

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
Columbus Division**

AFEEZ OLAIDE ADENIRAN

*Petitioner,*

v.

TERRENCE DICKERSON, Warden, Stewart  
Detention Center, *in his official capacity*;

*Respondent.*

Case No. \_\_\_\_\_

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**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

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## **INTRODUCTION**

Petitioner Afeez Olaide Adeniran (“Mr. Adeniran” or “Petitioner”) files this writ of habeas corpus challenging his prolonged detention in immigration custody. Mr. Adeniran has been detained by Immigration and Customs Enforcement (“ICE”) pursuant to 8 U.S.C. § 1226(c) since December 13, 2022: over two years without a bond hearing or any meaningful advancement in his removal proceedings. Mr. Adeniran’s sustained civil immigration detention with no individualized finding of dangerousness or flight risk gravely violates his rights under the Due Process clause.

Mr. Adeniran’s continued detention bears no reasonable relation to any legitimate government purpose and far exceeds a constitutionally reasonable period of detention. Mr. Adeniran misses his freedom and wishes to return to his wife and family. He respectfully requests this Court to issue a writ of habeas corpus and order his release from custody. In the alternative, Mr. Adeniran requests that this Court order an Immigration Judge to conduct a bond hearing at which the government bears the burden of proving flight risk and dangerousness by clear and convincing evidence.

## **JURISDICTION**

1. Petitioner is currently detained in Respondent’s custody at the Stewart Detention Center in Lumpkin, Georgia.
2. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, 5 U.S.C. § 702 and the

Suspension Clause, U.S. Const. Art. I, § 2.

### **VENUE**

3. Venue is proper in the Middle District of Georgia pursuant to 28 U.S.C. § 1391(b)(2), (e)(1) because Mr. Adeniran is currently detained in this district, where a substantial part of the events or omissions giving rise to this action occurred and continue to occur, and Respondent is an officer or employee of the United States.

### **PARTIES**

4. Petitioner, Mr. Adeniran, is a native and citizen of Nigeria currently detained in Respondent's custody at the Stewart Detention Center in Lumpkin, Georgia. He has been in ICE's custody since December 13, 2022, at the Stewart Detention Center.
5. Respondent Terrence Dickerson is sued in his official capacity as Warden of Stewart Detention Center, where Mr. Adeniran is currently detained, as Petitioner's legal custodian.

### **STATEMENT OF FACTS**

6. Mr. Adeniran is a citizen and native of Nigeria. He came to the United States on September 1, 2017, on a B-2 visitor visa. Mr. Adeniran currently has a pending I-130, Petition for Alien Relative, with the United States Citizenship and Immigration Services ("USCIS"), that has been pending for now close to

seven years.

7. Mr. Adeniran entered the United States in New York, New York, on or about September 1, 2017, with a B-2 visitor visa.
8. On April 12, 2018, Mr. Adeniran filed an I-130 based on his marriage to his U.S. citizen wife, Laquisha Evans. As of the date of filing this Petition, that I-130 remains pending with USCIS.
9. On October 6, 2022, Mr. Adeniran was convicted of Money Laundering Conspiracy in violation of 18 U.S.C. § 1956(h). Mr. Adeniran was sentenced to time served, amounting to 30 months' incarceration by the time of sentencing.
10. ICE subsequently detained Mr. Adeniran and placed him in removal proceedings on or about December 13, 2022. The Department of Homeland Security ("DHS") served him with a Notice to Appear ("NTA"), which charged him as removable pursuant to 8 U.S.C. § 1227(a)(1)(B) for remaining in the United States longer than initially authorized; § 1227(a)(2)(A)(iii) for conviction of an aggravated felony as defined in § 1101(a)(43)(U); § 1227(a)(2)(A)(iii) for conviction of an aggravated felony as defined in § 1101(a)(43)(D); and § 1227(a)(2)(A)(i) for conviction of a crime involving moral turpitude ("CIMT") within five years of admission for which a sentence of one year or longer could be imposed.

11. On March 14, 2023, the Immigration Court found Mr. Adeniran removable on all four grounds charged in his NTA. Mr. Adeniran has yet to receive a final order of removal because of his continuously pending I-130 petition.
12. While detained, Mr. Adeniran through his immigration counsel has pursued various avenues of relief. On September 24, 2024, counsel for Mr. Adeniran filed a Motion to Administratively Close pending the resolution of his I-130 petition. The Immigration Court denied that motion on October 25, 2024, citing Mr. Adeniran's inability to adjust status to Lawful Permanent Resident should his I-130 be favorably adjudicated under Immigration and Nationality Act ("INA") § 245(a).
13. Since being detained, Mr. Adeniran has had approximately over a dozen master calendar hearings. Despite the prolonged length of his detention, Mr. Adeniran has not yet had an opportunity to present the merits of his case or seek release due to his pending I-130.
14. As of the date of filing this Petition, Mr. Adeniran will not have another master calendar hearing until April 16, 2025, at which point he may—or may not—be scheduled for an individual hearing. Mr. Adeniran's detention could thus continue indefinitely with no foreseeable end in sight.

