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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

HONORIO LATYR PEREIRA BARRETO,

Petitioner,

v.

STATE OF ALASKA, Department of Corrections;
ARNALDO HERNANDEZ,
Superintendent of the Anchorage Correctional
Complex, in his official capacity, et al.

Respondents.

Case No. 3:26-cv-00235-SLG

**RESPONDENTS' RETURN MEMORANDUM TO RENEWED REQUEST FOR
WRIT OF HABEAS CORPUS AND MOTION TO DISMISS**

Federal Respondents, David Venturella and Laura Hermosillo, United States Immigration and Customs Enforcement (ICE), and Markwayne Mullin, Department of Homeland Security, through undersigned counsel, respond in opposition to Petitioner's renewed request for writ of habeas corpus at Dkt. 34.

ARGUMENT

As a preliminary matter, this Court must consider whether it has subject matter jurisdiction. After examination, the Court should conclude that Congress, in enacting 8 U.S.C. § 1252(b)(9) and § 1252(a)(5) has stripped the district courts of jurisdiction and instead, expressed clear intent that all questions of law and fact concerning an alien's removal, including detention, should be funneled into a petition for review in the appropriate court of appeals. Even assuming *arguendo*, the Court finds it has jurisdiction, it should still decline to consider the renewed petition pursuant to prudential exhaustion. Finally, Petitioner's claims fail on the merits alone as well. He was afforded ample due process and was only limited in his presentation by the choices and strategic decisions of his counsel. The Court should deny the renewed petition and dismiss this case in its entirety.

I. CUSTODY STATUS AND FACTUAL BACKGROUND.

The Government incorporates by reference its prior response return on order to show cause at Dkt. 8. Petitioner's status has not changed and he is still detained pursuant to 8 U.S.C. § 1226. At Petitioner's recent bond hearing, the Government submitted evidence. Ex. A; Ex. B. Petitioner submitted documentary evidence and was allowed to make proffers in lieu of calling witnesses. Petitioner's counsel was repeatedly asked if she wanted to make any other proffers and all the proffers were accepted by the immigration court. The bond hearing was recorded. Ex. C. After conclusion of the hearing, the immigration court denied bond. Dkt. 32-1. While the order was not deduced to a written memorandum, it is

clearly indicated “...a written memorandum pursuant to regulation if a party appeals to the Board of Immigration Appeals.” Dkt. 32-1 at 2. To the Government’s knowledge, Petitioner has not, as of this filing, requested an appeal to the Board of Immigration Appeals. Thus, no written memorandum has been issued.

II. CONGRESS HAS STRIPPED THE DISTRICT COURTS OF SUBJECT MATTER JURISDICTION TO ENTERTAIN NON-FINAL AND APPEALABLE BOND DETERMINATIONS MADE BY THE IMMIGRATION COURT.

As a preliminary matter, this Court must assess whether it has subject matter jurisdiction over Petitioner’s Renewed Request for a Writ of Habeas Corpus¹. Petitioners bear the burden of establishing the Court has subject matter jurisdiction over their claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000). Not only has Petitioner failed to establish jurisdiction, evaluating the merits itself, this Court lacks jurisdiction to entertain Petitioner’s new request for writ.

The Ninth Circuit held that the Court lacks jurisdiction over habeas challenges to the exercise of discretion to execute a removal order. *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022). Moreover, the path for Article III review of removal orders is a “a petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5). And as the REAL ID Act further provides: “[j]udicial review of all questions of law and fact, including interpretation of constitutional and statutory provisions, arising from any action taken or

¹ The Government observes Petitioner styles his pleading as a renewed request, but procedurally, it may be more properly styled as an amendment. Irrespective, the Government substantively responds to the merits.

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proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.” 8 U.S.C. § 1252(b)(9). Read in conjunction, 8 U.S.C. § 1252(b)(9) and § 1252(a)(5) express Congress’s intent to funnel judicial review of every aspect of removal proceedings into a petition for review filed in the courts of appeals—not the district courts. *See Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (recognizing that these provisions “clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals.”); *Xiaoyuan Ma v. Holder*, 860 F.Supp.2d 1048, 1061 (N.D. Cal. May 16, 2012) (collecting cases and holding a petition that seeks to halt a final order of removal, regardless of how it is framed, strips the court of jurisdiction).

Here, the Court is not reviewing a final order of removal and thus the court lacks jurisdiction. *Jennings v. Rodriguez*, 583 U.S. 281, 316 (2018) (Thomas, J., concurring) (“In short, if a claim arises from an action taken to remove an alien, § 1252(b)(9) permits judicial review in only two circumstances: in connection with review of a final removal order and via a specific grant of jurisdiction in § 1252.”)². Detention falls within the § 1252(b)(9) jurisdictional bar. *Id.* (citations omitted). The Supreme Court has described detention during removal as an “aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003); *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention

² The plurality in *Jennings* disagreed with the concurrence concerning § 1252(b)(9), but since no majority agreed upon § 1252(b)(9)—primarily because it was not argued, there is no precedential value. *See generally United States v. Davis*, 825 F.3d 1014 (9th Cir. 2016) (discussing plurality and concurring opinions).

