

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

Attorneys for Respondents

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

BRILIAN NCHUPOH NOPUOWOH,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Warden
of Otay Mesa Detention Center; *et al.*,

Respondents.

Case No.: 26-cv-03614-TWR-MMP

**RETURN TO AMENDED PETITION
FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

This is Petitioner's second habeas petition. Petitioner filed his previous petition as a *pro se* litigant. *See Nopuowah v. LaRose*, No. 3:26-cv-03040-TWR-MMP. Now proceeding through counsel, Petitioner requests that the Court order his release from Immigration and Customs Enforcement (ICE) custody or, in the alternative, order a bond hearing. This Court lacks jurisdiction because Petitioner's claims are barred by 8 U.S.C. § 1252(g). Moreover, as an applicant for admission to the United States found to have a credible fear of persecution, Petitioner's detention is mandated by 8 U.S.C. § 1225(b)(1)(B)(ii) until the conclusion of his removal proceedings. The only change to

1 Petitioner's immigration status since his first petition is the length he has been detained,
2 which still does not meet the threshold of being unconstitutionally prolonged.
3 Accordingly, the Court should deny Petitioner's requests for relief.

4 II. FACTUAL AND PROCEDURAL BACKGROUND

5 Petitioner is a native and citizen of Cameroon, who entered the United States
6 without inspection near the San Ysidro port of entry in California, on October 16, 2025.
7 *See* Exhibit 1 (Form I-213). Petitioner did not then have any valid entry documents to
8 enter the United States. *See id.* He was determined to be inadmissible under 8 U.S.C.
9 § 1182(a)(7)(A)(i)(I), placed in expedited removal proceedings pursuant to 8 U.S.C. §
10 1225(b)(1), and taken into Immigration and Customs Enforcement (ICE) custody
11 pursuant to 8 U.S.C. § 1225(b)(1)(B). *See* Exhibit 2 (Notice and Order of Expedited
12 Removal). Petitioner was subsequently interviewed by an asylum officer, pursuant to 8
13 U.S.C. § 1225(b)(1)(B). After receiving a positive credible fear determination,
14 Petitioner was issued a Notice to Appear (NTA), which initiated removal proceedings
15 against Petitioner, pursuant to 8 U.S.C. § 1229a. *See* Exhibit 3 (Notice to Appear).
16 Within his removal proceedings, Petitioner applied for asylum relief from removal
17 before an immigration judge. *See* Exhibit 4 (Order of the Immigration Judge).

18 The Notice to Appear scheduled Petitioner's initial master calendar hearing for
19 November 10, 2025. *See* Exhibit 3. Petitioner continued his hearing to December 11,
20 2025, in order to obtain counsel. *See* Exhibits 5 (Department of Justice – Executive
21 Office for Immigration Review (DOJ-EOIR) Case Details) and 6 (DOJ-EOIR
22 Memorandum of Adjournment Codes).¹ Since that time, the Department of Homeland
23 Security (DHS) filed a Motion to Pretermite ("Motion") the Petitioner's applications for
24 relief because Petitioner is subject to the Asylum Cooperative Agreement (ACA) with
25 Uganda. *See* Exhibit 4. On April 15, 2026, an Immigration Judge denied Petitioner's
26

27
28 ¹ The attached exhibits are true copies, with redactions of private information, of
documents obtained from Immigration and Customs Enforcement (ICE) counsel.

1 applications for relief, granted the Motion, and ordered Petitioner removed to Uganda.
2 *Id.* On April 30, 2026, Petitioner appealed the removal order to the Board of
3 Immigration Appeals (BIA). *See* Exhibit 7 (Filing Receipt for Appeal). Petitioner's
4 appeal is still pending with the BIA. As a result, there is no administratively final order
5 of removal at this time. Petitioner remains mandatorily detained under 8 U.S.C. §
6 1225(b)(1)(B)(ii).

