

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SOLOMON AYOR,

Petitioner,

v.

WARDEN, HOUSTON CONTRACT
DETENTION FACILITY, *et. al.*,

Respondents.

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CIVIL NO. 4:25-cv-6030

RESPONSE TO SHOW CAUSE ORDER

Federal Respondents file this response to the Court’s Order to Show Cause why Petitioner should not be released from custody. Dkt. 6.

Petitioner is an immigration detainee in the custody of the Department of Homeland Security/U.S. Immigration and Customs Enforcement (“DHS/ICE”). Petitioner brought this habeas corpus petition against various federal officials seeking release from immigration detention. As discussed below, Petitioner is lawfully detained under 8 U.S.C. § 1231 because he is subject to a final order of removal.

BACKGROUND

Petitioner is a citizen and native of Nigeria. *See* Exhibit 1, Removal Order. Petitioner arrived in the United States in 2011. *See* Dkt. 1 at p. 2. After full consideration of his case, an immigration judge ordered Petitioner removed on January 20, 2012. *See* Exhibit 1. In so ordering, the immigration judge denied Petitioner’s request for asylum, along with other relief including his application for withholding of removal and for protection under Convention

Against Torture. *Id.* Petitioner appealed and the Board of Immigration Appeals dismissed the appeal on June 13, 2012. *See* Exhibit 2. ICE detained Petitioner on or about November 14, 2025, in order to effectuate his removal order.

THE BASIS OF PETITIONER'S DETENTION

The Petitioner is detained under 8 U.S.C. § 1231, which allows for the detention of aliens with final orders of removal. When it comes to detention of an alien without status to remain in the United States, it is well-taken that the authority to detain is elemental to the authority to deport, as “[d]etention is necessarily a part of th[e] deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 538 (1952). As the Supreme Court has stated, “[d]etention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner is detained so that ICE can effectuate his removal order.

The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). Here, Petitioner incorrectly argues that because U.S. Citizenship and Immigration Services has approved a Form I-130, he cannot be detained. Dkt. 1. The Form I-130 is just a preliminary step in the process to obtain an adjustment of status. USCIS’s approval of an alien’s I-130 in no way prevents an alien from being removed or detained. Indeed, the Form I-130 approval notice itself makes clear that “[t]he approval of this visa petition does not in itself grant any immigration status.” Dkt. at 1-1 at p. 10.

Finally, Petitioner states that he has very recently filed a motion to reopen his immigration removal proceedings. *See* Dkt. 1. That is his right. But, unless and until, an immigration court grants his motion to reopen, he remains subject to a final order of removal.

His pending motion to reopen is not a valid basis to grant habeas relief. *See Hernandez-Morales v. Bondi*, No. 25-CV-2551-BJC-MMP, 2025 WL 2932650, at *3 (S.D. Cal. Oct. 15, 2025) (dismissing habeas where Petitioner sought to “prevent DHS from executing the removal order while the BIA adjudicates his motion to reopen”).

The foregoing responds to the Court’s show cause order. Federal Respondents reserve the right to separately file a dispositive motion.

Dated: December 18, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 18, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system. The pro se Petitioner will be served in person by ICE personnel. I copy with also be mailed to Petitioner's next friend as noted on the docket.

s/ Jimmy A. Rodriguez
Jimmy A. Rodriguez
Assistant United States Attorney