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DETAINED

7 Attorney for Petitioner Y.A.A.

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

10 **Y.A.A., a minor,**

Case No.: 3:26-cv-03071-LEK-VET

11 **Petitioner,**



12 **v.**

13 **CHRISTOPHER J. LAROSE, Senior**
14 **Warden of the Otay Mesa Detention**
15 **Center; GREGORY J.**
16 **ARCHAMBEAULT, San Diego Field**
17 **Office Director, ICE Enforcement**
18 **and Removal Operations;**
19 **TODD M. LYONS, Senior Official**
20 **Performing the Duties of the**
21 **Director, U.S. Immigration and**
22 **Customs Enforcement; and**
23 **MARKWAYNE MULLIN, Secretary,**
24 **U.S. Department of Homeland**
25 **Security,**

AMENDED¹ PETITION FOR
WRIT OF HABEAS CORPUS
AND ORDER TO SHOW
CAUSE WITHIN THREE
DAYS; COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

Challenge to Unlawful Adult
Detention of a Child; Request for
Declaratory and Injunctive Relief

26 **Respondents-Defendants.**

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28 ¹ On 5/19/26, Judge Kobayashi ordered petitioner to file an amended writ within 7 days.

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AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioner Y.A.A. (“Petitioner”) petitions this Court for a writ of habeas corpus under 28 U.S.C. section 2241 and for declaratory and injunctive relief to remedy Respondents’ ongoing unlawful detention of a child in adult immigration custody, and states as follows:

1. Petitioner is a 17-year-old citizen and national of Ethiopia. He remains detained at the Otay Mesa Detention Center in San Diego, California, an adult immigration detention facility.

2. Petitioner last entered the United States on or about December 29, 2025, was placed in immigration custody, and has remained detained since that time. He is a detained asylum seeker in removal proceedings under section 240 of the Immigration and Nationality Act.

3. Despite entering the United States with his birth certificate showing he was under eighteen years of age and without any parent or legal guardian, Petitioner has been detained in an adult detention facility. This is a clear instance of a minor, who should have been outright classified as an “unaccompanied alien child” (“UAC”) under 6 U.S.C. § 279(g)(2), being detained in an adult detention facility. Petitioner alleges he was coerced into lying about his age by immigration officials who apprehended him

1 upon entry, by keeping him in a cell and denying him food and water until he agreed
2 to say he was nineteen years-old, not his true and correct age of seventeen years-old.

3
4 4. During Petitioner's Credible Fear Interviews ("CFI"), DHS initially recorded
5 Petitioner's date of birth incorrectly, but later in the interview, Petitioner corrected the
6 date of birth to reflect his true age, and the official expressly noted "Possible UAC."
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8 Exh. A, p. 24. Despite noting this, DHS has not taken any action to rectify Petitioner's
9 incorrect date of birth and Petitioner has been in adult detention unlawfully since early
10 January 2026.

11
12 5. Petitioner maintains he is under eighteen years of age and that his birth
13 certificate, taken by immigration officials upon his apprehension and still held by the
14 Respondents while Petitioner has been in detention, reflects his true date of birth. As
15 of the date of writing, Petitioner and his counsel have been unable to retrieve the birth
16 certificate from Respondents, despite multiple requests. Respondents therefore have
17 had more than mere rumor or speculation; they had actual notice, from their own
18 records and the later-filed record, that Petitioner is a child.

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20
21 6. Because Petitioner has no lawful immigration status, has not yet attained the
22 age of 18, and has no parent or legal guardian in the United States available to provide
23 care and physical custody, he qualifies as an unaccompanied alien child under 6 U.S.C.
24 § 279(g)(2).
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1 7. Federal law does not permit DHS to keep a UAC in adult immigration
2 detention by simply ignoring later evidence of minority. DHS's own regulations
3 require age determinations to be made under the totality of the evidence, require DHS
4 to treat an individual previously considered an adult as a minor or UAC if he is later
5 determined to be under 18, require notice to ORR within 48 hours when DHS has a
6 claim or suspicion that a detained unaccompanied person is under 18, and require
7 transfer to ORR within 72 hours absent exceptional circumstances. *See* 8 U.S.C. §
8 1236(b); 8 C.F.R. § 236.3(c), (d), (f).

