

Magistrate Judge Grady J. Leupold

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARIA LOYA MEDINA,

Petitioner,

v.

JULIO HERNANDEZ, *et al.*,¹

Respondents.

Case No. 2:26-cv-00772-GJL

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
March 30, 2026

I. INTRODUCTION

This Court should deny Petitioner Maria Loya Medina's habeas petition. *See* Dkt. 1, ("Pet."). U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner pursuant to 8 U.S.C. § 1226(a). Petitioner asserts that her civil immigration detention is unlawful because her February 4, 2026, bond hearing was constitutionally deficient. Pet. at ¶¶ 4-6. However, a closer review of the Petition demonstrates that Petitioner really takes issue with how the immigration judge weighed the evidence presented at her bond hearing.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 For this reason alone, the Petition should be denied. Moreover, Petitioner has not
2 exhausted her administrative remedies through the “substantial procedural protections” available
3 under Section 1226(a). *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022).
4 Petitioner seeks, in the alternative, her immediate release from ICE custody, an order compelling
5 DHS to provide her with an individualized determination regarding her eligibility for release, or
6 a bond hearing before this Court to determine whether she presents a flight risk or danger that
7 justifies her continued detention. Pet., at 24-25 (Prayer for Relief). Granting Petitioner’s request
8 would improperly circumvent the statutory scheme of judicial review prescribed by Congress as
9 part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”).

10 Accordingly, Federal Respondents respectfully request that the Court deny the Petition.

11 II. FACTUAL BACKGROUND

12 Petitioner was previously before this Court in *Loya-Medina v. Noem*, No. 2:26-CV-00125-
13 TMC, 2026 WL 237492 (W.D. Wash. Jan. 29, 2026). There, the Honorable Judge Tiffany M.
14 Cartwright concluded Petitioner was a member of the *Rodriguez Vazquez* Bond Denial Class and
15 entitled to a bond hearing under 8 U.S.C. § 1226(a). *Id.* at *2.

16 On February 4, 2026, the Tacoma Immigration Court held a custody redetermination
17 hearing, where Petitioner was represented by counsel. *See* Declaration of Barbara Andrade
18 (“Andrade Decl.”), Ex. A (Bond Order); Ex. B (Bond Memorandum). Both parties submitted
19 evidence for the court’s review and arguments were allowed at the hearing. Andrade Decl., Ex.
20 B at 2-3. The immigration judge denied Petitioner’s request for custody redetermination, finding
21 that Petitioner failed to demonstrate that she was not a flight risk. *Id.* at 4. Petitioner originally
22 waived her right to appeal that determination to the Board of Immigration Appeals (“BIA”) but
23 later filed an appeal on February 23, 2026. Pet. at ¶ 77.

On February 11, 2026, Petitioner filed an application for Cancellation of Removal under 8 U.S.C. § 1229b(b). *See* Declaration of Deportation Officer Christopher Hubbard (“Hubbard Decl.”), ¶ 17. Petitioner did not file any other application for relief from removal. *Id.* On February 23, 2026, following a hearing on the merits of Petitioner’s application, the immigration judge denied her application for cancellation of removal. Hubbard Decl., ¶ 17; Andrade Decl. C, (Order of the Immigration Judge). Petitioner was granted voluntary departure until March 25, 2026, under safeguards with an alternative order of removal to Mexico. *Id.* Petitioner’s appeal of the immigration judge’s denial of her application for cancellation of removal, is pending before the BIA. Hubbard Decl., ¶ 20.

On February 26, 2026, the immigration judge issued a written memorandum memorializing the findings previously made during Petitioner’s bond re-determination hearing.² Andrade Decl. B, (Bond Memorandum). Petitioner’s appeal of the immigration judge’s decision to deny her bond is pending before the BIA. Hubbard Decl., ¶ 18.

