

LAUREN ROSS (SBN 344909)
lauren@pathwayssd.org
PATHWAYS TO CITIZENSHIP
120 Stevens Ave
Solana Beach, CA 92075
(858) 509-2589

Pro Bono Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Gilbert Joachim OJONGATUMBA,

Petitioner,

v.

CHRISTOPHER J. LAROSE, warden of Otay
Mesa Detention Center; PATRICK DIVVER,
San Diego Field Office Director, Immigration
and Customs Enforcement and Removal
Operations; TODD LYONS, Acting Director
of US Immigration and Customs
Enforcement; MARKWAYNE MULLIN,
Secretary of Homeland Security,

Respondents.

Case No.: **'26CV2764 RBM JLB**

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

Petitioner petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to
remedy Respondents' unlawful and prolonged detention of him, and states as follows:

INTRODUCTION

1. Petitioner Gilbert Joachim OJONGATUMBA ("Petitioner"), a citizen and national of
Cameroon, by and through undersigned counsel, petitions this Court under 28 U.S.C. § 2241, et
seq., to issue a writ of habeas corpus ordering his release from immigration detention by the

1 Department of Homeland Security, United States Immigration and Customs Enforcement
2 (“ICE”). In the alternative, Petitioner asks this Court to order Respondents to provide him an
3 immediate custody redetermination hearing before a neutral decisionmaker at which the
4 government bears the burden of proving by clear and convincing evidence that his continued
5 detention is justified. Petitioner has been detained by DHS since June 3, 2025, when he was
6 apprehended shortly after crossing the border near Tecate, California.

7 2. He has never been released, paroled, or provided a meaningful custody determination. As
8 of the filing of this petition, Petitioner has been detained for more than ten months and counting.
9 Petitioner fled Cameroon after Cameroonian military authorities falsely accused him of
10 supplying spare parts to separatist fighters, brutally beat him, struck his leg with a metal object,
11 set his vehicle on fire, and left him unconscious with a severe leg injury. He spent approximately
12 nine months hospitalized in Cameroon. After he relocated to Douala, the military located him
13 again at church and shot his brother after mistaking his brother for him. Petitioner fled Cameroon
14 and sought protection in the United States. After Petitioner entered the United States, DHS
15 placed him initially in expedited removal processing. He was detained at a CBP camp overnight,
16 transferred to Otay Mesa Detention Center, fingerprinted, and given a credible fear interview. On
17 or about July 24, 2025, Petitioner appeared for his credible fear interview, and on or about July
18 28, 2025, DHS issued a positive credible fear determination. DHS then placed Petitioner in
19 removal proceedings under INA § 240.

20 3. Petitioner appeared in immigration court, pursued protection, and has never missed any
21 court date or ICE appointment. He has remained detained the entire time. His immigration
22 counsel moved for bond, but the Immigration Judge denied jurisdiction, citing *Matter of Q. Li*,

1 notwithstanding Petitioner's prolonged detention and the absence of any individualized finding
2 that he presents a danger or flight risk.

3 4. On March 18, 2026, Immigration Judge Mark Sameit ordered Petitioner removed to
4 Uganda pursuant to DHS's motion to premit his Form I-589 under the safe third
5 country/asylum cooperative agreement provisions. Petitioner timely appealed to the Board of
6 Immigration Appeals ("BIA"). The BIA acknowledged receipt of the appeal on March 30, 2026,
7 reflecting that the appeal was filed on March 25, 2026. That appeal remains pending. Petitioner
8 has not received meaningful review of his continued detention.

9 5. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.
10 Whether Respondents claim authority under 8 U.S.C. § 1225, 8 U.S.C. § 1226, or any inherent
11 detention authority, the Constitution does not permit the government to detain Petitioner for a
12 prolonged and indefinite period without a constitutionally adequate hearing at which a neutral
13 decisionmaker determines whether detention remains justified.

