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**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA**

XIAOYONG ZHANG, a.k.a.:
RENZENGDUOJIE, an individual;

Petitioner,

v.

SIXTO MARRERO, Warden of Imperial
Regional Detention Facility; MARCOS
CHARLES, Field Office Director of Imperial
ICE Field Office, U.S. Immigration and Customs
Enforcement, Enforcement and Removal
Operations; TODD LYONS, Acting Director,
U.S. Immigration and Customs Enforcement;
Pamela BONDI, Attorney General of the United
States; KRISTI NOEM, Secretary of Homeland
Security, in their official capacities,

Respondents.

Case No. '26CV1524 BJC MSB

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

Petitioner Xiaoyong Zhang, also known as Renzengduojie ("Mr. Zhang" or "Petitioner")
(Alien registration number: , petitions this Court for a writ of habeas corpus under
28 U.S.C. § 2241 to remedy Respondents detaining him unlawfully, and states as follows:

INTRODUCTION

1. Petitioner is a citizen of the People's Republic of China detained at the Imperial
Regional Adult Detention Facility, Calexico, California. Petitioner, by and through his

undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release from immigration detention where he has been held by the U.S. Department of Homeland Security (DHS) since being unlawfully re-detained on or around November 4, 2025, without first being provided a due process hearing to determine whether his incarceration is justified. Petitioner was previously released on May 3, 2023, by DHS pursuant to INA section 236 (8 U.S.C. § 1226) after a determination that he was neither a flight risk nor a danger to the community.

2. Petitioner seeks declaratory and injunctive relief to compel his immediate release from the immigration jail where he has been held by Respondents since being unlawfully re-detained on November 4, 2025, without first being provided a due process hearing to determine whether his incarceration is justified.

3. The Due Process clause of the Fifth Amendment, as well as statutory and regulatory authorities, require the government to provide noncitizens with notice and a hearing prior to re-detention. Here, Petitioner's rights were violated and continued to be violated each day he is detained.

CUSTODY

4. Petitioner is currently in Respondents' physical custody. Petitioner is detained at the Imperial Regional Adult Detention Facility, Calexico, California. He is under Respondents' and their agents' direct control. Prior to his arrest and re-detention, Petitioner was not provided with a constitutionally and statutorily compliant bond hearing.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Article I, Section 9, Clause 2 of the United States Constitution (the "Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently in custody under the color of the authority of the United States, and such custody violates the Constitution, law, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241.

6. The venue lies in the Southern District of California, the judicial district in which

1 Petitioner is currently detained. Venue is also properly in this Court pursuant to 28 U.S.C. §
2 1391(e) because Respondents are employees, officers, and agencies of the United States, and
3 because a substantial part of the events or omissions giving rise to the claims occurred in this
4 District.

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

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

11 8. Courts have long recognized the significance of the habeas statute in protecting
12 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
13 important writ known to the constitutional law of England, affording as it does a *swift* and
14 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
15 400(1963) (emphasis added).

16 9. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs
17 courts to give petitions for habeas corpus ‘special, preferential consideration to ensure expeditious
18 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
19 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
20 more concerned with efficient trial management than with the vindication of constitutional rights.”
21 *Id.*

22 **THE PARTIES**

23 10. Petitioner is a Chinese citizen who has lived in the United States since May 2023
24 when he entered the U.S. without inspection and was issued a Notice to Appear in immigration
25 court and released on his own recognizance. Despite satisfying the required conditions, Petitioner
26 was re-detained on November 4, 2025, when he was traveling home from Arizona with a friend,
27 and has remained detained since that time.

1 11. Respondent SIXTO MARRERO is sued in his official capacity as the Warden of
2 the Imperial Regional Detention Facility. He has immediate physical custody of Petitioner under
3 the facility's contract with ICE to detain noncitizens. Respondent MARRERO is a legal custodian
4 of Petitioner.

