The Honorable Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAMUEL RAMIREZ VILLAGOMEZ, Petitioner, v. JULIO HERNANDEZ, *et al.*, Respondents.	Case No. 2:26-cv-02730-TLF FEDERAL RESPONDENTS' RETURN MEMORANDUM Noted for Consideration: August 24, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner Samuel Ramirez Villagomez at the Northwest ICE Processing Center ("NWIPC") under 8 U.S.C. § 1226(a). On February 4, 2026, another Court granted Petitioner's first habeas petition, concluding that he was a member of the *Rodriguez Vazquez* Bond Denial Class and ordering Federal Respondents to afford him a bond hearing under 8 U.S.C. § 1226(a).[1] *Ramirez Villagomez v. Hermosillo*, No. 26-188-TMC, 2026 WL 297627, at *2 (W.D. Wash. Feb. 4, 2026). Petitioner

[1] Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who (1) have entered or will enter the United States without inspection, (2) are not apprehended upon arrival, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing." *Rodriguez Vazquez v. Bostock*, 802 F. Supp. 3d 1297, 1309 (W.D. Wash. 2025).

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

received that bond hearing on February 12, 2026, wherein the Immigration Judge denied bond. Petitioner, however, did not seek further administrative recourse of that decision, namely an appeal to the Board of Immigration Affairs ("BIA").

Petitioner's challenges amount to a mere disagreement with the Immigration Judge's bond denial. *Id.* Petitioner is not entitled to habeas relief, as he fails to present the individualized circumstances necessary to excuse his failure to exhaust administrative remedies. Even if the Court were to reach the merits, Petitioner has failed to establish a due process violation. Therefore, Federal Respondents respectfully request that the petition be denied.

II. FACTUAL AND PROCEDURAL BACKGROUND

This case concerns the Government's responsibilities under 8 U.S.C. § 1226(a), which authorizes the Attorney General to arrest and detain a noncitizen "'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (quoting 8 U.S.C. § 1226(a)). At an initial § 1226(a) bond hearing before an Immigration Judge, the noncitizen bears the burden of establishing that he "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 from, and form no part of, a noncitizen's removal proceedings. 8 C.F.R. § 1003.19(d). The noncitizen may appeal the IJ's custody redetermination to the Board of Immigration Appeals ("BIA"). 8 C.F.R. § 1236.1(d)(3)(i); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

Federal Respondents incorporate by reference the facts of the instant case as set forth by the Court in his first habeas petition. *Ramirez Villagomez*, 2026 WL 297627 at *1. On February 12, 2026, the Tacoma Immigration Court held the court-ordered bond hearing, where Petitioner appeared with counsel. Arambula Decl., ¶ 4. The IJ denied Petitioner's request for bond, finding that Petitioner failed to demonstrate he was not a danger to the community, citing Petitioner's

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

conviction for reckless driving in November 2025 and prior arrests for reckless driving and DUI in 2023 and 2024, which were included on the I-213 submitted to the IJ. Strong Decl., Ex. A (Audio Recording of Bond Hearing);[2] Ex. B (Form I-213, Record of Deportable/Inadmissible Alien, submitted at bond hearing); Ex. C (Order of the Immigration Judge). Petitioner did not file an appeal of the IJ's bond decision, opting instead for habeas review six months after the hearing. Arambula Decl., ¶ 4.

Since then, Petitioner appeared for a merits hearing on a pending application for relief from removal on May 13, 2026. Arambula Decl., ¶ 5. The IJ denied the application for relief, and ordered Petitioner removed to Mexico. Arambula Decl., ¶ 5. Petitioner appealed that decision to the BIA, which remains pending. Arambula Decl., ¶ 6.

III. LEGAL STANDARD

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the petitioner must demonstrate that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

[2] Petitioner repeatedly asserts that his February 12, 2026, bond hearing was not recorded. *See, e.g.*, Dkt. 1, ¶¶ 6, 75, 96. Had Petitioner inquired with the Immigration Court, he would have discovered that the allegation is unfounded. In fact, Petitioner's counsel explicitly asked if the hearing was being recorded, to which the IJ responded that it was. Strong Decl., Ex. A.

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

IV. ARGUMENT

A. Petitioner should have to avail himself of the protections afforded him before seeking habeas relief

Although Petitioner indicated at the end of his bond hearing that he would be seeking relief in district court, Petitioner waited six months before doing so. This Court should require Petitioner to avail himself of the substantial procedural protections of Section 1226(a) before seeking habeas relief in a federal district court. "Section 1226(a) and its implementing regulations provide extensive procedural protections that are unavailable under other detention provisions." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022). A noncitizen who remains detained pursuant to Section 1226(a) after the initial bond hearing may request that the immigration judge conduct another custody redetermination whenever "circumstances have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e).

