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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 AGHOGHO EGIGBA,

Civil Case No.: 26-cv-2232-BAS

12 Petitioner,

**Amended¹ Petition for Writ of
Habeas Corpus²**

13 v.

14
15 MARKWAYNE MULLIN, Secretary of
16 the Department of Homeland Security,
17 TODD BLANCHE, Acting Attorney
18 General, TODD M. LYONS, Acting
19 Director, Immigration and Customs
20 Enforcement, JESUS ROCHA, Acting
21 Field Office Director, San Diego Field
22 Office, CHRISTOPHER LAROSE,
23 Warden at Otay Mesa Detention Center,

24 Respondents.

25 ¹ Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its
26 pleading once as a matter of course no later than 21 days after serving it.” Fed. R.
27 Civ. Pro. 15(a)(1)(A) (punctuation altered). It is less than 21 days since service.
28 Mr. Egigba therefore files this amended petition as of right.

² On April 13, 2026, this Court requested Federal Defenders to screen Mr. Egigba’s
case and determine whether appointment of counsel was warranted. After
interviewing Mr. Egigba and speaking with his immigration attorney, undersigned
counsel determined his case is meritorious and he financially qualifies for Federal
Defenders’ services.

INTRODUCTION

Aghogho Egigba has been detained pending his immigration proceedings at the Otay Mesa Detention Center (“OMDC”) for nearly eighteen months without a bond hearing. ICE arrested Mr. Egigba in October 2024, after he sustained criminal convictions in Fulton County, Georgia. Mr. Egigba has been detained under 8 U.S.C. § 1226(c) ever since. He has filed an asylum application and has his individual merits hearing scheduled for May 6, 2026.

Mr. Egigba has now been detained for a prolonged period without an individualized assessment of his flight risk or danger, with no end in sight, in violation of the due process clause as applied to his case. “Arbitrary civil detention is not a feature of our American government.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018). As many courts have recently held as to noncitizens subject to prolonged mandatory detention under § 1226(c) as well as § 1225(b), noncitizens may bring as-applied constitutional challenges to their mandatory detention without a bond hearing. *See Rowe v. Archambeault*, No. 26-cv-1744-GPS-DEB, 2026 WL 879487, *3–*7 (S.D. Cal. Mar. 31, 2026) (ordering a bond hearing for a noncitizen detained under § 1226(c) for close to twelve months); *see, e.g., Rodriguez v. Frink*, __ F. Supp. 3d __, 2026 WL 709487, *2–*4 (S.D. Tex. Mar. 13, 2026) (surveying court of appeal decisions approving of such as-applied challenges for § 1226(c) detention, and ordering a bond hearing for a noncitizen detained for five months).

This Court should order Respondents to provide Mr. Egigba with an individualized bond hearing at which the government bears the burden to prove by clear and convincing evidence that he poses a danger to the community or is a risk of flight, and at which the immigration judge shall consider alternative conditions of release and ability to pay. It should also order Respondents make a complete record of the hearing available to Mr. Egigba and his counsel. *See, e.g., Sandesh v. LaRose*, No. 26-cv-846-JES-DDL, 2026 WL 622690, *2–*4 (S.D. Cal.

Mar. 5, 2026) (ordering this relief in a mandatory detention case).

STATEMENT OF FACTS

Mr. Egigba is from Nigeria. Exhibit A, Attorney Grace Artiga Meza Decl., ¶ 1. He entered the United States in September 2011 on a G4 visa. *Id.* Mr. Egigba came here to speak about corruption in Nigeria on behalf of the World Bank. *Id.* He had been living in Georgia when he was arrested for identity theft and fraud, financial transaction card fraud, and forgery in the third degree. *Id.* at ¶ 3.

On October 27, 2024, Mr. Egigba was released from criminal custody directly into immigration custody. *Id.* He has been in immigration custody ever since. *Id.* at ¶ 6. Mr. Egigba spent five months in immigration custody in Georgia before he was inexplicably transferred to OMDC in California. *Id.* at ¶ 4. His immigration case began anew once he arrived at OMDC. *Id.* at ¶ 5.

