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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 MELVIN GEOVANY RAMOS-
15 ACOSTA,

16 Petitioner,

17 v.

18 FERETI SEMAIA, Warden, Adelanto
19 ICE Processing Center, et al.,

20 Respondents.
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No. 2:26-cv-05655-ACCV

**FEDERAL RESPONDENTS' ANSWER
TO PETITION**

Honorable Angela C. C. Viramontes
United States Magistrate Judge

1 **I. INTRODUCTION AND BACKGROUND**

2 On May 27, 2026, Melvin Geovany Ramos-Acosta (“Petitioner”) filed a Petition
3 for Writ of Habeas Corpus Under 28 U.S.C. § 2241. Dkt. 1 (“Pet.”). Petitioner is a native
4 and citizen of Honduras. *Id.* ¶ 2. He has been detained at the Adelanto processing center
5 since December 15, 2025. *Id.* ¶ 4. He was charged under INA 212a6Ai as an alien present
6 without admission or parole. Dkt. 1-5 (I-Form 213 at 2).

7 Petitioner was denied bond during a Bond Redetermination Hearing on February
8 11, 2026, Pet. ¶ 7; Dkt. 1-2. The Immigration Judge (“IJ”) found that “[Petitioner] was a
9 flight risk because his sponsor lives in Virginia; Petitioner had two failures to appear on
10 an earlier arrest; and that Petitioner did not recognize or contradicted details in the letters
11 of recommendations about Petitioner.” *Id.* ¶ 8. The IJ concluded that “‘no monetary bond,
12 even if coupled with alternatives to detention, would be sufficient’ to ensure [Petitioner’s]
13 appearance at future immigration hearings and, if necessary, surrender for removal from
14 this country,” and that Petitioner’s “eligibility for relief is speculative.” Dkt. 1-2. Petitioner
15 reserved his right to appeal to the Board of Immigration Appeals (“BIA”), which was due
16 by March 13, 2026. *Id.* at 2. Petitioner does not state whether he appealed the IJ’s decision.
17 *See Pet. generally.*

18 The individualized bond hearing Petitioner received renders his Petition moot.
19 Petitioner disagrees with the conclusion reached by the Immigration Court, which found
20 him to be a flight risk. Petitioner has cited no authority stating that the District Court may
21 ignore the prohibition on judicial review contained in 8 U.S.C. § 1226(e) and substitute its
22 decision for that of the IJ. To the extent that Petitioner argues his detention is prolonged,
23 Petitioner is detained during the pendency of her removal proceedings and therefore
24 cannot demonstrate that there is no likelihood of removal in the reasonably foreseeable
25 future under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because this Court does not have
26 habeas jurisdiction to undo the IJ’s bond determination simply because Petitioner
27 disagrees with the outcome of his bond hearing. Respondents respectfully request that the
28 Petition be denied.

II. LEGAL FRAMEWORK

ICE/ERO has the discretion to detain certain non-citizens “pending a decision on whether the [non-citizen] is to be removed from the United States.” 8 U.S.C. § 1226(a); *see* 8 U.S.C. § 1226(c). Provided the non-citizen does not fall under the § 1226(c) mandatory detention provisions, ICE/ERO may either “continue to detain the” non-citizen or “release the [non-citizen] on” bond or conditional parole. 8 U.S.C. § 1226(a)(1)-(2).

When a non-citizen is taken into ICE/ERO custody pursuant to 8 U.S.C. § 1226(a), ICE/ERO makes an initial custody determination, including consideration of a bond. *See* 8 C.F.R. §§ 236.1(c)(8), 236.1(d). ICE/ERO may “in [its] discretion, release an alien. . . provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). The ability to pay a cash bond is one factor among many that ICE/ERO may consider in making the initial custody determination. 8 C.F.R. § 236.1. The regulations further provide ICE/ERO with discretion to set a bond amount and/or prescribe other conditions for release. 8 U.S.C. § 1226(a); *see also* 8 C.F.R. §§ 236.1(c)(8), (d)(1). ICE/ERO makes these determinations based on the likelihood a non-citizen may abscond and whether the non-citizen poses a danger to property or persons. 8 C.F.R. § 236.1(c)(8).

A non-citizen may seek review of ICE/ERO’s initial custody determination before an IJ, commonly referred to as a “bond hearing.” 8 C.F.R. § 236.1(d)(1); 8 C.F.R. § 1003.19. Upon a non-citizen’s “[a]pplication to an immigration judge” to “request amelioration of the conditions under which he or she may be released[,]” the IJ may decide “to detain the [non-citizen] in custody, release the [non-citizen], and determine the amount of bond, if any, under which the [non-citizen] may be released[.]” 8 C.F.R. § 236.1(d)(1). To seek such review, the non-citizen must submit a request to the IJ either orally or in writing. 8 C.F.R. § 1003.19(b). In a bond hearing, the burden is on the non-citizen to establish to the satisfaction of the IJ, that he or she is not “a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk.” *In re*

1 *Guerra*, 24 I. & N. Dec. 37, 40 (B.I.A. 2006). Non-citizens may present evidence in
2 support of their request for a bond determination. *See* 8 C.F.R. § 1003.19(d) (“The
3 determination of the Immigration Judge as to custody status or bond may be based upon
4 any information that is available to the Immigration Judge or that is presented to him or
5 her by the [non-citizen] or the Service.”).

