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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 **Bin Ibrahim,**

12 Petitioner,
13

14 v.

15 **Todd Blanche**, Acting United States
16 Attorney General; **Markwayne Mullin**,
17 Secretary of Homeland Security; **Todd M.**
18 **Lyons**, Acting Director of Immigration
19 and Customs Enforcement; **Patrick**
20 **Divver**, San Diego Field Office Director,
Immigration and Customs Enforcement;
Christopher J. LaRose, Senior Warden,
Otay Mesa Detention Center

21 Respondents.
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Case No. '26CV3847 CAB AHG

Agency No. 

Petition for a Writ of Habeas Corpus

INTRODUCTION

1. Petitioner Bin Ibrahim petitions this Court for a writ of habeas corpus to remedy his illegal detention at the Otay Mesa Detention Center (OMDC) in San Diego.

2. Mr. Ibrahim is a 25-year-old asylum seeker from Ghana. He fled his native country and sought protection in the United States because he has suffered persecution in Ghana on account of his sexual orientation.

3. In a conscience-shocking turn of events, the government has refused to adjudicate Mr. Ibrahim's asylum application and has instead ordered him removed, under what it calls an "asylum cooperative agreement," to one of the few countries in the world that is less safe for him than Ghana: Uganda. There, he could face the death penalty for his sexual orientation.

4. The decision to order Mr. Ibrahim removed to Uganda, however, while both morally indefensible and legally erroneous, is not the subject of this habeas petition. This petition is concerned with whether Mr. Ibrahim—while his removal order to Uganda plods towards near-certain reversal—*must* remain detained, or whether he is entitled to a bond hearing at which an immigration judge may consider his release from detention.

5. According to Respondents, Mr. Ibrahim has no right to seek review of whether his detention is necessary. The Due Process Clause, however, says otherwise.

6. The Court should therefore grant Mr. Ibrahim's petition and order him released from detention if he does not receive within seven days a bond hearing at which the Department of Homeland Security bears the burden of justifying his continued detention by clear and convincing evidence.

PARTIES

7. Petitioner Bin Ibrahim is a native and citizen of Ghana. He is seeking asylum and related humanitarian relief amid removal proceedings in the Otay Mesa Immigration Court. He has been detained at OMDC since January 2026.

8. Respondent Todd Blanche is the Acting United States Attorney General. He is responsible for implementing and enforcing the immigration laws of the United States.

1 Some of this authority is delegated to the Executive Office for Immigration Review, the
2 agency that houses the immigration courts and BIA. *See* 8 C.F.R. § 1003.0(a). Acting
3 Attorney General Blanche is a legal custodian of Mr. Ibrahim. He is sued in his official
4 capacity.

5 9. Respondent Markwayne Mullin is the United States Secretary of Homeland
6 Security. He is responsible for enforcing the immigration laws of the United States,
7 including those concerning the detention of noncitizens. Mr. Mullin is a legal custodian
8 of Mr. Ibrahim. He is sued in his official capacity.

9 10. Respondent Todd M. Lyons is the Acting Director of United States
10 Immigration and Customs Enforcement (ICE). The Department of Homeland Security
11 (DHS) is ICE's parent agency. Mr. Lyons is responsible for ICE's policies, practices, and
12 procedures, including those pertaining to the detention of noncitizens. Mr. Lyons is a
13 legal custodian of Mr. Ibrahim. He is sued in his official capacity.

14 11. Respondent Patrick Divver is the Field Director of ICE's San Diego Field
15 Office. The San Diego Field Office is responsible for ICE's detention operations at
16 OMD. Field Director Divver is a legal custodian of Mr. Ibrahim. He is sued in his
17 official capacity.

18 12. Respondent Christopher J. LaRose is the senior warden of OMD. He is
19 employed by the private corporation CoreCivic. Warden LaRose is Mr. Ibrahim's
20 immediate physical custodian. He is sued in his official capacity.

21 JURISDICTION & VENUE

22 13. 28 U.S.C. §§ 1331 and 2241, and Article I, section nine, clause two of the
23 United States Constitution give the Court jurisdiction over this petition. The Court may
24 grant relief pursuant to 28 U.S.C. §§ 2201, 2241, and 1651.

25 14. Venue is proper in the Southern District of California because Mr. Ibrahim is
26 detained here. *See* 28 U.S.C. §§ 1391(e), 2241.

