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

11 Eddy Othoman JOSEPH,
12 Petitioner,

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS**

13 Jeremy CASEY, Warden, Imperial
Regional Detention Facility;
14 Daniel J. BRIGHTMAN, Field Office
Director, U.S. Immigration and Customs
15 Enforcement;
16 Todd M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
17 Kristi NOEM, Secretary of Homeland
Security,

'25CV3560 JES KSC

18 Respondents.
19

20 Petitioner, Eddy Othoman Joseph petitions this Court for a writ of habeas
21 corpus under 28 U.S.C. §2241 to remedy Respondents' detaining him unlawfully,
22 and states as follows:

23 **INTRODUCTION**

24 1. Eddy Othoman Joseph ("Petitioner"), through counsel, respectfully
25 petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241,
26 challenging his unlawful detention by Immigration and Customs Enforcement
27 ("ICE")—a confinement that violates ICE's regulations, statutory mandates, and
28 fundamental constitutional protections against indefinite detention.

1 8. Respondent, Todd M. Lyons, is the Acting Director of ICE, the
2 agency responsible for enforcing immigration laws and detaining noncitizens. ICE
3 is a component of the Department of Homeland Security, 6 U.S.C. § 271. He is
4 sued in his official capacity.

5 9. Respondent Kristi Noem is the Secretary of the Department of
6 Homeland Security, which has ultimate authority over ICE's detention policies.
7 She is sued in her official capacity.

8 VENUE AND JURISDICTION

9 10. This Court has jurisdiction under 28 U.S.C. §§ 1331, 2241; 5 U.S.C.
10 § 701-706; and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and
11 Eighth Amendments. Jurisdiction is not limited by nationality or immigration status.
12 *Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court has authority under 28
13 U.S.C. § 2241 to review Mr. Joseph's detention because Respondents hold him "in
14 custody in violation of the Constitution or laws or treaties of the United States." 28
15 U.S.C. § 2241(c)(3). The REAL ID Act does not strip jurisdiction over challenges to the
16 lawfulness of detention. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Lopez-Marroquin*
17 *v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020).

18 11. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) and §
19 1391(e)(1) because Petitioner is detained at the Imperial Facility, located at 1572
20 Gateway Road, Calexico, California 92231—within this judicial district. Venue is also
21 proper under 28 U.S.C. § 2243 because Petitioner's immediate custodian resides here.
22 *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

23 FACTUAL AND PROCEDURAL BACKGROUND

24 12. Mr. Joseph entered the United States in 1996, fleeing persecution in
25 Angola. He filed for asylum, seeking protection under U.S. law.

26 13. When Mr. Joseph fled Angola during its civil war, he was a minor and
27 did not apply for a passport before leaving. Despite his multiple attempts, he has
28

1 not been able to get a travel document or a passport from the Angolan Consulate in
2 the United States.

3 14. On April 7, 1997, an immigration judge in San Diego, California,
4 denied his asylum application and issued a deportation order directing Petitioner to
5 be deported to Angola.

6 15. Mr. Joseph filed an appeal, which the Board of Immigration Appeals
7 dismissed; and on March 19, 2008, the U.S. Court of Appeals for the Ninth Circuit
8 denied his petition for review. Thereafter, on May 12, 2008, the Ninth Circuit court
9 issued its mandate and lifted the stay of deportation. The mandate's issuance
10 rendered Petitioner's deportation order final and under the Immigration and
11 Nationality Act, triggering the statutory time limit that governs the government's
12 authority to detain the petitioner.

13 16. Under 8 U.S.C. § 1231(a)(1)(B)(i), the government's 90-day statutory
14 removal period began the day the order became final—May 12, 2008—and expired
15 on August 10, 2008, more than 17 years ago.

16 17. During that 90-day window, the statute commands that “the Attorney
17 General shall detain the alien.” 8 U.S.C. § 1231(a)(2). Once the period ends
18 without a successful removal, the statute provides that “the alien, pending removal,
19 shall be subject to supervision under regulations prescribed by the Attorney
20 General.” 8 U.S.C. § 1231(a)(3). The mandatory language “*shall*” leaves no
21 discretion for continued detention under 8 U.S.C. § 1231(a)(2).

