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MVPC C/O

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAWLE GERARD SUITE, PRO SE  
A# ~~XXXXXXXXXX~~  
PETITIONER

VS.  
ATTORNEY GENERAL OF THE UNITED STATES, CHRISTOPHER J. LAROSE, WARDEN OF MOSHANNON VALLEY PROCESSING CENTER, WARDEN OF FDC PHILADELPHIA, MR. ONEIL, FIELD OFFICE DIRECTOR, R. MORRELL OF ICE SUPERVISING AGENT, RESPONDENT.

REC'D SEP -4 2025

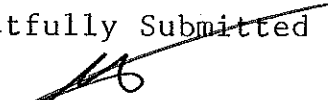
CIVIL ACTION  
NO. 25-2613

PLAINTIFF SUPPLEMENT TO  
PETITION FOR WRIT OF  
HABEAS CORPUS.

PETITIONER RAWLE GERARD SUITE, PRO SE LITIGANT HEREBY FILES his Supplement to the government's opposition to petitioner's habeas motion.

Dated this 19th day of August, 2025;

Respectfully Submitted

  
\_\_\_\_\_  
Rawle Gerard Suite  
Pro se litigant:

PETITIONER'S REPLY TO GOVERNMENT'S OPPOSITION TO PETITIONER'S MOTION TO CHALLENGE MANDANTORY DETENTION, RESPECTFULLY ARGUING PROLONGED DETENTION WITHOUT A BOND HEARING UNDER 1226(C) VIOLATES DUE PROCESS.

## **Introduction / Overview**

Petitioner has been detained by U.S. Immigration and Customs Enforcement under 8 U.S.C. S 1226 since January 12, 2024, now exceeding 19 months. Although immigration detention is civil in nature, courts across the country have held that due process imposes limits on prolonged detention. The Third Circuit has emphasized that there is no bright-line six month rule, but detention becomes unconstitutional when it is unreasonably prolonged under the circumstances. See *German Santos v. Warden Pike County Corr. Facility*, 965 F.3d 203 (3d Cir. 2020). Other circuits likewise recognize that once detention passes many months—with no clear end in sight—due process requires an individualized bond hearing with the government bearing the burden of proof. See *Reid v. Donelan*, 17 F.4th 1 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020); *Lyv. Hansen*, 351 F.3d 263 (6th Cir. 2003); *Martinez v. Clark*, 36 F.4th 1219 (9th Cir. 2022).

Here, Petitioner's continued detention is excessive, punitive, and life-threatening, and he therefore requests immediate relief in the form of a bond hearing or release under reasonable conditions.

## **Summary of Arguments**

Petitioner respectfully submits that his continued detention under S 1226 is unreasonable and unconstitutional, and immediate relief is warranted.

- 1. Length of Detention:** Now exceeding 19 months, far surpassing periods courts have found constitutionally permissible.
- 2. Pending Proceedings:** Petitioner's removal proceedings are not near completion; he has timely filed his BIA appeal and supporting brief, and appellate review may extend for many additional months.
- 3. Reasons for Delay:** Delays are largely attributable to court scheduling and government action, not Petitioner's conduct.
- 4. Conditions and Medical Needs:** Detention has taken on a punitive character and places Petitioner at imminent risk of severe cardiac events, which cannot be adequately treated in ICE custody.

Taken together, these factors satisfy the standard set forth in *German Santos* and related precedent, strongly supporting an order for immediate bond or release.

### **Argument One: Length of Detention is Unreasonably Prolonged**

Petitioner has been detained for over 19 months under S 1226. Courts in the Third Circuit and nationwide recognize that civil *detention exceeding one year is presumptively unreasonable* unless the government can justify it with extraordinary circumstances. See *German Santos*, 965 F.3d at 210; *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469 (3d Cir. 2015); *Lyv. Hansen*, 351 F.3d 263 (6th Cir. 2003).

- Courts in the **First, Second, Sixth, and Ninth Circuits** have granted habeas relief or ordered bond hearings for detainees held 12—18 months.

' **The length of Petitioner's detention alone** weighs heavily in favor of immediate bond or release.

### **Argument Two: Petitioner's Proceedings Are Not Near Conclusion**

The Government contends that Petitioner's detention is justified because removal proceedings are "likely to end soon." This is incorrect:

1. **BIA appeal is pending.** Petitioner timely filed a notice of appeal and submitted a supporting brief, including an extension request.
2. **Exhaustion is satisfied.** Petitioner properly presented his claims to the BIA; judicial review is therefore preserved. See *Abdulrahman v. Ashcroft*, 330 F.3d 587, 594 (3d Cir. 2003).
2. **Finality is not imminent.** Even after the BIA decision, Petitioner could seek federal appellate review, which can take additional months.
3. **Detention will likely continue.** Given these pending steps, detention is not near its end, reinforcing that it is unreasonably prolonged.

**Rebuttal to Government's Exhaustion Argument:** The Government's claim that Petitioner failed to exhaust administrative remedies is **factually incorrect**. Petitioner filed both a motion for extension and a supporting brief with the BIA.

