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GUOJUN LIU

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

**GUOJUN LIU,**

*Petitioner-Plaintiff,*

v.

**KRISTI NOEM**, Secretary of the U.S.  
Department of Homeland Security, in their official  
capacity;

**PAMELA BONDI**, Attorney General of the  
United States, in their official capacity;

**TODD M. LYONS**, Acting Director of U.S.  
Immigration and Customs Enforcement, in their  
official capacity;

**PATRICK DIVVER**, San Diego ICE Field  
Office Director, in their official capacity;

**SIXTO MARRERO**, Warden of Imperial  
Regional Detention Facility, in their official  
capacity.

*Respondents-Defendants.*

Case No. '26CV1757 BJC MMP


**PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT  
TO 28 U.S.C. §2241; 8 U.S.C. §§  
1225, 1226; APA 5 U.S.C. §  
706; COMPLAINT FOR  
DECLARATORY  
AND INJUNCTIVE RELIEF;**

**PETITION FOR WRIT OF HABEAS CORPUS**

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### I. PRELIMINARY STATEMENT

1. This habeas corpus petition challenges the unlawful, prolonged, and effectively indefinite civil immigration detention of Petitioner GUOJUN LIU . Petitioner seeks the Court's intervention to remedy a severe and ongoing deprivation of his liberty by U.S. Immigration and Customs Enforcement (ICE), which continues to jail him without a foreseeable end, without any finding of dangerousness, and without a constitutionally adequate hearing.

2. Civil immigration detention is legally justified only when it serves its statutory purpose: effectuating a noncitizen's removal. When removal is no longer practically attainable, continued detention becomes impermissibly punitive. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court unequivocally established that the government may not indefinitely detain a noncitizen when removal is not reasonably foreseeable.

3. As of the filing of this Petition, Petitioner has obtained protection of withholding of removal in immigration proceeding and has been incarcerated for over 20 days. The U.S. government is legally or practically barred from executing his removal to China, and ICE has failed to identify any third country willing to accept him. Consequently, Petitioner is trapped in a legal limbo—serving an indefinite sentence in civil confinement simply because the government cannot deport him.

4. This prolonged confinement—inflicted without an individualized assessment of flight risk or danger to the community before a neutral arbiter—violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), and contravenes the substantive and procedural guarantees of the Fifth Amendment's Due Process Clause.

5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus ordering his immediate release from ICE custody under reasonable conditions of supervision. In the alternative, Petitioner requests an order directing Respondents to immediately provide a constitutionally compliant bond hearing before an Immigration Judge, at which the government must bear the burden of proving by clear and convincing evidence that Petitioner's continued detention is strictly necessary.

### II. PARTIES

6. Petitioner is presently detained at the direction of Respondents at Imperial Regional Detention Facility, 1572 Gateway Road Calexico, CA 92231.

7. Respondent KRISTI NOEM is named in their official capacity as the Secretary of DHS. They are responsible for the administration of the immigration laws. 8 U.S.C. § 1103(a). They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and is legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent KRISTI NOEM's address is U.S. Department of Homeland Security, Washington, DC 20528.

8. Respondent PAMELA BONDI is named in their official capacity as the Attorney General of the United States. They are responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and are legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent PAMELA BONDI's address is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

9. Respondent TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), is named in their official capacity. In this capacity, they are responsible for the administration and enforcement of the immigration laws as exercised by ICE, including the detention and custody of noncitizens. They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and are legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent TODD M. LYONS's address is 500 12th Street, S.W., Washington, D.C. 20536.

10. Respondent PATRICK DIVVER, 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154. ICE Field Office Director is named in their official capacity as an ICE District Director. In this capacity, they are a legal custodian of petitioner. Respondent's address is 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154..

11. Respondent SIXTO MARRERO, Warden of Imperial Retional Detention Facility is named in their official capacity as the warden of the facility where petitioner is held. In this capacity, they are a legal custodian of petitioner. Respondent's address is 1572 Gateway Road Calexico, CA 92231.

### **III. JURISDICTION**

12. Petitioner is detained in the custody of Respondents at Imperial Retional Detention Facility.

13. This Court has subject matter jurisdiction over this Petition under 28 U.S.C. § 2241 (power to grant habeas corpus) and 28 U.S.C. § 1331 (federal question jurisdiction); the All Writs Act, 28 U.S.C. § 1651; and the Administrative Procedure Act, 5 U.S.C. § 701.

14. Federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003).

#### IV. VENUE

15. Under 28 U.S.C. § 2241(d), venue properly lies in the SOUTHERN DISTRICT OF CALIFORNIA because Petitioner is physically present and in the custody of Respondents within the district. In addition, Petitioner's pending removal proceedings are taking place within the district at the immigration court located at 1572 Gateway Road Calexico, CA 92231.

#### V. LEGAL FRAMEWORK

##### *Expedited Removal*

16. The expedited removal statute provides that the process begins—and often effectively concludes—with an inspection by an immigration officer. The officer must, first, determine if the individual is a noncitizen who is inadmissible because they have engaged in certain kinds of fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or lacks valid entry documents, 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3). Among that set, only two categories of noncitizens are eligible for expedited removal: (1) noncitizens “arriving in the United States,” and (2) noncitizens who “ha[ve] not been admitted or paroled into the United States” and cannot affirmatively show that they have been “physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(i)–(iii).

17. In the case of noncitizens who have not been admitted or paroled into the United States, if the officer concludes that the individual is inadmissible under an applicable ground and has been continuously present in the United States for less than two years, the officer “shall,” with the concurrence of a supervisor, 8 C.F.R. § 1235.3(b)(7), order the individual

removed “without further hearing or review unless the [noncitizen] indicates either an intention to apply for asylum . . . or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i).

18. At any time during the expedited removal process, the officer may permit the individual to withdraw her application for admission and allow the person to depart the country without issuing an expedited removal order. 8 U.S.C. § 1225(a)(4). For those who express a fear of return to their countries of origin, the expedited removal statute provides a limited additional screening. But the additional screening does not remotely approach the type of process that asylum seekers receive in regular immigration proceedings before an immigration judge under 8 U.S.C. § 1229a.

19. During the inspection process, if an individual indicates an intention to apply for asylum or expresses fear of return to his or her country of origin, the immigration officer must refer the individual for a rudimentary screening interview with an asylum officer, referred to as a “credible fear” interview, to determine whether the individual should be able to apply for asylum and related humanitarian relief. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); 8 C.F.R. §§ 235.3(b)(4), 208.30(d)-(e).

20. To prevail at the credible fear interview, the applicant must show “a significant possibility, taking into account the credibility of the statements made by the [noncitizen] in support of the [noncitizen’s] claim and such other facts as are known to the officer, that the [noncitizen] could establish eligibility for asylum.” 8 U.S.C. § 1225(b)(1)(B)(v).

21. Applicants who satisfy the credible fear standard have their expedited removal orders cancelled by operation of law and are placed into regular removal proceedings under 8 U.S.C. § 1229a, where they have the opportunity to apply for asylum and other relief from removal, present and cross-examine evidence before an immigration judge (IJ), preserve objections, and appeal any adverse decision to the Board of Immigration Appeals and court of appeals. 8 C.F.R. § 208.30(f); *see also* 8 U.S.C. § 1225(b)(1)(B)(ii). Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

22. Applicants who do not pass the credible fear interview may request review of the decision by an IJ, but do not receive a full hearing or any subsequent administrative appellate review. 8 U.S.C. § 1225(b)(1)(B)(iii)(II)-(III); *see also* 8 C.F.R. § 208.30(g)(1).

23. During the inspection and credible fear stages of expedited removal, DHS detains the noncitizen. *See* 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 235.3(b)(2)(iii). In *Jennings v. Rodriguez*, the Supreme Court held that individuals in expedited removal who demonstrate a credible fear are not statutorily eligible for bond hearings. 583 U.S. 281, 297-303 (2018).

24. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens with expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. 8 U.S.C. § 1182(a)(9)(A)(i); 8 C.F.R. § 212.2.

25. Congress provided limited habeas review in individual cases. Relevant here, a federal district court may review whether the individual “was ordered removed under 8 U.S.C. § 1225(b)(1). *See* 8 U.S.C. § 1252(e)(2)(B). Although the statute provides that such review must be limited to “whether such an order in fact was issued and whether it relates to the petitioner” and may not include review of whether a noncitizen “is actually inadmissible or entitled to any relief from removal,” *see* 8 U.S.C. § 1252(e)(5), if the Court finds in the petitioner’s favor, the court can order placement in removal proceedings under 8 U.S.C. § 1229a, *see* U.S.C. § 1252(e)(4)(B).