22 18. After the 90-day removal period expired on August 10, 2008, the
23 government's blanket detention authority terminated. At that point, § 1231(a)(2)'s
24 mandatory detention command no longer applied, and the government was required
25 to release Petitioner to supervision under § 1231(a)(3) and regulations prescribed
26 by the Attorney General. *See* 8 U.S.C. § 1231(a)(3). The only statutory provision
27 permitting further detention was § 1231(a)(6), which authorizes post-removal-
28 period custody solely for aliens who are inadmissible, removable under certain

1 enumerated grounds, or have been determined by the Attorney General to pose a
2 risk to the community or are unlikely to comply with removal orders. *Id.* §
3 1231(a)(6). Even assuming Petitioner met one of these criteria, any such detention
4 is constitutionally limited to the period during which removal remains reasonably
5 foreseeable. *Zadvydas*, 533 U.S. at 699-701. Once removal becomes indefinitely
6 remote, continued detention violates due process. *Id.*

7 19. So, after August 10, 2008, the government faced two lawful options:
8 release Petitioner to supervision under § 1231(a)(3) or justify narrowly tailored
9 detention under § 1231(a)(6) based on demonstrable, imminent prospects of
10 removal. Because removal was not reasonably foreseeable—indeed, it remains
11 unaccomplished more than 17 years later—the government possessed no valid
12 authority to continue holding Petitioner.

13 20. The ICE Marlton Sub-Office issued Mr. Joseph an Order of
14 Supervision (“OSUP”) on January 27, 2011, and over the course of the last 14
15 years, Petitioner appeared for his regular check-ins with ICE up to three times a
16 year. Ex. A.

17 21. Over the 17 years since his deportation order became final, Petitioner
18 has established extensive, lawful ties to this country, demonstrating that he is
19 neither a flight risk nor a danger to the community.

20 22. Mr. Joseph is married to a U.S. citizen, and they have a minor U.S.
21 citizen son, who lives with them in New Jersey. Petitioner is also the beneficiary of
22 an approved I-130 immigrant petition, which his U.S. citizen spouse filed.

23 23. Mr. Joseph has a single criminal misdemeanor conviction in
24 California, from 2017, for driving under the influence. He completed the
25 probationary sentence. He has no other criminal or legal violations.

26 24. Mr. Joseph has made multiple attempts to obtain a passport or travel
27 document from the Consulate of Angola in the United States. But Angola—Mr.
28

1 Joseph's country of birth—has consistently refused to issue him a passport or
2 travel document.

3 25. Mr. Joseph has complied with the OSUP and has cooperated fully
4 with ICE, providing information about his inability to obtain a travel document
5 from the Angolan Consulate. No such documents have ever been obtained, and
6 ICE has never demonstrated that Angola has agreed to accept his return.

7 26. Petitioner complied with his reporting requirements and continued to
8 appear for his scheduled supervision check-ins until ICE re-detained him on
9 May 29, 2025.

10 27. On May 29, 2025, 17 years after the deportation order became final
11 and more 17 years after the statutory removal period expired, ICE arrested
12 Petitioner without warning when he reported for his scheduled supervision
13 appointment.

14 27. Mr. Joseph and his wife waited at least four hours before seeing a
15 Deportation Officer (“DO”) at the May 29, 2025 ICE check-in appointment in Mt.
16 Laurel, New Jersey. The interview with the DO lasted no more than ten minutes.
17 The DO asked questions such as “Are you healthy?”, “Do you have any medical
18 conditions?”, and “Are you employed?” Although the officer mentioned that
19 deportation was a possibility, they provided little explanation for detaining him.
20 Based on their questions, it quickly became apparent to Mr. Joseph and his wife
21 that the ICE officers had already decided to detain him.

22 28. ICE took Petitioner to a detention facility in Delaney Hall in New
23 Jersey, where they held him for about a month.

