

District Judge James L. Robart

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

JUAN GONGORA,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. 2:26-cv-00982-JLR

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Noted for Consideration:
April 22, 2026

INTRODUCTION

Petitioner is a native and citizen of Mexico who is currently in removal proceedings. This is the second habeas petition he has filed in this District in the last two months. His first petition was granted, and the government was ordered to provide him with a bond hearing. He was given a bond hearing and bond was denied because the Immigration Judge found that Petitioner is a flight risk. Petitioner did not appeal the bond decision to the Board of Immigration Appeals (BIA). Instead, he immediately turned around and filed a second habeas petition, just one month later, again asking for release or a bond hearing.¹

¹ This second petition is a *pro se* fill-in-the-blank form petition, which, other than the hand-written date he was taken into custody, has no information specific to Petitioner and no claims or arguments specific to Petitioner's current detention or bond status. Dkt. 6.

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1 This second habeas petition should be denied and dismissed without an evidentiary
2 hearing because Petitioner has failed to exhaust his administrative remedies by not pursuing the
3 remedies available through the Immigration Courts to obtain bond during his removal
4 proceedings. *See Chavez v. Bondi*, 26-cv-00217-TL, Dkt. 20, Order on Petition for Writ of
5 Habeas Corpus, Apr. 13, 2026 (The *Puga* factors weigh in favor of requiring administrative
6 exhaustion, and the *Mathews* factors weigh in favor of finding adequate due process when
7 considering Petitioner's withdrawal of bond redetermination and his failure to request a new
8 bond hearing).

9 FACTS

10 Petitioner is a native and citizen of Mexico who entered the United States on an
11 unknown date and at an unknown location. *See* Declaration of Deportation Officer Paul Correa
12 (Correa Decl.) ¶ 3. On January 9, 2020, Petitioner was arrested for Driving while License
13 Suspended. *Id.* at ¶ 4. On January 27, 2021, he was arrested for Driving with Suspended Vehicle
14 Registration. *Id.* On August 19, 2021, he was arrested for Failure to Appear. *Id.* And on July 18,
15 2025, Petitioner was arrested for Obstructing a Peace Officer. *Id.*

16 On January 20, 2026, Petitioner was encountered by a Customs and Border Protection
17 agent during a traffic stop in Montana. *Id.* at ¶ 5. The agent determined that Petitioner entered
18 the United States without valid documentation and detained him. *Id.* The following day, on
19 January 21, 2026, Petitioner was issued a Notice to Appear charging him with inadmissibility
20 under INA § 212(a)(6)(A)(i) (present without being admitted or paroled) and §
21 212(a)(7)(A)(i)(I) (lacks valid entry documents) and placing him in removal proceedings. *Id.*
22 Petitioner was transported to the NWIPC. *Id.*

23 Three weeks after he was detained, on February 12, 2026, Petitioner, through counsel,
24 filed a petition for writ of habeas corpus in this Court. *Id.* at ¶ 6; *see also Ramirez v. Hermosillo*,

26-CV-00527-TMC. The petition was granted on February 19, 2026, and DHS was ordered to either release Petitioner or provide him with a bond hearing within 14 days of receiving a request for a bond hearing from Petitioner. *Ramirez*, 26-CV-00527-TMC, Dkt. 10, pg. 4.

On February 27, 2026, Petitioner, pro se, appeared at a bond hearing before an Immigration Judge in Tacoma, Washington. Hubbard Decl. ¶ 8. The Immigration Judge found Petitioner to be a flight risk and denied bond. *Id.* Petitioner did not appeal the Immigration Judge's ruling to the BIA. *Id.* Petitioner filed this habeas petition pro se on March 23, 2026, less than one month after the Immigration Judge's ruling. Dkt. 1.

Petitioner's removal proceedings are ongoing and he is scheduled to appear at a master calendar hearing on May 4, 2026. *Id.* at ¶ 9.

ARGUMENT

I. Petitioner is lawfully detained pursuant to INA § 236(a), 8 U.S.C. § 1226(a), during his removal proceedings and can seek bond through the Immigration Courts.

Petitioner is lawfully detained during his removal proceedings pursuant to INA § 236(a), 8 U.S.C. § 1226(a). The Ninth Circuit has found that Section 1226(a) and its implementing regulations satisfy due process. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1209-10 (9th Cir. 2022).

Congress enacted a multi-layered statute that provides for the continued civil detention of noncitizens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008). Where an individual falls within this scheme affects whether his detention is discretionary or mandatory, as well as the kind of review process available. *Id.* at 1057. This case concerns the Government's responsibilities under 8 U.S.C. § 1226(a), which "authorizes the Attorney General to arrest and detain an alien 'pending a decision on whether the alien is to

1 be removed from the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (quoting
2 8 U.S.C. § 1226(a)).