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is necessarily a part of [the] deportation procedure”).

In sum, 8 U.S.C. § 1252(b)(9) and § 1252(a)(5) act as a zipper clause, funneling all judicial questions of law and fact into a consolidated petition for review brought in the appropriate court of appeals after the immigration court process, including appeal to the Board of Immigration Appeals, has concluded and forecloses review of Petitioner’s bond denial by the District Court.

III. PRUDENTIAL EXHAUSTION PREVENTS THE COURT FROM ENTERTAINING PETITIONER’S RENEWED HABEAS APPLICATION.

Petitioner requests that the Court waive the prudential exhaustion requirement. The Ninth Circuit has cautioned that courts should be careful not to excuse exhaustion where, as here, “relaxation of the requirement would encourage the deliberate bypass of the administrative scheme.” *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003).

The Circuit Court has further cautioned that exhaustion should not be excused where “agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision” or “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) (quoting *Noriega-Lopez*, 335 F.3d at 881). All three of these factors favor enforcing the exhaustion requirement in this case. *See Calderon v. Mullin, et al.*, No. 2:26-CV-01512, 2026 WL 1487774, at *2-3 (W.D. Wash. May 28, 2026) (concluding the Puga factors did not favor excusing prudential exhaustion); *see also Martinez v. Scott*, No. 2:25-CV-01538, 2025 WL 2689844, at *6 (W.D. Wash. Aug. 27,

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2025) (setting forth the standards for applying the prudential exhaustion doctrine and concluding petitioner failed to demonstrate that exhaustion should be waived), report and recommendation adopted, No. C25-1538, 2025 WL 2689066 (W.D. Wash. Sept. 19, 2025); *Zuo v. Hermosillo*, No. 2:26-CV-00708, 2026 WL 809882, at *3 (W.D. Wash. Mar. 24, 2026) (concluding the Puga factors did not favor excusing prudential exhaustion); *Kim v. Mullin, et al.*, No. C26-0805, 2026 WL 948347, at *4 (W.D. Wash. Apr. 8, 2026) (collecting cases).

Even if the *Puga* factors weigh in favor of requiring exhaustion, a petitioner may avoid the requirement by demonstrating any one of the *Laing* factors applies in their case. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)). “The party moving the court to waive prudential exhaustion requirements bears the burden of demonstrating that at least one of the[] *Laing* factors applies.” *Aden v. Nielsen*, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019) (concluding petitioner failed to meet his burden to waive prudential exhaustion, despite a fully developed administrative record and uncontested facts).

Several decisions demonstrate that the relevant inquiry for waiver under *Laing* is not merely irreparable harm resulting from agency delay, but irreparable harm that is unique to an individual petitioner. *W.T.M. v. Bondi*, No. 2:25-CV-02428, 2026 WL 262583, *3 (W.D. Wash. Jan. 30, 2026) (“Petitioner has presented evidence unique to him, that...supports a finding that his continued detention pending a potentially months-long BIA appeal of the IJ’s bond denial decision would risk continued irreparable harm.”

(emphasis added)); *see also* *Loya Medina v. Hernandez*, No. 2:26-cv-00772, 2026 WL 1260848, at *6 (W.D. Wash. May 7, 2026) (waiving exhaustion upon a showing of irreparable harm where the petitioner’s absence forced her teenage son to assume caretaking responsibilities for his younger sister and father, the latter of whom was recovering from a stroke and heart surgery); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1252-53 (W.D. Wash. 2025) (concluding that the lead plaintiff would face irreparable harm by having no meaningful opportunity to show his entitlement to bond).

The *Rodriguez* Court further highlighted the “uncontested evidence of unique harm” the lead plaintiff would face in continued detention in the absence of a bond hearing. *Id.* at 1254. Conversely, Petitioner in the instant case, has received a bond hearing where he was provided a meaningful opportunity to demonstrate his entitlement to bond, and he has not presented evidence of any unique harm other than what most, if not all, detainees face. *See Taha v. Bostock*, No. 25-cv-649, 2025 WL 1126681, at *3 (W.D. Wash. Apr. 16, 2025) (explaining that emotional harm from a loss of liberty is common to immigration detainees).

Furthermore, Petitioner’s “irreparable harm-based argument begs the constitutional questions presented in his petition by assuming that [P]etitioner has suffered constitutional injury.” *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019) (quoting *Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012)). This is an argument that is also common to all aliens seeking review of their custody or bond determinations. “Allowing those who argue procedural errors in their custody or bond

determinations to bypass the administrative process would disrupt the agency's autonomy and result in unnecessary judicial review of unexhausted claims.” *Id.* (citation omitted). While Petitioner may face hardships relating to his continued detention, the mere passage of time or the delay inherent in the administrative process is insufficient to establish the type of unique, irreparable harm necessary to waive prudential exhaustion. *Martinez*, 2025 WL 2689844, at *6.

