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

Y. A. A.,
Petitioner,

v.
CHRISTOPHER J. LAROSE, et al.,
Respondents.

**CASE NO. 3:26-cv-03071-LEK-
VET**

**PETITIONER'S OPPOSITION TO
RESPONDENTS'
SUPPLEMENTAL
AGE DETERMINATION AND
REQUEST TO ENFORCE THE
JUNE 30, 2026 ORDER;
REQUEST FOR ORDER TO
SHOW CAUSE**

**PETITIONER'S OPPOSITION TO RESPONDENTS' SUPPLEMENTAL
AGE DETERMINATION AND REQUEST TO ENFORCE THE JUNE 30,
2026, ORDER**

INTRODUCTION

Respondents filed a Supplemental Document on July 15, 2026, attaching a July 14, 2026, Form G-166C that again concludes Petitioner was an adult when he entered the United States. Petitioner does not oppose the filing merely because Respondents reached an adverse result. He opposes it because the submitted memorandum does not satisfy the procedure the Court ordered and does not

1 demonstrate compliance with 8 U.S.C. § 1232(b)(4).

2 The June 30, 2026, Order required a new written age determination based on
3 the totality of the evidence, including Petitioner's explanation for the initial
4 incorrect birthdate, the asylum officer's possible-UAC notation, Petitioner's
5 statements, his Ethiopian birth certificate, and every other documentary or
6 testimonial item available to the parties. The Court also required Respondents to
7 identify what evidence was considered and explain how conflicting evidence was
8 weighed. June 30 Order at 17-20.
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11 The July 14 Age Assessment repeats the same evidence the Court already
12 found insufficient - the initial border statement, the 87.05-percent dental estimate,
13 and the Immigration Judge's prior credibility assessment - while omitting or failing
14 meaningfully to weigh material corroborating evidence that DHS received in the
15 immigration proceedings. That omitted evidence includes Petitioner's Form I-589,
16 the notarized affidavit and signed statement of his aunt [REDACTED], the
17 signed family-support statement of [REDACTED] the two separate
18 USCIS interview records reflecting a June 1, 2008, birthdate, and USCIS's formal
19 findings that Petitioner was credible and that his identity was established through
20 his credible statements.
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23 Respondents may assign evidence greater or lesser weight after actually
24 considering it. They may not exclude corroborating evidence from the analysis and
25 then invoke the phrase "totality of the circumstances" as a substitute for the review
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1 the Court ordered. The omission prevents meaningful judicial review and raises the
2 precise reliability concern the June 30 Order was intended to cure.

3 4 **BACKGROUND**

5 The Court previously found that Respondents had not complied with the
6 TVPRA or the applicable age-determination procedures. It held that Respondents
7 had relied too narrowly on the dental report and Petitioner's initial contradictory
8 statements, and that Respondents could not continue relying on the existing adult-
9 age determination or the Immigration Judge's prior custody decision unless and
10 until they completed a determination that complied with Section 1232(b)(4). June
11 30 Order at 13-18.

12 The Court specifically directed that the new determination considers the
13 totality of the evidence, including but not limited to Petitioner's explanation for his
14 original statement, the asylum officer's possible-UAC notation, any statements
15 disclosed by Petitioner, the Ethiopian birth certificate, and all other documentary
16 or testimonial evidence available to the parties. The Court further ordered that any
17 adverse written determination explain both what evidence was considered and how
18 Respondents weighed the conflicting age evidence. *Id.* at 18-20.

19 On July 15, 2026, Respondents submitted a two-page Supplemental
20 Document and the July 14 Form G-166C. The memorandum states that ICE ERO
21 considered Petitioner's initial border statement, his later explanation of coercion,
22 the dental report, the purported birth certificate, State Department informational
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1 guidance, and findings attributed to the Immigration Judge. July 14 Age
2 Assessment at 1-2.

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4 However, the memorandum does not identify or weigh the following
5 evidence, all of which was available to DHS through the immigration proceedings
6 before the July 14 assessment: (1) Petitioner's Form I-589, filed April 20, 2026
7 under penalty of perjury and identifying [REDACTED] as his birthdate; (2) [REDACTED]
8 [REDACTED]'s notarized April 20, 2026 affidavit identifying the same birthdate and
9 describing Petitioner's family history; (3) [REDACTED]'s signed April 28,
10 2026 asylum-support statement, again identifying [REDACTED] (4) [REDACTED]
11 [REDACTED]'s signed April 28, 2026 family-support statement identifying
12 [REDACTED] (5) the January 12 and January 16 USCIS interview records in which
13 Petitioner separately stated a 2008 birth year; and (6) USCIS's formal credible-fear
14 finding that Petitioner was credible and that his identity was established to a
15 reasonable degree of certainty through his credible statements.
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20 Counsel also requested a continuance of Petitioner's July 15, 2026 Master
21 Calendar Hearing so the court-ordered age process could be completed and
22 considered. The immigration court denied that request because the applicable filing
23 deadline had passed. The June 30 Order required the determination by July 14,
24 2026, before the hearing, but Respondents did not file it until the next day, July 15,
25 2026. The timing of that filing prejudiced Petitioner by depriving him of a
26 meaningful opportunity to review and address the court-ordered determination
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1 before the hearing. Petitioner therefore continues to litigate his immigration case
2 while Respondents rely on an age determination that omits material record
3 evidence.
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5 LEGAL STANDARD