Mr. Egigba submitted his asylum application on August 5, 2025. *Id.* at ¶ 7. His individual merits hearing is scheduled for May 6, 2026. *Id.* at ¶ 8. Mr. Egigba has never been granted a bond hearing before the immigration judge (“IJ”). *Id.* at ¶ 9. If the IJ denies his asylum request, he intends to appeal. *Id.* at ¶ 10.

LEGAL ARGUMENT

I. This Court has jurisdiction to consider due process claim of unlawful prolonged detention.

The government sometimes argues that this Court’s jurisdiction to consider immigration habeas petitions under 8 U.S.C. § 2241 is taken away by 8 U.S.C. § 1252(g). This argument is “mistaken.” *Hernandez Cruz v. Noem*, No. 25-cv-2566-SB-MAA, 2025 WL 3482630, *1 (C.D. Cal. Dec. 2, 2025).

As the Supreme Court and the Ninth Circuit have both recently clarified, courts “should read § 1252(g) narrowly.” *Ibarra-Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). That section’s jurisdiction-stripping provisions are limited to “three discrete actions”: the “decision or action to *commence*

proceedings, *adjudicate* cases, or *execute* removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (quoting 8 U.S.C. § 1252(g)). They do not strip jurisdiction and “sweep in any claim that can technically be said to ‘arise from’ the three listed actions of the Attorney General. Instead, [the Court] read[s] the language to refer to just those three specific actions themselves.” *Jennings v. Rodriguez*, 538 U.S. 281, 294 (2018).

As a result, this Court still has jurisdiction over Mr. Egigba’s claim. Like many other habeas petitioners in immigration detention, Mr. Egigba “is seeking to review the legality of his detention, arguing that the length of time he has been detained here violates due process—rather than challenging the decision to commence proceedings, the adjudication of his removal case, or an action to execute his removal order.” *Gao v. LaRose*, __ F. Supp. 3d. __, 2025 WL 2770633, *2 (S.D. Cal. 2025) (Huie, J.) (finding jurisdiction over § 2241 habeas petition in a prolonged detention case for an arriving noncitizen and ordering an individualized bond hearing). This Court’s jurisdiction is “not barred by Section 1252(g).” *Id.*; accord, e.g., *Khorsheed v. LaRose*, No. 25-cv-3346-BTM-KSC, 2025 WL 3638141, *1 (S.D. Cal. Dec. 15, 2025) (same).

II. Claim: The Fifth Amendment’s Due Process Clause prohibits Mr. Egigba’s prolonged immigration detention without a bond hearing.

Mr. Egigba’s eighteen-month detention without a bond hearing violates due process.

A. The due process clause prohibits prolonged mandatory detention without a bond hearing under § 1226(c) as well as § 1225(b).

The Fifth Amendment’s Due Process Clause countermands the government’s statutory authority to detain immigrants without bond hearings. Mr. Egigba is detained under one such statute, 8 U.S.C. § 1226(c)(1)(A), which requires mandatory detention without any individualized bond hearing for anyone with a conviction for a crime involving moral turpitude.

1 “Nearly all district courts that have considered the issue agree that
2 prolonged mandatory detention pending removal proceedings, without a bond
3 hearing, will—at some point—violate the right to due process.” *Banda v.*
4 *McAleenan*, 385 F. Supp. 3d 1099, 1111 (W.D. Wash. 2019) (cleaned up)
5 (collecting cases); *see Rowe*, 2026 WL 879487 at *3–*5 (ordering a bond hearing
6 as to a noncitizen detained under § 1226(c) due to due process violation in
7 prolonged year-long detention). Indeed, the Ninth Circuit has “grave doubts that
8 any statute that allows for arbitrary prolonged detention without any process is
9 constitutional or that those who founded our democracy precisely to protect
10 against the government’s arbitrary deprivation of liberty would have thought so.”
11 *Rodriguez*, 909 F.3d at 256–57.

