

1 ADAM GORDON
United States Attorney
2 MICHAEL D. WALLACE
Assistant United States Attorney
3 Maryland Bar No. 9912160256
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: 619-546-8714
Email: michael.wallace4@usdoj.gov

6 Attorneys for Respondents
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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 AYAN MOHAMED AHMED,
12

13 Petitioner,

14 v.

15 CHRISTOPHER J. LAROSE, et al.,
16

17 Respondents.
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Case No.: 26-cv-3766-TWR-SBC

RESPONSE TO PETITION

19 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner is subject to
20 mandatory detention under 8 U.S.C. § 1225(b)(1). *See Jennings v. Rodriguez*, 583 U.S. 281
21 (2018). The Petitioner argues that the DHS appeal to the Board of Immigration Appeals is
22 only of the denial of the DHS Motion to Pretermitt the Petitioner's immigration
23 applications. She argues therefore that the IJ's order granting her asylum is a final order
24 not subject to appellate review. However, the issue of the denial of the DHS Pretermitt
25 Motion and the grant of asylum are unavoidably interwoven. If DHS is successful on
26 appeal, the IJ's grant of asylum would also be reversed as the grant of a motion to pretermitt
27 renders a Petitioner ineligible for asylum. If the BIA could not consider the IJ's order
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1 and/or authority to order a grant of asylum in these circumstances, an appeal of the denial
2 of a motion to pretermite would necessarily be moot as any ruling by the BIA would have
3 no effect on the ordered relief. The order granting asylum is not final but under review and
4 Petitioner remains mandatorily detained pursuant to 8 U.S.C. §1225(b)(1). This Court
5 should therefore not grant relief on this basis.

6 However, based on the circumstances and facts of this case, the government
7 acknowledges that courts in this District have repeatedly inferred a constitutional right
8 against prolonged mandatory detention. Taking into consideration those prior rulings and
9 the length of time Petitioner has been in custody, the government concedes that this Court
10 should order that Petitioner receive a bond hearing, where the government would bear the
11 burden of proof of establishing, by clear and convincing evidence, that Petitioner poses a
12 danger to the community or a risk of flight. *See Sadeqi v. LaRose*, 809 F. Supp. 3d 1090
13 (S.D. Cal. Nov. 12, 2025); *Gao v. LaRose*, 805 F. Supp. 3d 1106 (S.D. Cal. Sept. 26, 2025).

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15 DATED: July 13, 2026

ADAM GORDON
United States Attorney

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17 s/ Michael D. Wallace
MICHAEL D. WALLACE
Assistant United States Attorney
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