III. LEGAL STANDARD

It is axiomatic that “[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the petitioner must demonstrate that his or her custody is in violation of

² Executive Office for Immigration Review, Immigration Court Practice Manual, Chapter 8.3 Bond Proceedings, §§ (e)(3), (7) (explaining bond hearings are generally not recorded and, in the event either party files an appeal, “the Immigration Judge prepares a written decision based on notes from the hearing.”) *available at* <https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-8-3> (last visited Mar. 23, 2026).

the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. ICE lawfully detains Petitioner pursuant to 8 U.S.C. § 1226(a).³

Because her removal proceedings are ongoing, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a). The Ninth Circuit has found that Section 1226(a) and its implementing regulations satisfy due process. *Rodriguez Diaz*, 53 F.4th at 1209-10. As a threshold matter, Respondents note that it is a noncitizen's interest in freedom from *prolonged* detention that is undoubtedly substantial (not from detention itself). *See id.* at 1197-1201. Petitioner has been in ICE custody since January 10, 2026. Andrade Decl., Ex. B at 3. Thus, her civil detention has not reached the length of what many courts have found to be "prolonged." *See Diouf v. Napolitano*, 634 F.3d 1081, 1192 n.13 (9th Cir. 2011) (noting "[a]s a general matter, detention is prolonged when it has lasted six months and is expected to continue more than minimally beyond six months.").

An immigration judge held a custody redetermination hearing on February 4, 2026. This finding provides a basis for the "legality of [her] custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Petitioner disagrees with the outcome of the bond hearing, but that challenge is one better suited to review by the BIA and the Ninth Circuit through the robust appellate process available to her. *See Rodriguez Diaz*, 53 F.4th at 1202 (explaining § 1226(a) provides "extensive procedural protections that are unavailable under other detention provisions.") (citations omitted).

³ The cases Petitioner cites in support of her claim that DHS has violated her procedural due process rights are inapposite. *See* Pet. at ¶¶ 38-39. Those decisions concern alleged due process violations in an immigration judge's decision to deny bond; they do not stand for the proposition Petitioner has an independent cause of action to directly challenge DHS's initial custody determination. *See, e.g., W.T.M. v. Bondi*, 2026 WL 262583 (W.D. Wash. Jan. 30, 2026); *Gonzalez v. Joyce*, 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025); *Garcia v. Hyde*, 2025 WL 3466312 (D.R.I. Dec. 3, 2025). Accordingly, Count I must be dismissed. *See* Pet. at ¶¶ 89-95.

1 However, Petitioner seeks to improperly bypass her administrative remedies “by cloaking an
2 abuse of discretion argument in constitutional garb.” *See Torres-Aguilar v. INS*, 246 F.3d 1267,
3 1271 (9th Cir. 2001).

4 This case concerns the Government’s responsibilities under 8 U.S.C. § 1226(a), which
5 “authorizes the Attorney General to arrest and detain an alien ‘pending a decision on whether the
6 alien is to be removed from the United States.’” *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018)
7 (quoting 8 U.S.C. § 1226(a)). The Supreme Court has recognized that “there is little question that
8 the civil detention of aliens during removal proceedings can serve a legitimate government
9 purpose, which is ‘preventing deportable . . . aliens from fleeing prior to or during their removal
10 proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully
11 removed.’” *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008) (citing *Demore v.*
12 *Kim*, 538 U.S. 510, 528 (2003)).

13 At an initial bond hearing before an immigration judge for a noncitizen detained under
14 Section 1226(a), the noncitizen bears the burden of establishing that she “does not present a
15 danger to persons or property, is not a threat to the national security, and does not pose a risk of
16 flight.” *Matter of Guerra*, 24 I&N Dec. 37, 38 (BIA 2006). Bond hearings are separate and apart
17 from, and form no part of, a noncitizen’s removal proceedings. 8 C.F.R. § 1003.19(d). The
18 noncitizen may appeal the immigration judge’s custody redetermination to the BIA. 8 C.F.R.
19 §§ 236.1(d)(3)(i), 1236.1(d)(3)(i); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).
20 Further, a noncitizen who remains detained pursuant to Section 1226(a) after the initial bond
21 hearing may request that the immigration judge conduct another custody redetermination
22 whenever “circumstances have changed materially since the prior bond redetermination.” 8
23 C.F.R. § 1003.19(e).

1 An immigration judge in Tacoma, Washington held a bond hearing on February 4, 2026.
2 This is not disputed. The dispute relates to the outcome of the bond hearing; Petitioner disagrees
3 with the immigration judge's bond redetermination. Indeed, Petitioner alleges the "no bond" order
4 is deficient because "there are no circumstances in which the IJ could have plausibly established
5 that Ms. Loya posed a flight risk, or that she was such an extreme flight risk that no amount of
6 bond or set of conditions could possibly mitigate." Pet. at ¶100.