Insofar as Petitioner's claim that administrative review would be futile, Petitioner argues he should be allowed to skip agency review because the IJ's bond denial lacks a sufficient legal basis at the time it was issued, but the Ninth Circuit has expressly held that the discretionary detention procedures of 8 U.S.C. § 1226(a) are facially constitutional and satisfy due process requirements. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1212-13 (9th Cir. 2022).

Additionally, if this Court waives prudential exhaustion based on the absence of a comprehensive explanation of the IJ's bond denial, Petitioner's challenge creates a two-step loophole that effectively allows future petitioners to claim due process violations for a lack of factual findings they caused themselves through foregoing an administrative appeal. *See* Dkt. 32-1. “Indeed, a version of Petitioner's argument could be made by virtually every litigant attempting to bypass the administrative process by proceeding directly to the federal courts.” *Martinez*, 2025 WL 2689844, at *6. Permitting Petitioner to side-step the administrative scheme in this manner “would create an exception to exhaustion that would swallow the rule.” *Martinez*, 2025 WL 2689844, at *6. This would

effectively make the District Court the new IJ bond court.

Because Petitioner has failed to demonstrate his entitlement to a waiver of the prudential exhaustion requirement, this Court should require exhaustion.

IV. PETITIONER WAS AFFORDED DUE PROCESS.

Petitioner claims his bond hearing lacked procedural due process because his “evidence” was not addressed by the immigration court, he was not permitted to testify, and his bond was denied.

All these claims fail. As demonstrated by the audible record, the immigration court accepted all the proffers from Petitioner’s counsel and asked several times if she had any other proffers to make—in addition to the voluminous filings Petitioner offered. In short, the evidence received was only limited insofar as Petitioner’s counsel chose what to, and what not to, proffer. In the renewed request, Petitioner does not address the evidence offered by the Government, Petitioner’s underlying conduct in those arrests and his attempt to flee, and his conduct while in detention most recently. Ex. A at 26-27.

The immigration court focused its attentions in considering whether to grant bond to the *Guerra* factors: (1) whether the alien has a fixed address in the United States; (2) the alien’s length of residence in the United States; (3) the alien’s family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien’s employment history; (5) the alien’s record of appearance in court; (6) the alien’s criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien’s history of immigration

violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien's manner of entry to the United States. *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).

The immigration court conducted Petitioner's bond hearing for almost an hour and he was provided with all the due process Congress has deemed appropriate in enacting § 1226. His claims are simply rooted in disagreement with the determination, and fail upon examination. Notably, Petitioner freely admits his intent to delay and frustrate his removal by continuing to file successive I-751 applications with the stated intent to forestall the effectuation of his removal. Dkt. 34 at 20-21. His claims in this renewed petition should be viewed with skepticism, given his open admission that he intends to file successive I-751 applications to frustrate and delay his lawful removal.

Finally, it bears highlighting that the Ninth Circuit has found that Section 1226(a) and its implementing regulations satisfy due process. *Rodriguez Diaz*, 53 F.4th 1189, 1213 (9th Cir. 2022). The appropriate forum for Petitioner to address his bond determination is the BIA. 8 C.F.R. § 236.1(d)(3). In addition, should there be future material change in circumstances, he can request an additional bond hearing. C.F.R. § 1003.19(e). And that bond hearing is also appealable to the BIA. *See generally id.* § 1003.19.

CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the habeas petition and dismiss the case.

RESPECTFULLY SUBMITTED this July 24, 2026, in Anchorage, Alaska.

MICHAEL J. HEYMAN
United States Attorney

/s/ Joshua A. Traini
Assistant U.S. Attorney
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2026,
a true and correct copy of the foregoing
was served electronically on the following:

Margaret D. Stock, Esq.
Kristine A. Quint, Esq.
Cascadia Cross Border Law Group LLC
Attorneys for Petitioner

/s/ Joshua A. Traini
Office of the U.S. Attorney

Erin J. Clifford

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U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

1623 East J Street, Suite 2

Tacoma, WA 98421

DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
TACOMA, WASHINGTON

July 1, 2026

In the Matter of:

PEREIRA BARRETO, HONORIO

Respondent,

In Removal Proceedings

File No. A



Immigration Judge: Fitting, Tammy

Next Hearing: 7/2/2026

DHS NOTICE OF EVIDENCE

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Exhibit A

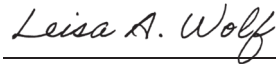
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DHS NOTICE OF EVIDENCE

The United States Department of Homeland Security (DHS), Immigration and Customs Enforcement respectfully offers the following attached documents for consideration in the above-stated case. The documents are offered for the information contained therein.

