

District Judge James L. Robart

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

IGNACIO MANUEL PULIDO GOMEZ,

Petitioner,

v.

PAMELA BONDI, *et al.*,¹

Respondents.

Case No. 2:26-cv-00992-JLR

FEDERAL RESPONDENT'S RETURN

Noted for Consideration:
April 20, 2026

I. INTRODUCTION

This Court should deny the Petition for Writ of Habeas Corpus, Dkt. No. 6 ("Pet."). U.S. Immigration and Customs Enforcement ("ICE") mandatorily detains Petitioner Ignacio Manuel Pulido Gomez pursuant to 8 U.S.C. § 1225(b) during his removal proceedings, his detention has not become unreasonably prolonged, and he has failed to exhaust administrative remedies with respect to seeking a bond redetermination hearing.

Accordingly, Federal Respondent respectfully requests that the Court deny the Petition. This return is supported by the pleadings and documents on file in this case, the Declaration of

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

1 Deportation Officer Delano Dumo (“Dumo Decl.”), and the Declaration of Jennifer Wong
2 (“Wong Decl.”), with accompanying exhibits.

3 **II. BACKGROUND**

4 **A. Petitioner Ignacio Manuel Pulido Gomez**

5 Petitioner is a native and citizen of Mexico, who entered the United States at an unknown
6 location and on an unknown date. Dumo Decl. ¶ 3; Wong Decl. at Ex. 1 (Form I-213).

7 On April 14, 2010, U.S. Border Patrol (“BP”) encountered Petitioner near the southern
8 border and granted him voluntary return to Mexico. Dumo Decl. ¶ 4. About a month later, BP
9 encountered Petitioner again near the southern border and granted him voluntary return to Mexico
10 on May 8, 2010, and May 11, 2010. *Id.* ¶¶ 5-6.

11 On June 6, 2014, Petitioner was convicted of driving under the influence and driving
12 without a license in the Superior Court of California, County of Ventura. *Id.* ¶ 7.

13 On February 3, 2025, Petitioner was arrested by the Ventura County Sheriff’s Department
14 and charged with throwing a substance on a vehicle and battery. *Id.* ¶ 8.

15 On May 14, 2025, ICE’s Office of Enforcement and Removal Operations (“ERO”)
16 encountered Petitioner and subsequently arrested him, pursuant to an arrest warrant based on his
17 presence in the United States in violation of immigration law. *Id.* ¶ 9. On the same day, Petitioner
18 was issued a Notice to Appear, charging him as removable from the United States under Section
19 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”) and placing him in removal
20 proceedings. Dumo Decl. ¶ 10; Wong Decl. at Ex. 2 (Notice to Appear).

21 On May 15, 2025, Petitioner was transported to the Northwest ICE Processing Center
22 (“NWIPC”). Dumo Decl. ¶ 11.

23 On October 8, 2025, Petitioner’s application for cancellation of removal was granted.
24 Dumo Decl. ¶ 13; Wong Decl. at Ex. 3 (Order of IJ). The Department of Homeland Security

1 (“DHS”) timely filed for appeal with the Board of Immigration Appeals (“BIA”) on November
2 5, 2025. *Dumo Decl.* ¶ 14. The appeal remains pending. *Id.*

3 On November 24, 2025, Petitioner appeared for a bond hearing, represented by counsel,
4 and was denied bond on the basis that he is a danger to the community. *Id.* ¶ 15. Both parties
5 waived appeal. *Id.* Petitioner remains detained under 8 U.S.C. § 1225(b). *Id.* ¶ 16.

6 **B. Legal Background**

7 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
8 Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.”
9 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissigiam*,
10 591 U.S. 103, 106 (2020). Section 1225 applies to “applicants for admission” to the United States,
11 who are defined as “[a]n alien present in the United States who has not been admitted or who
12 arrives in the United States (whether or not at a designated port of arrival and including an alien
13 who is brought to the United States after having been interdicted in international or United States
14 waters).” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those
15 covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to
16 mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Yajure Hurtado*,
17 29 I&N Dec. 216 (BIA 2025).

18 Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to
19 mandatory detention pending full removal proceedings “if the examining immigration officer
20 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be
21 admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a
22 proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025)
23 (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in
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1 full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
2 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

3 III. JURISDICTION AND STANDARD OF REVIEW

4 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
5 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
6 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
7 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
8 day.” *Thuraissigiam*, 591 U.S. at 125 n.20.

9 Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas
10 petitions. To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that
11 his or her custody is in violation of the Constitution, laws, or treatises of the United States. *See*
12 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004); *Snook v.*
13 *Wood*, 89 F.3d 605, 609 (9th Cir. 1996).

