

Zheng "Andy" Liu (C.B.N. 279327)

#64

## NAME

1660 S Amphlett Blvd Suite 315, San Mateo, CA 94402

## PRISON IDENTIFICATION/BOOKING NO.

Tel.: (650) 475-6289, Email: Andy.Liu@AptumLaw.us

## ADDRESS OR PLACE OF CONFINEMENT

Attorneys for Petitioner Haowen Chen

Note: If represented by an attorney, provide name, address, & telephone number. It is your responsibility to notify the Clerk of Court in writing of any change of address.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Haowen Chen

FULL NAME (Include name under which you were convicted)

Petitioner,

v.

Cynthia Armant, the Warden of Desert View  
Annex Detention FacilityNAME OF WARDEN, (or other authorized person having custody of  
petitioner)

Respondent.

CASE NUMBER: 2:25-cv-03130-JLS (PVC)

CV

Alien No.: 

To be supplied by the Clerk of the United States District Court

CR

Criminal case under which sentence was imposed.

SECOND AMENDED

**PETITION FOR WRIT OF HABEAS CORPUS BY  
A PERSON IN FEDERAL CUSTODY  
(28 U.S.C. § 2241)**

**INSTRUCTIONS - READ CAREFULLY**

This petition shall be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. You must set forth **CONCISELY** the answer to each question in the proper space on the form. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.

You must not attach separate pages to this petition except that ONE separate additional page is permitted in answering Question No. 9.

Upon receipt of a fee of \$5.00, your petition will be filed if it is in proper order.

If you are seeking leave to proceed *in forma pauperis* (without paying the \$5.00 filing fee and other court costs), then you must also execute the declaration on the last page, setting forth information that establishes your inability to pay the fees and costs of the proceedings or to give security therefor. If you wish to proceed *in forma pauperis*, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. If your prison account exceeds \$25.00, you must pay the filing fee as required by the rule of the district court.

When the petition is completed, the original and 3 copies must be mailed to the Clerk of the United States District Court for the Central District of California, Edward R. Roybal Federal Building & U.S. Courthouse, 255 East Temple Street, Suite TS-134, Los Angeles, California 90012, ATTENTION: Intake/Docket Section.

Only one sentence, conviction, or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petitions.

PLEASE COMPLETE THE FOLLOWING: (Check appropriate number)

This petition concerns:

1. ☐ a conviction.
2. ☐ a sentence.
3. ☐ jail or prison conditions.
4. ☐ prison discipline.
5. ☐ a parole problem.
6. ☒ other. Immigration detention of an alien.

**PETITION**

Desert View Annex Detention Facility

1. Place of detention \_\_\_\_\_
2. Name and location of court that imposed sentence \_\_\_\_\_  
not applicable
3. The indictment number or numbers (if known) upon which, and the offense or offenses for which, sentence was imposed:  
a. not applicable  
b. \_\_\_\_\_  
c. \_\_\_\_\_
4. The date upon which sentence was imposed and the terms of the sentence:  
a. not applicable  
b. \_\_\_\_\_  
c. \_\_\_\_\_
5. Check whether a finding of guilty was made:  
a. ☐ After a plea of guilty  
b. ☐ After a plea of not guilty  
c. ☐ After a plea of nolo contendere
6. If you were found guilty after a plea of not guilty, check whether that finding was made by:  
a. ☐ a jury  
b. ☐ a judge without a jury
7. Did you appeal from the judgment of conviction or the imposition of sentence? ☐ Yes ☒ No
8. If you did appeal, give the following information for each appeal:

**CAUTION:** *If you are attacking a sentence imposed under a federal judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.*

- a. (1) Name of court \_\_\_\_\_  
(2) Result \_\_\_\_\_  
(3) Date of result \_\_\_\_\_  
(4) Citation or number of opinion \_\_\_\_\_

- b. (1) Name of Court \_\_\_\_\_  
(2) Nature of proceeding \_\_\_\_\_  
(3) Grounds raised \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(4) Result \_\_\_\_\_  
(5) Date of result \_\_\_\_\_  
(6) Citation or number of any written opinions or orders entered pursuant to each disposition.  
\_\_\_\_\_  
\_\_\_\_\_

12. If you did not file a motion under Section 2255 of Title 28, United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention: not applicable  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Are you presently represented by counsel? ☒ Yes ☐ No

If so, provide name, address, and telephone number \_\_\_\_\_

Zheng "Andy" Liu (C.B.N. 279327), 1660 S Amphlett Blvd Suite 315, San Mateo, CA 94402  
\_\_\_\_\_

Case name and court \_\_\_\_\_  
\_\_\_\_\_

14. If you are seeking leave to proceed *in forma pauperis*, have you completed the declaration setting forth the required information? ☐ Yes ☒ No

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding,

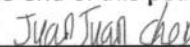


\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Please refer to the verification page attached to the end of this petition.