3 The Supreme Court has recognized that “there is little question that the civil detention of
4 aliens during removal proceedings can serve a legitimate government purpose, which is
5 ‘preventing deportable . . . aliens from fleeing prior to or during their removal proceedings, thus
6 increasing the chance that, if ordered removed, the aliens will be successfully removed.’”
7 *Prieto-Romero*, 534 F.3d at 1065 (citing *Demore v. Kim*, 538 U.S. 510, 528 (2003)).

8 Section 1226(a) provides, in part, as follows:

9 On a Warrant issued by the Attorney General, an alien may be arrested and
10 detained pending a decision on whether the alien is to be removed from the United
11 States. Except as provided in subsection (c) of this section and pending such
12 decision, the Attorney General –

13 (1) may continue to detain the arrested alien; and

14 (2) may release the alien on –

15 (A) bond of at least \$1,500 with security approved by, and
16 containing conditions prescribed by, the Attorney General; or

17 (B) conditional parole.

18 8 U.S.C. § 1226(a).

19 “Section 1226(a) and its implementing regulations provide extensive procedural
20 protections that are unavailable under other detention provisions.” *Rodriguez Diaz*, 53 F.4th at
21 1202. Every noncitizen apprehended under Section 1226(a) is individually considered for
22 release on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8). An ICE officer initially assesses
23 whether the noncitizen has “demonstrate[d]” that “release would not pose a danger to property
24 or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R.
25 § 236.1(c)(8).

26 If the ICE officer denies bond, the noncitizen may ask an Immigration Judge for a
27 redetermination of the custody decision. 8 C.F.R. § 236.1(d)(1). Thus, the initial bond hearing

1 held before an Immigration Judge for a noncitizen detained under Section 1226(a) is also called
2 a "redetermination hearing." At this hearing, the noncitizen bears the burden of establishing
3 "that he or she does not present a danger to persons or property, is not a threat to the national
4 security, and does not pose a risk of flight." *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA
5 2006). Bond hearings are separate and apart from, and form no part of, a noncitizen's removal
6 hearings. 8 C.F.R. § 1003.19(d).

7 The noncitizen may appeal the Immigration Judge's custody redetermination to the BIA.
8 8 C.F.R. §§ 236.1(d)(3)(i), 1236.1(d)(3)(i), *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th
9 Cir. 2011). Further, a noncitizen who remains detained pursuant to Section 1226(a) after the
10 initial bond hearing may request that the Immigration Judge conduct another custody
11 redetermination whenever "circumstances have changed materially since the prior bond
12 redetermination." 8 C.F.R. § 1003.19(e).

13 Here, ICE determined that Petitioner would remain in detention during his removal
14 proceedings when he was first encountered on January 20, 2026. Hubbard Decl. ¶ 5; 8 C.F.R.
15 § 236.1(c)(8). Petitioner did not request that an Immigration Judge review his custody status
16 under 8 C.F.R. § 236.1(d)(1). Instead, he filed a habeas petition in this Court just three weeks
17 after he was detained, on February 12, 2026. *See Ramirez*, 26-CV-00527-TMC, Dkts. 1, 8. After
18 that petition was granted, Petitioner was given a bond hearing and he was denied bond because
19 an Immigration Judge determined that he is a flight risk. Hubbard Decl. ¶ 8. Petitioner did not
20 appeal the bond decision to the BIA. Hubbard Decl. ¶ 8. Instead, he again turned around a filed
21 a second habeas petition in this Court less than one month after he was denied bond.

22 If Petitioner was dissatisfied with the Immigration Judge's February 27, 2026 bond
23 determination, he could have appealed that decision to the BIA. 8 C.F.R. §§ 236.1(d)(3)(i),
24 1236.1(d)(3)(i). Petitioner can also request a bond redetermination hearing from the

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1 Immigration Court if he has changed circumstances. 8 C.F.R. § 1003.19(e). Petitioner, however,
2 chose to do neither and instead opted to file another form, fill-in-the-blank habeas petition in
3 this Court.

4 Thus, Petitioner has failed to meet his burden of demonstrating that his custody is in
5 violation of the Constitution, laws, or treaties of the United States to warrant a grant of habeas
6 corpus. *See* 28 U.S.C. § 2241(c)(3). He is lawfully detained and has had the right to seek the
7 very relief he seeks here - a bond redetermination hearing which could lead to his release -
8 while his removal proceedings are ongoing.

9 **II. The Court should not order the Immigration Court to conduct a bond**
10 **redetermination hearing.**

11 Petitioner's request that this Court order the Immigration Court to conduct another bond
12 hearing should be denied because he has not exhausted his administrative remedies, and even if
13 his claims were ripe for review, his detention does not violate due process.

