

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

Attorneys for Respondent

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

DZANSIR GOKOEV,

Petitioner,

v.

SIXTO MARRERO, et al.,

Respondents.

Case No. 26-cv-3375-DMS-AHG

**RETURN IN OPPOSITION TO
PETITIONER'S HABEAS
PETITION**

I. INTRODUCTION

Petitioner filed a prior Petition for Writ of Habeas Corpus through counsel pursuant to 28 U.S.C. § 2241, where he also challenged, among other bases, the legality of his ICE detention based on a violation of his due process rights. *See Gokoev v. Casey*, No. 26-cv-2127-DMS-AHG (S.D. Cal. June 1, 2026). On June 1, 2026, two days before the filing of the instant petition, this Court denied the first petition for writ of habeas corpus. *Id.* at ECF No. 5. The instant petition fails to provide sufficient information for the Court to rule on a cognizable legal challenge to Petitioner's current detention. Therefore, the Court should deny Petitioner's request for relief and dismiss the petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a citizen and national of Russia. Declaration of Deportation Officer Edgar Olvera (Olvera Decl.) at ¶ 4; Exhibit (Ex.) 1 (I-213). Petitioner originally entered the United States illegally on or about October 3, 2022. *Id.* He was determined to be inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). He was then issued a Notice to Appear (NTA) on December 6, 2023. Ex. 2 (NTA). The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. Petitioner failed to appear at the master calendar hearing on April 29, 2025. Decl. at ¶ 6. The immigration judge ordered Petitioner removed. The removal order became final that day. *Id.* at ¶ 6; 8 C.F.R. § 1241.1. ICE detained Petitioner on January 17, 2026. *Id.* at ¶ 7. Petitioner moved to reopen the removal proceedings on May 26, 2026 which, in the case of removal orders issued in absentia, triggers an automatic stay on removal efforts. Petitioner remains mandatorily detained pursuant to 8 U.S.C. § 1231(a).

III. Petitioner Fails to Plead Sufficient Information

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

1 traceable to the challenged action of the United States and (3) likely to be redressed by
2 a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

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

24 Moreover, the Supreme Court has held that “[h]abeas Corpus Rule 2(c) is more
25 demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition
26 must ‘specify all the grounds for relief available to the petitioner’ and ‘state the facts
27 supporting each ground.’” *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules
28 Governing Section 2254 Cases in the United States District Court (“Federal Habeas

Rules”); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) (“Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief.”). As stated by the Advisory Committee’s Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, “notice pleading is not sufficient, for the petition is expected to state facts that point to a real possibility of constitutional error.”) (internal quotation marks omitted).

Here, Petitioner’s habeas petition fails to supply sufficient information for the Court to adjudicate his claim. As this Court recognized in its order denying relief in response to Petitioner’s first habeas petition, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1231(a). *Gokoev v. Casey*, 26-cv-2117-DMS-AHG at ECF No. 5. Petitioner remains detained pursuant to the same statute. Petitioner has alleged no legal or factual basis challenging the lawfulness of Petitioner’s detention under 1231(a). Instead, the petition appears to be a conglomeration of sections from other briefs which are inapplicable to this Petitioner. *See* ECF No. 1. For example, Petitioner mentions a grant of asylum and subsequent failure to release Petitioner which has not occurred. *Id.* at ¶¶ 60-66. Petitioner vaguely challenges detention pursuant to 8 U.S.C. § 1225(b) which is inapplicable. *See, e.g. Id.* at ¶¶ 28, 58, 67-72, 87 (while Ground Two and Prayer for Relief mention § 1231(a), the argument and legal support challenges prolonged detention pursuant to § 1225(b)). He fails to identify any Parties to this action in the Parties section of the brief while also, in the same section, attempts to challenge Petitioner’s detention and provides random facts about the Petitioner. *Id.* at ¶¶ 40-59. Petitioner makes multiple references to a parole revocation without providing legal support for an argument that any parole revocation here was unlawful or proof that Petitioner had a valid parole at the time of detention. *Id.* at ¶¶ 51, 76, 85-86. As such, the Court should deny the petition. *See Alonso Velasquez v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without prejudice habeas petition that failed to allege sufficient factual information).

1 IV. CONCLUSION

2 For the foregoing reasons, Respondents respectfully request that the Court
3 dismiss Petitioner's habeas petition. To the extent the Court requires an updated
4 response from the Respondents analyzing Petitioner's continued detention pursuant to
5 8 U.S.C. §1231(a), Respondents' request leave to update their prior return in 26-cv-
6 2127.

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8 DATED: June 10, 2026

ADAM GORDON
United States Attorney

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10 s/ Michael D. Wallace
MICHAEL D. WALLACE
11 Assistant United States Attorney
12 Attorneys for Respondent
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