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11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13

14 MA JINGYI<sup>1</sup>,

15 Petitioner,

16 v.

17 TODD M. LYONS, et. al,

18 Respondents.  
19  
20  
21

No. 5:25-cv-03345-RGK-SSC

**FEDERAL RESPONDENTS' MOTION  
TO DISMISS THE PETITION FOR  
WRIT OF HABEAS CORPUS**

[Filed concurrently with Exh. 1, Notice to Appear; Exh. 2, IJ Bond Order; Exh. 3, IJ Bond Written Decision; & Exh. 4, IJ Bond Order (No Changed Circumstances); & Exh. 5, Filing Receipt for BIA Appeal]

Honorable Stephanie S. Christensen  
United States Magistrate Judge

26  
27 <sup>1</sup> The Petition identifies Petitioner as "MA JINGYI, Immigration File No. [REDACTED]  
[REDACTED] Dkt. No. 1]; however, records associated with Alien Registration Number [REDACTED]  
28 A [REDACTED] reflect Petitioner's name as Hongmei Jiang. See Exh. 1, Notice to Appear.

1 **I. INTRODUCTION**

2 Petitioner, through counsel, filed a Writ of Habeas Corpus pursuant to 28 U.S.C. §  
3 2241 (“Petition”) [Dkt. No. 1], asking this Court to intervene in her immigration custody  
4 and order either her release or the provision of a bond hearing under 8 U.S.C. § 1226(a).  
5 Petition ¶¶ 1-3 & p. 12. In doing so, Petitioner mischaracterizes the basis for her detention  
6 and seeks relief she has already received. *Id.* ¶¶ 1, 3, 12, 57-59.

7 Specifically, the Petition alleges that Petitioner is subject to “mandatory detention”  
8 by the Department of Homeland Security (“DHS”) and the Executive Office of  
9 Immigration Review (“EOIR”). *Id.* ¶ 1. That allegation is incorrect because there is no  
10 allegation or evidence in the Petition showing that DHS or EOIR ever determined that  
11 Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c). *Id.* pp. 1-13. To the  
12 contrary, the Petition itself confirms that in November 2025 Petitioner received a full,  
13 individualized bond redetermination hearing under § 1226(a) before an Immigration Judge  
14 (“IJ”), who denied bond on a discretionary finding that Petitioner posed a danger to the  
15 community after considering evidence and testimony. *Id.* ¶¶ 3, 12, 57-59; *see also* Exh. 2,  
16 IJ Bond Order & Exh 3., IJ Bond Written Decision. The Petitioner sought a subsequent  
17 bond redetermination hearing before EOIR in December 2025, and the IJ expressly found  
18 that Petitioner failed to demonstrate materially changed circumstances since the prior bond  
19 denial. *See* Exh. 4, IJ Bond Order (No Changed Circumstances).

20 Despite having already received a § 1226(a) bond hearing and failing to  
21 subsequently show materially changed circumstances for a new § 1226(a) bond hearing,  
22 Petitioner now asks this Court to order another bond under the same statute. *Id.*; Petition  
23 ¶ 3 & p.11. Under governing federal regulations, however, a noncitizen may not obtain a  
24 second bond redetermination without showing materially changed circumstances, which  
25 Petitioner has failed to do. *Id.* pp. 1-13; *see also* 8 C.F.R. § 1003.19(e); Exh. 4.

26 Additionally, Petitioner has appealed the IJ’s November 2025 bond denial to the  
27 Board of Immigration Appeals (“BIA”), and that appeal remains Pending. Petition ¶ 12;  
28 *see also* Exh. 5, Filing Receipt for BIA Appeal. Because Petitioner either must obtain a

1 new bond hearing based on materially changed circumstances before EOIR or await  
2 resolution of her BIA bond appeal, this habeas action should be dismissed.

