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8 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
9 LAREDO DIVISION

10 XUEHANG XU,
Immigration File No. 

Petitioner,

11
12 v.
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14 Mario Garcia, Acting Director, Field Office
Director of Enforcement and Removal
Operations, RIO GRANDE Field Office;
15 Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
16 HOMELAND SECURITY; Pamela Bondi, U.S.
Attorney General; EXECUTIVE OFFICE FOR
17 IMMIGRATION REVIEW; Pete Flores, Acting
Commissioner of U.S. Customs and Border
18 Protection

19 Respondents.
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Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner XUEHANG XU is in the physical custody of Respondents at the RIO
3 GRANDE Detention Facility in RIO GRANDE, Texas. He now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have concluded Petitioner is subject to mandatory detention based on a flawed
6 and unreasonable bond hearing.

7 2. Petitioner is charged with, inter alia, posing risk of flight pursuant to tenuous
8 relationship with the sponsor; therefore, this Petition for Writ of Habeas Corpus is pursuant to 28
9 U.S.C. Section 2241 challenging his continued civil immigration detention on the grounds that
10 the immigration judge's ("IJ") bond denial was arbitrary, legally erroneous, unsupported by the
11 evidence, and violated the Fifth Amendment's Due Process Clause.

12 3. Petitioner XUEHANG XU, by counsel, respectfully petitions this Court for a writ
13 of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued civil immigration
14 detention on the grounds that the immigration judge's ("IJ") bond denial was arbitrary, legally
15 erroneous, unsupported by the evidence, and violated the Fifth Amendment's Due Process
16 Clause.

17 4. Accordingly, Petitioner seeks a writ of habeas corpus requiring that He be
18 released unless Respondents provide a bond hearing under § 1226(a) within fourteen days since
19 Government representative and attorney present at the bond hearing conceded that Petitioner Xu
20 did not pose any danger or risk of harm to the community since he does not have any criminal
21 record, failure to appear, arrest or law enforcement contact since 2023 from the date of his entry
22 with a valid I94 and travel documents.

23 5.
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1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
2 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
3 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
4 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

5 **PARTIES**

6 14. Petitioner XUEHANG XU is a citizen of China who has been in immigration
7 detention since October of 2025. After arresting Petitioner in Texas, ICE did not set bond and
8 Petitioner requested review of his custody by an IJ filing his Petition on November 20, 2025.
9 Petitioner was denied bond by an IJ at the Immigration Court. Petitioner has resided in the
10 United States since 2023.

11 15. Respondent Mario Garcia is the Acting Director of the RIO GRANDE Field
12 Office of ICE’s Enforcement and Removal Operations division. As such, Mario Garcia is
13 Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is
14 named in his official capacity.

15 16. Respondent Kristi Noem is the Secretary of the Department of Homeland
16 Security. He is responsible for the implementation and enforcement of the Immigration and
17 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
18 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

19 17. Respondent Department of Homeland Security (DHS) is the federal agency
20 responsible for implementing and enforcing the INA, including the detention and removal of
21 noncitizens.

22 18. Respondent Pamela Bondi is the Attorney General of the United States. He is
23 responsible for the Department of Justice, of which the Executive Office for Immigration Review
24

1 and the immigration court system it operates is a component agency. He is sued in her official
2 capacity.

3 19. Respondent Executive Office for Immigration Review (EOIR) is the federal
4 agency responsible for implementing and enforcing the INA in removal proceedings, including
5 for custody redeterminations in bond hearings.

6 20. Respondent Mario Garcia is employed by the RIO GRANDE Field Office as
7 Acting Director of the facility where Petitioner is detained. The Warden has immediate physical
8 custody of Petitioner. The Acting Director is sued in his official capacity.

9 21. The current acting commissioner of the U.S. Customs and Border Protection is
10 Pete Flores and he is sued in his official capacity.

11 LEGAL FRAMEWORK

12 22. The INA prescribes three basic forms of detention for the vast majority of
13 noncitizens in removal proceedings.

