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8 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

9 **Ren Xun LIN**  
*Petitioner,*

10 *V.*  
11 Jeremy Casey, Warden of the Imperial  
Regional Adult Detention Facility, California,  
12 in his official capacity;  
Acting Field Office Director, San Diego Field  
13 Office of Detention and Removal, U.S.  
Immigration and Customs Enforcement, in  
14 his official capacity;  
Markwayne Mullin, Secretary, U.S.  
15 Department of Homeland Security, in his  
official capacity;;  
16 Todd M. Lyons, Acting Director of U.S.  
Immigration and Customs Enforcement, in  
17 his official capacity  
Pamela Bondi, U.S. Attorney General, in her  
18 official capacity.

19 *Respondents.*

**'26CV2024 RSH BLM**

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

**INTRODUCTION**

1. Petitioner Ren Xun Lin (“Petitioner”) seeks a writ of habeas corpus because he is currently detained at the Imperial Adult Correctional Facility in California by the Department of Homeland Security (“DHS”) in violation of the Due Process Clause of the Fifth Amendment.
2. This petition challenges only the legality of Petitioner’s present detention. It does not seek review of the underlying charge of removability or the merits of Petitioner’s applications for relief.
3. Petitioner is a native and citizen of China who entered the United States on January 8, 2025, by hiding in a vehicle and was apprehended by immigration authorities at a port of entry. He was taken into custody and has remained detained since that date.
4. Following his apprehension, Petitioner was placed in expedited removal proceedings. An asylum officer subsequently determined that Petitioner established a credible fear of persecution, and the expedited removal order was vacated. Petitioner was then placed into removal proceedings pursuant to INA § 240 through the issuance of a Notice to Appear (“NTA”).
5. Petitioner’s continued detention violates the Due Process Clause of the Fifth Amendment because he has been detained for more than fourteen months without a bond hearing or any individualized determination that he presents a risk of flight or a danger to the community.
6. Accordingly, Petitioner respectfully requests that this Court issue a writ of habeas corpus and grant appropriate relief.

**JURISDICTION**

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2 7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in federal  
3 custody and challenges the legality of his present physical detention under the  
4 Constitution and laws of the United States. “The essence of habeas corpus is an attack  
5 by a person in custody upon the legality of that custody.” Preiser v. Rodriguez, 411 U.S.  
6 475, 484 (1973).

7 8. Jurisdiction also arises under 28 U.S.C. § 1331 and the Suspension Clause, U.S. Const.  
8 art. I, § 9, cl. 2, which preserves the availability of habeas corpus to test the lawfulness  
9 of executive detention. Federal courts retain habeas jurisdiction over immigration  
10 detention unless Congress clearly eliminates it. See INS v. St. Cyr, 533 U.S. 289,  
11 298–314 (2001); Zadvydas v. Davis, 533 U.S. 678, 687 (2001).

12 9. Jurisdiction is not barred by 8 U.S.C. §§ 1252(b)(9) or 1252(g) because Petitioner does  
13 not seek review of removal proceedings or any final order of removal. He challenges  
14 only the statutory and constitutional basis for his present physical detention. In these  
15 circumstances, habeas jurisdiction remains available. See Nadarajah v. Gonzales, 443  
16 F.3d 1069, 1075–80 (9th Cir. 2006).

17 10. This Court has authority to grant habeas relief under 28 U.S.C. § 2241 and may issue  
18 appropriate relief necessary to effectuate that jurisdiction. See Nken v. Holder, 556 U.S.  
19 418, 426–27 (2009).

**VENUE**

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21 11. Venue is proper in this District under 28 U.S.C. § 2241(a) because Petitioner is detained  
22 at the Imperial Regional Detention Facility in California, which is located within this

1 District. Venue is also proper under 28 U.S.C. § 1391(e). See Braden v. 30th Judicial  
2 Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973); Rumsfeld v. Padilla, 542  
3 U.S. 426, 442–47 (2004).

#### 4 REQUIREMENTS OF 28 U.S.C. § 2243

5 12. This Court must grant the writ of habeas corpus or issue an order directing Respondents  
6 to show cause why the writ should not be granted “forthwith,” unless it appears from the  
7 application that the applicant is not entitled thereto. 28 U.S.C. § 2243. If the Court  
8 issues an order to show cause, Respondents must file a return “within three days unless  
9 for good cause additional time, not exceeding twenty days, is allowed.” Id.

10 13. Habeas corpus provides a prompt and effective remedy for unlawful detention. It is “a  
11 swift and imperative remedy in all cases of illegal restraint or confinement.” Fay v.  
12 Noia, 372 U.S. 391, 400 (1963).