6 Section 1232(b)(4) requires age-determination procedures to take into
7 account multiple forms of evidence, including only the non-exclusive use of
8 radiographs. 8 U.S.C. § 1232(b)(4). DHS's regulation independently requires that
9 an age determination be based upon the totality of the evidence and circumstances.
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11 8 C.F.R. § 236.3(c)(1).
12

13 The June 30 Order applied those requirements and emphasized that medical
14 or dental evidence may be used only in conjunction with other evidence. It relied
15 on cases finding likely TVPRA violations where the Government improperly
16 discounted minority evidence, used impermissible factors, or failed to document
17 the evidence considered and the conclusions reached. *See N.B. v. Barr*, 2019 WL
18 4849175, at *9-12; *I.J. v. Keeton*, 2019 WL 13196148, at *6-7; *L.B. v. Keeton*, 2018
19 WL 11447076, at *6; June 30 Order at 17-18.
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22 The Court retains authority to enforce the relief it granted and to fashion the
23 further relief that law and justice require. 28 U.S.C. § 2243; *Lujan v. Garcia*, 734
24 F.3d 917, 933 (9th Cir. 2013). Because the Court expressly conditioned continued
25 reliance on an adult classification upon completion of a Section 1232(b)(4)-
26 compliant determination, Respondents bear the obligation to demonstrate
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1 substantive compliance with the Order.

2 **ARGUMENT**

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4 **I. The July 14 Memorandum Does Not Consider or Explain the Weight**
5 **Assigned to All Available Evidence.**

6 The memorandum uses the phrase “totality of the circumstances,” but a label
7 is not an analysis. It does not identify the I-589, the family affidavit, the two family-
8 support statements, or the January 12 USCIS statement as evidence reviewed. It
9 does not acknowledge that each of those records independently uses the 
10  birthdate. It does not explain whether the documents were deemed
11
12 unavailable, irrelevant, unreliable, or merely overlooked.

13
14 That silence matters because the Court did not order Respondents merely to
15 add one more memorandum to the record. It ordered them to consider all available
16 documentary and testimonial evidence and to explain how conflicts were weighed.
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18 June 30 Order at 18-20. A determination that does not reveal whether corroborating
19 evidence was reviewed cannot establish compliance and cannot be meaningfully
20 tested for reliability.

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22 The omission is especially significant because the ORR framework expressly
23 recognizes statements by relatives and other persons as appropriate forms of age
24 evidence. The June 30 Order quoted the policy’s inclusion of sworn affidavits from
25 parents or other relatives, statements from other persons with knowledge, official
26 documents, other government records, and medical assessments used only with
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1 other evidence. *Id.* at 9-11. Respondents were free to contact the affiants, assess
2 their knowledge, and assign reasoned weight. They were not free to omit those
3 statements entirely.
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5 Excluding corroborating evidence also leaves unanswered whether the
6 memorandum's conclusion was reached through an open totality review or whether
7 the review began with an adult conclusion and selected only evidence supporting
8 it. The resulting uncertainty directly undermines the reliability of the determination.
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10 **II. The Memorandum Does Not Meaningfully Weigh the USCIS Credibility**
11 **and Age Evidence.**
12