### **LEGAL ARGUMENT**

15. Mr. Adeniran is currently detained pursuant to 8 U.S.C. § 1226(c), which

mandates the detention of certain inadmissible or deportable noncitizens who have committed specific crimes.

16. Sections 1226(c)(1)(B) and (c)(1)(C) provide that the government “shall take into custody any” noncitizen who has committed, among others, a crime involving moral turpitude (“CIMT”) under 8 U.S.C. § 1227(a)(2)(A)(i) or an aggravated felony under 8 U.S.C. § 1227(a)(2)(A)(iii). Under this statute, persons subject to § 1226(c) detention may only be released under limited circumstances which are inapplicable here. 8 U.S.C. § 1226(c)(2) (allowing detained noncitizens’ release if they are necessary for witness protection purposes).
17. In *Jennings v. Rodriguez*, 583 U.S. 281, 296-97 (2018), the Supreme Court held that the statutory text of § 1226(c) authorizes mandatory detention pending removal proceedings and declined to read an implicit time limit into § 1226(c). However, the Court did not contemplate the constitutionality of these provisions authorizing indefinite and prolonged detention. *Id.* at 312 (“[W]e do not reach [the constitutional] arguments.”) (remanding back to the Ninth Circuit to consider constitutional questions).
18. While § 1226(c) thus mandates detention of certain noncitizens, that mandate is subject to constitutional limits: “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at

the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

19. Civil detention must be carefully limited to avoid grave violations of individuals’ due process rights, as the Supreme Court has recognized regarding civil confinement. *See Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (requiring individualized finding of mental illness and dangerousness to support civil commitment); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (upholding civil commitment of sex offenders only after a jury trial on individuals’ lack of volitional control and dangerousness to others).
20. At a minimum, due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (quoting *Hendricks*, 521 U.S. at 356) (internal quotation marks omitted). “Under the Due Process Clause, *civil detention* is permissible only where there is a ‘special justification’ that ‘outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1210 (11th Cir. 2016, *vacated on other grounds*, 890 F.3d 952 (2018) (quoting *Zadvydas*, 533 U.S. at 690).
21. When an individual’s continued detention becomes “unreasonable or

unjustified,” due process accordingly requires “an individualized determination as to [a noncitizen’s] risk of flight and dangerousness.” *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *see also Sopo*, 825 F.3d at 1212.

22. In the civil immigration detention context, the only legitimate purposes of detention include preventing flight, protecting the community from danger, and effectuating removal. *See Zadvydas*, 533 U.S. at 690; *Sopo*, 825 F.3d at 1217; *Ahmed v. Lowe*, No. 3:16-cv-2082, 2017 WL 2374078, at \*4 (M.D. Pa. May 31, 2017) (analyzing *Demore*, 538 U.S. at 531-33 (Kennedy, J., concurring)).
23. The Eleventh Circuit has held that a year in detention is unreasonably prolonged, even when that detention is statutorily mandatory. *Sopo*,<sup>1</sup> 825 F.3d at 1217 (“[A] criminal [noncitizen’s] detention without a bond hearing may often become unreasonable by the one-year mark); *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 478 (3d Cir. 2015) (“[C]ertainly by the time [petitioner] had been detained for one year, the burdens to [petitioner’s]

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<sup>1</sup> While *Sopo* was vacated, district courts in the Eleventh Circuit, including this Court, continue to rely on *Sopo* as persuasive authority in analyzing individuals’ due process rights with respect to prolonged detention. *See J.N.C.G. v. Warden, Stewart Det. Ctr.*, No. 4:20-cv-62-MSH, 2020 WL 5046870, at \*6-8 (M.D. Ga. Aug. 26, 2020); *Msezane v. Gartland*, No. 5:19-cv-51, 2020 WL 1042293, at \*7 (M.D. Ga. Jan. 29, 2020) (“Courts in the Eleventh Circuit confronted with procedural due process challenges to prolonged detention under § 1225(c) have looked to *Sopo I* for guidance on evaluating the challenges.”) (collecting cases).



liberties outweighed any justification... for detain[ing] him without bond to further the goals of the statute.”); *see also J.N.C.G.*, 2020 WL 5046870, at \*6. Mr. Adeniran’s detention now exceeds two years, well in excess of the Eleventh Circuit’s presumptive unreasonableness threshold.