Executed on \_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of Petitioner

c. Ground three: \_\_\_\_\_

Supporting FACTS (tell your story BRIEFLY without citing cases or law): \_\_\_\_\_

d. Ground four: \_\_\_\_\_

Supporting FACTS (tell your story BRIEFLY without citing cases or law): \_\_\_\_\_

10. Have you filed previous petitions for habeas corpus, motions under Section 2255 of Title 28, United States Code, or any other applications, petitions, or motions with respect to this conviction? ☐ Yes ☐ No

11. If your answer to Question No. 10 was yes, give the following information:

a. (1) Name of Court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Result \_\_\_\_\_

(5) Date of result \_\_\_\_\_

(6) Citation or number of any written opinions or orders entered pursuant to each disposition.

- b. (1) Name of Court \_\_\_\_\_  
(2) Nature of proceeding \_\_\_\_\_  
(3) Grounds raised \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(4) Result \_\_\_\_\_  
(5) Date of result \_\_\_\_\_  
(6) Citation or number of any written opinions or orders entered pursuant to each disposition.  
\_\_\_\_\_  
\_\_\_\_\_

12. If you did not file a motion under Section 2255 of Title 28, United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

not applicable

13. Are you presently represented by counsel? ☒ Yes ☐ No

If so, provide name, address, and telephone number \_\_\_\_\_

Zheng "Andy" Liu (C.B.N. 279327), 1660 S Amphlett Blvd Suite 315, San Mateo, CA 94402

Case name and court \_\_\_\_\_  
\_\_\_\_\_

14. If you are seeking leave to proceed *in forma pauperis*, have you completed the declaration setting forth the required information? ☐ Yes ☒ No

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding,



\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Please refer to the verification page attached to the end of this petition.

Executed on \_\_\_\_\_

Date

\_\_\_\_\_  
Signature of Petitioner

INTRODUCTION

1. Petitioner<sup>1</sup> is currently detained by Immigration and Customs Enforcement (“ICE”) at the Desert View Annex Detention Facility pending removal proceedings.

2. Petitioner has been detained in immigration custody for several weeks even though no neutral decisionmaker—whether a federal judge or immigration judge (“IJ”)—has conducted a hearing to determine whether this lengthy incarceration is warranted based on danger or flight risk.

3. Petitioner’s prolonged detention without a hearing on danger and flight risk violates the Due Process Clause of the Fifth Amendment.

4. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus, determine that Petitioner’s detention is not justified because the government has not established by clear and convincing evidence that Petitioner

---

<sup>1</sup> Petitioner respectfully requests that the Court use his initials, rather than his full last name, in any opinion in his case, as suggested by the Committee on Court Administration and Case Management of the Judicial Conference of the United States. See Memorandum Re: Privacy Concern Regarding Social Security & Immigration Opinions (May 1, 2018), *available at* [https://www.uscourts.gov/sites/default/files/18-cv-1-suggestion\\_cacm\\_0.pdf](https://www.uscourts.gov/sites/default/files/18-cv-1-suggestion_cacm_0.pdf); see also *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050 n.1 (N.D. Cal. Apr. 14, 2021).



1 presents a risk of flight or danger in light of available alternatives to detention, and  
2 order Petitioner's release, with appropriate conditions of supervision if necessary,  
3 taking into account Petitioner's ability to pay a bond.  
4

5 5. Alternatively, Petitioner requests that the Court issue a writ of habeas  
6 corpus and order Petitioner's release within 30 days unless Respondents schedule a  
7 hearing before an IJ where: (1) to continue detention, the government must establish by  
8 clear and convincing evidence that Petitioner presents a risk of flight or danger, even  
9 after consideration of alternatives to detention that could mitigate any risk that  
10 Petitioner's release would present; and (2) if the government cannot meet its burden, the  
11 IJ shall order Petitioner's release on appropriate conditions of supervision, taking into  
12 account Petitioner's ability to pay a bond.  
13  
14  
15

#### 16 JURISDICTION AND VENUE

17 6. Petitioner is detained in custody of Respondents at Desert View Annex  
18 detention center located in Adelanto, California.  
19

20 7. This action arises under the Due Process Clause of the Fifth Amendment  
21 of the U.S. Constitution. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal  
22 question), 2241 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C.  
23 § 702 (Administrative Procedure Act. This Court may grant relief under the habeas  
24 corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201  
25 et seq., and the All Writs Act, 28 U.S.C. § 1651.  
26  
27  
28