7 III. STATUTORY BACKGROUND

8 Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C.
9 § 1225, applies to an “applicant for admission,” defined as an “alien present in the
10 United States who has not been admitted” or “who arrives in the United States.” 8
11 U.S.C. § 1225(a)(1). “[A]pplicants for admission fall into one of two categories, those
12 covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*,
13 583 U.S. 281, 287 (2018).

14 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially
15 determined to be inadmissible due to fraud, misrepresentation, or lack of valid
16 document.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). These aliens are generally subject
17 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if “the alien
18 indicates an intention to apply for asylum . . . or a fear of persecution,” immigration
19 officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).
20 “If the officer determines at the time of the interview that [the] alien has a credible fear
21 of persecution . . . , the alien *shall be detained* for further consideration of the application
22 for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). If the alien does not
23 indicate an intent to apply for asylum, does not express a fear of persecution, or is
24 “found not to have such a fear,” they “shall be detained . . . until removed” from the
25 United States. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

26 ///

27 ///

28 ///

1 IV. ARGUMENT

2 A. Petitioner's Claim is Barred Under 8 U.S.C. § 1252(g).

3 Respondent contends that judicial review over Petitioner's claim is barred by 28
4 U.S.C. § 1252(g), which states that "[n]o court shall have jurisdiction to hear any cause
5 or claim by or on behalf of any alien arising from the decision or action by the Attorney
6 General to commence proceedings, adjudicate cases, or execute removal orders."

7 Here, Petitioner's claims of unlawful detention necessarily arise from the
8 Department of Homeland Security's² decision to commence removal proceedings
9 against him because that decision unavoidably triggers mandatory detention under 8
10 U.S.C. § 1225(b)(1)(B)(ii) until the conclusion of his removal proceedings. *See, e.g.,*
11 *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D.
12 Cal. Aug. 18, 2010) (finding section 1252(g) bars judicial review of false imprisonment
13 claim because the plaintiff's detention arose from the decision to commence removal
14 proceedings, and in turn, the "statute mandating detention during removal proceedings
15 of a person charged as an 'arriving alien.'").

16 As explained by another district court, removal proceedings are commenced
17 when, as occurred here, "the alien is issued a Notice to Appear before an immigration
18 court." *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008 WL
19 11336833, at *3 (C.D. Cal. Sept. 11, 2008); *see also* Exhibit 3 (Notice to Appear). The
20 government "may arrest the alien against whom proceedings are commenced and detain
21 that individual until the conclusion of those proceedings." *Herrera-Correra*, 2008 WL
22 11336833, at *3. "Thus, an alien's detention throughout this process arises from the
23 [government's] decision to commence proceedings" and review of claims arising from
24 such detention is barred under section 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d
25 947, 949 (9th Cir. 2007)); *see also Wang*, 2010 WL 11463156, at *6.

26
27 ² "In 2002, Congress transferred the Attorney General's immigration enforcement
28 responsibilities to the Secretary of Homeland Security." *Ibarra-Perez v. United States*,
154 F.4th 989, 995 n.2 (9th Cir. 2025).

1 Because this habeas petition brings a claim “arising from the decision or action
2 by the [government] to commence proceedings,” review of Petitioner’s claim is barred
3 under 8 U.S.C § 1252(g). Thus, the Court must dismiss the petition.

4 **B. Petitioner is Lawfully Detained Under the INA and the Constitution.**

5 Even if the Court assumed jurisdiction to review Petitioner’s claim, the Court
6 must deny his habeas petition because Petitioner’s detention is statutorily mandated
7 under 8 U.S.C. § 1225(b)(1)(B)(ii) and has not been unconstitutionally prolonged.

