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July 2, 2026

**VIA CM/ECF**
Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7255
Syracuse, NY 13261-7255

RE: *Aguilar v. Venturella, et al.*
Civil Action No. 9:26-cv-1268 BKS

Dear Chief Judge Sannes:

Respondents submit this letter in response to Petitioner's letter, filed yesterday, Dkt. 10, requesting that the Court order Petitioner's immediate release following the Immigration Judge's decision to grant bond in the amount of $20,000.[1] Respondents respectfully request that Court deny the Petitioner's request because this Court lacks jurisdiction to review the bond decision of an Immigration Judge, and because the Petitioner has received the due process requested in the Petition: a bond hearing.

To the extent Petitioner challenges the amount of bond set by the Immigration Judge, the governing regulations provide an administrative mechanism for review before the Board of Immigration Appeals (BIA). *See* 8 C.F.R. §§ 1003.19(f), 1003.38(a). Accordingly, where a claim amounts to a disagreement with the Immigration Judge's discretionary assessment of bond amount, exhaustion is generally required before seeking judicial intervention. Here, however, while Petitioner's letter mentions the allocation of the burden of proof in passing, his letter is concerned primarily with the amount of bond set by the Immigration Judge. *See* Dkt. 10 (complaining that the "amount [of bond] was so high" and that it "appears very doubtful that [Petitioner] can pay such a large amount of money"). *Id.* A challenge to the amount of bond falls squarely within the administrative review process and does not fall within the narrow constitutional or structural exceptions to exhaustion.

[1] As a threshold issue, Respondents note that Petitioner's submission is procedurally improper. The habeas petition has already been fully briefed. Respondents filed their response on June 25, 2026, Dkt. 6, and Petitioner filed his reply on June 29, 2026. Dkt. 9. Petitioner's July 1, 2026 letter raises new arguments and seeks additional relief based on events allegedly occurring after briefing was completed, without first obtaining leave of Court.

Having received the bond hearing to which he was entitled, Petitioner should be required to first pursue review before the BIA, and this Court should decline to intervene at this stage.

Nor does any recognized exception to exhaustion apply here. Courts have recognized limited—and narrowly construed—exceptions where administrative remedies are unavailable or inadequate, exhaustion would be futile, or requiring exhaustion would result in irreparable harm. *See Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995) (recognizing limited exceptions); *Theodoropoulos v. INS*, 358 F.3d 162, 172–73 (2d Cir. 2004) (courts should not create extra-statutory exceptions to mandatory exhaustion requirements). Likewise, courts within the Second Circuit have recognized a narrow exception where the challenge is not to the discretionary bond determination itself but instead raises constitutional or purely legal questions that the agency lacks authority to remedy. *See, e.g., Rambarrat v. Lyons,* No. 9:26-cv-448 (ECC), 2026 U.S. Dist. LEXIS 107692 (D. S.C. 2026) (recognizing that exhaustion may not be required where petitioner raises constitutional claims or challenges to governing legal standards); *Hernandez-Hernandez v. Feeley*, 535 F. Supp. 3d 142, 150 (W.D.N.Y. Apr. 21, 2021) ("statutory and constitutional questions cannot be decided by an immigration judge or the BIA"). But, as referenced, those exceptions are construed narrowly, and the Supreme Court has emphasized that courts are generally not free to excuse exhaustion where Congress has made it mandatory. *See Ross v. Blake*, 578 U.S. 632, 639–40 (2016). Here, nothing in the record suggests that Petitioner lacked access to the available administrative process, in that the Petitioner was afforded a custody redetermination hearing and was ordered released on $20,000 bond. Accordingly, the Respondents respectfully submit that the exhaustion requirement governs, and this Court should decline to intervene at this stage.

Petitioner's request seeks to circumvent the administrative review process. As the Second Circuit has explained, however, "a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself." *Howell,* 72 F.3d at 291 (quoting *Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 740 (2d Cir. 1992)); *see also Giwah v. McElroy*, 1997 WL 782078, at *3 (S.D.N.Y. Dec. 19, 1997) (explaining that exhaustion preserves agency autonomy, permits development of the factual record, and discourages bypassing administrative procedures). Courts have applied this in the habeas context, recognizing that "[g]enerally, any detainee must ordinarily exhaust potential administrative remedies before seeking relief through a § 2241 petition for writ of habeas corpus." *Morey v. Rodriguez,* No. 2:17-cv-00056 (KM), 2017 WL 4122722, at *2 (D.N.J. Sept. 19, 2017).

Petitioner's letter confirms that he has already received the process he seeks in this habeas action: a bond hearing before an Immigration Judge. Due process requires notice and a meaningful opportunity to be heard; it does not guarantee release or entitle a detainee to bond in a particular amount. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (recognizing that mandatory immigration detention is constitutionally permissible where Congress has provided procedures governing custody determinations); *Doherty v. Thornburgh*, 943 F.2d 204, 209 (2d Cir. 1991) (due process requires fair procedures, not a particular outcome). Because Petitioner acknowledges that he received a

bond hearing before an Immigration Judge, he has received the process that the Constitution requires. To the extent Petitioner challenges the Immigration Judge's discretionary custody determination or the amount of bond set, such a challenge goes to the outcome of that process, not its adequacy, and does not state a due process violation.

Moreover, the Court has not yet issued any judgment or order that Petitioner could seek to enforce. Accordingly, Petitioner's arguments regarding the allocation of the burden of proof, consideration of alternatives to detention, or the propriety of the bond amount are premature unless and until this Court determines whether any additional relief is warranted on the underlying habeas petition.

Because Petitioner has now received a bond hearing and has available administrative avenues to challenge the Immigration Judge's bond determination, his request that this Court order his immediate release improperly bypasses those procedures and should be denied.

For these reasons, Respondents respectfully request that the Court decline Petitioner's request for immediate release and disregard the July 1, 2026 letter in resolving the fully briefed habeas Petition.

Thank you for your consideration of this matter.

Respectfully Submitted,

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