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11 8. The *Flores* Settlement Agreement independently guarantees unaccompanied
12 minors a Paragraph 24A custody hearing. The Ninth Circuit has held that this bond-
13 hearing protection survived both the Homeland Security Act and the TVPRA and
14 remains a “fundamental protection” afforded to unaccompanied minors. *See Flores v.*
15 *Sessions*, 862 F.3d 863 (9th Cir. 2017); *Flores v. Rosen*, 984 F.3d 720 (9th Cir. 2020).

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18 9. Respondents nevertheless continue to detain Petitioner as an adult at the Otay
19 Mesa Detention Center instead of complying with the child-specific custody
20 framework required by federal law. They have not removed him from adult detention,
21 and they have not provided the Paragraph 24A process required by *Flores* and related
22 law.

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24
25 10. Petitioner has a strong protection claim. USCIS found him credible and
26 found a credible fear of torture. The credible-fear record reflects no criminal history,
27 no gang involvement, no military service, and no security bar.
28

1 11. Petitioner also has a ready and stable sponsor. His U.S. citizen aunt, Ardo
2 Moalin Abdi, resides in St. Cloud, Minnesota, has stable housing, regular employment,
3 and has submitted sworn statements that she will receive Petitioner into her home,
4 provide care and supervision, and assist him in appearing for all proceedings. A second
5 family supporter, Hassan Mohamud Abdullahi, has also provided financial and
6 community support.
7
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9 12. Misclassifying Petitioner as an adult does more than prolong his detention.
10 It threatens the statutory and regulatory protections that Congress and the agencies
11 created specifically for unaccompanied children, including the right to child-
12 appropriate custody, the right to ORR placement, and the child-specific asylum
13 procedures available to UACs. *See* 8 U.S.C. § 1158(b)(3)(C).
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16 13. Absent intervention by this Court, no neutral adjudicator will promptly stop
17 Respondents from continuing to detain a child in adult custody. Each day of continued
18 adult detention inflicts irreparable injury and undermines the statutory framework
19 Congress created for unaccompanied alien children.
20

21 14. Petitioner respectfully requests that this Court issue a writ of habeas corpus
22 and related equitable relief to remedy the ongoing unlawful detention, now going on
23 for over five months. Petitioner respectfully requests this Court require Respondents to
24 cease treating him as an adult, remove him from adult detention, and comply with the
25 child-specific statutory and regulatory framework that governs UACs, including
26 prompt transfer to ORR for sponsor-placement processing consistent with federal law.
27
28

1 Because Petitioner has an available U.S. citizen aunt and sponsor, Ardo Moalin Abdi,
2 with documented housing, employment, and support, the requested relief should be
3 directed toward prompt reunification or release through the lawful UAC process. In the
4 alternative, Petitioner seeks a prompt Flores Paragraph 24A hearing or equivalent
5 constitutionally adequate custody hearing, and release if the government cannot justify
6 continued custody under the proper legal framework.
7

8 JURISDICTION

9
10 15. This action arises under the Constitution of the United States; the
11 Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.; the Homeland
12 Security Act (“HSA”), 6 U.S.C. § 279; the Trafficking Victims Protection
13 Reauthorization Act (“TVPRA”), 8 U.S.C. § 1232; the Administrative Procedure Act
14 (“APA”), 5 U.S.C. § 701 et seq.; and the Flores Settlement Agreement.
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17 16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
18 corpus), 28 U.S.C. § 1331 (federal-question jurisdiction), the Suspension Clause, 28
19 U.S.C. § 2201 and § 2202 (declaratory relief), and 28 U.S.C. § 1651 (All Writs Act).
20 Federal district courts have jurisdiction to hear habeas challenges to immigration
21 detention. *See Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678
22 (2001).
23
24

25
26 17. This Court may grant relief under the habeas statutes, the APA, the
27 Declaratory Judgment Act, the All Writs Act, and this Court’s inherent equitable
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1 powers. Petitioner does not seek review of the merits of his removal defense case. He
2 challenges only the lawfulness of his present detention and the government’s refusal to
3 treat him as a child under the governing statutes, regulations, and settlement agreement.
4

5 **VENUE**

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7 18. Venue is proper in this District because Petitioner is detained in
8 Respondents’ legal and physical custody at the Otay Mesa Detention Center in San
9 Diego, California, and because a substantial part of the events or omissions giving rise
10 to these claims occurred in this District. *See* 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*,
11 542 U.S. 426 (2004).
12

13 **CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

14
15 19. Petitioner is “in custody” for purposes of 28 U.S.C. § 2241 because he
16 remains detained by Respondents and under their direct legal and physical control at
17 Otay Mesa.
18