13 14. Because this petition challenges an ongoing deprivation of physical liberty, it requires  
14 prompt judicial review. See Preiser v. Rodriguez, 411 U.S. 475, 495 (1973) (recognizing  
15 habeas corpus as the appropriate remedy for challenges to the fact or duration of  
16 physical confinement).

#### 17 EXHAUSTION OF ADMINISTRATIVE REMEDIES

18 15. No statute requires administrative exhaustion for this habeas petition. Petitioner  
19 challenges only the legality of his present detention under 28 U.S.C. § 2241. Federal  
20 courts retain jurisdiction to review claims that immigration detention exceeds statutory  
21 authority or violates the Constitution. See Jennings v. Rodriguez, 583 U.S. 281 (2018).

22 16. Although courts may, in limited circumstances, impose a prudential exhaustion

1 requirement, exhaustion is not required where administrative remedies are unavailable,  
2 inadequate, or where the agency lacks authority to grant the relief sought. See McCarthy  
3 v. Madigan, 503 U.S. 140, 146–49 (1992).

4 17. Petitioner does not seek review of his removal proceedings or any final order of  
5 removal. He challenges only the statutory and constitutional basis for his present  
6 detention. Such detention-only claims fall within the core of habeas corpus and are not  
7 subject to the INA’s administrative review provisions. See Nadarajah v. Gonzales, 443  
8 F.3d 1069, 1075–80 (9th Cir. 2006).

9 18. Requiring administrative exhaustion would serve no purpose here. Immigration Judges  
10 and the Board of Immigration Appeals lack authority to adjudicate constitutional  
11 challenges to prolonged detention or to grant habeas relief. In addition, exhaustion  
12 would be futile. Petitioner has not been afforded a bond hearing, and no mechanism  
13 exists within his current detention framework to provide an individualized determination  
14 of whether his continued detention is justified by flight risk or danger to the community.  
15 Under these circumstances, requiring exhaustion would not provide meaningful relief.

16 19. Accordingly, any prudential exhaustion requirement should be excused, and the Court  
17 should consider this petition.

18 **PARTIES**

19 20. Petitioner Ren Xun LIN is currently detained by the Department of Homeland Security  
20 at the Imperial Regional Detention Facility in California.

21 21. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention Facility and  
22 Petitioner’s immediate physical custodian for purposes of habeas corpus. See Rumsfeld

1 v. Padilla, 542 U.S. 426, 442–47 (2004).

2 22. Respondent, the Field Office Director for U.S. Immigration and Customs Enforcement,  
3 San Diego Field Office, is sued in his or her official capacity. The San Diego Field  
4 Office oversees detention operations within this judicial district, including the Imperial  
5 Regional Detention Facility.

6 23. Respondent Markwayne Mullin is the Secretary of the United States Department of  
7 Homeland Security and is sued in his official capacity.

8 24. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs  
9 Enforcement and is sued in his official capacity.

10 25. Respondent Pam Bondi is the Attorney General of the United States and is sued in her  
11 official capacity. See 8 U.S.C. §§ 1103(a)(1), 1103(g).

12 26. Each Respondent is sued solely in his or her official capacity in connection with  
13 Petitioner’s detention.

14 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

15 27. Petitioner is a native and citizen of China. He is a [REDACTED] who was  
16 persecuted in China on account of his religion. Petitioner attended [REDACTED]  
17 where religious practice is restricted by the government.

18 28. As a result of his religious practice, Petitioner was arrested by Chinese police, detained  
19 for approximately fifteen days, and physically beaten while in custody. He was also  
20 fined by authorities for practicing his faith. Fearing further persecution, Petitioner fled  
21 China.

22 29. Petitioner entered the United States on January 8, 2025, by hiding in a vehicle and was

1 apprehended by immigration authorities at a port of entry. He was taken into custody  
2 and has remained detained since that date.

3 30. Following his apprehension, Petitioner was placed in expedited removal proceedings.

4 An asylum officer subsequently determined that Petitioner established a credible fear of  
5 persecution. Accordingly, the expedited removal order was vacated, and Petitioner was  
6 placed into removal proceedings pursuant to INA § 240.

7 31. Petitioner timely filed his application for asylum, withholding of removal, and  
8 protection under the Convention Against Torture.

9 32. On January 6, 2026, an Immigration Judge denied Petitioner's application and ordered  
10 him removed.

11 33. Petitioner timely filed an appeal to the Board of Immigration Appeals on February 17,  
12 2026. That appeal remains pending.

13 34. Petitioner is currently detained at the Imperial Adult Correctional Facility in California  
14 and has remained continuously detained there since January 7, 2025.

