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6 **UNITED STATES DISTRICT COURT**  
7 **SOUTHERN DISTRICT OF CALIFORNIA**

8  
9 **LIANG CHEN**

10 Petitioner

11 v.

12 **Christopher LAROSE**, Senior Warden, Otay

Mesa Detention Center;

13 **Kristi NOEM**, Secretary, U.S. Department of

14 Homeland Security;

15 **Todd LYONS**, Acting Director, U.S.

16 Immigration and Customs Enforcement;

17 **Patrick DIVVER**, Field Office Director, San

18 Diego Field Office, U.S. Immigration and

19 Customs Enforcement.

20 **Sirce OWEN**, Acting Director of the Executive

21 Office for Immigration Review (EOIR),

22 U.S. Department of Justice.

23 **Pamela BONDI**, Attorney General, U.S.

24 Department of Justice.

25 Respondents

Case No.: '26CV0462 AGS BLM

Agency File No: 

**PETITION FOR WRIT OF  
HABEAS CORPUS AND  
REQUEST FOR ORDER TO  
SHOW CAUSE WITHIN THREE  
DAYS**

## INTRODUCTION

1  
2 1. Petitioner Liang Chen respectfully submits this Petition for Writ of Habeas Corpus  
3 challenging his continued detention by the Department of Homeland Security (“DHS”).  
4 Petitioner is a Chinese national who entered the United States without inspection in or about  
5 2019, as reflected in DHS records, and has resided in the United States continuously since that  
6 time. After his entry, Petitioner was released from immigration custody on bond during removal  
7 proceedings that were later dismissed by an Immigration Judge at DHS’s unopposed request on  
8 August 12, 2024, with no appeal filed. On December 28, 2025, Petitioner was re-arrested in the  
9 interior of the United States at Camp Pendleton Marine Corps Base, long after his entry and after  
10 a period of liberty, and is currently detained at the Otay Mesa Detention Center.

11 2. Petitioner is detained under a DHS custody classification reflecting an interpretation of  
12 the Immigration and Nationality Act (“INA”), articulated in *Matter of Yajure-Hurtado*, 29 I&N  
13 Dec. 216 (BIA 2025), under which DHS has treated certain noncitizens apprehended in the  
14 interior of the United States long after entry as “applicants for admission” subject to detention  
15 under INA § 235(b)(2)(A). As applied in this case, that custody classification deprives Petitioner  
16 of eligibility for an individualized bond hearing under INA § 236(a).

17 3. Numerous federal courts have rejected DHS’s reliance on INA § 235(b) to detain  
18 individuals apprehended in the interior of the United States long after entry and have concluded  
19 that such custody, if lawful at all, must proceed under INA § 236(a), which provides for  
20 eligibility for an individualized bond hearing. These decisions reflect a consistent interpretation  
21 of the statutory framework governing detention following interior arrests.

22 4. Petitioner remains detained without access to an individualized bond hearing under  
23 INA § 236(a), despite having previously been released on bond and despite the prior dismissal of  
24 his removal proceedings at DHS’s request. On January 20, 2026, Immigration Judge Eugene  
25 Robinson of the Otay Mesa Immigration Court conducted a bond hearing and expressed that he  
26 did not find jurisdiction to adjudicate bond based on DHS’s asserted custody classification and  
27 manner of entry; anticipating a jurisdictional denial, counsel promptly requested to withdraw the

1 bond request. He does not challenge the initiation of removal proceedings or the merits of  
2 removability. Rather, this petition challenges the legal basis of his detention—specifically,  
3 DHS’s classification of his custody under INA § 235(b) rather than INA § 236(a).

4 5. Because no administrative mechanism exists to compel DHS to reclassify custody or to  
5 guarantee timely bond review, and because continued detention risks irreparable harm, judicial  
6 intervention is necessary. Petitioner therefore seeks a writ of habeas corpus ordering his release  
7 or, in the alternative, an order directing DHS to provide a prompt, individualized custody hearing  
8 before a neutral decisionmaker pursuant to INA § 236(a).

### 9 **JURISDICTION AND VENUE**

10 6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody  
11 of the Department of Homeland Security within this District and he challenges the legality of  
12 that custody.

13 7. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises  
14 under the Constitution and laws of the United States, including the Immigration and Nationality  
15 Act and the Due Process Clause of the Fifth Amendment.

