ADAM GORDON
United States Attorney
MICHAEL D. WALLACE
Assistant U.S. Attorney
Maryland Bar No. 9912160256
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-8714
Facsimile: (619) 546-7751
Email: michael.wallace4@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

S.R.I,

Petitioner,

v.

CHRISTOPHER J. LAROSE, *et al.*,

Respondents.

Case No.: 26-cv-4547-LEK-MMP

RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

The Court should dismiss without prejudice this petition for writ of habeas corpus under 28 U.S.C. § 2241 for failure to state a claim. Petitioner challenges the legality of his detention in an adult detention facility, arguing that he is a minor who should not be in custody. He falsely asserts that he is a minor. In fact, the Respondents have conducted a thorough age determination appropriately based on the totality of circumstances, including Petitioner's own inconsistent statements, a dental examination, and every exhibit filed with the Petition. Accordingly, the Court should deny Petitioner's request for relief.

II. FACTS

Petitioner, a native and citizen of Ethiopia, attempted to enter the U.S. without authorization on May 7, 2026, more than eight miles east of the Otay Mesa Port of Entry. Exhibit (Ex.) 1 (I-213). At the time of his entry, he provided a birth date of [redacted] which also appeared on the Ethiopian passport in his possession. *Id.* He provided the same birthdate twice more, on July 16 and July 21, in response to questions from USCIS during the credible fear determination interviews. Ex. 2 (I-860 at pp. 19, 23, 26); Ex. 3 (MOI).[1] During his third credible fear interview on July 26, 2026, and in his current petition, Petitioner claimed his birth date is [redacted]. Ex. 2 at p. 26; ECF No. 1; Ex. 3. Upon presentation of additional evidence for consideration in the Petition and the existing evidence of the Petitioner's age, on August 19, 2026, Respondents completed an age determination investigation concluding that Petitioner was over the age of 18 at the time of his entry into the United States. Ex. 3. In the investigation, Respondents considered a forensic dental examination which concluded that the probability that Petitioner had reached the age of 18 at 93.45%. Ex. 4 (Dental Age Report) as well as the Credible Fear Interview Notes, I-213, I-867, Petitioner's

[1] The Exhibits attached hereto are true copies, with appropriate redactions, of official government records supplied by ICE. Given the protected, nonpublic nature of this Return and the relevance of Petitioner's birthdate, information regarding his birthdate has not been redacted.

Declaration, Petitioner's purported birth certificate, his purported national ID card, the affidavit by Petitioner's sister, the alleged hospital report, the alleged school records, the expert reports, and photo of Petitioner's passport. Ex. 3. Because Petitioner is an adult, Petitioner is in adult detention.

On August 8, 2026, an immigration judge affirmed the negative credible fear finding by the asylum officer. As a result, Petitioner is subject to an expedited removal order to Ethiopia and mandatorily detained as an alien seeking admission pursuant to 8 U.S.C. §1225(b)(1).

III. RESPONDENTS HAVE COMPLIED WITH THE TVPRA

Petitioner's habeas petition should be denied because he has failed to show a TVPRA, Administrative Procedures Act, or due process violation and Respondents have affirmatively demonstrated compliance. The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires federal agencies (HHS and DHS) to work together to formulate a set of policies and procedures for making age determinations. 8 U.S.C. § 1232(b)(4). The resulting policies and procedures are set forth in the Office of Refugee Resettlement (ORR) Guide, which, in section 1.6, outlines procedures for "Determining the Age of an Individual without Lawful Immigration Status." The ORR Guide expressly recognizes the difficult nature of making an age determination. These challenges include, but are not limited to, unavailable documentation and contrary or fraudulent identity documentation and/or statements. Under the governing procedures, each case must be evaluated carefully based on the totality of all available evidence. *Imon v. Keeton*, 2020 WL 4284378 (D.Ariz. 2020). Here, as listed above, Respondents have considered every piece of available evidence in determining Petitioner was an adult at the time of his entry into the United States. The investigation concluded that the birth certificate and National ID Card provided by Petitioner are fraudulent. Ex. 3. The school records are not certified. *Id.* The hospital records from an Ethiopian Hospital are in English causing Senior

Deputy Deportation Officer (SDDO) Ramirez to question their authenticity. *Id.* SDDO Hugo Ramirez indicates the weight he gave or did not give to evidence by describing the factors which led to his conclusions on the veracity or importance of a particular fact. *See, generally,* Ex. 3. Every piece of evidence from unbiased sources points only to the incredibility of Petitioner's newly claimed age. *Id.* SDDO Ramirez has made a factually supported totality of the evidence determination that Petitioner was over 18 years of age at the time of his illegal entry.

