

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
(YOUNGSTOWN DIVISION)**

Jordany Efrain RAMOS RAMIREZ,

Petitioner,

V.

ROBERT LYNCH, *in his official capacity*
as Field Office Director of the ICE Detroit
Field Office of Enforcement and Removal
Operations, U.S. Immigrations and
Customs Enforcement; U.S. Department of
Homeland Security;

TODD M. LYONS, *in his official capacity*
as Acting Director, Immigration and
Customs Enforcement, U.S. Department of
Homeland Security;

MARKWAYNE MULLIN, *in his official capacity* as Secretary, U.S. Department of Homeland Security; and

TODD BLANCHE, *in his official capacity*
as Acting Attorney General of the United
States, U.S. Department of Justice;

Respondents.

[illegible]

Case No. 4:26-cv-1054

PETITION FOR WRIT OF HABEAS
CORPUS, COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

A # 

INTRODUCTION

1. Petitioner-Plaintiff (“Petitioner”) is a 21-year-old citizen of Honduras who has resided in the United States since he was eleven when he entered on a B-2 visa on February 10, 2015.
2. He challenges his ongoing detention by U.S. Immigration and Customs Enforcement (ICE).
3. His detention is predicated solely on a “knock and talk” conducted by Homeland Security Investigations (HSI) following an FBI lead that Petitioner had *attempted* to inquire about purchasing a firearm at a gun show.
4. The Immigration Judge (IJ) denied bond, finding Petitioner a “[d]anger to the community” based on this inquiry. Petitioner asserts that his detention violates the Fifth Amendment’s Due Process Clause and that the underlying basis—his status-based disqualification from firearm inquiry—is unconstitutional under the Second Amendment.

CUSTODY

5. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Northeast Ohio Correctional Center in Youngstown, OH. He is therefore in “‘custody’ of [the Department of Homeland Security (DHS)] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

6. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
10. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

11. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained at the Northeast Ohio Correctional Center in Youngstown, Ohio.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. “Where Congress specifically mandates, exhaustion is required.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1991). But when it is not mandated, the decision to require exhaustion is within the sound discretion of the court. *Id.*; see also *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). Exhaustion requirements not written into the text of the statute are prudential. See *Perkovic v. I.N.S.*, 33 F.3d 615, 619 (6th Cir. 1994). “Prudential exhaustion is a judge-made doctrine that enables courts to require administrative exhaustion even when the statute or regulations do not.” *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019).
13. The Sixth Circuit has not formally adopted a standard for determining when prudential exhaustion applies, so the Northern District of Ohio has looked at the Ninth Circuit in similar circumstances. See *Torrealba v. United States Dep’t of Homeland Sec.*, No. 1:25CV01621, 2025 U.S. Dist. LEXIS 164153, at *23 (N.D. Ohio Aug. 25, 2025).
14. Under the Ninth Circuit’s test, courts may require prudential exhaustion when: (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. *Id.* (citing *Puga v. Chertoff*, 488 F.3d 812 (9th Cir. 2007) (hereinafter “the *Puga* factors”).
15. Here, all three *Puga* factors weigh against requiring exhaustion. First, the issues raised in the habeas petition are purely legal in nature and do not require the agency to develop the record. Second, because the habeas petition includes a due process claim, the administrative scheme (*i.e.* appeal to the BIA) is likely futile.

