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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TAYO OLUGBOYEGA OGUNBANKE,
Petitioner,
v.
KIRSTEN NIELSEN, *et al.*,
Respondent.

Case No. 1:18-cv-00796-LJO-JDP

ORDER DENYING PETITIONER’S
MOTION FOR APPOINTMENT OF
COUNSEL WITHOUT PREJUDICE

ECF No. 8

ORDER REQUIRING SUPPLEMENTAL
SUBMISSION FROM THE PARTIES

Petitioner Tayo Olugboyega Ogunbanke, a detainee in custody of the United States Bureau of Immigration and Customs Enforcement, proceeds without counsel seeking a petition for a writ of habeas corpus under 28 U.S.C. § 2241.

The court will deny petitioner’s motion for appointment of counsel without prejudice. A habeas petitioner has no absolute right to counsel, but a district court may appoint counsel if (1) the petitioner is “financially eligible” and (2) “the interests of justice so require.” 18 U.S.C. 3006A(a)(2)(B). Here, petitioner has not satisfied the first requirement. If petitioner decides to renew his motion for appointment of counsel, petitioner must present evidence of his financial circumstances.

The court will also require the parties to supplemental submissions. Respondents contend that this case is moot because petitioner is now eligible to be released on bond. *See* ECF No. 20. An immigration judge has found that a bond for the amount of \$250,000 is justified given

1 petitioner's multiple convictions of fraud involving a significant monetary amount. *See* ECF
2 No. 2-1 at 8. If petitioner cannot afford the bond amount and the immigration judge's ruling had
3 the practical effect of ensuring petitioner's continued custody, such ruling would be unreasonable.
4 *See Mau v. Chertoff*, 562 F. Supp. 2d 1107, 1118 (S.D. Cal. 2008). Thus, the court will require
5 petitioner to submit evidence of his financial circumstances. Petitioner may rely on his own
6 declaration or other forms of evidence. Respondents must file a supplemental submission
7 explaining why the court should not direct the release of petitioner. *See id.* at 1119.
8 Respondents' supplemental submission must also address the arguments raised in petitioner's
9 traverse. *See* ECF No. 22. After reviewing the parties' submissions, the court will decide
10 whether to hold a hearing.

11 **Order**

- 12 1. Petitioner Tayo Olugboyega Ogunbanke's motion for appointment of counsel,
13 ECF No. 8, is denied without prejudice.
- 14 2. Petitioner must file a response to this order within thirty days from the date of
15 service of this order.
- 16 3. Respondents must file a supplemental submission in support of their answer within
17 forty-five days from the date of service of this order.

18
19 IT IS SO ORDERED.

20 Dated: December 20, 2018

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22 UNITED STATES MAGISTRATE JUDGE