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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

L.B.,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Warden, Otay Mesa Detention Center; *et al.*,

Respondents.

Case No. 26-cv-03330-RSH-JLB

RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

This is Petitioner's second habeas petition before this Court, challenging the legality of her detention. Petitioner's prior habeas petition resulted in the Court issuing an order granting the petition and ordering Respondents provide Petitioner with a bond hearing. Respondents fully complied with the Court's order and Petitioner received a bond hearing on February 2, 2026. In the prior proceeding, Petitioner also filed a motion to enforce judgment, challenging the decision rendered at the bond hearing. This Court denied that motion on March 27, 2026. Petitioner now files the instant petition, again challenging the decision rendered at the bond hearing, and requesting immediate release or, in the alternative, *another* bond hearing. However, this Court lacks jurisdiction to

directly review an immigration judge's bond determination and Petitioner has not exhausted her administrative remedies. Therefore, this Court should dismiss this petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

On January 28, 2026, the Court issued an order granting Petitioner's first petition and ordering that Respondents provide Petitioner with an "individualized bond hearing, at which Respondents must justify her 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 L.B. v Larose; et al.*, 3:26-cv-00182-RSH-BJW, ECF No. 5 at 2. On February 2, 2026, Petitioner was provided with an individualized bond hearing before a neutral immigration judge where the government bore the burden of establishing Petitioner was a danger or flight risk. At the conclusion of the bond hearing, the immigration judge denied Petitioner release on bond because Petitioner was "[d]eemed to be a significant flight risk, and no amount of bond will mitigate such." *See* ECF No. 1-2 at 27. The "[c]ourt's reasoning and findings [were] stated on the bond record." *Id.*

Not satisfied with the immigration judge's decision, Petitioner filed a motion to enforce this Court's judgment on March 2, 2026. *See L.B. v Larose; et al.*, 3:26-cv-00182-RSH-BJW, ECF No. 9. Respondents filed a response in opposition to Petitioner's motion arguing Petitioner failed to exhaust her administrative remedies by appealing the bond denial to the Board of Immigration Appeals (BIA). *See id.*, ECF No. 11. This Court agreed with Respondents and denied Petitioner's motion. *See id.*, ECF No. 14.

Petitioner now seeks to improperly challenge the immigration judge's bond order before this Court by filing a *second* habeas petition. *See* ECF No. 1. However, Petitioner still has not exhausted her administrative remedies. Petitioner reserved the right to appeal the adverse bond decision (*see* ECF No. 1-2 at 28) but failed to timely file an appeal with the BIA. Petitioner essentially seeks review of the immigration judge's decision at her bond hearing, but Petitioner has not exhausted her administrative

remedies. Moreover, any allegations concerning immigration judge's neutrality are speculative. Accordingly, the Court should dismiss this petition.

III. ARGUMENT

A. This Court does not have jurisdiction to review the immigration judge's ruling.

As a preliminary matter, this Court does not have jurisdiction to review an immigration judge's discretionary factual findings and analysis, nor the ultimate ruling. The District Court's review of the bond proceedings, prior to a BIA appeal, is limited to whether the requirements of its order were followed. *See Martinez v. Clark,* 124 F.4th 775, 785 (9th Cir. 2024). Here, the immigration judge held the bond hearing in a timely fashion, applied the burden of proof[1] required by this Court's order, and considered factors such as Petitioner's illegal entry into the United States, failure to apply for asylum, and lack of residence or employment in the United States, before reaching a decision. *See* ECF No. 1-2 at 7-8. Simply put, the immigration judge complied with the Court's order.

Petitioner, instead of timely appealing the adverse bond decision to the BIA, comes before this Court, alleging the immigration judge committed several legal errors during the bond hearing. *See* ECF No. 1 at 12. However, there is no evidence provided by the Petitioner that the hearing was conducted in such an egregious manner so as to give rise to any *substantive* due process violation. Petitioner's dissatisfaction with the immigration judge's ruling does give rise to a claim for relief. Petitioner has alleged nothing more. Since this Court has no jurisdiction to review the immigration judge's factual findings and analysis, the Court should ensure Petitioner properly exhausts her administrative remedies.

