Case: 26-cv-02797-CAB-VET

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Petitioner
L.A.R.V.

v.

Respondents
Christopher J. LaRose, Warden of Otay Mesa Detention Center, Todd Lyons, Director of ICE.

Case: 26-cv-02797-CAB-VET

RE: ADDITIONAL GROUNDS FOR HABEAS PETITION

The undersigned, L.A.R.V., hereinafter the Petitioner, respectfully address to Your Honor regarding the writ of habeas petition filed on May 1, 2026.

If Your Honor finds any error or omissions, please do not hesitate to apply the criteria: "This court recognizes that it has a duty to ensure that pro se litigants do not lose their right to hearing on the merits of their claim due to ignorance of technical procedural requirements." *See Balistreri v. Pacifica Police Dept.* 901 F.2d 696.699 (9th Cir. 1988).

1. Different Courts have ruled "Except during formal suspension, federal courts "have a timetested device, the writ, to maintain the 'delicate balance of governance' that is itself the surest safeguard of liberty."" *See Vang v. Bondi*, 2026 U.S. Dist. LEXIS 32559; *Djiwaje v. Bondi*, 2026 U.S. Dist. LEXIS 76410; *Doroteo Chavez v. Noem*, 2026 U.S. Dist. LEXIS 83463; *Alvarez v. Lyons*, 2026 U.S. Dist. LEXIS 257231; *Solis v. Noem*, 2026 U.S. Dist. LEXIS 28930; *Ballera v. Bondi*, 2026 U.S. Dist. LEXIS 73545.

2. It is important to note that Petitioner arrived the United States with valid visas, a B1/B2 and

a TN visa. Therefore, he should not have been considered as an illegal immigrant.

3. On May 1, 2026, Petitioner was notified of the outcome issued on April 27, 2026, of the appeal filed on August 7, 2025. The outcome was not favorable. Petitioner filed petition for review with the Ninth Circuit Court of Appeals last May 8, 2026, case: *Ramos Villanueva v. Blanche* 26-2966. *See Exhibit 1*. Notably the removal order is not yet final. Upon obtaining a stay of removal, the order cannot be executed against Petitioner. Petitioner's removal order is, thus, nowhere near being a final order.

4. The time it took the BIA to issue the result was 263 days -8 months, 2 weeks, and 6 days-. As the Honorable district judge acknowledged in her ruling of January 26, 2026, she herself recognized that there was already a backlog of cases at the BIA at that time. It is logical to know that the number of cases today is considerably higher, given the greater number of denials of bond and all types of remedies across the country, and given that -as already demonstrated in this petition, *See Petition's Exhibit 12*- the number of members of the BIA is now only 15, consequently the response time is much longer than before. Therefore, the resolution of the bond appeal filed on February 24, 2026, could take much longer than the 263 days that elapsed during the asylum appeal. In other words, the prolonged delay in resolving the bond appeal, coupled with the more than 16 months the Petitioner has already been detained, constitutes even greater irreparable harm that violates his constitutional rights.

5. A family history of diabetes puts Petitioner at risk of developing this degenerative and incurable decease. This risk is increased by the food provided every day at the Otay Mesa Detention Center, which is very low quality and, as already demonstrated, *See Petition's Exhibit 19*, is excessive in frequency and quantity, of carbohydrates, flours, starches, fats, and glucose, all of which as scientifically proven, are precursors to this decease. Once again the irreparable injury to Petitioner continues to increase in violation of his constitutional

rights. Deprivation of liberty, subpar medical and psychiatric care, and deficient meals constitute also individualized irreparable injury.