26. In *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), the Supreme Court upheld a lack of habeas jurisdiction where the noncitizen petitioner entered the United States without inspection and then challenged flaws in the credible fear proceeding and sought a “new opportunity to apply for asylum” and “the opportunity to remain lawfully in the United States.” 591 U.S. at 115, 119. Concurring in the judgement, Justice Breyer expressed concern about future readings of the decision to foreclose *all* habeas claims, including a claim of “natural-born U.S. citizen[ship],” “a claim that rogue immigration officials forged the record of a credible-fear interview that . . . never happened,” or a claim that an asylum officer made a “dead-wrong legal interpretation.” *Id.* at 151 (Breyer, J., concurring in the judgment).

27. On information and belief, on or about May 20, 2025, DHS issued guidance regarding, among other things, the dismissal of full removal proceedings under 8 U.S.C. § 1229a. On information and belief, the DHS Dismissal Guidance “instruct[ed]” DHS attorneys to move to dismiss full removal proceedings in order to “help deportation officers . . . arrest people who” DHS believes are “‘amenable’ to . . . expedited removal.” Hamed Aleaziz, et al., *How ICE Is*

*Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times (May 30, 2025).<sup>1</sup> Under the DHS Dismissal Guidance, agency attorneys are “encourage[ed] . . . to look for cases that could be dismissed, which could accelerate deportations of more people.” *Id.* The DHS policy of dismissing removal proceedings under 8 U.S.C. § 1229a is being challenged as unlawful in *Immigrant Advocates Response Collaborative v. United States Department of Justice*, No. 25-cv-02279 (D.D.C. filed July 16, 2025).

28. The Supreme Court in *Johnson v. Guzman Chavez*, 141 S. Ct. 2271 (2021) held that individuals in withholding-only proceedings following reinstated removal orders (a category that includes Ms. Chen) are detained under § 1231, not under the pre-removal detention statute § 1226, and therefore have no statutory right to a bond hearing during their pursuit of withholding. However, the absence of a statutory bond hearing mechanism does not mean ICE can detain such individuals indefinitely. Section 1231 must still be administered in compliance with the Constitution and the limitations recognized by *Zadvydas* and its progeny. As detailed below, Respondents’ continued detention of Ms. Chen well past the six-month presumptive limit, and with no prospect of removal, exceeds their lawful authority under the INA and violates Ms. Chen’s constitutional rights.

## **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

29. Petitioner has exhausted all available administrative remedies, or in the alternative, exhaustion should be excused because no adequate administrative remedies exist to challenge the legality of Petitioner’s detention.

30. Petitioner is currently detained by ICE at the Otay Mesa Detention Center in San Diego, California. Immigration Judges have limited jurisdiction over custody determinations in immigration proceedings, and once bond has been denied or jurisdiction over custody has otherwise been foreclosed, there are no further meaningful administrative avenues available to challenge the legality of prolonged detention. The Board of Immigration Appeals likewise lacks authority to provide the relief sought here which is release from unlawful civil detention or a constitutionally adequate custody hearing. Because immigration courts cannot adjudicate constitutional challenges to immigration detention, Petitioner’s claims fall outside the scope of the administrative process.

31. Moreover, even where administrative review might theoretically exist, exhaustion is not required where pursuing such remedies would be futile or inadequate. Courts routinely excuse exhaustion in immigration habeas cases when a petitioner challenges the legality or constitutionality of detention itself rather than a discretionary custody determination. Petitioner's claims arise under the Fifth Amendment's Due Process Clause and federal habeas statutes, which are matters committed to the jurisdiction of federal courts.

32. Requiring Petitioner to pursue additional administrative remedies would therefore be futile and would serve only to prolong an already unlawful deprivation of liberty. Petitioner remains in civil immigration detention each day while awaiting resolution of this matter, and the harm resulting from continued detention cannot be adequately remedied through the administrative immigration process.

33. Accordingly, because Petitioner has either exhausted available administrative remedies or such remedies are unavailable, inadequate, or futile, this Court may properly exercise jurisdiction over this habeas petition.