16. Further, while the Court would ordinarily enforce the exhaustion doctrine when it serves the dual purpose of promoting judicial economy and protecting administrative agency authority, waiver is appropriate when the interests of the individual weigh heavily against requiring administrative exhaustion, or exhaustion would be futile and unable to afford the petitioner the relief he seeks. *See McCarthy*, 503 U.S. at 145; *see also Fazzani v. NE Ohio Corr. Ctr.*, 473 F.3d 229 (6th Cir. 2006) (citing *Aron v. LaManna*, 4 F. App'x 232, 233 (6th Cir. 2001) and *Goar v. Civiletti*, 688 F.2d 27, 28–29 (6th Cir. 1982)); *Shawnee Coal Co. v. Andrus*, 661 F.2d 1083, 1093 (6th Cir. 1981). Exhaustion is also excused when delay means hardship. *See Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000).
17. Bond appeals before the BIA, on average, take six months to complete. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025). Requiring Petitioner to wait six months for exhaustion would not effectively afford Petitioner the relief she seeks. Depriving Petitioner of her liberty while awaiting a BIA appeal certainly equates to hardship. And any delay results in the very harm Petitioner is trying to avoid by seeking the bond hearing—prolonged detention without an opportunity to be heard on the validity of the same.
18. Courts may waive exhaustion requirements when an administrative remedy is subject to “an unreasonable or indefinite timeline.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Bond denial appeals “typically take six months or more to be resolved at the BIA.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wa. 2025). Six months of further, and potentially unnecessary, incarceration is significantly longer than the thirty days the Sixth Circuit rejected as “unreasonable” or “indefinite” in *United States v. Alam*, 960 F.3d 831, 836 (6th Cir. 2020). Plus, the “delays inherent” in the BIA’s administrative process

“would result in the very harm that the bond hearing was designed to prevent,” that is, prolonged detention without due process. *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (citation omitted); *see also Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) (finding the “prolonged loss of liberty” from “several additional months” in possibly unlawful detention would “constitute irreparable harm”). The prevention of six months or more of unlawful detention thus outweighs the interests the BIA might have in resolving appeal of bond determination.

19. Aside from waiver, the Sixth Circuit has also previously held that a due process challenge generally does not require exhaustion since the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) (“exhaustion of administrative remedies may not be required in cases of non-frivolous constitutional challenges to an agency’s procedures.”) (citation omitted). Since Petitioner’s petition includes a due process claim, an appeal to the BIA would be pointless. The fact that Petitioner has reserved the right to appeal the denial of a detention hearing to the BIA should not dissuade the Court from exercising its discretion to decide this habeas petition.
20. When the liberty of a person is at stake, every day that passes is a critical one, and the Court should fault Petitioner for taking appropriate measures to pursue his claims through the habeas process, with the expectation that his claims would be met with a sense of urgency, and he would receive a decision in a more expedient manner.
21. Because exhaustion would be futile and unable to provide Petitioner with the relief she requests in a timely manner, the Court should waive administrative exhaustion and address the merits of the habeas petition.

PARTIES

22. Petitioner is a citizen and national of Honduras and has resided in the U.S. since 2015. He is currently detained at the Northeast Ohio Correctional Center, located at 2240 Hubbard Road in Youngstown, Ohio.
23. Respondent Robert Lynch is sued in his official capacity as the Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. Respondent Lynch is a legal custodian of Petitioner and has authority to release Petitioner.
24. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
25. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.
26. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

LEGAL BACKGROUND AND ARGUMENT

27. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

28. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).
29. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be “seeking admission” under § 1225(b)(2).
30. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
31. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
32. For those entitled to a bond hearing before the Immigration Court, like Petitioner, the Immigration Court performs a two-step analysis to determine whether the detained noncitizen met his burden of entitlement to a bond. First, the Immigration Court needs to resolve whether or not Petitioner’s release would pose a danger to persons or property in the community. *See Matter of Adenjii*, 22 I&N Dec. 1102 (BIA 1999). The second consideration is whether a Petitioner poses a flight risk or is likely to appear for future proceedings. *See Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009).
33. In this instant case, the Immigration Judge (“IJ”) denied the bond finding Petitioner did not

meet his burden to prove that he is not a “danger to the community” because Petitioner completed and submitted an application with the licensed firearm dealer. *See* Exhibit E.

