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

**GERSON NOE ZAMBRANO  
GOMEZ,**

*Petitioner,*

vs.

**CHRISTOPHER J. LAROSE, et al.**

*Respondents.*

Case No.: 3:26-cv-02319-LL-SBC

**PETITIONER'S REPLY IN  
SUPPORT OF IMMEDIATE  
RELEASE**

1           Petitioner, through counsel, respectfully submits this Reply to Respondents'  
2 Response (ECF No. 5). While the government concedes that Petitioner's detention  
3 has become unreasonably prolonged and that due process requires relief, its  
4 proposed remedy, a future bond hearing, is legally and factually insufficient. The  
5 record establishes that immediate release is the only constitutionally adequate  
6 remedy.  
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9           Respondents' proposal of a bond hearing, offered only after Petitioner filed  
10 this habeas petition, follows a pattern this Court has repeatedly rejected. In *Sadeqi*  
11 *v. LaRose*, 809 F. Supp. 3d 1090 (S.D. Cal. 2025), *Gao v. LaRose*, 805 F. Supp. 3d  
12 1106 (S.D. Cal. 2025), and *Van Ngo v. Noem* (S.D. Cal. 2025), the Court held that  
13 the constitutional violation arises from the prolonged detention itself, not from the  
14 absence of a future hearing. Respondents may not avoid habeas relief by promising  
15 to provide a custody hearing belatedly while the petitioner remains confined,  
16 because such relief would render the Great Writ ineffective and reward unlawful  
17 detention.  
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22           This Court has not accepted the proposition that continued detention can be  
23 justified by post hoc assertions of dangerousness. Due process requires a timely  
24 and neutral custody determination by the proper adjudicator, not after-the-fact  
25 justifications supplied by the detaining authority once bond jurisdiction has been  
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1 wrongly denied. Where no lawful custody determination has ever occurred,  
2 continued detention itself constitutes an ongoing constitutional violation.  
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4 Consistent with these principles, this Court has repeatedly ordered  
5 immediate release, not merely a delayed bond hearing, where detention rested on  
6 the same legal error presented here. Because a future hearing cannot cure a present  
7 deprivation of liberty, and because habeas relief must restore, not postpone,  
8 freedom unlawfully taken, the Court should grant the Petition and order  
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11 Petitioner's immediate release.