19
20 20. Under 28 U.S.C. § 2243, the Court must grant the writ or issue an order to
21 show cause “forthwith” unless the petition plainly shows that Petitioner is not entitled
22 to relief. If an order to show cause issues, Respondents must make a return within three
23 days unless additional time is allowed for good cause.
24

25
26 21. The Great Writ exists to provide a “swift and imperative remedy in all cases
27 of illegal restraint or confinement.” *See Fay v. Noia*, 372 U.S. 391, 400 (1963). That
28 historic function is directly implicated where, as here, the government continues to hold

1 a 17-year-old child in adult civil detention notwithstanding its own later records
2 indicating that he is a minor and a possible UAC.

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4 //

5 **PARTIES**

6
7 22. Petitioner Y.A.A. is a 17-year-old citizen and national of Ethiopia. He is
8 detained at the Otay Mesa Detention Center in San Diego, California.

9
10 23. Because Petitioner is a minor and is confined in federal detention, this action
11 may be maintained with the assistance of a next friend. Petitioner's U.S. citizen aunt,
12 Ardo Moalin Abdi, has a significant relationship with him, has agreed to receive him
13 into her home, and is prepared to assist in protecting his rights. *See Whitmore v.*
14 *Arkansas*, 495 U.S. 149 (1990).

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16
17 24. At the border, while frightened, unrepresented, and newly detained,
18 Petitioner provided an incorrect older date of birth under duress and coercion of
19 immigration officials to misrepresent his age. He later proffered his correct age and
20 date of birth during the credible-fear process and explained he provided the incorrect
21 date of birth because an officer told him that, because of his young age, they would
22 send him back or detain him indefinitely if he disclosed it.

23
24
25 25. After Petitioner provided his true age and date of birth, the official expressly
26 identified the Petitioner as a "Possible UAC." Exh. A, p. 24.

1 26. Petitioner has filed a Form I-589 application for asylum, withholding of
2 removal, and protection under the Convention Against Torture, and the filing fee
3 receipt was submitted to the immigration court in April 2026.
4

5 27. Petitioner was found credible during the credible-fear process and found a
6 credible fear of torture. The same record reflects no criminal history, no gang
7 affiliation, no military service, and no disqualifying bar.
8

9 28. Ardo Moalin Abdi is Petitioner's aunt and sponsor. She is a United States
10 citizen residing in St. Cloud, Minnesota. She is willing to serve as Petitioner's sponsor
11 and will offer him housing, support, supervision, and willingness to act as guardian for
12 Petitioner upon his release from detention.
13

14 29. Petitioner's parents are deceased, and no parent or legal guardian in the
15 United States is presently available to provide legal custody. Although Petitioner does
16 have extended family in the United States willing to care for him, he remains an
17 unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2) because no parent or
18 legal guardian is presently available to provide care and physical custody.
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21 30. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa
22 Detention Center, where Petitioner is confined. He is a custodian of Petitioner and is
23 sued in his official capacity.
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1 31. Respondent Gregory J. Archambeault is the San Diego Field Office Director
2 for ICE Enforcement and Removal Operations. He is responsible for custody decisions
3 affecting Petitioner and is sued in his official capacity.
4

5 32. Respondent Todd M. Lyons is the Senior Official Performing the Duties of
6 the Director of U.S. Immigration and Customs Enforcement, and Respondent
7 Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security.
8 They are sued in their official capacities. ICE and DHS act through these Respondents
9 in connection with Petitioner's continued detention.
10

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12 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

13
14 33. The Refugee Act and later child-protection statutes reflect Congress's
15 decision that asylum seekers, and especially unaccompanied children, must receive
16 meaningful procedures when they seek protection in the United States. *See INS v.*
17 *Cardoza-Fonseca*, 480 U.S. 421 (1987).
18

19 34. Congress defined a UAC as a child who lacks lawful status, is under 18, and
20 lacks a parent or legal guardian in the United States available to provide care and
21 physical custody. 6 U.S.C. § 279(g)(2).
22

23 35. Congress further provided that an asylum officer shall have initial
24 jurisdiction over any asylum application filed by a UAC. 8 U.S.C. § 1158(b)(3)(C).
25 Continued adult classification therefore prejudices not only custody, but also the
26 procedural track on which Petitioner's asylum application proceeds.
27
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1 36. The HSA transferred responsibility for the care and placement of
2 unaccompanied children to ORR and preserved the *Flores* Settlement Agreement. *See*
3 *Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017).
4