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[1] Petitioner again claims the immigration judge did not place the burden on the government as ordered by this Court. Respondents addressed this issue in their Response to Petitioner's Motion to Enforce. *See L.B. v Larose; et al.*, 3:26-cv-00182-RSH-BJW, ECF No. 11.

B. Petitioner must exhaust her administrative remedies.

"Exhaustion can be either statutorily or judicially required." *Acevedo–Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). "If exhaustion is statutory, it may be a mandatory requirement that is jurisdictional." *Id.* (citing *El Rescate Legal Servs., Inc. v. Exec. Office of Immigration Review*, 959 F.2d 742, 747 (9th Cir. 1991)). "If, however, exhaustion is a prudential requirement, a court has discretion to waive the requirement." *Id.* (citing *Stratman v. Watt*, 656 F.2d 1321, 1325–26 (9th Cir. 1981)). Here, the proper avenue for Petitioner's grievance with her bond denial is to utilize the administrative scheme and appeal her bond denial to the Board of Immigration Appeals (BIA).

The BIA is an appellate body within the Executive Office for Immigration Review and possesses delegated authority from the Attorney General. 8 C.F.R. §§ 1003.1(a)(1), (d)(1). The BIA is "charged with the review of those administrative adjudications under the [Immigration and Nationality Act (INA)] that the Attorney General may by regulation assign to it," including immigration judge custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves particular disputes before it, but is also directed to, "through precedent decisions, . . . provide clear and uniform guidance to [the Department of Homeland Security], the immigration judges, and the general public on the proper interpretation and administration of the [INA] and its implementing regulations." 8 C.F.R. § 1003.1(d)(1). Decisions rendered by the BIA are final, except for those reviewed by the Attorney General. 8 C.F.R. § 1003.1(d)(7).

"District Courts are authorized by 28 U.S.C § 2241 to consider petitions for habeas corpus." *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other grounds by Hernandez–Vargas v. Gonzales*, 548 U.S. 30 (2006). "That section does not specifically require petitioners to exhaust direct appeals before filing petitions for habeas corpus." *Id.* That said, the Ninth Circuit "require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Id.* Specifically, "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." *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (cleaned up).

"When a petitioner does not exhaust administrative remedies, 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) (citations omitted); *see also Alvarado v. Holder*, 759 F.3d 1121, 1127 n.5 (9th Cir. 2014), *abrogated on other grounds by Santos-Zacaria v. Garland*, 598 U.S. 411 (2023) ("issue exhaustion is a jurisdictional requirement"); *Tijani v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (court "lacks jurisdiction to review legal claims not presented in an alien's administrative proceedings before the BIA"). Moreover, "a petitioner cannot obtain review of procedural errors in the administrative process that were not raised before the agency merely by alleging that every such error violates due process." *Reid v. Engen*, 765 F.2d 1457, 1461 (9th Cir. 1985); *see also Sola v. Holder*, 720 F.3d 1134, 1135–36 (9th Cir. 2013) (declining to address a due process argument that was not raised below because it could have been addressed by the agency).

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

Waiving exhaustion would also encourage other detainees to bypass the BIA and directly appeal from the immigration judge to federal district court. *See Aden*, 2019 WL 5802013, at *2 ("[R]elaxation of the exhaustion requirement would likely encourage

other detainees to bypass the BIA and directly appeal their no-bond determinations from the [immigration judge] to federal district court."). Individuals, like Petitioner, would have little incentive to seek relief before the BIA if this Court permits review here. And allowing a skip-the-BIA-and-go-straight-to-federal-court strategy would needlessly increase the burden on district courts. *See Bd. of Tr. of the Constr. Laborers' Pension Trust for S. Cal.. v. M.M. Sundt Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) ("Judicial economy is an important purpose of exhaustion requirements.") (citation omitted); *Santos-Zacaria*, 598 U.S. at 418 (noting "exhaustion promotes efficiency"). If the IJ erred, this Court should allow the administrative process to correct itself.