13 The July 14 memorandum notes that Petitioner raised his 2008 birthdate
14 during the credible-fear interview and that the file contained a possible-UAC
15 notation. It then dismisses the notation as non-dispositive. That response misses the
16 Court's instruction. The Court did not hold that the notation conclusively
17 established age; it ordered Respondents to consider it as part of the totality.
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20 The memorandum also fails to address the broader USCIS evidence.
21 Petitioner gave the  birthdate in two separate interview sessions, on
22 January 12 and January 16. USCIS thereafter made a formal credibility finding and
23 determined his identity to a reasonable degree of certainty based on his own
24 credible statements. Those Government-generated findings are directly relevant to
25 the reliability of his corrected age account, but the memorandum neither identifies
26 them nor explains what weight, if any, they received.
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1 The Court already found it significant that Petitioner explained why he
2 initially used an older birthdate and that Respondents had not disputed the
3 substance of that explanation. June 30 Order at 15-16. The July 14 memorandum
4 cannot comply with the Court's directive by repeating the initial statement and the
5 Immigration Judge's adverse credibility view while omitting the asylum officer's
6 affirmative credibility determination.
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9 **III. The Treatment of the Ethiopian Birth Certificate Does Not Follow the**
10 **Verification Process Contemplated by the Governing Guidance.**
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12 The July 14 memorandum confirms that ICE located a copy of Petitioner's
13 Ethiopian birth certificate among his belongings on May 29, 2026. That fact
14 corroborates Petitioner's longstanding assertion that the document existed and was
15 within Government custody. The memorandum nevertheless rejects the document
16 based on its physical appearance, its issuing seal, geographic assumptions
17 concerning Denan and Jijiga, and State Department informational guidance.
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19 The memorandum does not identify any consultation with the Ethiopian
20 consulate, embassy, civil registry, or another Ethiopian records authority. That
21 omission is important because the ORR age-determination framework quoted in the
22 June 30 Order contemplates consular or embassy verification when an original or
23 certified birth certificate is unavailable and a copy is presented. June 30 Order at 9-
24 10.
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26 Respondents may ultimately conclude that the certificate deserves limited
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1 weight. But a comparison by an ICE investigator to general informational guidance,
2 without identified verification by an Ethiopian authority and without weighing the
3 consistent family statements and I-589, does not establish that the certificate is
4 inherently fraudulent under the totality standard. The Court should require a
5 documented verification effort and a reasoned explanation rather than an
6 unsupported authenticity conclusion.
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9 **IV. The Determination Largely Repackages the Same Evidence the Court**
10 **Already Found Inadequate.**
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12 The July 14 memorandum relies heavily on the 87.05-percent dental
13 estimate, the initial December 30 statement, and the Immigration Judge's prior
14 credibility findings. The Court already held that the dental report could not
15 substitute for a totality inquiry and that the existing Immigration Judge
16 determination did not establish compliance with Section 1232(b)(4). June 30 Order
17 at 16-18.
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20 Using the Immigration Judge's prior ruling as a major reason to validate the
21 new determination is circular. The June 30 Order prohibited Respondents from
22 continuing to rely on the prior adult-age determination or the May 22 custody
23 determination as the basis for detention unless and until a compliant age
24 determination was completed. A new memorandum does not become compliant
25 merely because it restates those same sources while excluding available
26 corroboration.
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1 Likewise, the dental assessment remains probabilistic and cannot determine
2 an exact age. The governing policy permits a dental assessment only in conjunction
3 with the full record. 8 U.S.C. § 1232(b)(4); June 30 Order at 10-11, 16-18. Because
4 the new memorandum still does not account for all available evidence, the dental
5 percentage cannot cure the omission.
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9 **V. No Compliant Determination Was Completed Within the Court's Deadline,**
10 **and an Order to Show Cause is Appropriate.**
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12 Respondents produced a document dated July 14, 2026, but the document is
13 not the Section 1232(b)(4)-compliant determination the June 30 Order required.
14 The fourteen-day period therefore expired without substantive compliance. The
15 Order expressly warned that, in that circumstance, Respondents could be ordered
16 to show cause why Petitioner should not be released to an appropriate least
17 restrictive setting subject to reasonable conditions of supervision pending
18 completion of a compliant determination. June 30 Order at 19-20.
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21 Interim release is workable. Petitioner has no identified criminal history, was
22 found credible in the credible-fear process, and has an available U.S. citizen aunt
23 and proposed sponsor,  who has documented housing,
24 employment, and willingness to provide supervision. Those facts support an
25 appropriate least restrictive placement while Respondents complete the process the
26 Court ordered.
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CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. **SUSTAIN** Petitioner's opposition and find that the July 14, 2026, Form G-166C does not comply with the June 30 Order or 8 U.S.C. § 1232(b)(4);
2. **ORDER** that Respondents may not rely on the July 14 determination, the prior adult-age determination, or the Immigration Judge's prior custody determination as the basis for Petitioner's continued adult detention;
3. **ORDER** Respondents, within five calendar days, to conduct or obtain a new written age determination that expressly identifies, considers, and assigns reasoned weight to all available evidence, including the January 12 and January 16 USCIS records, USCIS's credibility and identity findings, the Form I-589, the family affidavit and support statements, the Ethiopian birth certificate, and any other documentary or testimonial evidence available to either party;
4. **ORDER** Respondents to file the complete administrative record underlying the new determination, including the dental report, the State Department guidance relied upon, all notes and source materials, and documentation of any effort to verify the Ethiopian birth certificate with an Ethiopian governmental or consular authority;
5. **ISSUE** an Order to Show Cause requiring Respondents, within three days, to explain why Petitioner should not be released to an appropriate least restrictive

1 setting subject to reasonable conditions of supervision pending completion of
2 a compliant determination; and
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4 6. **GRANT** such other and further relief as law and justice require.

5 Dated: July 16, 2026

6 Respectfully submitted,

//s// John Wells

7 John Wells,
8 Attorney for Petitioner Y. A. A.
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