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6
7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 MANRIQUE GARCIA JOHANN¹,

10 Petitioner,

11 v.

12 CHRISTOPHER CHESTNUT ET AL.,

13 Respondents.
14

CASE NO. 1:26-CV-05184-VC

RESPONSE TO PETITION

15 INTRODUCTION

16 Petitioner Manrique Garcia Johann seeks release while his removal case proceeds.
17 He is detained under 8 U.S.C. § 1226(a) after he overstayed his visa and is entitled to re-
18 ceive the process the statute and regulations provide: an immigration judge (IJ) will
19 conduct a custody re-determination and decide whether he is entitled to release whenever
20 he is ready to request such a hearing. Exh. A at 3–4; 8 C.F.R. § 1003.19(b).

21 Two points frame this opposition. First, prudential exhaustion requires dismissal
22 because the Ninth Circuit routes bond decision to the Executive Office for Immigration Re-
23 view (EOIR) before district court review. *Leonardo v. Crawford*, 646 F.3d 1157, 1160–61
24 (9th Cir. 2011). Second, § 1226(a) procedures are facially constitutional and do not permit
25 courts to rewrite burdens or order immediate release. *Rodriguez Diaz v. Garland*, 53 F.4th
26 1189, 1202–03 (9th Cir. 2022); *Matter of Guerra*, 24 I. & N. Dec. 37, 40–41 (BIA 2006).

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28 ¹ Respondents' records list his forename as Johann Sebastian and his surnames as Man-
rique Garcia. Exh. A; Exh. B.

BACKGROUND

Johann is a citizen of Colombia who entered the United States on a visitor visa. Exh. A at 2, 4. His period of authorized stay expired in 2020, and he did not regularize his status. *Id.*

On June 1, 2026, local police arrested him for assault, threat of violence, and domestic violence in the presence of a child. *Id.* at 2; Exh. B at 5. It appears that those charges were dismissed without prejudice on June 16, 2026. Exh. B at 5. The local jail released him to the Department of Homeland Security (DHS) on June 3, 2026. Exh. A at 2. DHS served him a Notice to Appear and has kept him in its custody. *Id.* at 4.

Since his detention, he has not requested a custody review from an IJ.

ARGUMENT

I. Exhaustion is required before district-court review of bond.

Under § 1226(a), bond challenges go to the Executive Office for Immigration Review (EOIR) first. That promotes agency expertise, builds a complete record, and avoids premature judicial intervention. *Leonardo v. Crawford*, 646 F.3d 1157, 1160–61 (9th Cir. 2011); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Prudential exhaustion applies to immigration habeas claims and reinforces the need for a developed record in the proper forum. *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). Seeking habeas relief before obtaining a decision from the Board of Immigration Appeals (BIA) is an “improper” shortcut. *Leonardo*, 646 F.3d at 1160.

Unexhausted petitions should be dismissed unless a recognized exception applies, and discretion to waive exhaustion is limited. *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). To avoid exhaustion a petitioner must show that: “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1003 (N.D. Cal. 2018). Johann identifies no exception.

1 Detention alone is insufficient to excuse exhaustion. *See Delgado v. Sessions*, No.
2 C17-1031-RSL-JPD, 2017 WL 4776340, *2 (W.D. Wash. Sept. 15, 2017). Because Johann
3 has not appealed an IJ's bond denial, the Court should dismiss to allow agency review to
4 proceed. *See* 8 C.F.R. § 1003.19(e).

5 **II. Section 1226(a) governs and provides adequate process; the Court**
6 **should not shift burdens or mandate release.**

7 Classification and process converge here. Johann will receive a bond hearing as
8 soon as he is ready; if the IJ denies bond the proper next step is a BIA appeal. *See* 8 C.F.R.
9 § 236.1(d). He is not subject to mandatory detention.

10 Section 1226(a) procedures are facially sufficient. The Ninth Circuit declined to im-
11 pose a clear-and-convincing government burden or to craft bond hearings outside the
12 statute and regulatory framework. *Rodriguez Diaz*, 53 F.4th at 1196–97, 1202–03. Under
13 longstanding precedent, the detainee bears the burden to show bond eligibility, and an IJ
14 has broad discretion when determining custody. *Matter of Guerra*, 24 I. & N. Dec. 37, 40–
15 41 (BIA 2006). Federal habeas is not the venue to determine bond eligibility; routing re-
16 view to EOIR respects the statute and circuit precedent. *Leonardo*, 646 F.3d at 1160–61.

17 **III. If any safeguard is warranted, limit relief to a prompt § 1226(a)**
18 **custody redetermination within the statutory framework.**

19 The Court should dismiss without prejudice to permit agency review. If relief is
20 warranted, it should be confined to prompt IJ custody redetermination without shifting
21 burdens. *Rodriguez Diaz*, 53 F.4th at 1196–97, 1202–03.

22 **CONCLUSION**

23 Because Johann's detention is governed by § 1226(a) he is entitled to a bond hearing
24 whenever he wants one. Prudential exhaustion, the adequacy of § 1226(a) procedures, and
25 the IJ's discretion foreclose habeas relief. The petition should be dismissed.

1 Dated: July 16, 2026

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