1           8. Congress has preserved judicial review of challenges to prolonged  
2 immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018)  
3 (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of challenges to  
4 prolonged immigration detention); see also *id.* at 876 (Breyer, J., dissenting). (“8 U.S.C. §  
5 1252(b)(9) . . . by its terms applies only with respect to review of an order of removal”)  
6 (internal quotation marks and brackets omitted).  
7

8  
9           9. Venue is proper in this District because this is the district in which  
10 Petitioner is confined. See *Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).  
11

12                           **REQUIREMENTS OF 28 U.S.C. § 2243**

13           10. The Court must grant the petition for writ of habeas corpus or issue an  
14 order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not  
15 entitled to relief. 28 U.S.C. § 2243. If the Court issues an OSC, it must require  
16 Respondents to file a return “within three days unless for good cause additional time,  
17 not exceeding twenty days, is allowed.” *Id.* (emphasis added).  
18  
19

20           11. Courts have long recognized the significance of the habeas statute in  
21 protecting individuals from unlawful detention. The Great Writ affords “a swift and  
22 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.  
23 391, 400 (1963) (emphasis added); see also *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir.  
24 2000) (explaining that habeas statute requires expeditious determination of petitions).  
25  
26

27       ///

28       ///



1 PARTIES

2 12. Petitioner is a noncitizen currently detained by Respondents pending  
3 ongoing removal proceedings.  
4

5 13. Respondent Warden<sup>2</sup> of the Desert View Annex Detention Facility is  
6 Petitioner's immediate custodian at the facility where Petitioner is detained. See Doe,  
7 108 F.4th at 1194-97.  
8

9 FACTS AND HISTORY

10 14. Petitioner is a noncitizen currently detained by Respondents pending  
11 immigration removal proceedings. Petitioner was detained on March 27, 2025, while  
12 attending a routine check-in appointment with ICE.  
13

14 15. As background, Petitioner entered the United States with a valid B-2  
15 tourist visa on August 24, 2015, and has been residing in the Los Angeles area ever  
16 since. In 2023, Petitioner was detained by CBP, because he inadvertently drove into  
17 Mexico following incorrect driving directions generated by his car's GPS.  
18

19 16. Following his 2023 detention, removal proceeding against Petitioner was  
20 initiated—but quickly suspended.  
21  
22

23  
24 

---

 <sup>2</sup> In this District, the legal name of a respondent warden needs not be specifically  
25 identified in a habeas corpus petition. See 5:24-cv-01570-PA-DFM, dk. 12, and  
26 5:25-cv-00911, dk. 1  
27  
28

17. In 2024, Petitioner applied for asylum with the USCIS (case number MGL2461574394), and the USCIS has not rejected Petitioner's asylum application. Petitioner may thus qualify for relief from removal.

18. Petitioner has neither criminal conviction nor prior order of removal.

19. Petitioner has strong familial and community ties to Los Angeles County. Specifically, he is the primary caretaker for his 19-year-old daughter, who suffers from clinical anxiety disorder. (The daughter's mother, Ms. Juanjuan Chen has remarried and is unable to provide full-time care.) Petitioner has also maintained a stable residence in the Los Angeles County and, if released on bond, will reside with his U.S. citizen sponsor, who will support Petitioner.

20. Despite his prolonged detention, however, Petitioner has not been provided a bond hearing before a neutral decisionmaker to determine whether his prolonged detention is justified based on danger or flight risk.

21. The Immigration Court lacks jurisdiction and authority to provide Petitioner with a bond hearing to determine whether Petitioner's detention is justified. See 8 U.S.C. §§ 1225(b); 1226(c). There is no statutory or regulatory pathway for Petitioner to seek a bond hearing before a neutral decisionmaker.

22. Absent intervention by this Court, Petitioner cannot and will not be provided with a bond hearing by a neutral decisionmaker to assess the propriety of Petitioner's continued detention.

### LEGAL STANDARD

1           23.     “‘It is well established that the Fifth Amendment entitles [noncitizens] to  
2 due process of law in deportation proceedings.’” *Demore v. Kim*, 538 U.S. 510, 523 (2003)  
3 (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from  
4 government custody, detention, or other forms of physical restraint—lies at the heart of  
5 the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690  
6 (2001); see also *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process  
7 Clause includes protection against unlawful or arbitrary personal restraint or  
8 detention.”). This fundamental due process protection applies to all noncitizens,  
9 including both removable and inadmissible noncitizens. See *id.* at 721 (Kennedy, J.,  
10 dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free  
11 from detention that is arbitrary or capricious”).