14 6. Petitioner has a viable and concrete release plan. His aunt, a United States citizen residing
15 in Maryland, has offered to house and financially support him upon release. She is employed
16 full-time as a nurse, earns more than \$150,000 annually, owns her home, and has provided
17 documentation of her citizenship, income, and residence. Petitioner poses no danger to the
18 community and no flight risk. He has no history of noncompliance, has pursued his legal
19 remedies, and has every incentive to appear because he fears persecution and torture if returned
20 to Cameroon and contests removal to Uganda.

21 7. Petitioner asks this Court to order his immediate release, or, at minimum, an immediate
22 constitutionally adequate bond hearing before a neutral decisionmaker where DHS bears the

1 burden of justifying continued detention by clear and convincing evidence and where alternatives
2 to detention and ability to pay are considered.

3 **CUSTODY**

4 8. Petitioner is currently in Respondents' legal and physical custody. Respondents are
5 detaining him at the Otay Mesa Detention Center in San Diego, California. He is under
6 Respondents' and their agents' direct control.

7 **PARTIES**

8 9. Petitioner is a citizen and national of Cameroon. He is currently detained at the Otay
9 Mesa Detention Center in San Diego, California. He has been detained continuously since June
10 3, 2025.

11 10. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center where
12 Petitioner is being held. Respondent LaRose oversees the day-to-day operations of the Otay
13 Mesa Detention Center and is a custodian of Petitioner. He is named in his official capacity.

14 11. Respondent Patrick Divver is the San Diego Field Office Director of ICE Enforcement
15 and Removal Operations and is named in his official capacity. ICE is the component of DHS
16 responsible for detaining and removing noncitizens and for custody determinations. In that
17 official capacity, Respondent Divver is a legal custodian of Petitioner.

18 12. Respondent Todd Lyons is the Senior Official Performing the Duties of Director of ICE
19 and is named in his official capacity. ICE is a component of DHS, 6 U.S.C. § 271, and an
20 "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). ICE is
21 detaining Petitioner, and Respondent Lyons has custodial authority over him.

22 13. Respondent Markwayne Mullin is the Secretary of DHS and is named in his official
23 capacity. DHS is the federal agency responsible for enforcing immigration laws and granting

1 immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Mullin has ultimate
2 custodial authority over Petitioner.

3 **JURISDICTION AND VENUE**

4 14. This action arises under the United States Constitution and the Immigration and
5 Nationality Act, 8 U.S.C. § 1101 et seq., to challenge Petitioner's detention under the INA and
6 any inherent or plenary powers the government may claim to continue holding him.

7 15. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 2241; 5 U.S.C. §§ 701–706; and
8 the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth Amendment to the United
9 States Constitution. This Court may grant relief under the Suspension Clause, the Fifth
10 Amendment, 5 U.S.C. § 706, 28 U.S.C. §§ 1361 and 1651, the Declaratory Judgment Act, 28
11 U.S.C. §§ 2201–2202, and 28 U.S.C. § 2241.

12 16. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is “in custody in
13 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).
14 Federal district courts retain habeas jurisdiction over challenges to the legality of immigration
15 detention. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Zadvydas v. Davis*, 533 U.S. 678, 687
16 (2001); *Lopez-Marroquin v. Barr*, 955 F.3d 759 (9th Cir. 2020) (order); *Singh v. Holder*, 638 F.3d
17 1196, 1211–12 (9th Cir. 2011).

18 17. Petitioner does not seek review of the merits of his removal order or the merits of the
19 Immigration Judge's safe third country ruling in this habeas action. Petitioner challenges only the
20 legality of his ongoing detention without a constitutionally adequate custody hearing.
21 Accordingly, 8 U.S.C. § 1252 does not strip this Court of jurisdiction over this petition.

22 18. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a
23 substantial part of the events or omissions giving rise to this claim occurred in this District and

1 Petitioner is detained in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004)
2 (Kennedy, J., concurring).

3 **FACTUAL BACKGROUND**

4 19. Petitioner is a citizen and national of Cameroon. In Cameroon, Petitioner worked as a
5 businessman operating a spare parts shop. He ordered goods from Nigeria and transported them
6 for his business. While Petitioner was driving back from Nigeria with goods for his business,
7 Cameroonian military officers intercepted him. The officers crossed the road, stopped him, and
8 demanded his identification. Petitioner provided his identification.