14 As discussed above, if Petitioner was dissatisfied with the Immigration Judge's February
15 27, 2026 bond determination, he could have appealed that decision to the BIA. 8 C.F.R.
16 §§ 236.1(d)(3)(i), 1236.1(d)(3)(i). He can also request another bond redetermination hearing
17 based on changed circumstances and avail himself of his appeal rights with any additional bond
18 order. 8 C.F.R. § 1003.19(e). Petitioner should be required to exhaust his available
19 administrative remedies before asking this Court to intervene. *See Chavez v. Bondi*, 26-cv-
20 00217-TL, Dkt. 20.

21 Courts generally "require, as a prudential matter, that habeas petitioners exhaust available
22 judicial and administrative remedies before seeking [such] relief." *Castro-Cortez v. INS*, 239 F.3d
23 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548
24 U.S. 30 (2006)). Courts may require prudential exhaustion where: "(1) agency expertise makes

1 agency consideration necessary to generate a proper record and reach a proper decision; (2)
 2 relaxation of the requirement would encourage the deliberate bypass of the administrative
 3 scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes
 4 and to preclude the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

5 This case meets the elements requiring prudential exhaustion. *See Chavez*, 26-cv-00217-
 6 TL, Dkt. 20 (finding the *Puga* factors weigh in favor of requiring administrative exhaustion under
 7 similar circumstances). The BIA has special expertise in reviewing bond determinations. *See*
 8 *Francisco Cortez v. Nielsen*, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Allowing a
 9 relaxation of the exhaustion requirement would promote the avoidance of seeking a bond
 10 redetermination by an Immigration Judge with an appeal to the BIA to head straight to district
 11 court. And finally, the outcome of a bond redetermination hearing and/or BIA appeal may provide
 12 Petitioner with the relief sought here – release on bond.

13 Even if Petitioner’s habeas petition was ripe for review, the Court should not order the
 14 Immigration Court to conduct another custody redetermination hearing because Petitioner’s
 15 detention is not prolonged or unreasonable. *See Banda v. McAleenan*, 385 F.Supp.3d 1099, 1106
 16 (W.D. Wash. 2019). Petitioner has been detained for only three months, since January 20, 2026.
 17 Hubbard Decl. ¶ 5. Furthermore, Petitioner’s removal proceedings are not expected to last much
 18 longer, and it is likely that they will culminate in a final order of removal.

19 In addition, Petitioner’s detention is not in violation of due process under *Mathews v.*
 20 *Eldridge*, 424 U.S. 319, 335 (1976). *See Chavez v. Bondi*, 26-cv-00217-TL, Dkt. 20 (finding the
 21 *Mathews* factors weigh in favor of finding adequate due process under similar circumstances).
 22 The first *Mathews* factor implicates Petitioner’s liberty interests—that is, his freedom from
 23 detention; however, “detention during deportation proceedings [is] a constitutionally valid aspect
 24 of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). As to the second *Mathews*

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1 factor, the risk of erroneous deprivation is diminished here because Petitioner did not utilize the
2 administrative remedies available to him when he did not appeal the Immigration Judge's bond
3 determination and has not requested a bond redetermination hearing. As to the final *Mathews*
4 factor, the Government also has an important interest in ensuring Petitioner's removal will be
5 expeditious upon entry of final order for removal. *See Mathews*, 424 U.S. at 347 (considering the
6 "incremental cost resulting from the increased number of hearings and the expense of providing
7 benefits to ineligible recipients pending decision"); *Rodriguez Diaz*, 53 F.4th at 1208 (concluding
8 that "the government clearly has a strong interest in preventing [non-citizens] from remaining in
9 the United States in violation of our law.") (citation modified).

10 Thus, the *Mathews* factors weigh in favor of finding adequate due process when
11 considering Petitioner's failure to appeal the bond determination and his failure to request a new
12 bond hearing. Therefore, Petitioner has not shown that his detention is in violation of due process.

13 WHEREFORE, Petitioner's habeas petition should be denied and dismissed without an
14 evidentiary hearing.

15 DATED this 16th day of April, 2026.

16 Respectfully submitted,

17 s/ Kristin B. Johnson

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18 *Attorney for Respondent*

19 *I certify that this memorandum contains 2,184 words, in*
20 *compliance with the Local Civil Rules.*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify on today's date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify on today's date, I arranged for service of the foregoing along with the Declaration of Paul Correa on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, marked "*Legal Mail, Open in Presence of Detainee*," addressed as follows:

Juan Gongora, *Pro Se Petitioner*

A#

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1623 E. J Street, Suite 5
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DATED this 16th day of April, 2026.

s/ Joseph A. Fonseca

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