6 IJs have broad discretion in deciding whether to release a non-citizen on bond.
7 *Guerra*, 24 I. & N. Dec. at 39. They can consider multiple discretionary factors,
8 including any information that the IJ may deem to be relevant. *Id.* at 40. These
9 nonexclusive factors include: (1) whether the [non-citizen] has a fixed address in the
10 United States; (2) the [noncitizen’s] length of residence in the United States; (3) the non-
11 citizen’s family ties in the United States, and whether they may entitle the non-citizen to
12 reside permanently in the United States in the future; (4) the non-citizen’s employment
13 history; (5) the non-citizen’s record of appearance in court; (6) the non-citizen’s criminal
14 record, including the extensiveness of criminal activity, the recency of such activity, and
15 the seriousness of the offenses; (7) the non-citizen’s history of immigration violations;
16 (8) any attempts by the non-citizen to flee prosecution or otherwise escape authorities;
17 and (9) the non-citizen’s manner of entry to the United States. *Id.*

18 In considering these or other relevant factors, IJs “may choose to give greater weight
19 to one factor over others, as long as the decision is reasonable.” *Id.* Further, the INA in no
20 way “limit[s] the discretionary factors that may be considered” in bond determinations.
21 *Id.*; *see also* 8 C.F.R. § 1003.19(d) (bond determination “may be based upon any
22 information that is available to the Immigration Judge or that is presented to him or her by
23 the [non-citizen] or [ICE].”).

24 After an initial bond hearing, a non-citizen may request subsequent bond hearings
25 by showing that his or her “circumstances have materially changed since the prior bond”
26 hearing. *See* 8 C.F.R. § 1003.19(e). Non-citizens can then seek administrative review of
27 the IJ’s bond decision from the BIA by filing an appeal of the IJ’s order within 30 days.
28 *See* 8 C.F.R. § 236.1(d)(3) (“An appeal relating to bond and custody determinations may

1 be filed to the Board of Immigration Appeals[.]”); 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f),
2 1003.38. The Secretary’s “discretionary judgment” regarding “the detention or release of
3 any [noncitizen] or the grant, revocation, or denial of bond or parole[.]” is not subject to
4 judicial review. 8 U.S.C. § 1226(e). The bond decision does not statutorily have to be
5 revisited at any point in the removal process and the length of detention does not have to
6 be considered in the bond decision. *Jennings v. Rodriguez*, 583 U.S. 281, 304-07 (2018).

7 **III. ARGUMENT**

8 **A. There Is No Jurisdiction to Contest the IJ’s Bond Decision**

9 8 U.S.C. § 1226(e) provides that bond decisions “shall not be subject to judicial
10 review” and that “[n]o court may set aside any action or decision . . . regarding the
11 detention or release of any alien or the grant, revocation, or denial of bond[.]” As the
12 Supreme Court has recognized, “§ 1226(e) precludes an alien from challenging a
13 discretionary judgment by the Attorney General or a decision that the Attorney General
14 has made regarding his detention or release.” *Jennings*, 583 U.S. at 295 (internal
15 quotations, alterations, and citations omitted). Similarly, because section 1226(e) commits
16 bond determinations to agency discretion by statute, the Court also lacks jurisdiction
17 pursuant to 8 U.S.C. § 1252(a)(2)(B)(ii). *See Kucana v. Holder*, 558 U.S. 233, 241-52
18 (2009); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1212-13 (9th Cir. 2022) (noting that
19 court lacked jurisdiction to entertain disagreement with merits of IJ’s bond decision and
20 that disagreement with outcome of bond proceedings does not demonstrate procedural due
21 process violation). Thus, the Court lacks jurisdiction to review Petitioner’s custody
22 determination and bond orders under §§ 1226(e) and 1252(a)(2)(B)(ii).

23 Petitioner’s claim that the procedures used at his bond hearing violated due process
24 should be rejected. The IJ applied the applicable procedures set forth by 8 U.S.C. §
25 1226(a). Those procedures comply with procedural due process even under the three-
26 factor test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz* 53
27 F.4th at 1203-14.

