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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ESTEBAN-GERONIMO, QUEJNAY-
SANAN,

Petitioner,

v.

WARDEN OF IMPERIAL REGIONAL
DETENTION FACILITY, *et al.*,

Respondents.

Case No.: 26-cv-02918-RSH-SBC

**RESPONSE IN OPPOSITION TO
MOTION TO ENFORCE
JUDGEMENT**

I. FACTUAL AND PROCEDURAL BACKGROUND

This Court granted the Petitioner's habeas petition on May 26, 2026, and ordered Respondents to provide a bond hearing to Petitioner by within fourteen days of the Court's order. ECF No. 7. Petitioner received a bond hearing before an immigration judge on June 9, 2026. *See* ECF No. 9. The immigration judge denied bond, finding that the government "sustained their burden by clear and convincing evidence to show Respondent is a danger to the community of the United States of America." *Id.* Petitioner reserved appeal but never appealed the adverse bond decision to the Board of

1 Immigration Appeals (BIA). Since the immigration judge complied with this Court's
2 order, this Court lacks jurisdiction to directly review an immigration judge's bond
3 determination. Moreover, Petitioner did not exhaust his administrative remedies. As
4 such, the Court should deny Petitioner's motion to enforce judgement.

5 II. ARGUMENT

6 In the instant motion, Petitioner seeks to improperly challenge the immigration
7 judge's bond order before this Court. Petitioner claims that the government "utilized
8 charges against [him] that [were] never convictions and [were] dropped." ECF No. 9.
9 Petitioner further claims the immigration judge "abused his discretion by not fact
10 checking the charges lodged against [him] holding the government to the burden of
11 proof as he stated in his decision." *Id.* However, these arguments are well within the
12 experience and expertise of the Board of Immigration Appeals and are not properly
13 presented in the first instance to the Federal District Court. The Court should ensure
14 Petitioner properly exhausts his administrative remedies. "Exhaustion can be either
15 statutorily or judicially required." *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541
16 (9th Cir. 2004). "If exhaustion is statutory, it may be a mandatory requirement that is
17 jurisdictional." *Id.* (citing *El Rescate Legal Servs., Inc. v. Exec. Office of Immigration*
18 *Review*, 959 F.2d 742, 747 (9th Cir. 1991)). "If, however, exhaustion is a prudential
19 requirement, a court has discretion to waive the requirement." *Id.* (citing *Stratman v.*
20 *Watt*, 656 F.2d 1321, 1325-26 (9th Cir. 1981)). Here, the proper avenue for Petitioner's
21 grievance with his bond denial was to utilize the administrative scheme and appeal his
22 bond denial to the Board of Immigration Appeals (BIA) before July 9, 2026. However,
23 Petitioner failed to do so.

24 The BIA is an appellate body within the Executive Office for Immigration
25 Review (EOIR) and possesses delegated authority from the Attorney General. 8 C.F.R.
26 §§ 1003.1(a)(1), (d)(1). The BIA is "charged with the review of those administrative
27 adjudications under the [INA] that the Attorney General may by regulation assign to
28 it," including IJ custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The

1 BIA not only resolves particular disputes before it, but is also directed to, “through
2 precedent decisions, [] provide clear and uniform guidance to DHS, the immigration
3 judges, and the general public on the proper interpretation and administration of the
4 [INA] and its implementing regulations.” *Id.* § 1003.1(d)(1). Decisions rendered by the
5 BIA are final, except for those reviewed by the Attorney General. 8 C.F.R. §
6 1003.1(d)(7).

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

19 “When a petitioner does not exhaust administrative remedies, a district court
20 ordinarily should either dismiss the petition without prejudice or stay the proceedings
21 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
22 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
23 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
24 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
25 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,
26 a “petitioner cannot obtain review of procedural errors in the administrative process that
27 were not raised before the agency merely by alleging that every such error violates due
28 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,

1 720 F.3d 1134, 1135-36 (9th Cir. 2013) (declining to address a due process argument
2 that was not raised below because it could have been addressed by the agency).

3 Here, exhaustion is warranted because agency expertise is required. “[T]he BIA
4 is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, No. C18-
5 1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *Delgado v. Sessions*,
6 No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting
7 a denial of bond to an immigration detainee was “a question well suited for agency
8 expertise”).