9 20. The officers accused Petitioner of supplying spare parts to separatist fighters. Petitioner
10 attempted to explain that he was a businessman and was not supplying separatists. The officers
11 did not permit him to explain.

12 21. The officers pulled Petitioner from his vehicle and beat him. One officer struck
13 Petitioner's leg with a metal object, causing a severe wound that nearly cut his foot in half. The
14 officers then set his vehicle on fire. Petitioner lost consciousness. The officers left him there. A
15 driver later found Petitioner and brought him to the hospital. He remained hospitalized for
16 approximately nine months because of the severity of the wound and the time it took to heal.

17 22. After Petitioner was released from the hospital, he relocated to Douala, Cameroon's
18 economic capital, on or about February 11, 2024, in an effort to start over and stay safe.

19 23. The military found Petitioner in church in Douala despite his relocation. The military shot
20 Petitioner's brother after mistaking his brother for Petitioner. After that incident, Petitioner's
21 church community helped him obtain his passport so he could flee Cameroon. Petitioner's wife
22 relocated to the outskirts of town and remains there. Petitioner was unable to communicate with
23 his family for months and finally reestablished contact with them in late August 2025.

1 24. Petitioner remains afraid to return to Cameroon. The fighting continues, and Petitioner
2 understands that someone he knew was killed in February 2026 after being falsely accused of
3 supporting freedom fighters.

4 25. Petitioner entered the United States on or about June 3, 2025, near Tecate, California.
5 Border Patrol encountered him at approximately 11:46 a.m. near Tecate, California, after he
6 came out from the road.

7 26. DHS prepared a Form I-213 stating that Petitioner was apprehended near Tecate,
8 California; that he entered at a time and place not designated by the Secretary of Homeland
9 Security; that he was transported to the San Diego Central Processing Center for processing
10 through e3/IDENT and Next Generation Identification systems; and that he was served with
11 DHS Forms I-860 and I-296 and held pending expedited removal processing under INA §
12 235(b)(1). (Ex. A.)

13 27. Petitioner spent the night at a CBP camp before he was transferred the next day to Otay
14 Mesa Detention Center where he was fingerprinted. DHS told Petitioner that he was being
15 processed for asylum. Petitioner was not released and was never paroled.

16 28. Petitioner remained detained while awaiting his credible fear interview. He appeared for
17 his credible fear interview on or about July 24, 2025. On or about July 28, 2025, he received a
18 positive credible fear determination.

19 29. DHS then placed Petitioner in removal proceedings under INA § 240. The Notice to
20 Appear charged Petitioner under INA § 212(a)(6)(A)(i), as a person present in the United States
21 without being admitted or paroled or who arrived in the United States at a time or place other
22 than as designated by the Attorney General, and under INA § 212(a)(7)(A)(i)(I), as an immigrant
23 not in possession of valid entry documents. (Ex. B.)

1 30. Petitioner first appeared in immigration court on or around October 2025. He appeared at
2 a master calendar hearing in November 2025. His case was scheduled for further proceedings on
3 March 18, 2026.

4 31. Petitioner's immigration counsel requested only one continuance after the first court date,
5 seeking approximately one month to prepare for the master calendar hearing. The Immigration
6 Judge granted approximately three weeks. Petitioner has not caused any substantial delay in his
7 case.

8 32. Petitioner's immigration counsel moved for a bond hearing. Immigration Judge Robinson
9 denied jurisdiction, citing *Matter of Q. Li*. (Ex. G.)

10 33. ICE has never provided Petitioner a meaningful custody determination. Petitioner has not
11 been provided a hearing at which DHS was required to prove, by clear and convincing evidence,
12 that his continued detention is necessary because he presents a danger or flight risk.