6. Petitioner is in danger of having prostate cancer because he presented abnormal level in the laboratory tests and has no adequate medical treatment. Furthermore, those laboratory tests show abnormal level of Calcium Oxalate Crystals, which is an indicator of possible kidney stones, and he is not receiving adequate preventive treatment. Again, Petitioner is suffering irreparable injury. *See Exhibit 2.*

7. It was previously stated in this petition that the court therefore should find the prudential exhaustion requirements waived for futility. Because Petitioner need to show only one of the *Laing* factors applies, the court need nor address the other factors. *See Chavez v. Noem,* 801 F. Supp. 3d 1133. Petitioner has at least the first three of the four factors, which clearly demonstrates that he should be exempt from exhaustion. "Specifically, exhaustion of administrative remedies may not be required when (1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Laing v. Ashcroft,* 370 F.3d 994, 1000 (9th Cir. 2004) (quotation marks and citations omitted).

8. To remedy the erroneous actions of the IJ an the DHS, the Court should therefore order the immediate release of the Petitioner. The Ninth Circuit Court in *Medina v. Hernandez,* U.S. Dist. LEXIS 101687, -in Plaintiff's second habeas petition-, the Court finds "The Court next considers the appropriate remedy. In this area, habeas courts have "a fair amount of flexibility." *Burnett v. Lampert,* 432 F.3d 996, 999 (9th Cir. 2005). As noted, "the traditional function of the writ is to secure release from illegal custody."". "The court concludes that no further immigration bond proceedings are necessary or appropriate. Petitioner's continued detention is not supported by a lawful bond determination, and additional delay

for further proceedings would no cure that deficiency. *See Harvest*, 531 F.3d at 742 ("The consequences when the State fails to replace an invalid judgment with a valid one is always release."); *see., e.g. Escalante Perez v. Hernandez*, No. C26-0956 TSZ 2026 WL 1004559, at *2 (W.D. Wash, Apr. 14, 2026) (ordering immediate release where IJ abused discretion at court-ordered bond hearing." Denial of habeas-mandated bond hearings across the country are a worrisome pattern. Petitioner has demonstrated in this petition the abuse of discretion by the IJ, by not properly fulfilling her duty to conduct an individualized analysis of the information. Similarly, IJ allowed the DHS to met its burden and improperly shifted to the Petitioner. not to

9. Given the significant liberty interest at stake for noncitizens in immigration detention and the weak or non-existent governmental interest in continued detention without adequate process, courts in this and another districts have found due process violations where IJs abuse discretion in bond determinations. *See W.T.M.*, 2026 WL 262583, at *4; *Soto Gimenez v. Hernandez*, No. 2:26-CV-00966-GJL, 2026 U.S. Dist. LEXIS 94446, 2026 WL 1156075, at *6 (W.D. Wash, Apr. 29,2026) (collecting cases). *See* No. 2:26-cv-00772-GJL.

10. The Ninth Circuit, specifically the Southern District of California, on May 8, 2026, granted a second bond hearing in a particularly similar case to Petitioner's. Coincidentally, that other person was also denied bond by the same IJ, at the same hearing, and on the same dispute of being a flight risk. It is evident that the exhaustion of administrative remedies should be exempt, since they are futile, violate the Petitioner's rights and allow irreparable injury to continue, as will be demonstrated below. This case is highly relevant due to its similarities and parallels with the Petitioner's case. It essentially presents the same flaws in judgment that the IJ relied upon to deny bond. Furthermore, given the detailed and correct reasoning in this case, it demonstrates that it is entirely possible to remedy the deficiencies in judgment and the lack of adherence to due process on the part of both DHS and the IJ. *See*

Bayani v. LaRose, 2026 U.S. Dist. LEXIS 102798.