14 IV. ARGUMENT

15 A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b).

16 Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2) and is subject to
17 mandatory detention while his removal proceedings remain pending. Section 1225(b)(2) states
18 that, subject to statutory exceptions, “in the case of an alien who is an applicant for admission, if
19 the examining immigration officer determines that an alien seeking admission is not clearly and
20 beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section
21 1229a [full removal proceedings] of this title.” 8 U.S.C. § 1225(b)(2). In other words, noncitizens
22 subject to section 1225(b)(2) are not eligible for expedited removal but are subject to mandatory
23 detention while their full removal proceedings are pending. This is in contrast to the default
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1 detention regime under Section 1226(a), which allows for discretionary release and review of
2 detention through bond hearings.

3 As a noncitizen who has not been admitted or paroled into the United States and is
4 awaiting removal, Petitioner's detention is statutorily mandated. The DHS's timely appeal of the
5 immigration judge's ("IJ") order granting Petitioner's application for cancellation of removal,
6 was filed on November 5, 2025, and remains pending. Dumo Decl. ¶ 14.

7 As the Fifth Circuit recently found, aliens who are present without admission in the United
8 States are "applicants for admission" as defined in Section 1225(a)(1). *Buenrostro-Mendez v.*
9 *Bondi*, 166 F.4th 494, 502 (5th Cir. 2026). The court clarified that an "applicant for admission"
10 is a person "seeking admission" regardless of whether that person is actively engaged in
11 admissions procedures when detained. *Id.* at 502-06. Here, Petitioner is a noncitizen who is
12 present in the United States without admission, and therefore subject to 8 U.S.C. § 1225(b)(2)(A).

13 Accordingly, Petitioner's detention remains lawful as he is mandatorily detained pursuant
14 to 8 U.S.C. § 1225(b).

15 **B. Petitioner's detention is not unreasonably prolonged under *Banda*.**

16 Petitioner's detention without a court-ordered bond hearing does not violate his Fifth
17 Amendment due process rights.² Courts in this District have recognized that "[n]ormally,
18 noncitizens covered by Section 1225(b)(1) are subject to an expedited removal process that does
19 not include a hearing before an IJ or review of the removal order." *Nguyen v. Scott*, 2:25-cv-
20 01988-SKV, Dkt. 15, pgs. 3-4 (citing *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-12 (W.D.

21
22 ² Petitioner challenges procedural due process, his liberty interests, and his detention under the First, Fifth, Eighth,
23 Thirteenth, and Fourteenth Amendments of the U.S. Constitution. See Pet. at 4. However, he may only challenge his
24 detention under the Fifth Amendment's due process clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (The
Fifth Amendment's Due Process Clause forbids the Government to "depriv[e]" any "person ... of ... liberty ... without
due process of law." Freedom from imprisonment—from government custody, detention, or other forms of physical
restraint—lies at the heart of the liberty that Clause protects.").

1 Wash. 2019) (citing 8 U.S.C. § 1225(b)(1)(A)(i)). Both § 1225(b)(1) and § 1225(b)(2) mandate
2 detention of noncitizens for the entirety of the applicable proceedings. *Id.* (citing *Jennings*, 583
3 U.S. at 302). And the “statute does not impose ‘any limit on the length of detention’ pending a
4 decision on the asylum application and does not authorize bond hearings or release on bond.” *Id.*
5 (citing *Banda*, 385 F. Supp. 3d at 1112 (quoting *Jennings*, 583 U.S. at 296)).

6 Courts in this District have also noted that both the Supreme Court and Ninth Circuit have
7 “grappled . . . with whether the various immigration detention statutes may authorize indefinite
8 or prolonged detention of detainees and, if so, may do so without providing a bond hearing.” *Id.*
9 (quoting *Rodriguez v. Robbins*, 804 F.3d 1060, 1067 (9th Cir. 2015) (citing *Toktosunov v.*
10 *Wamsley*, 2:25-cv-01724-TL, 2025 WL 3492858, at *2-4 (W.D. Wash. Dec. 5, 2025)).

11 While neither the Supreme Court nor the Ninth Circuit has settled on a test for assessing
12 the constitutionality of prolonged mandatory detention, Courts in this District apply the “*Banda*”
13 test in determining whether a noncitizen’s detention under § 1225(b) violates due process. *Id.*
14 (citing *Banda*, 385 F. Supp. 3d at 1106; *Maliwat v. Scott*, 2:25-cv-00788, 2025 WL 2256711, at
15 *3 (W.D. Wash. Aug. 7, 2025); *Hong v. Mayorkas*, 2:20-cv-01784-LK, 2022 WL 1078627, at
16 *4-5 (W.D. Wash. Apr. 11, 2022)).