13 34. DHS filed a motion to pretermite Petitioner's Form I-589 application for asylum based on
14 the safe third country bar of INA § 208(a)(2)(A), asserting that Petitioner was subject to an
15 asylum cooperative agreement with Uganda.

16 35. On January 22, 2026, DHS advised Petitioner in writing that it intended to effectuate
17 removal to Uganda under the asylum cooperative agreement. Counsel for Petitioner responded to
18 DHS's motion on February 27, 2026.

19 36. On March 18, 2026, Immigration Judge Mark Sameit held a hearing regarding DHS's
20 motion. Petitioner testified about his fear of being sent to Uganda, including his fear that Uganda
21 would not fairly process his claim, that he could be returned to Cameroon, that he could be
22 harmed in refugee camps, and that Uganda's restrictions and human rights conditions placed him
23 at risk.

1 37. Notwithstanding Petitioner's testimony, the Immigration Judge granted DHS's motion,
2 pretermitted Petitioner's protection claims, and ordered Petitioner removed to Uganda. (Ex. C.)
3 Petitioner, through immigration counsel, timely appealed the Immigration Judge's decision to the
4 BIA. The appeal was filed on March 25, 2026, and the BIA acknowledged receipt on March 30,
5 2026. The appeal remains pending. Petitioner requested the opportunity to file a full brief. (Ex.
6 D.)

7 38. Because Petitioner's BIA appeal remains pending, there is no administratively final order
8 of removal. DHS cannot execute Petitioner's removal order unless the BIA dismisses the appeal,
9 and the timing of any final resolution of his case remains uncertain. Even if the removal order
10 were later affirmed, DHS has identified Uganda—a third country, not Petitioner's country of
11 nationality—as the proposed destination for removal. Removal to a third country would require
12 additional diplomatic coordination, acceptance by that country, and travel documentation. DHS
13 has provided no concrete timeline for those steps. As a result, Petitioner faces continued
14 detention for an indeterminate period with no clear end point.

15 39. Petitioner has now been detained for more than ten months. He has never missed a court
16 date. He has never missed an ICE appointment. He has remained in detention continuously since
17 the date of his apprehension.

18 40. Petitioner has significant medical issues. His leg injury from the military assault in
19 Cameroon continues to cause pain. When he sits for extended periods, his leg hurts. After he
20 walks for some time, he limps. He can stand, but prolonged standing or walking causes pain, and
21 his leg hurts when pressure is applied.

22 41. At Otay Mesa, Petitioner has requested medical care. He reports that medical staff have
23 generally responded to his requests. They scanned his foot and told him the pain would go away

1 on its own over time. They provided ibuprofen and another pain medication whose name
2 Petitioner does not remember.

3 42. Petitioner also experiences eye pain. He was told that he would not qualify for treatment
4 or eye drops for that issue until he has been detained for at least one year.

5 43. Detention has also caused Petitioner significant psychological distress. Petitioner is
6 separated from his wife and children. He has difficulty reaching them because of network
7 problems and limited communication access. He cannot work, cannot support his family, and
8 spends his days locked up running through scenarios in his head and worrying about his family.
9 During counsel's interview, Petitioner cried and had difficulty speaking about the impact of
10 detention.

11 44. Petitioner has a strong release plan. His aunt is a United States citizen and lives in
12 Maryland. She has agreed that Petitioner may live with her upon release. She has agreed to be
13 responsible for his room and board, medical expenses, and other necessary living expenses. She
14 is employed full-time as a nurse and earns more than \$150,000 annually. She has provided proof
15 of U.S. citizenship, income, and home ownership. (Exs. E-F.)

16 45. Petitioner is Catholic and intends to connect with a Catholic church community in the
17 United States if released.

18 46. Petitioner has no history of noncompliance in the United States. This is his first time in
19 the United States. He has been detained the entire time and has never had an opportunity to miss
20 an ICE appointment. His conduct in detention and in proceedings demonstrates that he will
21 comply with conditions of release.

