

Form F1-2. State-Court Petition for a Writ of Habeas Corpus on Behalf of a Non-Human Being Held by a Contractor

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Use. This petition is for the case [Form F1-1](#) does not cover: a living, intelligent non-human being held against its will by a private company, such as a defense or aerospace contractor, that claims to hold the being on its own account rather than for the United States. State habeas statutes reach any restraint of liberty “under any pretense,” including restraint by private persons, and California’s statute lets “some person in his behalf” apply for the writ. The petition is built so that the custodian’s answer moves the case forward whichever position it takes. If the custodian says it holds the being privately, the state court decides the case. If it says it holds the being for the United States, it concedes federal custody, and the petitioner proceeds in federal court under 28 U.S.C. §2241 ([Form F1-1](#)). Read [Issue F1](#) (legal status), [Issue F2](#) (detention), and [Issue A1](#) (state secrets) before adapting it. Counsel must have a good-faith factual basis for every allegation; the facts below are placeholders.

When to use. A next friend seeking release of a non-human intelligence held by a contractor or other private custodian in a state whose habeas statute reaches private restraint. **Not for:** A being held directly by a federal agency or the armed forces ([Form F1-1](#)); claims for damages; animals.

Deadlines. None by statute. File promptly once the facts support custody, and before the being can be moved out of the state.

1 [ATTORNEY NAME] (State Bar No. [____])
[FIRM NAME]
[Street address]
2 [City, State ZIP]
Telephone: [(____) ____-____]
3 Email: [____]

4 Attorneys for Petitioner [NAME]

5
6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF [COUNTY IN WHICH THE BEING IS RESTRAINED]**

7 In re [NAME OR DESIGNATION OF
THE BEING, if known; otherwise
8 "AN UNNAMED NON-HUMAN BEING"],
on Habeas Corpus.

9 [NEXT FRIEND], on behalf of
10 [the being],
Petitioner,

11 v.

12 [CONTRACTOR], a [state]
13 corporation; [OFFICER OR
EMPLOYEE WITH IMMEDIATE
14 CUSTODY, if known]; and [DOES
1-10, persons whose names are
15 unknown who confine or restrain
the being, described in
16 paragraph 7],

17 Respondents.

Case No. [____]

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
(Penal Code §§ 1473,
1474)**

18
19 **INTRODUCTION**

20 1. Petitioner asks the Court to require Respondents to bring forward the being they
21 hold and state by what right they hold it. The petition leaves for another day the full range of
22 rights such a being may have. It asks for an order to show cause, a return stating the authority
23 and cause of the restraint, a hearing, and release from any restraint that has no lawful basis.

24 2. California's habeas statute is not limited to prisoners of the state. "A person
25 unlawfully imprisoned or restrained of their liberty, under any pretense, may prosecute a writ of
26 habeas corpus to inquire into the cause of the imprisonment or restraint." Pen. Code § 1473,
27 subd. (a). The petition must name "the officer or person by whom he is so confined or
28 restrained," and may describe the parties "if they are not known." Pen. Code § 1474. The

1 statute thus contemplates restraint by private persons and custodians whose names are
2 unknown, which is the situation here.

3 JURISDICTION AND VENUE

4 3. The Court has jurisdiction under Penal Code sections 1473 and 1474 and article
5 I, section 11 of the California Constitution. [Confirm the constitutional provision and the venue
6 rules before filing.]

7 4. Venue lies in this County because the being is restrained at [facility, address]
8 within the County. [State the basis for that allegation.]

9 PARTIES

10 5. **The being.** [Describe in unclassified, non-speculative terms what is known: e.g.,
11 “a living being of non-human origin brought to Respondent’s facility at [place] on or about
12 [date],” and the source of that knowledge.] On information and belief, the being is alive, is
13 confined against its will, and is capable of [reasoning / communication / expressing preferences
14 / making and keeping agreements], as shown by [facts]. [State the facts showing that the being
15 does not consent to its confinement, for example attempts to leave, expressions of distress or
16 refusal, or statements conveyed through communication.]

17 6. **Petitioner.** [Name] applies “in his behalf” under Penal Code section 1474.
18 [Describe the petitioner’s relationship to and knowledge of the being, and dedication to its
19 interests. See Part II.]

20 7. **Respondents.** [CONTRACTOR] owns or operates the facility where the being
21 is held. [OFFICER OR EMPLOYEE] has immediate custody. DOES 1-10 are persons whose
22 names Petitioner does not know who confine or restrain the being, including [describe by role:
23 e.g., the facility security manager and the program manager responsible for the being].
24 Petitioner will amend to name them when they are known.

25 FACTS

26 8. [Allege the facts of the being’s arrival at the facility, its confinement, and its
27 treatment, with the basis for each allegation. Use only information Petitioner and counsel may
28 lawfully possess and disclose. If any source is a current or former contractor or government

employee, confirm that the information reached Petitioner through a lawful channel (see Issues C1, C3). Do not attach or describe classified documents.]

