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6 IN THE UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 GERMAN UJUETA,

10 Petitioner,

11 v.

12 CHRISTOPHER CHESTNUT,

13 Respondent.
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16

CASE NO. 1:26-CV-05200-JLT-EGC
RESPONSE TO PETITION

17 INTRODUCTION

18 Petitioner German Ujueta seeks habeas relief while detained under 8 U.S.C.
19 § 1226(a) prior to requesting release from the Executive Office for Immigration Review
20 (EOIR). Under controlling Ninth Circuit precedent, a petitioner must exhaust the availa-
21 ble immigration process by seeking an IJ custody redetermination and, if denied,
22 appealing to the BIA before invoking habeas jurisdiction. Prudential exhaustion promotes
23 agency expertise, develops a complete record, and avoids premature judicial intervention.
24 Because Gaeta-Banuelos bypassed EOIR review, prudential exhaustion is dispositive and
25 channels any bond challenge to an immigration judge (IJ) and the Board of Immigration
26 Appeals (BIA) first. The Court should dismiss without prejudice or deny relief to allow the
27 statutory and regulatory process to proceed. *Leonardo v. Crawford*, 646 F.3d 1157, 1160-
28 61 (9th Cir. 2011); *Puga v. Chertoff*, 488 F.3d 812, 815-16 (9th Cir. 2007).

RESPONSE TO PETITION

FACTUAL BACKGROUND

Ujueta is a citizen of Colombia who entered the United States in 1996 on a tourist visa. *EOIR Record of Proceedings* at 5, Exh. A. His visa expired, but he did not extend his status or adjust status. *Id.*

On April 30, 2026, the Department of Homeland Security (DHS) and other agencies contacted him in Florida. *Id.* He fled the scene on foot and when caught pushed the agent who was trying to detain him. *Id.* Once detained he received a notice to appear placing him in removal proceedings. *Id.* at 12–14. Since his detention he has attended multiple immigration court proceedings but has not applied for relief from removal. *See* Exh. A. His next hearing is August 4, 2026. *Id.* at 1.

ARGUMENT

A. Prudential exhaustion requires dismissal or denial to allow agency review first.

Bond disputes under § 1226(a) must be presented through the established IJ and BIA process before habeas review occurs. Exhaustion here promotes agency expertise, creates a complete record, and prevents premature judicial intervention, especially where the petitioner challenges the IJ's weighing of dangerousness or flight risk. When, as here, a detainee has not appealed an IJ's denial to the BIA, prudential exhaustion is dispositive; courts dismiss without prejudice or stay to permit administrative review. *Leonardo*, 646 F.3d at 1160–61; *Puga*, 488 F.3d at 815–16.

B. Adequate statutory process governs; courts do not craft bond or shift burdens in these circumstances.

Section 1226(a) provides a defined process and allocates the burden to the noncitizen to prove release eligibility. Courts do not impose a burden of proof on the government or create new bond procedures for noncitizens detained under this statute. The proper path—particularly where no bond hearing has been requested—is to invoke the existing EOIR framework and present any custody claim to an IJ then pursue BIA review if necessary. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196–97, 1202–03 (9th Cir. 2022).

1 Because Ujueta never sought an IJ custody redetermination, the exhaustion defect
2 is straightforward and dispositive. Custody review should be channeled to the agency be-
3 fore habeas review, and the regulations specify the route—Ujueta must request an IJ
4 custody redetermination and, if denied, appeal to the BIA. *Leonardo*, 646 F.3d at 1160–61;
5 *Puga*, 488 F.3d at 815–16; 8 C.F.R. § 236.1(d); 8 C.F.R. § 1003.19(a)–(d); 8 C.F.R. §
6 1003.38.

7 The appropriate remedy is dismissal without prejudice or a stay to permit agency
8 review; if any interim safeguard is warranted, relief must be confined to a prompt
9 § 1226(a) custody redetermination before an IJ within the existing regulations, not imme-
10 diate release.

11 CONCLUSION

12 Because Ujueta bypassed EOIR review, prudential exhaustion is dispositive. The
13 Court should dismiss the petition without prejudice to pursue EOIR review.

14 Dated: July 29, 2026

ERIC GRANT
United States Attorney

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17 By: /s/ Jonathan Williams
JONATHAN WILLIAMS
18 Special Assistant United States Attorney
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PROOF OF SERVICE

I certify that I am an employee in the Office of the United States Attorney for the Eastern District of California and a person of such age and discretion to be competent to serve papers; that on July 29, 2026, I prepared these documents for mailing and sent them to a member of the U.S. Attorney support staff to place in the United States Mail at Sacramento, California, to deliver to the addressee, at the place and address stated below, which is the last known address.

Addressee:

German Ujueta

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/s/ Jonathan Williams

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