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Detained

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

In the Matter of:

File No.: '25CV2505 BAS BLM

NGU ANOMA, Desmond Thierry

A 

Petitioner,

**Consolidated Petition for Writ of
Habeas Corpus and Injunction**

v.

Warden of the Otay Mesa
Detention Facility, Current or Acting Field
Office Director, San Diego Field Office,
United States Immigration and Customs
Enforcement; Current or Acting Director,
United States Immigration and Customs
Enforcement; Current or Acting Secretary,
United States Department of Homeland
Security; and Current or Acting United
States Attorney General,

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

RESPONDENT'S PETITION FOR WRIT OF HABEAS
In the Matter of Desmond Thierry NGU ANOMA

1 Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to
2 release Petitioner from detention and an injunction to obtain medical records due to Petitioner's
3 medical condition, as follows:

4
5 **INTRODUCTION**

6 1. Petitioner was detained by Immigration and Customs Enforcement ("ICE") at the Otay
7 Mesa Detention Center pending removal proceedings since December 2, 2024. Petitioner was
8 to be removed from the country on or about August 20, 2025.

9 2. However, Petitioner was granted Withholding of Removal under INA 241(b)(3) on or
10 about August 20, 2025, as was recognized that Petitioner's return to Cameroon would subject
11 him to a clear probability of persecution.

12 3. Despite this protection, ICE continues to detain him under a final order of removal,
13 creating unlawful and indefinite custody, in violation of the Immigration and Nationality Act
14 (INA), the Administrative Procedure Act (APA), and the Due Process Clause of the Fifth
15 Amendment.
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17 4. Petitioner suffers from hypertension, which has been exacerbated by the ongoing
18 threat of removal and the uncertainty of his detention. His condition places him at heightened
19 medical risk.
20

21 5. Petitioner's cousin is a U.S. citizen and is willing and able to be financially
22 responsible for him. Petitioner respectfully requests that this Court issue a writ of habeas
23 corpus, to release Petitioner so he can seek medical treatment for his medical complications.
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25 6. Petitioner requests that this Court issue a writ of habeas corpus and order Petitioner's
26 release due to medical concerns within 30 days unless Respondents schedule a hearing before
27 an IJ where: (1) to continue detention, the government must establish by clear and convincing
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1 evidence that Petitioner presents a risk of flight or danger, even after consideration of
2 alternatives to detention that could mitigate any risk that Petitioner's release would present;
3 and (2) if the government cannot meet its burden, the IJ shall order Petitioner's release on
4 appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.
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6 7. Additionally, Petitioner requests an injunction to obtain copies of the relevant medical
7 records from Otay Mesa Detention Center concerning his medical complications.

8 JURISDICTION

9 8. Petitioner was detained in the custody of Respondents at Otay Mesa Detention Center
10 from December 2, 2024, until his attempted removal on August 20, 2025.

11 9. This action arises under the Due Process Clause of the Fifth Amendment of the U.S.
12 Constitution. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas
13 corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702 (Administrative
14 Procedure Act. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
15 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
16 § 1651.
17
18

19 VENUE

20 10. Venue is proper in this District because this is the district in which Petitioner was
21 confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).
22

23 STATEMENT OF FACTS

24 11. Petitioner is a noncitizen who was detained at Otay Mesa Detention Center pending
25 immigration removal proceedings. Petitioner remains detained at Otay Mesa Detention Center.

26 12. Petitioner was detained in DHS custody since December 2, 2024.
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13. Petitioner suffers from hypertension. His worsening condition had been exacerbated by the ongoing threat of removal and indefinite custody.

14. Petitioner is still in DHS custody and requests release due to his medical complications. His release is justified on medical grounds and Petitioner poses no danger or flight risk.

15. Absent intervention by this Court, Petitioner cannot and will not be released in order to seek medical attention, nor will he be able to obtain copies of the medical records from Otay Mesa Detention Center concerning his medical complications.

LEGAL ARGUMENT

16. Courts have recognized the significance of the habeas statute in protecting individuals from unlawful detention, which affords “a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963); *see also Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (noting that habeas statute requires expeditious determination of petitions).

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.

18. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

19. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (internal quotation marks omitted).

20. In the immigration context, the Supreme Court has recognized two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

21. The test for procedural due process claims, the *Mathews* test balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see also Sho v. Current or Acting Field Off. Dir.*, No. 1:21CV-01812 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023) (using *Mathews* factors to assess a habeas petitioner’s due process claims and collecting cases doing the same). Here, each factor weighs in Petitioner’s favor, and Petitioner’s release is justified due to his medical complications. Petitioner poses no danger to the community nor is a flight risk.

22. Additionally, the Petitioner’s injunction should be granted to have Otay Mesa Detention Center produce the medical records concerning his medical complications. To be granted a preliminary injunction, one must establish “that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008).

23. Here, each factor tips in Petitioner’s favor. Petitioner is likely to succeed on the merits of his claim to obtain copies of his protected health information (“PHI”) from Otay Mesa Detention Center. Seeing as Petitioner and his attorneys of record are requesting a release of his PHI in writing from Otay Mesa Detention Center, Petitioner can show his likelihood of

1 obtaining said records by providing written authorization from Petitioner himself and his legal
2 representatives. Second, Petitioner will suffer irreparable harm if copies of his medical records
3 are not released by Otay Mesa Detention Center. The harm he will suffer due to his worsening
4 hypertension and medical complications he is facing cannot be compensated by monetary
5 damages. The physical, emotional, and mental harm Petitioner will suffer without knowing the
6 exact nature of his medical complications is sufficiently serious. The physical harm to Petitioner
7 himself is potentially permanent and sufficiently serious to demonstrate irreparable harm if
8 Petitioner does not obtain copies of his medical records. Finally, the balance of equities clearly
9 tips in Petitioner's favor and an injunction is in the public interest. Petitioner's interest in his
10 own health and well-being clearly outweighs the government's and Otay Mesa Detention
11 Center's interest in holding his medical records. An order for his medical records to be released
12 so Petitioner can obtain copies prevents further physical, emotional, and mental harm to
13 Petitioner and his family, and furthers public health.

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16 24. Thus, Petitioner should be granted a preliminary injunction to obtain copies of his
17 relevant medical records from Otay Mesa Detention Center.
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20 Respectfully Submitted,

21 /S/ Mario Portugal
22 Mario Portugal, Esq.
23 Attorney for the Petitioner
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