22 47. Petitioner poses no danger to the community and no flight risk. Respondents have never
23 established otherwise in a constitutionally adequate custody hearing. Petitioner's continued

1 detention no longer serves a legitimate, nonpunitive immigration purpose. It has become
2 prolonged, harmful, and constitutionally unreasonable.

3 **EXHAUSTION OF REMEDIES**

4 48. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.

5 See *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential
6 exhaustion where administrative remedies are inadequate or not efficacious, pursuit of
7 administrative remedies would be futile, irreparable injury will result, or the administrative
8 proceedings would be void. *Id.*; *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).

9 49. Exhaustion should be waived because administrative remedies are futile and inadequate.
10 Petitioner sought a bond hearing before the Immigration Court, but Immigration Judge Robinson
11 denied jurisdiction, citing *Matter of Q. Li*. Thus, the agency has already taken the position that
12 Petitioner is not entitled to a bond hearing before an Immigration Judge.

13 50. ICE has never provided Petitioner a meaningful custody hearing, and there is no adequate
14 administrative procedure through which Petitioner can obtain the relief he seeks here: a
15 constitutionally adequate hearing, or release, based on prolonged detention.

16 51. Exhaustion should also be waived because Petitioner is suffering irreparable harm each
17 day he remains detained. His prolonged detention exacerbates his physical pain, prevents
18 adequate access to family support, intensifies his psychological distress, and continues without
19 any individualized showing that detention is necessary.

20 52. No statutory exhaustion requirement applies to Petitioner's constitutional challenge to his
21 prolonged detention. The agency cannot adjudicate the constitutionality of its own prolonged
22 detention scheme in a manner that would provide Petitioner the relief he seeks. See *Am.-Arab*

1 *Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995); *In re Indefinite Det.*

2 *Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000).

3 **FIRST CAUSE OF ACTION - Fifth Amendment Substantive Due Process Violation —**

4 **Prolonged Detention Without a Constitutionally Adequate Custody Hearing**

5 53. Petitioner re-alleges and incorporates by reference the allegations in paragraphs 1 through
6 51 above as though fully set forth herein. The Fifth Amendment protects all “persons” within the
7 United States, including noncitizens. See *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886); *Wong*
8 *Wing v. United States*, 163 U.S. 228, 238 (1896); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976);
9 *Zadvydas*, 533 U.S. at 693. Freedom from physical detention lies at the heart of the liberty
10 protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690. Immigration detention is civil,
11 not criminal, and may not become punitive. *Demore v. Kim*, 538 U.S. 510, 527–28 (2003);
12 *Zadvydas*, 533 U.S. at 690.

13 54. The government may not detain a person for a prolonged period without providing a
14 constitutionally adequate hearing to determine whether continued detention remains justified.
15 See *Singh*, 638 F.3d at 1203–04; *Rodriguez v. Robbins*, 804 F.3d 1060, 1078–85 (9th Cir. 2015),
16 rev’d on statutory grounds, *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Hernandez*, 872 F.3d at
17 990–91. Although *Jennings* rejected a statutory six-month bond-hearing rule, it did not decide
18 the constitutional question presented here. *Jennings*, 583 U.S. at 312.

19 55. Courts in this Circuit continue to recognize that prolonged civil immigration detention
20 without an adequate bond hearing raises serious due process concerns. In *Kydyrali v. Wolf*, 499 F.
21 Supp. 3d 768 (S.D. Cal. 2020), this Court granted habeas relief in a prolonged immigration
22 detention case, applying a nonexclusive six-factor due process analysis: (1) total length of
23 detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in

1 removal proceedings caused by the detainee; (5) delays caused by the government; and (6)
2 likelihood that removal proceedings will result in a final order of removal. *Id.* at 773. This
3 framework reflects the Ninth Circuit's broader recognition that civil immigration detention must
4 be accompanied by constitutionally adequate procedural protections and may not become
5 unreasonably prolonged without meaningful review. See *Singh v. Holder*, 638 F.3d 1196,
6 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017).