5 37. The TVPRA likewise preserved *Flores*, required transfer of any UAC in
6 federal custody to HHS within 72 hours of determining that the child is a UAC absent
7 exceptional circumstances, and required the child to be placed in the least restrictive
8 setting consistent with the child's best interests. *See* 8 U.S.C. § 1232(b)(3), (c)(2)(A);
9 *Saravia v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).
10
11

12 38. DHS's own regulations make these obligations concrete. Age determinations
13 must be made under the totality of the evidence and circumstances. If a person
14 previously considered to have been an adult is later determined to be under 18, DHS
15 must thereafter treat that person as a minor or UAC. 8 C.F.R. § 236.3(c)(1), (3).
16
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18 39. The same regulations require DHS to notify ORR within 48 hours when it
19 apprehends or discovers a UAC, or when there is any claim or suspicion that an
20 unaccompanied person detained in DHS custody is under 18 years of age. 8 C.F.R. §
21 236.3(f)(2).
22

23 40. Unless exceptional circumstances are present, DHS must transfer custody of
24 a UAC as soon as practicable, and no later than 72 hours after determining that the
25 minor is a UAC. 8 C.F.R. § 236.3(f)(3).
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1 41. DHS must also hold minors and UACs in the least restrictive setting
2 appropriate to age and special needs and, as a general matter, keep UACs separate from
3 unrelated adult detainees. *See* 8 C.F.R. § 236.3(g)(2)(i); 6 C.F.R. § 115.14(a).
4

5 42. Paragraph 24A of the *Flores* Settlement provides that a minor in removal
6 proceedings must be afforded a bond redetermination hearing before an immigration
7 judge. The Ninth Circuit has held that this Paragraph 24A hearing is a “fundamental
8 protection” guaranteed to unaccompanied minors and that the Agreement remains in
9 force. *See Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017); *Flores v. Rosen*, 984 F.3d
10 720 (9th Cir. 2020).
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13 43. *Flores v. Rosen* also explains that this hearing must preserve the critical due-
14 process protections identified in *Flores v. Sessions*, including the right to counsel, the
15 right to make an oral statement, the right to present evidence, the right to examine and
16 rebut the government’s evidence, and review by an independent adjudicator. *See Flores*
17 *v. Rosen*, 984 F.3d 720 (9th Cir. 2020).
18
19

20 44. DHS’s current regulations likewise recognize immigration-judge review of
21 DHS bond determinations for minors who are in section 240 proceedings and in DHS
22 custody. 8 C.F.R. § 236.3(m).
23

24 45. Prudential exhaustion is not jurisdictional. Courts may waive exhaustion
25 where administrative remedies are inadequate or ineffective, where exhaustion would
26 be futile, where irreparable injury would result, or where the administrative
27
28

1 proceedings would be void. *See Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004); *Puga*
2 *v. Chertoff*, 488 F.3d 812 (9th Cir. 2007).

3
4 46. Those waiver principles apply with special force here. Petitioner's central
5 injury is the government's ongoing detention of a child as an adult and its failure to
6 provide the child-specific process guaranteed by federal law.

7
8 47. No ordinary administrative step presently available to Petitioner provides
9 prompt and complete relief from that injury. The core problem is the government's
10 refusal to recognize and process him as a child under the governing UAC framework.
11
12 Petitioner has a custody redetermination hearing scheduled for May 21, 2026, however,
13 a simple release from custody will not remedy or rectify the unlawful treatment and
14 detention of Petitioner since early January 2026.

15
16 48. This petition does not ask the Court to reweigh a discretionary custody ruling.
17 It asks the Court to halt the ongoing adult detention of a minor and require compliance
18 with the statutory, regulatory, and *Flores* protections that apply to children. It also asks
19 the Court to take action to remedy and rectify the unlawful actions taken by the
20 Respondents with regard to the processing of Petitioner as a UAC and detaining him
21 for five months in an adult detention facility.