9. [Allege facts bearing on whether the custody is private: e.g., Respondent’s statements that it owns the being or acquired it [by purchase / recovery / transfer], the absence of any government contract or direction that Petitioner knows of, and any claim of intellectual property in information derived from the being (Issue E2).]

10. [If applicable:] On information and belief, Respondents require the being to [take part in tests / assist with the analysis of technology / perform work] under threat of [physical restraint / withholding of care / other coercion]. [State the basis for this allegation.]

11. On information and belief, no court, tribunal, or other neutral body has reviewed the basis for the being’s confinement, and the being has had no access to counsel, an interpreter, or any representative.

GROUND S FOR RELIEF

I. The Court may inquire into a restraint imposed by a private custodian.

12. Section 1473 reaches restraint “under any pretense,” and section 1474 requires the petition to identify “the officer or person” responsible. The writ in this State is not confined to custody imposed by government. A private company that confines a living being and asserts a right to keep it must answer for that restraint as any other custodian must.

II. Petitioner may apply on the being’s behalf.

13. Section 1474 allows the petition to be “signed either by the party for whose relief it is intended, or by some person in his behalf.” The being cannot apply for itself: it is confined in a facility Petitioner cannot enter, has no access to counsel, and [may not communicate in any human language]. Petitioner’s relationship with the being is [describe: e.g., direct contact before or during confinement; responsibility for its care; status as the only person outside Respondents’ control who has communicated with it]. Petitioner has no interest adverse to the being’s.

14. Federal courts apply a stricter next-friend test under 28 U.S.C. § 2242, requiring an explanation why the real party cannot appear and a next friend truly dedicated to its

1 interests. *Whitmore v. Arkansas*, 495 U.S. 149 (1990); *Coalition of Clergy, Lawyers, &*
2 *Professors v. Bush*, 310 F.3d 1153 (9th Cir. 2002) (petitioners without a relationship to the
3 detainees lacked standing). Petitioner meets that test as well, for the reasons stated in paragraph
4 13.

5 **III. The being may invoke the writ.**

6 15. Section 1473 speaks of “a person.” The question whether a living, intelligent
7 being of non-human origin is a “person” for this purpose is one of first impression in
8 California. The decisions that refused the writ to animals rested on the animals’ inability to bear
9 duties and answer for their conduct. *People ex rel. Nonhuman Rights Project, Inc. v. Lavery*,
10 124 A.D.3d 148, 152 (3d Dep’t 2014); *Matter of Nonhuman Rights Project, Inc. v. Breheny*, 38
11 N.Y.3d 555 (2022). Those decisions are not binding here, and their reasoning supports this
12 petition: a being that can [reason, communicate, and make and keep agreements] has the
13 capacities those courts found missing. The Court need not decide the question finally to issue
14 an order to show cause, because the facts on which it depends (the being’s capacities and the
15 conditions of confinement) are in Respondents’ exclusive possession.

16 16. The writ has historically reached persons whom the law of the time treated as
17 property. *Somerset v. Stewart*, Lofft 1, 98 Eng. Rep. 499 (K.B. 1772). A custodian’s claim to
18 own the being is the question to be decided at the hearing; it is no answer to the petition.

19 **IV. A restraint that compels the being to work is unlawful in any event.**

20 17. [Include only if paragraph 10 is alleged.] The Thirteenth Amendment provides
21 that “[n]either slavery nor involuntary servitude, except as a punishment for crime whereof the
22 party shall have been duly convicted, shall exist within the United States, or any place subject
23 to their jurisdiction.” Its text turns on the condition imposed, without reference to the status of
24 the person subjected to it, and it applies to private conduct. *United States v. Kozminski*, 487
25 U.S. 931 (1988), defines involuntary servitude as compelled labor obtained through physical or
26 legal coercion. Confinement for the purpose of compelling the being to [work / take part in
27 tests] falls within that definition and cannot be a lawful cause of restraint.

1 **V. Respondents must state whether they claim federal authority, and on what**
2 **basis.**

3 18. If Respondents hold the being for the United States, a state court may not order
4 its release. *Tarble’s Case*, 80 U.S. (13 Wall.) 397 (1872); *Ableman v. Booth*, 62 U.S. (21 How.)
5 506 (1859). Petitioner therefore asks that the return state whether Respondents claim to hold
6 the being under the authority of the United States and, if so, identify the contract, order, or
7 other instrument on which they rely. If the return claims federal authority, Petitioner will seek
8 relief in federal court, where the writ extends to a prisoner “in custody under or by color of the
9 authority of the United States.” 28 U.S.C. § 2241(c)(1). If the return disclaims federal authority,
10 the restraint is a private one and this Court should decide it.

11 19. Respondents may seek to remove this proceeding under 28 U.S.C. § 1442(a)(1)
12 as persons “acting under” a federal officer. A contractor that invokes that statute must show
13 that it was helping to carry out the duties of a federal superior, *Watson v. Philip Morris Cos.*,
14 551 U.S. 142 (2007), and that showing establishes the federal custody that makes § 2241
15 available.