A.	Record of Deportable/Inadmissible Alien (Form I-213)	pp. 1 – 4
B.	Documents Relating to Pending Criminal Charges in Alaska, 3AN-1874-CR and 3AN-2803-CR	pp. 5 – 22
C.	Alaska Dept. of Corrections Incident Report Forms, dated June 21, 2026 and June 22, 2026	pp. 23 – 24
D.	USCIS Documents Relating to Denial of I-751	pp. 25 – 30
E.	Motion to Reconsider <i>Singh</i> Standards, 3:26-00235-SLG, filed on June 30, 2026	pp. 31 – 36

Respectfully submitted,



Leisa A. Wolf
Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

CERTIFICATE OF SERVICE

I hereby certify and declare under penalty of perjury that, on **July 1, 2026**, I served a copy of this

DHS NOTICE OF EVIDENCE

and any attached pages:

- ☐ U.S. MAIL: by first class mail to the person at the address set forth below.
- ☐ INTRA-FACILITY MAIL: to the person at the address set forth below.
- ☒ ECAS: Service by electronic filing in ECAS, in accordance with applicable regulations, to the person listed below. Both parties participate in the ECAS filing system.
- ☐ HAND DELIVERY.

PARTIES SERVED:

HONORIO PEREIRA BARRETO
1400 E 4TH AVE 1400 E. 4TH AVE
ANCHORAGE, AK 99501

☒ ATTORNEY FOR RESPONDENT
Margaret Stock

Leisa A. Wolf

Leisa A. Wolf
Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Form I-213 (Rev. 08/01/07)

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name PEREIRA BARRETO, HONORIO LATYR NMN	File Number 	Date 06/11/2026
CURRENT ADMINISTRATIVE CHARGES ----- 06/11/2026 - 237a1D1 - TERMINATION OF CONDITIONAL PERMANENT RESIDENCE: ADJUSTMENT ----- RECORDS CHECKED ----- CIS checked on 06/11/2026 with Positive result. EARM checked on 06/11/2026 with Positive result. IAFIS checked on 06/11/2026 with Positive result. NCIC checked on 06/11/2026 with Positive result. TECS checked on 06/11/2026 with Positive result. ----- OCCUPATION ----- Hospice Worker ----- NAME AND ADDRESS OF US EMPLOYER ----- ENHABIT HOSPICE AND HOME HEALTH, 101 W BENSON BLVD APT STE , ANCHORAGE, ALASKA, 99503, UNITED STATES ----- TYPE OF EMPLOYMENT ----- Operators, Fabricators, and Laborers ----- ARRESTED AT/NEAR -----  ANCHORAGE, ALASKA, UNITED STATES ----- RECORD OF DEPORTABLE/EXCLUDABLE ALIEN: ----- On June 11th, 2026, Immigration and Customs Enforcement (ICE) Anchorage apprehended PEREIRA BARRETO at 303 K Street, in Anchorage Alaska. ----- ENCOUNTER/ARREST: On June 10th, 2026, PEREIRA BARRETO came to the attention of ICE Anchorage after United States Citizen Services (USCIS) issued a Notice to Appear (NTA) after denying his petition to adjust his conditional status. Records checks revealed PEREIRA BARRETO on June 8th, 2026, USCIS issued PEREIRA BARRETO a Notice to Appear and had an extensive criminal record. On June 11th, 2026, ICE Anchorage learned that PEREIRA BARRETO would be reporting to the Boney Courthouse. Officers responded to 303 K street, to encounter PEREIRA BARRETO. Officers were wearing clearly identifiable police markings and identified themselves as ICE Officers to PEREIRA BARRETO. Officers positively identified PEREIRA BARRETO and arrested him without incident. Officers then transported PEREIRA BARRETO to the ICE Anchorage Office for processing. ----- PROCESSING: DO Drake interviewed PEREIRA BARRETO, and he stated the following: PEREIRA BARRETO claimed both of his parents were from Senegal and were citizens of Senegal. PEREIRA BARRETO claimed to be in good health. PEREIRA BARRETO claimed that neither he nor any family relation was a member of the United		
Signature R. 5586 HOLMES 	Title Deportation Officer	

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Form I-831 Continuation Page (Rev. 08/01/07)

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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name PEREIRA BARRETO, HONORIO LATYR MNM	File Number 	Date 06/11/2026
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Status armed forces.

PEREIRA BARRETO claimed not to be a member of a gang.

PEREIRA BARRETO claimed to be single.

ERO Officer Drake submitted PEREIRA BARRETO's fingerprints into the DHS IDENT Biometric database which confirmed his ID as PEREIRA BARRETO, Honorio and his FBI# as: 

IMMIGRATION HISTORY:

On January 14th, 2020, PEREIRA BARRETO legally entered under a K-1 (Fiance of USC) in New York City, New York.

On December 3rd, 2020, PEREIRA BARRETO adjusted status to a CFI (Spouse of USC).

On September 22nd, 2022, PEREIRA BARRETO submitted an I-751 (Petition to Remove Conditional Residency)

On October 17th, 2024, Citizenship Immigration Services (CIS) denied PEREIRA BARRETO's petition to remove conditional residency.

June 8th, 2026, USCIS issued a Notice to Appear to PEREIRA BARRETO.

On June 11th, 2026, ICE Anchorage apprehended PEREIRA BARRETO.

CRIMINAL HISTORY:

On April 15th, 2023, PEREIRA BARRETO was arrested by the Anchorage Police for Operating Under the Influence. These charges are still pending.