The Court should not allow Petitioner to move forward with this litigation without first exhausting his administrative remedies. Like the circumstances here, a court in this district dismissed a noncitizen's habeas petition because the petitioner had failed to seek a bond redetermination hearing at the administrative level. *Cristobal v. Asher*, No. 20-1493-RSM-BAT, 2020 WL 8678097, at * 3 (W.D. Wash. Dec. 14, 2020), *report and recommendation adopted by* 2021 WL796597 (W.D. Wash. Mar. 2, 2021). In *Cristobal*, the petitioner had been detained for 15 months and was denied bond at an initial bond redetermination hearing, but, like here, he never sought a second bond redetermination hearing based on changed circumstances before filing a habeas petition. To the extent that Petitioner might explain that materially changed circumstances merited this habeas petition, this Court should deny Petitioner's request for release and require Petitioner to seek a new bond redetermination hearing first.

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

B. This Court should require prudential exhaustion

Even if he could bring this habeas petition concerning his bond hearing several months after the fact, Petitioner should require him to have exhausted his remedies before the BIA. Petitioner cites the prudential exhaustion requirement, arguing that exhaustion would result in irreparable harm. Dkt. 1, ¶¶ 83-84. Courts look to three factors that "weigh[] in favor of requiring agency exhaustion" — "(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." *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 882 (9th Cir. 2003). All three of these factors favor enforcing the exhaustion requirement in this case. *See Calderon v. Mullin*, No. 26-1512-GJL, 2026 WL 1487774, at *3-4 (W.D. Wash. May 28, 2026) (concluding the factors identified above did not favor excusing prudential exhaustion).

The facts of this case weigh strongly in favor of requiring exhaustion. "First, initiating an appeal was necessary to develop the record, to clarify the IJ's reasoning, and for the parties and this Court to discern whether any constitutional error or harm transpired." *Lueth v. Scott*, No. 26-1170-SKV, Order Denying Petition for Writ of Habeas Corpus Dkt. 14 (W.D. Wash. May 1, 2026), slip op. at 7. However, Petitioner did not appeal, so the IJ did not provide him with a written decision that "likely would have clarified ambiguities [s]he now presents as indicia that h[er] bond hearing may have fallen short of due process." *Id.* at 8. In fact, the deficiency is even more pronounced here because Petitioner incorrectly asserts that no audio recording of the bond hearing exists.[3] Second, this is not a case involving a "discrete legal question, the resolution of which may

[3] Moreover, had Petitioner appealed, the IJ's reasoning would have been reduced to writing for BIA review. *See Lueth*, No. 26-1170-SKV, Dkt. 14, slip op. at 7 ("Respondents point out that it is standard practice for IJs to render an oral

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

provide concrete guidance for future administrative proceedings." *W.T.M. v. Bondi*, No. 25-2428-RAJ-BAT, 2026 WL 262583, at *2 (W.D. Wash. Jan. 30, 2026) (citation omitted). Petitioner challenges a fact-specific bond determination that lacks any novel legal question or broader guidance value beyond the circumstance presented here. Finally, the third factor favors exhaustion because the BIA can review bond determinations and could preclude the need for judicial review. *Calderon,* 2026 WL 1487774, at *2.

A petitioner may nevertheless avoid the requirement by demonstrating one of the *Laing* factors applies in their case. *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004). "The party moving the court to waive prudential exhaustion requirements bears the burden of demonstrating that at least one of these *Laing* factors applies." *Aden v. Nielsen*, 18-1441-RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019).

In support, Petitioner only cites irreparable harm as a reason to waive the exhaustion requirement. Dkt. 1, ¶ 84. Numerous cases in this district reflect that the relevant inquiry for waiver under *Laing* is not merely harm resulting from agency delay, but irreparable harm that is unique to an individual petitioner. *W.T.M.*, 2026 WL 262583, at *3 ("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. 26-772-GJL, 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). By contrast, here, Petitioner has presented no such evidence irreparable harm unique to him, and instead cites

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ruling and that a written decision is only provided if either party appeals," citing Immigration Court Practice Manual ch. 8.3(e)(7)).

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

circumstances common to noncitizens in immigration detention. *Hilario Pankim v. Barr*, No. 20-CV-02941-JSC, 2020 WL 2542022, at *7 (N.D. Cal. May 19, 2020) (rejecting argument that continued detention constituted irreparable harm because it "begs the constitutional questions presented in his petition by assuming that petitioner has suffered a constitutional injury.").

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 v. Scott*, No. 25-1538-TSZ-GJL, 2025 WL 2689844, at *6-7 (W.D. Wash. Aug. 27, 2025), *report and recommendation adopted at* 2025 WL 2689066 (W.D. Wash. Sept. 19, 2025). Because Petitioner has failed to demonstrate his entitlement to a waiver of the prudential exhaustion requirement, this Court should require exhaustion.

