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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 BRIGIDO RODRIGUEZ-MIRALRIO,

13 Petitioner,

14 v.

15 CHRISTOPHER J. LAROSE, WARDEN
16 OF OTAY MESA REGIONAL
17 DETENTION CENTER, et al.,

18 Respondents.

Case No.: 26-cv-2331-AGS-BJW

**RESPONDENTS' RETURN TO
HABEAS PETITION**

I. Introduction

Petitioner has filed a second habeas petition under 28 U.S.C. § 2241. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a. On January 9, 2026, Petitioner had a bond hearing before an immigration judge (IJ) pursuant to 8 U.S.C. § 1226(a), in compliance with this Court's order.¹ Petitioner was ultimately denied bond. Based on the arguments set forth below, the Court should deny any requests for relief and dismiss the petition.

II. Factual Background²

On December 22, 2025, Petitioner filed his first petition for writ of habeas corpus. *Rodriguez Miralrio v. Noem et al*, 25-cv-03723-AGS-BJW, ECF No. 1. On January 2, 2026, this Court granted Petitioner's first habeas petition and ordered Respondents to "provide petitioner with a bond hearing before an immigration judge by January 16, 2026." *See id.*, No. 5. On January 9, 2026, Respondents provided Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) in compliance with this Court's order. *See* Exhibit 1 (IJ Order dated January 9, 2026). The IJ denied bond, holding that Petitioner "is a danger to the community due to his 2023 conviction for DUI with a .14 BAC." *See id.* In addition, the IJ found that Petitioner was "a flight risk." *See id.* Petitioner failed to file an appeal of his bond denial before the Board of Immigration Appeals (BIA). *See* Exhibit 2 (Executive Officer for Immigration Review Courts & Appeals System Printout).

On April 13, 2026, Petitioner filed a second petition for writ of habeas corpus. *Rodriguez-Miralrio v. Larose et al*, 26-cv-02331-AGS-BJW, ECF No. 1. On May 21, 2026, Petitioner filed an amended petition. *See id.*, ECF No 11. Counsel for Respondents will now address Petitioner's amended petition. Based on the arguments set forth below, the Court should deny any requests for relief and dismiss the petition.

¹ Petitioner is not subject to a final order of removal. *See* 8 C.F.R. § 1241.1.

² The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

III. Argument

A. Petitioner is Lawfully Detained Under 8 U.S.C. § 1226(a)

Section 1226 provides for arrest and detention “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release aliens upon demonstrating that the alien “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (i.e., a bond hearing) by an IJ at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

As set forth above, pursuant to this Court’s previous order, Petitioner was already given a bond hearing under 8 U.S.C. § 1226(a). His bond hearing was adjudicated on the merits, and the IJ denied Petitioner’s bond request accordingly. Therefore, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a).

B. Administrative Remedies Should Be Exhausted

The Court should ensure Petitioner properly exhausts administrative remedies. The Ninth Circuit requires that “habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241.” *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). “When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims not presented in the petitioner’s administrative proceedings before the BIA).

1 Here, per the Court's order, Respondents provided Petitioner a bond hearing
2 before an IJ pursuant to 8 U.S.C. § 1226(a). The IJ properly denied bond. Petitioner
3 failed to file a BIA appeal for his bond denial and therefore failed to exhaust the
4 administrative remedies available to him. Accordingly, the Court should dismiss
5 without prejudice or stay these proceedings until a bond appeal is conducted and
6 concluded before the BIA.

7 **IV. CONCLUSION**

8 For the foregoing reasons, Respondents respectfully request that the Court
9 dismiss this action.

10 DATED: May 28, 2026

Respectfully submitted,

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13 s/ Antonio Estrada
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Attorneys for Respondents