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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JHONY ROEL JAKIE CAMONES,

Petitioner,

v.

WARDEN, CENTRAL VALLEY ANNEX

Respondent.

CASE NO. 1:26-CV-05279-DJC-CSK

**MOTION TO DISMISS PETITION FOR WRIT
OF HABEAS CORPUS; OPPOSITION TO ALL
RELIEF; RESPONSE TO ORDER TO SHOW
CAUSE**

I. INTRODUCTION

The Court should dismiss Petitioner's petition for a writ of habeas corpus because he is properly in removal proceedings, and the immigration court already provided him with a bond hearing, and Petitioner was properly detained as a danger/flight. Petitioner has not appealed the immigration judge's decision to the Board of Immigration Appeals. The Court should therefore dismiss the petition. Respondents do not request a hearing and do not intend to file additional affirmative briefing.

This case differs from *Garcia Mariagua v. Chestnut*, No. 1:25-cv-01744-DJC-CSK, 2026 WL 3551700 (E.D. Cal. Dec. 11, 2025) in that respondents in *Mariagua* argued the alien was detained under 8 USC § 1225 and that alien did not have a bond hearing. This case differs from *Lopez v. Lyons*, No. 2:25-cv-03174-DJC-CKD, 2025 WL 3124116 (E.D. Cal. Nov. 7, 2025), in that respondents in *Lopez* argued the alien was subject to expedited removal under 8 USC § 1225 and that alien did not have a bond hearing.

II. BACKGROUND

A. Petitioner Entered the United States.

On or about January 23, 2017 Petitioner was admitted to the United States in Miami, Florida as a B2 nonimmigrant visitor not to exceed July 22, 2017. He remained in the United States beyond that time, without legal authorization. Exhibit 1 (attached).¹ He was charged with 8 USC § 1227(a)(1)(B). *Id.*

B. Petitioner is Arrested for No Valid Driver License.

On February 28, 2026, Petitioner was arrested by Aventura Police Department officers for No Valid Driver License. Exhibit 2. Petitioner was previously arrested by Miami Beach Police Department officers on May 2, 2025, for Driving under the Influence. *Id.* He also has a prior battery charge that was dismissed. *Id.*

C. ERO Arrested Petitioner on or about March 1, 2026.

On February 28, 2026, Petitioner was encountered by ICE ERO officers after his arrest. Exhibit 3. A detainer was lodged against him, and he was released to ICE custody on or about March 1, 2026. *Id.*

D. Bond Hearing History before the Immigration Court.

Petitioner had two bond hearings. He (through immigration counsel) withdrew his request at the first hearing and was found to be a danger/flight risk at his second hearing. Exhibits 4-5. According to ICE, as of July 11, 2026, he has not appealed that decision.²

¹ Respondents respectfully request that the Court take judicial notice of the attached exhibits pursuant to Federal Rule of Evidence 201(b)(2), because their contents “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *See also, e.g., Dent v. Holder*, 627 F.3d 365, 371 (9th Cir. 2010) (taking judicial notice of documents in an alien’s “A-file” on the basis that “they are official agency records”); *Da Cunha v. Freden*, 2025 WL 3280575, at *2 (W.D.N.Y. Nov. 25, 2025) (taking judicial notice of an alien’s Form I-213); *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (“We may take judicial notice of court filings and other matters of public record.”).

² Petitioner notes that he has been detained in immigration custody for more than 2 months without a hearing to determine whether he is a danger or flight risk. (ECF 1 at 19). However, that does not appear to be accurate. *See* Exhibits 4-5

III. ARGUMENT

Petitioner's current detention pending removal proceedings is constitutional. The Constitution requires neither release from custody nor a bond hearing in which the government bears the burden of proof in this case. Therefore, the Court should dismiss Petitioner's habeas petition and deny his motion for temporary restraining order.

A. The Court Must Dismiss Petition for Habeas Corpus

1. The Standard for Granting Habeas Relief is Not Met and Petitioner has Not Exhausted Administrative Remedies.

A district court may grant a writ of habeas corpus when the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "[D]istrict courts retain jurisdiction under 28 U.S.C. § 2241 to consider habeas challenges to immigration detention that are sufficiently independent of the merits of [a] removal order." *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211–12 (9th Cir. 2011)). Petitioner has not demonstrated any constitutional deficiencies warranting a second bond hearing or immediate release. When a petitioner does not exhaust administrative remedies, however, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

The Ninth Circuit in *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) stated, "Courts may require prudential exhaustion if '(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.'" *Noriega-Lopez*, 335 F.3d at 881 (quoting *Montes v. Thornburgh*, 919 F.2d 531, 537 (9th Cir.1990)). Here, the factors weigh in favor of Respondents. The BIA has extensive expertise in reviewing bond hearing decisions and routinely reviews bond hearing decisions issued by immigration judges. 8 CFR § 1003.1(b)(7). If Petitioner were allowed to bypass the administrative procedure process, this would circumvent the regulations and EOIR administrative scheme and encourage other aliens to do so. The BIA is well equipped to review any purported errors alleged to be committed by an immigration judge.

