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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GERSON NOE ZAMBRANO GOMEZ

Petitioner,

vs.

Case No.: '26CV2319 LL SBC

CHRISTOPHER J. LAROSE, in his
official capacity as Senior Warden of
Otay Mesa Detention Facility;

TODD LYONS, in his official capacity
as Director of U.S. Immigration and
Customs Enforcement (ICE);


MARKWAYNE MULLIN, in his
official capacity as Secretary of the U.S.
Department of Homeland Security;

TODD BLANCHE, in his official
capacity as Acting Attorney General of
the United States

Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241 AND COMPLAINT
FOR ADMINISTRATIVE
PROCEDURE ACT RELIEF
[IMMEDIATE RELEASE OR
BOND HEARING REQUESTED]**

INTRODUCTION

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3 1. Gerson Noe Zambrano Gomez  is a Honduran National
4 who entered the United States without inspection near San Ysidro, California on or
5 about September 28, 2024, fleeing threats and violence from a Honduran cartel
6 figure, as described in his credible fear interview. Petitioner has been detained for
7 over a year now without a bond hearing, and with no reasonably foreseeable end to
8 his detention. His continued custody violates the Due Process Clause of the Fifth
9 Amendment. He files this petition for a writ of habeas corpus under 28 U.S.C. §
10 2241 to challenge the lawfulness of his continued detention and the constitutionally
11 inadequate medical care he is receiving.
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16 2. DHS's own pre-hearing statement and credible fear interview notes confirm
17 that Mr. Zambrano Gomez has a serious trauma history, has suffered significant
18 violence in Central America, and currently faces life-threatening harm if removed.
19 Despite this, ICE continues to detain him for a prolonged period while failing to
20 provide adequate medical care, including proper treatment for a broken collarbone
21 that occurred in ICE custody, for which he was given only painkillers
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24 3. Because DHS is legally barred from removing Petitioner while the Ninth
25 Circuit adjudicates his case, and because the Ninth Circuit briefing schedule extends
26 into mid-2026, Petitioner's detention has become indefinite, unreasonably
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1 prolonged, and unconstitutional articulated in *Zadvydas v. Davis*, 533 U.S. 678
2 (2001), which holds that immigration detention must end once removal is not
3 reasonably foreseeable.
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5 4. Petitioner seeks immediate release under appropriate conditions of
6 supervision. He also seeks declaratory and injunctive relief to prevent re-detention
7 absent materially changed circumstances and to ensure notice and an opportunity to
8 consult counsel if removal becomes feasible, or alternatively, require Respondents
9 to provide a bond hearing within ten days, consistent with statutory and
10 constitutional requirements.
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13 **JURISDICTION AND VENUE**

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16 5. This Court has subject matter jurisdiction over this Petition pursuant to 28
17 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I,
18 Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
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20 6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)
21 because Respondents are U.S. agencies and officers of the United States acting in
22 their official capacities or because they reside in this district. In addition, a
23 substantial part of the events or omissions giving rise to the claims occurred in this
24 District, Petitioner is detained in this District, and no real property is involved in
25 this action.
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1 11. Respondent Todd Lyons is the Director of ICE. He is responsible for the
2 implementation of immigration detention policies and oversees the Petitioner's
3 detention.
4

5 12. Respondent Markwayne Mullin is the Secretary of the U.S. Department of
6 Homeland Security ("DHS"). He is the cabinet-level official responsible for the
7 administration of immigration laws.
8

9 13. Respondent Todd Blanche is the Acting Attorney General of the United
10 States. He oversees the Executive Office for Immigration Review ("EOIR") and the
11 IJs who have refused to provide the Petitioner with a neutral bond hearing.
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14 **FACTUAL BACKGROUND**

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16 14. Petitioner first entered the United States as a child around 2011 and was
17 placed in foster care in Michigan. He was later removed to Honduras in 2019.
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19 15. Petitioner reentered the United States near San Ysidro, California, on or
20 about September 28, 2024, fleeing threats and violence from a Honduran cartel
21 figure, as described in his credible fear interview.
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23 16. Petitioner was placed in immigration proceedings on October 30, 2024, and
24 remained in ICE custody in Otay Mesa Detention Center and has remained there
25 for over a year.
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1 17. Throughout this entire period of detention, Petitioner has never been afforded
2 a bond hearing before an immigration judge. Despite the significant length of his
3 confinement, he has been deprived of any meaningful opportunity to challenge the
4 necessity of his continued detention or to seek release on bond, in violation of his
5 due process rights.
6

