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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JOT PARKASH SINGH,

Petitioner,

v.

JEREMY CASEY,

Respondents

Case No.: 26cv3791 RSH DDL

RESPONSE TO PETITION

I. INTRODUCTION

This is Petitioner's second habeas petition before this Court, challenging the legality of his detention. In Petitioner's prior habeas matter, Judge Bencivengo issued an order granting the petition and ordering Respondents provide Petitioner with a bond hearing. *See Singh v. Warden of Imperial Regional Detention Center*, No. 3:26-cv-0557-CAB-BLM. Respondents fully complied with the Court's order and Petitioner received a bond hearing on February 12, 2026, where the immigration judge denied bond. The Petitioner timely filed an appeal of the bond denial. As of today, it remains pending at the Board of Immigration Appeals (BIA).

Petitioner now files the instant petition claiming his detention has become prolonged, and that his right to due process has been violated. He requests 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 his administrative remedies. Therefore, this Court should dismiss this petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

On February 6, 2026, Judge Bencivengo issued an order granting Petitioner's first petition and ordering that Respondents provide Petitioner with an "individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) and its associated regulations." *See Jot Parkash Singh v. Warden of Imperial Regional Detention Center; et al.*, 3:26-cv-0557-CAB-BLM, ECF No. 7 at 1-2. On February 12, 2026, Petitioner was provided with an individualized bond hearing before a neutral immigration judge. During the hearing, Petitioner was represented by immigration counsel and the immigration judge "relied on [Petitioner's] testimony and on the evidence filed in the case in rendering its decision." Exhibit 1. At the conclusion of the bond hearing, the immigration judge denied Petitioner release on bond because Petitioner was "[d]eemed a Risk of Flight." *See* Exhibit 1, Order of the Immigration Judge, February 12, 2026. The "[c]ourt's reasoning and findings [were] stated on the bond record." *Id.* Not satisfied with the immigration judge's decision, Petitioner filed an appeal with the BIA. Exh. 2.

Petitioner now seeks another bond hearing or release by filing this *second* habeas petition. *See* ECF No. 1. However, Petitioner has yet to exhaust his administrative remedies. He has appealed the adverse bond decision and the BIA has yet to issue a decision. Exh 2. 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, Petitioner was represented by counsel, the immigration judge held the bond hearing in a timely fashion, the immigration judge considered evidence, and applied the correct burden of proof. In short, the immigration judge complied with this Court's order.

B. Petitioner has received due process

There is no evidence provided by 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 than his detention has become prolonged. Since this Court has no jurisdiction to review the immigration judge's factual findings and analysis, the Court should ensure Petitioner properly exhausts his administrative remedies.

B. Petitioner must exhaust his 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 his bond denial is to utilize the administrative scheme and appeal his bond denial to the BIA. His appeal remains pending at the 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).

Because Respondents have complied with this Court's previous order to provide Petitioner with a bond hearing, and Petitioner has not exhausted his administrative remedies, this matter should be dismissed. *See, e.g., Lahadi v. Casey*, No. 26-cv-3539-CAB-MAS, ECF No. 6 (S.D. Cal. June 23, 2026); *Micha Angono v. Casey*, No. 26-cv-2313-CAB-DEB, ECF No. 11 (S.D. Cal. June 22, 2026); *Asonganyi v. Casey*, No. 26-cv-3297-CAB-BJW, ECF No. 4 (S.D. Cal. June 5, 2026); *Hernandez-Hernandez v. LaRose*, No. 26-cv-2689-CAB-SBC, ECF No. 9 (S.D. Cal. May 28, 2026); *Khursand v. LaRose*, No. 26-cv-845-CAB-JLB, ECF No. 10 (S.D. Cal. May 14, 2026).

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 immigration judge 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).

Respondents also note that the Ninth Circuit has held that due process does not require, as a general matter in cases where a noncitizen is under prolonged statutory nonmandatory detention pending removal proceedings, a second bond. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

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 his administrative remedies, this petition should be dismissed.

DATED: July 8, 2026

Respectfully submitted,

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