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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 FANJUN CONG,

11 *Petitioner,*

12 v.

13 KRISTI NOEM, Secretary, Department
14 of Homeland Security; PAM BONDI,
15 Attorney General; TODD LYONS,
16 Executive Associate Director of ICE
17 Enforcement and Removal Operations
18 (ERO); GREGORY J.
19 ARCHAMBEAULT, Director, San
20 Diego Field Office, Immigration and
Customs Enforcement; CHRISTOPHER
J. LAROSE, Warden, Otay Mesa
Detention Center.,

21 *Respondents.*

Case No.: '25CV3730 GPC DEB

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

22
23 **INTRODUCTION**

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25 1. This is a petition for a writ of habeas corpus filed on behalf of Fanjun Cong seeking
26 relief to remedy his unlawful detention. Respondents are detaining Mr. Cong for the removal
27 proceeding. Mr. Cong has fully cooperated with the Respondents in their efforts to remove him.
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1 On May 6, 2025, Petitioner was apprehended by DHS at or near the San Diego border. DHS
2 subjected Petitioner to expedited removal proceedings under INA § 235(b), 8 U.S.C. § 1225(b).
3 Petitioner expressed a fear of return and was given a credible fear interview. The asylum officer
4 found no credible fear. DHS issued an order of expedited removal. To date, Respondents have
5 been unable or unwilling to remove Mr. Cong, and thus, he has been detained for more than six
6 (6) months. Petitioner requested a bond hearing before an Immigration Judge ("IJ"). The IJ
7 declined jurisdiction over custody, citing Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019), and
8 dismissed the request without reaching the merits. As a result, Petitioner has never received a
9 meaningful custody determination by a neutral decisionmaker. Mr. Cong is not a flight risk or a
10 danger to the community. Before his detention, he lived and studied with his family in San Diego
11 and was an excellent student, not even mention committing crimes. Petitioner's detention has
12 now become prolonged and indefinite, with no foreseeable end and no procedural safeguard to
13 assess flight risk or danger. His prolonged detention is no longer justified under the Constitution
14 or the Immigration and Nationality Act (INA).
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17 2. Petitioner seeks an order from this Court declaring his continued and prolonged
18 detention unlawful and ordering Respondents to release Mr. Cong from their custody.
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20 CUSTODY

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22 3. Mr. Cong is in the physical custody of Respondent Gregory J. Archambeault, San
23 Diego Field Office Director for Detention and Removal, U.S. Immigration and Customs
24 Enforcement(ICE), the Department of Homeland Security (DHS), and Respondent Christopher J.
25 Larose, Senior Warden of Otay Mesa Detention Center(OMDC), San Diego, CA. At the time of
26 the filing of this petition, Petitioner is detained at the OMDC in San Diego, CA. The OMDC
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1 contracts with the DHS to detain aliens such as Petitioner. Mr. Cong is under the direct control of
2 Respondents and their agents.

3 **JURISDICTION**

4 4. This action arises under the Constitution of the United States and the Immigration and
5 Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

6 5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
7 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
8 (Suspension Clause).

9 6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*,
10 the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
11 § 1651.

12 **VENUE**

13 7. Venue is proper because Petitioner is detained at Otay Mesa Detention Center(OMDC)
14 in San Diego, CA, which is within the jurisdiction of this District.

15 8. Venue is proper in this District because Respondents are officers, employees, or
16 agencies of the United States, and a substantial part of the events or omissions giving rise to his
17 claims occurred in this District 28 U.S.C. § 1391(e).

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

19 9. The Court must grant the petition for writ of habeas corpus or issue an order to show
20 cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28
21 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a
22 return “within *three days* unless for good cause additional time, not exceeding twenty days, is
23 allowed.” *Id.*

1 10. Courts have long recognized the significance of the habeas statute in protecting
2 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
3 important writ known to the constitutional law of England, affording as it does a *swift* and
4 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
5 400 (1963).
6

7 **PARTIES**

8 11. Petitioner is an asylum seeker. Petitioner is currently detained at Otay Mesa
9 Detention Center. He is in the custody and under the direct control of Respondents and their
10 agents.

11 12. Respondent Christopher J. Larose is the Warden of Otay Mesa Detention Center, and
12 he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S.
13 Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of
14 Petitioner. Respondent Larose is a legal custodian of Petitioner.
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16 13. Respondent Gregory J. Archambeault is sued in his official capacity as the Director of
17 the San Diego Field Office of U.S. Immigration and Customs Enforcement. Respondent
18 Archambeault is a legal custodian of Petitioner and has the authority to release him.

