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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 SUPPLEMENTAL
BRIEF REGARDING IJ BOND
ORDER AND CONSTRUCTIVE
DENIAL OF RELEASE**

Petitioner, through counsel, respectfully submits this Supplemental Brief to address developments following the Court's Order Granting Petition for Writ of Habeas Corpus (ECF No. 7), which required Respondents to provide an individualized bond hearing under 8 U.S.C. § 1226(a) within seven (7) days and directed the Immigration Judge to consider alternative conditions of release and Petitioner's ability to pay if bond was set. The bond hearing occurred on May 4,

1 2026, and the Immigration Judge set bond in the amount of \$7,500 but imposed
2 release conditions that, in Petitioner's circumstances, are unworkable and operate
3 as a constructive denial of release.
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5 Most critically, the Immigration Judge required that Petitioner "must live
6 with sponsor" and obtain DHS approval before changing residence. However, the
7 designated sponsor cannot have Mr. Zambrano Gomez reside with her. As a result,
8 the primary condition for release is impossible to satisfy, and Petitioner remains
9 detained despite a nominal bond grant. Moreover, another satisfactory address was
10 provided to the court.
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13 The Order further imposes additional conditions, including quarantine at the
14 sponsor's residence, release only after clearance from medical hold, a broad
15 prohibition on "working without authorization," potential electronic monitoring at
16 DHS discretion, and a provision allowing DHS to seek to stay, reopen, reconsider,
17 or revoke the bond order "without opposition" from Respondent based on alleged
18 violations or "new derogatory information." In combination, these requirements
19 are highly unusual and so onerous that they render "release" illusory—functionally
20 equivalent to a denial of bond.
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25 Because the Constitution requires a meaningful opportunity for release—
26 and because the Court's habeas remedy cannot be frustrated by unworkable bond
27 terms—Petitioner respectfully requests that the Court grant supplemental relief.
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1 Specifically, Petitioner requests an order directing Respondents to release him
2 under reasonable conditions of supervision or, at minimum, to provide an
3 expedited, constitutionally compliant custody redetermination that prohibits
4 conditions that are impossible to meet or that amount to continued detention in
5 practice.
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8 **I. PROCEDURAL POSTURE AND SUMMARY OF THE IJ'S BOND** 9 **ORDER**

10 On April 28, 2026, this Court granted the Petition and ordered Respondents
11 to provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a)
12 within seven (7) days. The Court also directed that, at any such hearing, the
13 Immigration Judge must not deny bond on the erroneous theory that 8 U.S.C. §
14 1225(b)(2) required mandatory detention, and must consider alternative conditions
15 of release and Petitioner's ability to pay if bond was set. The Court further ordered
16 Respondents to make a complete record of the bond hearing available to Petitioner
17 and counsel.
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21 On May 4, 2026, the Immigration Judge granted release on bond in the
22 amount of \$7,500 and imposed the following "conditions for release from DHS
23 custody":
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- 25 1. Self-quarantine/isolate for the first fourteen (14) days following release
26 from DHS custody and arrival at sponsor's residence;
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- 1 2. Not be released from DHS custody until cleared from medical hold;
- 2 3. Residence: "Respondent must live with sponsor and obtain DHS approval
- 3 prior to changing residence;"
- 4 4. Not commit any violation of criminal or immigration law, including
- 5 "working without authorization;"
- 6 5. Alternatives to Detention (ATD), such as electronic monitoring, may be
- 7 imposed at DHS discretion;
- 8 6. DHS may file a Motion to Stay, Reopen, Reconsider, or Revoke the Bond
- 9 Order "without opposition from Respondent" based on new derogatory
- 10 information or violation of the bond conditions of release;
- 11 7. Failure to Appear warnings, including that a hearing may be held in
- 12 Respondent's absence and an in absentia removal order may enter absent
- 13 exceptional circumstances;
- 14 8. Change of Address warnings, including that Respondent must file Form
- 15 EOIR-33 within five (5) working days of moving and that failure may result
- 16 in missing a hearing notice and an in absentia order;
- 17 9. Application-for-relief provisions regarding existing deadlines and
- 18 requirements when seeking change of venue;
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1 10. Change-of-venue provisions requiring a motion within thirty (30) days of
2 residency, proof of compliance with the residence condition, and
3 compliance with application requirements.
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5 As applied here, these conditions do not provide a meaningful opportunity
6 for release. The sponsor-residence condition is impossible to satisfy because the
7 designated sponsor cannot have Mr. Zambrano Gomez reside with her. In
8 combination with the other conditions—including DHS-discretion ATD and the
9 “without opposition” revocation provision—the Order operates as a constructive
10 denial of release and continues the very due process injury this Court sought to
11 remedy.
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15 **II. HABEAS RELIEF IS AVAILABLE WHERE BOND CONDITIONS**
16 **ARE UNCONSTITUTIONAL OR AMOUNT TO CONSTRUCTIVE**
17 **DENIAL OF RELEASE**