Because Petitioner has fairly presented his claims, exhaustion is satisfied. See Abdulrahman, 330 F.3d at 594.

### **Argument Three: Reasons for Delay Favor Petitioner:**

The lengthy duration of detention is Largely attributable to government and court scheduling, not Petitioner:

- The Immigration Judge failed to conduct a Joseph hearing and hold DHS to there burden of proof.
- The Judge **twice postponed scheduled court dates by three months each**, delays outside Petitioner's control. Sending approval to a joseph hearing a week later.
- Courts recognize that pursuing legal rights or delays caused by the court or government **do not count against the detainee**. See German Santos, 965 F.3d at 210; Chavez-Alvarez, 783 F.3d at 476.

Conclusion: The reasons for delay weigh heavily in favor of finding detention unreasonably prolonged.

### **Argument Four: Conditions of Confinement and Serious Medical Needs:**

1. Punitive facility placement. Petitioner was confined at FDC Philadelphia, a federal prison facility, despite completing his criminal sentence. Prolonged detention in prison-like conditions is punitive, not civil.

2. **Transfer does not remedy harm.** Petitioner was recently transferred to Moshannon Valley Processing Center, but prior confinement's constitutional violations persist.

2. Medical risk is acute. Petitioner suffers from:

- Stage III hypertension. *Most recent valuation found here in Exhibit "B" was 200/98*
- COPD
- Elevated cholesterol
- Chronic insomnia
- Advanced age

- Recent EKG shows sinus bradycardia, first-degree AV block, left ventricular hypertrophy, and T-wave abnormalities. *Exhibit "A" gives an overview of the serious condition of petitioner that amounts to cruel and unusual punishment.* These conditions place Petitioner at imminent risk of myocardial infarction or death, and **require specialized cardiology care unavailable in ICE custody.**

4. *Government's claim of missing records is incorrect.* All records were submitted to the BIA; the most recent medical report is included as an exhibit.

**Conclusion:** The combination of punitive confinement and serious, inadequately treated medical conditions violates the Fifth Amendment. Immediate release or, at minimum, a bond hearing with the government bearing the burden of proof is required. The Consensus of opinion nationwide have found similar detention lengths unreasonable, Looking outside the Third Circuit 19+Months of sec. 1226 detention **strongly favors due process finding of "unreasonable" detention and a right to a bond hearing.**

### **Number one argument**

1. Legal framework: INA S 1226 and prolonged detention

- As the Court is well aware, When someone is detained under **8 U.S.C. sec. 1226(a) or sec 226©** while removal proceedings are pending, Courts can consider whether that detention has become **"unreasonable prolonged.**

- **The Supreme Court (Zadvydas v. Davis, 2001)** set a six-month rule of thumb in the post-order detention context (INA S 1231).

' For **pre-order detention (S 1226)**, the courts of appeals—including the Third Circuit—have applied a **reasonableness analysis**, not a strict six-month cutoff.

2. **Third Circuit position**

- In the Third Circuit (which covers Pennsylvania, New Jersey, Delaware, and the Virgin Islands), the key case is *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203 (3d Cir. 2020).

- The court explained that there is no bright-line rule (no automatic 6-month deadline).
- Instead, detention must be evaluated for reasonableness under the circumstances.

3. **Factors the Third Circuit considers (from German Santos)**

The Third Circuit laid out a multi-factor test:

1. **Length of detention.** The longer it goes on, the more likely it is unreasonable.

2. **Reasons for delay.** Who caused the delay? If the government dragged its feet, it weighs against them. If the detainee asked for continuances, that weighs less in their favor.

3. **Likelihood of removal.** If the case is complex or removal isn't reasonably foreseeable, prolonged detention looks worse.

4. **Conditions of confinement.** If detention looks more like punishment than civil custody, that matters.

In *German Santos*, the Third Circuit noted that detentions over one year often trigger constitutional concerns—and in some district courts within the circuit, detentions of 19+ Months have been found unreasonable.

**4. Support from district court cases.** must be evaluated case-by-case. Courts in this circuit have consistently found that detentions of one year or longer are presumptively unreasonable. My detention of over 19 months under Sec. 1226 greatly exceeds that period, strongly weighing in favor of a finding that my continued detention **violates due process.**" *19+ months of 1226 detention strongly favors a due-process finding of "unreasonable" detention and a right to a bond hearing.*

### Key cases beyond the Third Circuit

#### First Circuit (case-by-case reasonableness; long detention problematic)

**Reid v. Donelan**, 17 F.4th 1 (1st Cir. 2021) (en banc): rejects a categorical six-month rule, but reaffirms that due process can require a bond hearing when detention becomes unreasonably prolonged; emphasizes a case-specific, factor-based inquiry (length, reasons for delay, likelihood of removal, etc.)

#### **Second Circuit (government bears burden; prolonged detention violates due process)**

While the Third Circuit itself didn't adopt a 6-month bright line, many district courts in the circuit have recognized that once detention passes a year or more, it strongly weighs in favor of release or a bond hearing.

Examples:

' German Santos: detention of 2+ years was found unconstitutional without bond hearing.

