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

GILBERT OJONGATUMBA JOACHIM,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
PATRICK DIVVER, Field Office
Director, San Diego Field Office, U.S.
Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
MARKWAYNE MULLIN, Secretary of
U.S. Department of Homeland Security;
and TODD BLANCHE, Acting Attorney
General of the United States,

Respondents.

CIVIL CASE NO.: 3:26-cv-02574-DMS-MMP

**TRAVERSE TO RETURN TO
PETITION FOR WRIT OF HABEAS
CORPUS**

Petitioner Gilbert Ojongatumba Joachim, by and through his undersigned
counsel, respectfully submits this Traverse to the Return filed by Respondents on
April 29, 2026:

INTRODUCTION

1. Respondents concede that Mr. Joachim’s prolonged civil detention without an individualized bond hearing is constitutionally untenable and that a bond hearing is required, with the government bearing the burden of proof by clear and convincing evidence. That concession is accepted.

2. What the Return does not address—and what remains in dispute—is the forum. The existing record, including Exhibits K and L to the Petition, establishes that EOIR operates under structural conditions that preclude a constitutionally neutral bond determination. Mr. Joachim therefore requests: (a) immediate release; or, in the alternative, (b) a bond hearing before this Court under 28 U.S.C. § 2241.

ARGUMENT

I. The Government’s Concession Confirms that Mr. Joachim’s Continued Detention Without a Bond Hearing is Constitutionally Impermissible.

3. The government expressly acknowledges that courts in this District have “repeatedly inferred a constitutional right against prolonged mandatory detention” and cites *Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025), and *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26, 2025)—cases that Mr. Joachim also relied upon. The government offers no individualized basis for continued detention. The § 1225(b) mandatory detention authority cannot, without more, sustain nearly a year of civil confinement with no custody determination. See *Gao v. LaRose*, 805 F. Supp. 3d 1106 (S.D. Cal. 2025) (Petition at Ex. H); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020)

(Petition at Ex. G); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1120 (W.D. Wash. 2019) (Petition at Ex. I).

II. A Bond Hearing Before The Immigration Court Would Not Provide Constitutionally Adequate Process.

4. Respondents propose a bond hearing before an immigration court but say nothing about the structural deficiency the Petition documented: EOIR immigration judges are employees of the Department of Justice, operating under the supervision of the Attorney General—the same executive branch that is the adverse party here. Due process requires a neutral adjudicator. *Withrow v. Larkin*, 421 U.S. 35, 47 (1975); *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

a. The Record Establishes That Immigration Judges Have Been Directed to Rule Against Detainees in Bond Proceedings.

5. The *New York Times* investigation at Exhibit L of the Petition—based on interviews with more than 85 people and analysis of millions of immigration cases—documents that the Trump administration has systematically pressured immigration judges, threatening disciplinary action for bond rulings that deviate from the government’s enforcement agenda. Chief Immigration Judge Teresa Riley received daily reports on bond rulings; judges were required to explain any grant of bond to supervisors. A June 2025 EOIR memorandum warned that judges appearing to favor one party “may be subject to corrective or disciplinary action.” Over 100 immigration judges who granted relief at higher rates were fired. Those remaining grant asylum at 15%, down from 46%; new hires grant at 6%. Petition at Exhibit L. An adjudicator

1 facing discipline for rulings favorable to a detainee cannot provide the neutral
2 determination due process requires. *Withrow*, 421 U.S. at 47.

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4 **b. EOIR Leadership Has Directed Immigration Judges to Disregard
5 Federal Court Orders.**

6 6. In January 2026, Chief Immigration Judge Teresa Riley sent an email to
7 immigration judges nationwide directing them that they were not bound by federal
8 district court declaratory judgments—including judgments from this District—
9 declaring the denial of bond hearings unlawful. Petition at Exhibit K. Courts that had
10 begun holding bond hearings reverted to denying them within days. A bond hearing
11 on remand from this Court would therefore be conducted by an adjudicator under an
12 institutional directive to disregard this Court’s prior rulings—providing the form of
13 process, not its substance. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“The writ
14 of habeas corpus . . . must not be subject to manipulation by those whose power it is
15 designed to restrain.”).

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19 **III. This Court Should Order Immediate Release, or in the Alternative,
20 Conduct the Bond Hearing Itself.**

21 7. Courts in this District have ordered immediate release where, as here, the
22 detainee has no criminal history, has a willing U.S.-citizen sponsor, and the
23 government cannot identify specific flight-risk or dangerousness factors. See *Rodas-*
24 *Dieguez v. Noem*, No. 3:26-cv-00976-RBM-MMP (S.D. Cal. Feb. 27, 2026). Mr.
25 Joachim has no criminal record of any kind (Petition at Ex. C), has appeared at every
26 hearing, has a U.S.-citizen sponsor willing to house and support him (Petition at Ex.
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1 M), and has strong incentives to continue appearing given his pending BIA appeal
2 and credible fear of return to Cameroon. The Return identifies no specific basis for
3 continued detention. Therefore, immediate release is the appropriate remedy.
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5 8. If this Court declines immediate release, it should conduct the bond hearing
6 itself, consistent with the habeas tradition recognized in *INS v. St. Cyr*. Under 28
7 U.S.C. § 2241 and the All Writs Act, district courts have broad authority to conduct
8 the proceeding necessary to remedy unlawful detention, which could include
9 conducting a bond hearing. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Boumediene v.*
10 *Bush*, 553 U.S. 723, 779 (2008). This Court—composed of Article III judges
11 accountable only to the Constitution—satisfies the neutrality that EOIR cannot.
12 *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal.*, 508
13 U.S. 602, 617 (1993). At that hearing, the government must prove by clear and
14 convincing evidence that no combination of conditions can reasonably assure Mr.
15 Joachim’s appearance and community safety. *Singh v. Holder*, 638 F.3d 1196, 1203–
16 05 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024). The
17 government has offered no evidence it can carry that burden.
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23 CONCLUSION

24 9. The government concedes a bond hearing is required. What it does not address
25 is that EOIR cannot provide one that satisfies due process. Under the structural
26 conditions documented in the record—systematic pressure on immigration judges,
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1 directives to disregard federal court rulings, and removal of judges who granted
2 relief—a hearing before this Court is the only constitutionally adequate forum. Mr.
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4 Joachim respectfully requests that this Court order his immediate release, or in the
5 alternative, conduct the bond hearing itself and apply the *Singh v. Holder* standard.
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8 DATED: May 4, 2026
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10 Respectfully submitted,
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12 /s/ Christina Tong
13 Christina Liao Tong (CA Bar No. 337433)

14 Attorney for Petitioner
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