16 8. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section  
17 1252(g) bars only challenges to the Attorney General’s discretionary decisions to “commence  
18 proceedings, adjudicate cases, or execute removal orders,” not independent challenges to  
19 unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts  
20 of appeals, but does not foreclose habeas review of detention claims, which are collateral to the  
21 removal proceedings.

22 9. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is  
23 detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

### 24 **PARTIES**

25 10. Petitioner, Liang Chen, is a citizen of China who is currently detained at the Otay  
26 Mesa Detention Center in San Diego, California.

1 11. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention  
2 Center.

3 12. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland  
4 Security (DHS).

5 13. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs  
6 Enforcement (ICE).

7 14. Respondent Patrick Divver is the Director of the San Diego Field Office of U.S.  
8 Immigration and Customs Enforcement.

9 15. Respondent Sirce Owen is the Acting Director of the Executive Office for  
10 Immigration Review (EOIR).

11 16. Respondent Pamela Bondi is the Attorney General of the United States and the head  
12 of the U.S. Department of Justice (DOJ).

13 17. All Respondents are named in their official capacities.

### 14 **LEGAL FRAMEWORK**

15 18. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq.,  
16 provides multiple detention authorities. For decades, courts, Congress, and agencies have  
17 consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. §  
18 1225), which governs applicants for admission encountered at or near the border, and INA § 236  
19 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the  
20 United States and placed in removal proceedings. The Supreme Court analyzed the interplay  
21 between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

22 19. Section 1225 provides that, for purposes of initial inspection at the border, “an alien  
23 who arrives in the United States or is present in this country but has not been admitted, is treated  
24 as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The  
25 Court explained that decisions concerning who may enter or remain in the United States  
26 “generally begin at the Nation’s borders and ports of entry, where the Government must  
27 determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b)

1 governs this inspection and admission process, applying primarily to individuals encountered at  
2 or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which  
3 includes a credible-fear process for those expressing an intent to seek asylum—or to detention  
4 pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep't of Homeland Sec.*  
5 *v. Thuraissigiam*, 591 U.S. 103 (2020).

6 20. By contrast, § 1226(a) governs the detention of individuals who entered years ago and  
7 were later apprehended in the interior, “pending a decision on whether [they are] to be removed  
8 from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, §  
9 1226(a) authorizes the Attorney General to detain or release such individuals on bond or  
10 conditional parole, except as provided in subsection (c), which applies only to a narrow category  
11 of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made  
12 pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding  
13 regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8  
14 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
15 Congress further described § 1226(a) as merely a “restatement” of prior detention authority  
16 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.  
17 Rep. No. 104-469, pt. 1, at 229 (1996).

18 21. For decades, individuals who entered without inspection but resided in the United  
19 States and were later arrested in the interior were consistently treated as subject to § 1226(a)'s  
20 discretionary detention framework.

21 22. Only in 2025 did DHS and the BIA begin advancing, in certain proceedings, a  
22 contrary interpretation—asserting that noncitizens who entered without inspection must be  
23 treated as subject to detention under § 1225(b)(2). This interpretation represented a departure  
24 from decades of agency practice and contradicted settled expectations regarding custody  
25 jurisdiction.

26 23. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in  
27 coordination with the Department of Justice, issued Interim Guidance Regarding Detention  
28

1 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered  
2 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of  
3 when or where they were apprehended, including individuals who had resided in the United  
4 States for many years.

5 24. The Board of Immigration Appeals later adopted a similar statutory interpretation in  
6 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

7 25. In January 2025, Congress reaffirmed that 8 U.S.C. § 1226(a), not § 1225(b), governs  
8 custody for noncitizens apprehended in the interior. Through the Laken Riley Act of 2025,  
9 Congress amended § 1226(c) to add subparagraph (E), extending mandatory detention only to a  
10 narrow category of individuals who (i) are inadmissible under § 1182(a)(6)–(7) and (ii) also meet  
11 specific criminal-conduct criteria. By creating this limited carve-out, Congress confirmed that §  
12 1226(a) remains the general detention framework for interior arrests, and that mandatory  
13 detention applies only to the narrow class defined in new § 1226(c)(E). If, as DHS and the BIA  
14 now contend, all such individuals were already subject to mandatory detention under § 1225(b)  
15 (2), Congress’s amendment would have been superfluous.

