IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

RAUL M.C., Petitioner,	§	
v.	§	Civil Action No. 1:25-cv-327
Warden for the Port Isabel Detention Center, *et al., in their official capacities,* Respondents.	§	

PETITIONER'S OPPOSITION TO RESPONDENTS' MOTION TO DISMISS

Respondents' Motion to Dismiss should be denied because it is procedurally improper. After Petitioner filed this habeas action, the Court issued an Order to Show Cause, directing Respondents to explain why the writ should not be granted within twenty days of service. The Court also ordered both parties to submit supplemental briefing addressing the impact of *Franco* class certification on Petitioner's claims. Instead of filing an answer, Respondents filed a Motion to Dismiss on January 12, 2026, asserting failure to state a claim and requesting that summary judgment be entered in their favor. Respondents did not file the Court-ordered supplemental briefing.

By requesting summary judgment at this stage, Respondents necessarily ask the Court to accept the undisputed facts as true and to resolve the case as a matter of

law. Those undisputed facts include that Petitioner was granted bond in 2014, was subsequently re-detained without any violation of the conditions of release, and has never been afforded a hearing to justify that re-detention. Respondents do not contest these facts.

Because the material facts are undisputed and demonstrate that Petitioner's continued detention is unlawful, Respondents' Motion to Dismiss should be denied, and Petitioner's petition for a writ of habeas corpus should be granted forthwith.

ARGUMENT

I. Respondent's motion to dismiss should be denied as procedurally improper.

The Federal Rules of Civil Procedures "apply to proceedings for habeas corpus…to the extent that the practice in those proceedings…(A) is not specified in a federal status, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases [collectively, the "Habeas Rule"]; and (B) has previously conformed to the practice in civil action." Fed. R. Civ. P. 81(a)(4). Under Rule 1(b) of the Rules Governing Section 2254 Cases, the Habeas Rules also apply to § 2241 habeas cases. *See Romero v. Cole,* 2016 WL 2893709, at *2 n.4 (W.D. La. Apr. 13, 2016*); see also, Wyant v. Edwards*, 952 F. Supp. 348, 352 (S.D. W. Va. 1997) ("the court has concluded that 2254 Rules were intended to apply to 2241 cases…"). As such, the Habeas Rules set forth the procedures for responding to and evaluating habeas petitions – not the Federal Rules of Civil Procedures. The Fifth Circuit has

determined that a motion to dismiss for failure to state a claim is an "inappropriate practice in habeas" corpus proceeding. *Miramontes v. Driver*, 243 Fed. App'x 855, 856 at *1 (5th Cir. July 23, 2007) (citing *Browder v. Dir., Dep't of Corrections of Ill.,* 434 U.S. 257, 269 n.14 (1978)). *See also Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107, at *3 n.4 (W.D. Tex. June 18, 2020) (collecting cases).

In a typical non-habeas action, a defendant has a choice to file an answer or other response, like a motion to dismiss. On the other hand, respondents in habeas cases may be limited by court order as to the nature of their response. Rule 4 of the Rules Governing Section 2254 Cases in the United States District Court provides, in pertinent part:

> The clerk must promptly forward the petition to a judge under the court's assignment procedure, and the judge must promptly examine it. If it *plainly appears from the petition and any attached exhibits* that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order (emphasis added).

According to the Habeas Rule, once the petition passes the Court's initial inspection, it may, in its discretion, order the Respondents to file an answer, motion, or other pleading, or take other action. The Respondent seeks dismissal under Fed R. Civ. P. 12(b)(1) and 12(b)(6). Such a dismissal would be inappropriate at this juncture. In this case, the petition passed the Court's initial inspection, and the

Respondent was ordered to "show cause why the writ of habeas corpus should not be granted" (Dkt. No. 4) and thus foreclosed the possibility of filing a motion to dismiss. Therefore, the Respondents' motion to dismiss should be dismissed as procedurally improper.

II. Exhaustion is not mandated by the statute.

There is no statutory requirement to exhaust administrative remedies. "Under the [Immigration and Nationality Act,] exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *see* 8 U.S.C. § 1252(d)(1) ("A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies."). Petitioner does not seek review of a final order of removal. Instead, Petitioner challenges the constitutionality of detention procedures under § 1226(a).

For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *See Lopez Benitez v. Francis,* 25 Civ. 5937, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025). A court may waive the prudential exhaustion requirement; if administrative remedies are inadequate, irreparable injury will result, and administrative remedies would be futile. *See Laing v. Ashcroft,* 370 F.3d 994, 1000 (9th Cir. 2004). When a "'legal question is fit for resolution and delay means hardship,' a court may choose to decide the issues itself." *Pizarro Reyes v. Raycraft,*

No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sep. 9, 2025) (quoting *Shalala v. Ill. Council on Long Term Care, Inc.,* 529 U.S. 1, 13 (2000)).