24 29. Towards the end of June 2025, ICE transferred Petitioner to a
25 detention facility in Montgomery, Texas, and then to one in Imperial, California.
26 ICE unilaterally detained him without any individualized determination of danger
27 or flight risk, without notice, without an interview, and without any evidence that
28 removal is reasonably foreseeable.

1 30. While at the Montgomery detention facility, Petitioner spoke briefly
2 over the phone with DO Kelly Garcia. Officer Garcia asked Mr. Joseph, “Why did
3 they send you here?” and “Do you want to go to Mexico?” This was the first time
4 Mr. Joseph ever heard of the possibility of deporting him to Mexico. Petitioner also
5 talked by phone with the Embassy of Angola. Later, an ICE officer summoned him
6 to provide photographs and told that him they would send that to the South African
7 Consulate to see if South Africa would accept him.

8 31. Mr. Joseph was never told that he was a flight risk or posed any
9 danger to anyone during his detention in Montgomery, Texas.

10 32. About 90 days after his detention and while in Montgomery, Texas,
11 another officer told Petitioner that they were looking at his criminal history. This
12 was the first time he was told he was considered a flight risk.

13 33. On October 24, 2025, about 180 days after ICE detained him, Mr.
14 Joseph had an interview with a DO in Montgomery, with his immigration counsel,
15 Mr. Brennan Gian-Grasso, present via video. The DO—newly assigned to the
16 case—focused on Mr. Joseph’s inability to obtain a travel document from Angola,
17 and indicated that ICE had not made progress on obtaining a travel document for
18 Mr. Joseph despite having already detained him for months.

19 34. ICE then transferred Mr. Joseph to the Imperial Facility. On
20 November 19, 2025, Petitioner’s attorney received a letter from the Assistant Field
21 Office Director in the San Diego Field Office denying Mr. Joseph’s request for
22 release from detention. Ex. B. That letter included only this summary conclusion:
23 “After careful consideration of all the factors pertaining to this case, I have
24 determined that there is no significant information that would warrant a change in
25 your client’s custody status.” *Id.*

26 35. ICE has failed to provide Mr. Joseph with an individualized
27 determination of danger or flight risk, nor has it furnished any notice of the specific
28 reasons for his re-detention. And to date, ICE has presented no evidence that: (1)

1 Angola or a third country has agreed to receive him; (2) valid travel documents
2 have been or are likely to be obtained; (3) any changed circumstances render his
3 removal “reasonably foreseeable”; or (4) Mr. Joseph poses a flight risk or danger
4 to the community.

5 36. Instead, Petitioner’s detention appears to be a purely administrative
6 exercise—driven by statistical quotas or political objectives rather than any
7 legitimate enforcement purpose.

8 37. There is no indication that removal is reasonably foreseeable, nor does
9 any statutory authority appear to justify Petitioner’s continued confinement.

10 **EXHAUSTION OF REMEDIES**

11 38. Petitioner has exhausted all administrative remedies. ICE’s detention
12 decision is not subject to administrative appeal. The only available remedy is
13 federal habeas review under 28 U.S.C. § 2241. *Zadvydas*, 533 U.S. at 687.

14 **LEGAL FRAMEWORK**

15 39. Section 1231(a) of Title 8 governs the detention of individuals whom
16 immigration courts have ordered removed. The statute commands ICE to detain these
17 individuals for a 90-day removal period while it executes the removal order. *See* 8
18 U.S.C. § 1231(a)(2). The 90-day period begins when the removal order becomes
19 administratively final. Absent an applicable exception, ICE must release the individual
20 under supervision if removal cannot be effectuated within that period. *See* 8 U.S.C. §
21 1231(a)(3).

22 40. Subsection 1231(a)(6) authorizes ICE to extend detention beyond the 90-
23 day removal period, but it does not permit indefinite custody. The Supreme Court in
24 *Zadvydas* held that detention under § 1231(a)(6) is constitutionally permissible only
25 for a period “reasonably necessary” to effectuate removal and is unlawful when removal
26 is not “reasonably foreseeable.” *See* 533 U.S. at 689.

