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

11 EDUARDO JESUS-MARTINEZ,
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13 Petitioner,
14 v.
15 MARKWAYNE MULLIN; et al.,
16
17 Respondents.
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Case No.: 26-cv-3693-JES-MSB
RESPONSE TO PETITION

20 On June 24, 2026, Petitioner filed a habeas petition under 28 U.S.C. § 2241. ECF
21 No. 1. On June 25, 2026, the Court issued an order denying the petition without
22 prejudice for failure to state a sufficient claim. ECF No. 3. On July 7, 2026, Petitioner
23 filed an amended petition. ECF No. 4. On July 8, 2026, the Court ordered Respondents
24 to show cause as to why the amended petition should not be granted. ECF No. 5.
25 Respondents respectfully respond herein as ordered by the Court.

26 Respondents assert that the amended petition should be denied on the same basis
27 as the initial petition was denied—failure to state sufficient information. The Supreme
28 Court has held that “Habeas Corpus Rule 2(c) is more demanding [than Federal Rule of

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

10 Here, while the amended petition includes more factual allegations than the initial
11 petition, it still fails to sufficiently state a valid claim. In dismissing the initial petition,
12 the Court noted that Petitioner failed to provide information concerning how Petitioner
13 initially entered the United States, whether and how he was previously released from
14 immigration custody, and how long Petitioner has been detained. In amending his
15 petition, Petitioner now asserts he was detained on June 22, 2026. ECF No. 4 ¶ 2.
16 Petitioner also now claims that his present petition is filed “to challenge his continued
17 civil immigration detention by [ICE] has given Petitioner a defective Notice to Appear
18 [(NTA)]. They did not issue his NTA until a month after he was originally detained.
19 See NTA dated May 15, 2013. Petitioner was detained on May 15, 2013. Petitioners
20 [sic] NTA was not issued to him until June 24, 2013, leaving Petitioner in ICE custody
21 for over a month without a hearing date.” ECF No. 4 ¶ 3. Based on these allegations, it
22 is unclear to Respondents whether Petitioner is challenging his current detention in
23 2026, his prior detention in 2013, and/or an alleged defective NTA. Regardless,
24 Petitioner has still failed to supply the Court with information concerning how he
25 initially entered the United States, whether and how he was previously released from
26 immigration custody, and a clear understanding of the length of his detention.
27 Respondents also note that the amended petition, like the initial petition, alleges in one
28 part that Petitioner is a native of Guatemala, ECF No. 4 ¶ 1, and alleges in another part

1 that Petitioner is a native of Mexico, ECF No. 4 ¶ 8. *See* ECF No. 3 at 2 n.2.

2 Apart from Petitioner's failure to properly state a habeas claim, Respondents'
3 position is that Petitioner is subject to mandatory detention under 8 U.S.C. § 1231(a)
4 because he is subject to a final order of removal. On March 2, 2018, an immigration
5 judge ordered Petitioner removed from the United States to Guatemala. Exhibit 1.
6 Counsel for ICE has conveyed to undersigned counsel that ICE has routine removal
7 flights from the United States to Guatemala and is ready and able to effectuate
8 Petitioner's removal as soon as this Court lifts its July 8, 2026 order enjoining removal,
9 ECF No. 5.

10 As noted by the Court in its order denying the initial petition, "[s]ummary
11 dismissal is only appropriate where the allegations in the petition are vague or
12 conclusory, palpably incredible, or patently frivolous or false." *Kourteva v. I.N.S.*, 151
13 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001) (citing *Hendricks v. Vasquez*, 908 F.2d 490,
14 491 (9th Cir. 1990)). Respondents respectfully assert that Petitioner's claims are vague,
15 conclusory, and incredible, and the legal claims concerning his detention are incorrect.
16 As such, the Court should deny the petition. *See Alonso Velasquez v. LaRose*, No. 25-
17 cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without
18 prejudice habeas petition that failed to allege sufficient factual information).

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20 DATED: July 9, 2026

Respectfully submitted,

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23 s/ Erin Dimbleby
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26 Attorney for Respondents
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