5 12. Respondent MARCOS CHARLES is sued in his official capacity as Field Office
6 Director of Imperial ICE Field Office. Respondent CHARLES is a legal custodian of Petitioner
7 and has the authority to release him

8 13. Respondent TODD LYONS is sued in his official capacity as Acting Director of
9 ICE. In this capacity, Respondent Lyons directs and oversees ICE's Enforcement and Removal
10 Operations, the component agency responsible for Petitioner's detention. Respondent LYONS is
11 a legal custodian of Petitioner and has the authority to release him.

12 14. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the
13 U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent NOEM is
14 responsible for the implementation and enforcement of the INA and oversees ICE, the component
15 agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

16 15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General
17 of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that
18 capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office
19 for Immigration Review ("EOIR"), which administers the immigration courts and the Board of
20 Immigration Appeals. Respondent BONDY is a legal custodian of Petitioner.

21 **STATEMENT OF FACTS**

22 16. Mr. Zhang entered the United States on or about April 22, 2023, without
23 inspection and was apprehended by Immigration and Customs Enforcement ("ICE").

24 17. On or around April 29, 2023, Mr. Zhang was released from ICE custody pursuant
25 to an Order of Release on Recognizance under 8 U.S.C. § 1226. On the same day, the Department
26 of Homeland Security (DHS) issued Mr. Zhang a Notice to Appear (NTA), designating him as
27 "an alien present in the United States who has not been admitted or paroled" and charging that he
28

1 was subject to removal from the United States pursuant to § 212(a)(6)(A)(i) of the Immigration
2 and Nationality Act.

3 18. The Order of Release on Recognizance states in pertinent part as follows: “in
4 accordance with Section 236 of the Immigration and Nationality Act... you are being release on
5 your own recognizance provided you comply with the following conditions....” (conditional
6 parole pursuant to INA section 236(8 U.S.C. § 1226)).

7 19. On or around October 23, 2023, Petitioner filed an application for asylum.

8 20. Following his release, Petitioner has diligently and consistently complied with all
9 reporting requirements, worked to support himself, paid taxes, and regularly attended services at
10 the Buddha Center. He has lived openly and peacefully as a contributing member of his
11 community. Petitioner has no criminal history and has never violated any local, state, or federal
12 laws.

13 21. On or about November 4, 2025, while Petitioner was traveling home from Arizona
14 with a friend, ICE agents stopped them at a checkpoint and detained him without providing any
15 explanation for his re-detention. Petitioner was then transported to the ICE office in Calexico,
16 California, where he remains detained.

17 22. When Petitioner was taken into custody, his personal belongings, including his
18 driver’s license, Employment Authorization Card, and Chinese identification cards, were taken
19 from him.

20 23. At no time prior to his re-detention was Petitioner notified that his release had
21 been revoked or that he would be re-detained. Additionally, when ICE agents detained him, they
22 did not present or show him any warrant authorizing his detention.

23 LEGAL FRAMEWORK

24 24. ICE can release a noncitizen from custody after the noncitizen “demonstrate[s] to
25 the satisfaction of the officer that such release would not pose a danger to property or persons”
26 that the noncitizen is “likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).
27 “Release [therefore] reflects a determination by the government that the noncitizen is not a danger
28

1 to the community or a flight risk.” *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1176 (N.D. Cal.
2 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

3 25. Petitioner was previously released by ICE in May 2023 on Recognizance pursuant
4 to INA section 236 (8 U.S.C. § 1226) after determining he was neither a flight risk nor a danger
5 to the community.

6 **Materially Changed Circumstances – Right to a Hearing Prior to Re-detention**

7 26. The Board of Immigrations Appeals has clearly identified limits to HDS’s
8 authority to re-detain noncitizens: “where a previous bond determination has been made by an
9 immigration judge, no change should be made by [the DHS] absent a change of circumstance,” a
10 position adopted by the Ninth Circuit. *Matter of Sugay*, 171. & N. Dec. 637, 640 (BIA 1981); *see*
11 *also Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021) (“Thus, absent changed
12 circumstances ... ICE cannot re-detain Panosyan.”).