27 41. Once the presumptively reasonable six-month period under *Zadvydas*
28 expires, the burden shifts to the government to demonstrate, by clear-and-convincing

1 evidence, that removal remains reasonably foreseeable. *See Vinh Hoang Pham v.*
2 *Bondi*, No. 2:25-cv-01835, 2025 LX 532279, at *2-4 (W.D. Wash. Nov. 7, 2025);
3 *Conchas-Valdez v. Casey*, No. 25-cv-02469-DMS-JLB, 2025 LX451645, at *6-10
4 (S.D. Cal. Oct. 6, 2025); *Vaskanyan v. Janecka*, No. 5:25-cv-01475-MRA-AS, 2025
5 LX 281452, at *11-15 (C.D. Cal. July 18, 2025). If the government fails to meet this
6 burden—as when no country has accepted the individual, or where diplomatic or
7 logistical barriers render removal impossible—continued detention violates the Fifth
8 Amendment’s Due Process Clause. *See Vaskanyan*, 2025 U.S. Dist. LEXIS 137846, at
9 *15-16; *Alimam v. Kline*, No. CV-25-02437-PHX-KML (DMF), 2025 LX 327300, at
10 *6-7 (D. Ariz. Aug. 29, 2025), *adopted by*, *Alimam v. Kline*, 2025 U.S. Dist. LEXIS
11 173191(D. Ariz. Sept. 4, 2025) (granting writ of habeas corpus in part).

12 42. Regulations further reinforce these constitutional limits. 8 C.F.R. §
13 241.13(b)(1) permits ICE to release a noncitizen after the 90-day period if the
14 individual “would not pose a danger to the public or a risk of flight, without regard to
15 the likelihood of [their] removal in the reasonably foreseeable future.” *See also* 8
16 C.F.R. § 241.13(g)(1) (authorizing release if there is “no significant likelihood” of
17 removal despite efforts). ICE typically places such individuals on an OSUP under 8
18 C.F.R. §§ 241.4(j), 241.13(h).

19 43. But ICE may not lawfully re-detain an individual released under
20 supervision without complying with its own regulatory procedures. 8 C.F.R. § 241.13(i)
21 requires ICE to make a determination of “changed circumstances” indicating a renewed
22 likelihood of removal, provide written notice, and afford an informal interview before
23 revoking supervision. *See Rasakhamdee v. Noem*, No.3:25-cv-02816-RBM-DEB,
24 2025 LX 464025, at *7-16 (S.D. Cal. Nov. 6, 2025); *Rokhfirooz v. Larose*, No. 25-cv-
25 2053-RSH-VET, 2025 LX 377518, at *5-12 (S.D. Cal. Sep. 15, 2025). Similarly, 8
26 C.F.R. § 241.4(l)(1) applies to individuals “released under an order of supervision or
27 other conditions of release,” and 8 C.F.R. § 241.4(l)(2), applies to discretionary
28 decisions “to revoke release,” and those provisions require the Executive Associate

1 Director or a district director to make the revocation decision. And if the revocation is
2 based on an alleged violation of release conditions, ICE must give notice of reasons
3 and a prompt informal interview under 8 C.F.R. § 241.4(l)(1).

4 44. Here, ICE’s continued detention of Mr. Joseph is arbitrary, punitive,
5 and unlawful. It violates 8 U.S.C. § 1231(a)(6) and *Zadvydas*, the Fifth
6 Amendment’s Due Process Clause, 8 C.F.R. §§ 241.4 and 241.13, and *Singh v.*
7 *Holder*, 638 F.3d 1196 (9th Cir. 2011).

8 45. Absent judicial review, Petitioner faces indefinite detention—a
9 deprivation of liberty that violates the Suspension Clause and the Constitution.