18 This Court retains habeas authority under 28 U.S.C. § 2241 to remedy
19 ongoing unconstitutional custody. Where the Government continues to detain a
20 civil immigration detainee because “release” conditions are impossible to meet in
21 practice, the result is continued detention—not meaningful release—and the
22 constitutional injury persists. Due process requires a meaningful opportunity for
23 release, and civil detention must remain regulatory and reasonably related to its
24 purposes rather than punitive. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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1 The Ninth Circuit recognizes that immigration bond proceedings must
2 comply with due process and that habeas review is available to address legal and
3 constitutional error in custody determinations. See *Singh v. Holder*, 638 F.3d 1196,
4 1203–04 (9th Cir. 2011). Consistent with these requirements, this Court ordered
5 that the Immigration Judge consider alternative conditions of release and
6 Petitioner’s ability to pay if bond was set and that a complete record be made
7 available. A bond order that nominally grants release but conditions release on an
8 impossible sponsor-residence requirement does not meaningfully consider
9 alternatives or ability to pay—it forecloses release categorically and transforms
10 bond into a functional no-bond determination.
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15 Several features of the May 4 Order underscore why supplemental relief is
16 warranted. The sponsor co-residence condition is dispositive where the sponsor
17 cannot provide housing. In addition, the provision authorizing DHS to seek to stay,
18 reopen, reconsider, or revoke the bond order “without opposition” from
19 Respondent is extraordinary and inconsistent with an individualized custody
20 determination; it effectively predetermines the result of a future custody dispute
21 and chills the ability to contest continued detention. Finally, permitting
22 ATD/electronic monitoring “at DHS discretion” without standards compounds the
23 unworkability of release. Taken together, the conditions are not reasonably tailored
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1 to ensuring appearance or protecting the community and amount to continued
2 detention in practice.

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4 **C. THE IJ'S BOND ORDER FRUSTRATES AND VIOLATES THIS**
5 **COURT'S HABEAS ORDER**

6 This Court's habeas order did not merely require that an Immigration Judge
7 utter the words "bond granted." It required an *individualized* custody determination
8 that provides a meaningful opportunity for release under § 1226(a). The Court
9 specifically directed that the Immigration Judge (1) must not deny bond on a
10 mandatory-detention theory, (2) must consider alternative conditions of release and
11 Petitioner's ability to pay if bond was appropriate, and (3) must ensure a complete
12 record is made available. A bond order that, as applied, makes release impossible
13 is inconsistent with and frustrates the Court's ordered remedy.
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17 First, the May 4 Order conditions release on co-residence with a sponsor
18 ("Respondent must live with sponsor"), even though the proposed sponsor cannot
19 house Mr. Zambrano Gomez. In these circumstances, the sponsor-residence
20 condition functions as a categorical bar that forecloses release regardless of the
21 bond amount. That outcome is incompatible with the Court's directive to consider
22 alternatives and ability to pay: if release is blocked by an impossible housing
23 condition, then neither the bond amount nor the ability-to-pay inquiry can provide
24 the meaningful mechanism for release the Court required. Put plainly, the Order
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1 converts what was intended to be a bond remedy into continued detention through
2 an unworkable condition.
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4 Second, the Order's structure further undermines the individualized, court-
5 ordered custody determination by (a) delegating core liberty-restricting conditions
6 to DHS discretion (ATD/electronic monitoring "may be imposed at DHS
7 discretion") rather than reflecting judicial consideration of tailored alternatives,
8 and (b) including an extraordinary clause that DHS may seek to stay, reopen,
9 reconsider, or revoke bond "without opposition" from Respondent. These
10 provisions are not simply ancillary warnings; they materially skew the release
11 framework toward continued custody and erode the meaningfulness of the bond
12 remedy this Court ordered, particularly where Petitioner remains detained and
13 time-sensitive relief is the point of habeas review.
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18 Because the May 4 bond order leaves Petitioner in the same posture as before
19 the habeas grant—continued detention without a realistic path to release—the
20 Court should enforce its April 28, 2026 Order (ECF No. 7) through specific, time-
21 certain relief. See *Harvest v. Castro*, 531 F.3d 737, 74244 (9th Cir. 2008) (where
22 the government fails to comply with a conditional habeas remedy, the appropriate
23 enforcement remedy is release). Petitioner respectfully requests that the Court
24 order Respondents to (1) effectuate Petitioner's release forthwith upon posting the
25 \$7,500 bond (or on conditions the Court deems appropriate) without conditioning
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1 release on the impossible sponsor co-residence requirement; or, in the alternative,
2 (2) require Respondents to identify and approve workable, non-detention
3 conditions of release within 48 hours (including, for example, a residence plan that
4 does not require co-residence with the sponsor and any tailored ATD/reporting
5 conditions), and then release Petitioner immediately upon compliance; or, at
6 minimum, (3) order a new custody redetermination hearing within seven (7) days
7 with instructions that the Immigration Judge must impose only conditions that are
8 actually attainable in fact and must make express findings demonstrating
9 consideration of workable alternatives and Petitioner's ability to pay, consistent
10 with ECF No. 7.