15 35. At no point during his detention has Petitioner received a bond hearing or any  
16 individualized determination as to whether he presents a risk of flight or a danger to the  
17 community.

18 36. Petitioner has now been detained for more than fourteen months while his removal  
19 proceedings remain ongoing. His detention will continue while his appeal is adjudicated  
20 and may continue further if additional administrative or judicial review is sought.

21 37. As a result, Petitioner's detention has become prolonged and indefinite, with no defined  
22 endpoint.

23 PETITION FOR WRIT OF HABEAS CORPUS - 7

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**LEGAL FRAMEWORK**

**Petitioner’s Continued and Prolonged Detention Violates the**

**Fifth Amendment’s Due Process Clause**

38. Petitioner has been detained in immigration custody since January 7, 2025, for more than fourteen months, without a bond hearing or any individualized determination that he presents a risk of flight or danger to the community. His continued detention under these circumstances is in violation of the Due Process Clause of the Fifth Amendment.

39. The Fifth Amendment provides that no person shall be “deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

40. The protections of the Due Process Clause extend to all persons within the United States, including noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.” Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

41. At the core of that protection is freedom from physical restraint. The Supreme Court has explained that “freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.” Id. at 690.

42. Because immigration detention is civil, not criminal, it is subject to constitutional limitations. The Supreme Court has made clear that “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.” Id. at 690.

43. Accordingly, civil detention is permissible only in limited, nonpunitive circumstances where a “special justification” outweighs the individual’s “constitutionally protected interest in avoiding physical restraint.” Id.; see also Foucha v. Louisiana, 504 U.S. 71,

1 80 (1992); Kansas v. Hendricks, 521 U.S. 346, 356 (1997); United States v. Salerno,  
2 481 U.S. 739 (1987).

3 44. The permissible justifications for immigration detention are regulatory in nature. As the  
4 Supreme Court explained, the Government asserts interests in “ensuring the  
5 appearance of aliens at future immigration proceedings” and “[p]reventing danger  
6 to the community.” Zadvydas, 533 U.S. at 690. Those justifications are not without  
7 limits. Where removal is no longer reasonably attainable, the justification for detention  
8 weakens. In that circumstance, detention no longer “bear[s] [a] reasonable relation to the  
9 purpose for which the individual [was] committed.” Id. (quoting Jackson v. Indiana, 406  
10 U.S. 715, 738 (1972)).

11 45. The Court has further recognized that preventive detention based on dangerousness is  
12 constitutionally permissible only in narrow circumstances and must be accompanied by  
13 strong procedural protections. Zadvydas, 533 U.S. at 690. When detention becomes  
14 prolonged and the Government cannot establish a sufficient regulatory justification,  
15 continued detention violates due process. Id.

16 46. Consistent with these principles, courts evaluate due process challenges to immigration  
17 detention through a two-step inquiry. The Court first determines whether a protected  
18 liberty interest exists, and then determines what procedures are necessary to ensure that  
19 any deprivation of that liberty interest complies with the Constitution. Garcia v.  
20 Andrews, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at \*2 (E.D. Cal. July 14,  
21 2025).

22 47. Where detention becomes prolonged, courts in this Circuit assess whether continued

1 detention without a bond hearing violates due process by applying a multi-factor  
2 framework. See Banda v. McAleenan, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019).  
3 Those factors are: “(1) the total length of detention to date; (2) the likely duration of  
4 future detention; (3) the conditions of detention; (4) delays in the removal proceedings  
5 caused by the detainee; (5) delays in the removal proceedings caused by the government;  
6 and (6) the likelihood that the removal proceedings will result in a final order of  
7 removal.” Id.

8 48. Courts applying this framework in this Circuit have repeatedly held that prolonged  
9 immigration detention without an individualized bond hearing raises serious  
10 constitutional concerns and, at some point, violates due process. As one court explained,  
11 “prolonged mandatory detention pending removal proceedings, without a bond hearing,  
12 will—at some point—violate the right to due process.” Abdul-Samed v. Warden of  
13 Golden State Annex Det. Facility, No. 1:25-cv-00098-SAB, 2025 WL 2099343, at \*6  
14 (E.D. Cal. July 25, 2025) (quoting Martinez v. Clark, No. 2:18-cv-01669-RAJ, 2019 WL  
15 5968089, at \*6 (W.D. Wash. May 23, 2019)); see also Mohammed v. Warden of Cal.  
16 City Det. Ctr., No. 1:26-cv-00118-DJC-CSK, 2026 WL 192368 (E.D. Cal. Jan. 26,  
17 2026); Sumit Singh Choudhary v. Christopher Chestnut, No. 1:26-cv-01770-DJC-CKD  
18 (E.D. Cal. Mar. 24, 2026).