7
8 18. On November 20, 2025, DHS filed a motion to pretermitt the respondent's
9 protection applications, and on January 28, 2026, the immigration judge granted the
10 motion. The motion established that Petitioner was ordered removed from the
11 United States to Guatemala.
12

13
14 19. DHS has filed a pre-hearing statement and submission of evidence against
15 him in immigration court, dated March 6, 2025. That document confirms that DHS
16 is actively litigating against his requests for asylum and withholding of removal,
17 including raising bars such as the alleged "serious nonpolitical crime" bar, thereby
18 prolonging his detention.
19

20
21 20. On March 30, 2026, DHS filed a motion to reopen, establishing that the
22 Department has been unable to effectuate removal to Guatemala and therefore, the
23 Respondent is able to seek protection before the Court. On April 8, 2026, the
24 immigration judge granted the motion to reopen.
25

26
27 21. In his credible fear interview, Petitioner explained that a cartel figure in
28 Honduras,  attempted to force him to

1 engage in drug trafficking activities. When he refused, [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 22. Long before his return to Honduras, Petitioner was also stabbed in Guatemala.

6
7 23. Petitioner reported in his credible fear interview that he suffers from
8 depression and significant stress related to these experiences, but nonetheless
9 attempted to cooperate fully with the asylum officer.
10

11 24. While in ICE custody at Otay Mesa, California, Petitioner suffered a serious
12 injury in which he broke his collarbone.
13

14 25. Following the injury, ICE and facility medical staff provided him only with
15 painkillers. He was not given an X-ray, orthopedic evaluation, or any meaningful
16 treatment to ensure proper healing of the fracture.
17

18 26. As a result, Petitioner continues to experience from excessive pain. The
19 failure to provide appropriate medical care poses a continuing risk of permanent
20 impairment and pain.
21

22 27. Petitioner has requested medical attention on multiple occasions, but ICE
23 has not provided adequate diagnostic testing or treatment beyond pain medication.
24

25 28. Petitioner has now been detained for approximately [16] months while his
26 removal case is litigated, including DHS's efforts to apply the "serious nonpolitical
27 crime" bar, as described in its pre-hearing statement.
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1 29. During this prolonged civil detention, Petitioner is subjected to conditions
2 and lack of medical care that have exacerbated his physical injuries and
3 psychological trauma stemming from prior stabbings and cartel violence.
4

5 30. Continued detention serves no legitimate governmental purpose, is punitive,
6 and violates substantive and procedural due process. Petitioner respectfully seeks
7 immediate release or, at minimum, a constitutionally compliant bond hearing.
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10 LEGAL BACKGROUND

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12 31. While 8 U.S.C. § 1225(b) authorizes initial detention of arriving noncitizens
13 pending removal proceedings, the Fifth Amendment Due Process Clause protects
14 against indefinite or punitive detention. Courts have held that detention without a
15 bond hearing or without a reasonably foreseeable removal may violate due process.
16
17 *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022); *Demore v.*
18 *Kim*, 538 U.S. 510, 531 (2003) (detention must be reasonably related to removal).
19

20 32. Petitioner's continued detention has become unreasonably prolonged in light
21 of: a. The length of detention to date; b. The nonpunitive, civil nature of
22 immigration custody; c. The fact that DHS's own actions (including raising
23 complex bars and appeals) materially contribute to the length of proceedings; and
24
25 d. Petitioner's serious medical and mental-health conditions and history of severe
26 trauma.
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1 33. When detention exceeds six months without a bond hearing and removal is
2 not reasonably foreseeable, continued detention is considered constitutionally
3 excessive under the due process framework of *Zadvydas* and *Rodriguez Diaz*.
4

