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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 ITOE PHILEMON SAKWE,
12
13 Petitioner,

Case No.: 26-CV-2159-BAS

RESPONSE TO PETITION

14 v.

15 MARKWAYNE MULLIN; et al.,
16
17 Respondents.

18
19 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner is subject to
20 mandatory detention under 8 U.S.C. § 1225(b). *See Jennings v. Rodriguez*, 583 U.S. 281
21 (2018). However, the government acknowledges that courts in this District have repeatedly
22 inferred a constitutional right against prolonged mandatory detention. Taking into
23 consideration those prior rulings and the length of time Petitioner has been in custody, the
24 government concedes that this Court should order that Petitioner receive a bond hearing,
25 where the government would bear the burden of proof of establishing, by clear and
26 convincing evidence, that Petitioner poses a danger to the community or a risk of flight.
27 *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12,
28

1 2025); *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26,
2 2025).

3 Petitioner argues that he should be allowed to bypass this process—with the Court
4 ordering his immediate release—"because of newly emerging evidence that the neutrality
5 of Otay Mesa's immigration judges ("IJ") have been compromised." ECF No. 9 at 2. But
6 the "evidence" to support this argument merely consists of (1) news articles relying
7 largely on hearsay, (2) a smattering of inapposite district court cases from other parts of
8 the country, and (3) conclusory testimony from an attorney declaration in a different
9 habeas case stating that, inter alia, "I believe that many immigration judges at Otay Mesa
10 and the Department of Homeland Security ('DHS') have implemented strategies to
11 ensure that persons granted bond hearings via habeas petitions will not have a fair
12 opportunity to seek release." *Elsayed v. Noem*, Case No. 26-CV-368, Dec. 5-2 at ¶ 7 (S.D.
13 Cal. Feb. 9, 2026). That attorney declaration cites no specific case, bond order, or bond
14 hearing transcript which forms the basis for his beliefs. And despite Petitioner's
15 speculative assertions about Otay Mesa immigration judges being "compromised," he
16 cites no habeas cases from this district in which the Court found that an immigration
17 judge had deliberately flouted this Court's order to hold a *bona fide* bond hearing or
18 where DHS failed to comply with an IJ order granting bond following a district court
19 order. On the contrary, there are numerous habeas cases from this district confirming that
20 IJs have complied in good faith with this Court's orders to conduct individualized bond
21 hearings, often on a very quick turnaround, and as recently as last week. *See, e.g. Ramirez*
22 *Ceja v. Divver*, No. 26-CV-254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2026) (Joint
23 Status Report reflecting IJ granting bond at Otay Mesa Immigration Court); *Prabhpreet*
24 *v. LaRose*, No. 26-CV-393-JES-SBC, ECF No. 10 (S.D. Cal. Feb. 19, 2026) (same); *I.E.*
25 *v. Casey*, No. 25-CV-3227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec. 16, 2025) (same for
26 Imperial Regional Detention Facility); *Gautam v. Correctional Corp. of Am.*, No. 25-cv-
27 03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice of Compliance); *Alemanji*

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1 v. *Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D. Cal. Dec. 23, 2025) (Notice
2 Confirming Bond Hearing). Petitioner cites no case supporting his assertion that DHS has
3 applied for an automatic stay for the purpose of frustrating these post-habeas bond orders.

4 Thus the Court should decline Petitioner’s invitation to insert itself into the position
5 of the immigration judge and should order a bond hearing in immigration court, subject
6 to the appropriate standards as set forth in *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
7 2011).

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s/ Laura C. Sambataro
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