#### **VII. STATEMENT OF FACTS**

34. Petitioner is a national of the People's Republic of China who fled China and departed on or about April 18, 2024 after experiencing circumstances that caused Petitioner to seek protection in the United States. Petitioner traveled under difficult conditions to reach the United States for the sole purpose of requesting protection from return to China. Petitioner has no criminal history and poses no danger to the community. Petitioner has consistently complied with U.S. law, maintained stable community ties, and has every incentive to continue appearing for immigration authorities as required. There is no allegation that Petitioner has ever engaged in violent conduct, and there is no basis to treat Petitioner as a flight risk.

35. On or about February 20, 2026, Petitioner was taken into immigration custody and placed in an immigration detention facility. The arrest and resulting detention occurred suddenly and without meaningful notice, and Petitioner has remained detained since that date. As of the date of this filing, Petitioner has been detained for an extended period following the entry of a final order and the commencement of detention under INA § 241(a)(6).

36. Since being detained, Petitioner's physical and mental health have deteriorated. Petitioner reports persistent insomnia, frequent nightmares, worsening memory, and difficulty

thinking clearly. Petitioner frequently experiences panic, helplessness, and a markedly reduced appetite, accompanied by noticeable weight loss. These symptoms have been exacerbated by the stress of continued confinement and the uncertainty associated with indefinite detention.

37. Conditions of confinement have also interfered with Petitioner's ability to communicate with counsel and to assist in the preparation of necessary statements and the collection of critical documents. The facility severely restricts communications; calls, when permitted, are brief and frequently interrupted. These constraints have impeded Petitioner's meaningful participation in legal proceedings and have further intensified Petitioner's anxiety and distress.

38. Petitioner has already been granted protection from removal in the form of withholding of removal and/or protection under the Convention Against Torture, and the United States is legally barred from removing Petitioner to China. Petitioner therefore has no pending immigration court merits proceedings remaining, and there is no lawful pathway to execute removal to the designated country of removal.

39. Despite the legal prohibition on removal to China, ICE has asserted that it is searching for a third country to accept Petitioner. As a practical and legal matter, removal to a third country is not realistically attainable and is not reasonably foreseeable. Petitioner's continued detention has therefore ceased to serve any permissible immigration purpose and instead functions as punishment.

40. Petitioner has not received any meaningful individualized assessment justifying continued post-order detention where removal is not reasonably foreseeable. The immigration court has denied bond review for lack of jurisdiction based on Petitioner's post-order detention status, leaving Petitioner confined without a realistic prospect of release through the ordinary administrative process.

41. Petitioner is not in expedited removal proceedings under INA § 235(b)(1). Petitioner is detained after a final order under INA § 241(a)(6), even though the government cannot lawfully remove Petitioner to China and cannot demonstrate that removal to any other country is likely in the reasonably foreseeable future. Petitioner is thus subjected to potentially indefinite detention without statutory authority or substantive due process justification where removal is not reasonably foreseeable under *Zadvydas v. Davis*.

## VIII. CLAIMS FOR RELIEF

### COUNT I

#### **Unlawful Prolonged Civil Immigration Detention Without an Individualized Bond Hearing Violates the Fifth Amendment (U.S. Const. amend. V)**

42. Petitioner realleges and incorporates by reference all preceding paragraphs.

43. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law. This protection applies to all persons within the United States, including noncitizens in immigration detention.

44. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Civil immigration detention must therefore remain reasonably related to its regulatory purposes and must include adequate procedural safeguards.

45. The Supreme Court has repeatedly recognized that civil immigration detention is constitutionally permissible only when it is reasonably related to the government's legitimate purposes of ensuring appearance at removal proceedings and protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

46. Petitioner has now been detained for a prolonged period while his removal proceedings has ended and while he has obtained protection from persecution in his country of origin. Despite the ongoing nature of his case, Petitioner has not been provided with any meaningful opportunity to seek release from detention.

47. Without an individualized custody determination assessing factors such as flight risk, danger to the community, or conditions of supervision, Petitioner's continued detention becomes arbitrary and excessive in relation to the government's regulatory interests.

48. The Due Process Clause requires that prolonged civil detention be accompanied by meaningful procedural safeguards, including an individualized hearing before a neutral decisionmaker. Respondents' refusal to provide such a hearing violates Petitioner's constitutional right to due process.