Exhaustion

11. Regarding the exhaustion of administrative remedies, in *Bayani*, the Court finds that, "Exhaustion may be excused for a number of reasons, including "where administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (internal quotation and citation ommitted)." "Although one court in this District recently dismissed a motion to enforce for failure to exhaust by minute order, citing *Leonardo, (See Rana v. LaRose*, No 26-cv-00285-RSHDDL, ECF No. 11 (S.D. Cal. Mar. 13, 2026)), other courts have excused administrative exhaustion for the limited purpose of ensuring compliance with a previous order where petitioner shows that an excuse applies or the applicability of an exception is apparent on the face of the motion. *See, e.g. Izaguirre v. Freden*, No. 6:25-CV-6672-EAW, 2025 WL 3551788, at *1 (W.D.N.Y. Dec. 11, 2025) (holding that exhaustion was not required because, "[a]mong other reasons, exhaustion would be futile under these circumstances."); *Loba L.M.*, 2026 WL 710307, at *5 (excusing exhaustion despite the petitioner not making "an explicit showing" of an excuse in the motion to enforce, because the court had previously found ongoing irreparable harm in its previous order); *Moran v. Oddo*, No. 3:24-CV-221, 2025 WL 2653707, at *3-4 (W.D. Pa. Sept. 16, 2025) (noting the difficulty in applying the exhaustion requirement to motions to enforce and excusing prudential exhaustion); *see also Mau v. Chertoff*, 562 F. Supp. 2d 1107 (S.D. Cal. 2008) (holding that exhaustion was not required for the limited scope of review of a motion to enforce); *Judulang v. Chertoff*, 562 F. Supp. 2d 1119 (S.D. Cal. 2008) (same); *Sales v. Johnson*, 2017 WL 6855827 (N.D. Cal. Sept. 20, 2017) (same)."

12. While DHS considers that a civil detention is not an irreparable injury, the Court in *Bayani*, disagrees and fix that wrongly perception and rules: "Finally, the Court finds respondent's

argument that civil detention is not an irreparable injury unpersuasive where the Court's prior order found that Respondents had violated Petitioner's due process rights by holding him in conditions "not meaningfully distinguishable from penal confinement" without any individualized custody determination for over a year. *Bayani v. LaRose,* No. 26-cv-0266-JES-VET, 2026 WL 194748, at *3 (S.D. Cal. Jan 26, 2026); *See also Kydyali v. Wolf,* 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (explaining that Otay Mesa Detention Center is "a private for-profit detention center operated by CoreCivic, Inc., which also runs many state penitentiaries" where detention is indistinguishable from penal confinement)." In fact inside Otay Mesa Detention Center, a considerable number of detainees are U.S. Marshall's individuals convicted to many years in detention.

13. Due the IJ failed to comply to ensure the due process during the bond hearing in *Bayani,* as well as in Petitioner's case, the Court states: "After careful consideration of the factors raised by Petitioner and the arguments of the parties, the Court agrees and joins its sister courts in excusing prudential exhaustion in this case for purposes of reviewing compliance with the Court's prior order for a bond hearing. *See Izaguirre,* 2025 WL 3551788, at *5; *Loba L.M.,* 2026WL 710307, at *5; *Morgan v. Oddo,* 2025 WL 2653707, at *3-4."

Due Process

14. As in Petitioner's case, during the Mr. Bayani's bond hearing the IJ erred in placing the burden of proof on the DHS, therefore the District Court determined "Petitioner argues that the immigration judge failed to place the burden of clear and convincing evidence on the government at the bond hearing, in violation of his due process rights. The government does not directly refute this argument, but states that the bond hearing was compliant with the court's order. The Court thus analyzes the motion on its face and agrees Petitioner." (quotations omitted). "In bond hearings for aliens detained under 8 U.S.C. § 1225, as a

matter of due process, IJ must place the burden on the government to prove by clear and convincing that the alien is either a flight risk or a danger to community. *See Sandesh v. LaRose,* No. 26-CV-0846-JES-DDL, 2026 WL 622690, at *4-5 (S.D. Cal. Mar. 5, 2026) (explaining that the due process standards set forth in *Singh v. Holder,* 638 F.3d 1196 (9th Cir. 2011), were still good law as to bond hearings for those detained under § 1225); *Banda v. McAleenan,* 385 F. Supp. 3d 1099, 1121 (W.D. Wash. 2019) (same): *Gao v. LaRose,* 808 F. Supp. 3d 1106, 1112 (S.D. Cal. 2025) (same). The clear and convincing evidence standard is an "intermediate burden of proof" applied when "particularly important interests are at stake." *Mondaca-Vega v. Lynch,* 808 F.3d 413, 422 (9th Cir. 2015) (internal quotations omitted, cleaned up). The standard "requires and abiding conviction that the truth of the factual contentions at issue is highly probable."" *See Bayani v. LaRose,* 2026 U.S. Dist. LEXIS 102798.