B. The Court Lacks Jurisdiction under 8 U.S.C. § 1252.

8 U.S.C. §§ 1252(g) and (b)(9) preclude review of Petitioner's claims.

First, Section 1252(g) specifically deprives courts of jurisdiction, including habeas corpus jurisdiction, to review “any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to [1] *commence proceedings*, [2] *adjudicate cases*, or [3] *execute removal orders* against any alien under this chapter.” 8 U.S.C. § 1252(g) (emphasis added). Section 1252(g) eliminates jurisdiction “[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title.” Except as provided in § 1252, courts “cannot entertain challenges to the enumerated executive branch decisions or actions.” *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021).

Section 1252(g) also bars district courts from hearing challenges to the *method* by which the Secretary of Homeland Security chooses to commence removal proceedings, including the decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal” and also to review “ICE’s decision to take [plaintiff] into custody and to detain him during removal proceedings”).

Petitioner’s claims stem from his detention during removal proceedings. That detention arises from the decision to commence such proceedings against him. *See, e.g., Valencia-Mejia v. United States*, 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) (“The decision to detain plaintiff until his hearing before the Immigration Judge arose from this decision to commence proceedings”); *Wang v. United States*, 2010 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010); *Tazu v. Att’y Gen. U.S.*, 975 F.3d 292, 298–99 (3d Cir. 2020) (holding that 8 U.S.C. § 1252(g) and (b)(9) deprive district court of jurisdiction to review action to execute removal order).

As other courts have held, “[f]or the purposes of § 1252, the Attorney General commences proceedings against an alien when the alien is issued a Notice to Appear

1 before an immigration court.” *Herrera-Correra v. United States*, 2008 WL 11336833, at
2 *3 (C.D. Cal. Sept. 11, 2008). “The Attorney General may arrest the alien against whom
3 proceedings are commenced and detain that individual until the conclusion of those
4 proceedings.” *Id.* at *3. “Thus, an alien’s detention throughout this process arises from the
5 Attorney General’s decision to commence proceedings” and review of claims arising from
6 such detention is barred under § 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949
7 (9th Cir. 2007)); *Wang*, 2010 WL 11463156, at *6; 8 U.S.C. § 1252(g). As such, judicial
8 review of Petition is barred by § 1252(g).

9 *Second*, under § 1252(b)(9), “judicial review of all questions of law . . . including
10 interpretation and application of statutory provisions . . . arising from any action
11 taken . . . to remove an alien from the United States” is only proper before the appropriate
12 federal court of appeals in the form of a petition for review of a final removal order. *See* 8
13 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471,
14 483 (1999). Section 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels
15 judicial review of all [claims arising from deportation proceedings]” to a court of appeals
16 in the first instance. *Id.*; *see Lopez v. Barr*, 2021 WL 195523, at *2 (D. Minn. Jan. 20,
17 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579-80 (2020)).

18 Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means
19 for judicial review of immigration proceedings: “a petition for review filed with an
20 appropriate court of appeals . . . shall be the sole and exclusive means for judicial review
21 of an order of removal entered or issued under any provision of this chapter, except as
22 provided in subsection (e) [concerning aliens not admitted to the United States].” 8 U.S.C.
23 § 1252(a)(5). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—
24 whether legal or factual—arising from *any* removal-related activity can be reviewed *only*
25 through the [petition-for-review] process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th
26 Cir. 2016) (emphasis in original); *see id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel
27 review of all claims, including policies-and-practices challenges . . . whenever they ‘arise
28 from’ removal proceedings”); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir.

2009) (only when the action is “unrelated to any removal action or proceeding” is it within the district court’s jurisdiction); *cf. Xiao Ji Chen v. U.S. Dep’t of Justice*, 434 F.3d 144, 151 n.3 (2d Cir. 2006) (a “primary effect” of the REAL ID Act is to “limit all aliens to one bite of the apple” (internal quotation marks omitted)).

Critically, “[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring one.” *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that “[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.” *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) (“[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]”). The petition-for-review process before the court of appeals ensures that aliens have a proper forum for claims arising from their immigration proceedings and “receive their day in court.” *J.E.F.M.*, 837 F.3d at 1031-32 (internal quotations omitted).

The Court should dismiss the Petition for lack of jurisdiction.

C. Petitioner Has Failed to Exhaust Administrative Remedies

Petitioner alleges that the IJ erred in denying bond. *See* Pet. ¶¶ 14-15. In *Martinez v. Scott*, 2025 WL 2689844, at *7 (W.D. Wash. Aug. 27, 2025), *report and recommendation adopted at* 2025 WL 2689066 (W.D. Wash. Sept. 19, 2025), the district court dismissed the habeas petition because the detainee failed to exhaust administrative remedies by filing an appeal with the BIA. The Court should do the same here.

