Brian J. McGoldrick (California #169104)
Counsel for Petitioner
4916 Del Mar Avenue
San Diego, CA 92107
(619) 675-2366
attorney@brianmcgoldrick.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

[redacted],

Petitioners,

vs.

CHRISTOPHER LAROSE, warden of Otay Mesa Detention Center;
PATRICK DIVVER, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO");
TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE");
MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS");
ACTING Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: 26-cv-04652-JLS-MSB

Agency Number: A [redacted]

TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, [redacted], by and through his attorney of record, Brian J. McGoldrick, makes this reply to the return submitted by respondents.

INTRODUCTION

Petitioner has asserted since his arrival in the United States that his birthday is [redacted] and he is 17 years old. He presented a copy of his birth certificate and his National ID ("Fayda") to support his contention. He also explained that his passport was forged by the smuggler that got him out of Ethiopia but was taken from him before he entered the United States. He has had two credible fear interviews. The second was yesterday, August 25, 2026. There has been no determination made as of today. The medical report submitted as Exhibit 3 is based solely on statistical probabilities and is not a definitive indicator of age.

Considering the totality of the circumstances and evidence, this court should find that Mr. [redacted] was born on [redacted] and qualifies as an unaccompanied minor.

THE MEDICAL REPORT IS NOT CONCLUSIVE

The examination of M3 development to determine age of a subject is based on statistical averages derived from data sets both here in the United States and other parts of the world. These data sets themselves show wide variation in the development of the M3 molar. The medical report submitted by the Respondents

itself has a margin of error of plus or minus nearly 3 years. That's a six-year range in the assessment of Mr. [redacted] This report asserts to use data of American Blacks as compared to Whites. Mr. [redacted] is not an American Black. He is a sub-saharan male. This is important to understand because, as set out in *A radiographic study of the mandibular third molar root development in different ethnic groups* attached as Exhibit E to this reply, Sub-Saharan males have an earlier than average M3 development. *See* Exhibit E. This makes the medical report unreliable to establish an age range for Mr. [redacted] and should not be considered or, at the very least, be given very little weight in the court's consideration. The Report has an age range of nearly 6 years and Mr. [redacted] fits within this age range at 17 years and 3 months of age.

THE PASSPORT IS UNRELIABLE

Mr. [redacted] has consistently stated that the birth date on his passport is not his actual birthdate. He has provided a reasonable explanation for this discrepancy. Minors cannot travel on their own out of Ethiopia. He would have to be accompanied by a parent or a designated adult guardian. The smuggler that assisted him did not want to be associated with him as a guardian and did not want to be accused of trafficking a minor. It was he who acquired the passport with the false birthdate which allowed their international travel. Further, someone confiscated the passport from Mr. [redacted] before he was allowed to enter the United

States in a further attempt to insulate him from prosecution. It is not uncommon for those fleeing persecution to acquire false travel documents so they can escape their persecutors without detection.

THE BIRTH CERTIFICATE ESTABLISHES MR. IDIRIS'S AGE

Respondents submitted a copy of the birth certificate. Counsel has not seen the document Respondents have submitted but this is not an original. It is a copy of the original. See Declaration page 2. If that is the case, it couldn't be expected to have the proper color and marks. Petitioner also contends that the single flag/double flag appearance on the birth certificate is not a hard and fast rule. This depends on the agency and location of where the certificate is being produced. He has consistently testified to that.

Respondents submitted a copy of his Fayda, the National ID of Ethiopia as Exhibit 6. This has his national tracking ID number listed on the front and a QR code on the back. His biometric data should be accessible to Respondents with that number. There is a smart phone app for this but it is inaccessible to counsel here in the United States. The National ID shows his birthdate as [redacted]

The issue date on the side of the card is not the original issue date. It is the day this particular copy was printed. To get a copy of the Fayda, Petitioner's mother went to a bank which is connected to national Fayda system with his ID number and asked them to print a new copy. That was on July 16, 2026. Petitioner

believes that the paper copy that he presented upon his entry should also list the name of the copy store where he had this and his birth certificate printed. See Declaration page 2.

PETITIONER SUBMITS FURTHER EVIDENCE OF HIS AGE

Mr. [redacted] mother has also forwarded copies of school records. She had them translated at a local agency. These have clear pictures of the Petitioner and both of them establish his birthday as [redacted]

Mr. [redacted] also submits a state issued ID with translation. This state ID also has a clear picture of Mr. [redacted] along with his birthdate of [redacted]

CONCLUSION

Based on the evidence before the court and Mr. [redacted] own credible testimony, this court should find that Mr. [redacted] has established his birthdate to be [redacted] and he is an unaccompanied minor. The court should order that Mr. [redacted] be removed from Otay Mesa Detention Center and be taken to a facility for unaccompanied minors and be treated accordingly.

Respectfully Submitted,

August 26, 2026

/s/Brian J. McGoldrick
Pro Bono Counsel for Petitioner

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On August 26, 2026, I served a copy of this

TRAVERSE IN SUPPORT OF P

by the method and to the parties listed below:

On August 26, 2026, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

- **Jacob Tyler Metzger**

  jacob.metzger@usdoj.gov,angela.shepherd@usdoj.gov,caseview.ecf@usdoj.gov,Efile.dkt.civ@usdoj.gov

/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Pro Bono Counsel for Petitioner