24. Under *Sopo*, courts in this Circuit conduct a “fact intensive” analysis into whether detention has become unconstitutionally unreasonable. *Sopo*, 825 F.3d at 1218. For example, courts may consider several factors to determine whether detention has become unconstitutionally prolonged: (1) the length of detention without a bond hearing; (2) the reason removal proceedings are protracted; (3) whether removal would be possible once a removal order is final; (4) whether the period of civil detention exceeds the time the petitioner spent incarcerated for the crime triggering immigration consequences; and (5) whether the facility where the petitioner is detained meaningfully differs from a penal institution. *Id.* at 1217-1218. This list of factors is non-exhaustive, however, and “the factors that should be considered will vary depending on the individual circumstances present in each case.” *Id.* at 1218.
25. In Mr. Adeniran’s case, these factors weigh heavily against his continued detention.
26. First, Mr. Adeniran’s detention exceeds two years. As of the time of filing, Mr. Adeniran has been detained for over 26 months, exceeding the threshold for

presumptive unreasonableness by over a year. *See Sopo*, 825 F.3d at 1217; *see also J.N.C.G.*, 2020 WL 6056870, at \*6 (finding an individual’s 16-month detention “well beyond the one-year presumptively unreasonable period identified in *Sopo*”) (citation omitted); *Hanna v. Lynch*, No. 4:16-CV-375-CDL-MSH, 2018 WL 547232, at \*2 (M.D. Ga. Jan. 24, 2018), amended, No. 4:16-CV-375-CDL-MSH, 2018 WL 4850106 (M.D. Ga. Feb. 23, 2018) (concluding that 29-month long detention was unreasonable) (petition later dismissed as moot because Petitioner was released from ICE custody). This is over two years away from family, work, and community that Mr. Adeniran cannot get back.

27. Second, Mr. Adeniran’s removal proceedings have been protracted because of the government’s failure to timely adjudicate his pending I-130 petition.<sup>2</sup> As of the time of filing, Mr. Adeniran’s I-130 has been pending for over six years—far beyond USCIS’s own estimated processing time of 48.5 months. *See Check Case Processing Times*, U.S. Citizenship & Immigr. Servs., <https://egov.uscis.gov/processing-times/> (select “I-130 | Petition for Alien Relative” in “Form” field; “U.S. citizen filing for a spouse...” in “Form

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<sup>2</sup> Regardless of whether this particular delay is attributable to ICE, “where the fault is attributable to some entity other than the [noncitizen], the factor will weigh in favor of concluding that continued detention without a bond hearing is unreasonable.” *Sajous v. Decker*, No. 18-CV-2447 (AJN), 2018 WL 2357266, at \*11 (S.D.N.Y. May 23, 2018); *J.N.C.G.*, 2020 WL 5046870, at \*6 (weighing factor in favor of petitioner where they were not “in any way to blame for the delay”).

Category;” and “National Benefits Center” in “Field Office or Service Center”). Other delays in Mr. Adeniran’s case were necessary to pursue legitimate relief from removal, chiefly, to seek administrative closure or find a new immigration attorney.

28. Mr. Adeniran is also likely to remain detained for an indefinite period of time. As of the time of filing, Mr. Adeniran’s next master calendar hearing is in April 2025, and he has no individual merits hearing in sight. Accordingly, this factor weighs heavily in Mr. Adeniran’s favor.
29. Third, although removals to Mr. Adeniran’s home country of Nigeria do occur, removals often take months to be effectuated. Detained individuals report that removals routinely do not take place for upwards of nine or more months following a final order of removal. Recently, ICE has experienced difficulties effectuating removals to Nigeria. Detained individuals reported that in 2024, Nigerian officials began refusing to accept U.S. deportations executed via charter flight, and as a result, a number of Nigerians whom ICE flew to Nigeria were unable to deboard the plane and subsequently were returned to the Stewart Detention Center. Thus, even if Mr. Adeniran is ordered removed at some future date, it is likely that he may face protracted detention while awaiting his removal to Nigeria.
30. Fourth, Mr. Adeniran’s current time in immigration detention is almost

equivalent to the amount of time he spent incarcerated for his predicated criminal offense. Mr. Adeniran spent 30 months in federal criminal custody, whereas thus far he has spent over 26 months in immigration custody. *See Hanna*, 2018 WL 547232, at \*2-3 (bond hearing ordered despite Petitioner's immigration detention being 29 months compared to 60 months' criminal incarceration). Further, while at this point Mr. Adeniran's immigration detention has been shorter than his criminal confinement, Mr. Adeniran's one criminal conviction is non-violent, indicating that he poses no danger to the community if released. This factor weighs in Mr. Adeniran's favor.