7 Importantly, this Court does not have jurisdiction to set aside the immigration judge's
8 determination merely because Petitioner disagrees with the result. *See* 8 U.S.C. § 1226(e) ("No
9 court may set aside any action or decision by the Attorney General under this section regarding
10 the detention of any alien or the revocation or denial of bond or parole."); *see also Valenzuela v.*
11 *Semaia*, No. 5:25-cv-02853, 2025 WL 4041920, at *2 (C.D. Cal. Dec. 10, 2025) ("Although
12 Petitioner may disagree with the outcome of the [immigration judge's] determination at the bond
13 hearing, this Court does not have jurisdiction to sit as an appellate body over this issue.").
14 Moreover, as described below, Petitioner fails to allege colorable legal or constitutional issues
15 that fall within the purview of this Court's habeas review.

16 **B. Petitioner has not identified valid constitutional or legal errors that occurred in her**
17 **bond hearing.**

18 An immigration judge's discretionary decision to deny bond is not subject to judicial
19 review. 8 U.S.C. § 1226(e); *see also Romero-Torres v. Ashcroft*, 327 F.3d 887, 891-92 (9th Cir.
20 2003). But federal district courts do have habeas jurisdiction to review bond hearing
21 determinations for constitutional claims and legal error. *Singh v. Holder*, 638 F.3d 1196, 1200
22 (9th Cir. 2011); *see also Hernandez v. Sessions*, 872 F.3d 976, 987 (9th Cir. 2017) (citing
23 *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011)). The determination of whether a
24 noncitizen is "dangerous" for immigration detention purposes is a mixed question of law and fact

1 and is reviewable as a “question of law.” *Martinez v. Clark*, 124 F.4th 775, 779 (9th Cir. 2024).
2 This suggests that a determination of whether a noncitizen is a flight risk is subject to the same
3 standard of review. *Id.* However, habeas jurisdiction over such legal and constitutional claims is
4 proper only if they are “colorable,” *i.e.*, “the claim must have some possible validity.” *Hernandez*,
5 872 F.3d at 988 (*quoting Torres-Aguilar*, 246 F.3d at 1271 (quotation marks omitted); *Mendez-*
6 *Castro v. Kukasey*, 552 F.3d 975, 978 (9th Cir. 2009)). “[A] petitioner may not create the
7 jurisdiction that Congress chose to remove simply by cloaking an abuse of discretion argument
8 in constitutional garb.” *Hernandez*, 872 F.3d at 988 (*quoting Torres-Aguilar*, 246 F.3d at 1271).
9 To wit, it is in “rare case[s] where future plaintiffs allege a colorable constitutional or legal
10 challenge to the government’s procedures.” *Id.*, at 989. This is not one of those “rare cases.”

11 The simple fact in this case is that Petitioner disagrees with the Immigration Judge’s order.
12 While Petitioner attempts to coat this disagreement under the guise of procedural deficiencies,
13 namely the Immigration Judge’s alleged failure to provide a basis for his conclusion of “no bond,”
14 the immigration judge provided a reasoned decision in support of his conclusion. Pet., ¶ 100;
15 Andrade Decl., Ex. B (Bond Order).

16 While Petitioner incorrectly categorizes the Immigration Judge’s February 26, 2026,
17 written memorandum of his prior bond determination as a “post-hoc rationalization,” Petitioner
18 originally waived her right to appeal this decision and did not withdraw that waiver until February
19 17, 2026. Pet. at ¶¶ 77-78. Where, as here, a written memorandum is consistent with the oral
20 findings and relies on the same evidentiary record, it does not constitute an impermissible after-
21 the-fact justification but rather a routine articulation of the agency’s decision prepared to facilitate
22 administrative review. Petitioner acknowledges that as a matter of policy, “[b]ond hearings are
23 seldom recorded and are not routinely transcribed.” Pet. at ¶ 85; *see also Immigration Court*
24 *Practice Manual*, Ch. 8.3(e). The immigration judge’s written memorandum is not a post-hoc

1 rationalization because, consistent with agency policy, it reflects the contemporaneous reasoning
2 underlying the immigration judge's decision at the February 4, 2026, bond hearing. *See id.*

3 Moreover, Petitioner's assertion that the immigration judge "failed to provide any facts or
4 probative and reasonable basis for the ... "no bond" determination," is without merit considering
5 the written memorandum. Pet. at ¶105. Notably, however, the assertion demonstrates that, at base,
6 Petitioner disagrees with the "reasonableness" of the immigration judge's decision, including how
7 he weighed the evidence presented at her bond hearing. This Court lacks jurisdiction to "reweigh
8 [the] evidence" on a challenge to an immigration judge's bond decision and may "only determine
9 whether the [IJ] applied the correct legal standard." *Martinez*, 124 F.4th at 784.

