

ADAM GORDON  
United States Attorney  
ERIN DIMBLEBY  
California Bar No. 323359  
ALLIE MALONE  
California Bar No. 317588  
Assistant U.S. Attorneys  
Office of the U.S. Attorney  
880 Front Street, Room 6293  
San Diego, CA 92101-8893  
Telephone: (619) 674-9225  
Facsimile: (619) 546-7751  
erin.dimbleby@usdoj.gov  
allie.malone.subke@usdoj.gov

Attorneys for Respondents

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

PAPE SOW,

Petitioner,

v.

OTAY MESA DETENTION CENTER  
WARDEN, et al.,

Respondents.

Case No.: 3:26-cv-02398-AGS-MMP

**RESPONSE TO ORDER TO  
SHOW CAUSE (ECF No. 7)**

This is the second Petition for Writ of Habeas Corpus that Petitioner has filed to challenge his detention by U.S. Immigration and Customs Enforcement, which began when he sought admission into the United States on October 28, 2025. His first Petition (26-cv-01115-AGS-MMP) was granted, and Respondents complied with the applicable Order<sup>1</sup> by providing a bond hearing before an immigration judge on April 3, 2026.

After full consideration of the evidence presented at the bond hearing, the immigration judge determined “[t]he government met its burden of demonstrating that [Mr. Sow] is a flight risk” and denied bond accordingly. (Order of the Immigration Judge, attached as *Exhibit 1*). Based on counsel’s review of the audio recording from

<sup>1</sup> 26-cv-01115-AGS-MMP, ECF No. 8

1 the April 3 bond hearing,<sup>2</sup> the immigration judge denied bond in part because Petitioner,  
2 who was ordered removed from the United States on February 11, 2026, violated the  
3 terms of his prior ATD by leaving the United States without authorization and by failing  
4 to report for mandatory ICE check-ins. Petitioner’s counsel did not dispute these facts.  
5 He instead argued there are mitigating factors, but the immigration judge ultimately  
6 determined that the government met its burden of establishing that Petitioner is a flight  
7 risk by clear and convincing evidence.

8 Thus, Petitioner’s allegation that “[n]o findings have been made that [he] is a  
9 flight risk” (ECF No. 1, pg. 5) is patently false, as that is exactly what happened at the  
10 bond hearing on April 3, 2026. His allegation that he has “an active and pending asylum  
11 application” (ECF No. 1, pg. 4) is also false, as he was ordered removed from the United  
12 States on February 11, 2026. And so too is his allegation that he “has consistently  
13 complied with all legal requirements governing his stay” in the United States (ECF No.  
14 1, pg. 4) given that he violated the terms of his prior ADT on multiple occasions.

15 Petitioner reserved appeal of the immigration judge’s Order. However, he has not  
16 filed an appeal to date, and his deadline to do so is May 4, 2026. It is well established  
17 that habeas petitioners must exhaust all available administrative remedies before  
18 seeking habeas relief in federal court. *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th  
19 Cir. 2003) (“The exhaustion requirement avoids premature interference with the  
20 agency’s processes and helps to compile a full judicial record”). “When a petitioner does  
21 not exhaust administrative remedies, a district court ordinarily should either dismiss the  
22 petition without prejudice or stay the proceedings until the petitioner has exhausted  
23 remedies[.]” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

24 Petitioner has already been afforded a constitutionally sufficient bond hearing to  
25 contest his detention,<sup>3</sup> and his only apparent issue with that hearing is that the

26 <sup>2</sup> To the extent the Court deems it necessary, Respondents are happy to provide a copy  
27 of the audio recording to the Court.

28 <sup>3</sup> At the beginning of the bond hearing on April 3, 2026, both parties acknowledged that  
the burden was properly on the government.

1 immigration judge did not rule in his favor. But mere disagreement with the outcome  
2 of the hearing does not give rise to a cognizable habeas claim. Rather, to the extent  
3 Petitioner challenges the immigration judge's Order, the proper remedy lies in the  
4 administrative appeal process before the Borad of Immigration Appeals (BIA).  
5 Petitioner failed to exhaust administrative remedies by failing to file an appeal with the  
6 BIA and his Petition should be dismissed accordingly.

7 Moreover, it is unclear whether Petitioner filed the petition on his own behalf or  
8 if someone else filed it for him. Respondents note that a signature of an unknown  
9 individual is located on the "Signature of Attorney of Record" line of the petition's Civil  
10 Cover Sheet. (ECF No. 1-2 at 1). This unknown individual's signature also appears on  
11 Civil Cover Sheets for four other habeas petitions also filed on or about April 15, 2026,  
12 in this District. *See* No. 26-cv-2394-LL-VET, ECF No. 1-1 at 1; No. 26-cv-2395-JES-  
13 JLB, ECF No. 1-1 at 1; No. 26-cv-2399-RSH-BJW, ECF No. 1-2 at 1; No. 26-cv-2401-  
14 BJC-VET, ECF No. 1-1 at 1. Notably, the petition in this matter is unsigned in violation  
15 of Rule 2(c) of the Rules Governing § 2254 Cases, which provides "[t]he petition must:  
16 . . . (4) be printed, typewritten, or legibly handwritten; and (5) be signed under penalty  
17 of perjury by the petitioner or by a person authorized to sign it for the petitioner under  
18 28 U.S.C. § 2242." Rule 2(c), 28 U.S.C. foll. § 2254. As the petition is unsigned, it  
19 should be dismissed by the Court.

20 DATED: April 24, 2026

21 ADAM GORDON  
22 United States Attorney

23 *s/ Allie Malone*  
24 ALLIE E. MALONE  
25 ERIN DIMBLEBY  
26 Assistant United States Attorneys  
27 Attorneys for Respondents  
28