

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

YAYA-ABATAN AMUSA OLATUNDE,

Petitioner,

v.

C. CARTER, Warden, FCI Leavenworth, et al.,

Respondents.

Case No. 25-3041-JWL

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

This matter is before the Court on the *pro se* petition of Yaya-abatan Amusa Olatunde (“Petitioner”) for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner, a noncitizen, alleges that he is being unlawfully detained in FCI Leavenworth in Leavenworth, Kansas, pending removal from the United States to his country of origin. In compliance with the Court’s Order to Show Cause, Doc. 3, Pamela Bondi, Attorney General of the United States, Kristi Noem, Secretary of the Department of Homeland Security, Samuel Olson, the appropriate Immigration and Customs Enforcement (“ICE”) Field Office Director, and Crystal Carter, Warden, Leavenworth Federal Correctional Institution (collectively “Respondents”) submit this response.

Petitioner, a native and citizen of Nigeria, was deported to Nigeria on March 19, 2025. Exhibit 1, Declaration of Bradley W. McNary, ¶¶ 4, 15. Because Petitioner has been deported to his home country, he is no longer detained and his habeas petition is moot. *See* Order of Dismissal, *Armendariz v. Garland*, No. 24-cv-03106-JWL, Doc. 11 (D. Kan. Sept. 5, 2024); *see also* *Battle v. Hudson*, No. 20-cv-03050-JWL, 2020 WL 8834789, at *2 (D. Kan. June 15, 2020) (citing *Rhodes v. Judiscak*, 676 F.3d 931, 935 (10th Cir. 2012)). Respondents therefore respectfully request that Petitioner’s habeas petition be denied as moot and that the Court dismiss the action.

Respectfully submitted,

DUSTON J. SLINKARD
Acting United States Attorney
District of Kansas

/s/ Audrey D. Koehler
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on April 4, 2025, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will provide notice to all registered parties. I further certify that I caused a copy of the foregoing and the notice of electronic filing to be placed in the United States mail, postage prepaid, addressed to the following non-CM/ECF participant:

Yaya-abatan Amusa Olatunde
A249-003-015
Leavenworth Federal Correctional Institution
Leavenworth Inmate Mail/Parcels PO Box 1000
Leavenworth, KS 66048

Pro Se Petitioner

/s/ Audrey D. Koehler
Audrey D. Koehler

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YAYA-ABATAN AMUSA OLATUNDE

Petitioner,

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Case No. 25-3041-JWL

PAMELA BONDI, *Attorney General*;
KRISTI NOEM, DHS Secy.;
SAMUEL OLSON, ICE Field Office Dir.;
and
CRYSTAL CARTER, Warden,
Leavenworth Federal Correctional Institution,

Respondents.

**DECLARATION OF DEPORTATION OFFICER
BRADLEY W. MCNARY**

Pursuant to the provisions of 28 U.S.C. § 1746, I, Bradley W. McNary, Deportation Officer (“DO”) for Enforcement and Removal Operations (“ERO”), Immigration and Customs Enforcement (“ICE”), of the Department of Homeland Security (“DHS”), hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am competent in all respects to testify as to the matter contained in this declaration, and I make this declaration in my official capacity. The statements contained in this declaration are based upon my personal knowledge of the immigration case regarding Yaya-Abatan Amusa Olatunde, also known as Amusa Olatunde Yaya Abatan (“Petitioner”); my review of available electronic databases and records kept by ICE in the ordinary course of business; and information provided to me by employees at the detention facility where he was held, as well as other ICE employees in the course of my official duties.

2. I make this declaration in support of the Respondents' initial response to the Petition for Writ of Habeas Corpus filed by Petitioner, and to place before the Court information relevant to this matter.

3. I have been a Deportation Officer with the Chicago, Illinois ERO, Kansas City, Missouri sub-office since January 3, 2023. As a Deportation Officer, my duties include: (1) arresting aliens who are removable from the United States; (2) processing aliens who will be removed from the United States or placed into removal proceedings before an immigration judge; (3) monitoring aliens' cases until removal; (4) responding to aliens' requests while in ICE custody; and (5) requesting travel documents and coordinating travel for aliens ordered removed from the United States. My duties may, at times, include other responsibilities related to the apprehension, arrest, and removal of aliens, as needed.

4. Petitioner is a native and citizen of Nigeria. He entered the United States on November 7, 2016, at New York, New York as a nonimmigrant temporary visitor with authorization to remain in the United States for a period not to exceed six months.

Removal Proceedings

5. On November 22, 2023, DHS served Petitioner with a Notice to Appear ("NTA"), Form I-862, charging him as removable pursuant to Section 237(a)(1)(B) of the Immigration and Nationality Act for remaining in the United States for a time longer than permitted.

6. On March 26, 2024, an immigration judge in Conroe, Texas ordered Petitioner removed from the United States to Nigeria. Petitioner reserved appeal.

7. On May 17, 2024, Petitioner filed an appeal with the Board of Immigration Appeals ("BIA").

8. On July 5, 2024, the BIA summarily dismissed Petitioner's appeal as untimely.

Post Removal Order

9. Pursuant to 8 C.F.R. § 1241.1(a), an order of removal made by the immigration judge at the conclusion of proceedings shall become final upon dismissal of an appeal by the BIA. Petitioner's removal order became final on July 5, 2024, when the BIA dismissed his appeal.

10. Pursuant to 8 U.S.C. § 1231(a)(1)(A), an alien who has been ordered removed, shall be removed from the United States within 90 days. At or near 90 days post removal order, if an alien has not been removed, ERO conducts a File Custody Review, also known as a Post-Order Custody Review ("POCR"), to determine the necessity of continued custody. When conducting a 90-day POCR, some factors that are considered are the following: a detained individual's flight risk, any danger the individual may pose to his or her community, threat to national security, and whether there is significant likelihood of removal in the reasonably foreseeable future ("SLRRFF"). Based on this information, a recommendation will be made to management as to whether the individual should remain in custody. Those managers, including the Supervisory Deportation and Detention Officer, Assistant Field Office Director, Deputy Field Office Director and the Field Office Director, will either concur in the assessment to continue detention or request release of the alien.

11. In cases where an alien has been detained pursuant to a final order of removal for 180 days, a Transfer Checklist will be completed with information related to follow-up actions taken to obtain a travel document after the initial 90-day POCR and every 90 days thereafter. The Transfer Checklist contains information, such as the alien's biographical information, whether there is a judicial stay in effect, whether there is a habeas petition pending at the time of review, whether the particular case is a national security case, whether the alien has medical or psychological issues, and whether and how often an Embassy person has been contacted for the status of a travel document. This checklist is then transferred to the ICE/ERO Headquarters POCR Unit, which makes the

ultimate decision on the individual's continued detention beyond the 180 days, or every 90 days thereafter, based on the SLRRFF.

12. On or about June 18, 2024, Petitioner was transferred into the custody of Harris County, Texas regarding a criminal matter.

13. On or about September 21, 2024, Petitioner was returned to ICE custody after serving a criminal sentence.

14. On January 7, 2025, Petitioner was issued a travel certificate by the Consulate General of the Federal Republic of Nigeria.

15. On March 19, 2025, Petitioner was removed to Nigeria.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 4, 2025

(date)

BRADLEY W
MCNARY

Digitally signed by BRADLEY W
MCNARY
Date: 2025.04.04 15:21:07 -05'00'

Bradley W. McNary
Deportation Officer