5 34. Courts recognize that an alien's serious medical conditions are relevant to
6 evaluating whether detention is excessive. Petitioner suffers from a broken
7 collarbone requiring repeated medical care. Prolonged confinement under such
8 circumstances may constitute arbitrary and unreasonable detention, and
9 humanitarian considerations favor release or alternative conditions. See *Diouf v.*
10 *Napolitano*, 634 F.3d 1081, 1090 (9th Cir. 2011).
11
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13 35. The Supreme Court in *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018),
14 confirmed that §§ 1225 and 1226 govern pre-final-order custody and emphasized
15 that constitutional challenges remain available where prolonged detention lacks
16 procedural safeguards. The lack of any contemporaneous finding of danger or flight
17 risk in Petitioners' cases stands in stark contrast to long-standing due process
18 requirements that civil detention be non-punitive and justified by individualized
19 evidence. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).
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23 36. The Due Process Clause of the Fifth Amendment prohibits the Government
24 from imposing arbitrary civil detention, especially in the immigration context where
25 detention is regulatory, not punitive. The Supreme Court has long held that
26 noncitizens are entitled to due process protections when their liberty is deprived,
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1 requiring procedures reasonably calculated to prevent erroneous detention. See
2 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which sets forth the balancing test
3 used to evaluate the sufficiency of procedural safeguards—(1) the private interest
4 affected, (2) the risk of erroneous deprivation under current procedures and the
5 value of additional safeguards, and (3) the Government’s asserted interests. This
6 framework has been repeatedly applied in immigration detention cases to
7 underscore the necessity of individualized and meaningful process. The Ninth
8 Circuit relied on *Mathews* to hold that prolonged immigration detention without
9 procedural protections is constitutionally deficient, emphasizing the heightened
10 liberty interest at stake and the significant risk of erroneous confinement. This
11 constitutional requirement aligns with the Supreme Court’s reasoning in *Zadvydas*
12 *v. Davis*, 533 U.S. 678 (2001), which held that civil detention under 8 U.S.C. §
13 1231(a)(6) must be limited to a period reasonably necessary to effectuate removal,
14 as indefinite or arbitrary detention raises “serious constitutional concerns.”
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21 37. Although 8 U.S.C. § 1225(b) authorizes mandatory detention of arriving
22 aliens, due process requires a bond hearing or individualized review once detention
23 becomes prolonged and removal is not reasonably foreseeable, particularly here
24 where the Petitioner’s case been reopened by the immigration judge.
25

26 38. Similarly, *Diouf v. Napolitano* held that individuals detained under 8 U.S.C.
27 § 1231(a)(6) for extended periods must be afforded a bond hearing and released
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1 unless the government demonstrates danger or flight risk. Though Petitioners are
2 detained under § 1225(b), not § 1231, the due process principle is identical:
3 prolonged civil detention cannot continue without procedural safeguards.
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5 39. Since his detention, Petitioner has been held for more than six months, and
6 DHS has not provided a bond hearing nor made any showing—let alone the
7 constitutionally required showing—that they pose a danger or flight risk. The Ninth
8 Circuit in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), held that due process
9 requires the government to bear the burden of proof, establishing danger or flight
10 risk by clear and convincing evidence at a prolonged-detention bond hearing. DHS
11 has not met that burden here because it has not attempted to meet it at all. The
12 constitutional urgency of Petitioners’ situation is underscored by recent district
13 court authority, including *Van Ngo v. Noem*, where the Southern District of
14 California held in 2025 that prolonged detention without adequate process required
15 immediate release subject to supervision. The same constitutional defects, lack of
16 due process, lack of individualized findings, and prolonged confinement, are
17 present in Petitioner’s case.
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24 **CLAIMS FOR RELIEF**

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26 **Count I: Violation of 8 U.S.C. § 1231(a)**
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1 40. Petitioner re-alleges and incorporates the foregoing paragraphs.

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3 41. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes
4 detention “beyond the removal period” only for the purpose of effectuating
5 removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, (“[O]nce removal is no longer
6 reasonably foreseeable, continued detention is no longer authorized by statute.”).
7
8 Because Petitioner’s removal is not reasonably foreseeable, his detention does not
9 effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).
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11 42. Petitioner has been detained far more than six months. He has shown good
12 reason to believe there is no significant likelihood of removal in the reasonably
13 foreseeable future because his removal was halted by an immigration judge after
14 DHS failed to remove him from the country. Moreover, DHS’s own motion states
15 that Petitioner cannot be removed to Guatemala. As a result, there is no definite or
16 reasonably foreseeable date on which Petitioner could be removed, rendering his
17 detention effectively indefinite and unnecessary.
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21 43. Respondents have not demonstrated that removal is significantly likely in
22 the reasonably foreseeable future. Under *Zadvydas*, continued detention is
23 unlawful, and Petitioner must be released under appropriate supervision.
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26 **Count II: Violation of the Fifth Amendment’s Due Process Clause –**
27 **Prolonged Civil Immigration Detention Without Neutral Review**
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1 44. Petitioner's ongoing civil detention violates the Fifth Amendment's Due
2 Process Clause, which prohibits arbitrary and punitive confinement without
3 adequate procedural safeguards. Due process requires that any civil detention be
4 reasonably related to its purpose and accompanied by procedures sufficient to guard
5 against erroneous deprivation of liberty. The Supreme Court's due process
6 framework, articulated in *Mathews v. Eldridge*, requires balancing the (1) liberty
7 interest at stake, (2) risk of erroneous deprivation under existing procedures, and
8 (3) governmental interests.

