ADAM GORDON
United States Attorney
CINDY CIPRIANI
Assistant United States Attorney
California Bar No. 144402
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: 619-546-9608
Email: cindy.cipriani@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

HAYLEYESUS GEBRU GEBREMESKEL, Petitioner, v. MARKWAYNE MULLIN, et al.,[1] Respondents.	Case No.: 26-cv-1631-BJC-BJW **RESPONSE TO PETITION**

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. While the government asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) (*See Jennings v. Rodriguez*, 583 U.S. 281 (2018)), Respondents acknowledge that courts in this District have inferred a constitutional right against prolonged mandatory detention. Taking into consideration those prior rulings and the length of time Petitioner has been in custody, the government concedes that this Court should order that Petitioner receive a bond

[1] Pursuant to Fed. R. Civ. Proc. 25(d), Department of Homeland Security (DHS) Secretary Markwayne Mullin is automatically substituted for Kristi Noem as the proper defendant.

hearing, where the government would bear the burden of proof of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight. *See Sadeqi v LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025); *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26, 2025).

Respondents, however, reject and vigorously dispute Petitioner claim that local Immigration Judges are compromised such that this Court should grant immediate release, conduct its own hearing, or otherwise micromanage the custody redetermination process. This level of district court involvement, in addition to being unwarranted and unnecessary, severely undermines administrative exhaustion principles. Petitioner has administrative remedies available if he disagrees with the IJ's bond ruling. The proper avenue for any grievance in the event of bond denial is to utilize the administrative scheme and appeal his bond denial to the Board of Immigration Appeals (BIA).

The BIA is an appellate body within the Executive Office for Immigration Review and possesses delegated authority from the Attorney General. 8 C.F.R. §§ 1003.1(a)(1), (d)(1). The BIA is "charged with the review of those administrative adjudications under the [Immigration and Nationality Act (INA)] that the Attorney General may by regulation assign to it," including immigration judge custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves particular disputes before it, but is also directed to, "through precedent decisions, . . . provide clear and uniform guidance to [the Department of Homeland Security], the immigration judges, and the general public on the proper interpretation and administration of the [INA] and its implementing regulations." 8 C.F.R. § 1003.1(d)(1). Decisions rendered by the BIA are final, except for those reviewed by the Attorney General. 8 C.F.R. § 1003.1(d)(7).

"District Courts are authorized by 28 U.S.C § 2241 to consider petitions for habeas corpus." *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other grounds by Hernandez–Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit

"require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Id* Specifically, "courts may require prudential exhaustion if (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (cleaned up).

Here, agency expertise is required to determine immigration bond decisions. "[T]he BIA is the subject-matter expert in immigration bond decisions[.]" *Aden v. Nielsen*, No. C18-1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *see also Delgado v Sessions*, No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting a denial of bond to an immigration detainee was "a question well suited for agency expertise"). Allowing a skip-the-BIA-and-go-straight-to-federal-court strategy would needlessly increase the burden on district courts. *See Bd. of Tr. of the Constr. Laborers' Pension Trust for S Cal. v. M.M. Sundt Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) ("Judicial economy is an important purpose of exhaustion requirements.") (citation omitted); *Santos-Zacaria*, 598 U.S. at 418 (noting "exhaustion promotes efficiency"). As another court in this district noted, if the immigration judge errs, the district court should allow the administrative process to correct itself. *See Sharma v. Archambrault*, 2026 WL 381611, at *2 (S.D. Cal. February 11, 2026) ("Exhaustion would protect administrative authority and promote judicial efficiency. Release on bond falls within the agency's discretionary power and falls within its special expertise.").

Moreover, the government vigorously disputes Petitioner's contention that Immigration Judges in this district are biased or compromised. Petitioner's "trend evidence" lacks foundation and relevance and is replete with inadmissible opinions and

hearsay. It wholly fails to establish that government procedures governing bond proceedings violate due process. *Nagiyev v. Warden*, No. 25-CV-3744 JLS (MMP), 2026 WL 945965, at *3 (noting, in response to similar evidence, that the court was "unpersuaded by Petitioner's argument that IJs nationwide are compromised.").

Significantly, despite Petitioner's assertion that all IJS are compromised by fear of termination or coercive management directives, counsel cites no habeas case from this district where the Court found a local IJ deliberately flouted a court order to hold a bona fide bond hearing or where DHS failed to comply with an immigration judge's order granting bond following a district court order. To the contrary, numerous habeas cases in this district confirm that IJs have complied in good faith with this court's orders, conducted individualized bond hearings, and granted bond in many cases, often on a very quick turnaround. *See, e g , Ramirez Ceja v. Divver*, No. 26-cv-00254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2025) (Joint Status Report reflecting immigration judge granted bond at Otay Mesa Immigration Court); *Prabhpreet v. LaRose*, No. 26-cv-00393-JES-SBC, ECF No. 10 (S.D. Cal. Feb. 19, 2026) (same); *I.E. v. Casey,* No. 25-cv-03227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec. 16, 2025) (same for Imperial Regional Detention Facility); *Gautam v. Correctional Corp. of Am* , No. 25-cv-03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice of Compliance); *Alemanji v. Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D. Cal. Dec. 23, 2025) (Notice Confirming Bond Hearing); *Xie v. LaRose*, No. 26-cv-00529-RBM-DDL (Notice of Compliance; bond granted)(S.D. Cal. March 4, 2026) *Ding v. LaRose*, 26-cv-01117-TWR-JLB (bond granted)(S.D. Cal. March 4, 2026); *Jacinto Rodriguez v. LaRose*, 26-cv-00693-BAS-DEB (S.D. Cal. Feb. 24, 2026) (bond granted); and *Lorenzo v. LaRose*, 26cv1041-LL (S.D. Cal. March 2, 2026) (bond granted); 26 CV 1338 JO VET.) (bond granted); *Luis Alberto Corado-Serrano v. Bondi*, 26-CV-1338-JO VET (S.D. Cal. March 27, 2026) (bond granted); *Paniagua-Padilla v. Bondi*, 26-cv-01332-JO-VET (S.D. Cal. April 1, 2026) (bond granted); and *Ali v. Mullin*, 26-cv-1565-JES (S.D. Cal. April 10, 2026,

Notice of Compliance; bond granted).

Based on this record, there is no reason for the Court to take any action beyond ordering a bond hearing.

DATED: April 14, 2026

ADAM GORDON
United States Attorney

s/Cindy Cipriani
Cindy Cipriani
Assistant United States Attorney