15. As previously mentioned in this petition, the IJ erred his decision to deny bond by considering as her main finding that another IJ had previously denied Petitioner any form of relief. But she did it so without having sufficient information or knowing the reason of the previous judge. In *Bayani,* the Court finds "Since *Matter of Guerra,* several federal courts have used the "probative and specific" evidence requirement to determine whether IJ's bond determination comport with due process constraints. *See Garcia,* 2025 WL 3466312 at *9 (collecting cases). In *Garcia,* a district court held that an IJ had committed legal error by relying on a ten-year-old warrant to find flight risk and ignoring evidence which raised issues with the warrant. *Id.* at *10-11. The court explained that "the IJ violated [petitioner]'s due process rights because, in denying his request for bond, she relied exclusively on evidence that was not probative and specific." *Id.* (internal quotation omitted). Similarly, in *Ortega-Rangel v. Sessions,* a district court found that the mere "fact of [petitioner's] arrest [was] not 'probative and specific' and therefore the IJ's sole reliance on her arrest to detain her violated due process." 313 F. Supp. 3d 993, 1005 (N.D. Cal. 2018)".

16. Also, the Court finds that "the IJ's reliance in evidence with minimal probative or specific value under *Guerra* to find flight risk weights strongly in favor of finding that the IJ failed to apply the proper standard at the hearing. *See id.; Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008) (holding that an IJ erred by denying bond based in evidence that was insufficient as a matter of law); *Chi Thon Ngo v. I.N.S.*, 192 F.3d 390, 398 (3d Cir. 1999) (explaining that due process cannot be satisfied when evidence at bond hearing is insufficient as a matter of law)."

17. Along the same lines, *Bayani* argues that "the IJ improperly considered her own beliefs and speculation as evidence. "[A]n immigration judge has a responsibility to function as a neutral, impartial arbiter and must be careful to refrain from assuming the role of advocate for either party." *Islam v. Gonzales*, 469 F.3d 53, 55 (2d Cir. 2006)." As highlighted above, the IJ speculated about Petitioner's motives for seeking release. ("If [Petitioner] really wants his claim to be heard, the court would assume he'd wan[t] them heard as soon as possible."). This speculation was improper for her to consider under *Guerra*, *See* 25 I&N Dec. at 40; *Kamara v. Garland*, No. 24-CV-743-LJV, 2025 WL 1651063, at *2 (W.D.N.Y. June 11, 2025) (explaining the importance of IJ neutrality for due process in bond hearings). An IJ's role at a bond hearing is to determine whether the government has met its burden to detain Petitioner, not to concoct theories regarding Petitioner's motivations. The IJ thus committed legal error by considering her own speculation, which weighs in favor of finding that she applied the wrong standard at the hearing." (quotations omitted). In this case, as in the Petitioner's case, the IJ did not apply the required legal standard. Considering the denial of any kind of relief by a different IJ, without any individualized analysis, are mere speculations out of context and due process.

18. "That an individual subject to executive detention wishes for a check on his detention is unremarkable: indeed, the right to liberty from unjust executive detention is an underlying

principle of our Constitution. *See* U.S. Const. Amend. V, § 1; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment -from government custody, detention, or other forms of physical restraint- lies at the heart of the liberty that the [Due Process] Clause protects.") The Federalist No. 84 (Alexander Hamilton) ("The practice of arbitrary imprisonments has been, in all ages, the favorite and most formidable instruments of tyranny."). Further, the IJ seems to have declined to consider Petitioner's argument that release on bond would make it easier for counsel to prepare for and assist in his upcoming asylum case merits hearing. This evidence as presented in this matter thus has little to no probative value." (quotations omitted) *See Bayani v. LaRose*, 2026 U.S. Dist. LEXIS 102798.