13 27. The government has further clarified in litigation that the showing of changed
14 circumstances applies “both where the prior bond determination was made by an immigration
15 judge and where the previous release decision was made by a *DHS officer*.” *Saravia v. Sessions*,
16 280 F. Supp. 3d at 1197.

17 28. Further, DHS has in practice limited its authority and “generally *only* re-arrests
18 [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances,” not just any
19 changed circumstances. *Id.* (quoting Defs.’ Second Supp. Br. at 1, Dkt. No. 90) (emphasis added).

20 29. Guidance from *Matter of Sugay* and DHS practice alone—that ICE should not
21 rearrest a noncitizen absent changed circumstances—are insufficient to protect Petitioner’s
22 weighty interest in his freedom from detention. Federal district courts in California, including this
23 Court, have repeatedly recognized that the demands of due process and the limitations on DHS’s
24 authority to revoke a noncitizen’s bond or parole require a pre-deprivation hearing for a
25 noncitizen on bond, like Petitioner, before ICE re-detains him, to comport with the Due Process
26 clause of the Constitution. *See, e.g., Faizyan v. Casey* No. 3:25-cv-02884-RBM-JLB, 2025 WL
27 3208844, at *7 (S.D. Cal. Nov. 17, 2025); *Perez v. LaRose*, No. 3:25-cv-02620-RBM-JLB, 2025

1 WL 3171742, at *2 (S.D. Cal. Nov. 13, 2025); *Meza v. Bonmar*, 2018 WL 2554572 (N. D. Cal.
 2 June 4, 2018); *Ortega v. Bonmar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No.
 3 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020).

4 30. Recently, several federal courts in California, including this Court, have agreed
 5 that immigration re-detention after being released in the community warrants a hearing. *See Diaz*
 6 *v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025); *Singh v. Andrews*,
 7 No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025); *Pinchi v. Noem*, No. 25-cv-
 8 05632, 2025 WL 1853763 (N.D. Cal. July 4, 2025); *Faizyan v. Casey* No. 3:25-cv-02884-RBM-
 9 JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025); *Perez v. LaRose*, No. 3:25-cv-02620-
 10 RBM-JLB, 2025 WL 3171742, at *2 (S.D. Cal. Nov. 13, 2025).

11 31. Accordingly, prior to re-detaining Petitioner, who had previously been released
 12 pursuant to 8 U.S.C. § 1226, DHS should have provided him with a pre-detention hearing and
 13 notice of such hearing at which DHS had the burden of proving that Petitioner's prior conditional
 14 parole should be revoked.

15 32. However, Respondents unlawfully re-detained Petitioner without having an
 16 immigration judge or a neutral adjudicator assess whether circumstances have materially changed
 17 since his prior lease in 2023 by DHS.

18 **Procedural Due Process**

19 33. "Freedom from imprisonment—from government custody, detention, or other
 20 forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."
 21 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22 34. The government cannot deprive any person of "life, liberty, or property, without
 23 due process of law[.]" U.S. Const. Amend. V. Due process extends to "all 'persons' within the
 24 United States, including [non-citizens], whether their presence here is lawful, unlawful,
 25 temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

26 **A. Petitioner possesses a protected liberty interest.**

27 35. A protected liberty interest may arise from a conditional release from physical
 28

1 restraint. *Young v. Harper*, 520 U.S. 143, 147–49 (1997). Even when a statute allows the
2 government to arrest and detain an individual, a protected liberty interest under the Due Process
3 Clause may entitle the individual to procedural protections not found in the statute. *See id.* (Due
4 Process requires hearing before revocation of parole); *Gagnon v. Scarpelli*, 411 U.S. 778, 782
5 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in
6 parole context).

7 36. To determine whether a specific conditional release rises to the level of a protected
8 liberty interest, “[c]ourts have resolved the issue by comparing the specific conditional release in
9 the case before them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*
10 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation
11 omitted); *see also Clene C.D. v. Robbins*, No. 1:25-CV-01463-KES-SKO (HC), 2026 WL 84302
12 (E.D. Cal. Jan. 12, 2026).

