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7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 FONG TA LIN,

12 Petitioner,

13
14 v.

15 CHRISTOPHER J. LaROSE, *Warden,*
16 *Otay Mesa Detention Center, et al.,*

17 Respondents.
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Case No.: 3:26-cv-02325-DMS-BJW

RETURN TO HABEAS PETITION

20 On February 19, 2026, the Petitioner filed a habeas petition challenging, among
21 other things, his prolonged detention in immigration custody since October 10, 2025.
22 ECF No. 1 at ¶¶ 20-33. However, Petitioner is not in immigration custody. Petitioner is
23 detained at the Otay Mesa Detention Center in the custody of the United States
24 Marshal's Service (USMS), and Immigration and Customs Enforcement (ICE) has an
25 immigration detainer in place for if/when Petitioner is no longer detained by USMS.
26 See Exhibit 1 (Immigration Detainer).

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1 **I. The Petition is Moot**

2 Because the Petitioner is not in ICE custody, his petition is moot. *See Adelabu v.*
3 *Gonzales*, 166 F. App'x 275, 276 (9th Cir. 2006) (“To the extent Adelabu challenges
4 [her] detention, we dismiss the appeals as moot because Adelabu was removed to
5 Nigeria on September 24, 2003.”); *Lopez Santos v. Bondi*, No. 1:25-cv-884-SAB-HC,
6 2026 WL 227230, at *1 (E.D. Cal. Jan 28, 2026) (recommending dismissal on mootness
7 because Petitioner was removed from the United States and no longer in ICE custody),
8 *adopted by* 2026 WL 498489 (E.D. Cal. Feb. 23, 2026). For the same reason, this
9 petition should be dismissed for mootness. Every factual allegation contained within
10 the Petition, including Petitioner’s requested relief

11 **II. Petitioner Fails to Plead Sufficient Information**

12 Alternatively, the Court should dismiss the petition for Petitioner’s failure to
13 plead sufficient information. The Constitution limits federal judicial power to
14 designated “cases” and “controversies.” U.S. Const., art. III, § 2; *see also SEC v. Med.*
15 *Comm. for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain
16 matters that present a “case” or “controversy” within the meaning of Article III).
17 “Absent a real and immediate threat of future injury there can be no case or controversy,
18 and thus no Article III standing for a party seeking injunctive relief.” *Wilson v. Brown*,
19 No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing
20 *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000)
21 (“[I]n a lawsuit brought to force compliance, it is the plaintiff’s burden to establish
22 standing by demonstrating that, if unchecked by the litigation, the defendant’s allegedly
23 wrongful behavior will likely occur or continue, and that the threatened injury is
24 certainly impending.”) (simplified)). At the “irreducible constitutional minimum,”
25 standing requires that a petitioner demonstrate the following: (1) an injury in fact
26 (2) that is fairly traceable to the challenged action of the United States and (3) likely to
27 be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–
28 61 (1992).

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

22 Finally, the Supreme Court has held that “[h]abeas Corpus Rule 2(c) is more
23 demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition
24 must ‘specify all the grounds for relief available to the petitioner’ and ‘state the facts
25 supporting each ground.’” *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules
26 Governing Section 2254 Cases in the United States District Court (“Federal Habeas
27 Rules”); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) (“Conclusory allegations
28 which are not supported by a statement of specific facts do not warrant habeas relief.”).

1 As stated by the Advisory Committee’s Note on Habeas Corpus Rule 4, 28 U.S.C., p.
2 471, “notice pleading is not sufficient, for the petition is expected to state facts that point
3 to a real possibility of constitutional error.”) (internal quotation marks omitted).

4 Here, Petitioner’s habeas petition fails to supply sufficient information for the
5 Court to adjudicate his claims. Notably, all of the factual allegations, legal bases, and
6 requested remedies that Petitioner asserts, challenge the legality of Petitioner’s
7 detention in immigration custody. *See e.g.*, ECF No. 1 at ¶ 17 (arguing that prolonged
8 detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due
9 process.); ¶ 28 (“Respondents have detained petitioner since October 10, 2025—a total
10 of 185 days so far.”). Ultimately, Petitioner has failed to provide any explanation for
11 why his detention in USMS custody is unlawful.

12 Finally, Petitioner has also failed to name a proper Respondent for the Court to
13 exercise jurisdiction over.¹ While the Court arguably has jurisdiction over this matter
14 regardless, in order to determine the proper venue for a petition under 28 U.S.C. § 2241
15 the Court must first determine which district has jurisdiction over the *entity capable of*
16 *effecting relief*. *See Rumsfeld v. Padilla*, 542 U.S. 426, 445-47 (2004) (discussing
17 requirement that district court have jurisdiction over proper respondent capable of
18 effecting relief in order to entertain petition) (emphasis added); *see also Wheeler*
19 *v. United States*, 640 F.2d 1116, 1121 n. 7 (9th Cir.1998) (stating that a court must have
20 a respondent over whom it can assert jurisdiction in order to entertain a habeas petition).

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26 ¹ Petitioner has named Christopher J. LaRose, Senior Warden Otay Mesa Detention
27 Center; Todd Blanche, Acting United States Attorney General; Markwayne Mullin,
28 Secretary of the Department of Homeland Security; and Patrick Divver, ICE San Diego
Field Office Director; as Respondents in their official capacities. ECF No. 1 at 1.

1 Because Petitioner has failed to challenge the legality of his detention in USMS
2 custody, and failed to name a proper Respondent capable of effecting the requested
3 relief for the Court to entertain the Petition, it must be dismissed.

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5 Dated: April 22, 2026

Respectfully submitted,

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8 s/ Hunter V. Norton
9 HUNTER V. NORTON
Assistant United States Attorney

10 Attorneys for Respondents
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