10 46. The 90-day statutory removal period under 8 U.S.C. § 1231(a)(2) began
11 on May 12, 2008, and expired on August 10, 2008. At that point, ICE was legally
12 obligated to release Mr. Joseph under supervision unless removal was reasonably
13 foreseeable—which it was not, as he had no travel documents from Angola and neither
14 Angola nor a third country had accepted him.

15 47. The presumptively reasonable six-month detention period under
16 *Zadvydas* began on May 12, 2008, and ended on November 12, 2008. After this
17 date, Mr. Joseph needed only “good reason to believe that there is no significant
18 likelihood of removal in the reasonably foreseeable future” to shift the burden to
19 Respondents to prove, by clear-and-convincing evidence, that removal was reasonably
20 foreseeable—a burden they have failed to meet. *See Conchas-Valdez v. Casey*, No. 25-
21 cv-02469-DMS-JLB, 2025 LX 451645, at *6-10 (S.D. Cal. Oct. 6, 2025).

22 48. This petition seeks immediate release on Mr. Joseph’s prior OSUP or,
23 in the alternative, an immediate bond hearing consistent with *Singh*, where ICE
24 bears the burden of proving danger or flight risk by clear-and-convincing evidence.

25 **COUNT I: VIOLATION OF PROCEDURAL DUE PROCESS AND OF**
26 **THE ACCARDI DOCTRINE**

27 49. Petitioner realleges and incorporates paragraphs 1-48 as if fully set
28 forth herein.

1 50. ICE is bound by the regulations it promulgates. Under the *Accardi*
2 doctrine, an agency may not act contrary to its own rules; any such action is “void
3 and may be set aside.” *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260
4 (1954). Thus, ICE must obey the procedural safeguards in 8 C.F.R. §§ 241.4(l) and
5 241.13.

6 51. Importantly, 8 C.F.R. § 241.4(l)(2) limits the authority to revoke a
7 release to (a) the Executive Associate Commissioner (or an ICE official designated
8 as the functional equivalent) or (b) a district director, and only in the limited
9 circumstances in the regulation. A line officer or other ICE employee lacks the
10 statutory authority to order revocation.

11 52. Under 8 C.F.R. §§ 241.4(l)(1) and 241.13(i)(3), before revoking
12 release, ICE must (i) notify the alien of the reasons for revocation; (ii) conduct an
13 initial informal interview promptly after the alien returns to custody; and (iii) give
14 the alien an opportunity to respond and submit evidence that removal is not
15 reasonably foreseeable. The regulations further require ICE to “determine . . .
16 whether there is a significant likelihood that the alien may be removed in the
17 reasonably foreseeable future.”

18 53. Here, ICE committed the following statutory and regulatory violations:

- 19 a. Mr. Joseph was taken into custody on May 29, 2025, by ICE
20 officers without a revocation decision by the Executive
21 Associate Commissioner or district director, thereby exceeding
22 the authority granted by § 241.4(l)(2).
- 23 b. The petitioner was never provided with written notice of the
24 reasons for revocation, as required by § 241.4(l)(1).
- 25 c. No informal interview for over 148 days after Petitioner was re-
26 detained on May 29, 2025. ICE did not conduct the required
27 prompt informal interview after the petitioner was returned to
28 custody until October 24, 2025.

- 1 d. The petitioner was denied any chance to submit evidence that
2 removal to Angola is impossible, and ICE produced no
3 record-based finding that a “significant likelihood of removal”
4 exists.
- 5 e. Absence of a written custody-review finding. 8 C.F.R. § 241.4(*I*)
6 obligates the revoking official to prepare a written
7 determination. The ICE custody determination is dated
8 November 19, 2025, and appears to be a template denial of
9 custody redetermination request, without any individualized
10 analysis of Mr. Joseph’s specific circumstances.

11 54. By denying Mr. Joseph the statutory notice, informal interview, and
12 factual findings, ICE deprived him of a meaningful opportunity to be heard,
13 violating the procedural-due-process component of the Fifth Amendment. Because
14 the agency acted in direct contravention of its own mandatory regulations and
15 exceeded the limited revocation authority prescribed by § 241.4(*I*), the detention
16 must be terminated.