17 In *Banda*, the Court found “unreasonably prolonged detention under § 1225(b) without a
18 bond hearing violates due process.” *Banda*, 385 F. Supp. 3d at 1106, 1117. The Court declined to
19 adopt a rule that detention became unreasonably prolonged at six months, explaining that,
20 pursuant to *Zadvydas*, “at six months, the burden is on the detainee—not the government—to
21 establish a basis for release[.]” and found such a rule would be “inconsistent with the fact-
22 dependent nature of the constitutional question before the Court, namely whether petitioner’s
23 prolonged detention has become unreasonable.” *Id.* at 1117 (citing *Zadvydas*, 533 U.S. at 701).
24 The Court, instead, adopted a multi-factor test to apply in making the determination of whether

1 Section 1225(b) detention has become unreasonable, considering: “(1) the total length of
2 detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4)
3 delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings
4 caused by the government; and (6) the likelihood that the removal proceedings will result in a
5 final order of removal.” *Id.* at 1106.

6 An analysis of these factors demonstrates that Petitioner’s detention has not been
7 unreasonably prolonged.

8 1. Length of Detention

9 The first factor, the length of detention to date, is the most important one. *Id.* at 1118.
10 “The longer mandatory detention continues . . . the harder it is to justify.” *Murillo-Chavez v.*
11 *Garland*, 2:22-cv-00303-LK-MLP, 2022 WL 16555994, at *5 (W.D. Wash. Aug. 30, 2022),
12 report and recommendation adopted, 2022 WL 16553176 (W.D. Wash. Oct. 31, 2022) (citing
13 cases). Here, Petitioner has been detained since May 15, 2025, for approximately eleven months.
14 This length of detention is at the lower range of what Courts in this District typically find
15 unreasonable. *See, e.g., Nguyen*, 2:25-cv-01988-SKV, Dkt. 15, pgs. 3-4 (citing *Maliwat*, 2025
16 WL 2256711, at *4 (citing cases finding periods of detention ranging from eleven to thirty months
17 to favor the detainee; finding same for a petitioner detained for nearly twelve months);
18 *Toktosunov*, No. 2:25-cv-01724-TL, 2025 WL 3492858, at *4 (finding sixteen months of
19 detention favored detainee); *Banda*, 385 F. Supp. 3d at 1118-19 (finding approximate seventeen-
20 month detention strongly favored detainee). Therefore, this factor should weigh in favor of
21 Federal Respondent.

22 2. Likely Duration of Future Detention

23 Under the second *Banda* factor, the Court considers how long the petitioner’s detention is
24 likely to continue absent judicial intervention, *i.e.*, “the anticipated duration of all removal

1 proceedings—including administrative and judicial appeals.” *Banda*, 385 F. Supp. 3d at 1119
2 (quoting *Jamal A. v. Whitaker*, 358 F.Supp.3d 853, 859 (D. Minn. Jan. 22, 2019)).

3 The DHS’s timely appeal of the IJ’s order granting Petitioner’s application for
4 cancellation of removal was filed on November 5, 2025, and remains pending. *Dumo Decl.* ¶ 14.
5 While there is a backlog of appeals at the BIA, detained cases generally get priority, and the BIA
6 is aware that Petitioner is detained. Therefore, this factor weighs neutral.

7 **3. Conditions of Detention**

8 Under the third *Banda* factor, the Court considers the conditions of the petitioner’s
9 detention at the facility where he or she is currently detained. “The more that the conditions under
10 which the [noncitizen] is being held resemble penal confinement, the stronger his argument that
11 he is entitled to a bond hearing.” *Banda*, 385 F. Supp. 3d at 1119 (quoted source omitted).
12 Petitioner is detained at the NWIPC. He does not present any allegations regarding his conditions
13 of detention or argue that the conditions at the NWIPC are penal or similar to those in prisons or
14 jails. Thus, the third factor weighs in Federal Respondent’s favor.

15 **4. Delays in the Removal Proceedings Caused by Petitioner**

16 The fourth *Banda* factor assesses delays caused by the petitioner in the removal
17 proceedings. *Id.* at 1119. No facts indicate that Petitioner caused delays in the removal
18 proceedings. Thus, the fourth *Banda* factor weighs neutral.

19 **5. Delays in the Removal Process Caused by Respondent**

20 Under the fifth *Banda* factor, the Court “considers the nature and extent of any delays in
21 the removal proceedings caused by the government.” *Id.* at 1120. Petitioner does not point to any
22 delays in his case occasioned by Federal Respondent, and the record does not evince any. Absent
23 any indication of a respondent-caused delay, this factor weighs neutral. *See Nguyen*, 2:25-cv-
24 01988-SKV, Dkt. 15, pgs. 3-4 (citing *Toktosunov*, 2025 WL 3492858, at *5).