13 37. In *Morrissey*, the Supreme Court explained that parole “enables [the parolee] to do
14 a wide range of things open to persons” who have never been in custody or convicted of any
15 crime, including to live at home, work, and “be with family and friends and to form the other
16 enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. “Though the [government]
17 properly subjects [the parolee] to many restrictions not applicable to other citizens, his condition
18 is very different from that of confinement in a prison.” *Id.* “The parolee has relied on at least an
19 implicit promise that parole will be revoked only if he fails to live up to the parole conditions.” *Id.*
20 The revocation of parole undoubtedly “inflicts a grievous loss on the parolee.” *Id.* (quotations
21 omitted). Therefore, a parolee possesses a protected interest in his “continued liberty.” *Id.* at 481–
22 84.

23 38. Immigration officials’ release of Petitioner pursuant to 8 U.S.C. § 1226(a) was
24 similar. Among other things, it allowed him to live in the United States and seek relief in his
25 removal proceedings. *See Clene C.D. v. Robbins*, No. 1:25-CV-01463-KES-SKO (HC), 2026 WL
26 84302 (E.D. Cal. Jan. 12, 2026); *see also Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763
27 (N.D. Cal. July 4, 2025).

1 39. A noncitizen released from custody pending removal proceedings therefore has a
 2 protected liberty interest in remaining out of custody. *See Faizyan v. Casey* No. 3:25-cv-02884-
 3 RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025); *Perez v. LaRose*, No. 3:25-cv-
 4 02620-RBM-JLB, 2025 WL 3171742, at *2 (S.D. Cal. Nov. 13, 2025); *Meza v. Bonnar*, 2018
 5 WL 2554572 (N. D. Cal. June 4, 2018).

6 40. Accordingly, Petitioner has a substantial liberty interest in not being detained. He
 7 has been living in the United States for more than two years, has been working and supporting
 8 himself, and has developed extensive community ties.

9 **B. Petitioner's Liberty Interest Mandated a Hearing Before any Re-detention**

10 41. "Adequate, or due, process depends upon the nature of the interest affected. The
 11 more important the interest and the greater the effect of its impairment, the greater the procedural
 12 safeguards the state must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350,
 13 1352 (9th Cir. 1985). The court must "balances [Petitioner's] liberty interest against the
 14 [government's] interest in the efficient administration of" its immigrations laws in order to
 15 determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of
 16 liberty. *Id.* at 1357.

17 42. The three-factor *Mathews* test (adopted by the Court of Appeals for the Ninth
 18 Circuit, *see Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206-07 (9th Cir. 2022)), helps the Court
 19 assess adequate safeguards: "[F]irst, the private interest that will be affected by the official action;
 20 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
 21 probative value, if any, of additional or substitute procedural safeguards; and finally the
 22 government's interest, including the function involved and the fiscal and administrative burdens
 23 that the additional or substitute procedural requirements would entail." *Mathews v. Eldridge*, 424
 24 U.S. 319, 335 (1976).

25 43. The Due Process Clause typically requires a hearing of some sort before the
 26 government may deprive a person of liberty. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (*see*
 27 *also United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014) ("Due process always
 28

1 requires, at a minimum, notice and an opportunity to respond.”). Courts typically require evidence
2 of urgent concerns or an especially strong government interest to justify a post-deprivation
3 hearing. *See Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025); *United*
4 *States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53, 59–61 (1993) (“We tolerate some
5 exceptions to the general rule requiring pre-deprivation notice and hearing, but only in
6 extraordinary situations where some valid governmental interest is at stake that justifies
7 postponing the hearing until after the event[.]” such as “executive urgency.” (internal quotations
8 omitted)).