12           24.     Due process requires “adequate procedural protections” to ensure that  
13 the government’s asserted justification for physical confinement “outweighs the  
14 individual’s constitutionally protected interest in avoiding physical restraint.”  
15 *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration  
16 context, the Supreme Court has recognized only two valid purposes for civil  
17 detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*;  
18 *Demore*, 538 U.S. at 528.

19           25.     Due process requires that the government provide bond hearings to  
20 noncitizens facing prolonged detention. “The Due Process Clause foresees eligibility for  
21 bail as part of due process” because “[b]ail is basic to our system of law.” *Jennings*, 138 S.  
22  
23  
24  
25  
26  
27  
28

1 Ct. at 862 (Breyer, J., dissenting) (internal quotation marks omitted). While the Supreme  
2 Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*,  
3 it did so based on the petitioner's concession of deportability and the Court's  
4 understanding at the time that such detentions are typically "brief." *Demore*, 538 U.S. at  
5 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is  
6 pursuing a substantial defense to removal or claim to relief, due process requires an  
7 individualized determination that such a significant deprivation of liberty is warranted.  
8 *Id.* at 532 (Kennedy, J., concurring) ("[I]ndividualized determination as to his risk of  
9 flight and dangerousness" may be warranted "if the continued detention became  
10 unreasonable or unjustified"); see also *Jackson v. Indiana*, 406 U.S. 715, 733 (1972)  
11 (holding that detention beyond the "initial commitment" requires additional  
12 safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that  
13 "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*,  
14 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth Amendment context, "the length  
15 of confinement cannot be ignored in deciding whether [a] confinement meets  
16 constitutional standards"); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that "the  
17 Due Process Clause imposes some form of reasonableness limitation upon the duration  
18 of detention" under section 1226(c)) (internal quotation marks omitted).

## 25 DISCUSSIONS

### 26 **A. An Individualized Bond Hearing Is Required When Detention** 27 **Becomes Unreasonably Prolonged.** 28

1           26.     Petitioner's detention, without any individualized review, is  
2 unreasonable under the *Mathews v. Eldridge* due process test. Alternatively, Petitioner  
3 prevails under the multi-factor reasonableness test the Third Circuit adopted in *German*  
4 *Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

5  
6           27.     Each year, thousands of noncitizens are incarcerated for lengthy periods  
7 pending the resolution of their removal proceedings. See *Jennings*, 138 S. Ct. at 860  
8 (Breyer, J., dissenting) (observing that class members, numbering in the thousands, had  
9 been detained "on average one year" and some had been detained for several years).  
10 For noncitizens who have some criminal history, their immigration detention often  
11 dwarfs the time spent in criminal custody, if any. *Id.* ("between one-half and two-thirds  
12 of the class served [criminal] sentences less than six months").

13  
14           28.     Petitioner faces severe hardships while detained by ICE. Petitioner is held  
15 in a locked down facility, with limited freedom of movement and access to Petitioner's  
16 family or support network: "[T]he circumstances of their detention are similar, so far as  
17 we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J.,  
18 dissenting); accord *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 478 (3d Cir.  
19 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d  
20 1199, 1218, 1221 (11th Cir. 2016). "And in some cases the conditions of their confinement  
21 are inappropriately poor" including, for example, "invasive procedures, substandard  
22 care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care  
23 and hygiene products, and, in the case of one detainee, a multiday lock down for  
24  
25  
26  
27  
28

1 sharing a cup of coffee with another detainee." *Jennings*, 138 S. Ct. at 861 (Breyer, J.,  
2 dissenting) (citing *Press Release, Off. of Inspector Gen., Dept. of Homeland Sec., DHS OIG*  
3 *Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities* (Dec.  
4 14, 2017)); see also Tom Dreisbach, Government's own experts found 'barbaric' and  
5 'negligent' conditions in ICE detention, NPR (Aug. 16, 2023, 5:01 AM) (reporting on the  
6 "'negligent' medical care (including mental health care), 'unsafe and filthy' conditions,  
7 racist abuse of detainees, inappropriate pepper-spraying of mentally ill detainees and  
8 other problems that, in some cases, contributed to detainee deaths" contained in  
9 inspection reports prepared by experts from the Department of Homeland Security's  
10 Office for Civil Rights and Civil Liberties after examining detention facilities between  
11 2017 and 2019). Detainees at Desert View Annex Detention Facility have described  
12 medical negligence, inhumane treatment, and denial of basic needs, including dental  
13 care, reading glasses, and medications.