8 **1. Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(1).**

9 Petitioner’s claim fails because he is subject to mandatory detention under 8
10 U.S.C. § 1225(b)(1). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is
11 defined as an “alien present in the United States who has not been admitted or who
12 arrives in the United States.” As explained above, applicants for admission “fall into
13 one of two categories, those covered by § 1225(b)(1) and those covered by §
14 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(1) – the provision relevant here
15 – applies because Petitioner was found in the United States without proper documents
16 authorizing his presence. And that statute mandates detention when an immigration
17 officer determines that the alien has a credible fear of persecution. *See* 8 U.S.C.
18 § 1225(b)(1)(B)(ii) (“If the officer determines at the time of the interview that [the]
19 alien has a credible fear of persecution . . . , the alien *shall be detained* for further
20 consideration of the application for asylum.”) (emphasis added); *see also Matter of M-*
21 *S*, 27 I. & N. Dec. 509, 519 (AG 2019) (“all aliens transferred from expedited to full
22 [removal] proceedings after establishing a credible fear are ineligible for bond”).

23 Petitioner requests that the Court order his immediate release, or in the
24 alternative, that Respondent provides him with an individualized bond hearing. But the
25 Supreme Court has rejected such contention, explaining: “Read most naturally,
26 §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until
27 certain proceedings have concluded. . . . Nothing in the statutory text imposes any limit
28 on the length of detention. And neither § 1225(b)(1) nor § 1225(b)(2) says anything

1 whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Except for temporary
2 parole granted at the discretion of the Attorney General “for urgent humanitarian
3 reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5), “there are no *other*
4 circumstances under which aliens detained under § 1225(b) may be released.” *Id.* at 300
5 (emphasis in original).

6 As Petitioner’s removal proceedings are pending, and he has not been granted
7 temporary parole, section 1225(b)(1)(B) mandates his detention until the proceedings
8 have concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention
9 under § 1225(b) must end as well.”). Because Petitioner is lawfully detained under
10 section 1225(b)(1)(B) and the statute does not entitle his to release at this time, his
11 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151
12 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to
13 find that the petitioner had no right to release or a bond hearing).

14 **2. Petitioner’s detention is not unconstitutionally prolonged.**

15 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C. §
16 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]
17 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain
18 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)
19 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither
20 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The
21 Supreme Court added that the sole means of release for noncitizens detained pursuant
22 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary
23 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300
24 (“That express exception to detention implies that there are no *other* circumstances
25 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis
26 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens
27 throughout the completion of applicable proceedings[.]” *Id.* at 302.

1 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
2 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
3 detention without a hearing violated his constitutional rights. The Supreme Court
4 rejected the petition, concluding that the noncitizen’s continued detention did not
5 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial
6 entry stands on a different footing: ‘Whatever the procedure authorized by Congress is,
7 it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation
8 omitted).

9 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
10 (2020), the Supreme Court once again addressed the due process rights of inadmissible
11 arriving noncitizens seeking initial entry into the United States. The Supreme Court
12 stated that such individuals have no due process rights “other than those afforded by
13 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only
14 those rights regarding admission that Congress has provided by statute.”). The Supreme
15 Court noted that its determination was supported by “more than a century of precedent.”
16 *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892); *U.S. ex*
17 *rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S. at 212; *Landon*
18 *v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due to Petitioner is that
19 afforded under section 1225(b), the Court must reject his claim that his detention
20 violates the Fifth Amendment’s Due Process Clause and deny his requested relief. *See*
21 *Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at 1167; *Rodriguez*
22 *Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The recognized liberty interests
23 of U.S. citizens and aliens are not coextensive: the Supreme Court has ‘firmly and
24 repeatedly endorsed the proposition that Congress may make rules as to aliens that
25 would be unacceptable if applied to citizens.’”) (quoting *Demore v. Kim*, 538 U.S. 510,
26 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4 (“Binding Ninth Circuit and
27 Supreme Court precedents are clear that Petitioner lacks any rights beyond those
28 conferred by statute, and no statute entitles Petitioner to a bond hearing.”)

