, 2025 WL 3769995, at *1. Next, while Ms. Ibragimova may have a
19 sufficiently significant relationship with Petitioner to satisfy the second prerequisite for
20 next-friend status (as his mother), she is not permitted to litigate this case *pro se*. The
21 Petition is not signed by counsel, nor does it identify any attorney who intends to litigate
22 this case on Ms. Ibragimova’s behalf.¹

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25 ¹ Respondents note that the copy of the U.S. Postal Service envelope appearing at
26 ECF No. 1, page 12, appears to bear the name and return address of a law firm, which also
27 appears on the contact information portion of the case docket sheet on CM/ECF. However,
28 no attorney or firm is identified in the petition, and the docket also indicates that Petitioner
is “*pro se*.”

1 Respondents therefore respectfully request that the Court dismiss the petition for lack
2 of jurisdiction and lack of standing.

3 DATED: January 26, 2026

Respectfully submitted,

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6 s/ Betsey Boutelle
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