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12 45. Under this framework, Petitioner's detention is unlawful because (a) his
13 liberty interest in avoiding prolonged confinement is substantial; (b) DHS has
14 afforded no opportunity to contest detention, creating a serious risk of erroneous
15 deprivation; and (c) the Government's asserted interests can be addressed through
16 less restrictive means, including supervised release.

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19 46. Multiple courts have applied *Mathews* to civil immigration detention and
20 have held that prolonged detention without a bond hearing violates due process. The
21 Ninth Circuit has expressly held that civil immigration detainees facing extended
22 detention must be provided a neutral bond hearing at which the Government bears
23 the burden of proof. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011)
24 (requiring government to prove danger or flight risk by *clear and convincing*
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1 *evidence* and mandating contemporaneous recordkeeping to ensure meaningful
2 review).

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4 47. Petitioner has received no hearing, and DHS has provided no individualized
5 findings to justify his detention. Their confinement therefore violates fundamental
6 due process protections.
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8 48. As in *Van Ngo v. Noem* (S.D. Cal. 2025), where the district court granted
9 habeas relief and ordered immediate release after concluding that DHS failed to
10 provide constitutionally adequate process during prolonged detention, Petitioners'
11 confinement lacks any individualized determination and therefore violates their
12 constitutional right to due process. In *Van Ngo*, the court ordered release where
13 DHS's detention had become arbitrary and unsupported by procedural review. The
14 same constitutional defects are present here:
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- 17 • No bond hearing;
- 18 • No individualized findings;
- 19 • No showing of danger or flight risk;
- 20 • No evidence that removal is reasonably foreseeable
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24 49. Because Petitioners' prolonged detention under § 1225(b) has not been
25 justified through any constitutionally sufficient procedure, and because statutory
26 mandatory-detention provisions cannot override due process limitations,
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1 Petitioners' continued confinement violates both the Immigration and Nationality
2 Act as constitutionally applied and the Fifth Amendment.
3

4 50. Prolonged civil detention, particularly in penal-like conditions and without
5 a neutral, individualized determination that detention is necessary to serve a
6 compelling government interest, violates due process. Respondents have detained
7 Petitioner for more than six months without any bond hearing before a neutral
8 decisionmaker and without clear and convincing evidence that he poses a flight risk
9 or danger that cannot be mitigated by conditions of supervision. Continued
10 detention violates the Due Process Clause.
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14 51. Substantive due process prohibits civil detention that is punitive in its
15 purpose or effect, including detention that is unreasonably prolonged. *See Jackson*
16 *v. Indiana*, 406 U.S. 715, 738 (1972) (“*due process requires that the nature and*
17 *duration of commitment bear some reasonable relation to the purpose for which the*
18 *individual is committed*”).
19

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21 52. In *Demore v. Kim*, 538 U.S. 510, 527-28 (2003), the Supreme Court held
22 that “*detention during deportation proceedings is a constitutionally valid aspect of*
23 *the deportation process*”, and “*that detaining “deportable criminal aliens pending*
24 *their removal proceedings [...] necessarily serves the purpose of preventing*
25 *deportable criminal aliens from fleeing prior to or during their removal*
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1 *proceedings, thus increasing the chance that, if ordered removed, the aliens will be*
2 *successfully removed."*
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4 **Count III: Unlawful Prolonged Detention Under *Zadvydas***
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6 53. Petitioner's continued detention also violates the substantive limits the
7 Supreme Court imposed in *Zadvydas v. Davis*, which held that 8 U.S.C. §
8 1231(a)(6) contains an implicit temporal limitation on detention and does *not*
9 authorize indefinite or prolonged confinement.
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12 54. A fundamental point supporting Petitioners' claim is that the Supreme Court
13 in *Zadvydas v. Davis*, 533 U.S. 678 (2001), imposed a strict constitutional limit on
14 detention under 8 U.S.C. § 1231(a)(6) — the post-final-order detention statute —
15 holding that even individuals already ordered removed, and therefore in a more
16 adverse legal position than § 1225(b) arriving aliens, may not be detained
17 indefinitely. The Court interpreted § 1231(a)(6) to contain an implicit "reasonable
18 time" limitation and ruled that detention beyond six months becomes
19 unconstitutional unless the Government proves removal is significantly likely in the
20 reasonably foreseeable future. If due process forbids indefinite post-order detention
21 of noncitizens who have already exhausted their rights and stand in the least
22 favorable procedural posture, it follows a fortiori that arriving aliens detained under
23 § 1225(b)—whose cases remain pending and who retain full statutory and
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1 constitutional protections—cannot be subjected to prolonged detention without
2 meaningful review.