14 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
15 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
16 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
17 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
18 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

19 24. Second, the INA provides for mandatory detention of noncitizens subject to
20 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
21 referred to under § 1225(b)(2).

22 25. Last, the INA also provides for detention of noncitizens who have been ordered
23 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

1 26. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2) and has
2 jurisdiction under 28 U.S.C. § 2241, as Petitioner challenges the legality of his custody, not the
3 order of removal.

4 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
5 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
6 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
7 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
8 139 Stat. 3 (2025).

9 28. Section 1226(a) applies by default to all persons “pending a decision on whether
10 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
11 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

12 29. The main issue in this petition which court has jurisdiction is pursuant to 28
13 U.S.C. § 2241, as Petitioner challenges the legality of his custody, not the order of removal.

14
15 **FACTS**

16 30. China is governed by a **one-party authoritarian system** led by the **Chinese**
17 **Communist Party (CCP)**. Although the country has state institutions such as the presidency, the
18 State Council, and the National People’s Congress (NPC), the CCP holds ultimate authority over
19 political decision-making.

20 31. **Single-party rule:** The CCP is the only party with real political power. Other
21 minor parties exist but operate under the CCP’s leadership.

1 32. **Centralized authority:** Major policies and decisions come from the top
2 leadership, particularly the **Politburo** and the **Politburo Standing Committee**, which are small
3 groups of senior CCP officials.

4 33. **General Secretary / President:** The top leader of China is the **General**
5 **Secretary of the CCP** (currently Xi Jinping). This leader also serves as **President of China** and
6 **Chairman of the Central Military Commission**, consolidating political, state, and military
7 power.

8 34. **Limited political freedoms:** The government restricts opposition parties,
9 independent media, and large-scale public dissent. Civil liberties such as freedom of speech,
10 press, and assembly are tightly controlled.

11 35. **Economic model:** While politically authoritarian, China operates a **state-**
12 **directed market economy**—mixing government planning with private enterprise.

13 36. **Legislative bodies:** The **National People’s Congress** is the formal legislature but
14 generally approves policies already decided by CCP leadership.

15 37. **Overall** China’s government is often described as a **modern authoritarian or**
16 **one-party dictatorship**, with strong centralized control by the CCP over political and, public
17 institutions, the military, the media, and many aspects of society.

18
19 **A. Petitioners Background**

20 38. Petitioner is a noncitizen from China who entered the United States
21 approximately two years ago and has lived continuously in the United States since then.

22 39. Petitioner has no criminal history, no arrests, no law enforcement contact, and has
23 never failed to appear for any court obligation.

1 40. Petitioner has a pending asylum application and is actively pursuing relief. He
2 also filed a concurrent appeal of the bond denial to the BIA.

3 41. Petitioner has significant U.S. family ties, including his wife and son, who is a
4 university student in the United States.

5
6 **B. The Sponsor and Community Ties**

7 42. Petitioner's sponsor is Maryuri Zaldivar, a married woman, lawful resident of
8 California, and church parishioner.

9 43. Ms. Zaldivar is a close family friend of Petitioner and Petitioner's wife.

10 44. Petitioner met her regularly 2–3 times every month for the last two years during
11 church gatherings and family events.

12 45. The IJ accepted the sponsor's evidence of:

- 13
- \$60,000 verified income
 - Stable residence in Lancaster, California, supported by utility bill
 - Willingness to house and support Petitioner
- 14
15

16 **C. The Bond Hearing and the IJ's Sole Reason for Denial**

17 46. During the November 20, 2025 bond hearing, the Government conceded:

- 18
- Petitioner is not a danger to the community.
 - Petitioner has no criminal history.
 - The only issue was flight risk.
- 19
20

21 47. Petitioner answered approximately 20 detailed questions regarding his relationship with
22 the sponsor.

23 48. All testimony was uncontradicted, consistent, and credible.