### 16 **FACTS**

17 26. Petitioner Liang Chen is a citizen of China who entered the United States without  
18 inspection in or about 2019, as reflected in DHS records, and has resided continuously in the  
19 United States since that time.

20 27. Since entering the United States, Petitioner has resided continuously in the  
21 community, maintained a stable residence, and integrated into daily life in the United States  
22 without any criminal history.

23 28. On December 28, 2025, Petitioner was arrested by U.S. Immigration and Customs  
24 Enforcement (“ICE”) officers in the interior of the United States at Camp Pendleton Marine  
25 Corps Base in Oceanside, California. The arrest was effectuated by ICE officers exercising civil  
26 immigration enforcement authority, not at a port of entry or border checkpoint, and occurred  
27 long after Petitioner’s entry into the United States and following an extended period of liberty in

1 the community. Petitioner was not apprehended during any inspection or admission process, nor  
2 was he encountered at or near the border.

3 29. Following this interior arrest, ICE transferred Petitioner to the Otay Mesa Detention  
4 Center, where he remains detained pending removal proceedings.

5 30. Following Petitioner's interior arrest, ICE issued a Notice of Custody Determination  
6 (Form I-286), reflecting that DHS treated Petitioner's detention as a new custodial event  
7 requiring a custody determination, which is inconsistent with mandatory detention under INA §  
8 235(b). (*Exhibit. 1*).

9 31. On September 5, 2025, the Board of Immigration Appeals issued its precedential  
10 decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). In that decision, the Board  
11 concluded that noncitizens who entered the United States without inspection are "applicants for  
12 admission" subject to detention under INA § 235, regardless of the length of time since entry or  
13 the presence of family and community ties.

14 32. Following *Matter of Yajure-Hurtado*, as DHS applies that decision, Immigration  
15 Judges lack jurisdiction to conduct custody redetermination hearings for individuals whom DHS  
16 classifies as subject to detention under INA § 235.

17 33. On November 25, 2025, the United States District Court for the Central District of  
18 California issued an order granting class certification in *Lazaro Maldonado Bautista et al. v.*  
19 *Santacruz et al.*, No. 5:25-cv-01873 (C.D. Cal.). The court certified a class of noncitizens  
20 detained by DHS who are classified as subject to detention without bond based on DHS's  
21 application of INA § 235(b) and related agency policy.

22 34. On December 18, 2025, a federal district court vacated DHS's July 8, 2025 Interim  
23 Guidance under the Administrative Procedure Act. See *Maldonado-Bautista v. Santacruz*, No.  
24 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

25 35. Prior to the entry of final judgment in *Maldonado-Bautista*, Respondents expressly  
26 maintained—in sworn Returns filed in related habeas proceedings—that district court rulings  
27 rejecting detention under INA § 235(b) were interlocutory, non-final, and afforded no relief.

1 See Respondents' Return to Habeas Petition at 2–4, *Perez Martinez v. LaRose*, No. 25-cv-3492-  
2 DMS-AHG (S.D. Cal. filed Dec. 15, 2025). DHS continued to rely on its interpretation of §  
3 235(b) pending the entry of final judgment.

4 36. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide  
5 guidance stating that “*Maldonado Bautista* is not a nationwide injunction and does not purport to  
6 vacate, stay, or enjoin *Yajure Hurtado*,” and that *Matter of Yajure Hurtado* therefore “remains  
7 binding precedent on agency adjudicators.” The guidance further explains that declaratory  
8 judgments differ from injunctions in that they clarify legal rights without ordering specific  
9 action, and that a declaratory judgment “is not an equitable remedy” and does not, by itself,  
10 compel any party to act.

11 37. Petitioner remains detained at the Otay Mesa Detention Center without having  
12 received an individualized custody hearing. On January 20, 2026, Immigration Judge Eugenc  
13 Robinson of the Otay Mesa Immigration Court conducted a bond hearing and expressed that he  
14 did not find jurisdiction to adjudicate bond based on DHS's asserted custody classification and  
15 manner of entry; anticipating a jurisdictional denial, counsel promptly requested to withdraw the  
16 bond request. (*Exhibit. 2*).

17 38. Absent relief from this Court, Petitioner faces continued and potentially prolonged  
18 immigration detention despite having been apprehended in the interior of the United States long  
19 after his entry.

