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9
10 **UNITED STATES DISTRICT COURT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 AJAYA RANA,

13 Petitioner,

14 v.

15 CHRISTOPHER LAROSE, et al.,

16 Respondents.
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Case No.: 26-cv-03829-RSH-DDL

**RESPONDENTS' RETURN TO
HABEAS PETITION**

I. Introduction

Petitioner has filed a third habeas petition under 28 U.S.C. § 2241. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a. Based on the arguments set forth below, the Court should deny any requests for relief and dismiss the petition.

II. Factual Background¹

On January 16, 2026, Petitioner filed her first petition for writ of habeas corpus. *Rana v. LaRose*, 26-cv-00285-RSH-DDL (S.D. Cal.), ECF No. 1. On February 2, 2026, this Court granted Petitioners habeas petition, and ordered Petitioners to arrange an individualized bond hearing for Petitioner before an immigration court within fourteen (14) days of this order “at which Respondents must justify his continued detention by a showing of clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released.” *See id.*, ECF No. 5. Petitioner’s bond hearing was initially scheduled for February 5, 2026, but was subsequently rescheduled to February 11, 2026, giving her time to hire an attorney. *See* Exhibit 1 (First Notice of Hearing); *see also* Exhibit 2 (Second Notice of Hearing). Despite her claim that she had hired an attorney for her bond hearing, her attorney had entered an appearance for “All proceedings other than custody and bond proceedings.” *See* Exhibit 3 (Form E-28). This meant Petitioner was pro se for her bond proceedings. *See id.* On February 11, 2026, her bond hearing went forward, and she was denied bond by the immigration judge (IJ) holding that Petitioner is “[d]eemed to be a significant flight risk, and no amount of bond will mitigate such risk.” *See* Exhibit 4 (IJ Order Denying Bond). Petitioner never appealed her bond denial to the Board of Immigration Appeals (BIA). *See* Exhibit 5 (EOIR Courts & Appeals System Printout). On March 2, 2026, Petitioner filed a Motion to Enforce Judgement. *Rana v. LaRose*, ECF No. 7. Respondent’s filed their reply on March 13, 2026. *See id.*, ECF No 9. On March 13, 2026, this Court denied Petitioner’s Motion to Enforce Judgement, holding that “there is no indication that Petitioner has

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

1 exhausted administrative remedies by first appealing that denial to the Board of
2 Immigration Appeals and obtaining a ruling.” *See id.*, ECF No. 11.

3 On April 22, 2026, 2026, Petitioner filed a second petition for writ of habeas
4 corpus. *Rana v. LaRose*, 26-cv-02563-RSH-DDL (S.D. Cal.), ECF No. 1. On April 29,
5 2026, this Court dismissed Petitioner’s second petition. *See id.*, ECF No. 3. On May 6,
6 2026, Petitioner filed a Motion to Reconsider the dismissal of the second Petition. *See*
7 *id.*, ECF No. 5. On May 27, 2026, this Court ordered Respondents to reply to
8 Petitioner’s Motion to Reconsider. *See id.*, ECF No. 6. Respondent’s timely filed a
9 reply. *See id.*, ECF No. 8. This Petition remains pending. *See generally id.*

10 On July 1, 2026, Petitioner filed a third petition for writ of habeas corpus.
11 Respondent’s will now address Petitioner’s third petition. Based on the arguments set
12 forth below, the Court should deny any requests and dismiss this Petition.

13 III. Argument

14 A. Petitioner Filing Her Third Petition while her Second Petition is Pending is 15 an abuse of the writ.

16 The doctrine of abuse of the writ generally “forbids the reconsideration of claims
17 that were or could have been raised in a prior habeas petition.” *Calderon v. United States*
18 *Dist. Ct.*, 163 F.3d 530, 538 (9th Cir.1998) (*en banc*) (overruled in part on other grounds
19 by *Woodford v. Garceau*, 538 U.S. 202 (2003)). Under the abuse of the writ doctrine, a
20 successive petition must be dismissed unless the petitioner can show (1) cause for
21 bringing a successive petition and that prejudice would result or (2) that a fundamental
22 miscarriage of justice would result from failure to entertain the claim. *See McCleskey*
23 *v. Zant*, 499 U.S. 467, 494–95 (1991); *Sanders v. United States*, 373 U.S. 1, 15 (1963).
24 The government bears the burden of pleading abuse of the writ, *McCleskey*, 499 U.S. at
25 477.

26 Here, Petitioner was already given the relief afforded her in an earlier habeas
27 petition before this Court. Not satisfied with the result, she filed a second habeas
28 petition. Before the Court issued its Order, Petitioner filed this subsequent, duplicative

1 petition dated July 1, 2026. Respondents hereby move to dismiss this petition as
2 duplicative or moot.

3 **B. Petitioner is Lawfully Detained Under 8 U.S.C. § 1226(a)**

4 Section 1226 provides for arrest and detention “pending a decision on whether
5 the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a),
6 the government may detain an alien during his removal proceedings, release him on
7 bond, or release him on conditional parole. By regulation, immigration officers can
8 release aliens upon demonstrating that the alien “would not pose a danger to property
9 or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).
10 An alien can also request a custody redetermination (i.e., a bond hearing) by an IJ at
11 any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§
12 236.1(d)(1), 1236.1(d)(1), 1003.19.

13 As set forth above, pursuant to this Court’s previous order, Petitioner was already
14 given a bond hearing pursuant to this Court’s order. Her bond hearing was adjudicated
15 on the merits, and the IJ denied Petitioner’s bond request accordingly. Petitioner claims
16 that the IJ improperly denied her the opportunity to have her attorney present at the
17 bond hearing, yet she never had an attorney representing her in her bond proceedings.
18 Nevertheless, the evidence shows that Petitioner was still given a continuance. Even
19 with the continuance, Petitioner failed to hire an attorney, and so her bond hearing
20 moved forward, and was adjudicated on the merits. Therefore, Petitioner is lawfully
21 detained.

22 **C. Administrative Remedies Should Be Exhausted**

23 The Court should ensure Petitioner properly exhausts administrative remedies.
24 The Ninth Circuit requires that “habeas petitioners exhaust available judicial and
25 administrative remedies before seeking relief under § 2241.” *Castro–Cortez v. INS*, 239
26 F.3d 1037, 1047 (9th Cir. 2001). “When a petitioner does not exhaust administrative
27 remedies, a district court ordinarily should either dismiss the petition without prejudice
28 or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion

1 is excused.” *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also*
2 *Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a
3 jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no
4 jurisdiction to review legal claims not presented in the petitioner’s administrative
5 proceedings before the BIA).

6 Here, as explained above, Respondents provided Petitioner with the Court
7 ordered bond hearing before an IJ pursuant to this Court’s order. The IJ properly denied
8 bond. Petitioner failed to file an appeal of her bond denial to the BIA. In other words,
9 Petitioner has failed to exhaust administrative remedies. Accordingly, the Court should
10 dismiss without prejudice or stay these proceedings until a bond appeal is conducted
11 and concluded before the BIA

12 IV. CONCLUSION

13 For the foregoing reasons, Respondents respectfully request that the Court
14 dismiss this action.

15 DATED: July 13, 2026

Respectfully submitted,

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17 s/ Antonio Estrada
18 ANTONIO ESTRADA
19 Special Assistant United States Attorney
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