

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

STEPHEN OLUSEGUN BANJOKO,

Petitioner,

v.

Case No. 2:26-cv-58-KCD-DNF

SECRETARY, UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY, et al. (all official capacity),

Respondents.

Response to Petitioner's Request for Evidentiary Hearing

Petitioner Stephen Banjoko has filed a notice of disputed compliance and request for evidentiary hearing in which he disputes receiving an informal interview under 8 C.F.R. § 241.13(i)(3). (Doc. 20.) Banjoko's request for an evidentiary hearing should be denied.

As a threshold matter, Banjoko's request does not comply with this Court's Local Rules. Local Rule 3.01(b) provides that a motion must include "a concise statement of the precise relief requested, a statement of the basis for the request, and a legal memorandum supporting the request." Banjoko's request does not meet the requirements of the Local Rule 3.01(b), as it is devoid of any citation to legal authority as a basis for his request.

Even if the Court were to excuse noncompliance with Local Rule 3.01(b),

Banjoko's request provides a statement from his counsel recounting a phone conversation with Banjoko as the basis for an evidentiary hearing. (Doc 23 at 2-3.) While a court may not decide a habeas corpus petition on affidavits when there are factually contested issues, *Singh v. U.S. Att'y Gen.*, 945 F.3d 1310, 1315 (11th Cir. 2019), counsel's statements constitute inadmissible hearsay under Federal Rule of Evidence 802. *See* Fed. R. Evid. 802 (stating that hearsay is not admissible unless a federal statute, the Federal Rules of Evidence, or other rules prescribed by the Supreme Court provide otherwise). Banjoko fails to provide any justification for failing to offer admissible evidence other than, without elaboration, "Petitioner's continued immigration detention" (Doc. 20 at 2.) Notably, his counsel's hearsay statement stands in contrast to Banjoko's original contention that "[he] unequivocally disputes that any such informal interview ever occurred." *Id.* While his counsel's hearsay statement may challenge the sufficiency of an informal interview under 8 C.F.R. § 241.13(i)(3), it recounts that a deportation officer did in fact question Banjoko regarding revocation of his order of supervision. (Doc. 23 at 2-3.)

Federal Respondents have provided an agency record memorializing Banjoko's April 2, 2026, informal interview. (Alien Informal Interview, Doc. 19-1.) The record indicates that on April 2, 2026, Deportation Officer Lima conducted an initial informal interview of Banjoko to afford him an opportunity to respond to the reasons of his order of supervision stated in the notification letter. (Doc. 19-1 at 1.) Lima recorded that Banjoko claimed he never received a notification letter regarding

his revocation of supervision.¹ *Id.*

Federal Respondents have also provided the sworn declaration of Lima, who conducted the informal interview. (Doc. 22-1.) The declaration provides that Lima conducted an informal interview with Banjoko on April 2, 2026, as a part of Lima's duties at the South Florida Soft Sided Detention Facility. *Id.* ¶ 2. Lima explains the purpose of the informal interview as providing the alien with notice and an opportunity to respond to the reasons for revocation. *Id.* Lima elaborates that the process ensures procedural fairness by allowing the alien to present any information or evidence relevant to the decision to revoke the OSUP and to address the grounds for continued detention or removal. *Id.*

Lima indicates that he created an interview form while he was conducting the informal interview with Banjoko. *Id.* ¶ 3. Lima explained to Banjoko the process of OSUP revocation. *Id.* While the informal interview was taking place, Banjoko stated that he never received a notification letter regarding his revocation of supervision, which Lima documented. *Id.* Banjoko did not provide a written statement or documentation of any sort during his interview. *Id.*

Because Banjoko has not presented admissible evidence to demonstrate an evidentiary dispute, his request for an evidentiary hearing should be denied. *See Holland v. United States*, 406 F.2d 213, 216 (5th Cir. 1969) (“[N]o hearing is called for

¹ Agency records show that Banjoko was served with a notice of revocation of release on December 19, 2025. (Doc. 9-7.)

if the prisoner's petition is supported only by factual allegations not legally capable, even if believed, of justifying a finding in his favor."); *Hayden v. United States*, 814 F.2d 888, 892 (2d Cir. 1987) (stating that the standard for determining whether a disputed issues of fact require an evidentiary hearing is whether the evidence would be admissible proof entitling the petitioner to relief).

CONCLUSION

Federal Respondents respectfully request that Banjoko's request for an evidentiary hearing be denied.

DATED this 1st day of May, 2026.

Respectfully submitted,

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