22
23
24 49. Petitioner challenges the government's antecedent and ongoing refusal to
25 treat him as a minor at all.
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1 50. Each day that Respondents keep Petitioner in adult detention inflicts
2 irreparable injury. He is still under eighteen years of age. Adult detention of a child
3 causes harms that cannot be adequately remedied solely by providing a custody
4 redetermination hearing, especially where the detention also distorts the forum and
5 procedures governing the child's asylum application.
6


7
8 51. Petitioner has attempted to obtain custody relief in immigration court by
9 presenting family-sponsor evidence and seeking release. A custody redetermination
10 has been scheduled in this matter. Those efforts underscore that this petition is not a
11 deliberate bypass of agency process but rather a request for the only forum that can
12 promptly remedy the government's ongoing child-detention violations.
13

14
15 52. Requiring Petitioner to remain in adult detention while awaiting uncertain
16 further administrative developments would frustrate the child-protection statutes,
17 defeat the purpose of *Flores*, and risk Petitioner aging out of key protections before
18 receiving the process to which he is presently entitled.
19

20 53. Exhaustion should therefore be excused, deemed satisfied, or found
21 inapplicable to the extent Respondents seek to use prudential exhaustion to shield
22 ongoing unlawful child detention from judicial review.
23

24 **FACTUAL BACKGROUND**

25
26 54. Petitioner is a native and citizen of Ethiopia from the Somali region. He
27 identifies with the Weytan or Wayten minority tribal group.
28

1 55. Petitioner seeks asylum, withholding of removal, and CAT protection
2 because he fears persecution and torture by members of the  and by
3 officials who, according to his account and the credible-fear record, are unwilling or
4 unable to protect members of his minority group.
5

6 56. Petitioner's family suffered repeated targeting in Ethiopia. Petitioner was
7 physically assaulted and threatened in the past and in 2025, his parents and siblings
8 were killed, and the family home was burned. Petitioner then fled Ethiopia in fear for
9 his life.
10

11 57. Petitioner traveled through multiple countries and entered the United States
12 near San Ysidro, California on December 29, 2025. He was taken into DHS custody
13 that same day.
14

15 58. At initial border processing, while frightened, alone, and unrepresented,
16 Petitioner alleges he was coerced by immigration officials to give an incorrect date of
17 birth. The Record of Sworn Statement and the NTA therefore reflected an incorrect
18 birthdate and incorrectly classified him as nineteen years of age.
19
20

21 59. During the credible-fear process on January 12 and January 16, 2026,
22 Petitioner tried to correct his date of birth and asserted he was seventeen years-old. The
23 official conducting the interview then noted "Possible UAC" and recorded Petitioner's
24 explanation that he did not reveal his true age earlier because a border officer told him
25 that, because of his young age, he would be returned home. Exh. A, p. 24.
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1 60. The credible-fear interview found Petitioner credible and found he holds a
2 credible fear of torture. Exh. A, p. 5. The record also notes no criminal history, no gang
3 involvement, no military service, and no other apparent bar to relief. *Id.*
4

5 61. After the positive credible-fear determination, DHS commenced section 240
6 removal proceedings by issuing a Notice to Appear in January 2026.
7

8 62. Petitioner thereafter submitted Form I-589 in immigration court and paid the
9 filing fee in April 2026. Because he is a UAC, however, continued adult classification
10 threatens to deprive him of the special asylum procedures Congress established for
11 unaccompanied children.
12

13 63. Petitioner's aunt, Ardo Moalin Abdi, has provided sponsor letters, lease
14 documents, pay records, and a notarized affidavit showing that she is able and willing
15 to house, supervise, and care for Petitioner in St. Cloud, Minnesota. She has also
16 expressed willingness to serve as his legal guardian in connection with guardianship
17 and SIJS-related proceedings.
18

19 64. A second family supporter, Hassan Mohamud Abdullahi, has also submitted
20 a declaration and supporting records confirming that Petitioner has meaningful family
21 and community support in Minnesota and does not pose a danger.
22

23 65. Despite the corrected age evidence, the "Possible UAC" notation in
24 Respondents' own records, the sponsor evidence, and the absence of any lawful adult-
25 detention justification specific to a child, Respondents continue to hold Petitioner in
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27
28

1 adult ICE detention at Otay Mesa rather than transferring him to ORR or otherwise
2 providing the child-specific custody process required by law.

3
4 //

5 **CAUSES OF ACTION**

6
7 **COUNT ONE**

8 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), (C), and**
9 **(D); Agency Action Not in Accordance with Law and in Excess of Statutory**
10 **Authority; Unlawful Adult Detention of a Child**

11 66. Petitioner restates, realleges, and incorporates by reference each and every
12 allegation above as if fully set forth herein.