1 Since the Supreme Court’s decision in *Thuraissigiam*, numerous published
2 decisions have acknowledged *Thuraissigiam*’s impact on the precise Fifth Amendment
3 Due Process Clause that Petitioner might have raised in this petition: Does an alien
4 detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond
5 hearing after being detained for a certain period of time? The answer is no. *See*
6 *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, *2
7 (S.D. Cal. June 10, 2024) (“[T]he Court finds that Petitioner has no Fifth Amendment
8 right to a bond hearing pending his removal proceedings.”); *Zelaya-Gonzalez*, 2023 WL
9 3103811. *3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*, 535 F.
10 Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d
11 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579 (W.D.N.Y.
12 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

13 Even if the Court infers a constitutional right against prolonged mandatory
14 detention, Petitioner’s claim still fails. “In general, as detention continues past a year,
15 courts become extremely wary of permitting continued custody absent a bond hearing.”
16 *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal.
17 April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-
18 BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half
19 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL
20 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,
21 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at *2 (S.D. Cal. March 29, 2019) (two
22 years). Petitioner’s detention falls significantly short of the length courts have found to
23 raise due process concerns.

24 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,
25 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801,
26 at *5 (“[W]hile the *Mathews* [*v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-
27 suited to determining whether due process requires a second bond hearing, they are not
28 particularly dispositive of whether prolonged mandatory detention has become

unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of the possible constitutional implications of Petitioner’s ongoing detention without process.”). Under *Lopez*, to determine whether continued mandatory detention has become unreasonable, “the Court will look to the total length of detention to date, the likely duration of future detention, and the delays in the removal proceedings caused by the petitioner and the government.” 631 F. Supp. 3d at 879.

Other Courts have applied the test in *Banda v. McAleenan*, which considers: (1) the total length of detention to date; (2) the likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *See* 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019).

As for the first factor, Petitioner has been detained only two additional months since his first petition was denied- his detention is now approximately nine months. Courts in this district have found detention for much longer periods to be unreasonably prolonged. *See Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at *5 (S.D. Cal. Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL 3028093, at *4 (19 months); *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at *1 (42 months). The length of detention “is the most important factor.” *Sanchez-Rivera*, 2023 WL 139801, at *6 (citation omitted). Petitioner’s current detention does not fall within the range those courts have found to be unreasonable. Moreover, the length of Petitioner’s detention, by itself, does not favor granting habeas relief. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12, 2025) (“The Court agrees with Respondents that the length of Petitioner’s detention to date—almost 12 months—does not by itself, without more, establish prolonged

1 detention in violation of due process.”). Second, the likely duration of future detention
2 weighs against Petitioner. On April 15, 2026, an immigration judge ordered Petitioner’s
3 removal to Uganda pursuant to the government’s Asylum Cooperation Agreement with
4 Uganda. *See* Exhibit 4. Petitioner promptly filed an appeal, which is still pending with
5 the BIA. *See* Exhibit 7. The BIA will issue a decision, and once that happens, the path
6 to Petitioner’s removal or release should be clear. Petitioner’s contention that his appeal
7 process “is likely to be protracted” is speculative. ECF No. 11 at 9. The third factor, the
8 conditions of detention, is arguably neutral. Petitioner’s various medical and
9 psychological conditions existed before his current detention (*see* ECF No. 11 at 11)
10 and he provides no evidence in his amended petition that these issues have worsened
11 due to the conditions of his confinement. Instead, Petitioner presents speculative claims
12 that his conditions “are not likely to improve” and “are prone to being exacerbated” by
13 confinement, repeating his same complaints that his detention is “unsanitary” and “lacks
14 fruit and vegetables ... and clean drinking water, [and] lack of medical aids and
15 drugs[.]” ECF No. 11 at 11. As before, Petitioner’s alleged grievances do not adequately
16 describe conditions that “resemble penal confinement[.]” *See Banda v. McAleenan*, 385
17 F. Supp. 3d 1099, 1119 (W.D. Wash. 2019). The next factor weighs against Petitioner.
18 Petitioner delayed his master calendar hearing to obtain counsel. *See* Exhibits 5 and 6.
19 The very next hearing that took place was Petitioner’s merits hearing on April 15, 2026.
20 *See id.* It was at that time Petitioner was ordered removed to Uganda. *See* Exhibit 4.
21 Accordingly, there is no indication of any delay in the removal proceedings on the part
22 of the government (*see* Exhibits 1 and 2), so the fifth factor weighs in favor of
23 Respondent. The last factor similarly weighs in favor of Respondent because
24 Petitioner’s removal proceedings indeed resulted in a final order of removal. However,
25 Petitioner’s appeal to the BIA has delayed the removal order from becoming
26 administratively final.