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4 55. Petitioners’ detention violates the statutory framework governing the
5 treatment of arriving aliens, who are subject to detention under 8 U.S.C. § 1225(b)
6 rather than § 1226. The Supreme Court in *Jennings v. Rodriguez*, 138 S. Ct. 830
7 (2018), held that § 1225(b)(1) and § 1225(b)(2) mandate detention of arriving aliens
8 during the pendency of their asylum or removal proceedings and do not provide a
9 statutory right to periodic bond hearings. *Jennings*, however, held only that detained
10 aliens are not statutorily entitled to periodic bond hearings. See *id.* *Jennings* did not
11 determine the constitutional question at issue here—whether arriving aliens subject
12 to prolonged detention under 8 U.S.C. § 1225(b) are entitled to a bond hearing as a
13 matter of due process. *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 768 (S.D. Cal. 2020)
14 . Thus, although DHS relies on § 1225(b) as the statutory basis for Petitioners’
15 detention, the Constitution still requires individualized procedures and meaningful
16 review where confinement extends beyond a reasonable period and loses its
17 immigration-regulatory justification. Although Petitioners are detained under 8
18 U.S.C. § 1225(b) pending the completion of immigration proceedings, the
19 constitutional concerns identified in *Zadvydas*—that civil detention must be
20 reasonably related to its purpose, must not be punitive, and cannot continue
21 indefinitely—apply equally here. Although ‘detention during deportation
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1 proceedings [is] a constitutionally valid aspect of the deportation process,' *Demore*
2 *v. Kim*, 538 U.S. 510, 523, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003), such detention
3 must still comport with due process." (citations omitted)). Although the Ninth
4 Circuit and Supreme Court have thus far been silent about non-citizens' entitlement
5 to bond hearings after prolonged detention, "the majority of courts across the
6 country . . . [have] conclud[ed] that an unreasonably prolonged detention under 8
7 U.S.C. § 1225(b) without an individualized bond hearing violates due process."
8 *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772-73 (S.D. Cal. 2020) (citing *Yagao v.*
9 *Figueroa*, 2019 U.S. Dist. LEXIS 54566, 2019 WL 1429582, at *2 (S.D. Cal. Mar.
10 29, 2019) ("[T]he [c]ourt agrees with the many district courts finding that prolonged
11 detention without a bond hearing likely violates due process.") See *Arechiga v.*
12 *Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 U.S. Dist. LEXIS 140947 (D.
13 Nev. Aug. 11, 2023).

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REQUEST FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Assume jurisdiction and proper venue over this matter;
2. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release under reasonable conditions of supervision.

- 1 3. In the alternative, order Petitioner's release unless Respondents provide him
2 with a constitutionally adequate bond hearing before a neutral and impartial
3 adjudicator within seven (7) days, where the burden is on DHS to justify
4 continued detention by clear and convincing evidence that the Petitioner is
5 either a flight risk or a danger to the community.
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- 7
- 8 4. Award Petitioner attorney's fees and costs under the Equal Access to Justice
9 Act (EAJA); and
- 10
- 11 5. Grant such other relief as the Court deems just and proper.
- 12

13 Respectfully submitted on April 13, 2026

14
15 /s/ Marcelo Gondim

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1
2 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

3 I represent Petitioner, Gerson Noe Zambrano Gomez, and submit this
4 verification on his behalf. I hereby verify that the factual statements made in the
5 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
6 knowledge.
7

8
9 April 13, 2026.

10
11 /s/ Marcelo Gondim
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