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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 TAO ZHANG,

14 Petitioner,

15 v.

16 PAMELA BONDI, in her official capacity as
17 Attorney General of the United States;
18 MARKWAYNE MULLIN, in his official
19 capacity as Secretary of Homeland Security;
20 TODD M. LYONS, in his official capacity as
21 Acting Director of U.S. Immigration and
22 Customs Enforcement (ICE); GREGORY
23 ARCHAMBEAULT, in his official capacity as
24 Field Office Director, San Diego Field Office,
25 U.S. Immigration and Customs Enforcement
26 and JEREMY CASEY, in his official capacity
27 as Warden Of The Imperial Regional
28 Detention Facility,

Respondents.

Case No.: '26CV1986 RBM BJW

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

IMMIGRATION HABEAS CASE

1 INTRODUCTION

- 2 1. Petitioner Tao Zhang ("Petitioner" or "Mr. Zhang"), a native and citizen of the People's
3 Republic of China, is being unlawfully and arbitrarily detained by U.S. Immigration and
4 Customs Enforcement ("ICE") at the Imperial Regional Detention Facility in Calexico,
5 California. Mr. Zhang has resided in the United States for nearly three years, during which
6 time he has been a law-abiding, hardworking member of his community, serving as a truck
7 driver to support his family.
- 8 2. He is the devoted father of a seven-year-old son in China and the son of elderly parents in
9 their eighties living in rural China. Despite having no criminal history and a pending,
10 meritorious asylum claim based on [REDACTED] ICE agents abruptly
11 arrested Mr. Zhang on March 26, 2026, approximately 100 miles from Los Angeles, and
12 transferred him to a high-security detention facility. This sudden detention has plunged his
13 family into profound financial and emotional distress and has severely aggravated the health
14 conditions of his elderly parents.
- 15 3. Mr. Zhang's continued detention is legally unsupportable and violates both statutory law and
16 the Due Process Clause of the Fifth Amendment. Because the Board of Immigration Appeals
17 ("BIA") previously remanded the record for a new decision, there is currently no final order
18 of removal in effect. Consequently, Mr. Zhang is a non-citizen in ongoing Section 240
19 removal proceedings, yet he is being denied the fundamental right to an individualized bond
20 hearing.
- 21 4. Furthermore, Respondents' reliance on categorical bars to detention, such as those recently
22 challenged and vacated in the Central District of California in *Maldonado Bautista v. DHS*,
23 cannot override Mr. Zhang's constitutional right to be free from arbitrary civil imprisonment.
24 Because Mr. Zhang's underlying asylum claim is based on documented past persecution
25 [REDACTED] his ultimate success on the
26 merits is highly probable, rendering his current detention neither reasonable nor related to a
27 legitimate government purpose.
- 28

1 5. Petitioner brings this Emergency Petition for Writ of Habeas Corpus to end his unlawful
2 detention. This Court should issue the Writ and order Mr. Zhang's immediate release, or, in
3 the alternative, order an immediate bond hearing before a neutral adjudicator where the
4 Government bears the burden of proving by clear and convincing evidence that his continued
5 detention is necessary.

6 **CUSTODY**

7 6. Petitioner Tao Zhang (A# ~~XXXXXXXXXX~~) is currently civilly imprisoned in the legal and
8 physical custody of Respondents. Mr. Zhang is being detained at the Imperial Regional Adult
9 Detention Facility, located at 1572 Gateway Road, Calexico, CA 92231.

10 **JURISDICTION**

11 7. This action arises under the Constitution of the United States and the Immigration and
12 Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.
13 8. This Court has subject matter jurisdiction over this Verified Emergency Petition for Writ of
14 Habeas Corpus pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal
15 question), 28 U.S.C. § 1651 (the All Writs Act), and Article I, Section 9, Clause 2 of the
16 United States Constitution (the Suspension Clause)

17 **VENUE**

18 9. Venue is proper in the United States District Court for the Southern District of California
19 pursuant to 28 U.S.C. § 1391(b) and (e) and 28 U.S.C. § 2241(a). Petitioner Tao Zhang (A#
20 249-256-243) is currently detained by Respondents at the Imperial Regional Detention
21 Facility, located at 1572 Gateway Road, Calexico, CA 92231.
22 10. The Imperial Regional Detention Facility is located within Imperial County, which falls
23 within the jurisdictional boundaries of the Southern District of California. Under the well-
24 established "immediate custodian rule," the proper venue for a habeas petition is the judicial
25 district where the prisoner is confined and where the immediate custodian is located. In this
26 case, the immediate physical custodian is the Warden of the Imperial Regional Detention
27 Facility.
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1 11. Furthermore, venue is appropriate in this District because the administrative decisions
2 regarding Petitioner's current custody and the physical act of his detention are occurring
3 within this jurisdiction. Respondent Gregory Archambeault, the Field Office Director for the
4 ICE San Diego Field Office, maintains legal oversight of Petitioner's detention and conducts
5 official business within this District. Consequently, assigning this case to the San Diego
6 Division is proper as it is the district of confinement.