When the available evidence fails to indicate a clear answer, ORR case managers are specifically instructed to consider radiographs. See ORR Guide § 1.6.2 (identifying "Medical Age Assessments," including "the use of imaging technology, such as radiography," as one of the enumerated categories of evidence that ORR case managers "should seek ... when conducting age determinations"). The TVPRA also contemplates their use, on a "non-exclusive" basis, when making an age determination. 8 U.S.C. § 1232(b)(4). Respondents have complied with the ORR Guide and TVPRA by using the dental radiography to determine Petitioner's age in combination with all the other evidence provided. Under these circumstances, Petitioner cannot sustain any of his claims for relief.

IV. PETITIONER SHOULD BE REQUIRED TO EXHAUST THE PENDING QUESTION REGARDING HIS AGE DETERMINATION.

The Ninth Circuit "require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). Like jurisdictional limits and limits on venue, prudential limits are "ordinarily not optional." *Id.* "When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused." *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

Here, the agency has not engaged in undue delay and Petitioner has not sought review of the age determination in immigration court. A full factual record could be presented to an IJ. There is no indication that requiring exhaustion would be futile. Accordingly, the Court should dismiss the petition without prejudice. *See Leonardo*, 646 F.3d at 1160 (noting that the burden is on the petition to "demonstrate[] grounds for excusing the exhaustion requirement" and instructing the district court to dismiss the petition without prejudice). In the alternative, Respondents request that the Court stay adjudication of the petition until Petitioner has exhausted his administrative remedies.

V. PETITIONER IS LAWFULLY DETAINED UNDER THE INA AND THE CONSTITUTION.

Setting aside the age question, the law is clear that Petitioner's detention is statutorily mandated under 8 U.S.C. § 1225(b)(1), has not been prolonged and is thus not unconstitutional.

Petitioner, an alien who arrived in a manner that subjected him to expedited removal, was found not to have a credible fear of return to Ethiopia and is now subject to an expedited removal order. Petitioner contends that he is entitled to release or a bond hearing conducted by this Court. But the Supreme Court has rejected such contentions, explaining: "Nothing in the statutory text imposes any limit on the length of detention. And neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings." *Jennings*, 583 U.S. at 297. Except for temporary parole granted at the discretion of the Attorney General "for urgent humanitarian reasons or significant public benefit" under 8 U.S.C. § 1182(d)(5), "there are no *other* circumstances under which aliens detained under § 1225(b) may be released." *Id.* at 300 (emphasis in original).

Because Petitioner's removal proceedings are pending, and he has not been granted temporary parole, § 1225(b)(1)(B) mandates his detention until the proceedings have concluded. *Id.* at 297 ("Once those proceedings end, detention under § 1225(b)

must end as well."). The Court may not impose temporal limitations on the statute where none exist. *See id.* at 312 (rejecting the dissent's drawing of a "6-month limitation out of thin air"). Petitioner is lawfully detained under § 1225(b)(1), and the statute does not entitle him to release at this time. As such, his petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-cv-151-JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. Apr. 25, 2023) (applying *Jennings* to find that the petitioner had no right to release or a bond hearing).

VI. PETITIONER HAS NOT SHOWN A DUE PROCESS VIOLATION.

To show that Respondents violated his substantive due process rights, he must establish that Respondents' conduct "shocks the conscience." *County of Sacramento v. Lewis,* 523 U.S. 833, 846, (1998). This "standard is satisfied where the conduct was 'intended to injure in some way unjustifiable by any government interest,' or in some circumstances if it resulted from deliberate indifference." *Rosales-Mireles v. United States*, 138 S. Ct. 1897, 1906 (2018). That standard, however, is not met when the government determines, based on the totality of circumstances, that a detainee who claims to be a minor should be considered an adult. *See, CTM,* 2020 U.S. Dist. LEXIS 134184, *28-29.

VII. CONCLUSION

For all the foregoing reasons, Respondents urge the Court to deny the Petition.

DATED: August 25, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney

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