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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 NIMA RAFIEI,

12 Petitioner,

13 v.
14

15 CHRISTOPHER LAROSE, *et al.*,

16 Respondents.
17
18

Case No.: 26-cv-2333-JO-DDL

19
20 **RESPONSE IN OPPOSITION TO**
21 **PETITION FOR WRIT OF HABEAS**
22 **CORPUS**

23
24 **I. FACTUAL AND PROCEDURAL BACKGROUND**

25 This Court granted the Petitioner's prior petition on February 20, 2026, and
26 ordered Respondents to provide a bond hearing to Petitioner by February 25, 2026.
27 *Rafiei v. LaRose*, 26-cv-0668-JO-BJW (S.D. Cal. February 20, 2026) at ECF No. 11.
28 Petitioner received a bond hearing before an immigration judge on February 24, 2026.
Respondents provided a status report to the Court as to the date and result of the bond
hearing on February 24, 2026. *Id.* at ECF No. 13. The immigration judge denied bond,
finding that "the government met it's burden by clear and convincing evidence of
demonstrating that the respondent is a flight risk under the Matter of Guerra factors and

no amount of bond or alternatives to detention would mitigate that risk.” Ex. 1 (IJ Order). The Petitioner reserved appeal but failed to file an appeal to the Board of Immigration Appeals. Ex. 1. On April 13, 2026, Petitioner filed the instant petition which fails to state a valid claim for relief or plead sufficient facts upon which this Court can rule. ECF No. 1. The Court should therefore dismiss this petition.

II. ARGUMENT

A. Petitioner Fails to Plead Sufficient Information

The Constitution limits federal judicial power to designated “cases” and “controversies.” U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a “case” or “controversy” within the meaning of Article III). “Absent a real and immediate threat of future injury there can be no case or controversy, and thus no Article III standing for a party seeking injunctive relief.” *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) (“[I]n a lawsuit brought to force compliance, it is the plaintiff’s burden to establish standing by demonstrating that, if unchecked by the litigation, the defendant’s allegedly wrongful behavior will likely occur or continue, and that the threatened injury is certainly impending.”) (simplified)). At the “irreducible constitutional minimum,” standing requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the United States and (3) likely to be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Moreover, an individual may seek habeas relief under 28 U.S.C. § 2241 if he is “in custody” under federal authority “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus

historically “provide[s] a means of contesting the lawfulness of restraint and securing release.”). The Ninth Circuit squarely explained how to decide whether a claim sounds in habeas jurisdiction: “[O]ur review of the history and purpose of habeas leads us to conclude the relevant question is whether, based on the allegations in the petition, release is *legally required* irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry is whether success on the petitioner’s claim would “necessarily lead to immediate or speedier release.”); *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241 because they were not arguing they were unlawfully in custody and receiving the requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065).

Moreover, the Supreme Court has held that “[h]abeas Corpus Rule 2(c) is more demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition must ‘specify all the grounds for relief available to the petitioner’ and ‘state the facts supporting each ground.’” *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules Governing Section 2254 Cases in the United States District Court (“Federal Habeas Rules”)); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) (“Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief.”). As stated by the Advisory Committee’s Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, “notice pleading is not sufficient, for the petition is expected to state facts that point to a real possibility of constitutional error.”) (internal quotation marks omitted).

Petitioner’s claim that “Although the Writ of Habeas Corpus ordered that Respondents hold a true and meaningful bond hearing for me, my bond request was denied. In fact, this denial was in contrast to the spirit of the Writ of Habeas Corpus”

1 provides no basis for relief. ECF No. 1 at p. 7. In fact, Petitioner only alleges it was not
2 fair because “my bond request was denied...” *Id.* As noted in the next argument, this
3 Court does not have jurisdiction in any context to review the findings of the immigration
4 judge but that is especially true in a petition for habeas corpus where relief is limited to
5 challenges to the constitutionality of an individual’s detention which, in this case, have
6 already been resolved by this Court’s prior ruling. Here, if any claim has been raised,
7 Petitioner’s habeas petition still fails to supply sufficient information for the Court to
8 adjudicate his claim. As such, the Court should deny the petition. *See Alonso Velasquez*
9 *v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025)
10 (dismissing without prejudice habeas petition that failed to allege sufficient factual
11 information).

