

1 Jose Torres, Esq. 362715
Moonveil Legal, PC
2 1901 First Ave. Ste. 220
San Diego, California 92101
3 Office: 619.573.1138
Fax: 619.694.5180
4 Email: jose@moonveilfirm.com

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6 *Counsel for*
Juan Angel Godines-Gomez

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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT

12 Juan Angel Godines-Gomez,

13 Petitioner,

14 v.

15 Divver, Field Office Director of Enforcement
16 and Removal Operations, San Diego Field
Office, Immigration and Customs Enforcement;
17 et al.

18 Respondents.

Case No. **3:26-cv-02652-LL-SBC**

**PETITIONER'S TRAVERSE TO
RESPONDENTS' RESPONSE IN
OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS**

1 Petitioner Juan Angel Godines-Gomez respectfully submits this Traverse to Respondents'
2 Response in Opposition to the Petition for Writ of Habeas Corpus. Respondents do not
3 meaningfully dispute that Petitioner remains detained, that he has no final order of removal, that
4 he has no criminal history, that he has lived in the United States for many years, or that he
5 previously obtained habeas relief from this Court. Instead, Respondents ask the Court to dismiss
6 on prudential exhaustion grounds because Petitioner did not appeal the Immigration Judge's
7 February 19, 2026, bond denial to the Board of Immigration Appeals.

8 That argument should be rejected. This is not an ordinary district-court appeal from a
9 discretionary bond ruling. Petitioner challenges his continuing physical detention after this Court
10 already ordered constitutionally adequate process, and after the bond process that followed failed
11 to meaningfully consider his actual circumstances, including his lack of criminal history, lack of
12 absconding history, long residence in the United States, pending relief, sponsor evidence, and
13 available release plan. The habeas injury is ongoing. A BIA bond appeal would not provide
14 timely or adequate relief from the continuing deprivation of liberty, and exhaustion should be
15 excused.

16 **I. THE GOVERNMENT'S EXHAUSTION ARGUMENT DOES NOT DEFEAT**
17 **HABEAS JURISDICTION**
18

19 Respondents rely on prudential exhaustion, not a jurisdictional bar. The Ninth Circuit has
20 recognized that exhaustion under 28 U.S.C. § 2241 in this context is generally prudential and
21 may be excused where administrative remedies are inadequate, futile, or incapable of preventing
22 irreparable harm. *Laing v. Ashcroft*, 370 F.3d 994, 997–1001 (9th Cir. 2004); *Leonardo v.*
23 *Crawford*, 646 F.3d 1157, 1160–61 (9th Cir. 2011).
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1 The Government's own response confirms that this Court previously granted Petitioner's
2 first habeas petition and ordered a bond hearing. It further confirms that the bond hearing
3 occurred on February 19, 2026, and that the Immigration Judge denied bond based on alleged
4 flight risk. The issue now is not simply whether the BIA could review an ordinary adverse bond
5 decision. The issue is whether Petitioner remains in custody after constitutionally inadequate
6 process and whether that ongoing custody violates due process.

7 Petitioner does not ask this Court to substitute itself for the BIA on a routine
8 discretionary custody appeal. He asks this Court to enforce the constitutional limits on civil
9 detention and to remedy a continuing deprivation of liberty after a deficient hearing. Habeas is
10 designed for that purpose.

11 **II. THIS CASE IS NOT CONTROLLED BY LEONARDO BECAUSE**
12 **PETITIONER CHALLENGES ONGOING UNLAWFUL DETENTION AFTER A**
13 **DEFICIENT POST-HABEAS BOND PROCESS**
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15 Respondents rely heavily on *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011). But
16 *Leonardo* involved a petitioner who sought district-court review of an Immigration Judge's
17 ordinary bond decision before giving the BIA an opportunity to review it. Petitioner's case is
18 different. He already obtained habeas relief. He then received a hearing that did not meaningfully
19 cure the constitutional problem.

20 The prior habeas order required more than a hearing in name. It required meaningful
21 process. A hearing that results in continued detention based on a generalized flight-risk
22 conclusion, without adequate consideration of the petitioner's actual circumstances, sponsor
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1 evidence, lack of criminal history, and alternatives to detention, does not satisfy due process
2 merely because it occurred.

3 The Government's exhaustion argument also ignores the practical posture of this case.
4 Petitioner's bond denial occurred because the Immigration Judge found him to be a flight risk,
5 but the record available to counsel now reflects substantial contrary evidence: Petitioner entered
6 the United States in or about 2003, has lived here for many years, has no criminal history, has no
7 history of absconding, has family ties, has a pending U visa, and has identified sponsors and
8 community support. The intake information also reflects that the bond hearing was denied after
9 prior counsel did not submit the available sponsor and supporting evidence. That is not a
10 meaningful custody determination.

11 **III. EXHAUSTION SHOULD BE EXCUSED BECAUSE ADMINISTRATIVE**
12 **REVIEW IS INADEQUATE AND WOULD NOT PREVENT THE ONGOING HARM**

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14 Even when exhaustion is generally favored, it is not required where it would be
15 inadequate or futile, or where the harm is ongoing and the administrative process cannot provide
16 timely relief. *Laing*, 370 F.3d at 1000–01.

17 Petitioner remains detained now. Each day in custody is an ongoing deprivation of
18 liberty. A BIA appeal filed after the February 19 bond denial would not have provided prompt
19 relief, particularly where the central claim is that the hearing itself failed to provide the
20 constitutionally adequate process already ordered by this Court. The Government's proposed
21 remedy would leave Petitioner detained while an administrative appeal unfolds, even though
22 habeas corpus exists to provide a swift remedy for unlawful restraint.