12 **I. RESPONDENTS CONCEDE PROLONGED DETENTION AND OFFERS**  
13 **NO EVIDENCE JUSTIFYING CONTINUED CUSTODY**

14 Respondents acknowledge that courts in this District have "repeatedly  
15 inferred a constitutional right against prolonged mandatory detention," and they do  
16 not contest that Petitioner's confinement has now extended to approximately  
17 sixteen months without any bond hearing or individualized custody review. This  
18 concession is significant. Respondents do not dispute that Petitioner has never  
19 received a neutral determination regarding whether he presents a danger to the  
20 community or a risk of flight. They do not dispute that the Government has never  
21 attempted to meet the constitutionally required burden of proving, by clear and  
22 convincing evidence, that continued detention is necessary. They do not dispute  
23 that removal is not reasonably foreseeable, particularly in light of DHS's own  
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1 failed attempt to remove Petitioner to Guatemala, its subsequent motion to reopen,  
2 and the immigration judge's order granting reopening. Nor do Respondents dispute  
3 the serious and ongoing medical neglect Petitioner has suffered in custody,  
4 including the untreated collarbone fracture that occurred while he was detained at  
5 Otay Mesa, for which he received only pain medication and no diagnostic imaging  
6 or orthopedic evaluation. Respondents' silence on these critical facts constitutes a  
7 tacit admission that they cannot justify Petitioner's continued detention under any  
8 constitutionally permissible standard.  
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12 Respondents do not argue that Petitioner is a danger to the community, that  
13 he is a flight risk, that removal is imminent, feasible, or even possible in the  
14 foreseeable future. They do not argue that detention continues to serve any  
15 legitimate regulatory purpose, such as ensuring removal or protecting public safety.  
16 They do not attempt to reconcile Petitioner's prolonged confinement with the  
17 Supreme Court's repeated admonition that civil immigration detention must  
18 remain nonpunitive and reasonably related to its purpose. Their failure to articulate  
19 any factual or legal basis for continued detention is dispositive. When the  
20 Government cannot identify a legitimate justification for ongoing confinement, the  
21 Constitution requires release, not further delay or procedural formalities. See  
22 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must end when it no  
23 longer serves its regulatory purpose and removal is not reasonably foreseeable);  
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1 *Van Ngo v. Noem*, S.D. Cal. 2025 (ordering immediate release where DHS failed  
2 to justify prolonged detention and offered only belated administrative process).  
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4 Respondents' position reduces to a single point: that Petitioner is subject to  
5 mandatory detention under 8 U.S.C. § 1225(b). But this Court has repeatedly held  
6 that § 1225(b) does not authorize indefinite or unreviewable detention, and that  
7 due process imposes constitutional limits independent of the statute. Respondents'  
8 reliance on statutory mandatory-detention language cannot overcome the  
9 constitutional requirement that civil detention be justified by individualized  
10 findings and remain reasonably related to its purpose. Their failure to provide any  
11 such justification confirms that Petitioner's continued confinement is unlawful.  
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15 In sum, Respondents' concessions, combined with their failure to dispute  
16 any of the material facts demonstrating the unconstitutionality of Petitioner's  
17 detention, show that there is no lawful basis for continued custody. Respondent's  
18 inability to articulate a legitimate regulatory purpose for Petitioner's ongoing  
19 confinement requires immediate release.  
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22 **II. IMMEDIATE RELEASE IS REQUIRED DUE TO SERIOUS**  
23 **MEDICAL NEGLIGENCE AND ONGOING HARM**

24 Respondents do not dispute that Petitioner broke his collarbone while in ICE  
25 custody, nor do they dispute that this injury occurred as a direct result of conditions  
26 within the detention facility. They do not contest that, following this serious injury,  
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1 Petitioner was never provided an X-ray, never referred for an orthopedic evaluation,  
2 and never afforded any diagnostic imaging or specialist consultation that would be  
3 considered the minimum standard of care for a suspected fracture. Respondents do  
4 not dispute that Petitioner was given only pain medication and left to manage the  
5 injury without any meaningful medical intervention. They do not dispute that he  
6 continues to experience significant and ongoing pain, limited mobility, and  
7 functional impairment. They do not dispute that the absence of proper medical  
8 treatment places Petitioner at risk of permanent deformity, chronic pain, and  
9 long-term disability. Their silence on these facts is a concession that the medical  
10 neglect alleged in the Petition is accurate, ongoing, and severe.  
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15 Respondent's failure to address these medical facts is particularly troubling  
16 because the Ninth Circuit has made clear that serious medical conditions are  
17 directly relevant to the constitutionality of prolonged civil detention. In *Diouf v.*  
18 *Napolitano*, 634 F.3d 1081, 1090 (9th Cir. 2011), the court held that prolonged  
19 detention becomes arbitrary and unreasonable when it exacerbates physical or  
20 psychological harm, and that humanitarian considerations weigh heavily in favor  
21 of release where detention worsens a detainee's medical condition. Here,  
22 Respondents do not attempt to argue that Petitioner's untreated fracture is being  
23 managed appropriately, nor do they attempt to justify why a civil detainee, who  
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1 has not been convicted of any crime, should be forced to endure a painful, untreated  
2 orthopedic injury for more than a year while in government custody.  
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4 Moreover, the Government's silence on Petitioner's medical neglect show  
5 the absence of any legitimate regulatory purpose served by continued detention.  
6 Civil immigration detention is constitutionally permissible only when it is  
7 reasonably related to ensuring removal or protecting public safety. It is not  
8 intended to punish, degrade, or inflict harm. Yet Respondents do not dispute that  
9 Petitioner's injury occurred in custody, that ICE failed to provide adequate medical  
10 care, or that his condition has worsened as a result. Continued detention under these  
11 circumstances is not merely unreasonable, it is punitive in effect, and therefore  
12 unconstitutional. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (civil detention  
13 becomes unconstitutional when its nature or duration bears no reasonable relation  
14 to its purpose).  
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19 **III. BECAUSE THE RESPONDENTS CONCEDES PROLONGED**  
20 **DETENTION AND OFFERS NO JUSTIFICATION FOR CONTINUED**  
21 **CUSTODY, IMMEDIATE RELEASE IS THE ONLY**  
22 **CONSTITUTIONALLY ADEQUATE REMEDY**