• Chavez-Alvarez v. Warden, York Cty. Prison, 783 F.3d 469 (3d Cir. 2015) (pre-German Santos, but still cited): Detention approaching 1 year is suspect; at 1 and a half years it is very likely unconstitutional.

• Other district courts (e.g., in Pennsylvania, New Jersey) have found 14-19 months to be unreasonably long unless there are extraordinary government justifications.

Petitioner has been detained 19 months under Sec. 1226(c)

' The Third Circuit says there's no automatic 6-month cutoff, but courts must weigh factors.

• Case law (Chavez-Alvarez, German Santos, district cases) shows that detentions of 1+ years are presumptively unreasonable unless the government has strong justification.

• The fact that his detention is nearly double what the Third Circuit warned about (12 months) should weigh heavily in his favor.

' Velasco Lopez v. Decker, 978 F.3d 842 (2d Cir. 2020): the Second Circuit affirmed habeas relief and ordered a new bond hearing with the government bearing the burden by clear and convincing evidence to justify continued detention under S 1 226(a), placing the burden on DHS as detention has become prolonged.

• SDNY follow-ons (persuasive): district courts repeatedly found many months to a year+of detention unreasonable and required bond hearings with clear and convincing burden on the government. Examples: Hernandez v. Decker; Joseph v. Decker; Sophia v. Decker.

Sixth Circuit (early, influential prolonged-detention precedent)

• Lyv. Hansen, 351 F.3d 263 (6th Cir. 2003): held detention about 500 days (-16-17 months) was unreasonable, stressing that due process does not permit indefinite pre-order detention and that government-caused delay weighs against the government. Courts still cite Ly's factors even after Jennings for constitutional (as-applied) challenges.

• Ninth Circuit (recognizes constitutional limits; district courts order hearings when detention is prolonged)

- Martinez v. Clark, 36 F.4th 1219 (9th Cir. 2022) and related 2024 decision: while not adopting a bright line, the Ninth Circuit acknowledged that at some point, detention without a bond hearing violates due process; district courts within the circuit ordered bond hearings when detention became prolonged. (Useful to show the nationwide trend toward constitutional limits.)

### **Eleventh Circuit (persuasive, though vacated post-Jennings)**

- sopo v. U.s. Att'y Gen., 825 F.3d 1199 (1 Cir. 2016), vacated (2018): recognized that detention may become unreasonable by around the one-year mark absent special justifications. Note: vacated after Jennings, with the understanding it is not binding authority.

- However; "Multiple courts of appeals—including the First, Second, Sixth, and Ninth—require a case specific due-process analysis for Sec.1226 detention, with *length as a critical factor*. Detentions approaching or exceeding one year trigger constitutional concerns, and *detentions of 16—19+ months have repeatedly been deemed unreasonably prolonged.*"

#### **2. Burden at the hearing:**

"When detention becomes prolonged, courts place the burden on the government to justify continued custody by clear and convincing evidence (flight risk or danger) It has already been established that petitioner is not a flight risk by virtue of strong ties to the community spanning 40 years, employment, food drives, with over a dozen declarations on file at the ninth circuit sentencing court that speaks to petitioners good moral character and lack of criminal history., Moreover petitioner is not a danger to the community evidenced *by-BOP custody level assessment of a level 2* (see exhibit K.) noting consideration of less-restrictive alternatives—see Velasco Lopez and numerous SDNY decisions."

#### **3. Length:** Petitioner Ha\*s been detained since January 12, 2024—that's over 19 months (and counting), well past the time many courts find constitutionally problematic.

- Reasons for delay: Petitioner has had less than 5 Months of actual court, due process and 14 months of delay's not attributed to his good-faith pursuit of relief, Thus any delay's should not be held against him (First & Second Circuits caution against penalizing people for litigating).

- Likelihood/timeline of removal: If resolution is uncertain or distant, continued civil detention looks less justified. (Courts can weigh foresee ability of removal.) Taking into account Placed in removal proceedings based on a federal conviction that is still in

dispute. Petitioner filed "form I-589" seeking "withholding of removal and Cat protection" still under review., Notwithstanding an I-130,

- Conditions of confinement: If he's held in penal-like conditions (county jail, limited out-of-cell time), that weighs toward unreasonableness.

4. **Supreme Court guardrails** "The Supreme Court's Jennings/2022 decisions (Johnson v. Arteaga-Martinez and Garland v. Aleman Gonzalez) say the INA doesn't itself guarantee six-month bond hearings and bars class wide injunctions, but they leave room for individual, constitutional (as-applied) habeas challenges like mine." "Although there is no bright-line six-month rule, courts across the country hold that due process forbids unreasonably prolonged S 1226 detention and requires an individualized bond hearing when detention extends many months with no end in sight. See, e.g., Reid v. Donelan, 17 F.4th 1 (1st Cir. 2021) (case-by-case reasonableness analysis); Velasco Lopez v. Decker, 978 F.3d 842 (2d Cir. 2020) (ordering a new bond hearing with the government bearing the clear-and-convincing burden); Lyv. Hansen, 351 F.3d 263 (6th Cir. 2003) (500 days held unreasonable); and Martinez v. Clark, 36 F.4th 1 219 (9th Cir. 2022) (*recognizing constitutional limits on prolonged detention*).