1 The purpose of exhaustion is not served here. The BIA does not need to develop a factual
2 record before this Court can address whether continued detention after a deficient post-habeas
3 bond proceeding violates due process. The relevant facts are straightforward: Petitioner remains
4 detained; the prior habeas relief did not result in release; the bond denial rested on alleged flight
5 risk; and the hearing failed to account for critical release evidence that bears directly on flight
6 risk and alternatives to detention.

7 Nor would excusing exhaustion encourage improper bypass of the agency. Petitioner
8 already pursued habeas relief once and obtained an order requiring a bond hearing. This second
9 petition exists because the process that followed did not provide meaningful relief. The Court
10 should not require Petitioner to restart a slow administrative process where the constitutional
11 violation is ongoing and where the requested relief concerns continued detention after prior
12 judicial intervention.

13 **IV. THE BOND HEARING DID NOT MEANINGFULLY ADDRESS**
14 **PETITIONER'S ACTUAL CIRCUMSTANCES**

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16 Petitioner is not a danger to the community. The original petition alleged that he has no
17 criminal history and no history of absconding. He has lived in the United States since
18 approximately 2003. His removal proceedings remain pending, and no final order of removal has
19 been issued. He has family ties and available support.

20 The intake notes further reflect that Petitioner has potential relief, including a pending U
21 visa based on a serious crime in Virginia, where he was reportedly attacked and robbed while
22 going to work early in the morning. [REDACTED]

23 [REDACTED]

1 [REDACTED] That pending relief gives him a strong incentive to appear and pursue his
2 case rather than abscond.

3 The notes also identify possible sponsors, including Miguel Reyes, a coworker who has
4 known Petitioner for many years, and Cristobal Torres, a friend. The bond denial reportedly
5 occurred because Petitioner did not have his sponsor evidence before the Immigration Judge and
6 prior counsel did not submit the supporting documentation. If the critical sponsor and release-
7 plan evidence was not presented, then the hearing did not meaningfully test whether detention
8 was necessary.

9 A constitutionally adequate custody hearing must consider whether any flight-risk
10 concern can reasonably be addressed through conditions of release. Here, the record supports
11 less restrictive alternatives: release to a sponsor, reporting requirements, telephonic check-ins,
12 GPS or electronic monitoring, work-related supervision, and a bond set in light of ability to pay.
13 The Immigration Judge's flight-risk conclusion does not answer the constitutional question
14 unless the decision also explains why those conditions would be insufficient.

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16 **V. CONTINUED DETENTION IS NOT REASONABLY NECESSARY TO SERVE**
17 **A CIVIL REGULATORY PURPOSE**

18 Immigration detention is civil and nonpunitive. *Zadvydas v. Davis*, 533 U.S. 678, 690
19 (2001); *Reno v. Flores*, 507 U.S. 292, 306 (1993). It may continue only if reasonably related to
20 legitimate regulatory goals, such as ensuring appearance or protecting the public. Continued
21 detention becomes unconstitutional when the Government cannot justify confinement as
22 necessary in light of the individual's actual circumstances.

1 Petitioner has no criminal history. He has no history of absconding. He has long
2 residence in the United States. He has family ties. He has pending relief. He has identified
3 sponsors. He has a viable release plan. These facts undermine any claim that detention remains
4 necessary.

5 The Government's response does not show that detention is necessary. It does not show
6 that Petitioner is dangerous. It does not show that alternatives to detention would fail. It does not
7 address the sponsor issue or the fact that the bond hearing was defective because the available
8 support evidence was not submitted. Instead, the Government asks the Court to dismiss on
9 exhaustion. That request elevates procedure over the fundamental liberty interest at stake.

10 **VI. IMMEDIATE RELEASE IS APPROPRIATE; AT MINIMUM, THE COURT**
11 **SHOULD ORDER A NEW BOND HEARING WITH SPECIFIC SAFEGUARDS**
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13 Habeas relief must be effective. Where a petitioner remains detained after a prior habeas
14 order and the resulting bond hearing did not meaningfully consider the evidence necessary to
15 assess flight risk, immediate release is appropriate. At minimum, the Court should order a new
16 bond hearing with specific instructions to prevent repetition of the same deficient process.

17 If the Court does not order immediate release, Petitioner respectfully requests a new
18 custody hearing within five days before a different neutral Immigration Judge. The Court should
19 require the Government to bear the burden of proving by clear and convincing evidence that
20 Petitioner is a danger or flight risk and that no condition or combination of conditions can
21 reasonably address that concern. The Court should further require the Immigration Judge to
22 consider Petitioner's ability to pay, sponsor evidence, family ties, pending relief, lack of criminal
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1 history, lack of absconding history, and alternatives to detention, and to issue a reasoned written
2 decision if release is denied.

3 **VII. CONCLUSION**

4 For the foregoing reasons, Respondents' request for dismissal should be denied.
5 Petitioner respectfully requests that the Court grant the Petition, declare that his continued
6 detention violates due process, and order his immediate release under reasonable conditions of
7 supervision. In the alternative, Petitioner requests that the Court order a new constitutionally
8 adequate bond hearing within five days before a different neutral Immigration Judge, with the
9 Government bearing the burden by clear and convincing evidence and with express consideration
10 of sponsor evidence, ability to pay, alternatives to detention, and the full record bearing on flight
11 risk.
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13 DATED this May 22, 2026.

14 /s/ Jose Torres

15 Jose Torres

16 *Counsel for Petitioner*
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