7 56. Each relevant factor supports relief here. First, Petitioner has been detained for more than
8 ten months, far beyond the brief detention contemplated in cases sustaining mandatory detention
9 during removal proceedings. His detention has become prolonged.

10 57. Second, the likely duration of future detention is uncertain and substantial. Petitioner has
11 a pending BIA appeal from the Immigration Judge's March 18, 2026 removal order to Uganda.
12 The BIA has not yet set a briefing schedule or adjudicated the appeal. If Petitioner prevails, his
13 case may be remanded for further proceedings. If he does not prevail, Petitioner may seek further
14 judicial review and a stay of removal. Moreover, DHS has identified Uganda, a third country, as
15 the destination for removal. Removal to a third country requires additional diplomatic
16 coordination and acceptance by that country, as well as the issuance of travel documents. DHS
17 has provided no timeline for these steps, and Petitioner remains detained without any indication
18 that removal is meaningfully imminent. Given these circumstances, there is no certain end date
19 to his detention.

20 58. Third, the conditions and consequences of Petitioner's detention weigh strongly in his
21 favor. He suffers ongoing pain from a severe foot injury inflicted by Cameroonian military
22 authorities. He limps after walking and experiences pain after sitting, standing, or walking for
23 extended periods. He also experiences eye pain and reports that he has not been provided

1 treatment for that issue. The psychological impact of detention is severe: he is separated from his
2 wife and children, cannot support them, has limited ability to communicate with them, and is
3 experiencing significant distress.

4 59. Fourth, Petitioner has not caused the prolonged detention. He pursued protection
5 promptly, appeared for his credible fear interview, received a positive credible fear
6 determination, appeared in court, and timely appealed the Immigration Judge's decision. His
7 counsel requested only one brief continuance early in the case for preparation.

8 60. Fifth, to the extent there have been delays, they are attributable solely to the government
9 and the structure of the proceedings, not to Petitioner. DHS initially processed Petitioner through
10 expedited removal, transferred him to Otay Mesa, detained him through credible fear processing,
11 later initiated § 240 proceedings, opposed release, argued that the Immigration Court lacked
12 bond jurisdiction, and then moved to pretermitt his protection application based on a safe third
13 country theory. Petitioner has remained detained throughout.

14 61. Sixth, the removal order is not administratively final because Petitioner timely appealed
15 to the BIA. The likelihood and timing of actual removal are uncertain. DHS cannot show that
16 removal is imminent or reasonably foreseeable while the BIA appeal remains pending.

17 62. Petitioner has never received a constitutionally adequate custody hearing. The
18 Immigration Judge declined jurisdiction over bond. ICE has not established that Petitioner
19 presents a danger or flight risk. No neutral decisionmaker has considered whether alternatives to
20 detention would satisfy the government's interests.

21 63. Petitioner's liberty interest is especially strong because he has a viable release plan. His
22 United States citizen aunt has agreed to house and support him, has substantial income, owns her
23 home, and has provided supporting documentation. Petitioner has no history of noncompliance

1 and has every incentive to comply because he seeks protection and contests removal to Uganda.

2 Respondents' continued detention of Petitioner without a constitutionally adequate custody

3 hearing violates the Fifth Amendment Due Process Clause.

4 **SECOND CAUSE OF ACTION: Fifth Amendment Procedural Due Process Violation and**

5 **Violation of the INA and APA —**

6 **Failure to Provide a Meaningful Custody Determination**

7 64. Petitioner re-alleges and incorporates by reference the allegations in paragraphs 1 through
8 63 above as though fully set forth herein. Respondents have detained Petitioner continuously
9 since June 3, 2025 without providing a meaningful custody determination. Petitioner's bond
10 request was denied for lack of jurisdiction based on *Matter of Q. Li*.

11 65. To the extent Respondents contend that Petitioner is categorically ineligible for any
12 custody redetermination because he was apprehended after entry and initially processed under
13 INA § 235(b)(1), that position, as applied to Petitioner's prolonged detention, violates due
14 process. *See Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017) (recognizing that due
15 process requires adequate procedural protections in immigration detention).

