

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 25-62261-CIV-DMM

**MIGUEL ANGEL OCEGUEDA
GONZALEZ,**

Petitioner,

v.

**KRISTI NOEM, in their official capacity as
Secretary of the United States Department
of Homeland Security;**

**PAMELA BONDI, in their official capacity
as Attorney General of the United States;**

**GARRETT RIPA, in their official capacity
as
Director of Miami Field Office, U.S.
Immigration and Customs Enforcement;**

**TODD LYONS, in their official capacity as
Acting Director of Immigration and
Customs Enforcement;**

**JUAN AGUDELO, Acting Assistant Field
Office Director and Office-in-Charge, U.S.
Immigration and Customs Enforcement,
Broward Transitional Center, Pompano
Beach, Florida;**

**SIRCE OWEN, Acting Director of EOIR,
in their official capacity; Executive Office
for Immigration Review,**

Respondents.

RESPONDENTS' SUPPLEMENTAL BRIEF

Respondents¹, by and through the undersigned Assistant United States Attorney, submit the following in response to the Court's order [ECF No. 22] directing the parties to file supplemental briefing on the following issue: Does a live case or controversy exist to enable the Court to rule on Petitioner's Amended Petition for Writ of Habeas Corpus? For the reasons discussed below, Respondents respectfully submit that there is no live case or controversy.

Pertinent to the Court's question and as set forth fully in Respondents' Return [ECF No. 13 at pp. 4-5], on September 2, 2025, Petitioner requested a bond redetermination hearing before the immigration judge. On September 5, 2025, Petitioner, through counsel, withdrew his request for bond because he lacked an original identity document, and the immigration judge took no action on his request. On September 5, 2025, Petitioner again requested a bond redetermination hearing before the immigration judge. In his second bond redetermination hearing, Petitioner argued that he lawfully entered the United States on December 31, 2005, pursuant to *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010). Specifically, he claimed that he was two years old on the date of entry and that he accompanied his father, who presented himself at the border with an H2A visa. Petitioner claimed that he was "waved through" as a child accompanying his father. The immigration judge determined that the issue of whether Petitioner was lawfully admitted was an issue to be determined in removal proceedings. The immigration judge allowed Petitioner to withdraw his request for bond and took no action on his request.

¹ A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Broward Transitional Center ("BTC"), a detention center in Pompano Beach, Florida. The proper Respondent is Assistant Field Office Director Juan Gonzalez.

On September 16, 2025, Petitioner, through counsel, filed a motion to terminate removal proceedings, or in the alternative, to amend the NTA. Petitioner reasserted his argument that he was lawfully admitted into the United States on December 31, 2005, and therefore, he was improperly charged in the NTA. On October 2, 2025, the Department of Homeland Security filed a reply to the Petitioner's motion arguing that Petitioner had failed to meet his burden that he had been lawfully admitted to the United States. On October 3, 2025, the immigration judge issued an order rejecting the Petitioner's argument that he was "waved through" as a child and sustaining the charges of inadmissibility under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I).

To date, Petitioner has not filed an interlocutory appeal of the immigration judge's decision on removability. On October 15, 2025, Petitioner filed an application for relief from removal, which is currently pending. Petitioner's next master calendar hearing is on December 29, 2025, at 9:00 AM.

Accordingly, Petitioner has twice withdrawn his request for bond. As a result, the immigration judge has not denied his request for bond, and therefore, there is no live controversy for this Court to adjudicate.

Relatedly, Petitioner failed to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary.'" *See, e.g., Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.). While exhaustion is not a jurisdictional requirement in the habeas context, *Santiago-Lugo v. Warden*, 785 F.3d 467, 471 (11th Cir. 2015),

courts have regularly required exhaustion as a prudential matter, *see, e.g., Douglas v. Gonzalez*, 2006 WL 5159196, at *2 (M.D. Fla. Jun. 12, 2006); *Hossain v. Barr*, 2019 WL 5964678, at *3 (W.D.N.Y. Nov. 13, 2019). Here, Petitioner has failed to exhaust administrative remedies available to him as he has twice withdrawn his bond request. *Sequeira-Balmaceda v. Reno*, 79 F. Supp. 2d 1378, 1382 (N.D. Ga. Jan. 6, 2000) (denying habeas petition in part for failure to exhaust administrative remedies where the petitioner filed a motion for bond but failed to obtain a ruling from the immigration judge before filing a habeas petition).

While Petitioner contends that exhaustion would be futile [ECF No. 23 at 3], he fails to address that immigration judges and the Board of Immigration Appeals (“BIA”) may consider constitutional challenges—such as the due process challenge Petitioner asserts herein—to the purported denial of a bond hearing. Specifically, in September 2025, the Executive Office of Immigration Review, which is comprised of both immigration courts and the BIA, clarified that immigration judges and the BIA can consider constitutional challenges.²

Finally, this case presents a unique factual circumstance, unlike the cases on which Petitioner relies.³ Specifically, here, Petitioner asserted before the immigration judge that he lawfully entered the United States on December 31, 2005, pursuant to *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010). He claimed that he was two years old on the date of entry and that he accompanied his father, who presented himself at the border with an H2A visa. Petitioner claimed

² <https://www.justice.gov/eoir/media/1413276/dl?inline> (last accessed December 16, 2025).

³ At least one of the cases on which Petitioner relies in support of his argument that exhaustion is futile, [ECF No. 23 at 3-4], is factually distinguishable from the instant case for an additional reason, namely because the petitioner there requested a bond hearing, which was denied. *See Hernandez-Lopez v. Hardin*, 2025 WL 3022245, *1 (M.D. Fla. Oct. 29, 2025).

that he was “waved through” as a child accompanying his father. The immigration judge determined that the issue of whether Petitioner was lawfully admitted was an issue to be determined in removal proceedings. Subsequently, the immigration judge issued an order rejecting the Petitioner’s argument that he was “waved through” as a child and sustaining the charges of inadmissibility under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). However, if Petitioner appeals to the BIA and the BIA disagrees with the immigration judge and finds that Petitioner was admitted, he would no longer be an applicant for admission and, therefore, would be entitled to a bond hearing. This factual novelty further underscores the need for exhaustion of administrative remedies in this case.

For the reasons set forth above and in the Return, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

JASON REDING QUIÑONES
UNITED STATES ATTORNEY

BY:

/s/ Alicia H. Welch

ALICIA H. WELCH

Assistant United States Attorney

United States Attorney’s Office

Southern District of Florida

99 NW 4th Street, 3rd Floor

Miami, Florida 33132-2111

Telephone: (305) 961-9455

Email: Alicia.Welch@usdoj.gov

Counsel for Respondents