

1 ADAM GORDON
United States Attorney
2 CAMILLE SAVEDRA
California Bar No. 336490
3 Assistant U.S. Attorney
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-5084
Email: camille.savedra@usdoj.gov
6

7 Attorneys for Respondents

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 ALI RAZA,

12
13 Petitioner,

14 v.

15 CHRISTOPHER LAROSE; *et al.*,

16
17 Respondents.
18
19

Case No.: 26-cv-02755-TWR-MMP

**RESPONSE IN OPPOSITION TO
PETITION FOR A WRIT OF
HABEAS CORPUS**

20 **I. INTRODUCTION**

21 This is Petitioner's third habeas petition under 28 U.S.C. § 2241. Petitioner's
22 prior two petitions were filed through counsel. Petitioner is currently in removal
23 proceedings under 8 U.S.C. § 1229a.

24 **II. FACTUAL AND PROCEDURAL BACKGROUND**

25 This Court granted the Petitioner's first petition on March 4, 2026, and ordered
26 Respondents to provide a bond hearing to Petitioner by March 19, 2026. *See Raza v.*
27 *LaRose; et al.*, 3:26-CV-00864-TWR-MMP, ECF No. 11. Petitioner received a bond
28 hearing before an immigration judge on March 10, 2026. *See* ECF No. 1 at 6. The

1 immigration judge denied bond on the basis that the Petitioner is a flight risk. *Id.* The
2 Petitioner failed to appeal the denial of bond to the Board of Immigration Appeals (BIA).
3 *Id.* He had until April 9, 2026, to perfect an appeal. Instead, Petitioner filed his second
4 habeas petition on April 7, 2026. *See Raza v. LaRose; et al.*, 3:26-CV-02171-TWR-
5 MMP, ECF No. 1. On April 9, 2026, this Court dismissed Petitioner’s second petition
6 for failure to exhaust his administrative remedies by appealing the denial of bond to the
7 BIA. *See id.*, ECF No. 3. Petitioner’s appeal period has since expired. Petitioner now
8 files the instant petition requesting his immediate release.

9 III. ARGUMENT

10 In the instant petition, Petitioner challenges the length of his detention, and
11 assessment by the immigration judge despite Petitioner submitting letters of support
12 from his family and friends. *See* ECF 1 at 6. These arguments are well within the
13 experience and expertise of the Board of Immigration Appeals and not properly
14 presented in the first instance to the Federal District Court. The Court should ensure
15 Petitioner properly exhausts administrative remedies. The Ninth Circuit requires that
16 “habeas petitioners exhaust available judicial and administrative remedies before
17 seeking relief under § 2241.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir.
18 2001). “When a petitioner does not exhaust administrative remedies, a district court
19 ordinarily should either dismiss the petition without prejudice or stay the proceedings
20 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
21 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
22 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
23 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
24 not presented in the petitioner’s administrative proceedings before the BIA). Here,
25 Petitioner has not appealed the result of his bond hearing held pursuant to 8 U.S.C.
26 § 1226(a). Accordingly, the Court should dismiss without prejudice.

27 The BIA is an appellate body within the Executive Office for Immigration
28 Review (EOIR) and possesses delegated authority from the Attorney General. 8 C.F.R.

1 §§ 1003.1(a)(1), (d)(1). The BIA is “charged with the review of those administrative
2 adjudications under the [INA] that the Attorney General may by regulation assign to
3 it,” including IJ custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The
4 BIA not only resolves particular disputes before it, but is also directed to, “through
5 precedent decisions, [] provide clear and uniform guidance to DHS, the immigration
6 judges, and the general public on the proper interpretation and administration of the
7 [INA] and its implementing regulations.” *Id.* § 1003.1(d)(1). Decisions rendered by the
8 BIA are final, except for those reviewed by the Attorney General. 8 C.F.R. §
9 1003.1(d)(7).

10 “District Courts are authorized by 28 U.S.C § 2241 to consider petitions for
11 habeas corpus.” *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). “That
12 section does not specifically require petitioners to exhaust direct appeals before filing
13 petitions for habeas corpus.” *Id.* That said, the Ninth Circuit “require[s], as a prudential
14 matter, that habeas petitioners exhaust available judicial and administrative remedies
15 before seeking relief under § 2241.” *Id.* Specifically, “courts may require prudential
16 exhaustion if (1) agency expertise makes agency consideration necessary to generate a
17 proper record and reach a proper decision; (2) relaxation of the requirement would
18 encourage the deliberate bypass of the administrative scheme; and (3) administrative
19 review is likely to allow the agency to correct its own mistakes and to preclude the need
20 for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (internal
21 quotation marks omitted).

22 “When a petitioner does not exhaust administrative remedies, a district court
23 ordinarily should either dismiss the petition without prejudice or stay the proceedings
24 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
25 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
26 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
27 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
28 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,

1 a “petitioner cannot obtain review of procedural errors in the administrative process that
2 were not raised before the agency merely by alleging that every such error violates due
3 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,
4 720 F.3d 1134, 1135-36 (9th Cir. 2013) (declining to address a due process argument
5 that was not raised below because it could have been addressed by the agency).

6 Here, exhaustion is warranted because agency expertise is required. “[T]he BIA
7 is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, No. C18-
8 1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *Delgado v. Sessions*,
9 No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting
10 a denial of bond to an immigration detainee was “a question well suited for agency
11 expertise”).

12 Waiving exhaustion would also encourage other detainees to bypass the BIA and
13 directly appeal from the immigration judge to federal district court. *See Aden*, 2019 WL
14 5802013, at *2. Individuals, like Petitioner, would have little incentive to seek relief
15 before the BIA if this Court permits review here. And allowing a skip-the-BIA-and-go-
16 straight-to-federal-court strategy would needlessly increase the burden on district
17 courts. *See Bd. of Tr. of Constr. Laborers’ Pension Trust for S. Calif. v. M.M. Sundt*
18 *Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is an important
19 purpose of exhaustion requirements.”); *see also Santos-Zacaria v. Garland*, 598 U.S.
20 411, 418 (2023) (noting “exhaustion promotes efficiency”). If the immigration judge
21 erred, this Court should allow the administrative process to correct itself. *See id.*

22 Moreover, detention alone is not an irreparable injury. Discretion to waive
23 exhaustion “is not unfettered.” *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004).
24 Petitioners bear the burden to show that an exception to the exhaustion requirement
25 applies. *Leonardo*, 646 F.3d at 1161; *Aden*, 2019 WL 5802013, at *3. “[C]ivil detention
26 after the denial of a bond hearing [does not] constitute[] irreparable harm such that
27 prudential exhaustion should be waived.” *Reyes v. Wolf*, No. C20-0377JLR, 2021 WL
28

1 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, No.
2 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021).

3 Because Respondents have complied with this Court's previous order to provide
4 Respondent with a bond hearing, and Petitioner has not exhausted his administrative
5 remedies, this matter should be dismissed.

6 **IV. CONCLUSION**

7 For the reasons stated herein, Respondents respectfully request that the Court
8 deny the Petitioner's requests for relief on the merits.

9

10 Dated: May 14, 2026

Respectfully submitted,

11

ADAM GORDON
United States Attorney

12

13

s/ Camille Savedra
CAMILLE SAVEDRA
Assistant United States Attorney
Attorneys for Respondents

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28