

District Judge Tana Lin

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

ALEXANDER ESPINOSA,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. 2:26-cv-01122-TL

RESPONDENT'S RETURN

Noted for Consideration:
April 21, 2026

I. INTRODUCTION

This Court should deny Petitioner Alexander Espinosa's Petition for Writ of Habeas Corpus. Dkt. No. 4 ("Petition or "Pet."). U.S. Immigration and Customs Enforcement ("ICE") has lawfully detained Petitioner, a noncitizen who overstayed a nonimmigrant visitor visa, pursuant to 8 U.S.C. § 1226(a) for approximately two months. Despite the "substantial procedural protections" available to him under Section 1226(a), Petitioner has not even sought a bond redetermination hearing from the immigration court. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022); *see also* 8 C.F.R. § 236.1(d)(1). Instead, Petitioner inexplicably asks this Court to release him from immigration detention or order the immigration court to conduct a bond

1 hearing. Pet., at 2. This Court should require Petitioner to exhaust his administrative remedies
2 and deny the Petition.

3 II. FACTUAL BACKGROUND

4 Petitioner is a native and citizen of Columbia who was admitted to the United States with
5 a nonimmigrant visa in February 2024. Hubbard Decl., ¶ 3. The visa authorized Petitioner to
6 remain in the United States for a temporary period not to exceed August 8, 2024. Hubbard Decl.,
7 ¶ 3. But Petitioner remained in the United States after the visa expired. Hubbard Decl., ¶ 4.

8 On February 11, 2026, law enforcement in Utah arrested Petitioner on a count of domestic
9 violence in the presence of a child. Hubbard Decl., ¶ 4. The following day, ICE encountered
10 Petitioner in the Salt Lake City Metro Jail. Hubbard Decl., ¶ 5.

11 On February 18, 2026, ICE took Petitioner into custody and initiated removal proceedings.
12 Hubbard Decl., ¶ 6; Lambert Decl., Ex. A, Form I-213; Ex. B, Warrant for Arrest; Ex. C, Notice
13 of Rights and Request for Disposition; Ex. D, Notice to Appear. Shortly thereafter, ICE
14 transferred Petitioner from the ICE facility in Utah to the Northwest ICE Processing Center
15 (“NWIPC”), where he is now detained. Hubbard Decl., ¶ 7.

16 Because Petitioner is at the NWIPC, his removal proceedings are at the Tacoma
17 Immigration Court. Although he has had several appearances in immigration court, Petitioner
18 has asked each time for continuances to find an attorney. Hubbard Decl., ¶¶ 8-10. At his last
19 hearing on April 6, 2026, the immigration judge denied the request for a continuance and took
20 pleadings on the pending removal charges in the notice to appear. Hubbard Decl., ¶ 10; Lambert
21 Decl., Ex. D, Notice to Appear. Petitioner conceded the charges of removability. Hubbard Decl.,
22 ¶ 10. Petitioner must submit any applications for relief from removal by the next hearing
23 scheduled for April 27, 2026. Hubbard Decl., ¶ 10.

24 Notably, Petitioner has not requested a bond hearing. Hubbard Decl., ¶ 11.

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, Petitioner bears the burden to prove his custody is in violation of 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. Petitioner’s detention is lawful.

Because his removal proceedings are ongoing, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a). The Ninth Circuit has found that the Section 1226(a) and its implementing regulations satisfy due process. *Rodriguez Diaz*, 53 F.4th at 1209-10. Throughout his removal proceedings, Petitioner has had the right to seek the very relief he seeks here, a bond determination hearing which could lead to his release.

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

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

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

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

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

(2) may release the alien on -

(A) bond of at least \$1,500 with security approved by, and

containing conditions prescribed by, the Attorney General; or

(B) conditional parole . . .

12
13 8 U.S.C. § 1226(a).

14 “Section 1226(a) and its implementing regulations provide extensive procedural
15 protections that are unavailable under other detention provisions.” *Rodriguez Diaz*, 53 F.4th at
16 1202. Every noncitizen apprehended under Section 1226(a) is individually considered for release
17 on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8). An ICE officer initially assesses whether
18 the noncitizen has “demonstrate[d]” that “release would not pose a danger to property or persons,
19 and that the alien is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). If the
20 ICE officer denies bond, the noncitizen may ask an immigration judge for a redetermination of
21 the custody decision. 8 C.F.R. § 236.1(d)(1). Thus, the initial bond hearing held before an
22 immigration judge for a noncitizen detained under Section 1226(a) is also called a
23 “redetermination hearing.” At this hearing, the noncitizen bears the burden of establishing “that
24 he or she does not present a danger to persons or property, is not a threat to the national security,

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1 and does not pose a risk of flight.” *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006). Bond
2 hearings are separate and apart from, and form no part of, a noncitizen’s removal hearings. 8
3 C.F.R. § 1003.19(d).