BACKGROUND

I. Mr. Ibrahim

15. Born in 2001 in the city of Kumasi, Mr. Ibrahim is a native and citizen of Ghana. Ex. A at 3. Mr. Ibrahim is gay, and has been the victim of brutal homophobic vigilante violence in Ghana. *Id.* at 7; *cf.* Hum. Rts. Watch, “No Choice but to Deny Who I Am”: Violence and Discrimination against LGBT People in Ghana 1 (Jan. 2018), <https://tinyurl.com/yc2wfpvd> (“LGBT people [in Ghana] are very frequently victims of physical violence and psychological abuse, extortion and discrimination in many different aspects of daily life[.]”); *see also* Hum. Rts. Watch, *Ghana’s Parliament Revives Dangerous Anti-LGBT Bill* (Mar. 10, 2026), <https://tinyurl.com/22jhdzhr> (describing proposed legislation that “significantly expands criminal sanctions related to same-sex conduct and imposes up to three years in prison for anyone who even identifies as LGBT”).

II. Mr. Ibrahim’s Removal Proceedings

16. In May 2023, DHS served Mr. Ibrahim with a notice to appear in immigration court, which charged him with being removable as a noncitizen present in the United States without having been admitted or paroled. Ex. B at 1; *see* 8 U.S.C. § 1182(a)(6)(A)(i). DHS did not detain Mr. Ibrahim upon initiating removal proceedings against him. Rather, his proceedings took place on the “non-detained docket” of the Federal Plaza Immigration Court in New York. *See* Ex. B at 1.

17. In August 2023, Mr. Ibrahim, through counsel, filed a Form I-589 in his removal proceedings—thereby applying for asylum, statutory withholding of removal, and protection under the United Nations Convention Against Torture. Ex. A; *see* 8 U.S.C. § 1158; *id.* § 1231(b)(3); 8 C.F.R. §§ 1208.16-.17. A merits hearing on those applications was scheduled for September 27, 2029. Ex. C.

18. That hearing was vacated, though, when DHS detained Mr. Ibrahim in January 2026 and transferred him to OMDC—thus causing venue in his removal proceedings to transfer to the Otay Mesa Immigration Court. *See* Ex. D.

1 19. Undersigned counsel entered an appearance in Mr. Ibrahim’s removal
2 proceedings on March 11, 2026. Medeiros Decl., ¶ 7. Upon doing so, he learned that
3 DHS had filed a motion to pretermite Mr. Ibrahim’s relief application on the grounds that
4 he is subject to the United States’ “asylum cooperative agreement” with Uganda. *See* Ex.
5 E; *see also* Agreement Between the Government of the United States of America and the
6 Government of the Republic of Uganda for Cooperation in the Examination of Protection
7 Requests, 90 Fed. Reg. 42,597 (Sept. 3, 2025). According to DHS, that agreement—
8 whereby the United States may transfer asylum seekers from third countries to Uganda to
9 seek asylum there instead of in the United States—satisfies the “safe-third-country”
10 exception to the asylum statute. *See* 8 U.S.C. § 1158(a)(2)(A) (barring from applying for
11 asylum any noncitizen whom the Attorney General determines “may be removed,
12 pursuant to a bilateral or multilateral agreement, to a country” where they do not face
13 persecution and “would have access to a full and fair procedure for determining a claim
14 to asylum or equivalent temporary protection”).

15 20. Because Mr. Ibrahim’s next master calendar hearing was scheduled for
16 March 18, 2026, his counsel filed a motion to continue that hearing to afford him more
17 time to prepare an opposition to DHS’s motion to pretermite. Medeiros Decl., ¶ 9; Ex. F.
18 That motion stressed that properly defending Mr. Ibrahim against the motion to pretermite
19 would “require not only extensive country-conditions research, but also obtaining a
20 declaration from Mr. Ibrahim in his native language of Twi as well as evidence
21 corroborating his sexual orientation—at least some of which is likely to be in Ghana.”
22 Ex. F at 2.