9 **1. Petitioner has a substantial liberty interest in remaining out of detention**

10 44. The first *Mathews* factor, Petitioner has a significant private interest in remaining
11 free from detention. “Freedom from imprisonment—from government custody, detention, or
12 other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
13 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Federal district courts in California,
14 including this Court, have repeatedly found that noncitizens, like Petitioner, who were previously
15 detained, placed in removal proceedings, found to be neither a flight risk nor a danger to the
16 community, and released on their own recognizance, “therefore maintain a ‘protected liberty
17 interest in remaining out of custody.’” *Zhibin Xie v. Larose*, No. 3:25-cv-03649-RBM-MSB,
18 2026 WL 92066, at *5 (S.D. Cal. Jan. 13, 2026) (citing *Pinchi v. Noem*, 792 F. Supp. 3d 1025,
19 1032-33 (N.D. Cal. 2025)). The longer the individual has been released, the more important his
20 liberty interest grows. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

21 **2. There is a risk of erroneous deprivation that the additional procedural safeguard**
22 **of a pre-detention hearing would help protect against.**

23 45. There is a “significant risk that the government will erroneously deprive
24 [Petitioner] of [his] liberty interest if it does not provide [him] with a pre-detention hearing,
25 where, as here, ‘the [Petitioner] has not received any bond or custody...hearing.’” *Pinchi v. Noem*,
26 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025) (citing *Singh v. Andrews*, No. 1:25-CV-00801,
27 2025 U.S. Dist. LEXIS 132500, 2025 WL 1918679 (E.D. Cal. July 11, 2025)).

1 46. Civil immigration detention must be “nonpunitive in purpose” and bear a
2 “reasonable relation” to the authorized statutory purposes of preventing flight and danger to the
3 community. *Zadvydas*, 533 U.S. at 690 (citation omitted). However, the government has offered
4 no evidence that Petitioner’s detention would serve either purpose.

5 47. Petitioner was released on his own recognizance after his initial detention at the
6 border. By releasing Petitioner, immigration officers necessarily determined that he is neither
7 flight risks nor dangers to the community. *See Zapata v. Kaiser*, 801 F. Supp. 3d 919, 938 (N.D.
8 Cal. 2025).

9 48. Under these circumstances, the risk of erroneous deprivation is high given the
10 possibility that Petitioners’ re-detention will not be pursuant to a valid state interest.

11 49. Further, any argument that noncitizens can request a custody determination
12 hearing once re-detained goes against the due process safeguards envisioned in the Constitution,
13 because such hearing happens after the fact and cannot prevent an erroneous deprivation of
14 liberty. *Domingo v. Kaiser*, No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3.D. Cal. July 14,
15 2025) (“Even if Petitioner-Plaintiff received a prompt post-detention bond hearing under 8 U.S.C.
16 § 1226(a) and was released at that point, he will have already suffered the harm that is the subject
17 of his motion: that is, his potentially erroneous detention.”).

18 **3. The government’s interest in re-detaining Petitioner without a hearing is low.**

19 50. The government’s interest in re-detaining Petitioner without a pre-detention
20 hearing is low “because ICE previously made the determination to release [him], and there is no
21 evidence in the record of any changed circumstances that might cause ICE to reconsider its parole
22 determination.” *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215, at *16 (N.D.
23 Cal. Sep. 5, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

24 51. Further, additional procedural safeguards, including a hearing before a neutral
25 decision-maker, are “one of the most basic due process protections” and would place a “de
26 minimis . . . burden on the government,” especially in light of the potential costs to the public by
27 keeping Petitioner detained. *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001),
28

1 *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

2 52. Taken together, the *Mathews* factors show that Petitioner is entitled to a bond
3 hearing, which should have been provided before Petitioner was detained.

4 **Substantial Due Process**

5 53. Freedom from government custody “lies at the heart of the liberty” protected by
6 the Due Process Clause. *Zadvydas*, 533 U.S. at 690. For that reason, nonpunitive government
7 detention violates the Due Process Clause unless the detention is ordered “in certain special and
8 narrow . . . circumstances, where a special justification . . . outweighs the individual's
9 constitutionally protected interest in avoiding physical restraint.” *Id.* (citations omitted).

10 54. In the context of civil immigration detention, the two “regulatory goals” of the
11 Immigration and Nationality Act provisions governing such detention, “ensuring the appearance
12 of aliens at future immigration proceedings” and “preventing danger to the community,” can
13 provide such “special justification.” *Id.* (citations omitted); *see also Pinchi v. Noem*, 792 F. Supp.
14 3d 1025, 1032-33 (N.D. Cal. 2025).

