

1 ADAM GORDON
United States Attorney
2 MICHAEL D. WALLACE
Assistant United States Attorney
3 Maryland Bar No. 9912160256
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: 619-546-8714
Email: Michael.Wallace4@usdoj.gov

6 Attorneys for Respondents
7
8

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 JOSE NEVAREZ-ORTIZ,

13 Petitioner,

14 v.

15 OTAY MESA DETENTION CENTER,

16 Respondents.
17
18

Case No.: 26-cv-1392-JLS-BLM

RESPONSE TO PETITION

19
20 **A. The Court Lacks Jurisdiction Over the Petition**

21 At the outset, the Court should deny Petitioner's habeas petition because he has
22 failed to name as a respondent the warden of the facility where he is detained. *See* 28
23 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having
24 custody of the person detained."). He names only the detention facility. Petitioner's
25 habeas claim challenges his current physical confinement. "[C]ore habeas petitioners
26 challenging their present physical confinement [must] name their immediate custodian,
27 the warden of the facility where they are detained, as the respondent to their petition."
28 *Doe v. Garland*, 109 F. 4th 1188, 1197 (9th Cir. 2024) (citing *Rumsfeld v. Padilla*, 542

1 U.S. 426, 435 (2004)). “[T]he Court cannot exercise jurisdiction over [Petitioner’s]
2 Petition so long as he fails to name as respondent the warden of the detention facility
3 where he is being detained.” *Mukhamadiev v. U.S. Dep’t of Homeland Security*, No. 25-
4 cv-1017-DMS-MSB, 2025 WL 1208913, at *3 (S.D. Cal. Apr. 25, 2025). As Petitioner
5 has failed to name his immediate custodian, the petition should be dismissed for lack of
6 jurisdiction.

7 **B. Petitioner Fails to Plead Sufficient Information**

8 The Constitution limits federal judicial power to designated “cases” and
9 “controversies.” U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human Rights*,
10 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a “case”
11 or “controversy” within the meaning of Article III). “Absent a real and immediate threat
12 of future injury there can be no case or controversy, and thus no Article III standing for
13 a party seeking injunctive relief.” *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015
14 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlaw*
15 *Env’tl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) (“[I]n a lawsuit brought to force
16 compliance, it is the plaintiff’s burden to establish standing by demonstrating that, if
17 unchecked by the litigation, the defendant’s allegedly wrongful behavior will likely occur
18 or continue, and that the threatened injury is certainly impending.”) (simplified)). At the
19 “irreducible constitutional minimum,” standing requires that a petitioner demonstrate the
20 following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the
21 United States and (3) likely to be redressed by a favorable decision. *Lujan v. Defenders*
22 *of Wildlife*, 504 U.S. 555, 560–61 (1992).

23 Moreover, an individual may seek habeas relief under 28 U.S.C. § 2241 if he is “in
24 custody” under federal authority “in violation of the Constitution or laws or treaties of
25 the United States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge only
26 the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir.
27 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security*
28

1 *v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically
2 “provide[s] a means of contesting the lawfulness of restraint and securing release.”). The
3 Ninth Circuit squarely explained how to decide whether a claim sounds in habeas
4 jurisdiction: “[O]ur review of the history and purpose of habeas leads us to conclude the
5 relevant question is whether, based on the allegations in the petition, release is *legally*
6 *required* irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis in
7 original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry
8 is whether success on the petitioner’s claim would “necessarily lead to immediate or
9 speedier release.”); *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873,
10 at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241
11 because they were not arguing they were unlawfully in custody and receiving the
12 requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-
13 LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court
14 lacks jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as
15 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065).

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

26 Here, Petitioner’s habeas petition fails to supply sufficient information for the
27 Court to adjudicate his claim. As such, the Court should deny the petition. *See Alonso*
28

1 *Velasquez v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3,
2 2025) (dismissing without prejudice habeas petition that failed to allege sufficient factual
3 information).

4 On April 1, 2026, the Court ordered Petitioner to file an amended petition by April
5 8, 2026. ECF No. 6. No amended petition has been filed. Should the Court allow the filing
6 of an amended petition, subsequent to this filing, Respondents request the opportunity to
7 respond to the amended petition.

8 DATED: April 13, 2026

ADAM GORDON
United States Attorney

10 *s/ Michael D. Wallace*
11 MICHAEL D. WALLACE
Assistant United States Attorney