3 **II. FACTUAL BACKGROUND**

4 Petitioner is a native and citizen of China. Exh. 3. On October 14, 2025, DHS filed  
5 a Notice to Appear, seeking her removal from the United States. Exh. 1. DHS charged the  
6 Petitioner with removability pursuant to §§ 237(a)(1)(B) of the Immigration and  
7 Nationality Act (“INA”) as amended, in that after admission as a nonimmigrant under §  
8 101(a)(15) of the INA, the Petitioner remained in the United States for a time longer than  
9 permitted, in violation of the INA or any other law of the United States. *Id.*

10 On November 25, 2025, EOIR conducted a custody redetermination hearing,  
11 pursuant to § 1226(a). Exh. 3. *Id.*

12 At the hearing, the IJ considered evidence of Petitioner’s criminal<sup>2</sup> and immigration  
13 history, including:

14 (1) February 2017 arrest for a violation of California Penal Code (CPC) § 243

15 Spousal Abuse;

16 (2) April 2017 arrest for a violation of CPC § 273.5, Corporal Injury to Spouse;

17 (3) October 2019 arrest for violation of CPC § 647(b) solicitation of prostitution;

18 and

19 (4) October 2023 arrest and August 2024 conviction for a violation of CPC §  
20 647(b) solicitation of prostitution.

21 *Id.*

22 At the above-mentioned § 1226(a) bond hearing, Petitioner argued that she is a not  
23 a danger to the community or a risk of flight. *Id.* She stated that while she may have been  
24 arrested, she has not been convicted of a serious criminal offense. *Id.* She stated that she

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26  
27 <sup>2</sup> The Petitioner’s repeated references to “no criminal convictions” appear to rely  
28 on Petitioner’s characterization that she lacked a “serious” conviction. Petition ¶¶ 2, 31.  
At the § 1226(a) bond hearing, however, Petitioner expressly acknowledged an August  
2024 conviction under CPC § 647(b) and argued rehabilitation, which the IJ considered  
in denying bond. Exh. 3.

1 is married to a United States citizen, and while they have had arguments, they remain  
2 committed to each other, and he has filed a visa petition for her. *Id.* Petitioner's husband  
3 stated that he loves his wife and while she may have made mistakes, none of her actions  
4 have caused any harm to anyone. *Id.* The Petitioner stated that she has completed the  
5 requirements issued by the state criminal court and that she is rehabilitated. *Id.* She also  
6 stated that she has been victimized by her former partners that she has had relationships  
7 with. *Id.*

8 DHS argued that the Petitioner has a long history of arrests that is ongoing and has  
9 shown proclivity towards significant criminal behavior. *Id.*

10 All documents were admitted into the record, and after considering all the evidence  
11 presented, the IJ found that ongoing detention is justified because the Petitioner poses a  
12 danger to the community and a risk of flight. *Id.*; *see also* Exh. 2. Petitioner reserved appeal  
13 and filed an appeal with the BIA which remains pending. Exh. 4.

### 14 **III. ARGUMENT**

15 Rule 4 of the Rules Governing Section 2254 Cases in the United States District  
16 Courts ("Habeas Rules") requires summary dismissal of a petition "[i]f it plainly appears  
17 from the petition and any attached exhibits that the petitioner is not entitled to relief in the  
18 district court." *See also* Habeas Rule 1(b) (permitting district courts to apply Habeas Rules  
19 to Section 2241 habeas proceedings); *Lane v. Feather*, 584 F. App'x 843, 843 (9th Cir.  
20 2014) (affirming district court's application of Habeas Rule 4 to dismiss Section 2241  
21 petition). Additionally, a federal court is obligated to consider *sua sponte* whether it has  
22 jurisdiction over a Section 2241 petition. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1075  
23 (9th Cir. 2006).

#### 24 **A. Petitioner Improperly Seeks a Second § 1226(a) Bond Hearing After** 25 **EOIR Already Found No Changed Circumstances in a December 2025** 26 **Ruling**

27 Petitioner expressly asks this Court to order Respondents to provide her with a §  
28 1226(a) bond hearing, but the Petition itself confirms that Petitioner already received such

1 a hearing. Petition ¶¶ 3, 12, 57-59. Under federal regulations, once an IJ has conducted a  
2 bond redetermination, a noncitizen may seek a subsequent bond hearing only upon a  
3 showing of materially changed circumstances. *See* 8 C.F.R. § 1003.19(e). The Petitioner  
4 has already failed to show such changed circumstances before EOIR. Exh.4.

5 Rather than challenging the December 2025 ruling of no changed circumstances  
6 though the governing BIA appellate process, Petitioner now asks this Court to order yet  
7 another § 1226(a) bond hearing, as a collateral attack on the Immigration Court's bond  
8 determination. *Id.*; Petition ¶ 3 & p. 12. Habeas corpus does not authorize a district court  
9 to override EOIR's regulatory framework governing custody redeterminations or to order  
10 repetitive bond hearing after EOIR has already found no changed circumstances,  
11 especially when Petitioner reserved appeal to the BIA, but has yet to show evidence of  
12 exhausting that appellate remedy<sup>3</sup>. Exh 4.

