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**DETAINED**

7 Attorney for Petitioner Y.A.A,

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

10 **In the Matter of:**

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

11 **Y.A.A.**  
12 **Petitioner,**

**PETITIONER'S TRAVERSE IN  
SUPPORT OF HIS PETITION  
FOR WRIT OF HABEAS  
CORPUS**

13 **v.**

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

25 **Respondents-Defendants,**

26 **PETITIONER'S TRAVERSE IN SUPPORT OF HIS PETITION FOR**  
27 **WRIT OF HABEAS CORPUS**  
28

1                   **PETITIONER’S TRAVERSE IN SUPPORT OF HIS PETITION FOR**  
2                   **WRIT OF HABEAS CORPUS**

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4                   Petitioner Y.A.A, by and through undersigned counsel, respectfully submits  
5 this traverse in support of his petition for writ of habeas corpus.  
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7                   **I.     INTRODUCTION AND FACTUAL BACKGROUND**

8                   This case concerns the ongoing detention of Y.A.A during the period when,  
9 under his true and correct date of birth, he was seventeen years old. Petitioner entered  
10 the United States on December 29, 2025, was placed in immigration custody, and was  
11 later placed in section 240 removal proceedings after a positive credible-fear finding.  
12 Respondents’ Return asks the Court to dismiss on the theory that the government  
13 already conducted a thorough age determination and that an Immigration Judge found  
14 Petitioner to be an adult. The record before this Court shows otherwise.  
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18                   Government records do not present a single, undisputed adult age. Petitioner  
19 alleges he only had a copy of his birth certificate upon entry which was taken by  
20 immigration officials. This birth certificate contains Petitioner’s correct date of birth  
21 and shows that he was under eighteen years of age upon entry. Initial border paperwork  
22 and the December 30, 2025, sworn statement used June 1, 2006. But later USCIS  
23 credible-fear records separately recorded a date of birth of two years later, the date of  
24 birth recorded on Petitioner’s birth certificate. The January 12 and January 16 interview  
25 notes again recorded the date on his birth certificate as Petitioner’s date of birth, and  
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1 the credible-fear record expressly noted “Possible UAC.” Petitioner’s subsequently  
2 filed Form I-589, submitted in immigration court in April 2026 and with USCIS in  
3 May 2026, used his correct date of birth as well. At minimum, Respondents had direct  
4 notice that Petitioner might be under 18 at the time of entry.  
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6 The same later record also reflects that USCIS found Petitioner credible, found  
7 a credible fear of torture, and identified no criminal history, no gang involvement, no  
8 military service, and no apparent bar to protection. Petitioner also presented a concrete  
9 family support plan: his U.S.-citizen aunt, Ardo Moalin Abdi, has stable housing and  
10 employment in St. Cloud, Minnesota, and has offered to house, supervise, and care for  
11 him; Hassan Mohamud Abdullahi has offered additional financial and community  
12 support.  
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16 The Return nevertheless asks this Court to treat the case as if the age issue were  
17 already conclusively resolved. It was not. At the custody hearing on May 22, 2026, the  
18 Immigration Judge found Petitioner to be an adult given the record in that custody  
19 redetermination hearing. Importantly, DHS counsel did not present the Petitioner’s  
20 birth certificate as evidence to that hearing and even claimed after an investigation into  
21 the matter, that DHS was not in possession of Petitioner’s birth certificate. However,  
22 on May 29, 2026, after an order by the Immigration Judge in Petitioner’s removal  
23 proceedings, DHS did submit a copy of Petitioner’s birth certificate with an English  
24 translation. The date of birth listed on this document is Petitioner’s correct date of birth  
25 and shows he was a minor under eighteen years of age upon entry. Subsequent to that  
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1 custody redetermination hearing, Petitioner received two additional affidavits from his  
2 home country of Ethiopia that independently corroborate his true and correct date of  
3 birth. These affidavits were not translated and able to be filed prior to that custody  
4 redetermination hearing. As such, the record lacked additional, independent  
5  
6 corroboration of Petitioner's true date of birth, and the Immigration Judge in that matter  
7  
8 relied on the record available to make the determination that Petitioner was an adult  
9 and thus that the Immigration Judge lacked jurisdiction to hear the case.