### COUNT II

#### **Habeas Corpus Relief is Necessary Because Petitioner Has No Adequate Alternative Remedy**

**(28 U.S.C. § 2241)**

49. Petitioner realleges and incorporates by reference all preceding paragraphs.

50. The federal habeas corpus statute provides that a person in custody in violation of the Constitution or laws of the United States may seek relief in federal court. 28 U.S.C. § 2241(c)(3).

51. Petitioner is currently detained by Respondents and therefore satisfies the custody requirement for habeas jurisdiction.

52. Habeas corpus review is Petitioner's only available mechanism for challenging the legality of his detention.

53. Absent relief from this Court, Petitioner will remain detained for an indeterminate period while awaiting resolution of his removal proceedings, without any opportunity for individualized review of his custody status.

54. The continued detention of Petitioner without a bond hearing violates both the Immigration and Nationality Act and the Fifth Amendment to the United States Constitution.

55. Therefore, this Court should grant the writ of habeas corpus and order Respondents to either release Petitioner from custody or provide him with a prompt individualized bond hearing before an immigration judge.

**COUNT III**

**Detention Based on an Invalid Agency Interpretation and Reliance on Vacated Precedent  
Is Contrary to Law**

**(Administrative Procedure Act, 5 U.S.C. § 706; Fifth Amendment Due Process Clause)**

56. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

57. Respondents continue to detain Petitioner after Petitioner obtained the protection of withholding of removal.

58. Even if Petitioner requested a bond hearing, the Immigration Judge usually deny the request for lack of jurisdiction based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under that decision, the Board of Immigration Appeals concluded that noncitizens present in the United States without admission are considered "applicants for admission" and therefore subject to mandatory detention under § 1225(b), which purportedly eliminates Immigration Judge jurisdiction over bond determinations.

59. However, that agency interpretation has since been rejected by federal courts. On February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado* in its entirety, concluding that the decision was contrary to law and could not be relied upon to deny bond hearings.

60. Because the decision has been vacated under the Administrative Procedure Act, it no longer constitutes valid agency precedent and cannot lawfully serve as the basis for denying bond hearings or continued detention.

61. Despite this development, Respondents continue to detain Petitioner without providing an individualized custody determination. By continuing to rely on a vacated agency precedent to justify detention, Respondents are acting in a manner that is *arbitrary, capricious, and contrary* to law within the meaning of 5 U.S.C. § 706(2).

62. The government's reliance on an invalid legal framework has deprived Petitioner of the statutory custody review available under INA § 236(a), 8 U.S.C. § 1226(a), which permits release on bond or conditional supervision pending completion of removal proceedings.

63. Furthermore, continued detention without a bond hearing based on a vacated agency precedent violates the Due Process Clause of the Fifth Amendment, which protects individuals from arbitrary civil detention without meaningful procedural safeguards.

64. Accordingly, Respondents' continued detention of Petitioner based on the now-vacated decision in *Matter of Yajure Hurtado* is unlawful.

65. Petitioner therefore requests that this Court grant the writ of habeas corpus and order Respondents to provide Petitioner with a prompt individualized bond hearing before an Immigration Judge or release Petitioner from custody.

#### **IX. PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter.
2. Issue an Order to Show Cause directing Respondents to file a return and to show cause, within a short period.
3. Declare that Petitioner's continued detention is unlawful because it exceeds the authority granted by 8 U.S.C. § 1231 and violates Petitioner's rights under the Fifth Amendment to the U.S. Constitution.

4. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Chi from immigration custody.
5. In the alternative, order Respondents to provide Petitioner with a prompt individualized bond hearing before an Immigration Judge within seven (7) days, at which the Government bears the burden of demonstrating by clear and convincing evidence that Petitioner's continued detention is justified based on flight risk or danger to the community.
6. Issue an Order to Show Cause directing Respondents to respond to this Petition forthwith pursuant to 28 U.S.C. § 2243.
7. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court while this habeas petition is pending.
8. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act or any other applicable authority, if she prevails in this action.
9. Grant any further relief that this Court deems just and proper, including such orders as may be necessary to effectuate the Court's judgments.

Respectfully submitted on this 12<sup>th</sup> day of March, 2026,

Respectfully submitted,

*JJ Zhang*

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Dated: March 12, 2026