9 Waiving exhaustion would also encourage other detainees to bypass the BIA and
10 directly appeal from the immigration judge to federal district court. *See Aden*, 2019 WL
11 5802013, at *2. Individuals, like Petitioner, would have little incentive to seek relief
12 before the BIA if this Court permits review here. And allowing a skip-the-BIA-and-go-
13 straight-to-federal-court strategy would needlessly increase the burden on district
14 courts. *See Bd. of Tr. of Constr. Laborers’ Pension Trust for S. Calif. v. M.M. Sundt*
15 *Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is an important
16 purpose of exhaustion requirements.”); *see also Santos-Zacaria v. Garland*, 598 U.S.
17 411, 418 (2023) (noting “exhaustion promotes efficiency”). If the IJ erred, this Court
18 should allow the administrative process to correct itself. *See id.*

19 Moreover, detention alone is not an irreparable injury. Discretion to waive
20 exhaustion “is not unfettered.” *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004).
21 Petitioners bear the burden to show that an exception to the exhaustion requirement
22 applies. *Leonardo*, 646 F.3d at 1161; *Aden*, 2019 WL 5802013, at *3. “[C]ivil detention
23 after the denial of a bond hearing [does not] constitute[] irreparable harm such that
24 prudential exhaustion should be waived.” *Reyes v. Wolf*, No. C20-0377JLR, 2021 WL
25 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff’d sub nom. Diaz Reyes v. Mayorkas*, No.
26 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021).

27 Finally, the District Court’s review of the bond proceedings, prior to a BIA
28 appeal, is limited to whether the requirements of its order were followed. *See Martinez*

1 *v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024). Here, the immigration judge held the bond
2 hearing in a timely fashion, applied the burden of proof required by this Court's order,
3 and considered evidence of Petitioner's prior violent criminal conduct as put forth by
4 the government. *See* ECF No. 9 at 4-7. Petitioner's charges need not result in
5 convictions for the government to meet its burden in front of the immigration judge. As
6 a result, the immigration judge concluded Petitioner is danger to the community. ECF
7 No. 9 at 2. Simply put, the immigration judge complied with the Court's order. There
8 is no evidence provided by the Petitioner that the hearing was conducted in such an
9 egregious manner so as to give rise to a substantive due process violation. Moreover,
10 Petitioner's dissatisfaction with the immigration judge's ruling does give rise to a claim
11 for relief. Petitioner has alleged nothing more.

12 As with other similarly brought motions, the Court should deny this motion. *See*,
13 *e.g.*, *L.B. v. LaRose*, No. 26-cv-182-RSH-BJW, ECF No. 14 (S.D. Cal. Mar. 27, 2026);
14 *Singh v. Noem*, No. 26-cv-1225-RSH-JLB, ECF No. 8 (S.D. Cal. Mar. 24, 2026); *Rana*
15 *v. LaRose*, No. 26-cv-00285-RSH-DDL, ECF No. 11 (S.D. Cal. Mar. 13, 2026)
16 (denying motion to enforce judgment where petitioner was denied bond on the basis of
17 flight risk because there was no indication that administrative remedies were first
18 exhausted) (citing *Leonardo*, 646 F.3d at 1160); *Baker v. Gordon*, No. 25-cv-03539-
19 CAB-SBC, ECF No. 8 at 2:1-5 (S.D. Cal. Jan. 30, 2026) ("As the Ninth Circuit has
20 explained, '[Petitioner] pursued habeas review of the [immigration judge's] adverse
21 bond determination before appealing to the BIA. This short cut was improper.
22 [Petitioner] should have exhausted administrative remedies by appealing to the BIA
23 before asking the federal district court to review the [immigration judge's] decision.'")
24 (quoting *Leonardo*, 646 F.3d at 1160).

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III. CONCLUSION

Because this Court lacks jurisdiction to review the immigration judge's findings, Respondents complied with this Court's previous order to provide Petitioner with a constitutionally adequate bond hearing, and Petitioner has not exhausted his administrative remedies, this motion should be dismissed. For the reasons stated herein, Respondents respectfully request that the Court deny Petitioner's motion.

Dated: July 14, 2026

Respectfully submitted,

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