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

11 CHRISTIAN ESTIVEN VARGAS-
12 REYNA,

13 Petitioner,

14 v.

15 TODD BLANCHE, et al.,
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17 Respondents.
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Case No.: 26-cv-3400-LL-DEB

**RESPONDENTS' RETURN TO
HABEAS PETITION**

I. Introduction

Petitioner has filed a second habeas petition under 28 U.S.C. § 2241. This Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a. Petitioner is detained pursuant to 8 U.S.C. § 1226(c) as a result of his conviction for possession with intent to distribute Fentanyl. Petitioner previously filed a petition with this Court, 26-cv-1662-LL-AHG, through counsel alleging the same claims for relief including that his prolonged detention violated due process. This Court granted relief on April 16, 2026, ordering Respondents to provide Petitioner with a bond hearing. *Id.* at ECF No. 11. Respondents provided Petitioner a bond hearing on April 20, 2026. Ex. 1 (IJ Order). The immigration judge denied bond finding that the Government had met its burden to show Petitioner is a danger to the community and a flight risk. *Id.* Petitioner did not appeal the bond ruling to the Board of Immigration Appeals. Petitioner's appeal of his removal order is still pending at the Board of Immigration Appeals This Petition was filed pro se on June 3, 2026. Based on the arguments set forth below, the Court should dismiss this petition as duplicative of the prior petition or deny the requests for relief and dismiss the petition.

II. Factual Background¹

Petitioner is a native and citizen of Honduras. Ex. 2 (I-213) Appellant illegally entered the United States at an unknown time and location. *Id.* On February 21, 2025, Immigration and Customs Enforcement (ICE) detained Petitioner upon his release from criminal confinement. *Id.* DHS determined that Petitioner is deportable/removable under 8 U.S.C. § 1227(a)(6)(A)(i), as an individual who has not been admitted or paroled into the United States. Based on that charge, he was issued a Notice to Appear (NTA) and placed in removal proceedings under 8 U.S.C. § 1229a. Petitioner was ordered removed to Honduras on March 12, 2026.

¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

III. Argument

A. Petitioner raises no new challenges to his detention.

The doctrine of abuse of the writ generally “forbids the reconsideration of claims that were or could have been raised in a prior habeas petition.” *Calderon v. United States Dist. Ct.*, 163 F.3d 530, 538 (9th Cir.1998) (*en banc*) (overruled in part on other grounds by *Woodford v. Garceau*, 538 U.S. 202 (2003)). Under the abuse of the writ doctrine, a successive petition must be dismissed unless the petitioner can show (1) cause for bringing a successive petition and that prejudice would result or (2) that a fundamental miscarriage of justice would result from failure to entertain the claim. *See McCleskey v. Zant*, 499 U.S. 467, 494–95 (1991); *Sanders v. United States*, 373 U.S. 1, 15 (1963). The government bears the burden of pleading abuse of the writ, *McCleskey*, 499 U.S. at 477.

After receiving a bond hearing in Case No. 26-cv-1662-LL-AHG, Petitioner has now filed a new petition for writ of habeas corpus that doesn’t meaningfully address his first Petition or provide an explanation for why these arguments weren’t addressed by the Court in the first Petition. Because the arguments in instant Petition are the same as raised in his first Petition, and because Petitioner already received an individualized bond hearing, Respondents contend the instant Petition runs afoul of the abuse of the writ doctrine. Furthermore, if Petitioner believed the Government did not honor the court’s order in the first Petition, he is free to seek to re-open that case with the Immigration Court. The Court should dismiss this Petition as an abuse of the writ

B. Administrative Remedies Should Be Exhausted

Even if Petitioner were permitted to file successive habeas petitions asserting new claims that were raised previously, the Court would still have to dismiss this Petition because Petitioner has not exhausted his administrative remedies.

The Court should ensure Petitioner properly exhausts administrative remedies. The Ninth Circuit requires that “habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241.” *Castro–Cortez v. INS*, 239

1 F.3d 1037, 1047 (9th Cir. 2001). “When a petitioner does not exhaust administrative
2 remedies, a district court ordinarily should either dismiss the petition without prejudice
3 or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion
4 is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also*
5 *Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a
6 jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no
7 jurisdiction to review legal claims not presented in the petitioner’s administrative
8 proceedings before the BIA). Here, Petitioner did not appeal the result of his bond
9 hearing held pursuant to 8 U.S.C. § 1226(a). However, Petitioner may request another
10 bond hearing based on a change in circumstances or as a *Franco* class member. *Franco-*
11 *Gonzalez v. Holder*, No. CV 10-02211 DMG (BTBx), 2013 WL 3674492 (C.D. Cal.,
12 April 23, 2013). Petitioner previously withdrew his *Franco* bond request for an
13 unknown reason. Accordingly, the Court should dismiss without prejudice.

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

26 “When a petitioner does not exhaust administrative remedies, a district court
27 ordinarily should either dismiss the petition without prejudice or stay the proceedings
28 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*

1 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
2 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
3 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
4 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,
5 a “petitioner cannot obtain review of procedural errors in the administrative process that
6 were not raised before the agency merely by alleging that every such error violates due
7 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,
8 720 F.3d 1134, 1135-36 (9th Cir. 2013) (declining to address a due process argument
9 that was not raised below because it could have been addressed by the agency).

10 Waiving exhaustion would also encourage other detainees to bypass other
11 remedies with the immigration court and directly appeal from the IJ to federal district
12 court. *See Aden*, 2019 WL 5802013, at *2. Individuals, like Petitioner, would have little
13 incentive to seek relief if this Court permits review here.

14 Because Petitioner has not exhausted his administrative remedies, this matter
15 should be dismissed.

16 IV. CONCLUSION

17 Because Petitioner has (1) already received a bond hearing under 8 U.S.C.
18 § 1226(a), (2) failed to exhaust his administrative remedies, and (3) abused the writ by
19 filing a successive petition with challenges that were raised in his first Petition, the
20 Court should dismiss this matter.

21 DATED: June 30, 2026

Respectfully submitted,

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24 s/ Michael D. Wallace
25 MICHAEL D. WALLACE
26 Assistant United States Attorney
27 Attorneys for Respondents
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