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

10 RUFAI AHMED SANI,

11 Petitioner,

12 v.

13  
14 MARKWAYNE MULLIN, Secretary, U.S.  
Department of Homeland Security; *et al.*,

15 Respondents.  
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Case No.: 26-cv-02736-JES-DDL

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

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18  
19 **I. Introduction**

20 Petitioner has prematurely filed a habeas petition under 28 U.S.C. § 2241.  
21 Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a and is charged  
22 with deportability/removability under 8 U.S.C. § 1227(a)(1)(B), as an individual who  
23 was admitted to the United States but remained for a time longer than permitted by law  
24 (i.e., a visa overstay). As such, Petitioner is detained pursuant to 8 U.S.C. § 1226(a).  
25 Petitioner is entitled to a bond hearing before an immigration judge pursuant to 8 U.S.C.  
26 § 1226(a). Petitioner has a bond hearing scheduled for May 8, 2026. Based on the  
27 arguments set forth below, the Court should deny Petitioner's requests for relief and  
28 dismiss the petition.

## II. Factual Background

Petitioner is a citizen and national of Nigeria. *See* Exhibit 1.<sup>1</sup> On July 26, 2003, he was admitted into the United States on a nonimmigrant visa. *See id.* Petitioner’s visa status expired on June 16, 2022. *Id.* On February 21, 2026, Petitioner was apprehended by San Diego Immigration and Customs Enforcement (ICE)/Enforcement and Removal Operations (ERO) in Oceanside. *See id.* 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.*

Petitioner is currently detained at the Otay Mesa Detention Center under 8 U.S.C. § 1226(a). *See* Exhibit 3. On February 22, 2026, Petitioner requested a custody determination hearing from the detention facility. *See id.* On May 1, 2026, an individualized bond hearing was granted for Petitioner. Petitioner’s bond hearing is currently scheduled for May 8, 2026. *See* Exhibit 4.

## III. Argument

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

Petitioner’s due process claims are premature and without merit. Section 1226 provides for arrest and detention “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release aliens upon the alien demonstrating that he “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (i.e., a bond hearing) by an immigration judge at any

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

1 time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§  
2 236.1(d)(1), 1236.1(d)(1), 1003.19.

3 As set forth above, Petitioner was apprehended on February 21, 2026, and  
4 detained pursuant to 8 U.S.C. § 1226(a). DHS determined that Petitioner is  
5 deportable/removable under 8 U.S.C. § 1227(a)(1)(B), as an individual who was  
6 admitted to the United States but remained for a time longer than permitted by law (i.e.,  
7 a visa overstay). Based on that charge, he was issued a Notice to Appear (NTA) and  
8 placed in removal proceedings under 8 U.S.C. § 1229a. Petitioner is detained pursuant  
9 to 8 U.S.C. § 1226(a). Accordingly, Petitioner is entitled to a bond hearing before an  
10 immigration judge, which he has requested, and is currently scheduled for May 8, 2026.

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

12 Petitioner’s request for habeas relief is not ripe for review. The Court should  
13 ensure Petitioner properly exhausts administrative remedies prior to seeking judicial  
14 action. The Ninth Circuit requires that “habeas petitioners exhaust available judicial and  
15 administrative remedies before seeking relief under § 2241.” *Castro–Cortez v. INS*, 239  
16 F.3d 1037, 1047 (9th Cir. 2001). “When a petitioner does not exhaust administrative  
17 remedies, a district court ordinarily should either dismiss the petition without prejudice  
18 or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion  
19 is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also*  
20 *Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a  
21 jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no  
22 jurisdiction to review legal claims not presented in the petitioner’s administrative  
23 proceedings before the BIA). Here, Petitioner is eligible to have a bond hearing before  
24 an immigration judge, pursuant to 8 U.S.C. § 1226(a). As previously stated, Petitioner  
25 has a bond hearing scheduled to occur later this week. *See* Exhibit 4. Accordingly, the  
26 Court should dismiss without prejudice or stay these proceedings until Petitioner’s bond  
27 hearing is conducted and concluded.

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1 **IV. CONCLUSION**

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

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5 DATED: May 5, 2026

Respectfully submitted,

6 ADAM GORDON  
United States Attorney

7 *s/ Camille Savedra*  
8 CAMILLE SAVEDRA  
Assistant United States Attorney  
9 Attorneys for Respondents

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