14  
15  
16  
17  
18  
19 29. The *Mathews* test for procedural due process claims balances: (1) the  
20 private interest threatened by governmental action; (2) the risk of erroneous deprivation  
21 of such interest and the value of additional or substitute safeguards; and (3) the  
22 government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); see also *Sho v. Current*  
23 *or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at \*3 (E.D. Cal.  
24 June 15, 2023), report and recommendation adopted, No. 1:21-CV-1812-TLN-AC, 2023  
25 WL 4109421 (E.D. Cal. June 21, 2023) (applying *Mathews* factors to a habeas petitioner's  
26 due process claims and collecting cases doing the same).



1           30. Here, each factor weighs in Petitioner's favor, requiring this Court to  
2 promptly hold a hearing to evaluate whether the government can justify their ongoing  
3 detention.  
4

5           31. First, Petitioner has a weighty interest in his liberty, the core private  
6 interest at stake here. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment. . . lies at  
7 the heart of the liberty [the Due Process Clause] protects."). Petitioner, who is being  
8 held in "incarceration-like conditions," has an overwhelming interest here, regardless of  
9 the length of his immigration detention, because "any length of detention implicates the  
10 same" fundamental rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL  
11 7626414, at \*6 (N.D. Cal. Dec. 22, 2020).  
12  
13

14           32. Second, Petitioner will suffer the erroneous risk of deprivation of their  
15 liberty without an individualized evidentiary hearing. The risk of erroneous deprivation  
16 of their liberty is high, as they have been detained since May 27, 2025 without any  
17 evaluation of whether the government can justify detention under their individualized  
18 circumstances. "[T]he risk of an erroneous deprivation of liberty in the absence of a  
19 hearing before a neutral decisionmaker is substantial." *Diouf*, 634 F.3d at 1092.  
20 Conversely, "the probable value of additional procedural safeguards—an  
21 individualized evaluation of the justification for his detention—is high, because  
22 Respondents have provided virtually no procedural safeguards at all." *Jimenez v. Wolf*,  
23 No. 19-cv-07996-NC, 2020 WL 510347, \*3 (N.D. Cal. Jan. 30, 2020) (granting habeas  
24 petition for person who had been detained for one year without a bond hearing).  
25  
26  
27  
28

1           33. Third, the government's interest is very low in continuing to detain  
2           Petitioner without providing any neutral review. See *Mathews*, 424 U.S. at 335. The  
3           specific interest at stake here is not the government's ability to continue to detain  
4           Petitioner, but rather the government's ability to continue to detain them for months on  
5           end without any individualized review. See *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d  
6           953.964 (N.D. Cal. 2019); *Henriquez v. Garland*, No. 5:22-CV-00869-EJD, 2022 WL  
7           2132919, at \*5 (N.D. Cal. June 14, 2022). The cost of providing an individualized inquiry  
8           is minimal. See *Henriquez*, 2022 WL 2132919, at \*5. The government has repeatedly  
9           conceded this fact. See *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762.777 (N.D. Cal. 2019);  
10          *Singh v. Barr*, 400 F. Supp. 3d 1005.1021 (S.D. Cal. 2019); *Marroquin Ambriz*, 420 F.  
11          Supp. 3d at 964.

12           34. In sum, the *Mathews* factors establish that Petitioner is entitled to an  
13          evidentiary hearing before a neutral adjudicator. Unsurprisingly, courts applying these  
14          standards in this Circuit have repeatedly held that prolonged detention without a  
15          hearing before a neutral adjudicator violates procedural due process. See, e.g., *Romero v.*  
16          *Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, at \*2, \*5 (N.D. Cal. Jan. 26, 2021) (holding  
17          that the petitioner's detention of just over one year without a custody hearing was "not  
18          compatible with due process" and granting habeas); *Jimenez*, 2020 WL 510347, at \*1, \*2,  
19          \*4 (holding that the petitioner's detention of just over one year without a custody  
20          hearing violated his due process rights and granting habeas); *Gonzalez v. Bonnar*, No. 18-  
21          CV-05321-JSC, 2019 WL 330906, at \*1, \*5 (N.D. Cal. Jan. 25, 2019) (holding that the

1 petitioner's detention for just over one year without a custody hearing violates his due  
2 process rights and granting habeas); see also *Singh v. Garland*, No. 1:23-cv-01043-EPG-  
3 HC, 2023 WL 5836048, at \*6 (E.D. Cal. 2023); *Sho v. Current or Acting Field Office Director*,  
4 No. 1:21-cv-01812-TLN-AC, 2023 WL 4014649 (E.D. Cal. 2023). This Court should so  
5 hold as well.  
6

