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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DIONY BASTIDAS SILVA,

Petitioner,

v.

CHRISTOPHER J. LAROSE, et al.,

Respondents.

Case No.: 3:26-cv-2555-TWR-DDL

RESPONSE TO PETITION

This is the second habeas petition that Petitioner has filed to challenge his immigration detention which began on May 23, 2025. His first habeas petition¹ was granted in part on March 12, 2026, and the Court ordered “Respondent to provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a) within fourteen days.”² Petitioner was provided a bond hearing on March 26, 2026 and “[a]fter full consideration of the evidence presented,” the immigration judge found that “[DHS] met its burden of proof to establish that [Mr. Silva] is such a flight risk that no bond is warranted.” Order of the Immigration Judge, attached as *Exhibit 1*. The basis for the immigration judge’s decision is set forth in the Order. Petitioner reserved appeal of the March 26, 2026 Order, but he did not file a timely appeal.

¹ Petition filed February 26, 2026 (ECF No. 1), Case No. 3:26-cv-01249-TWR-DDL

² Order filed March 12, 2026 (ECF No. 5), Case No. 3:26-cv-01249-TWR-DDL

1 It is well established that habeas petitioners must exhaust all available
 2 administrative remedies before seeking habeas relief in federal court. *Rojas-Garcia v.*
 3 *Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003) (“The exhaustion requirement avoids
 4 premature interference with the agency’s processes and helps to compile a full judicial
 5 record”). “When a petitioner does not exhaust administrative remedies, a district court
 6 ordinarily should either dismiss the petition without prejudice or stay the proceedings
 7 until the petitioner has exhausted remedies[.]” *Leonardo v. Crawford*, 646 F.3d 1157,
 8 1160 (9th Cir. 2011).

9 Petitioner does not allege that his bond hearing on March 26, 2026 was
 10 constitutionally deficient. Nor does he allege any specific issue with that hearing. In
 11 fact, the present petition does not even mention the prior petition,³ Order,⁴ or the
 12 resulting bond hearing.⁵ Instead, Petitioner’s only apparent issue with that hearing is
 13 that the immigration judge did not rule in his favor. But mere disagreement with the
 14 outcome of the bond hearing does not give rise to a cognizable habeas claim. Rather, to
 15 the extent Petitioner challenges the immigration judge’s Order, the proper remedy lies
 16 in the administrative appeal process before the Board of Immigration Appeals (BIA).
 17 Petitioner failed to exhaust administrative remedies by failing to file an appeal with the
 18 BIA and his Petition should be dismissed accordingly.

19 DATED: April 30, 2026

Respectfully submitted,

20 ADAM GORDON
 21 United States Attorney

22 s/ Allie E. Malone
 23 ALLIE E. MALONE
 24 Assistant United States Attorney
 25 Attorneys for Respondents

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 27 ³ Petition filed February 26, 2026 (ECF No. 1), Case No. 3:26-cv-01249-TWR-DDL

28 ⁴ Order filed March 12, 2026 (ECF No. 5), Case No. 3:26-cv-01249-TWR-DDL

⁵ See *Exhibit 1*