24

1 49. The IJ nevertheless denied bond solely on grounds that the relationship with the sponsor
2 was “tenuous.”

3 50. The IJ reasoned that Petitioner had only known the sponsor for “two years,” implying
4 that such a period is inherently insufficient compared to “typical long-term community
relationships.”

5 51. The IJ comparison of XU who has only been in this country for 2 years who could have
6 had longer than 2year relationship is unreasonable, capricious and meritless as inherently
flawed defying logic.

7 52. The IJ’s conclusion was unsupported, subjective, and based on an improper comparator
8 standard that penalizes new immigrants for having only recently arrived in the U.S.

9
10 **CLAIMS FOR RELIEF**

11 **CLAIM ONE: LEGAL ERROR — THE IJ APPLIED AN INCORRECT STANDARD**
12 **FOR BOND**

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14 53. Under Matter of Guerra, bond determinations require evaluating danger and flight risk,
not the length of a church-based friendship.

15 54. The IJ did not link the sponsor relationship to any actual fact showing Petitioner is a
16 flight risk.

17 55. An IJ commits a legal error reviewable by habeas when the decision rests on irrelevant
18 factors, personal beliefs, or standards not grounded in regulation or logic.

19
20 **CLAIM TWO: THE BOND DENIAL WAS ARBITRARY AND CAPRICIOUS**

21 56. The IJ ignored substantial, uncontradicted evidence:

- 22 • Weekly to near-weekly church attendance with sponsor
23 • Two-year relationship
24 • Family friendship

- 1 • Sponsor’s verified address and income
- 2 • Sponsor’s willingness to house Petitioner
- 3 • Petitioner’s own wife and son in the U.S.

4 57. The conclusion that these facts show a “tenuous” relationship is irrational, unsupported,
5 and arbitrary.

6 58. Federal courts have repeatedly held that an IJ cannot deny bond based on personal
7 intuition or cultural assumptions.

8 **CLAIM THREE: THE IJ VIOLATED DUE PROCESS (FIFTH AMENDMENT)**
9 **THROUGH BIAS AND IMPROPER COMPARATORS**

10
11 59. The IJ improperly compared Petitioner — a recent arrival and asylum seeker — to
12 “standard community individuals” with long-term relationships.

13 60. This comparison is structurally biased, impossible for new immigrants to satisfy, and
14 contrary to constitutional standards requiring individualized determinations.

15 61. This constitutes a violation of Petitioner’s Fifth Amendment Due Process rights.

16 **CLAIM FOUR: DETENTION IS NOT SUPPORTED BY CLEAR AND CONVINCING**
17 **EVIDENCE**

18 62. The Government bears the burden to justify detention by clear and convincing evidence.

19 63. The Government admitted:

- 20 • Petitioner is not dangerous
- 21 • He has no criminal history
- 22 • He has family in the U.S.
- 23 • He has a reliable sponsor

24 64. No evidence supports the conclusion that Petitioner poses a flight risk.

1 65. Therefore, current detention is unlawful under constitutional standards.
2

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 5 a. Assume jurisdiction over this matter;
6 b. Issue a writ of habeas corpus requiring that Respondents release Petitioner or
7 provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) and
8 pursuant to 28 U.S.C. § 2241, as Petitioner challenges the legality of his custody
9 within 14 days;
10 c. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
11 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
12 law; and
13 d. Grant any other and further relief that this Court deems just and proper.
14

15 DATED this ____20____ of November, 2025.

16 Law Offices of Andy Miri

17 *andy miri*

18 *Attorneys for Petitioner*
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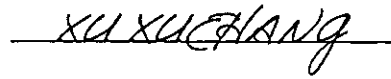
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VERIFICATION

I, XUEHANG XU in my individual capacity, declare under penalty of perjury that that I have read the foregoing Petition, that it is true and correct to the best of my own knowledge and belief, except as to those matters stated to be on information and belief, and as to those things, I believe them to be true.

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

Dated: November 20, 2025



XUEHANG XU