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7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 SATUJ BENITO MARCO-TULIO,

11 Petitioner,

12 v.

13 WARDEN, CALIFORNIA CITY
14 CORRECTIONAL CENTER,

15 Respondent.

No. 1:26-CV-05063-TLN-CSK

MOTION TO DISMISS

1 Petitioner has submitted a successive habeas petition and it should be dismissed. On March 12,
2 2026, Petitioner filed a habeas petition (“First Petition”) in the Eastern District of California. *See*
3 *Marco-Tulio v. Warden, et al.*, No. 2:26-cv-00849-JLT-SKO, ECF No. 1 (E.D. Cal. Mar. 12, 2026)
4 (“*Marco-Tulio I*”). On March 26, 2026, the Court granted Petitioner’s First Petition and ordered that he
5 be provided a bond hearing within fourteen days. *Marco-Tulio I*, ECF No. 8. On February 18, 2026,
6 Petitioner was provided a bond hearing where the immigration judge denied bond after determining that
7 Petitioner was a flight risk. Exh. 1 (Bond Order).

8 On May 28, 2026, Petitioner filed a second habeas petition (“Second Petition”) in the Eastern
9 District of California. *See Marco-Tulio v. Warden, California City Correctional Center*, No. 1:26-cv-
10 04101-JLT-EPG, ECF No. 1 (E.D. Cal. May 28, 2026) (“*Marco-Tulio II*”). As the Second Petition, in
11 essence, sought to enforce the Court’s prior order in *Marco-Tulio I*, the Court construed Petitioner’s
12 Second Petition as a motion to enforce. *See Marco-Tulio II*, ECF No. 4; *Marco-Tulio I*, ECF No. 11.
13 On June 15, 2026, the Court denied Petitioner Second Petition construed as a motion to enforce. *See*
14 *Marco-Tulio I*, ECF No. 15; *see also Marco Tulio II*, ECF No. 9.

15 On July 1, 2026, Petitioner filed a third habeas petition (“Third Petition”) in the Eastern District
16 of California. ECF No. 1. Similar to his Second Petition, Petitioner’s Third Petition primarily makes
17 claims concerning the bond hearing that was ordered by the Court and he does not appear to make new
18 claims. *See id.*

19 Pursuant to 28 U.S.C. § 2244(a), “[n]o circuit or district judge shall be required to entertain an
20 application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of
21 a court of the United States if it appears that the legality of such detention has been determined by a
22 judge or court of the United States on a prior application for a writ of habeas corpus.” *Tate v. Borla*, No.
23 1:25-CV-01704 JLT SKO (HC), 2025 WL 3769421, at *1 (E.D. Cal. Dec. 31, 2025); *see also Felker v.*
24 *Turpin*, 518 U.S. 651, 664 (1996) (noting in § 2241 action that § 2244’s restrictions on successive
25 petitions “constitute a modified res judicata rule, a restraint on what is called in habeas corpus practice
26 ‘abuse of the writ’ ”); *Barapind v. Reno*, 225 F.3d 1100, 1111 (9th Cir. 2000) (“§ 2244(a) prevents a
27 federal inmate from using § 2241 ‘to call into question the validity of a conviction or sentence that has
28

1 already been subject to collateral review.” (quoting *Valona v. United States*, 138 F.3d 693, 694 (7th Cir.
2 1998)).

3 Here, because Petitioner presents in the Third Petition the same issues that were conclusively
4 decided in the First and Second Petitions, the Third Petition should be dismissed. *See Del Raine v.*
5 *Adams*, 58 Fed. App’x 762 (9th Cir. 2003) (finding that the “district court properly dismissed Del
6 Raine’s [§ 2241] petition as successive because he raises the same claims raised in a prior habeas
7 petition, and denied on the merits by the Middle District of Pennsylvania”); *Brown v. Grondolsky*, No.
8 08–5811 (NLH), 2009 WL 3030082, at *5 (D. N.J. Sept. 16, 2009) (dismissing § 2241 petition under
9 abuse of writ doctrine because petitioner’s sentence computation claim was denied in earlier habeas
10 proceeding where court found that the BOP properly applied credits for time served (citing inter alia
11 *Razzoli v. FCI Allenwood*, 200 Fed. Appx. 166, 168 (3d Cir. 2006) (“[T]his claim has already been
12 adjudicated by the Eastern District of New York Thus, bringing the claim again at this time is
13 barred by the doctrine of abuse of the writ.”)).

14 Accordingly, there is no remaining case or controversy before this Court not previously
15 addressed in the First and Second Petitions. The Third Petition should be dismissed. *See also* Rule 4 of
16 the Rules Governing Section 2254 Cases in the United States District Courts.

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18 Dated: July 2, 2026

Respectfully submitted,

19 ERIC GRANT
20 United States Attorney

21 By: /s/ CAMILO RODRIGUEZ
CAMILO RODRIGUEZ
22 Special Assistant United States Attorney
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I am an employee in the Office of the United States Attorney for the Eastern District of California and am a person of such age and discretion to be competent to serve papers; that on July 2, 2026, I served a copy of the Respondent's Motion to Dismiss, by forwarding this document to a legal assistant of the same office who placed said copy in postpaid envelopes addressed to the person hereinafter named, at the places and addresses stated below, which are the last known address and mailing address, and by depositing said envelopes and their contents in the United States Mail at Sacramento, California.

Addressee(s):

Satuj Benito Marco-Tulio

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Dated: July 2, 2026

/s/ CAMILO RODRIGUEZ

CAMILO RODRIGUEZ