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

11 IDRISS ZAKARIA ISSA,

12 Petitioner,

13 v.

14 MARKWAYNE MULLIN, Secretary of
15 the Department of Homeland Security,
16 TODD BLANCHE, Acting Attorney
17 General, TODD M. LYONS, Acting
18 Director, Immigration and Customs
19 Enforcement, JESUS ROCHA, Acting
20 Field Office Director, San Diego Field
21 Office, JEREMY CASEY, Warden at
22 Imperial Regional Detention Center,

23 Respondents.

CIVIL CASE NO.: 26-cv-02117-BJC

**Traverse in Support of
Petition for a Writ
of Habeas Corpus**

24 The government's Return asks this Court to deny Mr. Issa's petition for two
25 reasons: first, because he is in mandatory detention under § 1225(b)(1)(B)(iii)(IV),
26 and second, because noncooperation justifies further detention under *Zadvydas*.¹
27 Both points are wrong.

28 ¹ This Court and others in this district have repeatedly rejected the government's jurisdictional arguments. *See, e.g., Velasquez v. Noem*, No. 26-CV-0746-BJC-MMP, 2026 WL 1005077, at *2 (S.D. Cal. Apr. 14, 2026).

1 **I. Mr. Issa is not subject to mandatory detention, and if he were, he would**
2 **be entitled to a bond hearing.**

3 As an initial matter, Mr. Issa is not subject to mandatory detention under
4 § 1225.

5 The Supreme Court interpreted § 1225(b)(1) in *Jennings v. Rodriguez*, 583
6 U.S. 281 (2018). There, the Court observed that “§§ 1225(b)(1) and (b)(2), unlike
7 § 1231(a)(6), provide for detention for a specified period of time.” *Id.* “Section
8 1225(b)(1)—the provision at issue here—“mandates detention ‘for further
9 consideration of the application for asylum,’ § 1225(b)(1)(B)(ii).” *Id.* “The plain
10 meaning of th[at] phrase[] is that detention must continue until immigration
11 officers have finished ‘consider[ing]’ the application for asylum,
12 § 1225(b)(1)(B)(ii)[.]” *Id.*

13 Thus, “[r]ead most naturally, §§ 1225(b)(1) . . . mandate[s] detention of
14 applicants for admission until certain proceedings have concluded.” *Id.* at 297.
15 “Section 1225(b)(1) aliens” in particular “are detained for ‘further consideration
16 of the application for asylum.’” *Id.* Crucially, “[o]nce those proceedings end,
17 detention under § 1225(b) must end as well.” *Id.*

18 Here, it is undisputed that the asylum officer denied relief, meaning that
19 ICE has finished considering Mr. Issa’s application for asylum. Because those
20 proceedings are over, “detention under § 1225(b) must end as well.” *Jennings*,
21 583 U.S. at 297. Mr. Issa therefore is no longer subject to § 1225(b) and can only
22 be detained under 8 U.S.C. § 1231.

23 If Mr. Issa were subject to mandatory detention, however, he would be
24 entitled to a bond hearing. Though courts agree that due process mandates a bond
25 hearing when detention grows unreasonably prolonged, they disagree about how to
26 assess whether a particular migrant’s detention has reached that point. *Sanchez-*
27 *Rivera v. Matuszewski*, No. 22-CV-1357-MMA (JLB), 2023 WL 139801, at *5–6
28 (S.D. Cal. Jan. 9, 2023) (Anello, J.) (surveying the various approaches).

1 Courts generally agree that relevant factors include:

2 (1) “the total length of detention to date,”

3 (2) “the likely duration of future detention,” and

4 (3) “the delays in the removal proceedings caused by the petitioner and the
5 government.”

6 *Id.* Some courts also consider:

7 (4) “the conditions of detention,” and

8 (5) “the likelihood that the removal proceedings will result in a different final
9 order.”

10 *Id.* Other courts have rejected the fourth and fifth factors, holding that they are “not
11 particularly suited to assisting the Court in determining whether detention has
12 become unreasonable and due process requires a bond hearing.” *Lopez v. Garland*,
13 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022); *accord Sanchez-Rivera*, 2023 WL
14 139801, at *5–6.² Mr. Issa would prevail under any of these factors tests.

15 First, the “most important factor,” the length of detention, strongly favors
16 Mr. Issa. *Banda*, 385 F. Supp. 3d at 1118. He has been detained since March 9,
17 2025, 14 months ago. Doc. 6-1 at ¶ 6.

18 Second, Mr. Issa has reason to anticipate significant future detention, as the
19 government has proved unable to remove him since issuing his removal order over
20 7 months ago. Doc. 6-1 at ¶ 9. Absent relief, his detention has a potentially
21 indefinite duration, lasting as long as it takes the government to remove him.

