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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 FELIZBERTO CAPITA-WILSON,
12 Petitioner,
13 v.
14 TODD BLANCHE, *et al.*,
15 Respondents.
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Case No.: 26-cv-3664-TWR-DDL
RESPONSE TO PETITION

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20 On June 22, 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, stating “Petitioner, who has been
22 detained for 6 months, contends that there is good reason to believe that there is no
23 significant likelihood of removal in the reasonably foreseeable future under *Zadvydas*
24 *v. Davis*, 533 U.S. 678, 701 (2001).” ECF No. 4. On that basis, the Court ordered
25 Respondents to show cause as to why Petitioner should not be immediately released
26 from custody. *Id.* Respondents respond herein as ordered by the Court.

27 Respondents respectfully disagree with the Court’s characterization of
28 Petitioner’s assertions. Petitioner states that he “has remained in ICE custody

1 continuously since 2-10-2026.” ECF No. 1 at 2. Respondents agree that Petitioner was
2 taken into immigration custody on February 10, 2026, and note that that length of time
3 is less than five months. Further, while Petitioner asserts a claim under *Zadvydas*, and
4 that there is no significant likelihood of removal in the foreseeable future, he does not
5 assert that he is subject to a final order of removal—a prerequisite to a *Zadvydas* claim.
6 Instead, Petitioner states that he “has an ongoing [a]sylum case on appeal were [sic]
7 Petitioner will likely succeed” and asserts a legal argument that ongoing removal
8 proceedings do not divest jurisdiction for a district court to consider a habeas petition.
9 ECF No. 1 at 2. Respondents agree that Petitioner currently has ongoing removal
10 proceedings under 8 U.S.C. § 1229a. On June 3, 2026, an immigration judge denied
11 Petitioner’s applications for relief from removal and ordered Petitioner removed to
12 Angola. Exhibit 1. Undersigned counsel is not aware of Petitioner having made an
13 appeal of that order; however, Petitioner has until July 3, 2026, to file such appeal. As
14 Petitioner is not yet subject to a final order of removal (though may be in the near
15 future), his *Zadvydas* claim fails and his petition should be dismissed.

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

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

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5 DATED: July 1, 2026

Respectfully submitted,

6 ADAM GORDON
7 United States Attorney

8 s/ Erin Dimbleby
9 ERIN DIMBLEBY
10 Assistant United States Attorney
11 Attorney for Respondents
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28 ¹ To the extent the Court is not inclined to dismiss the petition for failure to state a
sufficient claim, Respondents respectfully request fourteen days to file a supplemental
response.