34. Pursuant to 18 U.S.C. §922(g)(5), it is unlawful for an alien who is unlawfully present in the United States to possess or receive firearms. Although the law was not clearly cited in the IJ’s order, I-213 or other charging documentation, the order implies that the IJ assumed Petitioner’s submitting a gun application evidenced his posing a danger to the community.
35. However, there was no charging document claiming that Petitioner violated 18 U.S.C. §922(g)(5) and no U.S. Attorney’s prosecution charging Petitioner violated 18 U.S.C. §922(g)(5).
36. In *United States v. Resendiz-Ponce*, 549 U.S. 102 (2007), the U.S. Supreme Court ruled that the federal “attempt” implies both intent to commit the crime and an over act taking a substantial step towards completion of the crime. 549 U.S. at 105. Mere preparation is not a substantial step toward committing the crime. *United States v. Flechs*, 98 F.4th 1235, 1244 (10th Cir. 2024); *United States v. Rider*, 94 F.4th 445, 452 (5th Cir. 2024); *United States v. Wilder*, 87 F.4th 816, 820 (6th Cir. 2023); *United States v. Robinson*, 87 F.4th 658, 669 (5th Cir. 2023); *United States v. Dennis*, 81 F.4th 764, 768 (8th Cir. 2023). Thus, Petitioner did not even attempt to commit these crimes.
37. All he did was engage in constitutionally protected conduct.
38. Here, Petitioner truthfully filled out a paper application to purchase handguns. It is mere preparation because a truthful application is a legally required screening process for lawful firearm purchase to prevent unlawful possession and does not move the person closer to possession unless approved. His application was denied, and he took no other steps towards purchasing a firearm. Petitioner did exactly what the Gun Control Act expected him to do:

he submitted a truthful application and was denied. Petitioner did not misrepresent his immigration status in the application, nor did he try to acquire firearms through an unlawful channel. The 1-213 narrative clearly states that Petitioner made no claims to U.S. citizenship or lawful permanent resident status.

39. At the Bond Hearing, the IJ essentially treated Petitioner's denied application as a criminal attempt, which improperly collapsed the distinction between lawful regulatory compliance and criminal conduct, rendering the statutory scheme as applied inconsistent with the safeguards under the Second Amendment.
40. On the other hand, the IJ failed to properly consider all the positive factors presented in the Brief and exhibits in support of the Bond Request. *See* Exhibit D. The IJ failed to consider that (1) Petitioner entered the United States when he was 10 years old and had resided in the U.S. for 12 years. He received and completed his elementary to high school education in the United States and maintained a consistent employment and tax history; (2) Petitioner did not have any violent criminal history; (3) Petitioner maintained strong community ties with his friends and family in the United States. The IJ concluded in the Order that Petitioner posed a danger to the community, without articulating any nexus between Petitioner's denied gun application through legal channels and actual danger to the community. This decision is arbitrary and violated Petitioner's due process rights.

STATEMENT OF FACTS

41. Petitioner is a citizen of Honduras.
42. Upon information and belief, Petitioner has resided in the U.S. since 2015 when he was 11 years old.

43. Upon information and belief, Petitioner has never been charged with any violent crime.
44. Prior to detention, Petitioner lived with his parents and sister (who continue to live there) near Parma Heights, Ohio.
45. Petitioner timely filed a Form I-589 asylum application to the United States Citizenship and Immigration Services (USCIS) on August 10, 2015. That application was referred to the Immigration Court and remains pending.
46. Petitioner is also the beneficiary of a pending I-918A application for a qualifying relative of a U-visa recipient, filed January 28, 2022. The USCIS issued a Bona Fide Determination Notice to Petitioner, dated August 15, 2024. *See Exhibit A*
47. Petitioner attended a gun show in Berea, Ohio with his friends in late March 2026 and out of curiosity filled out an application form. His application was denied.
48. On information and belief, U.S. Immigration and Customs Enforcement (ICE) agents apprehended Petitioner near Parma OH, on April 16, 2026. *See Exhibit B, I-213 Record of Deportable/Inadmissible Noncitizen.*
49. ICE then transferred Petitioner to Northeast Ohio Correction Center in Youngstown, Ohio.
50. On April 20, 2026, counsel submitted a Bond Request to the Cleveland Immigration Court. Petitioner's bond hearing was subsequently scheduled for April 30, 2026. *See Exhibit C and D.*
51. On April 30, 2026, the Immigration Judge Richard Drucker denied Petitioner's request for bond redetermination, finding him not to have met his burden to prove that he is not a danger to the community. *See Exhibit E.*
52. Petitioner is currently detained at the ERO Northeast Ohio Correctional Center, 2240 Hubbard Road, Youngstown, OH 44505.

