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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 JOSE ALFREDO  
HERNANDEZ BAUTISTA,  
11  
12 Petitioner,

13 v.

14 WARDEN, Imperial Regional Detention  
Facility,

15  
16 Respondent.

Case No.: 26-cv-02742-AGS-BJW

**RETURN TO PETITION FOR  
WRIT OF HABEAS CORPUS**

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18 Mr. Hernandez Bautista's petition for writ of habeas corpus was filed on April  
19 30, 2026. ECF No. 1. For the reasons stated below, Respondents respectfully request  
20 that the Court dismiss the petition.

21 **I. Petitioner fails to plead sufficient information**

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

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

1 cannot be fairly read as attacking ‘the legality or duration of confinement.’”) (quoting  
2 *Pinson*, 69 F.4th at 1065).

3 Moreover, the Supreme Court has held that “[h]abeas Corpus Rule 2(c) is more  
4 demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition  
5 must ‘specify all the grounds for relief available to the petitioner’ and ‘state the facts  
6 supporting each ground.’” *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules  
7 Governing Section 2254 Cases in the United States District Court (“Federal Habeas  
8 Rules”)); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) (“Conclusory allegations  
9 which are not supported by a statement of specific facts do not warrant habeas relief.”).  
10 As stated by the Advisory Committee’s Note on Habeas Corpus Rule 4, 28 U.S.C., p.  
11 471, “notice pleading is not sufficient, for the petition is expected to state facts that point  
12 to a real possibility of constitutional error.”) (internal quotation marks omitted).

13 Petitioner bears the burden of establishing that his detention is unlawful. His  
14 claims include (1) “[p]rolonged detention violates due process,” (2) “Petitioner has not  
15 received a constitutionally sufficient bond hearing,” and (3) “Petitioner is not a flight  
16 risk or danger to the community.” ECF No. 1 at 3. However, the petition fails to supply  
17 sufficient information for the Court to adjudicate his claims. The petition does not  
18 provide any facts or evidence to support the argument that Petitioner’s detention has  
19 become unconstitutionally prolonged. It further fails to explain why Petitioner’s bond  
20 hearing was inadequate, nor whether Petitioner has appealed that decision to the Board  
21 of Immigration Appeals and exhausted his administrative remedies. Accordingly,  
22 summary dismissal is warranted. *See Alonso Velasquez v. LaRose*, No. 25-cv-3216-JES-  
23 AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without prejudice habeas  
24 petition that failed to allege sufficient factual information).

## 25 **II. Improper Pro Se Petition**

26 More problematic, however, is the claim that the Petition is being brought *pro*  
27 *se* by Mr. Hernandez Bautista himself. The petition is written in the third person  
28

1 perspective and appears to have been prepared/submitted by a next-friend “for  
2 Petitioner.” ECF No. 1, at 5.

3 “‘Next friends’ appear in court on behalf of detained prisoners who are  
4 unable, usually because of mental incompetence or inaccessibility, to seek relief  
5 themselves.” *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990). “[N]ext friend’  
6 standing is by no means granted automatically to whomever seeks to pursue an action  
7 on behalf of another.” *Id.* at 163. There are two prerequisites for claiming “next  
8 friend” status. “First, a ‘next friend’ must provide an adequate explanation—  
9 such as inaccessibility, mental incompetence, or other disability—why the real  
10 party in interest cannot appear on his own behalf to prosecute the action.” *Id.*  
11 (citations omitted). Second, the “next friend” “must have some significant  
12 relationship with the real party in interest.” *Id.* at 164. “The burden is on the ‘next  
13 friend’ clearly to establish the propriety of his status and thereby justify the  
14 jurisdiction of the court.” *Id.*

15 In this case, even if the petition openly claimed to be filed by a “next  
16 friend” rather than by Mr. Hernandez Bautista, the unnamed “next friend” fails  
17 to meet either prerequisite. There is no explanation as to why Mr. Hernandez  
18 Bautista cannot prepare and file on his own behalf, nor any explanation in the  
19 petition as to what Mr. Hernandez Bautista’s relationship is with the unnamed  
20 author.

21 Finally, even if permitting a “next friend” is appropriate in this case, the  
22 “next friend” cannot proceed pro se—without a lawyer. *See, e.g., Pinzon v.*  
23 *Mendocino Cnty. Sheriff’s Off.*, No. 22-CV-02388-RMI, 2022 WL 1304093, at \*2  
24 (N.D. Cal. May 2, 2022). Pro se status is only allowed when persons are appearing  
25 on their own behalf, not on behalf of others. *See* Civil Local Rule 83.11. In light  
26 of the foregoing, summary dismissal is appropriate. *See, e.g., Miller Leon through*  
27 *Dona v. U.S. Dep’t of Homeland Sec.*, No. 26-CV-00200-BAS-MMP, 2026 WL  
28 112049, at \*1 (S.D. Cal. Jan. 14, 2026).

1 For the reasons stated above, Respondents respectfully request that the Court  
2 dismiss this petition.

3  
4 DATED: May 8, 2026

Respectfully submitted,

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6 United States Attorney

7 *s/Hunter V. Norton*  
8 Hunter V. Norton  
9 Assistant United States Attorney

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