District courts—especially in the Second Circuit—routinely grant habeas relief and require hearings with the government's clear-and-convincing burden once detention passes nine to twelve months. My detention since Jan. 12, 2024 now over 19 months is longer than the periods many courts have found unconstitutional, and the length, reasons for delay, lack of foreseeability, and penal-like conditions all weigh decisively in my favor."

**Relief Requested;**

**WHEREFORE**, Petitioner respectfully requests that this Court:

1. Order an individualized bond hearing before an Immigration Judge within 14 days of the Court's order.

2. At that hearing, require the Government to bear the burden of proof by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community. See *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020); *German Santos v. Warden*, 965 F.3d 203 (3d Cir. 2020).

3. Direct the Immigration Judge to consider Less-restrictive alternatives to detention, including release on recognizance, supervision, or electronic monitoring, in keeping with due-process principles.

4. Require the Immigration Judge to make individualized findings on the record addressing:

- (a) the length of detention (over 19 months to date),
- (b) the reasons for delay,
- (c) the likelihood of removal in the reasonably foreseeable future, and
- (d) the conditions of confinement.

See *Chavez-Alvarez v. Warden*, 783 F.3d 469 (3d Cir. 2015); *Lyv. Hansen*, 351 F.3d 263 (6th Cir. 2003).

5. If a bond hearing is not provided within 14 days on the terms above, order Petitioner's immediate release under reasonable conditions of supervision. See *Reid v. Donelan*, 17 F.4th 1 (1st Cir. 2021); *Martinez v. Clark*, 36 F.4th 1219 (9th Cir. 2022). a bond hearing with the government's burden and alternatives considered, or outright release if no hearing occurs in time.

*Argument Two: Petitioner's Proceedings Are Not Near Conclusion*-The Government contends that Petitioner's detention is justified because his removal proceedings are "likely to end soon." This is incorrect for several reasons:

1 The BIA appeal remains pending. Petitioner timely filed a notice of appeal from the Immigration Judge's December 20, 2024 removal decision. Contrary to the Government's assertion, Petitioner has also filed a supporting brief and requested an extension. Thus, the record shows that Petitioner has not abandoned his appeal, and the case remains fully active before the Board.

2. Exhaustion has been satisfied. The Government argues that even if the BIA dismisses the appeal, judicial review would be foreclosed for lack of exhaustion. That is wrong. Because Petitioner has filed a brief with the BIA, he has preserved his arguments for

judicial review. Courts consistently hold that a non-citizen exhausts his remedies so long as he has fairly presented his claims to the BIA. See, e.g., *Abdulrahman v. Ashcroft*, 330 F.3d 587, 594 (3d Cir. 2003) ("A petitioner need not do more than raise an issue before the BIA to preserve it for judicial review.").

3. Finality is not imminent. Even if the BIA were to issue a dismissal, Petitioner would retain the statutory right to petition for review before the Third Circuit. Those proceedings can take many additional months to resolve. As the Third Circuit has recognized, the likelihood and length of future proceedings is a factor in determining whether detention is unreasonably prolonged. *German Santos*, 965 F.3d at 210—12.

4. Therefore, detention will not "end soon." Petitioner has already been detained for more than 19 months. With a BIA decision still pending, and with federal appellate review available thereafter, it is highly likely that detention will continue for many more months. This weighs heavily in favor of a finding that detention has become unreasonably prolonged and constitutionally infirm.

"Because Petitioner has filed his BIA brief and preserved his arguments, exhaustion is not in question. His proceedings are far from over, and the prospect of many more months of detention further underscores the need for an individualized bond hearing."

**Re-Cap** Petitioner is a **lawful permanent resident of the United States**, He was placed in removal proceedings based on a federal criminal conviction, He Has a remote criminal history, He **filed a timely "form I-589"** seeking "withholding of removal" and **CAT Protection**, The immigration Judge denied all forms of relief and caused extreme delay's for no good reason, A timely Notice of Appeal was filed, A **\*\*Writ of Error Coram Nobis\*\*** is pending before the federal district court seeking to **\*\*vacate the conviction\*\*** underlying removability, *A Foia request is also pending* regarding **\*\*Derivative Citizenship\*\*** Eligibility through his naturalized U.S. Citizen Mother, and **a I-130 has been filed by his Son**. Thus, The Government's claim that Petitioner failed to exhaust his administrative remedies is factually incorrect. Petitioner filed both a motion for extension and a supporting brief with the Board of Immigration Appeals. Thus, the argument that Petitioner "failed to file.brief" the case is baseless. Because Petitioner has in fact raised his claims before the BIA, he has properly exhausted administrative remedies for purposes of judicial review. See *Abdulrahman v. Ashcroft*, 330 F.3d 587, 594 (3d Cir. 2003) (holding that a petitioner exhausts so long as the issue is fairly presented to the BIA). Accordingly, the Government's exhaustion argument should be rejected.