23 21. In the absence of a ruling on his motion to continue his master calendar
24 hearing, Mr. Ibrahim filed a written opposition on March 17, asserting that Mr. Ibrahim
25 cannot, under 8 C.F.R. § 1240.11(h)(2), be removed to Uganda to seek asylum because
26 he faces probable persecution and torture there due to his sexual orientation. Ex. G at 2.
27 Among other things, his opposition highlighted that, in Uganda, consensual sexual
28 activity between members of the same sex is punishable by up to 20 years’ imprisonment,

1 and that “aggravated homosexuality”—which includes repeated consensual sexual
2 activity between members of the same sex—may be punishable by death. *Id.*

3 22. The IJ vacated Mr. Ibrahim’s March 18 master calendar hearing and, without
4 hearing testimony or argument, issued a written decision granting DHS’s motion to
5 pretermite and ordering Mr. Ibrahim removed to Uganda. *See* Ex. H; Medeiros Decl., ¶ 10.

6 23. Mr. Ibrahim has appealed his order of removal to Uganda to the Board of
7 Immigration Appeals. Medeiros Decl., ¶ 11. He filed his brief on June 22, 2026. *Id.*

8 **III. Mr. Ibrahim’s Prior Habeas Petitions**

9 24. On February 9, 2026, Mr. Ibrahim filed in this Court a pro se petition for a
10 writ of habeas corpus. *Ibrahim v. Larose*, No. 26-cv-00837-LL-DDL, ECF No. 1 (S.D.
11 Cal. Feb. 9, 2026). The Court conditionally appointed Federal Defenders of San Diego,
12 Inc. to represent Mr. Ibrahim, but Federal Defenders declined appointment. *Id.*, ECF Nos.
13 2, 5.

14 25. On April 2, 2026, the Court denied Mr. Ibrahim’s petition without prejudice.
15 *Id.*, ECF No. 7. Observing that Mr. Ibrahim had been ordered removed on March 18, the
16 Court further indicated that “[i]f Petitioner remains in detention for more than three
17 months after his order of removal becomes final, Petitioner may file a new petition
18 alleging prolonged detention.” *Id.* at 2.

19 26. Mr. Ibrahim filed another habeas petition on April 12, 2026. *Ibrahim v.*
20 *Blanche*, No. 26-cv-02303-LL-DDL, ECF No. 1 (S.D. Cal. Apr. 12, 2026). There, he
21 argued that because his detention was certain to reach six months before the BIA decided
22 his pending appeal, it was unnecessary to require him to wait until then before ordering
23 that he receive a bond hearing. *Id.* at ¶¶ 31-34. The Court disagreed, and thus dismissed
24 this petition without prejudice as well. *Id.*, ECF No. 3 at 2 (S.D. Cal. Apr. 17, 2026).

25 **EXHAUSTION**

26 27. Under some circumstances, noncitizens challenging their detention via
27 habeas must first exhaust administrative remedies. *See Romero-Salas v. Barr*, No.
28 20cv0073-BAS (KSC), 2020 WL 919135, at *3 (S.D. Cal. Feb. 26, 2020) (describing the

1 administrative-exhaustion framework appurtenant to habeas petitions by detained
 2 noncitizens). That is not so here. Mr. Ibrahim’s petition asserts one claim—that his
 3 continued unreviewed detention violates due process. And that claim cannot be advanced
 4 before the agency, which is not empowered to adjudicate constitutional claims. *See*
 5 *Garcia-Ramirez v. Gonzales*, 423 F.3d 935, 938 (9th Cir. 2005) (per curiam); *Padilla-*
 6 *Padilla v. Gonzales*, 463 F.3d 972, 977 (9th Cir. 2006). Accordingly, there is no available
 7 administrative remedy that Mr. Ibrahim could first exhaust before seeking relief from this
 8 court.

9 28. Alternatively, the Court should waive the prudential exhaustion requirement
 10 because attempting to exhaust before the agency the claim in this petition “would be a
 11 futile gesture.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *SEC v.*
 12 *G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)). This is because the BIA’s
 13 precedential decision in *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025) holds that
 14 noncitizens who, like Mr. Ibrahim, are detained under 8 U.S.C. § 1225(b) are not entitled
 15 to a bond hearing in immigration court. *See Amado v. DOJ*, No. 25cv2687-LL(DDL),
 16 2025 WL 3079052, at *3 (S.D. Cal. Nov. 4, 2025).

