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

KIAOYONG ZHANG,

Petitioner,

v.

SIXTO MARRERO, *et al*,

Respondents.

Case No. 3:26-cv-1646-CAB-SBC

**PETITIONER'S RESPONSE TO ORDER
TO SHOW CAUSE**

Petitioner submits this response to the Court's March 20, 2026, Order to Show Cause, ordering Petitioner to show cause how this Petition differs from the previous petition, *Zhang v. Charles*, No. 3:26-CV-298-RSH-DDL ("First Petition").

This Petition is distinct from the First Petition because (1) in the prior action, the court did not address Petitioner's constitutional due process claims arising from his re-detention without a pre-deprivation hearing, and (2) at the bond hearing ordered by the court, the burden of proof was improperly placed on Petitioner.

I. The First Petition Did Not Address the Core Due Process Violation.

In the prior habeas proceeding, Petitioner's previous counsel presented arguments such that Petitioner's detention was governed by 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b). Respondents conceded that Petitioner was detained under 8 U.S.C. §

1 1226(a). The Court accordingly ordered that a bond hearing be provided. *See Zhang v. Charles*,
2 No. 3:26-CV-298-RSH-DDL at Doc. No. 7.

3 However, the prior proceeding did not adjudicate Petitioner's central constitutional claim:
4 that Respondents violated Petitioner's Fifth Amendment due process rights by re-detaining him
5 without a pre-deprivation hearing.

6 Petitioner possesses a protected liberty interest in remaining out of custody arising from
7 his previous release in April 2023. *See Fatzyan v. Casey* No. 3:25-cv-02884-RBM-JLB, 2025 WL
8 3208844 (S.D. Cal. Nov. 17, 2025), *Perez v LaRose*, No. 3:25-cv-02620-RBM-JLB, 2025 WL
9 3171742 (S.D. Cal. Nov. 13, 2025), *Meza v. Bonnar*, 2018 WL 2554572 (N. D. Cal. June 4,
10 2018) Under the three-factor test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), due
11 process required that Petitioner be afforded a hearing before the government deprived him of that
12 liberty interest, not months afterward.

13 Although Petitioner ultimately received a bond hearing, that hearing was provided nearly
14 three months after his re-detention and only after he was forced to seek relief through federal
15 habeas proceedings. Such a belated hearing cannot prevent the risk of erroneous deprivation of
16 liberty and does not cure the constitutional violation. *See Domingo v. Kaiser*, No. 25-cv-05893
17 (RFL), 2025 WL 1940179, (N.D. Cal. July 14, 2025) ("Even if Petitioner-Plaintiff received a
18 prompt post-detention bond hearing under 8 U.S.C. § 1226(a) and was released at that point, he
19 will have already suffered the harm that is the subject of his motion: that is, his potentially
20 erroneous detention.").

21 Accordingly, this Petition raises a distinct claim: that Respondents violated Petitioner's
22 due process rights by failing to provide a pre-deprivation hearing prior to his re-detention. Under
23 these circumstances, courts have consistently recognized that immediate release is the appropriate
24 remedy *See e g Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D.
25 Cal. Nov. 19, 2025); *A S v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19,
26 225); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025);
27 *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025).

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II. Burden of Proof Was Improperly Placed on Petitioner

Further, at the bond hearing, the Immigration Judge (“IJ”) improperly placed the burden on Petitioner to demonstrate that he was not a flight risk or a danger to the community.

In the prior order, the court granted a bond hearing but did not address the allocation of the burden of proof *See Zhang v. Charles*, No. 3:26-CV-298-RSH-DDL at Doc. No. 7. In the absence of such guidance, the IJ improperly required Petitioner to bear the burden of proof, an allocation that is contrary to governing law.

“The Ninth Circuit has squarely ruled that “due process requires that the Government bear the burden at a § 1226(a) bond hearing of justifying detention by clear and convincing evidence.” *Lima v. Wofford*, No. 1:25-cv-01390-SKO (HC), 2025 WL 3535009 (E.D. Cal. Dec. 9, 2025) (Citing *Singh v. Holder*, 638 F.3d 1196, 1203-06 (9th Cir. 2011))

A bond hearing conducted under an incorrect burden of proof is constitutionally inadequate and does not satisfy due process requirements.

For the foregoing reasons, the present Petition differs from the prior habeas action. Petitioner continues to suffer ongoing violations of his due process rights, and respectfully requests that the Court grant the Petition, order his immediate release without the imposition of any conditions more restrictive than those previously in place.

Dated: March 24, 2026

Respectfully submitted,
Juris Path Law Firm, PC

/s/Yunchao Song
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