On January 22, 2024, PEREIRA BARRETO was arrested by the Anchorage Police for Driving Under the Influence, Leaving Scene of Crash-Veh/Prop Damage, False ID Arrest/Detention/Investigation, Refusal to Submit to Chemical Test, and Violate Conditions of Release. These charges are still pending.

NOTIFICATION OF RIGHTS, LEGAL SERVICES, AND CONSULAR NOTIFICATION:

ICE Anchorage served PEREIRA BARRETO with a Warrant of Arrest (I-200), an I-286 (Notice of Custody Determination) and he was provided a list of free legal service providers and notified him of the right to contact a consular officer.

PHONE CALL/COMMUNICATIONS:

ERO Anchorage allowed PEREIRA BARRETO to make phone calls as well as his attorney to visit.

CASE DISPOSITION:

PEREIRA BARRETO was processed as a custody redetermination.

CUSTODY DETERMINATION:

PEREIRA BARRETO will be held without bond.

OTHER IDENTIFYING NUMBERS

Signature R. 5586 HOLMES 	Title Deportation Officer
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Form I-831 Continuation Page (Rev. 08/01/07)

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Exhibit A
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name FEREIRA BARRETO, HONORIO LATYR NMN	File Number [REDACTED]	Date 06/11/2026
ALIEN- [REDACTED] Arrival-Departure Record- [REDACTED] ..COMMENT: PCIS match for I-24 RECORD_NBR NEC Fingerprint Number- [REDACTED] ..COMMENT: PCIS match for FINGERPRINT_NBR Other- [REDACTED] ..COMMENT: PCIS match for SOCIAL_SECURITY_NBR		
Signature R. 5586 HOLMES: 		Title Deportation Officer

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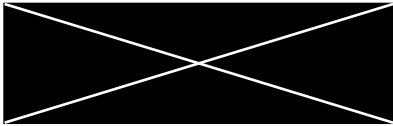
4 of 4 Pages

Form I-831 Continuation Page (Rev. 08/01/97)

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Exhibit A
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June 21, 2024

HONORIO LATYR PEREIRA BARRETO
c/o HONORIO LATYR PEREIRA BARRETO



RE: I-751, Petition to Remove Conditions on Residence



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
24000 Avila Road, 2nd Floor
Laguna Niguel, CA 92677-0590

U.S. Citizenship
and Immigration
Services



REQUEST FOR EVIDENCE

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE NUMBER. THE ORIGINAL NOTICE MUST BE SUBMITTED WITH THE REQUESTED EVIDENCE.

You are receiving this notice because U.S. Citizenship and Immigration Services (USCIS) requires additional evidence to process your form. Please provide the evidence requested below.

Your response must be received in this office by September 16, 2024.

Please note that you have been allotted the maximum period allowed for responding to a Request for Evidence (RFE). The time period for responding cannot be extended. Title 8, Code of Federal Regulations (8 CFR) § 103.2(b)(8)(iv). Because many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible, but no later than the deadline provided above. If you do not respond to this notice within the allotted time, your case may be denied. The regulations do not provide for an extension of time to submit the requested evidence.

You must submit all requested evidence at the same time. If you submit only some of the requested evidence, USCIS will consider your response a request for a decision on the record. 8 CFR § 103.2(b)(11).

If you submit a document in any language other than English, the document must be accompanied by a full and **complete** English translation. The translator must certify that the translation is accurate and he or she is competent to translate from that language to English. **If you submit a foreign language translation in response to this request for evidence, you must also include a copy of the foreign language document.**

Processing of your Form I-751 will resume upon receipt of your response. If you have not heard from USCIS within **60 days of responding**, you may contact the USCIS Contact Center (UCC) at **1-800-375-5283**. If you are hearing impaired, please call the UCC TDD at **1-800-767-1833**.



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CSC751CSC7500029710564

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USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

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Exhibit A
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SUBMIT MARRIAGE CERTIFICATE

Submit a photocopy of the marriage certificate for the marriage of Rama Gueye and Honorio Latyr Pereira Barreto. For the marriage to be considered valid for immigration purposes, it must:

- Have been legally valid in the location where the marriage took place
- Be issued by the appropriate civil authority and
- Include the date of registration and seal and signature of the registrar.

If the certificate is not in English, it must be accompanied by a certified English translation. The translator must certify that he or she is competent to translate from the foreign language to English and that the translation is complete and accurate, including translation of the civil authority's registration information and the signature/stamp of the civil official.

For information regarding the availability of and/or procedure for obtaining civilly registered marriage documents, refer to the U.S. Department of State's website at:
<http://travel.state.gov/content/visas/en/fees/reciprocity-by-country.html>

EVIDENCE OF STATUS:

Please submit a photocopy of the front and back sides of your Form I-551, Permanent Resident Card, as proof of your status as a conditional permanent resident of the United States.