## 10 II. LEGAL STANDARD

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12 A writ of habeas corpus under 28 U.S.C. § 2241 permits a federal court to inquire  
13 into the legality of an individual's detention. Relief is appropriate where a petitioner is  
14 in custody under federal authority and that custody violates the Constitution, laws, or  
15 treaties of the United States. *See* 28 U.S.C. § 2241(c); *Demore v. Kim*, 538 U.S. 510,  
16 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687–90 (2001).  
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19 This petition challenges present physical custody, not the merits of removability,  
20 asylum, withholding, or CAT. The district court therefore retains habeas jurisdiction to  
21 determine whether Respondents may continue to rely on adult civil detention while  
22 disregarding the child-specific legal framework triggered by their own later records.  
23 Children in immigration custody are protected by the Fifth Amendment, the TVPRA,  
24 DHS's minor-specific regulations, and the *Flores* framework. *See Reno v. Flores*, 507  
25 U.S. 292, 306 (1993); 6 U.S.C. § 279(g)(2); 8 U.S.C. § 1232(b)(2)-(3); 8 C.F.R. §  
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1 236.3(c), (f), (m); *Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017); *Flores v. Rosen*,  
2 984 F.3d 720 (9th Cir. 2020).

3  
4 Prudential exhaustion does not bar relief where administrative review is  
5 inadequate, futile, or incapable of preventing irreparable harm. *See Laing v. Ashcroft*,  
6 370 F.3d 994, 997–1000 (9th Cir. 2004); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir.  
7 2007). That principle applies with special force where the government detained a child  
8 in adult custody and the challenged order did not actually resolve the relevant child-  
9 specific issues.  
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### 11 III. ARGUMENTS

#### 12 A. Additional Evidence Negates the Return’s Statement the Petitioner was 13 Found to be an Adult. 14 15

16 The Return asserts that, after a contested hearing, the Immigration Judge “found  
17 that Petitioner is an adult” and denied a change in detention. As discussed above, the  
18 Immigration Judge found Petitioner to be an adult given the record in that custody  
19 redetermination hearing. After the hearing, DHS itself filed a copy of Petitioner’s birth  
20 certificate in Petitioner’s removal proceedings which shows Petitioner was a minor  
21 upon entry and has been detained unlawfully as an adult for over five months. Petitioner  
22 received two additional affidavits from his home country of Ethiopia that  
23 independently corroborate his true and correct date of birth, which were not translated  
24 and able to be filed prior to that custody redetermination hearing. As such, the record  
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1 lacked additional, independent corroboration of Petitioner's true date of birth, and the  
2 Immigration Judge in that matter relied on the record available to make the  
3 determination that Petitioner was an adult and thus the Immigration Judge lacked  
4 jurisdiction to hear the case.  
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6 Given the omission of these corroborating documents that are now presented to  
7 this Court concurrently with this Traverse, the Petitioner urges this Court not to convert  
8 the Immigration Judge's ruling in the custody redetermination hearing into a factual  
9 determination that moots the Petition or defeats habeas review.  
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12 **B. Respondents' Own Records Confirm Direct Government Notice of**  
13 **Petitioner's Minority and an Ongoing Age Dispute.**  
14

15 Respondents rely heavily on the earliest border materials to show Petitioner was  
16 and has been an adult upon entry and during his several month detention in an adult  
17 detention facility. However, the credible-fear worksheet recorded June 1, 2006, as the  
18 initial date of birth while also separately listing another date of birth of two years later.  
19 The January 12 and January 16 interviews recorded Petitioner's answer to the date of  
20 birth question as a date two years later than the date Respondents claim is Petitioner's  
21 date of birth. The same credible-fear materials also reflected that Petitioner was found  
22 credible and had no criminal, gang, military, or security concerns. With the submission  
23 of the Petitioner's birth certificate in the removal proceedings on May 29, 2026,  
24 Respondents show they were both aware of Petitioner's true and correct date of birth.  
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1 Petitioner has consistently alleged his true and correct date of birth and that he  
2 gave the older date while frightened, alone, and under coercive border conditions, and  
3 that he corrected it during the credible-fear process. Respondents may contest that  
4 account, but they cannot pretend the correction never occurred, as based upon their  
5 own records.  
6

