Katie Hurrelbrink
Bar No. 325632
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467
Facsimile: (619) 687-2666
katie_hurrelbrink@fd.org

Attorneys for Mr. A.V.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAVEL A.V.,

Petitioner,

v.

WARDEN OF IMPERIAL DETENTION FACILITY, et al.

Respondents.

CIVIL CASE NO.: 26-cv-1495-BTM

Traverse in Support of Petition for a writ of Habeas Corpus

On March 9, 2026, Mr. A.V. filed a pro se habeas petition challenging his continued detention after an immigration judge denied bond on dangerousness grounds. Under *Martinez v. Clark*, this Court may "review . . . the BIA's 'dangerousness' determination . . . for abuse of discretion." 124 F.4th 775, 779 (9th Cir. 2024). "Under an abuse of discretion standard, [courts] cannot reweigh evidence but can only determine whether the BIA applied the correct legal standard." *Id.* at 785.

Contrary to the assertions in the government's return, courts do have jurisdiction to undertake this abuse-of-discretion review, as dangerousness is a "reviewable mixed question" of law and fact. *Id.* at 784. Under 28 U.S.C. § 1252(g), only "discretionary decisions are shielded from review." *Ibarra-Perez v. United States*, 154 F.4th 989, 999 (9th Cir. 2025). But because the dangerousness finding is not "fully discretionary," it "is reviewable." *Martinez*, 124 F.4th at 784.

Finally, exhaustion is merely prudential in these circumstances, and courts have excused immigrants from exhausting remedies in appropriate cases. *See, e.g.*, *Miri v. Bondi*, No. 5:26-CV-00698-MEMF-MAR, 2026 WL 622302, at *10 (C.D. Cal. Mar. 5, 2026); *Perez v. Wolf*, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020).

Counsel received from the government and reviewed the audio recording of Mr. A.V.'s bond hearing. The recording will be transmitted to the court via hand delivery in conjunction with this traverse.

With these additions, Federal Defenders submits that the issues in this case are adequately presented for decision in the pro se petition.

Respectfully submitted,

Dated: April 3, 2026

s/ Katie Hurrelbrink

Katie Hurrelbrink
Federal Defenders of San Diego, Inc.
Attorneys for Mr. A.V.
Email: katie_hurrelbrink@fd.org