If you have not received your Form I-551, submit:

- A copy of the biographic page of your passport and the page of your passport indicating initial admission as a conditional permanent resident, or
- Other evidence that you are a conditional permanent resident such as temporary evidence of conditional resident status or a copy of the approval notice of a separate application for replacement of your permanent resident card.

Additionally, please submit copies of any documents showing other A-numbers you possess if you have been assigned A-numbers aside from the one listed on your petition, 

FINAL COURT DISPOSITIONS

The records indicate you were arrested and you have not submitted any and all your arrest records and final court dispositions. Please submit certified copies of the final court dispositions pertaining to the arrests/charges listed below. These records should be obtained from the court of record, rather than from the arresting police department or sheriff's office. The certified copies should be legible and contain all pages. The document should also indicate whether a sentence of conviction was imposed or if the case was dismissed.

Date of Arrest: April 15, 2023

Charge(s): AMC9.28.020(A) OPERATING UNDER THE INFLUENCE
Location: Anchorage Police Department

Date of Arrest: January 22, 2024

Charge(s): AMC9.28.020(A) OPERATING UNDER THE INFLUENCE
Location: Anchorage Police Department

Date of Arrest: January 22, 2024

Charge(s): AMC9.10.020(B) LEAVE SCENE OF CRASH-VEH OR PROP D
Location: Anchorage Police Department

Date of Arrest: January 22, 2024

Charge(s): AMC8.30.020(A)(1)(B)(I) FALSE ID ARREST/DETENTION/INVESTIG
Location: Anchorage Police Department

Date of Arrest: January 22, 2024

Charge(s): AMC9.28.022(C) REFUSAL TO SUBMIT TO CHEMICAL TEST
Location: Anchorage Police Department

Date of Arrest: January 22, 2024

Charge(s): AMC8.30.110(A) VIOLATION OF CONDITION OF RELEASE
Location: Anchorage Police Department

Date of Arrest: April 6, 2024

Charge(s): AMC8.30.110(A) VIOLATION OF CONDITION OF RELEASE
Location: Anchorage Police Department

Date of Arrest: April 6, 2024

Charge(s): AMC8.30.010(A)(1) RESIST OWN ARREST BY USE OF FORCE
Location: Anchorage Police Department

If a law enforcement officer has ever filed charges against you, with or without arresting or detaining you, please submit an original or court-certified copy of the complete arrest record and/or disposition for each incident (e.g. dismissal order, conviction record or acquittal order).

If you have ever been convicted or placed in an alternative sentencing program or rehabilitative program (such as a drug treatment or community service program), please submit an original or court-certified copy of your sentencing record for each incident, and evidence that you completed your sentence, specifically;

- an original or certified copy of your probation or parole record, or
- evidence that you completed an alternative sentencing program, or rehabilitative program.
- If you have ever been convicted and your conviction was subsequently set aside, sealed, expunged or otherwise removed from your record, then submit:
- an original or court-certified copy of the court order vacating, setting aside, sealing, expunging or otherwise removing the arrest or conviction, or
- a statement from the court that no record exists of your arrest or conviction.

NOTE: Unless a traffic incident was alcohol or drug related, you do not need to submit documentation for traffic fines and incidents that did not involve an actual arrest if the only penalty was a fine of less than \$500.00 and/or points on your driver's license.



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CSCIT51CSCIT5000029710564

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USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

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PLEASE RETURN THE REQUESTED INFORMATION AND ALL SUPPORTING DOCUMENTS
WITH THIS ORIGINAL REQUEST ON TOP TO:
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
P.O. BOX 10590
LAGUNA NIGUEL, CA. 92607-0590



Tracy Tarango
Director



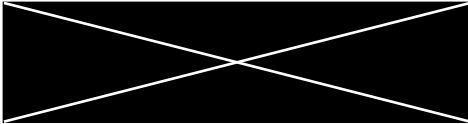
October 22, 2024

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
2642 Michelle Drive
Tustin, CA 92780



U.S. Citizenship
and Immigration
Services

HONORIO LATYR PEREIRA BARRETO
c/o HONORIO LATYR PEREIRA BARRETO



RE: I-751, Petition to Remove Conditions on Residence



DECISION

Conditional Permanent Resident(s): HONORIO LATYR PEREIRA BARRETO, 

This decision is in reference to the Form I-751, Petition to Remove Conditions on Residence, you filed on September 22, 2022. U.S. Citizenship and Immigration Services (USCIS) records show you were granted conditional permanent resident status on December 3, 2020.

On June 20, 2024, USCIS issued a request for evidence providing you 90 days to respond.

That time period has elapsed and, as of this date, there is no record you responded to the request for evidence.

Pursuant to 8 Code of Federal Regulations (8 CFR) §103.2(b)(13)(i):

If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons...

Accordingly, your Form I-751 is deemed abandoned and denied pursuant to 8 CFR § 103.2(b)(13). This decision may not be appealed to USCIS.

Your conditional permanent resident status is terminated. According to 8 CFR § 216.3, all rights and privileges which you derived from that status, including the right to work in the United States, are terminated as of the date of this letter.

