UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GEUDY COLON REYES, PETITIONER v. TODD LYONS, ICE DIRECTOR BOSTON FIELD OFFICE, KRISTI NOEM, SECRETARY OF THE US DEPT. OF HOMELAND SECURITY, PAMELA BONDI, US ATTORNEY GENERAL RESPONDENTS.	C.A. No. 25-cv-310-MRD-AEM

RESPONSE IN OPPOSITION TO PETITION FOR HABEAS CORPUS

The United States, on behalf of Respondents, respectfully submits its Opposition to Petitioner's Petition for Writ of Habeas Corpus. Petitioner has not exhausted his administrative remedies, therefore this Court lacks authority to conduct a bond hearing. Accordingly, the writ should be denied, or, at a minimum, held in abeyance pending Petitioner's exhaustion of administrative remedies.

TRAVEL

On June 30, 2025, Petitioner filed an Emergency Motion for Writ of Habeas Corpus and Injunction. The petition claimed, *inter alia*, that Petitioner was unlawfully prevented from attempting to obtain a release from Detention; that Petitioner's detention violates the due process clause of the 5th Amendment; and that Petitioner had a reasonable expectation of protection from detention and deportation due to his status as a former Deferred Action for Childhood Arrivals (DACA) beneficiary. (ECF No. 1). In an amended Motion filed July 1, 2025, Petitioner further alleged that the reason Petitioner was detained was a "based on a vandalism charge that does not exist." Each of these allegations is wrong.

Petitioner was arrested by the Cranston Police Department on June 20, 2025,

based on an arrest warrant out of the East Providence Rhode Island Police Department. See Exhibits 1 and 2, attached (Police reports from Cranston and East Providence RI Police Departments). That case is pending in 6th Division District Court, Case No. 61-2025-05045. See Docket Sheet, Attached as Exhibit 3.

The Petitioner is a native and citizen of the Dominican Republic who last entered the United States on an unknown date and at an unknown location. Of note, the Petitioner received Deferred Action for Childhood Arrivals (DACA, Form I-821D) on four occasions: 10/29/12; 12/12/14; 9/26/19; and 7/30/21, which expired on 7/28/23. The Petitioner has not applied for another application for relief from removal since that time.

On June 30, 2025, Petitioner was lawfully arrested by Immigration and Customs Enforcement (ICE) pursuant to an administrative immigration warrant, attached as Exhibit 4. He was transferred to Wyatt Detention Center the same day. The Petitioner was served a Notice to Appear on 6/30/25, charging him as removable under 8 USC sec. 1182(a)(6)(A)(i). The Petitioner was also served a Form I-286, Notice of Custody Determination, informing him of his detention under 8 USC sec. 1226, and of his right to request review of his detention by an immigration judge. *See* Form I-286, attached as Exhibit 5. Petitioner refused to sign the form and did not request a custody redetermination hearing before an immigration judge at that time. See *id.*

Petitioner's Status as a Former DACA Beneficiary is Irrelevant

As the Petitioner's DACA expired more than a year ago, any subsequent request for DACA would be treated as a new request. USCIS is not processing those requests at this time. *See* generally, 8 CFR 236.22 and 236.23. The Petitioner's prior DACA, or even had he renewed it, does not prevent his detention under 1226, nor does it create any form of presumptive "reasonable expectation of protection from detention and deportation" as claimed in the Petition. The Petitioner may request a custody redetermination hearing, even before the NTA is filed. See 8 CFR 1003.19. As noted

above, the Petitioner failed to request a custody redetermination hearing before an immigration judge when ICE made the initial determination to detain him.

Petitioner was arrested pursuant to 8 USC S 1226. That statute provides for arrest by administrative warrant. 8 U.S.C. § 1226(a) allows the government to arrest and detain certain noncitizens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). § 1226(a) establishes the "default rule," giving the Attorney General "broad discretion" over detention matters. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); *Nielsen v. Preap*, 586 U.S. 392, 409-10 (2019).

For these individuals, the Attorney General can either "continue to detain the arrested alien," or "may release the alien on (A) bond of at least $1,500 . . . or (B) conditional parole." 8 U.S.C. § 1226(a)(1)-(2). When a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination. 8 C.F.R. § 236.1(c)(8). The alien will be released if he "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *Id.*

Under § 1226(a) and its implementing regulations, a detainee may request a bond hearing before an IJ at any time before a removal order becomes final. *See* 8 C.F.R. § 236.1(d)(1), 1003.19. That regulation provides that "the immigration judge is authorized to . . . detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released."