22 Third, the delay factor is inapplicable, as proceedings are over.

23 Fourth, Mr. Issa’s conditions of confinement weigh in favor of a bond
24 hearing, because being at Imperial Regional is ‘indistinguishable from penal
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26
27 ² Courts also disagree about whether to account for any criminal convictions that
28 have led to the deportation. *Sanchez-Rivera*, 2023 WL 139801, at *5–6. But such
factors—if appropriate at all—are irrelevant where, as here, the person is not being
removed as a result of criminal convictions.

1 confinement.” *Abdul Kadir*, 2025 WL 2932654, at *5 (quoting *Kydyrali*, 499 F.
2 Supp. 3d at 773).

3 The fifth factor does not apply, because Mr. Issa’s asylum proceedings are
4 over and thus no “different” outcome can occur.

5 On balance, then, Mr. Issa would be entitled to a bond hearing under any
6 test. If he were subject to mandatory detention, he would be entitled to this relief
7 at a minimum.

8 **II. Mr. Issa prevails under *Zadvydas* in spite of the alleged noncooperation.**

9 Because Mr. Issa is detained under 8 U.S.C. § 1231, the *Zadvydas*
10 framework applies. Mr. Issa must be released in spite of his alleged
11 noncooperation, for two reasons.

12 First, Respondents have not established that Mr. Issa’s failure to meet with
13 the Sudanese government is the cause of his delayed removal. In *Lema v. INS*, a
14 the Ninth Circuit recognized that § 1231(a)(1)(C) applies only when a detainee’s
15 noncompliance actually disrupts his removal. 341 F.3d 853, 855 n.3 (9th Cir.
16 2003). There, Lema made several statements that “created confusion as to his
17 nationality.” *Id.* But “Ethiopia’s decision not to grant Lema travel documents
18 apparently was based solely on Lema’s misrepresentation to Ethiopian officials in
19 [a] telephone conversation and in his application for travel documents that he is
20 Eritrean.” *Id.* Because “only a couple of the misrepresentations were known to
21 Ethiopian officials and were responsible for Ethiopia’s not granting Lema travel
22 documents,” the Ninth Circuit held that only those misrepresentations played in to
23 the § 1231(a)(1)(C) analysis. *Id.*

24 District courts have applied that same causation requirement to find that
25 respondents have not met their burden under § 1231(a)(1)(C). For instance, in
26 *Sokpa-Anku v. Paget*, the government argued that the petitioner’s past refusal to
27 board a plane to Ghana had prevented him from getting a travel document later
28 on. No. 17CV1107-DWF-KMM, 2018 WL 3130681, at *4 (D. Minn. June 8,

1 2018), *report and recommendation adopted*, 2018 WL 3129002 (D. Minn. June
2 26, 2018). The court rejected that argument. It held that “the record is insufficient
3 to establish any causal link” between the past noncompliance and Ghana’s
4 decision not to issue a document, as there was “no indication in the record that
5 Ghanaian officials were even aware of the incident at the Minneapolis–St. Paul
6 airport, let alone that it influenced the cancelation decision.” *Id.*

7 Likewise, in *Ford v. Quarantillo*, the court granted a detainee’s habeas
8 petition after finding that his detention was not “the result of” his past obstructive
9 behavior. 142 F. Supp. 2d 585, 588 (D.N.J. 2001). The court reasoned that the
10 petitioner had stopped obstructing and had been complying for more than a year,
11 yet Ghana still refused to issue a travel document. *Id.* Additionally, record
12 evidence showed that Ghana had not issued a travel document because of
13 bureaucratic delays unrelated to the obstruction. Because “Ford’s early
14 misrepresentation [was] not the real reason for the delay in his removal,” it could
15 not support continued detention under § 1231(a)(1)(C). *Id.*

16 As in *Sokpa-Anku* and *Ford*, respondents have not established the necessary
17 causal link here. According to Respondents, ICE has removed only 27 Sudanese
18 citizens from the United States from October 2020 to December 2024. Doc. 6-1 at
19 ¶ 18. Government statistics establish that, as of November 2024, there were 1,012
20 Sudanese citizens with a final removal order living in the United States. Exh. A at
21 5. Thus, ICE has been able to remove only about 2.7% of Sudanese people with a
22 final removal order. Even if Mr. Issa met with the consulate, then, there is a 97%
23 chance that he would not be removed there.

PROOF OF SERVICE

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I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: 4/3/2026

/s/ Katie Hurrelbrink
Katie Hurrelbrink