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10 **UNITED STATES DISTRICT COURT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12  
13 GERSON NOE ZAMBRANO GOMEZ,

14 Petitioner,

15 v.

16 CHRISTOPHER J. LAROSE, *et al.*,

17 Respondents.  
18  
19

Case No.: 3:26-cv-02319-LL-SBC

**RESPONSE IN OPPOSITION TO  
PETITIONER'S SUPPLEMENTAL  
BRIEF REGARDING IJ BOND  
ORDER AND CONSTRUCTIVE  
DENIAL OF RELEASE**

20  
21 **INTRODUCTION**

22 This matter is before the Court on Petitioner's supplemental brief regarding the  
23 bond order issued by the Immigration Judge on 4 May 2026. ECF No. 9. Petitioner  
24 requests the Court to "order his immediate release under reasonable conditions of  
25 supervision or, at minimum, order an expedited custody redetermination that prohibits  
26 unworkable bond conditions and ensures a meaningful opportunity for release consistent  
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1 with due process.” ECF No. 9 at 56. Respondents respectfully oppose Petitioner’s request,  
2 primarily due to his failure to exhaust administrative remedies.

### 3 ARGUMENT

4 Review of Petitioner’s supplemental brief reflects his primary objection to the  
5 Immigration Judge’s bond order is that it imposes a condition of release that requires  
6 Petitioner to live with a sponsor. *See* ECF No. 9 at 44 (“ . . . [t]he Immigration Judge  
7 required that Petitioner ‘must live with sponsor’ and obtain DHS approval before  
8 changing residence. However, the designated sponsor cannot have Mr. Zambrano Gomez  
9 reside with her. As a result, the primary condition for release is impossible to satisfy, and  
10 Petitioner remains detained despite a nominal bond grant.”).

11 With respect to the “must live with sponsor”<sup>1</sup> requirement from which Petitioner  
12 seeks judicial relief, the supplement brief states that Petitioner waived his right to appeal  
13 the bond determination and – more importantly – it appears he only determined that the  
14 condition was not feasible after the hearing. *See* ECF No. 9 at 52 (“Petitioner waived  
15 appeal at the hearing to avoid delay in obtaining time sensitive relief from ongoing  
16 detention. After conferring with the proposed sponsor and Petitioner’s family, Petitioner  
17 learned that the IJ’s order did not, in fact, provide a workable path to release. . .and the  
18 sponsor-residence condition cannot be satisfied because the sponsor cannot house  
19 [Petitioner]”).

20 Bond determinations by an Immigration Judge can be appealed to the Board of  
21 Immigration Appeals (BIA). *See* 8 C.F.R. 1003.19(f) (“An appeal from the determination  
22 by an Immigration Judge may be taken to the Board of Immigration Appeals pursuant to  
23 [8 C.F.R.] § 1003.38.”). Likewise, “[a]fter an initial bond redetermination, an alien’s  
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25 <sup>1</sup> “The existence of a valid, reliable, and credible sponsor is relevant to the determination  
26 of flight risk.” *Matter of Dobrotvorskii*, 29 I&N Dec. 211, 213 (BIA 2025); *see also*  
27 *Matter of R-A-V-P-*, 27 I&N Dec. 803, 806 & n.3 (BIA 2020) (in assessing flight risk, IJ  
28 may consider sponsor’s ability to financially support noncitizen and ensure his or her  
presence at future immigration hearings).

1 request for a subsequent bond redetermination shall be made in writing and shall be  
2 considered only upon a showing that the alien's circumstances have changed materially  
3 since the prior bond redetermination.” 8 C.F.R. § 1003.19(e).

4 Based upon the information contained in the supplemental brief, Respondents  
5 submit that the threshold issue before the Court is whether Petitioner’s failure to exhaust  
6 administrative remedies precludes consideration of his requested relief. “Exhaustion can  
7 be either statutorily or judicially required.” *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539,  
8 541 (9th Cir. 2004). In the Ninth Circuit, as a prudential matter, habeas petitioners are  
9 required to exhaust available judicial and administrative remedies before seeking judicial  
10 relief. *See Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other*  
11 *grounds by, Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). Likewise, prudential  
12 exhaustion may be required if: “(1) agency expertise makes agency consideration  
13 necessary to generate a proper record and reach a proper decision; (2) relaxation of the  
14 requirement would encourage the deliberate bypass of the administrative scheme; and (3)  
15 administrative review is likely to allow the agency to correct its own mistakes and to  
16 preclude the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir.  
17 2007) (*citing Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003)). Finally, “[a]  
18 court may waive the prudential exhaustion requirement if ‘administrative remedies are  
19 inadequate or not efficacious, pursuit of administrative remedies would be a futile  
20 gesture, irreparable injury will result, or the administrative proceedings would be  
21 void.’” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (*quoting Laing v.*  
22 *Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

