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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MANJINDER SINGH,

Petitioner,

v.

WARDEN, Imperial Regional Detention
Facility,

Respondent.

Case No.: 26-cv-03703-RSH-BJW

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

On January 17, 2026, Manjinder Singh (“Petitioner”) filed his first petition for writ of habeas corpus in Case No. 26-cv-00295-RSH-BJW. In that case, Respondents conceded that Petitioner was properly detained under 8 U.S.C. § 1226(a), and, that Petitioner was entitled to a bond hearing. This Court granted the Petition and ordered that Respondents provide Petitioner with a bond hearing which Petitioner received on February 5, 2026. *See* Exhibit 1 (Order Granting Petition 1); Exhibit 2 (IJ Order Denying Bond). At Petitioner’s bond hearing, the Immigration Judge (IJ) issued an oral decision denying bond and concluding that Petitioner had not met his burden of demonstrating that he is not a danger to the community or risk of flight. *See* Exhibit 3 (“IJ Written Memorandum”). Petitioner’s appeal of this decision is pending before the Board of Immigration Appeals.

1 Petitioner, through new counsel, has now filed a second Petition for Writ of
 2 Habeas Corpus containing a shotgun blast of new claims not raised in the first
 3 Petitioner, allegations of Respondents' non-compliance with the Court's previous
 4 order, and contradictory requests for relief.

5 Respondents respectfully request that the Court (1) deny all new claims not
 6 originally raised in his first Petition as an abuse of the writ; (2) find that there is no
 7 evidence that Respondents violated the Court's previous order directing that Petitioner
 8 receive a bond hearing under 8 U.S.C. § 1226(a); and (3) dismiss the Petition based on
 9 Petitioner's failure to exhaust administrative remedies.

10 ARGUMENT

11 Abuse of the Writ

12 The doctrine of abuse of the writ generally "forbids the reconsideration of claims
 13 that were or could have been raised in a prior habeas petition." *Calderon v. United States*
 14 *Dist. Ct.*, 163 F.3d 530, 538 (9th Cir.1998) (*en banc*) (overruled in part on other grounds
 15 by *Woodford v. Garceau*, 538 U.S. 202 (2003)). Under the abuse of the writ doctrine, a
 16 successive petition must be dismissed unless the petitioner can show (1) cause for
 17 bringing a successive petition and that prejudice would result or (2) that a fundamental
 18 miscarriage of justice would result from failure to entertain the claim. *See McCleskey*
 19 *v. Zant*, 499 U.S. 467, 494–95 (1991); *Sanders v. United States*, 373 U.S. 1, 15 (1963).
 20 The government bears the burden of pleading abuse of the writ, *McCleskey*, 499 U.S. at
 21 477.

22 After receiving a bond hearing in Case No. 26-cv-00295-RSH-BJW, Petitioner
 23 has now filed a new petition for writ of habeas corpus that, among other things, alleges
 24 for the first time that the government violated the *Accardi* doctrine, the APA, and the
 25 Fifth Amendment by *re-detaining* Petitioner. ECF No. 9-15. However, Petitioner did
 26 not raise any of these arguments in his first Petition and he fails to provide an
 27 explanation for why these arguments weren't raised previously.

28 Because the arguments in Petition 2 could have been raised in Petition 1, and

1 because Petitioner already received an individualized bond hearing, Respondents
 2 contend Petition 2 runs afoul of the abuse of the writ doctrine. Furthermore, if Petitioner
 3 believed the Government did not honor the court's order in Petition 1, he is free to seek
 4 to re-open that case with the Court. The Court should dismiss Petition 2 as an abuse of
 5 the writ.

6 Exhaustion of Remedies

7 Petitioner has failed to exhaust administrative remedies and is now attempting to
 8 bypass the administrative scheme by requesting that this Court intervene before the BIA
 9 has ruled on his bond appeal. "Exhaustion can be either statutorily or judicially
 10 required." *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). "If
 11 exhaustion is statutory, it may be a mandatory requirement that is jurisdictional." *Id.*
 12 (citing *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 747
 13 (9th Cir. 1991)). "If, however, exhaustion is a prudential requirement, a court has
 14 discretion to waive the requirement." *Id.* (citing *Stratman v. Watt*, 656 F.2d 1321, 1325–
 15 26 (9th Cir. 1981)).

16 The BIA is an appellate body within the Executive Office for Immigration
 17 Review and possesses delegated authority from the Attorney General. 8 C.F.R.
 18 §§ 1003.1(a)(1), (d)(1). The BIA is "charged with the review of those administrative
 19 adjudications under the [Immigration and Nationality Act (INA)] that the Attorney
 20 General may by regulation assign to it," including immigration judge custody
 21 determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves
 22 particular disputes before it, but is also directed to, "through precedent decisions, []
 23 provide clear and uniform guidance to [the Department of Homeland Security], the
 24 immigration judges, and the general public on the proper interpretation and
 25 administration of the [INA] and its implementing regulations." *Id.* § 1003.1(d)(1).
 26 Decisions rendered by the BIA are final, except for those reviewed by the Attorney
 27 General. 8 C.F.R. § 1003.1(d)(7).