In determining whether exhaustion (i.e., going through the administrative appellate process with the BIA) was required, the *Martinez v. Scott* court analyzed the factors in *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007): (1) whether agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) whether relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) whether administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. As in *Martinez v.*

1 *Scott*, the *Puga* factors favor requiring exhaustion. The BIA has subject matter expertise
2 in reviewing individual immigration bond decisions, the authority to review IJ's bond
3 decisions, and, if necessary, can generate a more complete factual record for review. 2025
4 WL 2689844, at *4.

5 The second *Puga* factor, "whether relaxation of the requirement would encourage
6 the deliberate bypass of the administrative scheme," weighs heavily in favor of requiring
7 administrative exhaustion. *Id.* at *5 (citing *Puga*, 488 F.3d at 815). Courts consider
8 whether the resolution of the case at bar would answer a recurring legal question thereby
9 reducing the number of future habeas filings. *Id.* Because the flight risk determination in
10 any given bond hearing is fact-intensive, although this Court's reappraisal of Petitioner's
11 bond decision would provide Petitioner with review, it would provide no concrete
12 guidance for future flight risk or dangerousness determinations for other detainees.
13 "Rather, relaxing the exhaustion requirements in this case would encourage others to
14 immediately seek habeas review if they deem the federal courts to be a more sympathetic
15 forum." *Id.* The practical consequences of Petitioner's desired result would be that the
16 district courts will be overrun with appeals that should be heard by the BIA under the guise
17 of habeas petitions.

18 Lastly, the third *Puga* factor asks whether administrative review is likely to allow
19 the agency to correct its own mistakes and preclude the need for judicial review. *Puga*,
20 488 F.3d at 815. The BIA has the authority to correct any erroneous factual determinations
21 and evidentiary errors Plaintiff alleges. 8 C.F.R. § 1003.1(d)(3)(i)-(ii). Allowing the BIA
22 to consider the appeal would give the agency to correct any mistakes in Petitioner's case
23 and potentially preclude the need for judicial review. This last factor also favors requiring
24 exhaustion. *See Zaitsev v. Warden*, No. 2:26-cv-00454-SPG-AS, Dkt. 14 (Feb. 9, 2026)
25 ("Petitioner bears the burden of showing that an excuse for exhaustion applies.") (quoting
26 *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Petitioner does not state whether
27 he appealed to the BIA and does not explain why the Court should waive the exhaustion
28 requirement.

D. Petitioner Does Not Identify Any Due Process Violation or Error of Law that Justifies Habeas Relief

Petitioner acknowledges that he had had a bond hearing. Pet. ¶ 7. The IJ found Petitioner to be a flight risk. Dkt. 1-2. Petitioner reserved his right to appeal before the BIA. *Id.* Petitioner's disagreement with the outcome of the bond hearing is not a legal error that permits this Court to undo the IJ's bond decision. In fact, Petitioner's recent individualized bond hearing is strong evidence that "the existing agency procedures sufficiently protected [Petitioner's] liberty interest and mitigated the risk of erroneous deprivation." *See Rodriguez Diaz*, 53 F.4th at 1208. While the Ninth Circuit would have habeas jurisdiction to consider any error of law including a due process violation, the IJ's discretionary bond decision is not reviewable in federal court under 8 U.S.C. § 1226(e). *Id.* at 1209. Petitioner's disagreement with the merits does not indicate that a procedural due process violation has occurred.

In fact, on June 3, 2026, in *Parvinder Mann v. Semaia, et al.*, No. 5:26-cv-02669-BFM, Dkt. 10, the District Court (Hon. Brianna Fuller Mircheff) found that there was no substantive due process violation:

The Due Process Clause applies to "persons" within the jurisdiction of the United States. U.S. Const. Amend. XIV. It "protects every one of these persons from deprivation of life, liberty, or property without due process of law." *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). "Persons" includes both citizens and noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001) (citation omitted). As such, while Congress has the authority to pass laws governing non-citizens "that would be unacceptable if applied to citizens," *Mathews*, 426 U.S. at 77, 79- 80, its latitude to do so in the civil detention realm is not unlimited. At a "bare minimum," noncitizens subject to civil immigration detention—just like people detained civilly and individuals accused but not convicted of a crime—"cannot be subjected to conditions that 'amount to punishment.'" *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir.

2004) (*quoting Bell v. Wolfish*, 441 U.S. 520, 535 (1979)); *see also Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (concluding that “detention or temporary confinement” is “valid” to carry out “the provisions for the exclusion or expulsion of aliens,” but that detention involving “imprisonment at hard labor” is unconstitutional without a criminal trial).

Id. at 3. The court found that the petitioner’s Due Process rights were not violated where the petitioner “had been detained for just under a year” and had received a bond hearing. *See id.* at 4-5. Similarly, here, Petitioner’s Due Process claims should be denied.

IV. CONCLUSION

Respondents respectfully request that the Petition be denied.

Respectfully submitted,

Dated: June 3, 2026

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