17 55. Respondents have failed to present any individualized evidence—no
18 diplomatic correspondence, no third-country agreements, and no credible plans for
19 removal. Mr. Joseph’s prolonged detention, now exceeding 180 days, violates the
20 Fifth Amendment’s Due Process Clause, as there is no foreseeable removal
21 destination, no individualized assessment of danger or flight risk, and no adherence
22 to mandatory release procedures. *See Vaskanyan*, 2025 U.S. Dist. LEXIS 137846, at
23 11-15.

24 56. Petitioner is entitled to immediate release under an OSUP pursuant to 8 C.F.R.
25 § 241.13(b)(1) and (g)(1), which mandate release when (1) removal is not reasonably
26 foreseeable and (2) the individual demonstrates neither a danger to the community nor a
27 flight risk—both conditions Mr. Joseph satisfies. *See* 8 C.F.R. § 241.13(b)(1) (permitting
28 release “without regard to the likelihood of removal in the reasonably foreseeable future”);

1 *Phakeokoth v. Noem*, No. 3:25-cv-02817-RBM-SBC, 2025 WL 520109, at *8-15 (S.D. Cal.
2 Nov. 7, 2025) (granting emergency relief where ICE failed to establish either changed
3 circumstances justifying detention or a realistic prospect of removal, in violation of
4 regulatory due process protections).

5 57. Petitioner respectfully requests that this Court declare ICE's continued
6 detention unlawful under the *Accardi* doctrine, and accordingly order his
7 immediate release. ICE's failure to adhere to its own binding regulations governing
8 detention reviews and release determinations renders Mr. Joseph's prolonged
9 confinement arbitrary and unlawful, requiring judicial intervention to remedy this
10 due process violation.

11 **COUNT II: VIOLATION OF 8 U.S.C. § 1231 (STATUTORY**
12 **DETENTION LIMITS) AND OF THE FIFTH AMENDMENT DUE**
13 **PROCESS (ZADVYDAS STANDARDS)**

14 58. Petitioner realleges and incorporates paragraphs 1-48, as fully set
15 forth herein.

16 59. Under 8 U.S.C. § 1231(a)(1)(B)(i), the "removal period" commences
17 upon the administrative finality of a removal order. For Petitioner, this period
18 began on May 12, 2008, and expired August 10, 2008—the statutory 90-day limit
19 within which ICE must ordinarily effectuate removal. Absent exceptional
20 circumstances, detention beyond this period requires release under supervision.
21 *See* 8 U.S.C. § 1231(a)(3).

22 60. Under *Zadvydas*, detention beyond six months after the removal
23 period's expiration is presumptively unconstitutional unless the government
24 demonstrates that removal is "reasonably foreseeable."

25 61. For Mr. Joseph, this six-month threshold passed on October 10, 2008,
26 over seventeen years ago. His continued detention far exceeds any constitutionally
27 permissible duration under *Zadvydas*.

28 62. The government bears the burden of proving, by clear and convincing
evidence, that removal is imminent. Here, it cannot meet this burden because:

- 1 a. 17 years have elapsed without removal;
- 2 b. ICE has failed to secure—and has little prospects of securing—
- 3 a valid travel document for Petitioner; and
- 4 c. Angola has expressly refused to issue Petitioner a travel
- 5 document.

6 63. Petitioner poses no flight risk, as evidenced by his 30+ years of continuous
7 residence in the U.S.; his three U.S. citizen children; his consistent compliance with
8 federal tax obligations; and an approved I-130 petition filed by his U.S. citizen spouse,
9 which provides a pathway to lawful status.

10 64. Petitioner further poses no danger to the community, given a complete
11 absence of violent criminal history; no record of substance abuse; and decades of
12 positive community contributions.

13 65. Because removal to Angola is not likely in the reasonably foreseeable
14 future, detention serves no legitimate governmental purpose. And Respondents
15 cannot meet the “special justification” required to override Fifth Amendment liberty
16 protections.