7 **EXHAUSTION**

8 12. Petitioner is not required to exhaust administrative remedies. Exhaustion for habeas claims
9 brought under 28 U.S.C. § 2241 is a prudential, rather than a jurisdictional, requirement.

10 13. The prudential exhaustion requirement may be waived by this Court where "administrative
11 remedies are inadequate or not efficacious, pursuit of administrative remedies would be a
12 futile gesture, [or] irreparable injury will result". Each of these conditions is present in Mr.
13 Zhang's case.

14 14. Pursuit of a bond hearing before an Immigration Judge would be a futile gesture due to the
15 current legal landscape. Under the Board of Immigration Appeals' ("BIA") binding
16 precedent in *Matter of Yajure-Hurtado*, 28 I&N Dec. 751 (BIA 2024), the agency has
17 explicitly stripped Immigration Judges of the authority to conduct bond hearings for
18 noncitizens who, like Petitioner, entered without inspection ("EWI") and are classified as
19 "applicants for admission" under INA § 235(b)(2)(A).

20 15. Although a district court in this circuit recently vacated *Yajure-Hurtado* in *Maldonado*
21 *Bautista v. DHS*, Case No. 5:25-cv-01873-SSS-BFM, that ruling has been stayed by the
22 Ninth Circuit as of March 6, 2026. Consequently, the Executive Office for Immigration
23 Review ("EOIR") is currently mandated to follow the restrictive *Yajure-Hurtado* standard,
24 making any administrative request for a bond hearing a "dead letter" that the agency lacks
25 the authority to grant.

26 16. Furthermore, exhaustion is not required because Petitioner's claims involve fundamental
27 Fifth Amendment Due Process challenges to his categorical detention. It is well-settled that
28 the immigration agency lacks the authority to adjudicate constitutional questions.

1 17. Requiring Petitioner to undergo a lengthy and ultimately futile administrative process would
2 cause certain irreparable injury. Mr. Zhang has been a diligent worker for nearly three years,
3 providing essential financial support for his family. His sudden detention on March 26, 2026,
4 while working as a truck driver has left his seven-year-old son in China in a state of extreme
5 financial and emotional instability.

6 18. Moreover, Petitioner's elderly parents in rural China, both in their eighties, have suffered a
7 serious aggravation of their health conditions directly resulting from the acute stress of his
8 arrest and ongoing detention. Every additional day Petitioner remains in custody without an
9 individualized bond hearing constitutes a severe and irreparable deprivation of his liberty
10 and a worsening of these humanitarian crises.

11 **PARTIES**

12 19. TAO ZHANG ("Petitioner" or "Mr. Zhang") is a 42-year-old native and citizen of the
13 People's Republic of China. He is currently civilly detained by U.S. Immigration and
14 Customs Enforcement ("ICE") at the Imperial Regional Adult Detention Facility in
15 Calexico, California. Mr. Zhang has resided in the United States since July 2023, following
16 his entry near Otay Mesa, California. He is a devoted father to a seven-year-old son and
17 provides critical support for his elderly parents in China.

18 20. PAMELA BONDI is the Attorney General of the United States. In this capacity, she is
19 responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g)
20 and oversees the Executive Office for Immigration Review ("EOIR"). She has ultimate legal
21 custody of Petitioner and is sued in her official capacity.


22 21. MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security
23 ("DHS"). He is responsible for the administration and enforcement of the immigration laws
24 and oversees ICE. As Secretary, he is a legal custodian of Petitioner and is sued in his official
25 capacity.

26 22. GREGORY ARCHAMBEAULT is the Field Office Director of the ICE San Diego Field
27 Office. He is responsible for carrying out ICE's immigration detention and removal
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1 operations within the San Diego area, which includes the Otay Mesa Detention Center. He
2 is a legal custodian of Petitioner and is sued in his official capacity.