31. Finally, Stewart Detention Center is not meaningfully distinguishable from a prison. Stewart is notorious for being the functional equivalent of a prison, if not worse. Indeed, the specific facility at issue in *Sopo* was the same as the facility where Mr. Adeniran is currently detained. 825 F.3d at 1221 (describing Stewart Detention Center as "a prison-like facility"); *J.N.C.G.*, 2020 WL 5046870 at \*7 ("Stewart Detention Center[] is not meaningfully different from a prison."); *see also* Lauturo Grinspan, *Another migrant dies in Georgia ICE detention, second in 2024*, Atlanta Journal-Constitution (May 29, 2024), <https://tinyurl.com/3amfe4r6>; Lauturo Grinspan, *'I'd rather be deported': In this Georgia immigration court, hope is scarce*, Atlanta Journal-Constitution (May 13, 2024), <https://tinyurl.com/22pe42vv>; Rita Omokha, *Detainees*

*speak out against 'abusive' US migrant jail: 'This place is horrible,'* The Guardian US (Dec. 6, 2023), <https://tinyurl.com/vkm37hv2>.

32. Weighing all the *Sopo* factors together, the totality of circumstances demonstrate that Mr. Adeniran's continued detention is unreasonable and unjust. This Court should grant a writ of habeas corpus and order Mr. Adeniran's release. In the alternative, this Court should grant him an individualized bond hearing. Mr. Adeniran's release is not only consistent with the demands of due process but is also consistent with relief that this Court has recently granted to individuals similarly subject to § 1226(c) detention. *See J.N.C.G.*, 2020 WL 5046870, at \*6-\*8; *Hanna*, 2018 WL 547232, at \*2-\*3.
33. If this Court grants Mr. Adeniran a bond hearing, the government should bear the burden of proving by clear and convincing evidence that Mr. Adeniran's continued detention is necessary. *See, e.g., German Santos v. Warden Pike Cty Corr. Facility*, 965 F. 3d 203, 213 (3d Cir. 2020). Placing the burden of proof on the government is consistent with the requirements of due process considering Mr. Adeniran's liberty interest at stake: "When the Government seeks to take more than just money from a party, we typically hold the Government to a standard of proof higher than a preponderance of the evidence." *Id.*

## CAUSES OF ACTION

### COUNT ONE

#### **Violation of the Due Process Clause of the Fifth Amendment Prolonged Detention**

34. All of the foregoing allegations are repeated and realleged as though fully set forth herein.
35. Petitioner's prolonged detention without any individualized assessment of the need for detention deprives him of due process of law. The Court should therefore order his release from unconstitutional detention, or in the alternative, grant him a bond hearing within 14 days of the Court's order.
36. The Due Process Clause of the Fifth Amendment to the United States Constitution provides that "[n]o person shall... be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.
37. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. For this reason, even "removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary and capricious." *Id.* at 721 (Kennedy, J., dissenting). *See also Rosales-Garcia v. Holland*, 322 F.3d 386, 409 (6th Cir. 2003) (en banc) (holding that "excludable [persons]... are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments.").

38. Mr. Adeniran has now been detained for over two years without recourse. His detention far exceeds the one-year threshold for unreasonableness identified by the Eleventh Circuit in *Sopo*. 825 F.3d at 1217.
39. Respondent does not have and cannot provide a constitutionally reasonable justification for continuing to detain Mr. Adeniran. To justify Mr. Adeniran's ongoing detention, due process requires the government to prove by clear and convincing evidence that Mr. Adeniran poses a danger to the community or a risk of flight.
40. Mr. Adeniran's detention is therefore unconstitutional under the Fifth Amendment to the United States Constitution. He should be released because his prolonged detention is not reasonably related to any government purpose.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests that the Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release;
3. Declare that Respondent's ongoing detention of Petitioner violates the Due Process Clause of the Fifth Amendment to the United States Constitution;
4. Order a bond hearing to be held within 14 days of the Court's order, before this Court or the Immigration Court, where the government bears the burden of showing that Petitioner's ongoing detention by clear and convincing

evidence is justified based on flight risk or danger to the community;

5. Award Petitioner's costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412; and
6. Grant any other and such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: March 14, 2025

/s/ Alexandra M. Smolyar

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of March, 2025, I electronically submitted the foregoing document with the clerk of court for the United States District Court, Middle District of Georgia, using the electronic filing system of the court. I hereby certify that I have served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

Respectfully submitted,

Dated: March 14, 2025

/s/ Alexandra M. Smolyar

Alexandra M. Smolyar, GA Bar No. 419582