10 The facts presented before the district court in *W.T.M* are distinguishable from here. Pet.,
11 at ¶ 39. In *W.T.M. v. Bondi*, No. 2:25-cv-02428-RAJ-BAT, 2026 WL 262583, at *4 (W.D. Wash.
12 Jan. 30, 2026), the petitioner had not appealed the bond decision and the immigration judge had
13 not issued a bond memorandum. Thus, the only information the district court had was the
14 information on the initial order, which does not provide the immigration judge's reasoning for
15 denying bond. The district court found error in that the immigration judge did not provide any
16 reasoning for his basis that the petitioner was an extreme flight risk. Federal Respondents
17 respectfully disagree with this reasoning and posit that this is an example why administrative
18 exhaustion of bond hearings is necessary.

19 In sum, Petitioner identifies no colorable constitutional claim or legal error. Her petition
20 is an unreviewable challenge to the Immigration Judge's discretionary weighing of the evidence
21 and should be rejected.

22 **C. Petitioner has failed to exhaust her administrative remedies.**

23 The Ninth Circuit has cautioned that courts should be careful not to excuse exhaustion
24 where, as here, "relaxation of exhaustion requirements would encourage the deliberate bypass of

1 the administrative scheme.” *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 882 (9th Cir. 2003). The
2 Court has further cautioned that exhaustion should not be excused where “agency expertise makes
3 agency consideration necessary to generate a proper record and reach a proper decision” or
4 “administrative review is likely to allow the agency to correct its own mistakes and to preclude
5 the need for judicial review.” *Id.* All three factors favor enforcing the exhaustion requirement in
6 this case.

7 Although administrative exhaustion is not a jurisdictional prerequisite for habeas
8 petitions, courts generally “require, as a prudential matter, that habeas petitioners exhaust
9 available judicial and administrative remedies before seeking [such] relief.” *Castro-Cortez v. INS*,
10 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v.*
11 *Gonzales*, 548 U.S. 30 (2006)).

12 The district court’s decision in *Aden v. Nielson*, No. 18-cv-1441, 2019 WL 5802013 (W.D.
13 Wash. Nov. 7, 2019), is instructive as to why this Court should require Petitioner to exhaust her
14 remedies concerning the immigration judge’s bond order before the BIA. In *Aden*, the Court
15 required a petitioner to exhaust his administrative remedies prior to bringing a claim that the
16 immigration judge erroneously applied the evidentiary standard during a court-ordered bond
17 hearing, allegedly depriving the petitioner of his due process rights. *Id.*, at *1. The Court looked
18 at Ninth Circuit jurisprudence distinguishing “between constitutional claims that only an Article
19 III court can resolve and issues with constitutional implications that may nonetheless be corrected
20 by the BIA on appeal.... The latter category of challenges is subject to prudential exhaustion
21 requirements.” *Id.*

22 The court found that the BIA could assess petitioner’s assertions that the immigration
23 judge relied too heavily on his criminal history. *Id.*, at *2 (“the BIA is capable of re-assessing the
24 evidence and determining whether the government has carried its burden of demonstrating by

1 clear and convincing evidence that [the petitioner] is a current danger and must be detained”).
2 Similarly, if Petitioner appeals the immigration judge’s order, the BIA is well equipped to address
3 any evidence she seeks to present regarding the finding that she is a flight risk. Like in *Aden*, this
4 is a finding that the BIA is perfectly capable of reassessing.

5 To determine whether administrative exhaustion should be excused, the Court must
6 consider whether “(1) agency expertise makes agency consideration necessary to generate a
7 proper record and reach a proper decision; (2) relaxation of the requirement would encourage the
8 deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow
9 the agency to correct its own mistakes and to preclude the need for judicial review.” *Hernandez*
10 *v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th
11 Cir. 2007)). Here, the *Puga* factors weigh in favor of requiring prudential exhaustion.