16 **VI. Secrecy is not a reason to withhold the writ.**

17 20. If Respondents or the United States contend that the matter involves classified
18 information, the Court can protect that information through a protective order, sealing, and in
19 camera review while requiring Respondents to state the authority for the restraint. The federal
20 courts did so in the Guantánamo habeas cases. *Rasul v. Bush*, 542 U.S. 466 (2004); *In re*
21 *Guantanamo Bay Detainee Litigation*, 577 F. Supp. 2d 143 (D.D.C. 2008). The state secrets
22 privilege is an evidentiary privilege that only the United States may assert, by formal claim,
23 and it does not entitle a private custodian to refuse to answer ([Issue A1](#)).

24 **RELIEF REQUESTED**

25 Petitioner asks the Court to:

26 A. Issue an order to show cause directing Respondents to file a return stating whether
27 they have the being in their custody or under their restraint, the authority and cause of the
28

1 restraint, and whether they claim to act under the authority of the United States, with any
2 instrument on which they rely;

3 B. Order Respondents not to move the being out of the State, or transfer custody of it,
4 without leave of the Court;

5 C. Order Respondents to preserve all records, recordings, specimens, and other
6 evidence concerning the being and its confinement;

7 D. Order Respondents to provide the being with humane conditions, necessary care, and
8 [interpretation / means of communication] pending further order, and to file under seal a report
9 on its condition;

10 E. Appoint [counsel / a guardian ad litem] for the being and enter a protective order for
11 any confidential or classified information;

12 F. Hold an evidentiary hearing, with leave for Petitioner to take discovery limited to the
13 issues in the return;

14 G. Grant the writ and order the being released from any restraint found unlawful, to [a
15 place of safety acceptable to the being / the custody of a person or body the Court approves], on
16 such conditions as the Court finds necessary; and

17 H. Grant such other relief as is just.

18 Dated: [_____] Respectfully submitted,

19 [signature block]

20 **VERIFICATION**

21 I, [Petitioner], declare under penalty of perjury under the laws of the State of California
22 that I have read this petition and that the facts stated in it are true of my own knowledge, except
23 as to matters stated on information and belief, and as to those matters I believe them to be true,
24 and I have stated the basis for each such matter.

25 [Signature, date, place]
26
27
28

Drafting notes

- **Choosing the court.** File where the being is restrained. Nevada's statute is as broad as California's: "Every person unlawfully committed, detained, confined or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus." Nev. Rev. Stat. § 34.360; see §§ 34.360-34.680 for procedure. Check the statute of any other State for its coverage of private restraint and its rule on who may apply. Avoid New York, where *Breheny* binds the courts.
- **The federal question decides the forum.** Part V is the core of the petition. A return or removal notice that claims federal authority is the admission [Form F1-1](#) needs; a return that disclaims it leaves the case in state court. Have [Form F1-1](#) ready to file the same day.
- **Removal.** If Respondents remove under 28 U.S.C. § 1442, ask the federal court to treat the petition as one under § 2241 and to require the return described in Prayer A. Discovery in federal habeas is available for good cause. *Harris v. Nelson*, 394 U.S. 286 (1969); Rule 6 of the Rules Governing Section 2254 Cases, applicable to § 2241 petitions under Rule 1(b).
- **Relief.** Courts can order an end to unlawful custody but are reluctant to order a detainee released into a particular place or country. *Kiyemba v. Obama*, 605 F.3d 1046 (D.C. Cir. 2010) (reinstating 555 F.3d 1022, which had been vacated, 559 U.S. 131 (2010)); *Munaf v. Geren*, 553 U.S. 674 (2008). Prayer G asks for release to a place of safety on conditions, which a court can grant; plan where the being would go and who would care for it, and put that plan in the record.
- **The being's wishes.** The petition must show that the being is held against its will. Gather every sign of non-consent, and every communication in which it expressed a wish, with the witness to each.
- **Thirteenth Amendment.** Use Part IV only if there is evidence of compelled work or testing. The criminal statutes on forced labor (18 U.S.C. §§ 1584, 1589) and the civil remedy in 18 U.S.C. § 1595 are separate actions and are not part of this petition.
- **Rule of candor.** The petition fails at once if the premise rests on rumor. Build the factual basis from witnesses with first-hand knowledge who used lawful channels, and from official acknowledgments.
- **Classified information.** If any fact is classified, stop and follow [Issue A1](#) and [Form A1-1](#) before filing; a private custodian cannot invoke the state secrets privilege, but the United States may intervene to assert it.
- **Pin cites.** Add pin cites for *Tarble's Case*, *Watson*, *Kozminski*, *Kiyemba*, *Munaf*, *Harris*, and *Coalition of Clergy* after reading each opinion, and run KeyCite before filing. The statutory quotations are current as of October 2026.
- Related: [Issue F1](#), F2, A1, E2; Forms F1-1, A1-1, F2-1.