The Conditions of Confinement Are Punitive and Support a Finding That Detention Is Unreasonably Prolonged When detention begins to resemble punishment, however, due process concerns are triggered, Thus, petitioner filed an emergency injunctive relief Identifying he was Detained in a penal setting. in a BOP

Facility environment that is virtually indistinguishable from criminal incarceration. He was subject to a 2 man cell, (Due to language barriers.) (*Without access to electricity for his C-pap Machine, without support for his Mental anguish.*) and had no cell mate, as such in his case he was isolated much like the hole exacerbating his mental health, the same uniforms, restrictions, and daily regimens as criminal inmates. Such conditions are far removed from the narrow, civil justification underlying immigration detention.

1. Excessive duration compounds punitive nature. Even if short-term jail-like detention might be tolerated, the combination of punitive conditions and lengthy confinement crosses the constitutional line. As the Third Circuit explained in *German Santos v. Warden Pike County Corr. Facility*, 965 F.3d 203, 210 (3d Cir. 2020), the conditions of confinement are an important factor in determining whether detention has become unreasonable

3. Civil purpose can be achieved by Less-restrictive means. Petitioner is not serving a criminal sentence. The government's interests in ensuring appearance and protecting the community could be fully served through alternatives to detention such as release on bond, electronic monitoring, or supervision. Continued confinement under jail-like conditions for 19 months far exceeds what due process permits. The punitive nature of Petitioner's current confinement, especially given its extraordinary length, strongly favors a finding that detention has become unconstitutional.

4. **"The Constitution does not permit the government to warehouse civil detainees in penal conditions for nineteen months while proceedings drag on.** At this point, my confinement has lost any semblance of a limited civil measure and instead functions as punishment, in violation of due process." Petitioner has been clear and the record supports much of the delay was caused by the Immigration Judge and not the petitioner, importance of which is reflected in similar cases such as *German Santos* whereby delay is one of the factors this honorable court can weigh when deciding if detention has become unreasonable. (Noting; "Aliens should not be punished for pursuing applicable legal remedies by prolonging their detention.") \*Because the lengthy duration of Petitioner's detention is largely attributable to delays caused by the Immigration Judge's scheduling and not by any bad-faith actions on Petitioner's part, this factor weighs heavily in favor of finding that his detention has become unreasonably prolonged in violation of due process. Immigration detention is civil in nature. Its purpose is limited to ensuring appearance at hearings and protecting the community. It cannot lawfully be punitive. See *Demore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 Yet Petitioner's detention has effectively become punishment for the following reasons:

1 . Punitive facility placement. For the last six months of his detention, Petitioner was confined at the Federal Detention Center in Philadelphia ("FDC"), a facility designed and operated as a federal prison. Conditions there were indistinguishable from criminal incarceration, even though Petitioner has already served his criminal sentence.

Confinement in prison-like conditions goes far beyond the limited civil purpose authorized by 1226 detention.

2. **Transfer does not cure past harm or present risk.** *Although Petitioner was recently transferred back to Moshannon Valley Processing Center, this does not erase the punitive-character of his long confinement at FDC, nor does it cure the ongoing constitutional Violations. German Santos v, Warden 965 E3d 203, 210 (3d Cir. 2020), confirms that conditions of confinement are a relevant factor in assessing whether detention is unreasonably prolonged.*

3. Serious, documented medical conditions. Petitioner suffers from Stage 3 hypertension, with the most recent values (See Exhibit "3") *suggesting to call 911*, In Petitioner's COPD,-Elevated-Cholesterol, chronic insomnia,-Lipoma, Tendernites, Hernia, Dental Issues, and advanced age, notwithstanding multiple surgeries approved for outsource assistance, all of which put him at high risk for heart attack and other life-threatening events. Most recent EKG performed at Moshannon Valley just two weeks ago revealed sinus bradycardia with first-degree AV block, left ventricular hypertrophy, and T-wave abnormalities. These conditions require frequent monitoring and specialized cardiology care—a level of treatment that immigration detention facilities cannot provide. Petitioner challenged his lack of access to medical device such as his CPAP (*which was taken away from him upon arrival to BOP Custody on Febuary 19<sup>th</sup>, 2025*) as it was and is tied to his Cardiac health, despite fainting, chest pains, shortness of breathe, and untreated sleep apnea which is not of petitioners own making,-despite documented high blood pressure and or the increase for heart failure and ischemia, despite taking away the CPAP (or denying electricity for it) *which was not just an inconvenience but rather a wanton disregard for petitioner's health, thus, increasing petitioner's cardiac risk, since untreated sleep apnea is strongly linked to arrhythmias, hypertension and sudden cardiac death. The fact of the matter is Petitioner has objective evidence of cardiac conduction disease and possible ischemia, That means it is not safe to dismiss this as "normal." While sinus bradycardia and first degree block can sometimes be benign, in the presence of T-Wave abnormalities and LVH, the risk for progression to higher grade heartblock, arrhythmia, myocardial ischemia, or heart failure is significant.*

4. Government's denial of medical records is baseless. The Government asserts that no medical records were submitted, but Petitioner has in fact filed those records with the BIA, and they remain part of the administrative record. He now submits the most recent EKG report as an exhibit to this response.