12 **B. This Court does not have jurisdiction to review the immigration judge’s**
13 **ruling.**

14 This Court does not have jurisdiction to review an immigration judge’s
15 discretionary factual findings and analysis nor the ultimate ruling. Petitioner cites to no
16 authority to support jurisdiction in the Federal District Court but in other case,
17 petitioners have cited *Martinez v. Clark*, 124 F.4th 775 (9th Cir. 2024), as holding that
18 the District Court has jurisdiction to review an immigration judge’s denial of bond for
19 an abuse of discretion. The Ninth Circuit at no point in its opinion addresses District
20 Court jurisdiction to hear appeals of an IJ’s decisions but rather rules on the matter
21 before it, which was the decision of the BIA of an appeal of a IJ’s bond denial. *See,*
22 *generally, id.* The Court found they had jurisdiction to consider a challenge to the
23 danger finding of the BIA not that the District Court may intervene in the appropriate
24 administrative remedy through the BIA to the Ninth Circuit. *See id.* at 784 (“Because
25 we have jurisdiction here, ...(emphasis added)). The District Court’s jurisdiction is
26 limited to whether the requirements of its order were followed. Therefore, the Court
27 should ensure Petitioner properly exhausts administrative remedies.

1 Here, the immigration judge held the bond hearing in a timely fashion, applied
2 the burden of proof required by this Court's order, inquired about Petitioner's financial
3 circumstances, and considered whether alternatives to bond would mitigate the risk of
4 flight. Simply put, the immigration judge complied with the Court's order. There is no
5 evidence provided by the Petitioner, or by the transcript, that the hearing was conducted
6 in such an egregious manner so as to give rise to a substantive due process violation.
7 Petitioner simply does not like the result and does not, and cannot, give rise to a claim
8 for relief.

9 **C. Petitioner must exhaust his administrative remedies.**

10 The Ninth Circuit requires that "habeas petitioners exhaust available judicial and
11 administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS*, 239
12 F.3d 1037, 1047 (9th Cir. 2001). "When a petitioner does not exhaust administrative
13 remedies, a district court ordinarily should either dismiss the petition without prejudice
14 or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion
15 is excused." *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also*
16 *Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a
17 jurisdictional requirement); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no
18 jurisdiction to review legal claims not presented in the petitioner's administrative
19 proceedings before the BIA). Here, Petitioner has appealed the result of his bond
20 hearing held pursuant to 8 U.S.C. § 1226(a) but has not received a ruling on the appeal.
21 Accordingly, the Court should dismiss this motion without prejudice.

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

1 judges, and the general public on the proper interpretation and administration of the
2 [INA] and its implementing regulations.” *Id.* § 1003.1(d)(1). Decisions rendered by the
3 BIA are final, except for those reviewed by the Attorney General. 8 C.F.R. §
4 1003.1(d)(7).

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

17 “When a petitioner does not exhaust administrative remedies, a district court
18 ordinarily should either dismiss the petition without prejudice or stay the proceedings
19 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
20 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
21 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
22 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
23 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,
24 a “petitioner cannot obtain review of procedural errors in the administrative process that
25 were not raised before the agency merely by alleging that every such error violates due
26 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,
27 720 F.3d 1134, 1135-36 (9th Cir. 2013) (declining to address a due process argument
28 that was not raised below because it could have been addressed by the agency).

1 Here, exhaustion is warranted because agency expertise is required. “[T]he BIA
2 is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, No. C18-
3 1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *Delgado v. Sessions*,
4 No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting
5 a denial of bond to an immigration detainee was “a question well suited for agency
6 expertise”).

7 Waiving exhaustion would also encourage other detainees to bypass the BIA and
8 directly appeal from the IJ to federal district court. *See Aden*, 2019 WL 5802013, at *2.
9 Individuals, like Petitioner, would have little incentive to seek relief before the BIA if
10 this Court permits review here. And allowing a skip-the-BIA-and-go-straight-to-
11 federal-court strategy would needlessly increase the burden on district courts. *See Bd.*
12 *of Tr. of Constr. Laborers’ Pension Trust for S. Calif. v. M.M. Sundt Constr. Co.*, 37
13 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is an important purpose of
14 exhaustion requirements.”); *see also Santos-Zacaria v. Garland*, 598 U.S. 411, 418
15 (2023) (noting “exhaustion promotes efficiency”). If the IJ erred, this Court should
16 allow the administrative process to correct itself. *See id.*

17 Moreover, detention alone is not an irreparable injury. Discretion to waive
18 exhaustion “is not unfettered.” *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004).
19 Petitioners bear the burden to show that an exception to the exhaustion requirement
20 applies. *Leonardo*, 646 F.3d at 1161; *Aden*, 2019 WL 5802013, at *3. “[C]ivil detention
21 after the denial of a bond hearing [does not] constitute[] irreparable harm such that
22 prudential exhaustion should be waived.” *Reyes v. Wolf*, No. C20-0377JLR, 2021 WL
23 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff’d sub nom. Diaz Reyes v. Mayorkas*, No.
24 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021).

25 Because Respondents have complied with this Court’s previous order to provide
26 Respondent with a bond hearing and Petitioner has not exhausted his administrative
27 remedies, this matter should be dismissed.

28

III. CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court dismiss the petition.

Dated: May 8, 2026

Respectfully submitted,

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