1 The Ninth Circuit “require[s], as a prudential matter, that habeas petitioners
2 exhaust available judicial and administrative remedies before seeking relief under §
3 2241.” *Id.* Specifically, “courts may require prudential exhaustion if (1) agency
4 expertise makes agency consideration necessary to generate a proper record and reach
5 a proper decision; (2) relaxation of the requirement would encourage the deliberate
6 bypass of the administrative scheme; and (3) administrative review is likely to allow
7 the agency to correct its own mistakes and to preclude the need for judicial review.”
8 *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (internal quotation marks omitted).

9 “When a petitioner does not exhaust administrative remedies, a district court
10 ordinarily should either dismiss the petition without prejudice or stay the proceedings
11 until the petitioner has exhausted remedies, unless exhaustion is excused.” *Leonardo v.*
12 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *see also Alvarado v. Holder*, 759 F.3d
13 1121, 1127 n.5 (9th Cir. 2014) (issue exhaustion is a jurisdictional requirement); *Tijani*
14 *v. Holder*, 628 F.3d 1071, 1080 (9th Cir. 2010) (no jurisdiction to review legal claims
15 not presented in the petitioner’s administrative proceedings before the BIA). Moreover,
16 a “petitioner cannot obtain review of procedural errors in the administrative process that
17 were not raised before the agency merely by alleging that every such error violates due
18 process.” *Vargas v. INS*, 831 F.3d 906, 908 (9th Cir. 1987); *see also Sola v. Holder*,
19 720 F.3d 1134, 1135–36 (9th Cir. 2013) (declining to address a due process argument
20 that was not raised below because it could have been addressed by the agency).

21 Here, exhaustion is warranted because agency expertise is required. “[T]he BIA
22 is the subject-matter expert in immigration bond decisions.” *Aden v. Nielsen*, No. C18-
23 1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019); *Delgado v. Sessions*,
24 No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017) (noting
25 a denial of bond to an immigration detainee was “a question well suited for agency
26 expertise”).

27 Waiving exhaustion would also encourage other detainees to bypass the BIA and
28 directly appeal from the immigration judge to federal district court. *See Aden*, 2019 WL

1 5802013, at *2. Individuals, like Petitioner, would have little incentive to seek relief
 2 before the BIA if this Court permits review here. And allowing a skip-the-BIA-and-go-
 3 straight-to-federal-court strategy would needlessly increase the burden on district
 4 courts. *See Bd. of Tr. of Constr. Laborers' Pension Trust for S. Calif. v. M.M. Sundt*
 5 *Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994) (“Judicial economy is an important
 6 purpose of exhaustion requirements.”); *see also Santos-Zacaria v. Garland*, 598 U.S.
 7 411, 418 (2023) (noting “exhaustion promotes efficiency”). If the immigration judge
 8 erred, this Court should allow the administrative process to correct itself. *See id.*

9 Moreover, detention alone is not an irreparable injury. Discretion to waive
 10 exhaustion “is not unfettered.” *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004).
 11 Petitioners bear the burden to show that an exception to the exhaustion requirement
 12 applies. *Leonardo*, 646 F.3d at 1161; *Aden*, 2019 WL 5802013, at *3. “[C]ivil detention
 13 after the denial of a bond hearing [does not] constitute[] irreparable harm such that
 14 prudential exhaustion should be waived.” *Reyes v. Wolf*, No. C20-0377JLR, 2021 WL
 15 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff’d sub nom. Diaz Reyes v. Mayorkas*, No.
 16 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021).

17 Here, Petitioner has not provided any evidence that the Immigration Judge
 18 conducted his bond hearing improperly or otherwise failed to consider the evidence he
 19 submitted in support of bond. When a party appeals an IJ’s bond decision to the BIA,
 20 the IJ then produces a comprehensive written memorandum detailing the evidence and
 21 his/her analysis. *See* U.S. Dep’t of Justice, Exec. Office for Immigr. Review,
 22 *Immigration Court Practice Manual*, ch. 8.3 (2025 ed.), justice.gov (“[u]sually, the
 23 Immigration Judge’s decision is rendered orally. If either party appeals, the
 24 Immigration Judge prepares a written decision based on notes from the hearing”).

25 Here, the IJ’s written memorandum explains the rational for the discretionary
 26 decision to deny bond based on Petitioner’s failure to meet his burden¹. *See* Exhibit 3.

27 ¹ The Ninth Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the
 28 burden is on the detainee to demonstrate by a preponderance of the evidence that he is
 not a flight risk or danger to the community. *See Rodriguez Diaz v. Garland*, 53 F.4th

1 However, by not citing to the audio recording of the bond hearing, nor providing the
2 written memorandum, Petitioner asks this Court to find his bond hearing was
3 insufficient, and that Respondents violated the Court's previous order, with no
4 evidence. Respondents respectfully request that the Court not reward this strategy and,
5 instead, find that Petitioner must first exhaust his administrative remedies.

6 Because Petitioner has already received a bond hearing under 8 U.S.C. § 1226(a)
7 and failed to exhaust his administrative remedies, the Court should dismiss this matter.

8 DATED: July 2, 2026

Respectfully submitted,

9 ADAM GORDON
10 United States Attorney

11 s/ Hunter V. Norton
12 HUNTER V. NORTON
13 Assistant United States Attorney
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27 _____
28 1189, 1197 (9th Cir. 2022); *see also Dos Santos v. Becerra*, No. 26-cv-01423-GPC-VET, 2026 WL 800201 (S.D. Cal. Mar. 23, 2026).