7  
8 35. *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), does not disturb  
9 this result. In *Rodriguez Diaz*, the Ninth Circuit applied the *Mathews* test to hold that the  
10 detention of a noncitizen detained under a different detention statute, 8 U.S.C. § 1226(a),  
11 did not violate procedural due process. 53 F.4th at 1195. Unlike Sections 1225(b) and  
12 1226(c), § 1226(a) mandates that detained individuals receive an individualized bond  
13 hearing at the outset of detention and provides for further bond hearings upon a  
14 material change in circumstances. See 8 C.F.R. § 1003.19(e). The panel's decision in  
15 *Rodriguez Diaz* was predicated on the immediate and ongoing availability of this  
16 administrative process under § 1226(a). 53 F.4th at 1202 ("Section 1226(a) and its  
17 implementing regulations provide extensive procedural protections that are unavailable  
18 under other detention provisions ...."). Unlike the detainee in *Rodriguez Diaz*, Petitioner  
19 has no statutory access to individualized review of his detention.  
20

21  
22 36. Alternatively, courts that apply a reasonableness test have considered  
23 four non-exhaustive factors in determining whether detention is reasonable. *German*  
24 *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 210-22 (3d Cir. 2020).  
25  
26  
27  
28

1           37. The reasonableness inquiry is “highly fact-specific.” *Id.* at 210. “The most  
2 important factor is the duration of detention.” *Id.* at 211; see also *Gonzalez v. Bonnar*, No.  
3 18-CV-05321-JSC, 2019 WL 330906, at \*1, \*5 (N.D. Cal. Jan. 25, 2019) (concluding that the  
4 petitioner’s detention for just over one year without a custody hearing weighed strongly  
5 in favor of finding detention unreasonable, and violated his due process rights and  
6 granting habeas). Duration is evaluated along with “all the other circumstances,”  
7 including (1) whether detention is likely to continue, (2) reasons for the delay, and (3)  
8 whether the conditions of confinement are meaningfully different from criminal  
9 punishment. *Id.* at 211.  
10  
11  
12

13           38. Here, Petitioner has been detained for a substantial amount of time, *supra*  
14 ¶ 20 and Petitioner’s detention is likely to continue as Petitioner asserts their right to  
15 seek immigration relief, *supra* ¶ 19. Noncitizens should not be punished for pursuing  
16 “legitimate proceedings” to seek relief. See *Masood v. Barr*, No. 19-CV-07623-JD, 2020  
17 WL 95633, at \*3 (N.D. Cal. Jan. 8, 2020) (“[I]t ill suits the United States to suggest that  
18 [Petitioner] could shorten his detention by giving up these rights and abandoning his  
19 asylum application.”). Thus, courts should not count a continuance against the  
20 noncitizen when they obtained it in good faith to prepare their removal case, including  
21 efforts to obtain counsel. See *Hernandez Gomez*, 2023 WL 2802230, at \*4 (“The duration  
22 and frequency of these requests [for continuances] do not diminish his significant  
23 liberty interest in his release or his irreparable injury of continued detention without a  
24 bond hearing.”). Moreover, Petitioner’s confinement and experiences at a facility  
25  
26  
27  
28

1 operated by a private, for-profit prison contractor, demonstrate that their conditions of  
2 confinement are not meaningfully different from those of criminal punishment. See  
3 *supra* ¶¶ 10, 24, 32.

4  
5 **B. The Government Must Justify Ongoing Detention By Clear And**  
6 **Convincing Evidence.**

7 39. At a bond hearing, due process requires certain minimum protections to  
8 ensure that a noncitizen's detention is warranted: the government must bear the burden  
9 of proof by clear and convincing evidence to justify continued detention, taking into  
10 consideration available alternatives to detention; and, if the government cannot meet its  
11 burden, the noncitizen's ability to pay a bond must be considered in determining the  
12 appropriate conditions of release.

13  
14 40. To justify prolonged immigration detention, the government must bear  
15 the burden of proof by clear and convincing evidence that the noncitizen is a danger or  
16 flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Aleman Gonzalez v.*  
17 *Barr*, 955 F.3d 762, 781 (9th Cir. 2020), rev'd on other grounds by *Garland v. Aleman*  
18 *Gonzalez*, 142 S. Ct. 2057, 213 L. Ed. 2d 102 (2022) ("Jennings's rejection of layering [the  
19 clear and convincing burden of proof standard] onto § 1226(a) as a matter of statutory  
20 construction cannot . . . undercut our constitutional due process holding in *Singh*.");  
21 *Sho*, 2023 WL 4014649, at \*5 (applying *Singh* and holding that the government shall bear  
22 the burden in a constitutionally required bond hearing to remedy detention under a  
23 different statutory provision); *Singh*, 2023 WL 5836048, at \*9 (same); *Doe v. Garland*, No.