20 39. Absent judicial intervention, Petitioner will remain subject to detention without any  
21 meaningful opportunity for an individualized custody determination, despite the absence of any  
22 statutory bar to discretionary detention under INA § 236(a).

23 **CLAIM FOR RELIEF**

24 **COUNT 1**

25 **Violation of the Immigration and Nationality Act (INA)**

26 40. Petitioner incorporates by reference the allegations of fact set forth in the preceding  
27 paragraphs.

1 41. Detention under INA § 235(b)(2) is limited to the initial inspection and admission  
2 process and does not authorize DHS to detain a noncitizen who has already entered the United  
3 States and is later apprehended in the interior. Where, as here, DHS apprehended Petitioner in  
4 the interior of the United States long after his entry, after previously placing him in removal  
5 proceedings under INA § 240 that were later dismissed at DHS's request, any detention authority  
6 must arise, if at all, under INA § 236(a) (8 U.S.C. § 1226(a)), which provides for discretionary  
7 detention subject to an individualized custody determination and bond eligibility. DHS's  
8 continued detention of Petitioner under INA § 235(b) therefore exceeds its statutory authority.

9 42. The application of INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)) to Petitioner unlawfully  
10 mandates his continued detention in violation of the INA. Section 235(b)(2) applies only to  
11 "applicants for admission" encountered at or near the border—not to individuals who, like  
12 Petitioner, entered the United States years ago and were later arrested in the interior of the  
13 United States. See *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018); *Dep't of Homeland Sec. v.*  
14 *Thuraissigiam*, 591 U.S. 103, 113 (2020). By treating Petitioner as an applicant for admission  
15 rather than as a noncitizen subject to detention under INA § 236(a) (8 U.S.C. § 1226(a)), DHS  
16 and EOIR have acted contrary to the statutory text, the structure of the INA, and the limits  
17 Congress reaffirmed in the Laken Riley Act of 2025.

## 18 COUNT 2

### 19 Violation of the Due Process Clause of the Fifth Amendment

20 43. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth  
21 herein.

22 44. The Fifth Amendment provides that "[n]o person shall be deprived of life, liberty, or  
23 property, without due process of law."

24 45. "Freedom from imprisonment—from government custody, detention, or other form of  
25 physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533  
26 U.S. 678, 690 (2001).

1 46. Civil immigration detention is constitutionally permissible only when it bears a  
2 reasonable relation to a legitimate governmental objective, such as ensuring appearance at  
3 proceedings or protecting the community. Detention that lacks adequate procedural safeguards or  
4 is imposed without an individualized determination violates due process. See *Zadvydas*, 533 U.S.  
5 at 690.

6 47. By continuing to detain Petitioner based on an unlawful classification of his custody  
7 as governed by INA § 235(b), and by thereby depriving him of any meaningful opportunity for  
8 an individualized custody determination before a neutral decisionmaker—including where an  
9 Immigration Judge expressly stated that he lacked jurisdiction to adjudicate bond—at which the  
10 Government must justify continued detention, Respondents have violated Petitioner’s rights  
11 under the Due Process Clause of the Fifth Amendment.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Petitioner respectfully requests that this Court:

- 14 A) Assume jurisdiction over this matter;
- 15 B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this  
16 District while these proceedings are pending;
- 17 C) Issue an Order to Show Cause within three (3) days pursuant to 28 U.S.C. § 2243, requiring  
18 Respondents to explain the legal basis for Petitioner’s continued detention;
- 19 D) Declare that Petitioner is not lawfully detained under INA § 235(b), and that, to the extent  
20 Petitioner remains in custody, such detention must proceed under INA § 236(a).
- 21 E) Declare that, by depriving Petitioner of any meaningful opportunity to seek release, his  
22 continued detention violates the Immigration and Nationality Act and the Due Process Clause of  
23 the Fifth Amendment.
- 24 F) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from  
25 custody, or, in the alternative, order a constitutionally adequate bond hearing before a neutral  
26 decisionmaker at which the Government must justify his continued detention by clear and  
27 convincing evidence;

1 G) Grant such other and further relief as the Court deems just and proper.

2 Respectfully submitted,

3 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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9 Counsel for Petitioner

10 Dated: January 25, 2026

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