3 23. Jeremy Casey is the Warden of the Imperial Regional Detention Facility. He is the immediate
4 physical custodian of Petitioner, exercising day-to-day control over his confinement. He is
5 sued in his official capacity.

6 **FACTUAL ALLEGATIONS**



7 24. Petitioner Tao Zhang is a 42-year-old native and citizen of the People's Republic of China.
8 He currently has a pending application for asylum and withholding of removal based on his
9  Exhibit A. Form I-589 filed by Mr.
10 Tao Zhang.

11 25. Mr. Zhang arrived in the United States near Otay Mesa, CA, on or about July 26, 2023. He
12 was not then admitted or paroled after inspection by an Immigration Officer. Exhibit B.
13 NTA.

14 26. On December 22, 2023, the Department of Homeland Security ("DHS") issued a Notice to
15 Appear ("NTA"), charging Mr. Zhang with removability under INA § 212(a)(6)(A)(i) as a
16 noncitizen present in the United States without being admitted or paroled. *Id.*

17 27. Following his initial processing, Mr. Zhang was released into the interior of the United
18 States. He established a stable residence in Flushing, New York, where he lived and worked
19 for nearly three years.

20 28. During his time in the United States, Mr. Zhang has been a law-abiding member of the
21 community with no criminal history. He worked diligently as a truck driver to provide
22 financial support for himself, his seven-year-old son in China, and his elderly parents who
23 reside in a rural area of China.

24 29. Mr. Zhang's asylum claim is predicated on 
25 
26 founded fear of future persecution. His Form I-589 was timely filed on January 11, 2024 On
27 March 26, 2026, despite his ongoing Section 240 removal proceedings and compliance with
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1 all previous immigration requirements, ICE agents detained Mr. Zhang while he was
2 working as a truck driver at a location approximately 100 miles from Los Angeles.

3 30. On March 27, 2026, Mr. Zhang was transferred to the Imperial Regional Detention Facility
4 in Calexico, California. **Exhibit C. Form I-830. Exhibit D. ICE Detention Lookup.**

5 31. There is currently no final order of removal against Mr. Zhang. He is a noncitizen in ongoing
6 removal proceedings with a presumptively meritorious claim for relief. **Exhibit E. EOIR**
7 **Case Status.**

8 32. Mr. Zhang's sudden and arbitrary detention has caused extreme hardship. His seven-year-
9 old son is experiencing severe emotional and financial distress due to the loss of his father's
10 support. Furthermore, the detention has had a devastating impact on Mr Zhang's parents,
11 who are in their eighties; their pre-existing health conditions have aggravated significantly
12 due to the acute stress and uncertainty regarding their son's safety.

13 33. Mr. Zhang is neither a flight risk nor a danger to the community. He has maintained a
14 consistent address, pursued his legal path to status through the Immigration Court, and has
15 a history of productivity and community ties in the United States.

16 LEGAL FRAMEWORK

17 I. Statutory Authority for Habeas Corpus Review

18 34. Under 28 U.S.C. § 2241, federal district courts have the broad authority to grant a writ of
19 habeas corpus to any person held "in custody in violation of the Constitution or laws or
20 treaties of the United States". The Supreme Court has long recognized that this federal
21 habeas review is the proper vehicle for noncitizens to challenge the lawfulness of their
22 physical confinement by immigration authorities. See *Zadvydas v. Davis*, 533 U.S. 678, 687
23 (2001).

24 35. This Court's jurisdiction is further grounded in the Suspension Clause of the United States
25 Constitution, which mandates that the privilege of the writ of habeas corpus shall not be
26 suspended except in extreme cases of rebellion or invasion. As an "immigration habeas
27 case," this action seeks a "swift and imperative remedy" for what Petitioner alleges is an
28 illegal restraint of his liberty. See *Fay v. Noia*, 372 U.S. 391, 400 (1963).

1 36. Petitioner meets the "in custody" requirement of § 2241 because he is currently detained by
2 Respondents at the Imperial Regional Detention Facility in Imperial County, California,
3 where he remains under the direct and exclusive control of the Department of Homeland
4 Security and its agents. Because the legality of his detention is at issue—and not the ultimate
5 discretionary decision of whether he should be removed—this Court maintains its "core"
6 habeas jurisdiction to ensure that the executive branch's detention of Petitioner comports
7 with the Immigration and Nationality Act and the Fifth Amendment.