53. Petitioner does not have any records of charges or convictions of violent crimes. He's a 2022 graduate of [REDACTED] in Cleveland Ohio. He also maintains strong family and community ties with a consistent employment history and tax records. *See* Exhibit D.

54. Holding Petitioner for this extended period of time because of protected Second Amendment activity that has not resulted in any criminal charges is a violation of due process. Petitioner seeks immediate release from custody via this habeas petition to this Honorable Court.

55. Without relief from this Court, Petitioner faces continued detention away from his family.

COUNT I
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

56. Petitioner restates and realleges all paragraphs as if fully set forth here.

57. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

58. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

59. Petitioner has been wrongly denied bond based on a decision that forced an unfair burden of proof upon him, asking him to disprove dangerousness based on his submitted and denied gun application through legal channels. The search warrant (I-213) and detention was not based on any factual violent act of Petitioner. I-213 clearly stated that (1) Petitioner was compliant during the apprehension process, (2) he made no false claims to U.S. citizenship or Lawful Permanent Resident status, and (3) Petitioner does not claim any affiliation to any gang or criminal organization.

60. Petitioner's continuing detention is therefore unlawful.

COUNT II
Violation of the Second Amendment (Post-Bruen Challenge)

61. Petitioner restates and realleges all paragraphs as if fully set forth here.
62. The government's use of 18 U.S.C. § 922(g)(5) to categorize Petitioner as dangerous *per se* violates the Second Amendment.
63. Under the national tradition test established in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022),

when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." *Konigsberg v. State Bar of Cal.*, 366 U. S. 36, 50, n. 10, 81 S. Ct. 997, 6 L. Ed. 2d 105 (1961).

Bruen, 597 U.S. at 17 (footnote omitted).

64. There is no historical tradition of categorically banning non-violent individuals from inquiring about or possessing firearms based solely on their immigration status. *See United States v. Carbajal-Flores*, 143 F.4th 877, 888 (7th Cir. 2025). That case provided, in relevant part,

Compare also "how" governments have traditionally regulated firearms to how Congress has chosen to do so today. From the common law onward, aliens have historically been disarmed unless and until they swore an oath of allegiance to the sovereign. The way § 922(g)(5)(A) operates maps onto that tradition. The law precludes only illegal aliens—those who have necessarily forgone the naturalization process—from possessing firearms.

Id. As such, the common law has restricted possessing firearms, not submitting a form to verify if someone is authorized to possess a firearm.

65. Effectively expanding the statute to hold Petitioner in detention for such lawful inquiry is

a violation of the Second Amendment.

COUNT III

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

66. Petitioner restates and realleges all paragraphs as if fully set forth here.
67. The Immigration Judge's decision to find Petitioner pose a danger to community based on his denied gun application was reliant upon an uncharged and legally unsupported theory to mandates his continued detention. This policy is arbitrary, capricious, and not in accordance with law, in violation of the APA, 5 U.S.C. § 706(2)(A).

COUNT IV

**Violation of the Fifth Amendment
Due Process**

68. Petitioner restates and realleges all paragraphs as if fully set forth here.
69. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.
70. Respondents' detention of Petitioner and denial of his bond was presumably based on a legally unsupported theory that Petitioner's denied gun application equated to proof of dangerousness of the Petitioner, neglecting all positive factors in the record.
71. Petitioner and his family are suffering immensely because of this unlawful and continued detention without a meaningful custody redetermination and not reasonably based on the facts.

72. The IJ's finding of danger to the community lacks a facially legitimate and *bona fide* reason. Reliance on a failed background check inquiry—without any evidence of violent intent or criminal history—fails to meet the clear and convincing standard required to deprive an individual of their physical liberty. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
73. Petitioner seeks release from detention violating his right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner be immediately released from detention;
- (3) In the alternative, order the Immigration Court hold a new bond hearing order a new bond hearing where the burden is on the government to prove danger by clear and convincing evidence;
- (4) Declare 18 U.S.C. § 922(g)(5) unconstitutional as applied to Petitioner;
- (5) Grant him any further relief this Court deems just and proper.

Date: May 6, 2026

Respectfully Submitted,

/s/ Margaret W. Wong
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Attorney for the Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent the Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 6th Day of May, 2026.

/s/ Margaret W. Wong

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