If you disagree with this decision, or if you have additional evidence that shows this decision is incorrect, you may submit a motion to reopen or a motion to reconsider by completing a Form I-290B, Notice of Appeal or Motion. A motion to reopen must state the new facts to be considered and must be supported by affidavits or other new documentary evidence. A motion to reopen a petition denied due to abandonment must be filed with evidence that the decision was in error because:

- (i) The requested evidence was not material to the issue of eligibility;

(ii) The required initial evidence was submitted with the petition, or the request for initial evidence or additional information or appearance was complied with during the allotted period; or

(iii) The request for additional information or appearance was sent to an address other than that on the petition or notice of representation, or that the petitioner advised USCIS, in writing, of a change of address or change of representation subsequent to filing and before USCIS' request was sent, and the request did not go to the new address.

The motion must be filed within 33 days from the date of this notice. You must send your completed Form I-290B and supporting documentation with the appropriate filing fee to:

USCIS 290B
PO Box 21100
Phoenix AZ 85036

To obtain the Form I-290B, visit www.uscis.gov/forms. For the latest information on filing location, fee, and other requirements, refer to the Form I-290B instructions; review 8 CFR § 103.3 or 103.5; call the USCIS Contact Center at 1-800-375-5283; or visit your local USCIS office.

Please note USCIS may issue you a Notice to Appear before an Immigration Judge. You may request a review of this decision before an Immigration Judge pursuant to 8 CFR § 216.4(d)(2).

You are hereby directed to immediately mail your Permanent Resident Card to USCIS at the address listed at the top of this notice.

Sincerely,



Tracy Tarango
Director



MICHAEL J. HEYMAN
United States Attorney

JOSHUA A. TRAINI
Assistant U.S. Attorney
U.S. Attorney's Office
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-2344
Email: Josh.Traini@usdoj.gov

Attorneys for Federal Respondents

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

HONORIO LATYR PEREIRA BARRETO,

Petitioner

v.

STATE OF ALASKA, Department of Corrections;
ARNALDO HERNANDEZ,
Superintendent of the Anchorage Correctional
Complex, in his official capacity, et al.

Respondents.

Case No. 3:26-cv-00235-SLG

MOTION FOR RECONSIDERATION

Federal Respondents, through counsel, respectfully move the Court to reconsider its prior ruling requiring a *Singh* compliant bond hearing as Petitioner is detained pursuant to a different statute and the reasoning underpinning *Singh* has been called into question by the Ninth Circuit and the Supreme Court. The Government makes this request pursuant to

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Local Civil Rule 7.3(h)(1)(A).

ARGUMENT

The Court's order requiring a bond hearing compliant with *Singh* was error in light of the Ninth Circuit's holding in *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022). There, the Ninth Circuit declined to shift the burden to the Government and to heighten the burden applicable in § 1226(a) bond hearings. Thus, the Government respectfully submits that the remedy granted by the Court is in error on that point.

I. SECTION 1226(a) HAS ROBUST PROCEDURAL SAFEGUARDS.

Because Petitioner's removal proceedings are ongoing, he is lawfully detained pursuant to 8 U.S.C. § 1226(a). Dkt 26 at 10. The Ninth Circuit has found that Section 1226(a) and its implementing regulations satisfy due process. *Rodriguez Diaz*, 53 F.4th at 1213. Section 1226(a) "authorizes the Attorney General to arrest and detain an alien 'pending a decision on whether the alien is to be removed from the United States.'" *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (quoting 8 U.S.C. § 1226(a)). The Supreme Court has recognized that "there is little question that the civil detention of aliens during removal proceedings can serve a legitimate government purpose, which is 'preventing deportable . . . aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed.'" *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008) (citing *Demore v. Kim*, 538 U.S. 510, 528 (2003)).

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Every alien apprehended under Section 1226(a) is individually considered for release on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8). “Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.” *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)). An ICE officer initially assesses whether the noncitizen has “demonstrate[d]” that “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). If the ICE officer denies bond, the noncitizen may ask an immigration judge for a redetermination of the custody decision. 8 C.F.R. § 236.1(d)(1). Thus, the initial bond hearing for an alien detained under Section 1226(a) is also called a “redetermination hearing.” At this hearing, the alien bears the burden of establishing “that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight.” *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006). Bond hearings are separate and apart from, and form no part of, a noncitizen’s removal hearings. 8 C.F.R. § 1003.19(d).

The alien may appeal the immigration judge’s custody redetermination to the Board of Immigration Appeals (“BIA”). 8 C.F.R. §§ 236.1(d)(3)(i), 1236.1(d)(3)(i); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). If the alien remains dissatisfied with the BIA’s decision, he may file a petition for writ of habeas corpus in federal district court. *See id.* Further, an alien who remains detained under Section 1226(a) after the initial bond hearing may request that the immigration judge conduct another custody redetermination

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whenever “circumstances have changed materially since the prior bond redetermination.”
8 C.F.R. § 1003.19(e).