17 CAUSE OF ACTION

18 Violation of Due Process

19 29. The Due Process Clause of the United States Constitution provides that
 20 “[n]o person shall . . . be deprived of . . . liberty . . . without due process of law.”

21 30. While the Immigration and Nationality Act does not provide for bond
 22 hearings for noncitizens, like Mr. Ibrahim, who are detained pursuant to 8 U.S.C. §
 23 1225(b), the Fifth Amendment’s Due Process Clause does not permit their indefinite,
 24 unreviewed detention. *See Campos v. LaRose*, No. 26-cv-29-RSH-JLB, 2026 WL
 25 146630, at *1-2 (S.D. Cal. Jan. 30, 2026) (collecting cases).

26 31. Courts querying whether a given noncitizen’s unreviewed detention under 8
 27 U.S.C. § 1225(b) has run afoul of due process consider the following factors:

(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal.

Id. at *6 (citing *Kydrali v. Wolf*, 499 F.Supp.3d 768, 773 (S.D. Cal. 2020); *Banda v. McAleenan*, 385 F.Supp.3d 1099, 1106 (W.D. Wash. 2019)).

I. Factor One: Length of Detention

32. As concerns factor one, Mr. Ibrahim has been detained at OMDC since January 24, 2026—that is, just over six months. Courts in this district have not hesitated to grant habeas relief to petitioners detained for a similar duration. *See, e.g., Gómez Infante v. Blanche*, No. 26-cv-4554-LL-MSB, ECF No. 10 at 4 (S.D. Cal. June 5, 2026); *Lara v. Bondi*, No. 26-cv-1125-RSH-BJW, ECF No. 5 at 4 (S.D. Cal. Mar. 9, 2026); *Tambu v. Bondi*, No. 26-cv-01481-JLS-DDL, ECF No. 6 at 3 (S.D. Cal. Mar. 19, 2026); *see also Akbar v. LaRose*, No. 25-cv-3510-RSH-VET, 2026 WL 36079, at *3 (S.D. Cal. Jan. 6, 2026) (“Nor does the fact that courts have granted habeas relief in some other cases involving longer periods of detention indicate that Petitioner is not also entitled to such relief[.]”). Factor one thus favors Mr. Ibrahim.

II. Factor Two: Likely Future Detention

33. So does factor two. Mr. Ibrahim is presently waiting for a decision on his appeal of his removal order, which he filed in March, and which the BIA “can take six months to two years” to adjudicate. *Gomez v. Doe*, No. CV 25-03255 PHX JJT (CDB), 2025 WL 3269886, at *3 (D. Ariz. Nov. 3, 2025). What is more, if Mr. Ibrahim does not receive a bond hearing, his detention is likely to far surpass however long it takes the BIA to review his removal order to Uganda. If the BIA affirms the order, Mr. Ibrahim will then be entitled to file a petition for review in the Ninth Circuit. *See* 8 U.S.C. § 1252(a)(1). And under Ninth Circuit General Order 6.4(c), upon filing such a petition for review, Mr. Ibrahim will be entitled to an administrative stay of removal, which may be

1 extended by motion. *See also Rojas-Espinoza v. Bondi*, 160 F.4th 991, 1000 (9th Cir.
 2 2025) (noting that it is commonplace for Ninth Circuit panels to wait to “decide any still-
 3 pending stay motion at the same time that the merits are decided”). As the Court in
 4 *Banda* recognized, appealing an adverse IJ decision to the BIA and then seeking judicial
 5 review “may take up to two years or longer.” And if the BIA reverses Mr. Ibrahim’s
 6 order of removal to Uganda, then his removal proceedings will return to immigration
 7 court, where he will then proceed to litigate his asylum application, and any subsequent
 8 appeals therefrom. Thus, because it is not possible to “predict with any degree of
 9 confidence” when Mr. Ibrahim’s removal case will conclude, factor two weighs heavily
 10 in his favor. *Gómez Infante*, No. 26-cv-02554-LL-MSB, ECF No. 10 at 4; *see also*
 11 *Sufiiarov v. Warden*, No. 25cv3265, 2026 WL 26079, at *5 (S.D. Cal. Jan. 5, 2026);
 12 *Akbar*, 2026 WL 36079, at *7.