15 55. Although “[t]he government has legitimate interests in protecting the public and in
16 ensuring that noncitizens in removal proceedings appear for hearings,” “the government has no
17 legitimate interest in detaining individuals who have been determined not to be a danger to the
18 community and whose appearance at future immigration proceedings can be reasonably ensured
19 by a lesser bond or alternative conditions.” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir.
20 2017).

21 56. Due process requires that “the nature and duration” of detention “bear some
22 reasonable relation to the purpose for which the individual is” detained. *Jackson v. Indiana*, 406
23 U.S. 715, 738 (1972).

24 57. Petitioner was released on his own recognizance after a finding that he was neither
25 a flight risk nor a danger to the community. In other words, the justifications for civil immigration
26 detention were not present in his case. Following his release in 2023, Petitioner diligently
27 complied with the reporting requirements and has no criminal record. There is no evidence
28

1 suggesting that Petitioner poses a danger to the community or a flight risk. Accordingly,
2 Petitioner's detention lacks a valid basis and violates Petitioner's right to be free from
3 impermissible government custody. *See Zadvydas*, 533 U.S. at 690.

4 **COUNT ONE**

5 **(Violation of Due Process)**

6 58. Petitioner repeats and incorporates by reference into this cause of action the
7 allegations set forth above.

8 59. Petitioner's detention without a due process hearing to determine whether his
9 incarceration is justified violates his right to due process under the Fifth Amendment.

10 60. The Government may not deprive a person of life, liberty, or property without due
11 process of law. U.S. Const. amend. V. "Freedom from imprisonment— from government custody,
12 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
13 protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

14 61. Petitioner has a vested liberty interest in his conditional release. Due Process does
15 not permit the government to strip him of that liberty without a hearing before this Court. *See*
16 *Morrissey v. Brewer*, 408 U.S. 471, 487-88 (1972).

17 62. Petitioner's re-arrest without a hearing violated the Constitution both substantively,
18 because Respondents have no valid interest in detaining him since circumstances have not
19 changed, and procedurally, because he was not provided with a pre-detention hearing.

20 63. Petitioner was re-detained without notice, without a warrant authorizing his
21 detention, and without being afforded a pre-detention hearing. Petitioner was forced to seek relief
22 through federal habeas litigation in order to obtain even the opportunity for a bond hearing.

23 64. Under these circumstances, requiring Petitioner to remain detained while awaiting
24 a bond hearing obtained only through habeas litigation creates a substantial risk that the
25 proceeding will not provide a truly meaningful and impartial determination of whether continued
26 detention is justified.

27 65. Since 1874, the habeas corpus statute has directed the courts to determine the facts
28

1 and dispose of the case summarily, as law and justice require. *See Preiser v. Rodriguez*, 411 U.S.
2 475, 487 (1973).

3 66. Here, given the ongoing violation of the Due Process, the proper relief is
4 immediate release from detention, as continued detention pending a bond hearing would fail to
5 remedy the ongoing violation of his constitutional rights.

6 **COUNT TWO**

7 **(Unlawful Detention in Violation of the Immigration and Nationality Act, 8 U.S.C. § 1226(a))**

8 67. Petitioner repeats and incorporates by reference into this cause of action the
9 allegations set forth above.

10 68. As courts have consistently recognized, 8 U.S.C. § 1226(a), instead of § 1225(b),
11 governs detention authority for noncitizens, such as Petitioner, who were previously released on
12 an order of release on recognizance pursuant to § 1226(a) and were already within the United
13 States when apprehended and arrested. *See, Clene C.D. v. Robbins*, No. 1:25-CV-01463-KES-
14 SKO (HC).

15 69. Under this statute, a noncitizen may be arrested on a warrant and would be entitled
16 to a bond hearing before an immigration judge, and must be release if he/she can “establish to the
17 satisfaction of the Immigration...that [he] does not present a danger to persons or property, is not
18 a threat to the national security, and does not pose a risk of flight.” *Hernandez v. Sessions*, 872
19 F.3d 976, 982 (9th Cir. 2017).