11 **D. EXHAUSTION IS PRUDENTIAL AND SHOULD BE EXCUSED HERE**

12 Respondents may contend Petitioner must exhaust administrative remedies
13 by appealing the custody redetermination to the Board of Immigration Appeals
14 ("BIA"). In this Circuit, however, exhaustion in immigration detention habeas
15 cases is a prudential (non-jurisdictional) doctrine that a district court may waive or
16 excuse when administrative review is inadequate—including where pursuit of
17 agency review would be futile, where irreparable injury would result, or where the
18 issues presented are primarily legal. See *Castro-Cortez v. INS*, 239 F.3d 1037,
19 1040–41, 1047 (9th Cir. 2001); *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir.
20 2004); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (prudential exhaustion

1 factors include agency expertise, creation of an adequate record, and judicial
2 efficiency); *Hernandez v. Sessions*, 872 F.3d 976, 988–89 (9th Cir. 2017).
3 Moreover, where a detainee raises constitutional claims and legal error in the
4 custody determination (as opposed to seeking discretionary reweighing), habeas
5 review remains available. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir.
6 2011) (habeas jurisdiction to review bond-hearing determinations for
7 constitutional claims and legal error).
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11 Petitioner waived appeal at the hearing to avoid delay in obtaining time-
12 sensitive relief from ongoing detention. After conferring with the proposed sponsor
13 and Petitioner’s family, Petitioner learned that the IJ’s order did not, in fact,
14 provide a workable path to release: friends and family are still attempting to raise
15 the \$7,500 bond, and the sponsor-residence condition cannot be satisfied because
16 the sponsor cannot house Mr. Zambrano Gomez. Under these circumstances,
17 prudential exhaustion should be excused under the recognized exceptions for
18 irreparable injury, futility/inadequacy, and primarily legal or constitutional claims:
19 (1) continued civil detention is an ongoing, irreparable harm, and BIA review is
20 not prompt enough to prevent that harm; (2) administrative review is inadequate
21 where the challenged conditions make “release” illusory and thereby frustrate this
22 Court’s ordered remedy; and (3) Petitioner raises constitutional and legal
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1 errorconstructive denial of release and noncompliance with the Court's habeas
2 directivesrather than a request for discretionary reweighing.