19 **I. PETITIONER’S REMOVAL ORDER IS NOT FINAL**

20 49. As an initial matter, Petitioner’s removal order is not final. An Immigration Judge  
21 ordered removal on January 6, 2026. Petitioner timely filed an appeal with the Board of  
22

1 Immigration Appeals (“BIA”) on February 17, 2026. That appeal remains pending.

2 50. Congress has defined precisely when an order of removal becomes final. Under 8 U.S.C.  
3 § 1101(a)(47)(B), an order becomes final only upon the earlier of: (1) affirmance by the  
4 Board of Immigration Appeals, (2) waiver of appeal, or (3) expiration of the time to  
5 appeal. The governing regulation confirms the same rule. 8 C.F.R. § 1241.1 provides  
6 that an order becomes final only “[u]pon dismissal of an appeal by the Board of  
7 Immigration Appeals,” “[u]pon waiver of appeal,” or “[u]pon expiration of the time  
8 allotted for an appeal.”

9 51. The Ninth Circuit has consistently applied this rule. An order is final only when the  
10 “BIA decided all the matters before it,” and “there was nothing pending before the  
11 Board.” Li v. Holder, 656 F.3d 898, 904 (9th Cir. 2011). Finality does not attach where  
12 proceedings remain pending before the agency. Abdisalan v. Holder, 774 F.3d 517 (9th  
13 Cir. 2014) (en banc).

14 52. Here, none of the statutory or regulatory conditions for finality has occurred. Petitioner’s  
15 appeal remains pending, the Board has not issued a decision, and Petitioner has not  
16 waived his appeal.

17 53. Accordingly, Petitioner’s removal order is not administratively final, and his detention  
18 continues while his case remains under review.

19 **II. PETITIONER HAS A PROTECTED LIBERTY INTEREST**

20 54. Petitioner has a protected liberty interest in freedom from physical confinement because  
21 “freedom from imprisonment—from government custody, detention, or other forms of  
22 physical restraint—lies at the heart of the liberty that Clause protects.” Zadvydas v.

1 Davis, 533 U.S. 678, 690 (2001).

2 55. Consistent with that principle, courts have held that individuals in circumstances  
3 materially similar to Petitioner possess a protected liberty interest in their freedom from  
4 detention. In Sumit Singh Choudhary v. Christopher Chestnut, No.  
5 1:26-cv-01770-DJC-CKD (E.D. Cal. Mar. 24, 2026), the Court considered “a noncitizen  
6 who entered the United States in January of 2025 and has been detained by Immigration  
7 and Customs Enforcement (“ICE”) for the twelve months since pursuant to 8 U.S.C. §  
8 1225(b)(1)(B)(ii).” The Court explained that an asylum officer found Petitioner had a  
9 credible fear of persecution and was not subject to expedited removal. The Court further  
10 stated, “[d]uring this time, Petitioner has never received a bond hearing nor any other  
11 individualized assessment of whether he presents a risk of flight or danger to the  
12 community.” The Court then held: “Petitioner has a clear liberty interest in securing his  
13 freedom from detention.” The Court explained that the petitioner “faces indefinitely  
14 prolonged detention while his asylum case is processed,” and concluded: “As Petitioner  
15 has been deprived of the liberty secured by the Due Process Clause and this deprivation  
16 will continue for a protracted and indefinite period, Petitioner has established his liberty  
17 interest.”

18 56. The Court reached the same conclusion in Khim Prasad K C v. Chestnut, No.  
19 1:26-cv-00227-DJC-CSK (E.D. Cal. Feb. 13, 2026), where it held that a detainee “has a  
20 clear liberty interest in securing his freedom from detention” where he remained  
21 detained while his asylum proceedings were pending. The Court explained that because  
22 the petitioner was pursuing asylum, he faced indefinitely prolonged detention while his

1 asylum case was processed.

2 57. Similarly here, Petitioner entered the United States on January 7, 2025, seeking asylum  
3 based on persecution on account of his religion, and has remained detained since that  
4 date. An asylum officer found him credible, and he is not subject to expedited removal.  
5 Like the petitioner in Choudhary, Petitioner has never received a bond hearing or any  
6 individualized assessment of whether he presents a risk of flight or danger to the  
7 community. Likewise, as in Khim Prasad, Petitioner is pursuing asylum and remains  
8 detained while that claim is processed. Petitioner has now been detained for more than  
9 fourteen months.