13 **III. Factor Three: Conditions of Confinement**

14 34. Factor three likewise strongly favors Mr. Ibrahim. “In considering the
 15 conditions of detention, ‘[t]he more that the conditions under which the [noncitizen] is
 16 being held resemble penal confinement, the stronger his argument that he is entitled to a
 17 bond hearing.’” *Amado*, 2025 WL 3079052, at *6 (quoting *Banda*, 385 F.Supp.3d at
 18 1119). Courts in this district have already found that detention at OMDC is
 19 “indistinguishable from penal confinement.” *Amado*, 2025 WL 3079052, at *6 (quoting
 20 *Kydrali*, 499 F.Supp.3d at 773). And that conclusion finds ample support in reports
 21 documenting conditions at OMDC. Indeed, just two months ago, the California
 22 Department of Justice released its fifth report on conditions of confinement in
 23 immigration-detention centers in the state. *Immigration Detention in California: A*
 24 *Review of Conditions of Confinement*, Cal. Dep’t of Jus. (May 2026), [https://oag.ca.gov/](https://oag.ca.gov/system/files/media/immigration-detention-2026.pdf)
 25 [system/files/media/immigration-detention-2026.pdf](https://oag.ca.gov/system/files/media/immigration-detention-2026.pdf) (last visited May 21, 2026); *see*
 26 *United States v. California*, 921 F.3d 865, 875-76, 886 (9th Cir. 2019) (upholding AB
 27 103’s requirement that the Attorney General of California inspect and report on
 28 conditions in immigration-detention centers in the state). Among other things, the report

finds that: (1) overcrowding at OMDC has reached such critical levels that some detainees must sleep on “boats” on the floor due to the unavailability of beds; (2) overcrowding has also compromised the facility’s cleanliness and in some housing units, the number of detainees per toilet exceeds that permissible under ICE’s own published standards; (3) OMDC “is the only facility in California with a policy and practice to strip search detainees after each non-legal contact visit”; (4) according to detainee reports, “the quantity and quality of food is inadequate” at OMDC, such that detainees must “supplement meals with food purchased from the commissary”; and (5) OMDC’s “medical recordkeeping practices limit the facility’s ability to provide quality, consistent medical care.” *Immigration Detention in California, supra*, at 117-18. And this report is far from the only recent account of reprehensible conditions at OMDC. *See, e.g.,* Gustavo Solis, *Overcrowded conditions plague Otay Mesa and other immigrant detention facilities*, KPBS (July 28, 2025), <https://tinyurl.com/cjjm535n> (describing OMDC as “beset by overcrowding” and highlighting reports of “detainees sleeping on the floor” and “deferred medical care resulting in hospitalizations”); Cal. Dep’t of Just., *Immigration Detention in California: A Comprehensive Review with a Focus on Mental Health* 133 (Apr. 2025), <https://tinyurl.com/3z4mpe8r> (highlighting deficiencies in the provision of healthcare and mental-health care at OMDC). This factor thus also favors Mr. Ibrahim.

IV. Factors Four and Five: Culpability for Delays

35. Factors four and five are in equipoise. Mr. Ibrahim does not bear blame for his continued detention, as he has litigated his removal proceedings with admirable expediency, given the life-and-death stakes. *See Markosian v. Bondi*, No. 25-cv-3494-JES-BLM, 2026 WL 25850, at *3 (S.D. Cal. Jan. 5, 2026) (declining to fault the petitioner for having requested a three-month continuance because “a petitioner’s pursuit of defenses to removal should not be held against a determination that they are entitled to due process”); *Kydrali*, 499 F.Supp.3d at 773. And he concedes that the government likewise has not unreasonably contributed to any delays in his removal proceedings.

V. Factor Six: Likelihood of Obtaining Relief from Removal

36. Lastly, factor six favors Mr. Ibrahim as well, because it is probable that his removal proceedings will end with him receiving asylum, statutory withholding of removal, or CAT protection, and courts have granted prolonged-detention habeas relief when faced with far less certainty on this factor. *See Abdul Kadir v. Larose*, No. 25cv1045-LL-MMP, 2025 WL 2932654, at *5 (S.D. Cal. Oct. 15, 2025) (factor six focuses on “whether the noncitizen has asserted any defenses to removal”) (quoting *Banda*, 385 F.Supp.3d at 1120); *see also Markosian*, 2026 WL 25850, at *4 (“The Court does not have enough information to determine the likelihood that [the petitioner’s] proceedings will result in removal, but notes that it is possible she will be granted withholding on appeal based on her prior credible fear determination.”); *Kydrali*, 499 F.Supp.3d at 774 (granting habeas relief even though a Ninth Circuit panel had already upheld petitioner’s removal order and petitioner was seeking en banc review).