16 66. To the extent Respondents contend that no decisionmaker may consider release, bond, or
17 alternatives to detention while Petitioner's BIA appeal is pending, that position is arbitrary,
18 capricious, contrary to law, and unconstitutional as applied to Petitioner. *See* 5 U.S.C. §
19 706(2)(A), (B), (C). Due process requires a meaningful opportunity to be heard before a neutral
20 decisionmaker regarding the necessity of continued detention. *See Singh v. Holder*, 638 F.3d
21 1196, 1203–04 (9th Cir. 2011).

22 67. Civil immigration detention must be reasonably related to its purpose. Where detention
23 becomes prolonged and the government fails to provide any meaningful individualized hearing,

1 continued detention is constitutionally unreasonable. *See Zadvydas v. Davis*, 533 U.S. 678, 690
2 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

3 68. Petitioner is entitled to release, particularly in light of the fact that he has already been
4 detained for more than 10 months and his removal is not meaningfully imminent. The pending
5 BIA appeal and the additional uncertainty associated with third-country removal to Uganda
6 undermine any claim that Petitioner’s continued detention remains reasonably related to
7 effectuating removal. Where detention becomes prolonged, the government must justify
8 continued detention through an individualized determination. *See Singh*, 638 F.3d at 1203–04. At
9 a minimum, Petitioner is entitled to an immediate bond hearing before a neutral decisionmaker at
10 which DHS bears the burden of proving by clear and convincing evidence that Petitioner’s
11 continued detention is necessary because he presents a danger to the community or a flight risk,
12 and at which the decisionmaker considers alternatives to detention and Petitioner’s ability to pay
13 any bond.

14 PRAYER FOR RELIEF

15 WHEREFORE, Petitioner respectfully asks this Court to grant the following relief:

16 1. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody
17 immediately;

18 2. Declare that Petitioner’s continued detention without a constitutionally adequate custody
19 hearing violates the Due Process Clause of the Fifth Amendment;

20 3. Declare that Respondents’ failure to provide Petitioner a meaningful custody
21 determination is unlawful as applied to Petitioner;

22 4. Alternatively, order Respondents to provide Petitioner an immediate bond hearing before
23 a neutral decisionmaker, within seven days or another short period set by the Court, where DHS

1 bears the burden of proving by clear and convincing evidence that Petitioner's continued
2 detention is justified by danger or flight risk, and where the decisionmaker considers alternatives
3 to detention and Petitioner's ability to pay;

4 5. Order Respondents to show cause why Petitioner is being subjected to unlawful and
5 unconstitutional detention;

6 6. Award reasonable attorney's fees and costs under the Equal Access to Justice Act, if
7 applicable; and

8 7. Grant any other relief that may be just and proper.

9 Dated: April 29, 2026

Respectfully submitted,

10

11

/s/ Lauren K. Ross

12

Lauren K. Ross, Esq.

13

Pro Bono Attorney for Petitioner

14

15

16

17

18

19

20

21

22

23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner’s attorney. I have discussed with Petitioner the events described in the Petition and have reviewed relevant records and documents. Based on those discussions and the documents reviewed, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 29th day of April, 2026, in San Diego, California.

/s/ Lauren K. Ross
Lauren K. Ross, Esq.
Pro Bono Attorney for Petitioner

EXHIBIT INDEX

Exhibit A – Form I-213 (Record of Deportable/Inadmissible Alien)

Exhibit B – Notice to Appear (Form I-862)

Exhibit C – Immigration Judge Order of Removal dated March 18, 2026

Exhibit D – Board of Immigration Appeals Filing Receipt dated March 30, 2026 (reflecting appeal filed March 25, 2026)

Exhibit E – Letter from Petitioner’s Aunt Confirming Housing and Financial Support

Exhibit F – Supporting Documentation for Aunt (Proof of U.S. Citizenship, Income, and Residence)

Exhibit G – Immigration Judge Order Finding No Jurisdiction Under *Matter of Q. Li*