19 14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
20 Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for
21 the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S.
22 Immigration and Customs Enforcement, the component agency responsible for Petitioner’s
23 detention. Respondent Noem is a legal custodian of Petitioner.
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25 15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of
26 the United States and the senior official of the U.S. Department of Justice (DOJ). In that
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1 capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office
2 for Immigration Review (EOIR), which administers the immigration courts and the BIA.

3 Respondent Bondi is a legal custodian of Petitioner.

4 **STATEMENT OF FACTS**

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6 16. Petitioner is a 21-year-old citizen of China. Before his detention by the ICE
7 authorities, Mr. Cong was a student at San Diego City College in California, United States. He
8 had lived in San Diego for nearly ten years with his parents.

9 17. Mr. Cong came to the US with his mother on Jan 23rd, 2017, on a B2 Visa. His
10 mother was persecuted under the family planning policy, which led her to apply for asylum. As a
11 result, he naturally became a derivative applicant under her case. Both his mother and he are
12 currently awaiting the outcome of asylum applications.

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14 18. On or about May 6, 2025, due to a navigation error while driving, he inadvertently
15 entered the Mexican border. There were no prohibited items in the vehicle. Upon realizing the
16 mistake, he immediately turned around and drove back. This was entirely an unintentional
17 incident, with absolutely no malicious intent or attempt to violate border laws. Subsequently, Mr.
18 Cong was arrested by CBP patrol agents and subsequently transferred to Otay Mesa Detention
19 Center. To date, Respondents have not been able or are unwilling to remove Mr. Cong. Petitioner
20 is detained under INA § 235(b), which mandates detention pending removal proceedings.

21 Although the statute authorizes detention, the Constitution requires that prolonged civil detention
22 be accompanied by adequate procedural protections. The Supreme Court has held that civil
23 detention must bear a reasonable relation to its purpose and must satisfy due process. *Zadvydas v*
24 *Davis*, 533 U.S. 678 (2001). In *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the Court left open
25 as-applied constitutional challenges to prolonged detention.
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1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 19. Mr. Cong has exhausted his administrative remedies to the extent required by law.

3 20. He has fully cooperated with Respondents and has not delayed or obstructed his
4 detention.

5 21. Mr. Cong's only remedy is by way of this judicial action. He has no other adequate or
6 effective remedy to challenge the legality of detention. Administrative remedies are unavailable
7 because immigration courts lack jurisdiction to provide custody review.
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9 **CLAIMS FOR RELIEF**

10 **COUNT ONE**

11 **CONSTITUTIONAL CLAIM**

12 22. The allegations in the above paragraphs are realleged and incorporated herein.

13 23. Petitioner's prolonged detention violates his right to substantive and procedural due
14 process guaranteed by the Fifth Amendment to the U.S. Constitution. The denial of any
15 custody hearing leaves Petitioner subject to mandatory detention without meaningful
16 process. Prolonged detention under § 1225(b), without a bond hearing, violates
17 substantive and procedural due process.
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19 **COUNT TWO**

20 **STATUTORY CLAIM**

21 24. The allegations in the above paragraphs are realleged and incorporated herein.

22 25. Petitioner's continued detention violates the Immigration and Nationality Act and the
23 U.S. Constitution. By relying on Matter of M-S- to deny jurisdiction, the Immigration Court has
24 foreclosed any avenue for custody review. The absence of any neutral custody determination
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1 renders Petitioner's detention constitutionally infirm. Due process requires, at minimum, a
2 hearing at which the government.

3 **PRAYER FOR RELIEF**

4 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 5 (1) Assume jurisdiction over this matter;
- 6 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
7 should not be granted within three days.
- 8 (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
9 Amendment, Immigration and Nationality Act;
- 10 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately,
11 or in the alternative, schedule a bond hearing before an immigration judge;
- 12 (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on
13 any other basis justified under law; and
- 14 (6) Grant any further relief this Court deems just and proper.

15 Respectfully submitted,

16 By: /s/ Chuangchuang CHEN

17 Chuangchuang Chen, Esq. *Attorney for Fanjun CONG*

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Fanjun Cong, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 22nd day of December, 2025.

By: /s/ Chuangchuang CHEN

Chuangchuang Chen, Esq. *Attorney for Fanjun CONG*

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