27 Balancing the above factors, the record does not support a finding that “detention
28 has become so unreasonable as to require an initial bond hearing,” *Sanchez-Rivera*,

1 2023 WL 139801, at *6, or an order requiring Petitioner’s release.

2 Accordingly, Petitioner is subject to mandatory detention, which does not violate
3 due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL 92069 (S.D.
4 Cal. Jan. 13, 2026) (“Petitioner’s length of detention, without more, does not render his
5 detention unreasonable.”); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF
6 No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No.
7 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No.
8 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar*
9 *v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at *6-8.

10 **C. Petitioner Improperly Argues Immigration Judges’ Neutrality is**
11 **Compromised.**

12 Respondents wholly reject Petitioner’s claim that local immigration judges are
13 compromised such that this Court should grant immediate release or micromanage the
14 custody redetermination process. This level of district court involvement, in addition to
15 being unwarranted and unnecessary, severely undermines administrative exhaustion
16 principles. Petitioner has administrative remedies available if he disagrees with the
17 immigration judge’s bond ruling. The proper avenue for any grievance in the event of
18 bond denial is to utilize the administrative scheme and appeal his bond denial to the
19 Board of Immigration Appeals (BIA).

20 The BIA is an appellate body within the Executive Office for Immigration
21 Review and possesses delegated authority from the Attorney General. 8 C.F.R.
22 §§ 1003.1(a)(1), (d)(1). The BIA is “charged with the review of those administrative
23 adjudications under the [Immigration and Nationality Act (INA)] that the Attorney
24 General may by regulation assign to it,” including immigration judge custody
25 determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves
26 particular disputes before it, but is also directed to, “through precedent decisions, . . .
27 provide clear and uniform guidance to [the Department of Homeland Security], the
28 immigration judges, and the general public on the proper interpretation and

1 administration of the [INA] and its implementing regulations.” 8 C.F.R. § 1003.1(d)(1).
2 Decisions rendered by the BIA are final, except for those reviewed by the Attorney
3 General. 8 C.F.R. § 1003.1(d)(7).

4 “District Courts are authorized by 28 U.S.C § 2241 to consider petitions for
5 habeas corpus.” *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated*
6 *on other grounds by Hernandez–Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth
7 Circuit “require[s], as a prudential matter, that habeas petitioners exhaust available
8 judicial and administrative remedies before seeking relief under § 2241.” *Id.*
9 Specifically, “courts may require prudential exhaustion if (1) agency expertise makes
10 agency consideration necessary to generate a proper record and reach a proper decision;
11 (2) relaxation of the requirement would encourage the deliberate bypass of the
12 administrative scheme; and (3) administrative review is likely to allow the agency to
13 correct its own mistakes and to preclude the need for judicial review.” *Puga v. Chertoff*,
14 488 F.3d 812, 815 (9th Cir. 2007) (cleaned up).

15 Here, agency expertise is required to determine immigration bond decisions.
16 “[T]he BIA is the subject-matter expert in immigration bond decisions[.]” *Aden v.*
17 *Nielsen*, No. C18-1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *see*
18 *also Delgado v. Sessions*, No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D.
19 Wash. Sept. 15, 2017) (noting a denial of bond to an immigration detainee was “a
20 question well suited for agency expertise”). Allowing a skip-the-BIA-and-go-straight-
21 to-federal-court strategy would needlessly increase the burden on district courts. *See*
22 *Bd. of Tr. of the Constr. Laborers’ Pension Trust for S. Cal. v. M.M. Sundt Constr. Co.*,
23 37 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is an important purpose of
24 exhaustion requirements.”) (citation omitted); *Santos-Zacaria*, 598 U.S. at 418 (noting
25 “exhaustion promotes efficiency”). As this Court noted, if the immigration judge errs,
26 the district court should allow the administrative process to correct itself. *See Sharma*
27 *v. Archambault*, 2026 WL 381611, at *2 (S.D. Cal. February 11, 2026) (“Exhaustion
28 would protect administrative authority and promote judicial efficiency. Release on bond

1 falls within the agency's discretionary power and falls within its special expertise.”).