Moreover, detention alone is not an irreparable injury. Discretion to waive exhaustion "is not unfettered." *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). "[C]ivil detention after the denial of a bond hearing [does not] constitute[] irreparable harm such that prudential exhaustion should be waived." *Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, No. 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021).

Finally, Petitioners bear the burden to show that an exception to the exhaustion requirement applies. *Leonardo*, 646 F.3d at 1161; *Aden*, 2019 WL 5802013, at *3. Here, Petitioner has failed to demonstrate that exhaustion should be waived.

Other courts in this district agree. *See, e.g.*, *Rana v. LaRose*, No. 26-cv-00285-RSH-DDL, ECF No. 11 (S.D. Cal. Mar. 13, 2026) (denying motion to enforce judgment where petitioner was denied bond on the basis of flight risk because there was no indication that administrative remedies were first exhausted) (citing *Leonardo*, 646 F.3d at 1160); *Baker v. Gordon*, No. 25-cv-03539-CAB-SBC, ECF No. 8 at 2:1–5 (S.D. Cal. Jan. 30, 2026) ("As the Ninth Circuit has explained, '[Petitioner] pursued habeas review of the [immigration judge's] adverse bond determination before appealing to the BIA. This short cut was improper. [Petitioner] should have exhausted administrative remedies by appealing to the BIA before asking the federal district court to review the [immigration judge's] decision.'") (quoting *Leonardo*, 646 F.3d at 1160).

C. Petitioner improperly argues immigration judges are compromised.

Petitioner asserts her bond hearing was not impartial because immigration judges are compromised by fear of termination. Petitioner's assertions are speculative and counsel cites no habeas case from this district where the Court found a local immigration judge deliberately flouted a court order to hold a bona fide bond hearing or where DHS failed to comply with an immigration judge's order granting bond following a district court order. To the contrary, numerous habeas cases in this district confirm that immigration judges have complied in good faith with this court's orders, conducted individualized bond hearings, and granted bond in many cases, often on a very quick turnaround. *See, e.g., Ramirez Ceja v. Divver*, No. 26-cv-00254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2025) (Joint Status Report reflecting immigration judge granted bond at Otay Mesa Immigration Court); *Prabhpreet v. LaRose*, No. 26-cv-00393-JES-SBC, ECF No. 10 (S.D. Cal. Feb. 19, 2026) (same); *I.E. v. Casey,* No. 25-cv-03227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec. 16, 2025) (same for Imperial Regional Detention Facility); *Gautam v. Correctional Corp. of Am.,* No. 25-cv-03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice of Compliance); *Alemanji v. Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D. Cal. Dec. 23, 2025) (Notice Confirming Bond Hearing); *Xie v. LaRose*, No. 26-cv-00529-RBM-DDL, ECF No. 9 (S.D. Cal. Mar. 4, 2026) (Notice of Compliance; bond granted); *Corado-Serrano v. Bondi*, No. 26-cv-1338-JO-VET, ECF No. 10 (S.D. Cal. Mar. 25, 2026) (bond granted); *Luis Alberto Corado-Serrano v. Bondi*, 26-cv-1338-JO-VET, ECF No. 10 (S.D. Cal. Mar. 27, 2026) (bond granted); *Paniagua-Padilla v. Bondi*, 26-cv-01332-JO-VET, ECF No. 13 (S.D. Cal. Apr. 1, 2026) (bond granted); *Fawaz Ali v. Mullin*, 26-cv-1565-JES-JLB, ECF No. 15 (S.D. Cal. Apr. 10, 2026) (Notice of Compliance; bond granted). Moreover, Petitioner's request that this Court conduct her bond hearing, as an alternative to immediate release, is not support by a legal basis and severely undermines administrative exhaustion principles. As previously stated, the proper avenue for any grievance in the event of bond denial is to utilize the administrative scheme and appeal

her bond denial to the BIA.

IV. CONCLUSION

Because this Court lacks jurisdiction to review the immigration judge's findings, Respondents have complied with this Court's previous order to provide Petitioner with a bond hearing, and Petitioner has not exhausted her administrative remedies, this petition should be dismissed.

Dated: June 8, 2026

Respectfully submitted,

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s/ Camille Savedra
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