7  
8 The later-filed record reinforced, rather than introduced, the same corrected age.  
9 Petitioner's Form I-589, filed with both the immigration court and USCIS, used his  
10 true and correct date of birth. Family support statements and other corroborating  
11 affidavits likewise identified Petitioner's true and correct date of birth, not the June 1,  
12 2006, date the Respondents allege. The government therefore had repeated notice from  
13 multiple sources that Petitioner was under eighteen upon entry and during his months  
14 of detention at the Otay Mesa Detention Center.  
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17 **C. The Return's Dental-age Argument Does Not Defeat the Petition.**  
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19 The Return characterizes a forensic dental examination as concluding that the  
20 probability Petitioner had reached age eighteen was 87.05 percent. Even taking  
21 Respondents' description at face value, that is a probabilistic estimate, not a definitive  
22 fact. Respondents do not show why such an estimate automatically overrides their own  
23 records where Petitioner corrected his date of birth, their "Possible UAC" notation, the  
24 corrected DOB reflected in the credible-fear interviews, the I-589, and the  
25 corroborating affidavits.  
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1 Respondents also cite the ORR Guide and *Imon v. Keeton*, 2020 WL 4284378  
2 (D. Ariz. 2020), to defend their position. But neither authority displaces 8 C.F.R. §  
3 236.3 or the Ninth Circuit's controlling *Flores* decisions. At most, a radiographic  
4 estimate is one input into the totality analysis required by DHS's own regulation and is  
5 not dispositive, especially given Petitioner's repeated attempts to correct his date of  
6 birth. Neither does it not eliminate the obligation to provide the child-specific process  
7 the law requires.  
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10 Respondents further fault Petitioner for not producing the birth certificate that,  
11 according to the Petition, DHS took at apprehension and has not returned despite  
12 repeated requests. Petitioner has now filed a copy of his birth certificate that was held  
13 by Respondents since his entry. Petitioner, despite the lack of access to the dispositive  
14 document until a few days ago, has provided additional corroboration of his true and  
15 correct date of birth, confirming his own, credible claims that he has been a minor  
16 throughout his detention at the Otay Mesa Detention Center.  
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20 **D. The Petition Remains Properly Before this Court.**

21 Respondents themselves note that, even under the corrected birth date they now  
22 dispute, Petitioner would not have reached eighteen until five days after the Return was  
23 filed. That concession underscores that the events challenged here occurred while  
24 Petitioner was still seventeen. The government cannot moot a child-detention case by  
25 delay.  
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1 The alleged violations—failure to reconcile corrected age evidence, failure to  
2 treat Petitioner as a minor or possible UAC, failure to notify and transfer to ORR, and  
3 failure to provide the Paragraph 24A process recognized in *Flores*—occurred while  
4 Petitioner was still under eighteen. Those claims remain justiciable, and meaningful  
5 relief remains available. The same is true of the asylum-related prejudice. While  
6 Petitioner was seventeen, continued adult classification threatened to deprive him of  
7 the special asylum procedures Congress created for UACs, including USCIS’s initial  
8 jurisdiction over UAC asylum applications. 8 U.S.C. § 1158(b)(3)(C).

11 This petition challenges present physical custody and the antecedent refusal to  
12 treat Petitioner as a child under the governing statutory, regulatory, and *Flores*  
13 framework. It does not seek review of the merits of Petitioner’s applications for relief.  
14 It does not ask the Court to decide removability, and it does not ask the Court to reweigh  
15 an adverse adult bond record. The May 22 custody redetermination order from the  
16 Immigration Judge did not provide the kind of administrative process whose  
17 completion would ordinarily justify prudential abstention. It resolved nothing except  
18 the Immigration Judge’s view that given the record before the Immigration Judge,  
19 which has since been supplemented for this Court, the Judge lacked jurisdiction under  
20 *Yajure*. Because the order contains no findings on age, danger, or flight risk, a BIA  
21 review of that jurisdiction-only ruling does not provide prompt or complete relief from  
22 the injury alleged here.  
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1 **E. Effective Relief Remains Available and Necessary.**