2 Moreover, as stated above, the government vigorously disputes Petitioner's
3 contention that Immigration Judges in this district are biased or compromised.
4 Petitioner's “trend evidence” lacks foundation and relevance and is replete with
5 inadmissible opinions and hearsay. It wholly fails to establish that government
6 procedures governing bond proceedings violate due process. *Rodriguez Diaz*, 53 F.4th
7 at 1189, 1213 (quoting *Ching v. Mayorkas*, 725 F.3d 1149, 1156 (9th Cir. 2013) (“It is
8 process that the procedural due process right protects, not the outcome.”)).

9 Significantly, despite Petitioner's assertion that all immigration judges are
10 compromised by fear of termination, counsel cites no habeas case from this district
11 where the Court found a local immigration judge deliberately flouted a court order to
12 hold a bona fide bond hearing or where DHS failed to comply with an immigration
13 judge's order granting bond following a district court order. To the contrary, numerous
14 habeas cases in this district confirm that immigration judges have complied in good
15 faith with this court's orders, conducted individualized bond hearings, and granted bond
16 in many cases, often on a very quick turnaround. *See, e.g., Ramirez Ceja v. Divver*, No.
17 26-cv-00254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2025) (Joint Status Report
18 reflecting immigration judge granted bond at Otay Mesa Immigration Court);
19 *Prabhpreet v. LaRose*, No. 26-cv-00393-JES-SBC, ECF No. 10 (S.D. Cal. Feb. 19,
20 2026) (same); *I.E. v. Casey*, No. 25-cv-03227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec.
21 16, 2025) (same for Imperial Regional Detention Facility); *Gautam v. Correctional*
22 *Corp. of Am.*, No. 25-cv-03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice
23 of Compliance); *Alemanji v. Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D.
24 Cal. Dec. 23, 2025) (Notice Confirming Bond Hearing); *Xie v. LaRose*, No. 26-cv-
25 00529-RBM-DDL (Notice of Compliance; bond granted)(S.D. Cal. March 4, 2026)
26 *Ding v. LaRose*, 26-cv-01117-TWR-JLB (bond granted)(S.D. Cal. March 4, 2026);
27 *Jacinto Rodriguez v. LaRose*, 26-cv-00693-BAS-DEB (S.D. Cal. Feb. 24, 2026) (bond
28 granted); and *Lorenzo v. LaRose*, 26cv1041-LL (S.D. Cal. March 2, 2026) (bond

1 granted); 26 CV 1338 JO VET.) (bond granted); *Luis Alberto Corado-Serrano v. Bondi*,
2 26-CV-1338-JO VET (S.D. Cal. March 27, 2026) (bond granted); *Paniagua-Padilla v.*
3 *Bondi*, 26-cv-01332-JO-VET (S.D. Cal. April 1, 2026) (bond granted); and *Fawaz Ali*
4 *v. Mullin*, 26-cv-1565 JES-JLB (S.D. Cal. April 10, 2026) (Notice of Compliance; bond
5 granted).

6 **V. CONCLUSION**

7 For the reasons stated herein, Respondents respectfully requests that the Court
8 dismiss this petition for lack of jurisdiction or deny it on the merits.

9
10 Dated: July 20, 2026

Respectfully submitted,

11 ADAM GORDON
12 United States Attorney

13 s/ Camille Savedra
14 CAMILLE SAVEDRA
15 Assistant United States Attorney
16 Attorneys for Respondents
17
18
19
20
21
22
23
24
25
26
27
28