a. The IJ erred in ordering Mr. Ibrahim removed to Uganda to seek asylum there

37. To begin, it is exceedingly probable that Mr. Ibrahim will obtain reversal—if not from the BIA, then from the Ninth Circuit—of the IJ’s decision ordering him removed to Uganda, because that decision is the product of a staggering volume of errors.

38. Pursuant to 8 C.F.R. § 1240.11(h)(2)(iii), the government may not pretermitt a noncitizen’s asylum application and remove the applicant to a third country to seek asylum there if the applicant “has demonstrated that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured in the third country.” Although the regulation does not define “protected ground” for these purposes, it almost certainly refers to the protected grounds that may give rise to a valid asylum claim: “race, religion, nationality, membership in a particular social group, or political opinion[.]” 8 U.S.C. § 1101(a)(42); *see id.* § 1158(b)(1)(A). And “sexual orientation and sexual identity can be the basis for establishing a particular social group.” *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1073 (9th Cir. 2017) (en banc). Suffice it to say

1 that, under this framework, the IJ's bottom-line conclusion that Mr. Ibrahim is unlikely to
2 suffer persecution or torture in Uganda—a country where he could be legally executed
3 for having sex with another man twice—is manifestly erroneous.

4 39. But that is not all. The IJ's decision also fails to mention Mr. Ibrahim's
5 sexual orientation at all, to say nothing of engaging with his claimed fear of persecution
6 on account of it. *See She v. Holder*, 629 F.3d 958, 963 (9th Cir. 2010) (“Due process and
7 this court's precedent require a minimum degree of clarity in dispositive reasoning and in
8 the treatment of a properly raised argument.”), *superseded by statute on other grounds as*
9 *stated in Ming Dai v. Sessions*, 884 F.3d 858, 868 n.8 (9th Cir. 2018).

10 40. The IJ's decision also maintains that Mr. Ibrahim was “provided a
11 reasonable opportunity to satisfy his burden to show by a preponderance of the evidence
12 that the safe third country bar does not apply because he will more likely than not be
13 persecuted or tortured in the relevant third country.” Ex. H at 4. In so reasoning, it faults
14 Mr. Ibrahim for failing “to file any evidence since his entry into the U.S., which occurred
15 back on May 24, 2023, to corroborate his underlying I-589 Application for Asylum
16 claims.” *Id.* at 5. But that elides two crucial points. First, Mr. Ibrahim requested a
17 continuance—which request the IJ pocket-vetoed and then denied as moot—precisely so
18 that he could bring forth corroborating evidence. *See* Ex. G. And second, the IJ's decision
19 ignores that Mr. Ibrahim was under no obligation to file corroborating evidence at any
20 earlier juncture in his proceedings. Prior to his detention, his merits hearing was
21 scheduled for 2029, and no filing deadlines for evidence had elapsed. And once he was
22 detained, that hearing was vacated and he was similarly not in default of any requirement
23 to file corroborating evidence when DHS moved to pretermite his asylum application.

24 **b. 8 C.F.R. § 1240.11(h) is ultra vires and violates due process**

25 41. In addition to these case-specific reasons for reversing his order of removal
26 to Uganda, if and when his case reaches the Ninth Circuit (which, unlike the IJ and BIA,
27 may hear statutory and constitutional claims), Mr. Ibrahim is also likely to succeed on his
28 claims that 8 C.F.R. § 1240.11(h) is ultra vires and violates due process.

1 42. With respect to the ultra-vires claim, the relevant statutory provision excepts
2 a noncitizen from asylum eligibility

3 if the Attorney General determines that the alien may be removed, pursuant
4 to a bilateral or multilateral agreement, to a country (other than the country of
5 the alien's nationality or, in the case of an alien having no nationality, the
6 country of the alien's last habitual residence) in which the alien's life or
7 freedom would not be threatened on account of race, religion, nationality,
8 membership in a particular social group, or political opinion, and where the
9 alien would have access to a full and fair procedure for determining a claim
to asylum or equivalent temporary protection, unless the Attorney General
finds that it is in the public interest for the alien to receive asylum in the United
States.