The detainee can also appeal an adverse decision to the Bureau of Immigration Appeals (BIA). *See id.* § 236.1(d)(3). On top of this, an individual detained pursuant to § 1226(a) may request an additional bond hearing whenever they experience a material change in circumstances. *See id.* § 1003.19(e). The outcome of this new hearing is also appealable to the BIA. *See id.* § 1003.19(f).

The instant habeas petition is premature because Petitioner has not done any of the administrative process he needs to do to get a bond determination. Generally, a

plaintiff's failure to exhaust his administrative remedies "precludes [him] from obtaining federal review of claims that would have properly been raised before the agency in the first instance." *Brito v. Garland*, 22 F.4th 240, 255 (1st Cir. 2021). See also *Perevoznikov v. Nessinger et al*, 25-vv-85-JJM, (D.RI 2025, McConnell, J.)(denying Motion for Writ of Habeas Corpuc because Petitioner failed to exhaust administrative remedies).

Exhaustion must be "proper," which requires "compliance with an agency's deadlines and other critical procedural rules," as well using "all steps that the agency holds out." *Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (internal quotations omitted); *see also Rodriguez-Rosa v. Spaulding*, No. 19-CV-11984, 2020 WL 2543239, at *7-11 (D. Mass. May 19, 2020).

As the First Circuit has noted, "[e]xhaustion allows 'an agency the first opportunity to apply [its] expertise' and 'obviat[es] the need for [judicial] review in cases in which the agency provides appropriate redress." *Brito*, 22 F.4th at 256 (quoting *Anversa v. Partners Healthcare Sys., Inc.*, 835 F.3d 167, 174-76 (1st Cir. 2016)). It "gives an agency an opportunity to correct its own mistakes with respect to the programs it administers before it is haled into federal court, and it discourages disregard of [the agency's] procedures." *Woodford*, 548 U.S. at 89 (cleaned up). Moreover, administrative exhaustion often results in the creation of a developed administrative record that is useful to the court in the event of subsequent judicial review. *See id.* at 94-95.

The First Circuit has held that administrative exhaustion requirements generally apply to habeas corpus petitions. *See Sayyah v. Farquharson*, 382 F.3d 20, 26 (1st Cir. 2004) (finding statutory exhaustion barred review where petitioner failed to appeal removal order to BIA). This Court has repeatedly reiterated that holding, finding that "the First Circuit has clearly held that [8 U.S.C.] § 1252(d)'s exhaustion requirement is jurisdictional and 'applies broadly to all forms of court review of final orders of removal, including habeas corpus.'" *Martinez v. Gonzales*, No. 05-112S, 2005 WL

2219078, at *2 (D.R.I. Sept. 13, 2005) (citing *Sayyah*, 382 F.3d at 26); *see also Ferrell v. Wall*, 862 F. Supp. 2d 88, 99 (D.R.I. 2012) (requirement of exhaustion under 28 U.S.C. § 2254(b)(1)(A)); *see also Boyce v. Roden*, C.A. No. 12-10499-DPW, 2012 WL 1073386, at *2 (D. Mass. Mar. 27, 2012) (summarily dismissing a habeas petition and holding that "[e]very claim in a petition must be exhausted").

In *Martinez*, as in this case, the Court dismissed a habeas corpus petition where the petitioner had not yet received a final decision from the IJ or BIA, and there were no circumstances indicating that the petitioner would be "deprived of the opportunity to appeal any adverse decision by the IJ to the BIA, and then bring his [] claim to the United States Courts." 2005 WL 2219078, at *2. The Court further held that "§ 1252(d)'s exhaustion requirement applies even when there is no final order of removal and the underlying challenge is to detention," and that the petitioner was "required to exhaust his administrative remedies pursuant to 8 U.S.C. § 1252(d)(1) prior to seeking federal court relief." *Id.* at *3.

Here, Petitioner has not yet even begun the administrative process of seeking bond; indeed, he expressly declined to do so thus far. Therefore his habeas corpus action before this Court is premature and barred.

Respectfully submitted,

SARA M. BLOOM
Acting United States Attorney

/s/John P. McAdams
John P. McAdams
Assistant U.S. Attorney
United States Attorney's Office
One Financial Plaza, 17th Floor
Providence, RI 02903
john.p.mcadams@usdoj.gov