12 The first *Puga* factor weighs in favor of exhaustion because the BIA has subject-matter
13 expertise for individual immigration bond decisions. Here, the Court would benefit from an
14 administrative appellate record because the immigration judge has reached a finding that is factual
15 in nature, *i.e.*, whether Petitioner is a flight risk. The second *Puga* factor also weighs in favor of
16 exhaustion because there is no question that where it has jurisdiction, the immigration court has
17 authority to deny bond if a person is deemed a flight risk or a danger to the community. Allowing
18 a “relaxation of the exhaustion requirement” for Petitioner would permit other detainees to
19 directly appeal their alternative bond determinations to federal district court without an adequate
20 development of the administrative appellate record. Last, the third *Puga* factor weighs in favor of
21 exhaustion because the BIA is capable of reviewing evidentiary findings and could preclude the
22 need for judicial review.

23 Petitioner does not engage in an analysis of the *Puga* factors. Instead, she argues appealing
24 to the BIA is futile because “[d]uring the time it takes the BIA to resolve the bond appeal, most

1 detainees' claims are mooted by adjudications in their removal proceedings." Pet., at ¶ 83. She is
2 wrong. First, Petitioner remains subject to the detention scheme under § 1226(a) through the Ninth
3 Circuit's adjudication. Petitioner has appealed her removal order to the BIA, and she will have
4 the opportunity to seek further judicial review in the event of an adverse decision on that appeal.
5 Petitioner has therefore failed to demonstrate that her bond appeal would be rendered moot by the
6 ultimate disposition of her removal proceedings. Moreover, administrative exhaustion creates a
7 more holistic appellate record for this Court to review in a subsequent habeas case. Furthermore,
8 she may get the relief she seeks here through the BIA. Thus, the circumstances presented by the
9 instant case do not favor excusing the prudential exhaustion requirements.

10 Petitioner should be required to exhaust her administrative remedies for the reasons stated
11 above. That process will provide a more complete record and a definitive explanation of the
12 Immigration Judge's reasoning for review by the BIA or, if denied, a future habeas court. Granting
13 habeas relief in these circumstances would invite a significant increase in similar claims,
14 effectively encouraging Petitioners to bypass the administrative review process and imposing
15 substantial burdens on the federal courts with matters Congress intended to be addressed in the
16 first instance through established agency procedures. Requiring exhaustion here is therefore both
17 appropriate and consistent with established principles of administrative review

18 **C. Petitioner is not entitled to release.**

19 This Court should deny Petitioner's request for immediate release from immigration
20 detention. A noncitizen is entitled to release if she can show that his immigration detention is
21 unconstitutionally indefinite as defined in *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Hong v.*
22 *Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *6 (W.D. Wash. June 8, 2021), *report and*
23 *recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022). While Petitioner's
24 detention continues while her removal proceedings are ongoing, she cannot allege that her

1 detention has become indefinite. Petitioner presents no evidence that ICE will be unable to
2 remove her if her removal order ultimately becomes final. Nor has Petitioner provided a
3 cognizable basis for her immediate release from detention pursuant to 8 U.S.C. § 1226(a).

4 As she is in ongoing removal proceedings, there is no doubt that Petitioner's continued
5 detention is related to a legitimate government purpose. The Supreme Court has repeatedly
6 recognized that detention is a constitutionally permissible aspect of the Government's
7 enforcement of the immigration laws and fulfills the legitimate purpose of ensuring that
8 individuals appear for their removal proceedings. *See Jennings*, 583 U.S. at 286; *Demore v. Kim*,
9 538 U.S. 510, 523 (2003); *Zadvydas*, 533 U.S. at 690-91. Consistent with the requirements of due
10 process, Petitioner's confinement is thus "reasonably related" to a legitimate government interest
11 and is constitutional while her removal proceedings are pending. *Bell v. Wolfish*, 441 U.S. 535,
12 538-39 (1979). Accordingly, this Court should not grant Petitioner's request for immediate
13 release from immigration detention.

14 V. CONCLUSION

15 "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of
16 that custody, and . . . the traditional function of the writ is to secure release from illegal custody."
17 *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). At Petitioner's bond hearing, the immigration
18 judge determined that Petitioner is a flight risk. Petitioner takes issue with the immigration judge's
19 decision – specifically, how the Immigration Judge viewed and weighed the evidence she
20 presented. That is not within this Court's habeas jurisdiction to review. 8 U.S.C. § 1226(e).
21 Because Petitioner has not demonstrated by a preponderance of the evidence that "the fact or
22 duration of [her] confinement" violates any law, *see Preiser*, 411 U.S. at 489, habeas relief must
23 be denied.

1 DATED this 23rd day of March, 2026.

2 Respectfully submitted,

3 s/ Barbara Andrade

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14 *I certify that this memorandum contains 3,474*
15 *words, in compliance with Local Civil Rules*