5. Ongoing detention poses grave risks. Continuing to detain Petitioner in these conditions places him at serious risk of irreparable harm, including possible death from heart attack or related cardiovascular complications. *Civil detention that endangers a detainee's life and health is not only punitive but also violates the Fifth Amendment's guarantee of due process.*

Conclusion: The combination of penal conditions of confinement and serious medical vulnerability shows that Petitioner's detention has become punitive in fact, not civil in nature. Immediate release—or, at minimum, an individualized bond hearing with the Government bearing the burden of proof—is constitutionally required

"The Constitution does not permit the Government to confine me in prison-like conditions while ignoring my urgent cardiac and pulmonary needs. My medical condition alone warrants immediate release so I may receive proper care outside of detention." The government argues confinement is not punishment, but the facts contradict this.

G) Petitioner was previously confined at FDC Philadelphia, a BOP facility designed for convicted criminals, despite having completed his criminal sentence. Immigration detention is supposed to be civil, not punitive. Yet petitioner was subjected to:

("prison-like conditions identical to criminal incarceration (solitary housing, locked cells, limited visitation, restricted movement, lack of rehabilitative services).

this is contrary to *Zadvydas v. Davis*, 533 U.S. 678 (2001), which emphasized immigration detention must remain non-punitive. Transfer back to Moshannon-Valley Processing Center does not cure this constitutional violation, because:

- The prolonged 18-month detention itself is inherently punitive, especially in light of conditions endured.
- **Past punitive confinement at FDC caused significant harm and cannot be ignored** simply because of a subsequent transfer. Failure to provide these interventions places the patient at substantial and preventable risk of cardiac morbidity and mortality.

- **Medical Care is Constitutionally Inadequate**

- Government claims no sufficient medical evidence was provided, but that is inaccurate. Records and reports have been submitted to BIA and are available.

- Most recent EKG (August 2025) shows otherwise.
- Sinus bradycardia
- First-degree AV block
- Left ventricular hypertrophy
- T-wave abnormalities (lateral leads)
- Combined with pre-existing serious health conditions:
  - Stage III hypertension
  - Chronic obstructive breathing disorder (COPD)
  - Elevated cholesterol
  - Chronic insomnia
  - Advanced age

- Together, conditions place petitioner at imminent risk of myocardial infarction (heart attack) or death.

- **Facility Cannot Provide Adequate Care**

- Required care includes frequent cardiology monitoring and access to specialists.
- Neither Moshannon Valley Processing Center nor any ICE-contracted facility provides this level of care.
- Continued detention therefore creates deliberate indifference to serious medical needs, violating the Fifth Amendment Due Process Clause.

#### 4. Relief Requested

- **Because detention has crossed the line into punishment, petitioner is entitled to immediate release under Zadvydas and related precedents.**

- Alternatively, at minimum, the Court should order immediate release on bond or appropriate conditions of supervision so that petitioner can obtain necessary specialized medical care unavailable in ICE custody. The Government contends that Petitioner's detention is justified because removal proceedings are "likely to end soon." This is incorrect:

- 1 . BIA appeal is pending. Petitioner timely filed a notice of appeal and submitted a supporting brief, including an extension request.

2. Exhaustion is satisfied. Petitioner properly presented his claims to the BIA; judicial review is therefore preserved. See *Abdulrahman v. Ashcroft*, 330 F.3d 587, 594 (3d Cir. 2003).

3. Finality is not imminent. Even after the BIA decision, Petitioner has *Coram Nobis* pending, I-130 which permits a record of Lawful Permanent residence to this petitioner who entered the United States legally before January 1, 1972. A Person by virtue of declarations sitting at the Ninth Circuit Clerk's office that shows good moral character and supports that petitioner is not ineligible for citizenship and not a deportable terrorist. petitioner seek's federal-appellate review, which can take additional months.

4. Detention will likely continue. Given these pending steps, detention is not near its end, reinforcing that it is unreasonably prolonged.-Reasons for Delay Favor Petitioner-Again, The lengthy duration of detention is largely attributable to government and court scheduling, not Petitioner

- The Immigration Judge failed to conduct a Joseph hearing, Petitioner and determined Petitioner was in a mandatory detention category under S 1226. The Judge twice postponed scheduled court dates by three months each, delays outside Petitioner's control.- Courts recognize that pursuing legal rights or delays caused by the court or government do not count against the detainee. See *German Santos*, 965 F.3d at 210; *Chavez-Alvarez*, 783 F.3d at 476. Thus, the reason for delay strongly weighs in favor of finding detention unreasonably prolonged. Conditions of Confinement and Serious Medical Needs The combination of punitive confinement and serious, inadequately treated medical conditions violates the Fifth Amendment.

Immediate release or, at minimum, a bond hearing with the government bearing the burden of proof is required.