13
14 67. Under the APA, a reviewing court must hold unlawful agency action that is
15 arbitrary, capricious, an abuse of discretion, not in accordance with law, contrary to
16 constitutional right, in excess of statutory authority, or taken without observance of
17 required procedure. 5 U.S.C. § 706(2).

18
19 68. Respondents' ongoing decision to detain Petitioner as an adult is not in
20 accordance with the HSA, the TVPRA, and DHS's own regulations. Once DHS had
21 later evidence showing that Petitioner was under 18—and certainly once its own
22 records determined Petitioner has a possible UAC—the agency could not lawfully
23 continue to treat him as an adult without complying with the governing child-protection
24 framework.
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1 69. DHS regulations expressly provide that if an individual previously
2 considered an adult is later determined to be under 18, DHS must thereafter treat him
3 as a minor or UAC. 8 C.F.R. § 236.3(c)(3). Respondents have not done so here.
4

5 70. DHS also had a nondiscretionary duty to notify ORR within 48 hours upon
6 discovering a claim or suspicion that Petitioner was under 18 and, absent exceptional
7 circumstances, to transfer him to ORR within 72 hours after determining that he was a
8 UAC. 8 C.F.R. § 236.3(f)(2)-(3); 8 U.S.C. § 1232(b)(3). Respondents have failed to
9 carry out those duties.
10

11
12 71. Continued detention of Petitioner in adult ICE custody also violates the
13 requirement that minors and UACs be held in the least restrictive setting appropriate to
14 age and special needs and generally separate from unrelated adults. *See* 8 C.F.R. §
15 236.3(g)(2)(i); 6 C.F.R. § 115.14(a).
16

17
18 72. Respondents' refusal to reconcile the corrected age evidence, to follow the
19 mandatory ORR-notification and transfer requirements, and to remove Petitioner from
20 adult detention is arbitrary and capricious under standard APA principles as well. *See*
21 *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); *Dep't*
22 *of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020); *FCC v. Fox*
23 *Television Stations, Inc.*, 556 U.S. 502 (2009).
24

25
26 73. This Court should therefore hold that Respondents' continued adult detention
27 of Petitioner is unlawful and order immediate relief removing him from adult custody,
28

1 requiring compliance with the child-protection framework governing minors and
2 UACs, and ordering measures that serve to remedy and rectify the irreparable injuries
3 Petitioner has suffered due to Respondents' unlawful actions since January 2026.
4

5 **COUNT TWO**

6
7 **Violation of the Administrative Procedure Act and the Flores Settlement**
8 **Agreement; Denial of Paragraph 24A Custody Hearing and Other Child-**
9 **Specific Process**

10 74. Petitioner restates, realleges, and incorporates by reference each and every
11 allegation above as if fully set forth herein.

12 75. Paragraph 24A of the *Flores* Settlement Agreement guarantees that a minor
13 in deportation or removal proceedings will be afforded a bond redetermination hearing
14 before an immigration judge. The Ninth Circuit has held that this protection survived
15 the HSA and the TVPRA and remains binding law in this Circuit. *See Flores v.*
16 *Sessions*, 862 F.3d 863 (9th Cir. 2017).
17

18 76. The Ninth Circuit has further held that the Paragraph 24A hearing is a
19 “fundamental protection” for unaccompanied minors and that the *Flores* Agreement
20 remains in effect. *See Flores v. Rosen*, 984 F.3d 720 (9th Cir. 2020).
21

22 77. *Flores v. Rosen* explains that the hearing must preserve critical procedural
23 protections, including the right to counsel, the right to make an oral statement, the right
24 to present and rebut evidence, and review by an independent adjudicator. Those
25 protections are especially important where, as here, the central issue is whether the
26 government is lawfully confining a child in adult custody.
27
28

1 78. DHS's own regulation likewise recognizes immigration-judge review of
2 DHS bond determinations for minors in section 240 proceedings. 8 C.F.R. § 236.3(m).
3 To the extent Respondents contend that adult detention provisions categorically
4 foreclose relief, that position ignores the independent child-specific protections
5 preserved by *Flores* and reaffirmed by the Ninth Circuit.
6

7
8 79. Respondents have not afforded Petitioner the hearing and related child-
9 specific process *Flores* requires.
10

11 80. This petition seeks the hearing and child-specific process themselves,
12 together with removal from adult detention under the proper legal framework.
13

