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

12 HAMED ASADIMOFARAH,

13 Petitioner,

14 v.

15 CHRISTOPHER LAROSE; et al.,

16 Respondents.
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Case No.: 26-cv-02442-BTM-SBC

**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. This Court previously ordered that Petitioner be given a bond hearing. On February 12, 2026, Petitioner had a bond hearing before an immigration judge (IJ). 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 Background¹

Petitioner is a native and citizen of Iran. *See* Exhibit 1 (Notice to Appear). On May 24, 2025, he entered the U.S. without inspection and was apprehended on that same day. *See id.* Petitioner was issued a Notice to Appear (NTA), which placed Petitioner in removal proceedings under 8 U.S.C. § 1229a. *See id.* Petitioner has been detained since pursuant to 8 U.S.C. § 1225(b). Petitioner is currently detained at the Otay Mesa Detention Center.

On April 1, 2026, this Court granted Petitioner's first habeas petition and ordered Respondent's "to arrange an individualized bond hearing for Petitioner before an immigration judge within fourteen (14) days" where "Respondents shall bear the burden of establishing, by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight." *Asadimofarah v LaRose*, 26-cv-00618-RBM-BJW. In compliance with the District Court's order, on April 6, 2026, Respondent's provided Petitioner with a bond hearing where the government had the burden to show Petitioner was either a danger to the community or a flight risk. *See* Exhibit 2. The IJ denied bond holding that "the DHS has established by clear and convincing evidence that the Respondent is a flight risk, and his continued detention is justified." *See* Exhibit 2 (IJ Order). Petitioner has not appealed his bond denial to the Board of Immigration Appeals (BIA). *See* Exhibit 3 (EOIR Court's and Appeals System Printout).

¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

1 Based on the arguments set forth below, the Court should deny any requests for
2 relief and dismiss the petition.

3 III. Argument

4 A. Petitioner is Lawfully Detained Under 8 U.S.C. § 1225(b)

5 In Petitioner's previous habeas petition this Court ruled "that an unreasonably
6 prolonged detention under § 1225(b) without a bond hearing violates due process, and
7 that Petitioner's detention has become unreasonably prolonged." *Asadimofarah*, 26-cv-
8 00618 at 3. As such, the Court held "that due process requires that he be provided with
9 a bond hearing." *See id* at 6. This Court then ordered for Respondent's "to arrange an
10 individualized bond hearing for Petitioner before an immigration judge within fourteen
11 (14) days" where "Respondents shall bear the burden of establishing, by clear and
12 convincing evidence that Petitioner poses a danger to the community or a risk of flight."
13 *See id*.

14 As set forth above, pursuant to the Court's order, Respondent's provided
15 Petitioner with a bond hearing on April 6, 2026, where Respondent's had the burden to
16 show Petitioner was either a danger to the community or a flight risk. The IJ denied
17 bond, holding that "the DHS has established by clear and convincing evidence that the
18 Respondent is a flight risk, and his continued detention is justified." Thus, the evidence
19 shows that Petitioner's was provided with a bond hearing, timely, and under the
20 appropriate standard set out by this Court. Therefore, because Petitioner was provided
21 with a bond hearing in compliance with this court's order under the appropriate
22 standard, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b).

23 B. Administrative Remedies Should Be Exhausted

24 The Court should ensure Petitioner properly exhausts administrative remedies.
25 The Ninth Circuit requires that "habeas petitioners exhaust available judicial and
26 administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS*, 239
27 F.3d 1037, 1047 (9th Cir. 2001). "When a petitioner does not exhaust administrative
28 remedies, a district court ordinarily should either dismiss the petition without prejudice

1 or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion
2 is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also*
3 *Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a
4 jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no
5 jurisdiction to review legal claims not presented in the petitioner’s administrative
6 proceedings before the BIA).

7 Here, as explained above, Petitioner was provided with a bond hearing in
8 accordance with the court’s order. The IJ ultimately denied bond, holding that DHS had
9 met its burden to show Petitioner was a flight risk. Petitioner has yet to file an appeal
10 of his bond denial to the BIA. Accordingly, the Court should dismiss without prejudice
11 or stay these proceedings until a bond appeal is conducted and concluded on the merits
12 before the BIA.

13 IV. CONCLUSION

14 For the foregoing reasons, Respondents respectfully request that the Court
15 dismiss this action.

16 DATED: May 8, 2026

Respectfully submitted,

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