1 3:22-CV-03759-JD, 2023 WL 1934509, at \*2 (N.D. Cal. Jan. 10, 2023) (same); *Pham v.*  
2 *Becerra*, No. 23-CV-01288-CRB, 2023 WL 2744397, at \*7 (N.D. Cal. Mar. 31, 2023) (same);  
3 *Hernandez Gomez v. Becerra*, No. 23-CV-01330-WHO, 2023 WL 2802230, at \*4 (N.D. Cal.  
4 Apr. 4, 2023) (same); *Martinez Leiva v. Becerra*, No. 23-CV-02027-CRB, 2023 WL 3688097,  
5 at \*9 (N.D. Cal. May 26, 2023); *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617,  
6 at \*10 (N.D. Cal. Sept. 27, 2023) (same); *Singh Grewal v. Becerra*, No. 23-CV-03621-JCS,  
7 2023 WL 6519272, at \*8 (N.D. Cal. Oct. 4, 2023) (same); *Gomez v. Becerra*, No. 23-CV-  
8 03724-JCS, 2023 WL 6232236, at \*9 (N.D. Cal. Sept. 25, 2023) (same); *Henriquez v. Garland*,  
9 No. 23-CV-01025-AMO, 2023 WL 6226374, at \*4 (N.D. Cal. Sept. 25, 2023) (same);  
10 *Rodriguez Picazo v. Garland*, No. 23-CV-02529-AMO, 2023 WL 5352897, at \*7 (N.D. Cal.  
11 Aug. 21, 2023) (same).

12 41. Where the Supreme Court has permitted civil detention in other contexts,  
13 it has relied on the fact that the Government bore the burden of proof by at least clear  
14 and convincing evidence. See *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987)  
15 (upholding pre-trial detention after a “full-blown adversary hearing” requiring “clear  
16 and convincing evidence” and “a neutral decisionmaker”); *Foucha v. Louisiana*, 504  
17 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the  
18 detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures  
19 deficient because, inter alia, they placed burden on detainee).



1           42.     The requirement that the government bear the burden of proof by clear  
2     and convincing evidence is also supported by application of the three-factor balancing  
3     test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

4  
5           43.     First, “an individual’s private interest in ‘freedom from prolonged  
6     detention’ is ‘unquestionably substantial.’” See *Rodriguez Diaz*, 53 F.4th at 1207 (citing  
7     Singh, 638 F.3d at 1208).

8  
9           44.     Second, the risk of error is great where the government is represented by  
10    trained attorneys and detained noncitizens are often unrepresented and may lack  
11    English proficiency. See *Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and  
12    convincing evidence at parental termination proceedings because “numerous factors  
13    combine to magnify the risk of erroneous factfinding” including that “parents subject to  
14    termination proceedings are often poor, uneducated, or members of minority groups”  
15    and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover,  
16    detained noncitizens are incarcerated in prison-like conditions that severely hamper  
17    their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.  
18  
19    See *supra* ¶ 32.

20  
21  
22           45.     Third, placing the burden on the government imposes minimal cost or  
23    inconvenience to it, as the government has access to the noncitizen’s immigration  
24    records and other information that it can use to make its case for continued detention.  
25  
26

27           **C. Due Process Requires Consideration Of Alternatives To Detention.**  
28

1           46. Due process also requires consideration of alternatives to detention. The  
2 primary purpose of immigration detention is to ensure a noncitizen's appearance  
3 during civil removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably  
4 related to this purpose if there are alternative conditions of release that could mitigate  
5 risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979) (civil pretrial detention may  
6 be unconstitutionally punitive if it is excessive in relation to its legitimate purpose).  
7 ICE's alternatives to detention program—the Intensive Supervision Appearance  
8 Program—has achieved extraordinary success in ensuring appearance at removal  
9 proceedings, reaching compliance rates close to 100 percent. *Hernandez v. Sessions*, 872  
10 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at  
11 all EOIR hearings and a 95% attendance rate at final hearings”). Thus, alternatives to  
12 detention must be considered in determining whether prolonged incarceration is  
13 warranted.  
14  
15  
16  
17  
18