14 81. By denying Petitioner a Paragraph 24A hearing and by continuing to confine
15 him as an adult despite the corrected age record, Respondents have taken agency action
16 not in accordance with law, in excess of statutory and regulatory authority, and contrary
17 to the binding *Flores* framework.
18

19 82. This Court should order Respondents to provide a prompt *Flores*-compliant
20 custody hearing before a neutral adjudicator, with the government bearing the burden
21 to justify continued custody under the proper child-specific legal framework or
22 otherwise release Petitioner under appropriate conditions.
23

24
25 **COUNT THREE**

26 **Violation of Fifth Amendment Right to Due Process – Procedural Due Process,**
27 **U.S. Const. Amend. V.**
28

1 83. Petitioner restates, realleges, and incorporates by reference each and every
2 allegation above as if fully set forth herein.

3
4 84. The Due Process Clause protects every person in the United States against
5 arbitrary deprivations of liberty. Freedom from physical restraint lies at the core of the
6 liberty protected by the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678 (2001);
7
8 *Foucha v. Louisiana*, 504 U.S. 71 (1992).

9 85. Children in immigration custody are also protected by the Fifth Amendment.
10
11 *See Reno v. Flores*, 507 U.S. 292 (1993). Respondents therefore may not confine a
12 child in adult detention through an erroneous age classification and then refuse to
13 provide the process required to test and correct that classification.

14
15 86. Petitioner has a particularly weighty liberty interest here because he is a
16 child, is being confined in an adult civil detention facility, and has later DHS records
17 supporting his minority. The risk of erroneous deprivation is exceptionally high where
18 the government relies on an initial coerced border statement while disregarding later
19 corrected agency records and the totality of the evidence.

20
21
22 87. Respondents have provided no meaningful neutral process for Petitioner to
23 challenge his continued adult classification and adult detention. They have not timely
24 corrected the age determination, notified and transferred him to ORR, or provided the
25 Paragraph 24A hearing and related protections guaranteed to minors. Under the
26

1 *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework, that process is constitutionally
2 inadequate.

3
4 88. Continued adult detention of a 17-year-old child on this record is arbitrary.
5 The government's interests in immigration enforcement do not authorize it to ignore
6 the child-specific framework Congress and the agencies created for minors, nor do they
7 permit the government to evade *Flores* by simply continuing an initial error after later
8 records show the person is under eighteen.
9

10
11 89. Each additional day of adult detention inflicts irreparable harm. It also
12 threatens Petitioner's ability to pursue the child-specific asylum procedures available
13 to UACs, including the protections associated with USCIS's initial jurisdiction over
14 UAC asylum applications. *See* 8 U.S.C. § 1158(b)(3)(C).
15

16
17 90. Even if this Court concludes that immediate unconditional release is not the
18 appropriate remedy on the present record, due process at minimum requires prompt
19 neutral review of Petitioner's age and custody status, removal from adult detention
20 pending that review, and a custody hearing at which the government bears a meaningful
21 burden under the correct legal framework.
22

23
24 91. For these reasons, Respondents' continued detention of Petitioner as an adult
25 violates the Fifth Amendment, and habeas and equitable relief are warranted.

26 **COUNT FOUR**

27
28 **VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION
REAUTHORIZATION ACT (TVPRA), 8 U.S.C. § 1232**

1 92. Petitioner restates and realleges all paragraphs above as if fully set forth
2 herein.

3
4 93. Respondents have a non-discretionary duty under the TVPRA to promptly
5 place Petitioner “in the least restrictive setting” that is in his best interests, usually
6 with “a suitable family member.” 8 U.S.C. § 1232(c)(2)(A).

7
8 94. Respondents have failed to promptly place Petitioner in the least restrictive
9 setting in his best interests, with his sponsor.

10
11 95. Petitioner’s sponsor, his U.S. citizen aunt Ardo Moalin Abdi, is capable,
12 proper, and fit, and Petitioner does not present any flight risk or danger to the
13 community. Therefore, Respondents have failed to place Petitioner in the least
14 restrictive setting that is in his best interests.

15
16 **COUNT FIVE**

17
18 **VIOLATION OF THE FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000**
19 **et seq., AND THE ORR UC POLICY GUIDE**

20 96. Petitioner restates and realleges all paragraphs above as if fully set forth
21 herein.

22
23 97. Federal agencies and their officials are required to follow their own
24 “existing valid regulations.” *See United States ex rel. Accardi v. Shaughnessy*, 347
25 U.S. 260, 268 (1954). When an agency fails to comply with binding regulations, such
26 actions are “not in accordance with law.” *See Vitarelli v. Seaton*, 359 U.S. 535, 545
27 (1959).