8 **II. The Two Distinct Detention Regimes Under the INA**

9 37. The Immigration and Nationality Act ("INA") establishes two primary and mutually
10 exclusive detention frameworks for noncitizens in removal proceedings: 1) Mandatory
11 Detention under 8 U.S.C. § 1225(b)(2)(A): This provision applies strictly to "applicants for
12 admission" who are currently "seeking admission" at a port of entry. Detention under this
13 section is categorical and does not afford the noncitizen a bond hearing before an
14 Immigration Judge; and 2) Discretionary Detention under 8 U.S.C. § 1226(a): This provision
15 applies to noncitizens "already in the country" who are pending a decision on whether they
16 are to be removed. Under this regime, the Attorney General has the authority to release a
17 noncitizen on bond or conditional parole. Crucially, individuals detained under § 1226(a)
18 are entitled to an individualized bond hearing to determine if they pose a danger to the
19 community or a flight risk.

20 38. The distinction between these two regimes depends on whether the noncitizen has "effected
21 an entry" into the United States. While the Government may attempt to reclassify interior
22 residents as "applicants for admission" to bypass bond requirements—citing recent agency
23 shifts like *Matter of Yajure-Hurtado*—the Ninth Circuit has maintained that once an
24 individual has entered and established a life within the interior, their detention is governed
25 by the discretionary standards of § 1226(a)

26 39. Mr. Zhang is properly categorized under 8 U.S.C. § 1226(a). He did not just arrive at the
27 border; rather, he has lived openly in the United States for nearly three years, maintained a
28 stable residence in Flushing, New York, and worked diligently as a truck driver to support

1 his family. Having "effected an entry" and established deep roots in the community, Mr.
2 Zhang is no longer "seeking admission" in the same manner as a recently arrived alien at a
3 port of entry.

4 40. Furthermore, because Mr. Zhang is currently in ongoing Section 240 removal proceedings
5 with a pending asylum application, his legal posture has reverted to "pending a decision on
6 whether the [noncitizen] is to be removed". Under long-standing Ninth Circuit precedent,
7 detention authority for an individual in this specific procedural posture—standing on U.S.
8 soil with ongoing proceedings—rests with § 1226(a). Therefore, any attempt to subject Mr.
9 Zhang to mandatory, bond-less detention under § 1225(b) following his arrest on March 26,
10 2026, is a misapplication of the statute and a violation of his right to a custody
11 redetermination hearing.

12 **III. The "Effected Entry" Standard in the Southern District of California**

13 41. The Southern District of California, following well-settled Ninth Circuit authority,
14 recognizes a critical distinction between noncitizens apprehended at a port of entry and those
15 who have "effected an entry" by residing within the interior of the United States. While the
16 Government may attempt to categorize Petitioner as an "applicant for admission" under 8
17 U.S.C. § 1225(b), that classification applies only to those currently "taking active steps... to
18 seek lawful entry" at the border.

19 42. Petitioner, Mr. Zhang, has lived openly and continuously in the United States since his
20 arrival in July 2023. During this time, he has established profound community ties,
21 maintained a stable residence in Flushing, New York, and worked diligently as a truck driver
22 to provide for his family. By living and working in the interior for nearly three years, Mr.
23 Zhang has "effected an entry" and is no longer "seeking admission" within the meaning of
24 the mandatory detention statutes.

25 43. In this District, judges have recently and definitively rejected the Government's attempt to
26 reclassify established interior residents as border-style "applicants for admission" subject to
27 bond-less detention. For example, in *Huan et al v. Noem et al*, 3:26-cv-00512-JLS-DEB, this
28 Court held that the mandatory detention mandate of § 1225(b)(2)(A) is narrow and

1 inapplicable to individuals who have resided in the community for years. For such
2 individuals, detention is governed by 8 U.S.C. § 1226(a), which provides for discretionary
3 detention and authorizes release on bond or conditional parole.

4 **IV. The Burden of Proof in Bond Hearings**

5 44. Under binding Ninth Circuit precedent, Respondents must bear the burden of proof to justify
6 Mr. Zhang's continued detention without bond by clear and convincing evidence of flight
7 risk or danger to the community. In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011),
8 the Ninth Circuit determined that constitutional procedural due process required the
9 government to meet this high evidentiary standard in order to deprive a noncitizen of their
10 liberty.