According to Respondents, Petitioner cannot satisfy any exception because he did not request a custody redetermination or bond hearing before an Immigration Judge prior to filing this habeas petition. Respondents maintain that because Petitioner has not sought or been denied bond by an Immigration Judge, the Court cannot assess the merits of his claims. They assert that any determination as to whether an Immigration Judge would grant bond is speculative, and that Petitioner must therefore wait to pursue administrative proceedings before raising his claims in federal court.

Respondents' exhaustion argument fails because it misunderstands both the nature of Petitioner's claims and the purpose of the exhaustion doctrine. Petitioner does not request a bond determination, nor does he seek review of a discretionary custody decision that must first be addressed by an Immigration Judge. Instead, Petitioner challenges his re-detention after he had already been granted a *Franco* bond (Dkt. No. 1-4), complied with all conditions of release (Dkt. No. 1, p. 9), and ICE re-detained him without lawful authority, without affording him any hearing whatsoever, in violation of the Constitution (Dkt. No. 1, p. 10).

To the extent the doctrine of prudential exhaustion would apply, exhaustion should be waived because the administrative remedies are inadequate and would result in irreparable injury. Petitioner is not seeking an initial bond determination; he was already granted a bond in 2014 and released pursuant to that order, and he complied with all conditions without violation. Requiring Petitioner to exhaust administrative remedies by seeking yet another bond hearing ignores his undisputed history and, more importantly, does not cure the constitutional injury arising from Petitioner's present and ongoing detention. Exhaustion is therefore inadequate because it cannot provide the relief Petitioner seek. By insisting that Petitioner must first pursue a bond hearing, Respondents effectively ask the Court to ignore the constitutional violation and to sanction continued unlawful detention.

Moreover, conditioning judicial review on exhaustion in this context would result in irreparable injury. Petitioner has Major Depressive Disorder, which includes a serious history of self-harm and suicidal ideation. Each day Petitioner remains detained without legal justification or a hearing not only compounds the deprivation of his liberty, but also significantly impacts his mental health and exacerbates his symptoms.

Courts have repeatedly recognized that unlawful detention constitutes irreparable harm, and exhaustion is not required where it would merely prolong an ongoing constitutional violation. Continued detention until he awaits eligibility to

reaffirm a *Franco* bond hearing would exacerbate his constitutional injury. Other courts faced with similar issues have found that preventing unlawful detention outweigh the government's interest in detaining an individual while his or her bond determination is resolved. *See Lopez-Arevelo v. Ripa,* No. EP-25-cv-337, 2025 WL 2691828, at *6 (W.D. Tex. Sep. 22, 2025) (waiving exhaustion in a case because "[t]o wait, indefinitely, for a ruling on that appeal would be inappropriate because it would exacerbate [the petitioner's] alleged constitutional injury – detention without a bond hearing").

Because Petitioner's claims are independent of the bond redetermination process, and because exhaustion would be inadequate and cause irreparable harm, exhaustion should be excused. The Court should therefore reject Respondents' exhaustion argument and reach the merits of Petitioner's habeas petition.

III. Petitioner's detention is unlawful.

Petitioner does not seek a *Franco* bond hearing, nor does he challenge the length of his current detention under the *Franco* framework. Instead, he challenges the lawfulness of his re-detention after having already been granted bond, without notice, without a hearing, and without any allegation of changed circumstances or violations of release conditions. Respondents' argument rests entirely on a misunderstanding of Petitioner's claims. Although Respondents concede that

Petitioner is a *Franco* class member, it contends that his detention is lawful because he has not yet reached 180 days of detention and therefore is not yet entitled to a *Franco*-mandated bond hearing. That contention misses the point. Petitioner is not requesting a new bond hearing; he challenges the constitutionality of his current detention in light of the bond that was already granted and never revoked.

Petitioner's due process claim is triggered not by the length of detention, but by the act of re-detention itself. Once an Immigration Judge granted bond and the Government stipulated that Petitioner was not a danger to the community or a flight risk, Petitioner acquired a protected liberty interest in remaining out of custody. The Constitution requires that the Government provide notice and a hearing before depriving him of that liberty interest.

Moreover, Respondents' assertion that Petitioner "is not otherwise challenging his detention" is incorrect. Petitioner squarely challenges the legality of his detention on constitutional and statutory grounds, including violations of the Due Process Clause and Section 504 of the Rehabilitation Act (Dkt. No. 1, p. 10-17). Respondents' argument does not address the claims actually raised in the Petition. Respondents' silence as to those allegations confirms that there is no basis to conclude that Petitioner's re-detention was lawful. Because Respondents identify no disputed facts or legal authority justifying re-detention without process, dismissal is unwarranted.

CONCLUSION

For the reasons stated above, Respondents' Motion to Dismiss should be denied in its entirety as procedurally improper. Because the undisputed facts establish that Petitioner was re-detained after being granted bond, without any violation of release conditions and without a hearing, his continued detention is unlawful. The Court should therefore deny Respondents' Motion to Dismiss and grant the petition for a writ of habeas corpus forthwith.

Dated: January 14, 2026

Respectfully submitted,

/s/ *Rebecca Chavez*
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CERTIFICATE OF SERVICE

I certify that on January 14, 2026, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ *Rebecca Chavez*
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