**Relief Requested;**

Petitioner respectfully requests that this Court:

- 1 . Order an individualized bond hearing before an Immigration Judge within 14 days.
2. Require the Government to bear the burden of proof by clear and convincing evidence that continued detention is necessary. See Velasco Lopez, 978 F.3d 842; German-Santos, 965 F.3d 203.
3. Direct the Immigration Judge to consider Less-restrictive alternatives to detention, including release on recognizance or electronic monitoring.
4. Require the Immigration Judge to make individualized findings on the record addressing:
  - (a) Length of detention
  - (b) Reasons for delay
  - (c) Likelihood of removal
  - (d) Conditions of confinement
5. If a bond hearing is not provided within 14 days, order Petitioner's immediate release under reasonable conditions.

Exhibit Description Date / Source

Exhibit A Notice of Appeal to Board of Immigration Appeals (BIA) Filed January 2025

Exhibit B BIA Extension Request and Supporting Brief Filed March 2025

Exhibit C Immigration Judge Joseph Hearing Transcript December 2024

Exhibit D Court Orders Postponing Hearings (3-Month Delays) January — March 2025

Exhibit E ICE Detention Records - FDC Philadelphia January–July 2025

Exhibit F ICE Detention Records — Moshannon Valley Processing Center July - August 2025

Exhibit G Medical Records Submitted to BIA Filed March — August 2025

Exhibit H Most Recent EKG Report (Shenandoah Valley) August 2025

Exhibit I Physician Notes / Specialist Consultations (Cardiology, Pulmonology) Various 2024-2025

Exhibit J Evidence of Pre-Existing Conditions (Hypertension, COPD, Cholesterol, Chronic Insomnia) Various 2024—2025

Exhibit K Supporting Case Law / German Santos Citation Sheet Compiled August 2025  
Notes for Submission

' Medical reports (Exhibits H-J) should be highlighted for the judge, particularly the EKG results showing first-degree AV block, left ventricular hypertrophy, and T-wave abnormalities.

- All filings and notices to the BIA (Exhibits A—B) support the argument that Petitioner properly exhausted administrative remedies.

**Court transcripts and postponement orders (Exhibits C-D) support Argument Three regarding delays beyond Petitioner's control. Detention & Events Timeline— S 1226 Bond Hearing**

Current Petition for bond hearing / immediate release Requests individualized hearing; relief due to prolonged detention, delays, conditions, and medical risk Table of Exhibits / Evidence

**Date Event Notes / Impact**

Jan 12, 2024 Detention begins under 8 U.S.C. S 1226 Start of detention (<sup>N</sup>I 9 months)

Dec 20, 2024 immigration judge issues removal decision Triggers appeal process

Dec 2024 Joseph Hearing conducted Determines mandatory detention category

Jan - Mar 2025 Court postpones hearings twice Each delay <sup>N</sup>3 months; not caused by Petitioner

Jan 2025 Notice of BIA Appeal filed Administrative remedies properly exhausted

Mar 2025 BIA extension request & supporting brief filed Corrects government claim of missing brief

Jan - Jul 2025 Confinement at FDC Philadelphia Prison-like conditions; punitive experience

Jul 23, 2025 Transfer to Moshannon Valley Processing Center Conditions slightly improved but medical risks remain

Aug 2025 Most recent EKG & medical report Sinus bradycardia, 1 st-degree AV block, LVH, T-wave abnormalities; Stage III hypertension, COPD, chronic insomnia, elevated cholesterol, advanced age

**Certificate of Service**

I hereby certify that on this day of August 08, 2025, a true and correct copy of the foregoing Petitioner's Response / Motion for Bond Hearing and Immediate Release was served via electronic filing and/or first-class mail upon the following:

>. **The United States District Court**

For TheUnited States District Court Of Pennsylvania

>. United States District Court

**For the Central District Of California**

411 West Fourth Street

Santa Ana, Ca 92701

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated:, August 08, 2025

Respectfully submitted,

  
**Rawle Gerard** 

Moshannon Valley Processing Center

555 Geo Drive

Philipsburg, Pa 16866

Pro Se / Self-Represented Litigant



## HEALTH AND HUMANITARIAN

Despite multiple comorbidities diagnosed by BOP and DHS medical Staff and or the medical records, Despite being upgraded to a level II By FCI Berlin N.H. (subsequently to a level III.) Despite respondents claim that the infliction of pain and emotional distress was at all times an Eight Amendment Violation to the United States Constitution. Petitioner has met and exceeded the burden of proof.

It is unequivocally in the Public Interest to prevent the wrongful removal of non-citizens, Particularly to countries where they are likely to face substantial harm, I.E. Trinidad and Tobago and or the threat of persecution /harm by gangs (As American war ships are off the coast, as guns and Venezuelans have poured into the country) and armed violence is prevalent. Petitioner's long term aculteration and lack of ties to Trinidad and Tobago, and the life threatening denial of medical care, and mental health amounts to cruel and inhumane treatment. What should be recognized is Petitioner's Stage II, III Hypertension (even with maximum dosage of medicine perscription), sleep apnea, EKG Abnormalities suggest more than a 10% probability that -- Petitioner would suffer harm, heart attack, stroke or death within 30-90 day's of removal given his comorbid conditions and lack of medical access, lack of local status or family and moreover even if these gaps were to be bridged the medical realities of accessing medicine economically would be a challenge as petitioner would not be able to afford private care, drugs necessary to survive is too expensive thus, would be susceptible to torture through Gov't acquiescence. Given petitioner's long term lawful U.S. U.S. presence and the total absence of medical continuing abroad through acquiescence of the Governemnt of Trinidad and Tobago amounts to a different form of CAT that still amounts to torture and or cruel and unusual punishment.