2 Because the Return does not establish that a lawful child-specific custody  
3 determination ever occurred, the Court should reject Respondents' request for  
4 dismissal and grant the Petition. The primary remedy should be an order requiring  
5 Respondents to cease treating the May 22, 2026, jurisdictional denial as if it resolved  
6 the merits of Petitioner's age or custody status and to remove Petitioner from adult  
7 detention under the correct legal framework, especially when the record of proceedings  
8 lacked a copy of Petitioner's birth certificate.  
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12 To the extent Petitioner remained under eighteen when relief first became due—  
13 and to the extent any child-specific relief remains administratively available—the  
14 appropriate primary remedy is prompt processing through the ORR/UAC framework  
15 for sponsor placement with Ardo Moalin Abdi or other least restrictive lawful  
16 placement. Congress has expressly provided that no bond is required when a UAC is  
17 released to a qualified sponsor. 6 U.S.C. § 279(b)(4).  
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20 At minimum, if the Court concludes that additional process is necessary, it  
21 should order a prompt constitutionally adequate custody hearing within seven days  
22 where the government bears the burden to justify continued detention. It must require  
23 Respondents to address the full age record, including the birth certificate, corrected  
24 date of birth, the "Possible UAC" notation, the I-589, and the sponsor package; it must  
25 require the government to bear a meaningful burden; and it must consider less  
26 restrictive alternatives, including sponsor custody, reporting, and any other supervision  
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1 conditions the Court deems appropriate. The Court should also prohibit transfer outside  
2 this District absent further order, except as necessary to implement lawful sponsor  
3 placement or other court-ordered relief.  
4

5 **F. The Burden in This Habeas Proceeding Is on the Government to Justify the**  
6 **Detention — Not on Petitioner to Disprove Compliance**  
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8 In a habeas proceeding, once the petitioner has demonstrated a prima facie case  
9 for the unlawfulness of his detention, the burden shifts to the government to justify  
10 continued confinement. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008); *Zadvydas v.*  
11 *Davis*, 533 U.S. 678, 701 (2001). The government bears the burden of demonstrating  
12 that the detention is lawful — not merely that it might be lawful, not that the  
13 petitioner has failed to disprove its lawfulness, but that it is, in fact, consistent with  
14 the Constitution and applicable statutes.  
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18 Petitioner has demonstrated that he is a minor child who qualifies as an  
19 Unaccompanied Alien Child under 6 U.S.C. § 279(g)(2); that he was detained in an  
20 adult immigration facility operated by ICE; and that he was not transferred to ORR  
21 custody within 72 hours of his UAC determination as required by 8 U.S.C. §  
22 1232(b)(3). These facts establish a prima facie case for the unlawfulness of his  
23 detention. The burden now rests squarely on the government to justify it.  
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27 The government's Return has not carried that burden. It contains no declaration  
28 from any ICE official explaining the decision to detain Petitioner in an adult facility

1 or why Petitioner was placed in the least restrictive setting given the indications he  
2 was a minor. It attaches no records showing that the required UAC assessment was  
3 conducted. It points to no evidence that any individualized determination was made  
4 that adult detention was necessary for this specific child. It does not invoke — let  
5 alone establish — the "exceptional circumstances" exception to the 72-hour transfer  
6 requirement.  
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9 The Return, thus, fails to carry the government's burden. That failure is itself  
10 grounds for granting the writ.  
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12  
13 If the government may place any unaccompanied alien child in an adult  
14 immigration detention facility, ignore the 72-hour mandatory transfer deadline,  
15 ignore the *Flores* Settlement Agreement's placement requirements, ignore the USCIS  
16 initial asylum jurisdiction mandate, and then simply wait until the child turns 18 to  
17 justify the detention, the government is skirting laws put in place to prevent such  
18 abuse of power and protect vulnerable youth. Under this theory, every protection  
19 Congress enacted for unaccompanied alien children in the TVPRA becomes  
20 unenforceable.  
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#### 23 24 **IV. CONCLUSION**

25 For the foregoing reasons, Petitioner respectfully requests that the Court deny  
26 Respondents' request to dismiss, grant the Petition, declare that the May 22, 2026,  
27 custody order did not resolve the merits of Petitioner's age or custody status, and order  
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1 Respondents to provide prompt relief under the correct legal framework. Petitioner  
2 additionally requests an evidentiary hearing. Petitioner further requests immediate  
3 removal from detention and compliance with the child-specific statutory and regulatory  
4 framework challenged in the Petition or, at minimum, a prompt constitutionally  
5 adequate custody hearing at which Respondents—not Petitioner— bear the burden and  
6 must justify any continued detention.  
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10 Dated: June 2, 2026  
11

12 Respectfully submitted,  
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15 //s// John Wells

16 John Wells, Esq.

17 Attorney for Petitioner Y.A.A  
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