20 70. This statutory framework applies to Petitioner. Petitioner was previously released
21 by the government under 8 U.S.C. § 1226 in May 2023. Since that time, he has resided in the
22 United States for approximately two years and was already within the United States when he was
23 re-detained by ICE in November 2025. His detention therefore arises under 8 U.S.C. § 1226(a).

24 71. When the ICE agents detained Petitioner, he was not presented with any warrant
25 authorizing the detention as required under § 1226(a). In addition, at no time prior to his re-
26 detention was Petitioner notified that his prior release was revoked. Petitioner was also not
27 provided a bond hearing before an immigration judge prior to his detention before his detention.
28

72. By detaining Petitioner without providing a warrant and a pre-deprivation hearing, Respondents have acted in excess of their statutory authority under 8 U.S.C. § 1226(a). As a result, Petitioner's continued detention violates the Immigration and Nationality Act and is unlawful.

73. Even if the Court were to order a post-deprivation bond hearing, such relief would not cure the constitutional defects at issue. The Due Process Clause requires meaningful notice and an opportunity to be heard before a deprivation of liberty occurs, absent extraordinary circumstances. A belated bond hearing does not remedy the unlawful initial seizure and detention where the government failed to provide constitutionally adequate procedures at the outset. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the serious constitutional concerns raised by civil immigration detention); *Fuentes v. Shevin*, 407 U.S. 67, 80–82 (1972) (due process generally requires pre-deprivation process where feasible).

74. Moreover, under 8 U.S.C. § 1226(a), detention is discretionary, not mandatory, and must be justified by the government. A post-deprivation hearing that shifts the burden to the detainee, fails to require the government to prove flight risk or danger by clear and convincing evidence, or occurs only after prolonged or unjustified detention, does not satisfy constitutional standards. *See Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (requiring adequate procedural safeguards in bond hearings, including a contemporaneous record for meaningful review). Where detention has already occurred without constitutionally sufficient process, the appropriate remedy is release, not merely a delayed hearing.

75. Accordingly, because the procedural violation inheres in the initial deprivation itself and cannot be retroactively cured, Petitioner is entitled to immediate remedial release rather than a belated bond hearing.

PRAYER FOR RELIEF

Based on the foregoing, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Issue the writ of habeas corpus and order Respondents to show cause, within three

- 1 days of Petitioner's filing this petition, why the relief he seeks should not be granted;
- 2 3. Enjoin Respondents from transferring him from the jurisdiction of this District
- 3 pending these proceedings;
- 4 4. Declare that Respondents' detention of Petitioner violates the INA and the Due
- 5 Process Clause of the Fifth Amendment;
- 6 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
- 7 immediately;
- 8 6. Order Respondents to return all of Petitioner's personal belongings, including his
- 9 driver's license, Employment Authorization Card, and Chinese identification cards;
- 10 7. Upon release, prohibit Respondents from imposing conditions of supervision more
- 11 restrictive than those previously in place, including the imposition of electronic
- 12 monitoring, absent a hearing consistent with due process;
- 13 8. Enjoins Respondents from transferring, re-arresting, or re-detaining Petitioner absent
- 14 lawful process, including a pre-deprivation hearing before a neutral decisionmaker at
- 15 which the government establishes by clear and convincing evidence that detention is
- 16 appropriate to prevent his flight or to protect the public;
- 17 9. Enjoin Petitioner's removal from the United States pending a final decision on this
- 18 habeas action;
- 19 10. Enjoin Petitioner's removal from the United States without meaningful notice and
- 20 opportunity to fully present a fear-based claim;
- 21 11. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
- 22 on any other allowed by law;
- 23 12. Grant further relief as the Court finds just and proper.
- 24

25 Dated: March 11, 2026

Juris Path Law Firm, PC

26 /s/Yunchao Song

27 Yunchao Song, Esq.

28 Attorneys for Petitioner