13 **B. Petitioner's Pending BIA Bond Appeal For The November 2025 Ruling**  
14 **Renders This Habeas Petition Defective**

15 A non-citizen may seek review of DHS's initial custody determination before an  
16 IJ, commonly referred to as a "bond hearing." 8 C.F.R. § 236.1(d)(1); 8 C.F.R. §  
17 1003.19. Upon a non-citizen's "[a]pplication to an immigration judge" to "request  
18 amelioration of the conditions under which he or she may be released[.]" the IJ may  
19 decide "to detain the [non-citizen] in custody, release the [non-citizen], and determine  
20 the amount of bond, if any, under which the [non-citizen] may be released[.]" 8 C.F.R. §  
21 236.1(d)(1). In a bond hearing, the burden is on the non-citizen to establish to the  
22 satisfaction of the IJ, that he or she is not "a threat to national security, a danger to the  
23 community at large, likely to abscond, or otherwise a poor bail risk." *In re Guerra*, 24 I.  
24 & N. Dec. 37, 40 (B.I.A. 2006). *See also Rodriguez Diaz v. Garland*, 53 F.4th 1189,  
25 1211-12 (9th Cir. 2022) (rejecting the contention that the government should have borne  
26 the burden of proof at an initial 1226(a) bond hearing).

27  
28 <sup>3</sup> Petitioner has until January 28, 2026, to appeal the no changed circumstances  
December 2025 ruling to the BIA. Exh 4.

1 The Secretary's "discretionary judgment" regarding "the detention or release of  
2 any [noncitizen] or the grant, revocation, or denial of bond or parole[]" is not subject to  
3 judicial review, 8 U.S.C. § 1226(e). *See also Jennings v. Rodriguez*, 583 U.S. 281, 295  
4 (2018). Instead, after an initial bond hearing, a non-citizen may request subsequent bond  
5 hearings by showing that his or her "circumstances have materially changed since the  
6 prior bond" hearing. *See* 8 C.F.R. § 1003.19(e). Non-citizens can then seek  
7 administrative review of the IJ's bond decision from the BIA. *See* 8 C.F.R. § 236.1(d)(3)  
8 ("An appeal relating to bond and custody determinations may be filed to the Board of  
9 Immigration Appeals[.]"); 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38. *See also*  
10 *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011) ("If they are dissatisfied  
11 with the IJ's bond determination, they may file an administrative appeal so that 'the  
12 necessity of detention can be reviewed by ... the BIA.'") (quoting *Prieto-Romero v.*  
13 *Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008)). Although exhaustion is a prudential rather  
14 than jurisdictional requirement on habeas review under § 2241, even prudential limits are  
15 ordinarily "not optional." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001),  
16 *abrogated on other grounds by Fernandez-Vargas v. Gonzalez*, 548 U.S. 30, 35-36 n.5  
17 (2006).

18 As the Ninth Circuit has confirmed, habeas review of an IJ's adverse bond  
19 determination before appealing to the BIA is "improper." *Leonardo*, 646 F.3d at 1160.  
20 Here, the Petition challenges the IJ's November 2025 bond denial as legally erroneous and  
21 unconstitutional. Petition ¶¶ 1-3, 60-70. The record, however, shows that Petitioner has  
22 appealed the November 2025 bond denial to the BIA and that the appeal remains pending.  
23 Exh. 5. The Ninth Circuit has instructed that a court should dismiss such a petition, without  
24 prejudice, where the petitioner has failed to exhaust administrative remedies. *Id.*

25 In *Leonardo*, a petitioner pursued habeas review of an IJ's adverse bond  
26 determination under § 1226(a) before appealing to the BIA. *Id.* As in this case, the  
27 petitioner in *Leonardo* alleged that his bond hearing violated due process. *Id.* at 1159.  
28 The Ninth Circuit found that the district court should not have denied the habeas petition

1 for lack of jurisdiction given the constitutional questions raised by the petitioner. *Id.* at  
2 1160. However, it nevertheless agreed that the district court should have dismissed the  
3 petition for failure to exhaust or alternatively stayed the proceedings until exhaustion  
4 was complete, absent excuse of the exhaustion requirement. *Id.* See also *Rojas-Garcia v.*  
5 *Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003) (a petitioner “must exhaust administrative  
6 remedies before raising ... constitutional claims in a habeas petition when those claims  
7 are reviewable by the BIA on appeal”).