23 Where Respondents concede prolonged detention, offers no evidence of  
24 danger or flight risk, cannot effectuate removal, and has subjected Petitioner to  
25 serious medical neglect, this Court has consistently ordered immediate release  
26 rather than a bond hearing. The pattern in this District is clear: when DHS fails to  
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1 justify continued confinement and offers only belated administrative process after  
2 litigation begins, the Court has held that such process does not cure the underlying  
3 constitutional violation. In *Van Ngo v. Noem* (S.D. Cal. 2025), the Court ordered  
4 immediate release where the Government, as here, provided no individualized  
5 findings, no evidence of danger or flight risk, and no meaningful justification for  
6 prolonged detention. The Court rejected the Government's attempt to moot the  
7 petition by offering a bond hearing only after habeas relief was sought,  
8 emphasizing that the constitutional injury arises from the prolonged detention itself,  
9 not from the absence of a future hearing. Likewise, in *Sadeqi v. LaRose*, 809 F.  
10 Supp. 3d 1090 (S.D. Cal. 2025), and *Gao v. LaRose*, 805 F. Supp. 3d 1106 (S.D.  
11 Cal. 2025), the Court held that a post-litigation bond hearing does not remedy  
12 months of unconstitutional confinement and does not satisfy due process. In both  
13 cases, the Court ordered relief notwithstanding the Government's belated offer of  
14 a hearing, recognizing that due process requires meaningful justification for  
15 detention at the time it becomes prolonged—not after the detainee seeks judicial  
16 intervention.

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24 The same principles apply with even greater force here. Respondents have  
25 not attempted to demonstrate that Petitioner poses a danger or flight risk. They  
26 have not attempted to show that removal is reasonably foreseeable. They have not  
27 attempted to justify why a civil detainee with a serious, untreated orthopedic injury  
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1 should remain in custody. Instead, they rely solely on the statutory framework of  
2 § 1225(b), which this Court has repeatedly held does not authorize indefinite or  
3 unreviewable detention. A bond hearing offered only after litigation begins is not  
4 a constitutionally adequate remedy because it does nothing to address the months  
5 of unlawful confinement that have already occurred, nor does it provide any  
6 assurance that the Government can meet its burden of proof. The Ninth Circuit has  
7 made clear that due process requires the Government to justify prolonged detention  
8 through individualized evidence, not through post-hoc procedural gestures. See  
9 *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Rodriguez Diaz v.*  
10 *Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022); *Diouf v. Napolitano*, 634 F.3d 1081,  
11 1090 (9th Cir. 2011).

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Because Respondents have conceded prolonged detention, failed to offer any evidence supporting continued custody, acknowledged that removal is not reasonably foreseeable, and left Petitioner to suffer serious medical harm without adequate treatment, the constitutional violation is complete and ongoing. Under the consistent jurisprudence of this District, the only adequate remedy is immediate release under reasonable conditions of supervision. A bond hearing offered only after litigation begins does not cure the constitutional violation, does not satisfy due process, and does not provide the relief to which Petitioner is entitled. Immediate release is therefore required.

**V. CONCLUSION**

For the foregoing reasons, and based on Respondents' own concessions, Petitioner respectfully requests that the Court order his immediate release under reasonable conditions of supervision.

Respectfully submitted on

April 22, 2026.

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3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on April 22, 2026, I electronically filed the foregoing  
5 with the Clerk of the Court using the CM/ECF system, which will send notification  
6 of such filing to all counsel of record.  
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8  
9 Date: April 22, 2026  
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11 /s/ Marcelo Gondim

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