Petitioner has not exhausted his administrative remedy since he has not appealed the immigration judge's bond decision denial before the BIA. Accordingly, his habeas petition must be dismissed for failure to exhaust administrative remedies. *Leonardo v. Crawford*, 646 F.3d 1157, 1161 (9th Cir. 2011)(“When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the petition or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused.”). In *Leonardo, supra*, in the context of a *Casas-Castrillon* bond hearing, an alien sought habeas review of an IJ's adverse bond determination before appealing to the BIA. The Ninth Circuit held that the alien's shortcut pursuit of habeas review was improper, and the alien should have exhausted administrative remedies by appealing to the BIA before asking the federal district court to review the IJ's decision. *Leonardo, supra*, citing *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003)(a petitioner “must exhaust administrative remedies before raising...constitutional claims in a habeas petition when those claims are reviewable by the BIA on appeal.”). “Exhaustion requires an appeal to the BIA, see *Cruz-Zavala v. Garland*, No. 20-CV-06872-LHK, 2021 WL 1192376, at *5–6 (N.D. Cal. Mar. 29, 2021) (finding remedies exhausted where denial of bond was appealed to the BIA and subsequently denied), or a finding that the appeal would be futile, see *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 1233883 (E.D. Cal. Apr. 29, 2025). Here, Petitioner has not appealed the IJ's recent determination that he is a danger/flight risk to the BIA, nor has he provided any evidence suggesting that such appeal would be futile. *Yu v. Wofford*, No. 1:26-CV-03669 (VC), 2026 WL 1383322, at *1 (E.D. Cal. May 18, 2026). Accordingly, the court denied the motion for temporary restraining order. *Id.*

Similarly to *Yu, supra*, Petitioner has not appealed the immigration judge's decision to the BIA and he has not demonstrated it would be futile to do so. See also *Norena v. Warden of the Golden State Annex Detention Facility*, No. 1:26-cv-04001, 2026 WL 1775809 (E.D. Cal. Jun. 18, 2026)(court dismissed habeas action for failing to exhaust administrative remedies by not appealing the immigration judge decision to the BIA); *Okoth v. Kaiser*, No. 1:25-cv-01936-KES-SAB, 2026 WL 45199 (E.D. Cal. Jan. 7, 2026)(court dismissed habeas and denied TRO motion in 1226(a) case where he failed to exhaust administrative remedies).

1 **2. Petitioner is Subject to Removal because He Stayed Longer than permitted**

2 Pursuant to 8 USC § 1227(a)(1)(B), after admission as a nonimmigrant he remained in the
3 United States for a time longer than permitted.

4 Thus, Petitioner is lawfully subject to removal, and his detention status falls under Section 1226.

5 **3. Habeas Relief is Not Warranted Because Petitioner is Lawfully Detained**
6 **Pending Removal Proceedings**

7 Petitioner has been constitutionally detained as he continues to exercise his right to litigate his
8 removal the immigration court. “[8 U.S.C. §] 1226(a)” on its face authorizes the detention of aliens
9 during the removal order review process.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062 (9th Cir. 2008).
10 The Ninth Circuit has upheld the constitutionality of § 1226(a)’s procedures as applied to a detainee, like
11 petitioner, who is detained pursuant to 8 U.S.C. § 1226(a). *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
12 1207-14 (9th Cir. 2022). Section 1226(a)’s procedures include placing the burden on the detainee to
13 demonstrate that he is not a flight risk or danger. *Id.* at 1197, 1210 (citing *Matter of Guerra*, 24 I. & N.
14 Dec. 37, 40 (B.I.A. 2006)).

15 Here, Petitioner is lawfully detained pending his removal proceedings under Section 1226. Under
16 Section 1226, “an alien may be arrested and detained pending a decision on whether the alien is to be
17 removed from the United States.” 8 U.S.C. § 1226(a).

18 Therefore, Petitioner is not unconstitutionally detained, and the Court should dismiss the petition

19 Petitioner already had a bond hearing before an immigration judge and at this time there is no legal
20 justification for a third bond hearing (or immediate release). However, he is free to request another bond
21 hearing if he can demonstrate material circumstances change. “If an Immigration Judge or the Board has
22 previously ruled in bond proceedings involving an alien, a subsequent request for a bond hearing must be
23 in writing, and the alien must show that his or her circumstances have changed materially since the last
24 decision.” Immigration Court Practice Manual, Ch. 8.3(c)(4); 8 CFR § 1003.19(e).

25 **IV. CONCLUSION**

26 For the reasons set forth above, Petitioner petition for a writ of habeas corpus should be dismissed
27 because: (1) he is lawfully detained under Section 1226 pending his detention hearing and removal
28 hearing; (2) he has failed to satisfy the burden of proof required and failed to exhaust administrative

1 remedies; (3) he is currently undergoing removal proceedings; (4) his current detention is constitutionally
2 reasonable because he is a danger/flight risk and he has been provided the process due to him; and (5)
3 Petitioner has already had two bond hearings but he can request another bond hearing if he can
4 demonstrate materially changed circumstances warranting another bond hearing. Therefore, the Court
5 should dismiss the habeas petition.³

6 Dated: August 13, 2026

ERIC GRANT
United States Attorney

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8 By: /s/ ANTHONY ANDREWS
9 ANTHONY ANDREWS
Assistant United States Attorney

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26 ³ Undersigned counsel apologizes to the court for the inadvertent missed filing deadline. When
27 the court issued its minute order directing the filing deadline, counsel was on pre-approved extended
28 leave. Before going on leave, counsel notified the court's courtroom deputy that counsel would be on
extended leave without access to email and would not be aware of any orders in counsel's cases during
counsel's extended leave. It appears the deadline was inadvertently missed by our office staff. Counsel
appreciates the court providing respondents with an additional opportunity to respond.