6. Likelihood of Removal Proceedings Resulting in Final Order of Removal

Finally, under the sixth *Banda* factor, the Court considers “the likelihood that the final proceedings will culminate in a final order of removal.” *Banda*, 385 F. Supp. 3d at 1120 (quoted source omitted). The Court, in other words, considers whether the petitioner has asserted any defenses to removal. *Id.* “Where a noncitizen has not asserted any grounds for relief from removal, presumably the noncitizen will be removed from the United States, and continued detention will at least marginally serve the purpose of detention, namely assuring the noncitizen is removed as ordered.” *Id.* (cited source omitted). “But where a noncitizen has asserted a good faith challenge to removal, ‘the categorical nature of the detention will become increasingly unreasonable.’” *Id.* (quoted source omitted).

Here, Petitioner’s application for cancellation of removal was granted, but the DHS timely appealed the IJ’s decision to the BIA. The BIA’s decision on this appeal is unknown. If the BIA does not affirm the IJ’s decision, then Petitioner may be issued an order of removal. This factor weighs neutral.

Thus, the Court should find that the *Banda* test, on balance, favors Federal Respondent, that Petitioner’s continued detention under 8 U.S.C. § 1225(b) has not yet become unreasonable, and that due process does not require the Government to provide Petitioner with a court-ordered bond hearing.

C. Petitioner failed to exhaust his administrative remedies.

To the extent that Petitioner seeks a bond hearing, he failed to exhaust his administrative remedies because he did not appeal the denial of his bond determination during removal proceedings.

Although exhaustion of administrative remedies is not a jurisdictional prerequisite for habeas petitions, courts generally “require, as a prudential matter, that habeas petitioners exhaust

1 available judicial and administrative remedies before seeking [such] relief.” *Castro-Cortez v. INS*,
2 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v.*
3 *Gonzales*, 548 U.S. 30 (2006)). The exhaustion requirement is subject to waiver because it is not
4 a “‘jurisdictional’ prerequisite.” *Id.* Courts may require prudential exhaustion where: “(1) agency
5 expertise makes agency consideration necessary to generate a proper record and reach a proper
6 decision; (2) relaxation of the requirement would encourage the deliberate bypass of the
7 administrative scheme; and (3) administrative review is likely to allow the agency to correct its
8 own mistakes and to preclude the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815
9 (9th Cir. 2007). If these factors weigh in favor of requiring exhaustion, waiver may still be
10 appropriate when “administrative remedies are inadequate or not efficacious, pursuit of
11 administrative remedies would be a futile gesture, irreparable injury will result, or the
12 administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)
13 (citation modified).

14 This Court should not allow Petitioner to move forward with this habeas petition seeking
15 a bond hearing without first exhausting his administrative remedies. *See Cristobal v. Asher*, 2:20-
16 cv-01493-RSM-BAT, 2020 WL 8678097, at * 3 (W.D. Wash. Dec. 14, 2020), Rep. & Rec.
17 adopted by 2021 WL796597 (W.D. Wash. Mar. 2, 2021). This case meets the elements requiring
18 prudential exhaustion because the BIA “has a special expertise in reviewing the question of
19 whether the bond record as a whole makes it substantially unlikely that the Department w[ill]
20 prevail on [the petitioner’s] challenge to removability.” *Francisco Cortez v. Nielsen*, No. 19-cv-
21 00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019) (internal quotation marks omitted).
22 Also, allowing a “relaxation of the exhaustion requirement” would promote the avoidance of
23 seeking a bond redetermination by the IJ or an appeal of similar IJ orders to the BIA. Finally, the
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1 outcome of Petitioner's exhaustion of administrative remedies may provide him with the relief
2 sought here, such as another bond hearing or release on bond.

3 Therefore, the habeas petition should be dismissed because Petitioner has failed to exhaust
4 his administrative remedies.

5 **V. CONCLUSION**

6 For the foregoing reasons, Federal Respondent respectfully requests that this Court deny
7 the habeas petition.

8 DATED this 15th day of April, 2026.

9 Respectfully submitted,

10 s/ Jennifer Wong

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15 *Attorney for Federal Respondent*

16 I certify that this memorandum contains 2,990
17 words, in compliance with the Local Civil Rules.

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 that on this date, I electronically filed the foregoing and supporting Declaration of Delano Dumo 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 that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Ignacio Manuel Pulido Gomez, *Pro Se* Petitioner
A# 
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DATED this 15th day of April, 2026.

s/ Hung Nguyen
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