Per BOP ASSESSMENT REPORT: I the petitioner in this case is not a flight risk nor am I a danger thus, prolonged detention without a bond hearing 1226 (c) violates due process. Petitioner seeks some procedural safeguards and an individualized bond hearing. Petitioner was brought to this country when he was 8 years old, entered this country as a lawful permanent resident and has significant ties to the United States, Including his adult kids that are well positioned to file I-130 on his behalf accordingly. As already established the factors set forth in German Santos to petitioner's case has become - unreasonable, moreover; petitioner has shown his removal is not foreseeable under ZADVYDAS V. DAVIS (533 U.S. 678), detention without a foreseeable

## HEALTH AND HUMANITARIAN.II

AS THE COURT IS WELL AWARE, the longer a non-citizen is detained, the more evidence the government needs to put forward; To Justify continued detention. "Zadvydas, 533 at 701; see also Alexander V. Attorney Gen. U.S., ~~495~~ F. App'x 274, 275 (3rd Cir.2012) "the longer the alien is detained, the less he must put forward to obtain relief; Hassoun 2019 WL 78984, at\*4, The governments burden becomes more onerous the longer the alien is detained, because it must show that removal will be effectuated sooner in the future. Petitioner has put forth good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. "There have been no unusual or unnecessary delays on petitioners part. Petitioner has diligently pursued legitimate legal remedies. See Leslie V. Atty Gen., 678 F.3d 265, 271 (3d cir 2012). he has acted promptly and in good faith, and has not contributed to any delay in resolving his case. He has continually filed timely appeals in this case, and his good faith challenge to his removal, [cannot be held] against him. citing Chavez-Alvarez, 783 F.3d at 476-477; using a non-citizen's good faith challenges against him would be "effectively punishing him for pursuing applicable legal remedies. The longer Petitioner's detention extends, the more weight given to the conditions of confinement. German Santos, 965 F.3d at ~~1076~~; 211. Petitioner claims he has been constitutionally violated which has and will continue to result in further injuries, based on such due process, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment violations not withstanding Medical Indifference that's gone on far to long. In the event, this Honorable Court fails to take corrective course of action pursuant to this petition. pursuant to Medical records and or Medical comorbidities petitioner will continue to be subjected to cruel and unusual punishment that will result in additional imminent injuries. Petitioner finds himself now marginalized and or cookie cuttered in immigration custody where continued detention creates and or perpetuates the deliberate indifference to present serious medical needs. Ignoring all other underlying issues, surgeries needed and recognized by MVPC [Moshannon] medical staff, focus alone on recent EKG and C\_Pap machine shows petitioner is at imminent risk of myocardial infarction (Heart Attack.) or death, detention has now crossed the line into punishment thus, petitioner is entitled to immediate release under Zadvydas and related precedents whereby he can obtain necessary specialized medical care.

HEALTH AND HUMANATARIAN III

Relief is based on the imminent and ongoing harm related to indifference and or the WANTON DISREGARD FOR PETITIONER'S MEDICAL NEEDS. This motion is ripe for adjudication, Petitioner prays the court would not turn a blind eye to punitive confinement and the serious medical needs that is a result of the 19 months in Ice Custody without a timely adjudication and or a valid basis without due process under the fifth amendment where this petitioner was subject to double jeopardy placed in isolation for 6 month(s) [no celly.] mice evrywhere, running under the door in an overcrowded facility where aleins at chow had to sit on the floor, the same floor the rodents run wild on. Petitioner was penalized multiple times for the same conduct whereby, U.S. Immigration and Custom's Enforcement used immigration hold detainer unlawfully, beyond the scope of lawful crimm custody. Notwithstanding no bond has been afforded , no judicial review has taken place to date...

What should be recognized is;

\*\*Petitioner is a lawful Permanent Resident of the United States\*  
\*\*He was placed in removal proceeding based on a federal criminal conviction\*  
\*\*He filed a timely I-589\*\*seeking \*withholding of removal and CAT Protection.\*  
\*\*The immigration judge denied all forms of relief and caused delay.  
A Timely notice of appeal was filed\*\*  
\*\* A Writ of Error Coram Nobis is pending before the federal district Ct.\*\*  
\*\* WRIT SEEKS TO VACATE THE CONVICTION UNDERLYING REMOVABILITY.\*\*  
\*\* Asecond emrgency FOIA request is pending regarding DirivativeCitizenship...  
AS THERE EXIST the probability petitioner is a dirivative citizen, eligiibilty tythrough his mother's application submitted when he was 18 yrs old.  
\*\* I\_130 Pending, Sponsorship through adult children, specifically his Son.  
\*\* Petitioner entered tyhe United States legally as a child,[8yrs of age.]  
\*\* Has no meaningful ties abroad and considers the U.S. his sole country.\*\*