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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 EDISON MEDINA GOMEZ,
11 Petitioner,
12 v.
13 KRISTI NOEM, Secretary of the
Department of Homeland Security, et al.,
14 Respondent.

Case No.: 26-cv-134-BAS-VET
RETURN TO PETITION

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1 **I. INTRODUCTION**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner is
3 currently in removal proceedings under 8 U.S.C. § 1229a and is charged with
4 deportability/removability under 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen present in
5 the United States without being admitted or paroled, and 8 U.S.C. § 1182(a)(7)(A)(i)(I),
6 as a noncitizen not in possession of a valid visa or entry document. On or around June
7 30, 2025, Petitioner had a bond hearing before an immigration judge pursuant to
8 8 U.S.C. § 1226(a), and he subsequently appealed the immigration judge’s order
9 denying bond to the Board of Immigration Appeals (BIA). That appeal is still pending.
10 The Court should thus deny Petitioner’s requests for relief and dismiss the petition.

11 **II. FACTUAL BACKGROUND¹**

12 Petitioner is a native and citizen of Venezuela. He entered the United States
13 without inspection in August 2023, by swimming across the Rio Bravo, where he was
14 apprehended by immigration officials. Ex. 1. He was issued a Notice to Appear (NTA)
15 and placed in removal proceedings under 8 U.S.C. § 1229a.

16 On May 29, 2025, at a master calendar hearing, Immigration and Customs
17 Enforcement (ICE) moved to dismiss Petitioner’s proceedings to allow Enforcement
18 and Removal Operations (ERO) to proceed with an order of expedited removal. After
19 Petitioner departed the courtroom, he was apprehended by ERO, detained at Otay Mesa
20 Detention Center and issued an expedited removal order. The IJ subsequently granted
21 ICE’s motion to dismiss the existing full removal proceedings. Ex. 2.

22 On or around June 30, 2025, Petitioner was granted a bond hearing pursuant to
23 8 U.S.C. § 1226(a). The IJ denied bond upon determining that Petitioner posed a flight
24 risk. Ex. 3. Petitioner timely appealed that decision to the BIA, and the appeal remains
25 pending. Ex. 4.

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28 ¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

1 Here, Petitioner sought and was granted a custody redetermination hearing, and
2 the IJ determined that no release on bond was warranted. Petitioner appealed that
3 decision to the BIA, and that appeal remains pending.

4 Petitioner thus remains lawfully detained under 8 U.S.C. § 1226(a), and his
5 detention violates neither the Administrative Procedure Act nor the relevant federal
6 regulations.

7 **B. Petitioner Has Not Exhausted His Administrative Remedies**

8 “Exhaustion can be either statutorily or judicially required.” *Acevedo–Carranza*
9 *v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). “If exhaustion is statutory, it may be a
10 mandatory requirement that is jurisdictional.” *Id.* (citing *El Rescate Legal Servs., Inc.*
11 *v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 747 (9th Cir. 1991)). “If, however,
12 exhaustion is a prudential requirement, a court has discretion to waive the requirement.”
13 *Id.* (citing *Stratman v. Watt*, 656 F.2d 1321, 1325–26 (9th Cir. 1981)). Here, Petitioner
14 is attempting to bypass the administrative scheme by seeking habeas relief from this
15 district court while his BIA appeal remains pending.

16 “District Courts are authorized by 28 U.S.C § 2241 to consider petitions for
17 habeas corpus.” *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). “That
18 section does not specifically require petitioners to exhaust direct appeals before filing
19 petitions for habeas corpus.” *Id.* That said, the Ninth Circuit “require[s], as a prudential
20 matter, that habeas petitioners exhaust available judicial and administrative remedies
21 before seeking relief under § 2241.” *Id.* Specifically, “courts may require prudential
22 exhaustion if (1) agency expertise makes agency consideration necessary to generate a
23 proper record and reach a proper decision; (2) relaxation of the requirement would
24 encourage the deliberate bypass of the administrative scheme; and (3) administrative
25 review is likely to allow the agency to correct its own mistakes and to preclude the need
26 for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (internal
27 quotation marks omitted).

1 “When a petitioner does not exhaust administrative remedies, a district court
2 ordinarily should either dismiss the petition without prejudice or stay the proceedings
3 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
4 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
5 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
6 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
7 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,
8 a “petitioner cannot obtain review of procedural errors in the administrative process that
9 were not raised before the agency merely by alleging that every such error violates due
10 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,
11 720 F.3d 1134, 1135-36 (9th Cir. 2013) (declining to address a due process argument
12 that was not raised below because it could have been addressed by the agency).

13 Here, exhaustion is warranted because agency expertise is required. “[T]he BIA
14 is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, No. C18-
15 1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *Delgado v. Sessions*,
16 No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting
17 a denial of bond to an immigration detainee was “a question well suited for agency
18 expertise”).

19 Waiving exhaustion here would also encourage other detainees to bypass the BIA
20 and directly appeal from the IJ to federal district court. *See Aden*, 2019 WL 5802013,
21 at *2. Permitting detainees to skip the BIA in this way would needlessly increase the
22 burden on district courts. *See Bd. of Tr. of Constr. Laborers’ Pension Trust for S. Calif.*
23 *v. M.M. Sundt Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is
24 an important purpose of exhaustion requirements.”); *see also Santos-Zacaria v.*
25 *Garland*, 598 U.S. 411, 418 (2023) (noting “exhaustion promotes efficiency”). Here, if
26 the IJ erred in refusing bond, this Court should allow the administrative process to
27 correct itself. *See id.*

1 Because Petitioner has not exhausted his administrative remedies, this matter
2 should be dismissed.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Respondents respectfully request that the Court
5 dismiss this action.

6 DATED: January 30, 2026

Respectfully submitted,

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8 United States Attorney

9 *s/ Betsey Boutelle*
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11 Assistant United States Attorney
12 Attorneys for Respondents
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