12 **B. Courts have reached different conclusions about when**
13 **immigration detention becomes indefinitely prolonged, but**
14 **Mr. Egigba would prevail under any standard.**

14 Though courts agree that due process mandates a bond hearing when
15 detention grows unreasonably prolonged, they disagree about how to assess
16 whether a particular migrant’s detention has reached that point. *Sanchez-Rivera v.*
17 *Matuszewski*, No. 22-CV-1357-MMA (JLB), 2023 WL 139801, at *5–6 (S.D.
18 Cal. Jan. 9, 2023) (Anello, J.) (surveying the various approaches). Some courts
19 have “conclude[d] . . . that detention becomes prolonged after six months and
20 entitles [a petitioner] to a bond hearing.” *Rodriguez v. Nielsen*, No. 18-CV-04187-
21 TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019). In that case, Mr. Egigba
22 would automatically qualify, as he has been detained for eighteen months. Exhibit
23 A at ¶ 6.

24 Other courts have adopted various factors tests. *See Sanchez-Rivera*, 2023
25 WL 139801, at *5–6 (surveying different approaches). Courts generally agree that
26 relevant factors include:

- 27 (1) “the total length of detention to date,”
28 (2) “the likely duration of future detention,” and

1 (3) “the delays in the removal proceedings caused by the petitioner and the
2 government.”

3 *Id.* Mr. Egigba would prevail under any of these factor tests.

4 First, the “most important factor,” the length of detention at eighteen
5 months, favors Mr. Egigba. *Banda*, 385 F. Supp. 3d at 1118. In assessing this
6 factor, “[i]t is important to bear in mind the context: The detention that is being
7 examined here is the detention of a human being who has never been found to
8 pose a danger to the community or to be likely to flee if released.” *Jamal A. v.*
9 *Whitaker*, 358 F. Supp. 3d 853, 859 (D. Minn. 2019). With that context, courts
10 have granted bond hearings for persons detained for “similar or shorter lengths of
11 detention.” *Rowe*, 2026 WL 879487 at *5 (collecting cases finding detention of
12 between seven and ten months unreasonable). Mr. Egigba has been detained for
13 eighteen months. Exhibit A at ¶ 6. This factor therefore clearly favors a bond
14 hearing.

15 Second, Mr. Egigba has reason to anticipate significant future detention.
16 His individual merits hearing is scheduled for May 6, 2026. *Id.* at ¶ 8. At
17 Mr. Egigba’s merits hearing, if he is awarded asylum and DHS does not appeal,
18 he will be released. But in any other circumstance—if DHS appeals, or if he
19 receives only another form of protection against torture, like withholding or
20 deferral of removal, he would be detained for at least another six months. Indeed,
21 ICE is now regularly holding immigrants granted withholding or deferral of
22 removal for lengthy periods. *See, e.g., De la Rosa Guarin v. LaRose*, 2025 WL
23 3440689, No. 25-cv-3085-DMS (S.D. Cal. Dec. 1, 2025); *CMS v. Oddo*, No. 25-
24 cv-216, 2025 WL 3442697 (W.D. Pa. Dec. 1, 2025); *Gharakhan v. Noem*, No. 25-
25 cv-2879-DMS, 2025 WL 3097933 (S.D. Cal. Nov. 5, 2025); *Munoz-Saucedo v.*
26 *Pittman*, 789 F. Supp. 3d 387 (D.N.J. 2025); *Villanueva v. Tate*, 801 F. Supp. 3d
27 689, 2025 WL 2774610 (S.D. Tex. 2025); *Zavvar v. Scott*, No. cv-25-2104-TDC,
28 2025 WL 2592543 (D. Md. Sept. 8, 2025); *Puertas-Mendoza v. Bondi*, No. SA-

1 25-cv-890-XR, 2025 WL 3142089 (W.D. Tex. Oct. 22, 2025); *Gomez-Simeon v.*
2 *Bondi*, No. SA-25-cv-01460-JKP, 2025 WL 3470872 (W.D. Tex. Nov. 24, 2025)
3 (all resolving habeas petitions for noncitizens who received withholding or
4 deferral of removal but who remained detained or were re-detained for many
5 months).

