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

12 AGHOGHO EGIGBA,

13 Petitioner,

14 v.

15 PAMELA BONDI, U.S. Attorney General,
16 et al.,

17 Respondents.
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Case No.: 26-cv-02232-BAS

**RETURN TO AMENDED
PETITION FOR WRIT OF HABEAS
CORPUS**

I. Introduction

Petitioner has prematurely filed a habeas petition under 28 U.S.C. § 2241. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a and is charged with deportability/removability under 8 U.S.C. § 1227(a)(1)(B), as an individual who was admitted to the United States but remained for a time longer than permitted by law (i.e., a visa overstay). As such, Petitioner is detained pursuant to 8 U.S.C. § 1226(a). Petitioner is entitled to a bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a), but Petitioner has not requested one. Based on the arguments set forth below, the Court should deny Petitioner's requests for relief and dismiss the petition or stay these proceedings until a bond hearing is conducted and concluded.

II. Factual Background

Petitioner is a native and national of Nigeria. *See* Exhibit 1.¹ On September 20, 2011, he was admitted into the United States on a nonimmigrant visa. *See id.* Petitioner's visa status expired on November 12, 2011. *Id.* On September 8, 2022, Petitioner was arrested in Georgia for numerous felony criminal charges including terroristic threats and cruelty to children. *See id.* On October 28, 2026, Petitioner was released into Immigration and Customs Enforcement's (ICE) custody from the Fulton County Jail in Georgia. *See id.*; ECF No. 9 at 3. Department of Homeland Security (DHS) determined that Petitioner is deportable/removable under 8 U.S.C. § 1227(a)(1)(B), as an individual who was admitted to the United States and has remained for a time longer than permitted by law (i.e., a visa overstay). *See* Exhibit 2. Based on that charge, he was issued a Notice to Appear (NTA) and placed in removal proceedings under 8 U.S.C. § 1229a. *See id.*

On March 18, 2025, and April 11, 2025, DHS filed a change in venue with the immigration court because Petitioner had been transferred from the Stewart Detention Center in Lumpkin, Georgia to Otay Mesa Detention Center in San Diego, California.

¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

1 *See* Exhibit 3. The immigration court granted the change in venue on April 16, 2025.
2 *Id.* Petitioner has since filed an application for asylum. *See* ECF No. 9 at 3. Petitioner's
3 individual merits hearing is scheduled for May 6, 2026. *Id.*; Exhibit 4.

4 Petitioner is currently detained at the Otay Mesa Detention Center under 8 U.S.C.
5 § 1226(a). As of this filing, Petitioner has not requested a bond hearing from the
6 detention facility.

7 **III. Argument**

8 **A. Petitioner is Lawfully Detained Under 8 U.S.C. § 1226(a)**

9 Petitioner's due process claims are premature and without merit. Section 1226
10 provides for arrest and detention "pending a decision on whether the alien is to be
11 removed from the United States." 8 U.S.C. § 1226(a). Under § 1226(a), the government
12 may detain an alien during his removal proceedings, release him on bond, or release
13 him on conditional parole. By regulation, immigration officers can release aliens upon
14 the alien demonstrating that he "would not pose a danger to property or persons" and
15 "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). An alien can also
16 request a custody redetermination (i.e., a bond hearing) by an immigration judge at any
17 time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§
18 236.1(d)(1), 1236.1(d)(1), 1003.19.

19 As set forth above, Petitioner was apprehended on October 28, 2024, and
20 detained pursuant to 8 U.S.C. § 1226(a). DHS determined that Petitioner is
21 deportable/removable under 8 U.S.C. § 1227(a)(1)(B), as an individual who was
22 admitted to the United States but remained for a time longer than permitted by law (i.e.,
23 a visa overstay). Based on that charge, he was issued a Notice to Appear (NTA) and
24 placed in removal proceedings under 8 U.S.C. § 1229a. Petitioner is detained pursuant
25 to 8 U.S.C. § 1226(a). Accordingly, Petitioner is entitled to a bond hearing before an
26 immigration judge, which he has yet to request and adjudicate on the merits.

27 **B. Administrative Remedies Should Be Exhausted**

Petitioner's request for habeas relief is not ripe for review. The Court should ensure Petitioner properly exhausts administrative remedies prior to seeking judicial action in the District Court. The Ninth Circuit requires that "habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). "When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused." *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims not presented in the petitioner's administrative proceedings before the BIA). Here, Petitioner is eligible to have a bond hearing before an immigration judge, pursuant to 8 U.S.C. § 1226(a). As previously stated, Petitioner has not requested to have a bond hearing even though the Respondents concede he is entitled to one, upon a request made to the detention facility. Accordingly, the Court should dismiss without prejudice or stay these proceedings until a bond hearing is conducted and concluded.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss this action without prejudice

DATED: May 1, 2026

Respectfully submitted,

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s/ Camille Savedra
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