UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

WILSON RODRIGUEZ, Petitioner, v. PATRICIA HYDE Acting Director of Boston Field Office, U.S. Immigration and Customs Enforcement, *et. al.*, Respondents.	Civil Action No. 25-CV-406-JJM-PAS

OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS AND MOTION TO DISMISS

Pursuant to the Court's August 18, 2025, Order, the United States, on behalf of Defendants Patricial Hyde, Acting Director of Boston Field Office, U.S. Immigration and Customs Enforcement, Kristi Noem, Secretary, Department of Homeland Security; and Pamela Bondi, United States Attorney General, respectfully submits its Opposition to Petitioner's Petition for Writ of Habeas Corpus ("Petition," ECF 1). A review of Immigration records reveals that Petitioner does not have asylee status, despite claims to the contrary in his petition. Furthermore, Petitioner has not exhausted his administrative remedies, nor does jurisdiction lie with the District Court. Petitioner's request that this Court allow for his release must therefore be dismissed for lack of subject matter jurisdiction under Rule 12(b)(1).

BACKGROUND

Petitioner Wilson Rodrigues, also known as Wilson Rodriguez Murralas, is a citizen of Guatemala. (Declaration of Assistant Field Office Director Keith Chan (the "Chan Decl."), ¶ 6.). On or about January 27, 2017, Petitioner was inspected and admitted by an immigration officer to the United States on a B-2 visa.[1] (Chan Decl. ¶ 7.). Petitioner was authorized to remain in the United States for a period not to exceed January 27, 2018. *Id.*

On July 24, 2025, Petitioner was arrested by the Rhode Island State Police for Driving Under the Influence liquor/Drugs—First Offense—0.15 or greater. (Chan Decl. ¶ 9.). Petitioner was arraigned on this charge on August 1, 2025 in the Sixth Division District Court in Providence, Rhode Island. (Chan Decl. ¶ 10.).

On August 15, 2025, Petitioner was administratively arrested by ICE for being in violation of United States Immigration laws. (Chan Decl. ¶ 11.). ICE detained Petitioner pursuant to 8 U.S.C. § 1226, and held him at the ICE office in Providence, Rhode Island. *Id.* ICE issued Petitioner a Form I-200, Warrant for Arrest of Alien. *Id.* ICE also issued Petitioner a Notice to Appear alleging that he is an alien who was admitted by an immigration officer but is removable pursuant to 8 U.S.C. § 1227(a)(1)(B) as he remained in the United States beyond January 27, 2018. *Id.* On the same day, ICE transferred Petitioner to the Donald W. Wyatt Detention Facility, in Central Falls, Rhode Island. *Id.*

[1] A B-1 visa is a non-immigrant visa that allows foreign nationals to come to the United States for pleasure.

On August 15, 2025, Petitioner requested a bond hearing before the immigration court. (Chan Decl. ¶ 12.) The immigration court issued a notice of hearing for a bond hearing on August 28, 2025. *Id.* ICE filed Petitioner's Notice to Appear with the immigration court on August 22, 2025. (Chan Decl. ¶ 13.). On August 28, 2025, Petitioner – through immigration counsel – withdrew his request for a custody redetermination before the immigration judge. (Chan Decl. ¶ 14.). Petitioner remains detained at the Donald W. Wyatt Detention Facility. (Chan Decl. ¶ 15.).

Petitioner's assertion that he is an "[a]sylum recipient" is incorrect. (Petition ¶ 16). On November 21, 2017, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal with United States Citizenship and Immigration Services (USCIS). (Chan Decl. ¶ 8.). Petitioner's application remains pending without disposition. *Id.* As a Notice to Appear has been filed (Chan Decl. ¶ 13), the immigration court has "exclusive jurisdiction" over Petitioner's pending asylum claim. 8 CFR § 1208.2(b).

LEGAL STANDARDS

Standard for a Motion to Dismiss Under Rule 12(b)(6).

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal where the complaint fails to state a claim upon which relief can be granted. To withstand a motion to dismiss under Federal Rule 12(b)(6), "the complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face."

Cunningham v. Nat'l City Bank, 588 F.3d 49, 52 (1st Cir. 2009) (internal quotation marks omitted) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). The Court, however, need not credit or accept mere conclusory statements or conclusions of law. *See Iqbal*, 556 U.S. at 678.