4 The noncitizen may appeal the immigration judge’s custody redetermination to the Board
5 of Immigration Appeals (“BIA”). 8 C.F.R. §§ 236.1(d)(3)(i), 1236.1(d)(3)(i); *Leonardo v.*
6 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). Further, a noncitizen who remains detained
7 pursuant to Section 1226(a) after the initial bond hearing may request that the immigration judge
8 conduct another custody redetermination whenever “circumstances have changed materially since
9 the prior bond redetermination.” 8 C.F.R. § 1003.19(e).

10 Here, ICE determined that Petitioner would remain in detention. Lambert Decl., Ex. C.
11 The simple fact in this case is that Petitioner has never sought a bond redetermination hearing
12 before an immigration judge, which has been available to him under Section 1226(a). Hubbard
13 Decl., ¶ 11; 8 C.F.R. § 236.1(d)(1). This Court should not allow Petitioner to use habeas to seek
14 relief that he failed to seek through his administrative proceedings.

15 **B. Petitioner has failed to exhaust his administrative remedies.**

16 This Court should require Petitioner to avail himself of the substantial procedural
17 protections of Section 1226(a) before seeking habeas relief in a federal district court. Petitioner
18 has not requested a bond redetermination hearing from an immigration judge. 8 C.F.R.
19 § 236.1(d)(1). And even if he were to disagree with an immigration judge’s future bond decision,
20 he would be able to administratively appeal the decision to the BIA. Therefore, Petitioner has
21 several layers of process available to him prior to seeking this Court’s intervention.

22 Although exhaustion of administrative remedies is not a jurisdictional prerequisite for
23 habeas petitions, courts generally “require, as a prudential matter, that habeas petitioners exhaust
24 available judicial and administrative remedies before seeking [such] relief.” *Castro-Cortez v.*

1 *INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v.*
2 *Gonzales*, 548 U.S. 30 (2006)). Courts may require prudential exhaustion where: “(1) agency
3 expertise makes agency consideration necessary to generate a proper record and reach a proper
4 decision; (2) relaxation of the requirement would encourage the deliberate bypass of the
5 administrative scheme; and (3) administrative review is likely to allow the agency to correct its
6 own mistakes and to preclude the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815
7 (9th Cir. 2007).

8 The Court should not allow Petitioner to move forward with this litigation without first
9 exhausting his administrative remedies. Like the circumstances here, a court in this district
10 dismissed a noncitizen’s habeas petition because the petitioner had failed to seek a bond
11 redetermination hearing at the administrative level. *Cristobal v. Asher*, 20-cv-1493-RSM-BAT,
12 2020 WL 8678097, at * 3 (W.D. Wash. Dec. 14, 2020), *Rep. & Rec. adopted by* 2021 WL796597
13 (W.D. Wash. Mar. 2, 2021). In *Cristobal*, the petitioner had been detained for 15 months and
14 was denied bond at an initial bond redetermination hearing, but he never sought a second bond
15 redetermination hearing based on changed circumstances before filing a habeas petition. In
16 comparison, Petitioner has not even pursued the preliminary administrative remedy that the
17 *Cristobal* petitioner had pursued – an initial bond redetermination hearing – before filing a habeas
18 petition in the district court. Therefore, this Court should also deny this Petition.

19 Furthermore, this case meets the elements requiring prudential exhaustion. Even if the
20 immigration judge had denied bond, Petitioner would have had the ability to appeal the denial to
21 the BIA. The BIA “has a special expertise in reviewing the question of whether the bond record
22 as a whole makes it substantially unlikely that the Department w[ill] prevail on [the petitioner’s]
23 challenge to removability.” *Francisco Cortez v. Nielsen*, No. 19-CV-00754-PJH, 2019 WL
24 1508458, at *3 (N.D. Cal. Apr. 5, 2019) (internal quotation marks omitted). Also, allowing a

1 “relaxation of the exhaustion requirement” would promote the avoidance of seeking a bond
2 redetermination by the immigration judge or an appeal of similar immigration judge orders to the
3 BIA. Finally, the outcome of a bond redetermination hearing before an immigration judge or a
4 subsequent BIA appeal may provide Petitioner with the relief sought here – an individualized
5 bond hearing and ultimately release.

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

7 Even if this Court were inclined to grant habeas relief here, this Court should deny
8 Petitioner’s request for release from immigration detention. Pet., at 2. A noncitizen is entitled to
9 be released if he can show that his immigration detention is indefinite as defined in *Zadvydas*.
10 *Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *6 (W.D. Wash. June 8, 2021),
11 *report and recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022). While
12 Petitioner’s detention continues while his removal proceedings are ongoing, he cannot allege that
13 his two-month detention has become indefinite. Petitioner has presented no evidence that ICE
14 will be unable to remove him if his removal order ultimately becomes final. Nor has Petitioner
15 provided any legal basis for his immediate release from detention while detained pursuant to 8
16 U.S.C. § 1226(a).

17 **V. CONCLUSION**

18 For the foregoing reasons, this Court should deny the Petition.

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1 DATED this 16th day of April, 2026.

2 Respectfully submitted,

3 s/ Michelle R. Lambert

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14 *I certify that this memorandum contains 1,925*
15 *words in compliance with the Local Civil Rules.*