10 8 U.S.C. § 1158(a)(2)(A).

11 43. The regulations allow noncitizens whom DHS alleges to be subject to that
12 bar to litigate whether they face probable persecution or torture in the third country in
13 question. 8 C.F.R. § 1240.11(h)(2). But the BIA has interpreted them not to permit the
14 noncitizens to contest whether they will, in fact, "have access to a full and fair procedure
15 for determining a claim to asylum," 8 U.S.C. § 1158(a)(2)(A), in that country. *Matter of*
16 *C-I-G-M-*, 29 I&N Dec. 291, 294 (BIA 2025). Because the statute provides no basis for
17 depriving noncitizens of the opportunity to litigate that question, the regulations likely
18 run afoul of it. *See E.E. ex rel. Hutchinson Escobedo v. Norris Sch. Dist.*, 4 F.4th 866,
19 872 (9th Cir. 2021).

20 44. Moreover, as concerns procedural due process, it is difficult to envision a
21 more straightforward application of the *Mathews v. Eldridge* factors, *see* 424 U.S. 319,
22 334-35 (1976), than to a regulatory framework that does not permit asylum seekers to
23 contest the adequacy (or existence) of the refugee-protection regime in the country to
24 which they will be shipped off to seek asylum.

c. Mr. Ibrahim is likely to receive humanitarian protection from removal to Ghana

45. Once his removal order to Uganda has been properly vacated, Mr. Ibrahim is also likely to obtain relief from removal to Ghana in the form of asylum, statutory withholding of removal, or CAT protection. While not punishable with death like in Uganda, homosexuality is still illegal in Ghana, and (unsurprisingly, given that prohibition) state-sponsored or -sanctioned homophobic violence is commonplace. *See* Hum. Rts. Watch, “*No Choice but to Deny Who I Am*”: *Violence and Discrimination against LGBT People in Ghana*, *supra*; Hum. Rts. Watch, *Ghana’s Parliament Revives Dangerous Anti-LGBT Bill*, *supra*.

46. Given conditions in Ghana, and Mr. Ibrahim’s own past persecution there, it will come as no surprise to anyone when Mr. Ibrahim ultimately receives asylum, statutory withholding of removal, or CAT protection. *See* 8 C.F.R. §§ 1208.13(b)(1) (past persecution gives rise to a presumption of a well-founded fear of future persecution for asylum purposes), 1208.16(b)(1)(i) (same, for statutory withholding of removal); *Edu v. Holder*, 624 F.3d 1137, 1145 (9th Cir. 2010) (past torture is the “principal factor” considered in determining entitlement to CAT protection). He should receive a bond hearing to determine whether it is necessary for him to remain detained as his removal proceedings march towards that outcome.

* * *

47. The relevant factors overwhelmingly establish Mr. Ibrahim’s continued, unreviewed detention has surpassed the limits of due process. The Court should therefore grant his petition for a writ of habeas corpus and order him released from Respondents’ custody if he does not receive a bond hearing within seven days.

48. As for the procedures attendant to that bond hearing, the overwhelming consensus is that—at prolonged-detention bond hearings of this sort—the government should bear the burden of justifying, by clear and convincing evidence, the noncitizen’s continued detention. *See, e.g., Sadeqi v. LaRose*, 809 F.Supp.3d 1090, 1095 (S.D. Cal.

2025); *Kydrali*, 499 F.Supp.3d at 774. There is no reason for this Court to depart from that consensus.

PRAYER FOR RELIEF

WHEREFORE, Mr. Ibrahim prays that the Court:

- a. Assume jurisdiction over this case;
- b. Order that Respondents refrain from transferring him outside of the Southern District of California while his petition remains pending;
- c. Declare that his detention is unlawful;
- d. Issue a writ of habeas corpus ordering Respondents to release him from custody if he is not provided within seven days of the Court's order with a bond hearing before an IJ at which DHS bears the burden of justifying his continued detention by clear and convincing evidence.
- e. Award his counsel attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: July 2, 2026

s/ Christopher Paul Kailani Medeiros

Christopher Paul Kailani Medeiros
Attorney for Bin Ibrahim