1 98. Under the Foundational Rule, Respondents have a non-discretionary duty
2 to promptly place Petitioner, a minor, in the least restrictive setting that is in his best
3 interests under the Foundational Rule. 45 C.F.R. § 410.1003(f). ORR is also required
4 to make and record prompt and continuous efforts towards a child's release. *Id.* §
5 410.1203(a).
6

7
8 99. The ORR Policy Guide requires UACs such as the Petitioner be placed in
9 the least restrictive setting appropriate for the child's needs and also requires that
10 within five days of an UAC's admission, a trained staff member conducts the UAC
11 assessment, which covers biographic, family, legal/migration, medical, substance use,
12 and mental health history. Off. of Refugee Resettlement, U.S. Dep't of Health &
13 Hum. Servs., *Unaccompanied Alien Children Bureau Policy Guide* §§ 1.2, 3.3.1
14 (2025), [https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-3)
15 [guide-section-3](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-3). The ORR Policy Guide also stipulates that a long term plan be
16 created by care providers to address the individual needs of each unaccompanied
17 alien child and whenever possible, this involves releasing an unaccompanied alien
18 child to the care of a family member. ORR UAC Bureau Policy Guide § 3.3.2.
19
20
21
22

23 69. Respondents have failed to place Petitioner in the least restrictive setting,
24 conduct the required UAC assessment, and create a long term plan in order to address
25 the individual needs of the Petitioner in violation of their own regulations and
26 guidance, and therefore are holding Petitioner unlawfully.
27
28

PRAYER FOR RELIEF

1
2 WHEREFORE, Petitioner respectfully requests that this Court grant the following:

3
4 (1) Assume jurisdiction over this matter;

5
6 (2) Issue an Order to Show Cause ordering Respondents to show cause why this
7 Petition should not be granted within three days;

8
9 (3) Declare that Respondents may not continue to detain Petitioner as an adult
10 without complying with the statutes, regulations, and settlement provisions
11 governing minors and unaccompanied alien children;

12
13 (4) Declare that Respondents' failure to reconcile the corrected age evidence, to
14 notify and transfer Petitioner to ORR, and to provide a *Flores* Paragraph 24A hearing
15 violates the HSA, TVPRA, *Flores* Settlement Agreement, APA, and Due Process
16 Clause of the Fifth Amendment;

17
18 (5) Issue a Writ of Habeas Corpus ordering Respondents, within 72 hours, to remove
19 Petitioner from adult detention and transfer him to ORR custody for prompt sponsor-
20 placement processing consistent with federal law, with reunification or release to his
21 U.S. citizen aunt and sponsor, Ardo Moalin Abdi, to be pursued without unnecessary
22 delay if approved under the governing procedures;

23
24 (6) Alternatively, if the Court determines that further age-status process is required
25 before ORR transfer, order Respondents to conduct that process promptly under the
26
27
28

1 totality of the evidence, remove Petitioner from adult detention pending that process,
2 and complete it within 72 hours;

3
4 (7) Additionally or alternatively, order Respondents to provide, within 7 days, a
5 prompt *Flores*-compliant custody hearing before a neutral adjudicator at which the
6 government bears the burden to justify continued custody, must consider alternatives
7 to detention and Petitioner's age, and must account for Petitioner's ability to pay any
8 monetary condition of release;

9
10 (8) Order Petitioner released to the care of his aunt and sponsor, Ardo Moalin Abdi,
11 or on such conditions of supervision as this Court deems just and appropriate;

12
13 (9) Issue an Order prohibiting Respondents from transferring Petitioner out of this
14 District or to another adult detention facility without prior Court approval, except
15 for transfer to ORR custody to facilitate prompt sponsor placement or for release to
16 his aunt and sponsor pursuant to lawful process;

17
18 (10) Award Petitioner such other and further relief as the Court deems just, equitable,
19 and proper, including reasonable attorney's fees and costs to the extent authorized
20 by law;

21
22 (11) Award Petitioner relief the Court deems appropriate to remedy and rectify the
23 irreparable harm suffered by Petitioner due to the unlawful actions of Respondents.

24
25 Respectfully submitted,

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28 Dated: May 20, 2026

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//s// John Wells
John Wells, Esq.
Attorney for Petitioner Y.A.A.