17 PRAYER FOR RELIEF

18 WHEREFORE, Petitioner respectfully requests that this Court:

19 1. Assume jurisdiction under 28 U.S.C. §2241, as this Court has exclusive
20 authority to review the legality of Mr. Joseph’s prolonged detention, which exceeds
21 both statutory limits under 8 U.S.C. § 1231(a)(6) and constitutional bounds
22 established in *Zadvydas*.

23 2. Issue a writ of habeas and order Respondents to show cause, within
24 three calendar days of the filing of this petition, why Petitioner’s continued detention
25 does not violate 8 U.S.C. § 1231(a)(6) and *Zadvydas*; the Fifth Amendment’s Due
26 Process Clause; 8 C.F.R. §§ 241.4 and 241.13; and the regulatory mandate under 8
27 C.F.R. § 241.13(b)(1) and (g)(1) that detention beyond 90 days is unlawful absent a
28 reasonable foreseeability of removal or a danger/flight risk determination. Thereafter,

1 set a hearing on the merits within five calendar days of Respondents' return,
2 consistent with 28 U.S.C. § 2243, to determine the lawfulness of Petitioner's
3 detention under the totality of the circumstances.

4 3. Declare that Mr. Joseph's continued detention since May 29, 2025, is
5 unlawful under 8 C.F.R. § 1231(a)(6), as removal to Angola is unlikely and no third
6 country has accepted him; the Fifth Amendment's Due Process Clause as interpreted
7 in *Zadvydas*, as removal is not reasonably foreseeable and the government has failed
8 to meet its burden by proving otherwise by clear and convincing evidence (*Conchas-*
9 *Valdez v. Casey*, No. 25-cv-02469-DMS-JLB, 2025 LX451645, at *6-10 (S.D. Cal.
10 Oct. 6, 2025); *Vaskanyan*, 2025 U.S. Dist. LEXIS137846, at *11-15); the Fifth
11 Amendment, as continued detention without an individualized determination of
12 danger or flight risk, and without compliance with 8 C.F.R. §§ 241.4(l) and 241.13(i).

13 4. Order Respondents to immediately release Mr. Joseph on an OSUP
14 under 8 C.F.R. §§ 241.4(j) and 241.13(h), without delay, as removal is not
15 reasonably foreseeable, Mr. Joseph poses no danger to the community, and any re-
16 detention without compliance with 8 C.F.R. §§ 241.4(l) and 241.13(i) was unlawful.
17 *Rasakhamdee*, 2025 LX 464025, at *7-16; *Tai Truong v. Noem*, No. 25-cv-2597-
18 JES-MMP, 2025 LX 421371, at *6-17 (S.D. Cal. Oct. 22, 2025).

19 5. In the alternative, order an immediate bond hearing at which the
20 government bears the burden of proving, by clear-and-convincing evidence, that the
21 petitioner constitutes a flight risk or danger that cannot be mitigated by release
22 conditions.

23 6. Award Petitioner his reasonable attorneys' fees and costs under the
24 Equal Access to Justice Act, 28 U.S.C. § 2412(d), as the government's position in
25 detaining Petitioner more than 180 days after the removal order became final without
26 a reasonable foreseeability showing or regulatory compliance was not substantially
27 justified; 5 U.S.C. § 504, to the extent applicable; and any other statutory or equitable
28 authority permitting fee recovery for vindication of constitutional rights in federal

1 habeas proceedings;

2 7. Retain jurisdiction to enforce any and all orders entered by this Court;
3 and

4 8. Grant such other and further relief as this Court deems just and proper.
5

6 Dated: December 12, 2025

Respectfully submitted,

7
8 By: /s/ Teodora D. Purcell
Teodora D. Purcell

9 By: /s/ Joshua A. Altman
10 Joshua A. Altman

11 Attorneys for Petitioner

12 **INDEX OF EXHIBITS**

13 **Exhibit A** Form I-220B, Order of Supervision, dated January 27, 2011

14 **Exhibit B** Letter from Assistant Field Office Director Fernando Valenzuela,
15 dated November 19, 2025
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