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

12 MUSTAFA ALSHAHER,
 13
 14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary of
 17 the Department of Homeland Security,
 18 TODD BLANCHE, Acting Attorney
 19 General, TODD M. LYONS, Acting
 20 Director, Immigration and Customs
 21 Enforcement, JESUS ROCHA, Acting
 22 Field Office Director, San Diego Field
 23 Office, CHRISTOPHER LAROSE,
 24 Warden at Otay Mesa Detention Center,
 25
 26 Respondents.

Civil Case No.: 26-cv-2402-BAS-VET

**Amended Petition for Writ
 of
 Habeas Corpus**
**[Civil Immigration Habeas,
 28 U.S.C. § 2241]**

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1 **I. Introduction**

2 Mustafa Alshaher was born in Iraq and provided critical food and security
3 for U.S. troops and contractors for many years. As a result, he entered the U.S. on
4 a Special Immigrant Visa in 2017. Although he was placed in removal
5 proceedings and denied asylum, he was not detained during these proceedings.
6 That changed on March 9, 2026, when ICE followed Mr. Alshaher home and took
7 him into custody. But because his appeal remains pending at the BIA,
8 Mr. Alshaher is still detained under 8 U.S.C. § 1226(a) and is thus entitled to a
9 bond hearing.

10 **II. Statement of Facts**

11 Mr. Alshaher was born in Iraq. Exhibit A, Declaration of Mustafa Alshaher,
12 at ¶ 1. For years, he assisted the U.S. military and U.S. contractor KBR by
13 providing food and security. *Id.* at ¶ 1. As a result, he was able to enter the U.S. in
14 2017 on a Special Immigrant Visa. *Id.* at ¶ 1.

15 At some point, Mr. Alshaher was put into removal proceedings, where he
16 applied for asylum. *Id.* at ¶ 2. However, he was not detained during these removal
17 proceedings. *Id.* at ¶ 2.

18 The immigration judge ordered Mr. Alshaher removed, and he filed an
19 appeal at the BIA. *Id.* at ¶ 3. He still was not placed in detention. *Id.* at ¶ 3.
20 Currently, his case remains pending at the BIA. *Id.* at ¶ 3.

21 On March 9, 2026, Mr. Alshaher was returning home when ICE officials
22 swarmed around him and arrested him. *Id.* at ¶ 4. They took him into custody and
23 transferred him to Otay Mesa Detention Center, where he has been since that
24 time. *Id.* at ¶ 4.

ARGUMENT

25 **I. Mr. Alshaher remains detained under 8 U.S.C. § 1226(a) and is thus**
26 **eligible for a bond hearing.**

27 Because Mr. Alshaher was not detained during his proceedings before an
28 immigration judge, there was no reason for him to have a bond hearing. But now

1 that he has been detained, there is no reason that he is not eligible to receive such
2 a hearing.

3 Mr. Alshaher was admitted on a Special Immigrant Visa and is thus not an
4 “arriving alien” under 8 U.S.C. § 1225(b). Exh. A at ¶ 1. Nor is he subject to
5 mandatory detention under any of the criminal grounds specified in 8 U.S.C.
6 § 1226(c). Rather, he has been “arrested and detained pending a decision on
7 whether [he] is to removed from the United States.” 8 U.S.C. § 1226(a). That is
8 because the BIA is currently considering his case on appeal. *Id.* at ¶ 3.

9 It appears that the only reason Mr. Alshaher has not received a bond
10 hearing is that he was arrested *after* his proceedings in front of the IJ concluded.
11 Exh. A at ¶ 3–4. Thus, Mr. Alshaher is detained under § 1226(a) and entitled to a
12 bond hearing before a neutral magistrate who can determine whether he should be
13 released from custody.

14 **II. This Court must hold an evidentiary hearing on any disputed facts.**

15 Resolution of a prolonged-detention habeas petition may require an
16 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).
17 Mr. Alshaher hereby requests such a hearing on any material, disputed facts.

18 **III. Prayer for relief**

19 Petitioner respectfully asks that this Court order Respondents to provide
20 him a bond hearing before a neutral immigration judge, as well as any other relief
21 that the Court deems just and proper.

22 Respectfully submitted,

23
24 Dated: April 29, 2026

s/ Kara Hartzler

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26 Attorneys for Mr. Alshaher
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