In deciding a motion to dismiss under Rule 12(b)(6), the court may consider the challenged pleading, together with any documents incorporated by reference in that pleading and matters subject to judicial notice. This category of documents may be considered without converting the motion to one for summary judgment, and includes documents annexed to the complaint, as well as documents referenced in, or integral to, the pleading. *Trans-Spec Truck Serv. v. Caterpillar Inc.*, 524 F.3d 315, 321 (1st Cir. 2008) (internal citations omitted).

Discretionary Detention Under 8 U.S.C. § 1226(a)

The relevant provision of the Immigration and Nationality Act ("INA") in this case is 8 U.S.C. § 1226(a), which 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). Section 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 Immigration Judge (IJ) at any time before a removal order becomes final. *See id.* §§ 236.1(d)(1), 1003.19. At such a hearing, in the First Circuit, ICE bears the burden of proving that a respondent is a danger to the community and/or a flight risk – by clear and convincing evidence and by a preponderance of the evidence, respectively. *Brito v. Garland*, 22 F.4th 240 (1st Cir. 2021); *accord Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021). The detainee can also appeal an adverse decision to the BIA. *See id.* § 236.1(d)(3). On top of this, an individual who receives a bond hearing under § 1226(a), and remains 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).

ARGUMENT

Petitioner has not exhausted his administrative remedies, and thus his Petition should be dismissed. It is well-settled that an incarcerated person must exhaust his or her administrative remedies before filing a petition for habeas corpus under 28 U.S.C. § 2241. *Rogers v. United States*, 180 F.3d 349, 356-58 (1st Cir. 1999) (affirming dismissal of habeas petition where inmate did not exhaust his administrative

remedies); *Nygren v. Boncher*, 578 F. Supp. 3d 146, 151-52 (D. Mass. 2021). Moreover, 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).

Administrative exhaustion "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. Exhaustion in this context also "improves the quality of those prisoner suits that are eventually filed because proper exhaustion often results in the creation of an administrative record that is helpful to the court." *Id.* at 95.

In the present case, Petitioner has not even attempted to exhaust his administrative remedies. On August 28, 2025, Petitioner withdrew his request for a custody redetermination before the immigration judge hearing his case. (Chan Decl. ¶ 14.). By withdrawing his request for a custody redetermination hearing, Petitioner has not attempted to exercise the administrative remedies available to him and has therefore not exhausted them. Should he elect to do so, the Board of Immigration Appeals should be allowed to correct any potential errors before the Court evaluates a petition for habeas corpus. Therefore, the Petition should be dismissed as premature, and the Court need go no further.

LIMITED RELIEF AVAILABLE

If this Court disagrees and finds that Petitioner merits habeas relief, the Court nonetheless should deny Petitioner's request that he be ordered released immediately. The remedy for unreasonably prolonged detention is for the Court to issue an order directing the Immigration Court to conduct a bond hearing, rather than an order that the detainee be released. *See Zavala*, 2022 WL 684147, at *6 (finding the remedy for prolonged detention is a bond hearing before an immigration judge); *Alphonse*, 635 F. Supp. 3d at 39 ("To be clear, the Court is not determining that he must be released from custody; rather, it is concluding that he is entitled to a bond hearing . . .").

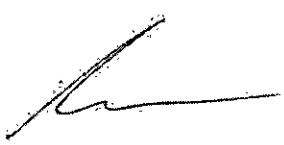
In *Zadvydas v. Davis*, the Supreme Court found that § 1231(a)(6) "does not permit indefinite detention." 533 U.S. 678, 689 (2001). Rather, "read in light of the Constitution's demands, [the statute] limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States." *Id.* "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. The Court held that a six-month period for detention is presumptively reasonable and constitutional. *Id.* at 701. This presumption does not trigger a *per se* release of every detainee at the six-month mark; "[t]o the contrary, an alien *may* be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* (emphasis added)." *Zavala*, 2022 WL 684147, at*3. In the present case, Petitioner has been detained for 20 days (Chan Decl. ¶ 11) which is well below the 6

months standard that has been held as presumptively reasonable per *Zavala* and *Zadvydas*.

CONCLUSION

For these reasons, Petitioner's writ should be dismissed, as he has failed to use or exhaust his administrative remedies or make a showing that this Court has jurisdiction over this request. Further, his assertions of having asylee status are incorrect. Thus, the Petition should be dismissed in its entirety.

Respectfully submitted,
SARA MIRON BLOOM
Acting United States Attorney



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CERTIFICATION OF SERVICE

I hereby certify that, on September 4, 2025, I caused the foregoing document to be filed by means of this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Local Rules Gen 304.

G. MICHAEL SEAMAN