**II. RODRIGUEZ DIAZ AFFIRMED THE PROCEDURAL SAFEGUARDS
WITHIN SECTION 1226(a).**

The Court granted the petition, in part, and ordered Petitioner to be provided a *Singh* compliant bond hearing. Dkt. 26. *Singh*, however, has been largely abdicated by the Supreme Court’s reasoning in *Jennings* and noted by the Ninth Circuit in *Rodriguez Diaz*. In addition, in *Rodriguez Diaz*, the Ninth Circuit has specifically rejected the need for any additional procedural safeguards (e.g. changing the burden and level of proof required in § 1226(a) bond hearings) absent as-applied, yet to be decided, matters.

Notably, as opposed to the facts present in this case, *Singh* involved a § 1226(c)—requiring the alien’s mandatory detention—and *Singh* was detained for a lengthy period of time. *See Singh v. Holder*, 638 F.3d 1196 (9th Cir 2011); *Rodriguez Diaz v. Garland*, 53 F.4th at 1199. *Singh*, along with a series of other matters considered by the Ninth Circuit were decided upon grounds later rejected by the Supreme Court. *See id.* at 1196-1200. In considering § 1226(a), the Ninth Circuit remarked, “[w]e have never held that *Singh* provided the constitutional baseline for persons like Rodriguez Diaz, who were never mandatorily detained and who have been subject to § 1226(a) and its implementing regulations throughout their detention. And § 1226(a) provides substantially different procedures than the provisions we have examined in the past. We therefore cannot accept Rodriguez Diaz’s suggestion that *Casas* and *Singh* mandate the same procedural relief in this case.” *Id.* at 1203. The Ninth Circuit rejected the *Singh* burden-shifting standard

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applied by this Court, remarking, “Unencumbered by binding circuit precedent, we now address head-on the question presented in this case: does the Due Process Clause entitle Rodriguez Diaz to a second bond hearing at which the government bears the burden of proof by clear and convincing evidence? We hold that the Due Process Clause does not so require.” The Ninth Circuit declined to order any procedures in addition to § 1226. *Id.* at 1213. And it noted, “...that even when there are deficiencies in individual § 1226(a) proceedings, they may be redressable through means short of major changes to the burden of proof.” *Id.* at 1214.

Here, the Court changed not only the burden of proof but ordered a heightened standard. The Government submits that it was error in light of *Rodriguez Diaz* and the Court should respectfully reconsider its order. Additionally, the Government respectfully requests that since Petitioner’s detention is lawful, and pending a bond hearing request, the Court lift the injunctive relief preventing Petitioner’s transfer or removal from the District of Alaska.

RESPECTFULLY SUBMITTED this June 30, 2026, in Anchorage, Alaska.

MICHAEL J. HEYMAN
United States Attorney

/s/ Joshua A. Traini
Assistant U.S. Attorney
United States of America

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2026,
a true and correct copy of the foregoing
was served electronically on the following:

Margaret D. Stock, Esq.
Kristine A. Quint, Esq.
Cascadia Cross Border Law Group LLC
Attorneys for Petitioner

/s/ Joshua A. Traini
Office of the U.S. Attorney

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Erin J. Clifford

Deputy Regional Counsel

Kathleen W. Patrick

Associate Regional Counsel

Spencer D. Taylor

Counsel

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

1623 East J Street, Suite 2

Tacoma, WA 98421

DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
TACOMA, WASHINGTON

July 2, 2026

In the Matter of:

PEREIRA BARRETO, HONORIO

Respondent,

In Removal Proceedings

File No. A



Immigration Judge: Fitting, Tammy

Next Hearing: 7/2/2026 8:00 AM

DHS NOTICE OF EVIDENCE

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Exhibit B

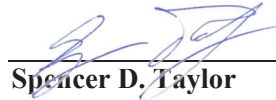
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DHS NOTICE OF EVIDENCE

The United States Department of Homeland Security (DHS), Immigration and Customs Enforcement respectfully offers the following attached documents for consideration in the above-stated case. The documents are offered for the information contained therein.

A.	Police Reports	pp. 1 – 51

Respectfully submitted,



Spencer D. Taylor
Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

CERTIFICATE OF SERVICE

I hereby certify and declare under penalty of perjury that, on **July 2, 2026**, I served a copy of this

DHS NOTICE OF EVIDENCE

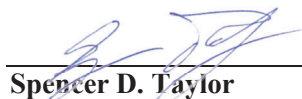
and any attached pages:

- ☐ U.S. MAIL: by first class mail to the person at the address set forth below.
- ☐ INTRA-FACILITY MAIL: to the person at the address set forth below.
- ☒ ECAS: Service by electronic filing in ECAS, in accordance with applicable regulations, to the person listed below. Both parties participate in the ECAS filing system.
- ☐ HAND DELIVERY.

PARTIES SERVED:

HONORIO PEREIRA BARRETO
1400 E 4TH AVE 1400 E. 4TH AVE
ANCHORAGE, AK 99501

☒ ATTORNEY FOR RESPONDENT
Margaret Stock



Spencer D. Taylor
Counsel
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Ex. C – Bond Hearing Audio

PLACEHOLDER

Conventional Filing Required