6 In addition, if Mr. Egigba is denied asylum, he intends to appeal to the BIA
7 and the Ninth Circuit. Exhibit A at ¶ 10. All told, “[t]his process may take up to
8 two years or longer.” *Banda*, 385 F. Supp. 3d at 1119; *see also* Exhibit A at ¶ 10.
9 Because “Petitioner’s future detention can last several more months or even
10 years[,]” this factor favors Mr. Egigba. *Abdul Kadir v. Larose*, No. 25-cv-1045-
11 LL-MMP, 2025 WL 2932654, at *5 (S.D. Cal. Oct. 15, 2025).

12 Third, the delay factor is neutral. Respondents delayed Mr. Egigba’s
13 immigration proceedings for five months when they inexplicably transferred him
14 (and his case) from Georgia to California. Exhibit A at ¶¶ 4–5. There is no
15 indication that subsequent delays by Mr. Egigba were either unreasonable or
16 unjustified.

17 Under any test, then, Mr. Egigba is entitled to a bond hearing.

18 PRAYER FOR RELIEF

19 For the reasons just given, the Fifth Amendment Due Process Clause
20 prohibits the government from continuing to detain Mr. Egigba without a bond
21 hearing.

22 Accordingly, Petitioner respectfully requests that this Court order that:

- 23 1. Petitioner receive an individualized bond hearing before a neutral
24 immigration judge within the next 14 days, at which hearing the
25 government shall bear the burden of proof of establishing by clear
26 and convincing evidence that he poses a danger to the community or
27 is a risk of flight, and at which the immigration judge shall consider
28 alternative conditions of release and Petitioner’s ability to pay bond;

2. Respondents make a complete record of the hearing available to
Petitioner and his counsel; and
3. Any other relief this Court deems just and proper.

Respectfully submitted,

Dated: April 22, 2026

s/ Camille Fenton

Camille Fenton

Federal Defenders of San Diego, Inc.

Attorneys for Mr. Egigba

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EXHIBIT A

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AGHOGHO EGIGBA,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,

Respondents.

Civil Case No.: 26-cv-2232-BAS

**Declaration of Immigration
Attorney Grace Artiga Meza in
Support of Amended Petition for a
Writ of Habeas Corpus**

I, Grace Artiga Meza, declare:

1. I represent Aghogho Egigba in his immigration proceedings. I began my representation of Mr. Egigba on July 1, 2025.
2. Mr. Egigba was born in Nigeria. He entered the United States in September 2011 on a G4 visa. He came here to speak about corruption and the global economic crisis in Nigeria with the Youth International Organization, in partnership with NATO and the World Bank. Mr. Egigba overstayed his visa.
3. Mr. Egigba was transferred into immigration detention in Georgia on October 27, 2024. He had been living in Georgia before that and ICE detained him directly from the Fulton County, Georgia jail after he

1 sustained convictions for identity theft and fraud, financial transaction card
2 fraud, and forgery in the third degree.

3 4. Mr. Egigba spent approximately five months in immigration detention in
4 Georgia before he was transferred to California. To my knowledge, he
5 never received an explanation as to why he was transferred here.

6 5. Mr. Egigba has been in custody at the Otay Mesa Detention Center
7 (“OMDC”) since he arrived in California from Georgia around March
8 2025. His immigration case began anew once he arrived here.

9 6. Mr. Egigba has been in immigration detention for nearly eighteen months.

10 7. Mr. Egigba submitted his asylum application with my help on August 5,
11 2025. He is requesting asylum because he faces political persecution in
12 Nigeria because of his fight against corruption there.

13 8. Mr. Egigba’s individual merits hearing is scheduled for May 6, 2026.

14 9. Mr. Egigba has never been granted a bond hearing before the immigration
15 judge (“IJ”).

16 10. If the IJ denies Mr. Egigba’s asylum request, he intends to appeal to the
17 Board of Immigration Appeals (“BIA”) and the Ninth Circuit. In my
18 experience, these appeals can take up to two years or more.

19 I declare under penalty of perjury that the foregoing is true and correct,
20 executed on April 22, 2026.

21 /s/ Grace Artiga Meza

22 **GRACE ARTIGA MEZA**

23 Declarant
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