19           47. Due process likewise requires consideration of a noncitizen's ability to  
20 pay a bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible  
21 if the individual's ‘appearance at trial could reasonably be assured by one of the  
22 alternate forms of release.’” *Hernandez*, 872 F.3d at 990 (quoting *Pugh v. Rainwater*, 572  
23 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). Therefore, when determining the appropriate  
24 conditions of release for people detained for immigration purposes, due process  
25 requires “consideration of financial circumstances and alternative conditions of release.”  
26  
27  
28 *Id.*; see also *Martinez v. Clark*, 36 F.4th 1219, 1231 (9th Cir. 2022) (“While the

1 government had a legitimate interest in protecting the public and ensuring the  
2 appearance of noncitizens in immigration proceedings, we held [in Hernandez] that  
3 detaining an indigent alien without consideration of financial circumstances and  
4 alternative release conditions was 'unlikely to result' in a bond determination  
5 'reasonably related to the government's legitimate interests.' (citation omitted).").  
6  
7

8 **CLAIM FOR RELIEF**

9 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH**  
10 **AMENDMENT TO THE U.S. CONSTITUTION**

11 48. Petitioner re-alleges and incorporates by reference the paragraphs above.

12 49. The Due Process Clause of the Fifth Amendment forbids the government  
13 from depriving any "person" of liberty "without due process of law." U.S. Const.  
14 amend. V.  
15

16 50. To justify Petitioner's ongoing prolonged detention, due process requires  
17 that the government establish, at an individualized hearing before a neutral  
18 decisionmaker, that Petitioner's detention is justified by clear and convincing evidence  
19 of flight risk or danger, taking into account whether alternatives to detention could  
20 sufficiently mitigate that risk.  
21

22 51. For these reasons, Petitioner's ongoing prolonged detention without a  
23 hearing violates due process.  
24

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Petitioner respectfully requests that this Court:  
27  
28

- 1 a) Assume jurisdiction over this matter;
- 2 b) Issue a Writ of Habeas Corpus, hold a hearing before this Court if
- 3
- 4 warranted, determine that Petitioner's detention is not justified because the government
- 5 has not established by clear and convincing evidence that Petitioner presents a risk of
- 6 flight or danger in light of available alternatives to detention, and order Petitioner's
- 7 release (with appropriate conditions of supervision if necessary), taking into account
- 8 Petitioner's ability to pay a bond;
- 9
- 10 c) In the alternative, issue a Writ of Habeas Corpus and order Petitioner's
- 11 release within 30 days unless Respondents schedule a hearing before an immigration
- 12 judge where:
- 13
- 14 i. to continue detention, the government must establish by clear and
- 15 convincing evidence that Petitioner presents a risk of flight or danger,
- 16 even after consideration of alternatives to detention that could mitigate
- 17 any risk that Petitioner's release would present; and
- 18
- 19 ii. if the government cannot meet its burden, the immigration judge order
- 20 Petitioner's release on appropriate conditions of supervision, taking into
- 21 account Petitioner's ability to pay a bond;
- 22
- 23 d) Issue a declaration that Petitioner's ongoing prolonged detention violates
- 24 the Due Process Clause of the Fifth Amendment;
- 25
- 26 e) Award Petitioner his costs and reasonable attorneys' fees in this action as
- 27 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 28

1 f) Grant such further relief as the Court deems just and proper.  
2  
3

4 Dated: April 16, 2025  
5  
6

7   
8

9 \_\_\_\_\_  
10 Zheng "Andy" Liu, C.B.N. 279327  
11 1660 S. Amphlett Blvd. Suite 315  
12 San Mateo, CA 94402  
13 Tel.: 650-475-6289  
14 Email: Andy.Liu@AptumLaw.us  
15 *Attorney for Haowen Chen*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VERIFICATION

I, Juanjuan Chen, declare:

1. I am the former spouse of Petitioner Haowen Chen, and the mother of Haowen Chen's daughter Yuping Chen.
2. Petitioner is unable to personally verify this Petition, because he has been sick after being detained at the Desert View Annex. As a result, Petitioner has been confined in the prison hospital at Desert View Annex, and his in-person visitation restricted.
3. Since Haowen Chen became detained in March 2025, I have talked to him by phone a few times and thus have personal knowledge of the reason and status of his current detention.
4. As Haowen Chen's ex-wife, I also have personal knowledge of his immigration history, family situation, and community ties.
5. I verify that the foregoing Verified Second Amended Petition For Writs Of Habeas Corpus for and on behalf of the Haowen Chen was duly prepared under my direction; that the facts stated therein have been assembled by me; and that the allegations therein are true and correct to the best of my knowledge, information, and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

///

///



1 Executed in Arcadia on April 15, 2025.

2  
3  
4 Dated: April 16, 2025

Respectfully submitted,

5  
6 *Juan Juan Chen*

7  
8 \_\_\_\_\_  
Juanjuan Chen