23 Here, Petitioner acknowledges that he waived his administrative appeal [to the  
24 BIA]. This factor alone does not support excusal of the exhaustion requirement because  
25 “any party could obtain judicial review of initial agency actions simply by waiting for the  
26 administrative appeal period to run and then filing an action in district court.” *Stock W.*  
27 *Corp. v. Lujan*, 982 F.2d 1389, 1394 (9th Cir. 1993); *see also Rojas-Garcia v. Ashcroft*,

1 339 F.3d 814, 819 (9th Cir. 2003) (holding a petitioner must exhaust administrative  
2 remedies, to include appeal of constitutional claims that are reviewable by the BIA before  
3 raising those claims in a habeas petition to avoid premature interference with agency  
4 process and to compile a full judicial record.); *Leonardo v. Crawford*, 646 F.3d 1157,  
5 1160 (9th Cir. 2011) (“Here, [appellant] pursued habeas review of the IJ’s adverse bond  
6 determination before appealing to the BIA. This short cut was improper.”).

7 For this reason, the Court should not excuse exhaustion because, under the  
8 circumstances, it would “encourage the deliberate bypass of the administrative scheme”  
9 principle of prudential exhaustion recognized in *Ashcroft, supra*. Likewise, Petitioner has  
10 the option of requesting reconsideration of the Immigration Judge’s bond determination  
11 based upon the fact that he (apparently) discovered after his bond hearing that he cannot  
12 reside with his designated sponsor. *See. e.g., Francios v. Warden of Otay Mesa Detention*  
13 *Center*, No.: 3:25-cv-03635-BTM-MMP, 2026 WL 146627, \*3 (S.D. Cal. January 20,  
14 2026) (denying habeas petition seeking review of IJ bond denial for failure to exhaust  
15 administrative remedies and noting petitioner could potentially seek bond  
16 redetermination based upon material change in circumstance.).

17 Respondents acknowledge that Petitioner expresses concern with other provisions  
18 of the bond order which he deems “highly unusual and so onerous that they render  
19 ‘release’ illusory—functionally equivalent to a denial of bond.” ECF No. 9 at 44. The  
20 Court should not consider Petitioner’s argument in this regard because none of the  
21 additional terms of the bond order have been implemented at this point and Petitioner  
22 therefore cannot demonstrate the terms have been applied in an unconstitutional manner.  
23 His claim in this respect is therefore not ripe.

24 “A case is ripe when it presents a concrete legal dispute and no further factual  
25 development is essential to clarify the issues, and there is no doubt whatever that the issue  
26 has crystallized sufficiently for purposes of judicial review.” *Gon v. Gonzalez*, 534 F.  
27 Supp. 2d 118, 120 (D.D.C. 2008). (internal quotations omitted). Requiring  
28

1 ripeness prevents premature adjudication over abstract disputes and limits judicial  
2 interference until a decision is final and its effects are felt in a concrete way by the  
3 challenging parties.” *Id.* at 120 (internal quotations omitted).

4 Here, Petitioner’s stated concerns about various terms in his bond order allegedly  
5 being implemented in a manner that renders his ability to make bond illusory, or that  
6 otherwise infringe on his constitutional rights, are speculative at best. *See Gon, supra*, at  
7 534 F. Supp. 2d at 121 (finding habeas claim not ripe for adjudication where the claim  
8 was “contingent on multiple future events which may not occur.”). Indeed, Petitioner’s  
9 main argument is that he can’t live with his designated sponsor. As outlined above,  
10 Petitioner’s remedy is to seek a bond redetermination hearing before the Immigration  
11 Judge (and potential appeal to the BIA) if some term aside from, or in addition to, the  
12 requirement to live with a sponsor renders it impossible for him to make bond.

13 Finally, mere disagreement with an Immigration Judge’s bond decision is outside  
14 the scope of judicial habeas review. *See Rodriguez-Diaz v. Garland*, 53 F.4th 1189, 1212-  
15 13 (9th Cir. 2022) (noting court lacks direct judicial review jurisdiction of bond decisions  
16 under 8 U.S.C. § 1226(e)). Likewise, the fundamental fairness of a particular process for  
17 constitutional purposes “does not turn on the result obtained in any individual case.”  
18 *Walters v. National Association of Radiation Survivors*, 473 U.S. 305, 321 (1985). The  
19 allegations set forth in the supplemental brief fail to demonstrate that Petitioner was  
20 denied a constitutionally adequate bond hearing -- rather Petitioner simply complains  
21 about the conditions the Immigration Judge set on his bond. When viewed in this context,  
22 the supplemental brief does not assert a viable due process violation. The Court should  
23 therefore decline Petitioner’s request to, in effect, conduct direct judicial review of bond  
24 terms that he has insufficiently alleged violate his procedural due process rights because  
25 mere disagreement with bond terms fails to state a viable claim for habeas relief.

1 **CONCLUSION**

2 For the foregoing reasons, Respondents respectfully submit that the Court  
3 should deny Petitioner's request for relief as set forth in the supplemental brief.

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5 DATED: May 18, 2026

Respectfully submitted,

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