19. The IJ also failed to consider mitigating factors and alternatives to detention. The IJ said that no amount of bond would mitigate Petitioner's flight risk, but did not explain whether any other release conditions combined with bond could mitigate flight risk. In that regard, the Court in *Bayani* finds "While the Court does not decide in this case whether and how due process requires IJ's to consider mitigating factors and alternatives to detention, the IJ's lack of consideration of either weighs in favor of a finding that she failed to hold the government to its burden. *See Garcia*, 2025 WL 3466312, at *10 (holding that an IJ committed an error of law in violation of due process by finding flight risk based on a single document and ignoring mitigating evidence)." *See Bayani v. LaRose*, 2026 U.S. Dist. LEXIS 102798. As mentioned previously in this petition, IJ's main finding for considering Petitioner's flight risk was a single document, the prior denial of any form of relief for the Petitioner by a different IJ, which constitutes an abuse of discretion and lack of due process.

20. Considering all of *Bayani's* factors together, the Court should find as well for Petitioner's petition, that "the IJ abused her discretion by failing to place the burden on the government to prove Petitioner's dangerousness or flight risk by clear and convincing evidence at the hearing. *See Enoh v. Sessions*, No. 16-CV-85 (LJV), 2017 WL 2080278, at *10 (W.D.N.Y. May

15, 2017) ("Rubber stamping a prior determination with the words 'clear and convincing evidence' is simply insufficient."); *Espana v. Nessinger*, No. 26-CV-014-JJM-PAS, 2026 WL 821788, at *13 (D.R.I. Mar. 25, 2026) ("The Court therefore finds that it was legal error for the IJ to conclude that the Government had satisfied its evidentiary burden.")" Therefore, this abuse of discretion constitutes a deprivation of Petitioner's right to due process at the bond hearing, the Court should grant the habeas petition.

21. Applying the *Banda* six-factor test supports granting petitioner's petition. The first factor -total length of detention to date-, the most important, strongly favors the grant of this habeas petition.

22. In the same sense, factors (2) the likely duration of future detention and (3) conditions of detention, also favor strongly to Petitioner.

Conclusion

For all the reasons described above and those mentioned earlier in this petition, the Court should order the immediate release of the Petitioner due, as has already been demonstrated, there are new grounds that violate his constitutional rights, and the severely of the violations has increased. Furthermore, due deficiencies in the due process and adherence to justice and the guiding principles of this country, on the part of the immigration court and the DHS, constitutes strong valid reasons for the Court to order immediate Petitioner's release.

WHEREFORE, the Petitioner prays that this Court grant the following relief:

1. Issue a writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;
2. Consider my case as confidential and use only my name as L.A.R.V., because of safety and privacy reasons;
3. Enjoin to Respondents from redetaining Petitioner during the pendency of these

proceedings without a pre-deprivation hearing before a neutral immigration judge, at which the Government bears the burden of proving by clear and convincing evidence that circumstances have materially changed, rendering Petitioner a danger to the community or a flight risk;

4. Enjoin the government and its agencies from deporting Petitioner while proceedings is ongoing and the final removal order is not yet final;
5. Order to provide an attorney for Petitioner's representation;
6. In the alternative, conduct an immediate bond hearing before a different -neutral- Immigration Judge where DHS bear its burden of justifying Petitioner's continued detention by clear and convincing evidence that Petitioner is a flight risk or a danger to community. And enjoin the Immigration Judge and Respondents from denying Petitioner bond;
7. In the option, the Immigration Judge grant a bond for a reasonable amount because the Ninth Circuit has correctly suggested that serious questions may arise concerning the reasonableness of the amount of the bond if it has the effect of preventing an alien's release. *See Phong Doan v. INS*, 311 F.3d 1160, 1162 (9th Cir. Cal. 2002). Recently Immigration Courts have granted exaggerated bond amounts, therefore, a reasonable affordable amount is required for Petitioner.

I declare under penalty or perjury that the foregoing is true and correct, to the best of my knowledge and belief.

[redacted]

Luis Antonio Rangos Villanueva
Petitioner Pro Se

May 12, 2026.