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4 Nothing about the administrative appeal waiver constitutes consent to
5 unconstitutional detention conditions; it reflects only that, on these facts,
6 administrative review is not an adequate vehicle to secure timely release.
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8 **III. REQUESTED SUPPLEMENTAL RELIEF**

9 **Petitioner's primary request is immediate release.** Because the Court-
10 ordered remedy—a meaningful bond hearing resulting in a meaningful opportunity
11 for release—has been frustrated by conditions that make release impossible in
12 practice, the Court should order Respondents to release Petitioner immediately
13 under reasonable, workable conditions of supervision. Continued detention based
14 on illusory “release” terms perpetuates the due process violation this Court already
15 found and granted relief to remedy.
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19 Courts have long recognized that when a conditional or alternative habeas
20 remedy is not carried out as ordered, the proper enforcement remedy is not another
21 round of delay but an order of release. See *Harvest v. Castro*, 531 F.3d 737, 74244
22 (9th Cir. 2008) (when the State failed to comply with a conditional writ, district
23 court erred in modifying the writ; proper remedy was an unconditional writ
24 ordering release). The same principle applies here: this Court ordered a meaningful,
25 individualized § 1226(a) bond process within a short deadline; Respondents cannot
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1 satisfy that obligation by producing a nominal bond order that, because of
2 impossible conditions, leaves Petitioner confined. Continued detention therefore
3 constitutes a continuation of the same harm this Court already adjudicated, and
4 immediate release is the most effective remedy to end the ongoing constitutional
5 violation.
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8 Recent immigration habeas decisions likewise confirm that immediate
9 release is an appropriate remedy where executive-branch detention persists despite
10 court-ordered processes or where the ordered remedy proves inadequate in practice.
11 See, e.g., *Burgos Martinez v. Northwest ICE Processing Center*, No. C26-0231-
12 KKE (W.D. Wash. May 5, 2026) (ordering release within one day and requiring
13 proof of compliance); *Castaneda-Castano v. Daley*, No. 26-34-DLB (E.D. Ky.
14 Mar. 5, 2026) (granting habeas and ordering immediate release or, in the alternative,
15 a bond hearing within seven days and a status report). While the procedural
16 postures vary, the common premise is the same: federal courts possess equitable
17 authority in habeas to fashion effective relief that ends unlawful custody, and
18 where a court-ordered remedy has not actually resulted in release eligibility, the
19 Court may order release rather than require the detainee to endure further delay
20 while the Government attempts serial do-overs.
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26 Additional recent examples underscore that federal courts routinely craft
27 time-certain habeas remedies—including release—when continued detention
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1 would otherwise persist. See, e.g., *Jimenez Garcia v. U.S. Dep't of Homeland Sec.*,
2 No. 2:25-cv-13086, slip op. at 1–2 (E.D. Mich. Oct. 2025) (granting habeas and
3 directing ICE to provide a bond determination hearing by a date certain “or
4 otherwise release” the petitioner); *Lopez v. Immigration & Customs Enforcement*,
5 No. 2:26-cv-01072, Findings & Recommendations at 1–2 (E.D. Cal. May 4, 2026)
6 (recommending habeas be granted and that Respondents be ordered to immediately
7 release petitioner and be enjoined from re-detaining absent a pre-deprivation bond
8 hearing with a clear-and-convincing standard). These remedies reflect the basic
9 habeas principle that when unlawful custody continues—including where court-
10 ordered process does not produce a meaningful path to release—the court may
11 order release to end the ongoing harm.
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14 **In the alternative**, if the Court is not inclined to order immediate release,
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16 Petitioner requests an order requiring an expedited, constitutionally compliant
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18 remedy that: (1) prohibits any sponsor-residence condition that cannot be satisfied
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20 (including mandatory co-residence where the sponsor cannot provide housing); (2)
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22 requires consideration of alternative conditions of release and Petitioner’s ability
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24 to pay; and (3) eliminates any provision purporting to waive Respondents’ right to
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26 oppose DHS efforts to stay, reopen, reconsider, or revoke bond. The Court should
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28 also reaffirm the requirement that Respondents provide a complete record of any
hearing to Petitioner and counsel.

1 Accordingly, Petitioner respectfully requests that the Court grant the
2 requested supplemental relief, with immediate release as the first and most
3 effective remedy, to ensure that due process is not reduced to a nominal bond order
4 that, as applied, results in continued detention.
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7 **V. CONCLUSION**

8 For the foregoing reasons, Petitioner respectfully requests that the Court
9 order his immediate release under reasonable conditions of supervision or, at
10 minimum, order an expedited custody redetermination that prohibits unworkable
11 bond conditions and ensures a meaningful opportunity for release consistent with
12 due process.
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15 Respectfully submitted on

16 May 11, 2026.
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18 /s/ Marcelo Gondim

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Date: May 11, 2026

/s/ Marcelo Gondim

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