C. Petitioner has not identified valid constitutional or legal errors that occurred in his bond hearing

Even if the Court reached the merits of the habeas petition, Petitioner would not be entitled to relief. The central legal question in this case is whether the Immigration Judge correctly applied the standard established in *Guerra* when he denied Petitioner's request for a change in custody status on February 12, 2026.

First, *Guerra* places the burden squarely on the noncitizen. *Guerra*, 24 I. & N. Dec. at 40 ("The burden is on the alien to show to the satisfaction of the Immigration Judge that he or she merits release on bond"). Petitioner was required to prove to the satisfaction of the Immigration Judge that he is neither a danger to the community nor a flight risk. *Id.* at 38; *see also Rodriguez Diaz*, 53 F.4th at 1213 (finding section 1226(a) procedures satisfy due process).

Second, *Guerra* confers broad discretion on the Immigration Judge. *Id.* at 40. The Immigration Judge is free to decide which of the enumerated factors or other relevant

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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

considerations to emphasize and how much weight each factor should receive. *Id.* The decision is reviewed only for whether it rests on a reasonable foundation. *Id.*

The factors the Immigration Judge identified in his oral decision are precisely the types of considerations *Guerra* recognizes as legitimate. Strong Decl., Ex. A; *Guerra*, 24 I. & N. Dec. at 40-41. *Guerra* does not require the Immigration Judge to credit positive equities over negative ones, nor does it require a lengthy oral recitation of every piece of evidence submitted.

Importantly, this Court may not reweigh the evidence. 8 U.S.C. § 1226(e); *Jennings*, 583 U.S. at 295; *Martinez v. Clark*, 124 F.4th 775, 781 (9th Cir. 2024) (quoting *Jennings*, 583 U.S. at 295). Under the abuse-of-discretion standard applicable to review of Immigration Judge bond determinations, the Court cannot reweigh evidence but can only determine whether the agency applied the correct legal standard. *Martinez*, 124 F.4th at 785. The question is not whether this Court would have reached a different conclusion on the same record, but rather whether the Immigration Judge applied the correct legal framework under *Guerra* and whether his decision had a reasonable foundation.

Although Petitioner frames the claim as legal error and abuse of discretion, the substance of the argument is a request that this Court re-weigh the evidence and the equities. Petitioner asks the Court to conclude that the reckless driving conviction in 2025 and reckless driving/ DUI arrests in 2023 and 2024 were insufficient, that the positive equities should have controlled, and that the Immigration Judge's balancing of the *Guerra* factors was therefore wrong. That is precisely the type of re-weighing the abuse-of-discretion standard prohibits. *Martinez*, 124 F.4th at 785.

Petitioner's argument that the Immigration Judge ignored evidence or that the hearing was too short is legally irrelevant under the *Guerra* standard. Due process requires notice and an opportunity to be heard. *Carrasquilla Ocampo v. Mullin,* No. 26-1953-JNW, 2026 WL 2085292, at *3 (W.D. Wash. July 20, 2026). It does not impose a minimum hearing length or require the

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Immigration Judge to make findings on every exhibit. The record before the Immigration Judge contained Petitioner's evidence and the Department's evidence. That provided a sufficient factual foundation for a discretionary determination under *Guerra*.

Because Petitioner has not shown that the Immigration Judge applied an incorrect legal standard or that the decision lacks a reasonable foundation under *Guerra*, there was neither an abuse of discretion nor a due process violation. *Martinez*, 124 F.4th at 784.

D. Petitioner is not entitled to release

Even if the Court were to grant the instant Petition, it should not grant Petitioner's request for immediate release. The core alleged error in the Petition is that the IJ's bond denial constitutes an abuse of discretion. However, because Petitioner failed to file an administrative appeal of the bond decision, the record contains insufficiently precise factual findings regarding his danger to the community for this Court to evaluate. Ordering outright release would therefore require this Court to improperly weigh evidence in the first instance and substitute its judgment for that of the IJ's. Section 1226(a) "contemplates discretionary bond determinations by IJs—not federal district courts." *Calderon*, 2026 WL 1487774, at *2. Accordingly, should this Court grant relief on the instant Petition, the appropriate remedy would be an order directing the IJ to issue a written bond memorandum setting forth his complete reasoning for the bond denial.

V. CONCLUSION

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

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UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

DATED this 17th day of August, 2026.

Respectfully submitted,

s/ James C. Strong

JAMES C. STRONG, WSBA No. 59151
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4067
Email: james.strong@usdoj.gov

Attorney for Federal Respondents

I certify that this memorandum contains 2,692 words in compliance with the Local Civil Rules