11 45. Because Mr. Zhang is in ongoing Section 240 removal proceedings and has established deep
12 roots in the United States since his arrival in July 2023, his detention is governed by 8 U.S.C.
13 § 1226(a). As established in *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 947-
14 48 (9th Cir. 2008), the government must provide an individualized bond hearing for
15 individuals in this specific procedural posture. *Singh* imposes upon Respondents the burden
16 of proof both in a custody hearing ordered under § 1226(a) and in a custody hearing ordered
17 as a matter of due process.

18 46. Further, due process requires that the adjudicator consider alternatives to detention and
19 Petitioner's ability to pay bond. As the Ninth Circuit held in *Hernandez v. Sessions*, 872 F.3d
20 976, 991-92 (9th Cir. 2017), setting a bond amount without considering financial
21 circumstances or alternative conditions of release undermines the connection between the
22 bond and the legitimate purpose of ensuring the noncitizen's presence at future hearings.

23 47. Mr. Zhang, who has no criminal history, has maintained a stable life in the interior for nearly
24 three years, and serves as the primary financial support for his seven-year-old son and elderly
25 parents, is entitled to these fundamental procedural protections before any continued
26 detention.

27 **FIRST CLAIM FOR RELIEF**

Violation of the Immigration and Nationality Act (8 U.S.C. §§ 1225(b) and 1226(a))

48. Petitioner incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.

49. Under the plain language of the INA, the mandatory detention provision of § 1225(b)(2)(A) applies only to noncitizens "seeking admission" who have not yet "effected an entry" into the United States.

50. Because Petitioner has lived openly in the interior of the United States for nearly three years, he has effected an entry and is no longer "seeking admission" within the meaning of the statute.

51. Accordingly, Petitioner's detention is instead governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and authorizes release on bond or conditional parole.

52. By detaining Petitioner under the incorrect statutory authority and denying him a bond hearing, Respondents have acted in violation of the INA.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause (Procedural Due Process)

53. Petitioner incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.

54. The Fifth Amendment's Due Process Clause prohibits the government from depriving any person of their liberty without due process of law.

55. Freedom from imprisonment lies at the heart of the liberty that the Due Process Clause protects.

56. In this District, due process requires that a noncitizen who has established deep roots in the community be afforded an individualized bond hearing to determine if their detention is reasonably necessary to ensure their appearance or the safety of the community.

57. By re-detaining Petitioner without any change in circumstances or individualized finding of risk, and by holding him without a bond hearing, Respondents have violated Petitioner's procedural due process rights

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause (Unlawful Burden of Proof)

58. Petitioner incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.

59. Due process requires that when the government seeks to deprive an individual of their liberty through civil detention, the government must bear the burden of justifying that detention.

60. Under the prevailing law of this District, Respondents must justify Petitioner's continued detention by clear and convincing evidence that he is a flight risk or a danger to the community.

61. Respondents have failed to meet this burden and have instead subjected Petitioner to categorical, bond-less detention, thereby violating the Fifth Amendment

PRAAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court grant the following:

1) Grant the Writ of Habeas Corpus and assume jurisdiction over this matter;

2) Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and that his detention under 8 U.S.C. § 1225(b) is unlawful and in violation of the Fifth Amendment's Due Process Clause;

3) Issue a Writ of Habeas Corpus and order Respondents to immediately release Petitioner from DHS custody under reasonable conditions and enjoin Respondents from re-arresting him without a pre-deprivation hearing before this Court;

4) Alternatively, order that Petitioner be released within 7 days unless Respondents schedule a hearing to take place before a neutral arbiter where to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a danger or flight risk, and address why available conditions of supervision cannot mitigate any such risks; and if (a) the government fails to meet this burden, the neutral arbiter orders Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond; or (b) the

1 government meets this burden, the neutral arbiter issue a reasoned decision explaining why the
2 government has met its burden of proof and why alternatives to detention are inadequate;

3 5) Direct Respondents to file a status report with this Court within ten (10) days certifying
4 whether a bond hearing was held and the outcome of said hearing;

5 6) Enjoin Respondents from transferring Petitioner out of the District of Southern California
6 or from removing him from the United States while this Petition is pending;

7 7) Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to
8 Justice Act (EAJA), 28 U.S.C. § 2412, and any other applicable law; and

9 8) Grant such other and further relief as this Court deems just and proper.
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11
12 Date: March 28, 2026

Respectfully Submitted,

VIP LAW GROUP, PC

By: /s/ Guofeng Li

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Pro Bono Counsel for Petitioner

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: March 28, 2026

/s/ Guofeng Li
Guofeng Li, Esq