8 Here, Petitioner should await her BIA appeal because that administrative remedy  
9 has yet to be exhausted. Exh. 5. In determining whether administrative exhaustion should  
10 be excused, courts consider: (1) whether agency expertise makes agency consideration  
11 necessary to generate a proper record and reach a proper decision; (2) whether relaxation  
12 of the requirement would encourage the deliberate bypass of the administrative scheme;  
13 and (3) whether administrative review is likely to allow the agency to correct its own  
14 mistakes and preclude the need for judicial review. *Id.* Each of these factors favors  
15 exhaustion.

16 First, the BIA unquestionably has subject matter expertise in reviewing  
17 individualized bond determinations and can generate a more complete factual record for  
18 review if necessary. Second, should Petitioner be allowed to circumvent the BIA’s  
19 review of an individualized bond determination, it would likely result in myriad future  
20 habeas petitions filed by individuals who are simply dissatisfied with their own fact-  
21 specific bond determinations. Third, because the BIA has the authority to correct any  
22 erroneous factual determinations and evidentiary challenges Petitioner raises, 8 C.F.R.  
23 § 1003.1(d)(3)(i)-(iii), it is in the greatest interest of judicial economy to allow the BIA  
24 to review the sufficiency of Petitioner’s bond determination in the first instance. And  
25 finally, because Petitioner does not even make mention of the BIA’s review of her bond  
26 determination, she has failed to establish that the exhaustion requirement should be  
27 waived. Petition pp. 1-13; see also Exh. 5.

28 ///

1           **C. The Petition Is Materially Misleading Regarding Petitioner’s Criminal**  
2           **History**

3           The Petitioner repeatedly asserts that Petitioner has “no criminal convictions” and  
4 relies on that assertion to argue that she cannot be deemed a danger to the community. *Id.*  
5 ¶¶ 2, 31, 37-38. That assertion is materially misleading by omission and renders the  
6 Petition not credible.

7           As discussed above, at the November 2025 § 1226(a) bond hearing, Petitioner  
8 expressly acknowledged via sworn testimony, on the record, that she has an August 2024  
9 conviction for CPC § 647(b) and she testified that she had completed state court  
10 requirements and was rehabilitated. Exh. 4. The IJ considered that conviction, along with  
11 Petitioner’s arrest history, and rejected the argument that the absence of a “serious”  
12 conviction precluded a finding of dangerousness. *Id.*

13           The Petition omits to mention Petitioner’s admission of the conviction and the IJ’s  
14 consideration of it, creating the false impression before this Court that the IJ denied bond  
15 based solely on arrests and unsupported by any conviction. *Compare* Petition ¶¶ 2, 31, 37-  
16 38 *with* Exh. 4.

17           **D. In the Alternative, the Court Should Stay Proceedings**

18           If the Court declines to dismiss the Petition, the appropriate course is to stay  
19 proceedings pending resolution of Petitioner’s November 2025 BIA bond appeal. Exh. 5.  
20 Petitioner has already invoked the administrative review process to challenge the bond  
21 denial. *Id.* A stay would preserve agency primacy, avoid inconsistent rulings, and promote  
22 judicial economy.

23           **IV. CONCLUSION**

24           Because Petitioner already received a § 1226(a) bond hearing, unsuccessfully  
25 sought a subsequent bond hearing before EOIR based on materially changed  
26 circumstances, and is currently pursuing a BIA bond appeal, the Petition is defective and  
27 should be dismissed without prejudice. Petition ¶¶ 1-3, 11-12, 57-59; *see also* Exhs. 2-5.  
28

1 Dated: January 26, 2026

Respectfully submitted,

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12 */s/ Alfredo Bonilla*  
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16 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

17 The undersigned, counsel of record for Respondents, certifies that the  
18 memorandum of points and authorities contains 2,638 words, which complies with the  
19 word limit of L.R. 11-6.1.

20 Dated: January 26, 2026

21 */s/ Alfredo Bonilla*  
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