10 58. Moreover, Petitioner’s proceedings remain ongoing. His case is currently pending before  
11 the Board of Immigration Appeals, and further review before the Ninth Circuit may  
12 follow. As a result, Petitioner’s detention continues while his case is adjudicated and  
13 does not have a defined endpoint. Under these circumstances, as in Choudhary,  
14 Petitioner “has been deprived of the liberty secured by the Due Process Clause and this  
15 deprivation will continue for a protracted and indefinite period.”

16 59. Accordingly, Petitioner has a protected liberty interest in freedom from continued  
17 detention.

18 **III. PETITIONER’S PROLONGED DETENTION**

19 **VIOLATES PROCEDURAL DUE PROCESS**

20 60. Having established that Petitioner possesses a protected liberty interest, the Court must  
21 determine what process is constitutionally required. Immigration detention is  
22 constitutionally justified only to serve the Government’s regulatory interests in ensuring

1 a noncitizen's appearance at removal proceedings or protecting the community from  
2 danger. Zadvydas. When detention becomes prolonged, due process requires an  
3 individualized determination that continued detention is justified by those interests.

4 61. Courts in this Circuit evaluate whether continued detention without a bond hearing  
5 violates due process by applying the factors set forth in Banda v. McAleenan, 385 F.  
6 Supp. 3d 1099, 1118 (W.D. Wash. 2019). Those factors are: "(1) the total length of  
7 detention to date; (2) the likely duration of future detention; (3) the conditions of  
8 detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in  
9 the removal proceedings caused by the government; and (6) the likelihood that the  
10 removal proceedings will result in a final order of removal."

11 62. Consistent with this framework, courts in this district, including this Court, have applied  
12 the factors set forth in Banda v. McAleenan to detention under 8 U.S.C. § 1225(b). In  
13 Sandesh v. LaRose, No. 3:26-cv-00849-JES-DDL, 2026 WL 622690, at \*3 (S.D. Cal.  
14 Mar. 5, 2026), the court found "it most appropriate to apply the Banda test to  
15 Petitioner's detention here under § 1225(b), as other courts within this district have done  
16 in the past." Likewise, in Sumit Singh Choudhary v. Christopher Chestnut, No.  
17 1:26-cv-01770-DJC-CKD (E.D. Cal. Mar. 24, 2026), the Court applied the Banda  
18 factors to determine whether prolonged detention without a bond hearing violated due  
19 process.

20 63. Courts have further emphasized that the first factor, the length of detention, is "the most  
21 important factor."

22 64. Applying those factors here demonstrates that Petitioner's continued detention without a

1 bond hearing violates due process.

2 **I. The Length of Detention Strongly Favors Petitioner**

3 65. The first factor, “the total length of detention to date,” is “the most important factor.”

4 Banda v. McAleenan, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019).

5 66. Applying that principle, courts in this Circuit have held that detention of approximately

6 twelve months is sufficiently prolonged to warrant relief. In Sumit Singh Choudhary v.

7 Christopher Chestnut, the Court held that approximately twelve months of detention

8 “align[s] with that other courts in this circuit have sufficiently prolonged to warrant

9 relief.” See also Lopez v. Garland, 631 F. Supp. 3d 870, 879–80 (E.D. Cal. 2022)

10 (finding that detention spanning twelve months weighed in favor of granting a bond

11 hearing). See also, Abdul-Samed v. Warden of Golden State Annex Det. Facility, No.

12 1:25-cv-00098-SAB, 2025 WL 2099343, at \*6 (E.D. Cal. July 25, 2025)(same);

13 Mohammed v. Warden of Cal. City Det. Ctr., No. 1:26-cv-00118-DJC-CSK, 2026 WL

14 192368 (E.D. Cal. Jan. 26, 2026)(same); Abdul Kadir v. LaRose, 2025 WL 2932654, at

15 \*5 (S.D. Cal. Oct. 15, 2025) (collecting cases and finding that a nearly thirteen-month

16 detention weighed in favor of the petitioner).

17 67. Here, Petitioner has been detained since January 7, 2025 and has now been held for

18 more than fourteen months without a bond hearing or any individualized determination

19 of flight risk or dangerousness. Courts in this Circuit have held that detention of

20 approximately twelve months is sufficiently prolonged to warrant relief. Petitioner’s

21 detention exceeds that benchmark. Like the petitioner in Choudhary, Petitioner has been

22 detained longer than the periods found sufficient to warrant relief, and under the same

1 absence of a bond hearing. This duration of detention is prolonged as a matter of law  
2 and warrants relief.

3 68. Accordingly, this factor strongly favors Petitioner.

4 **2. The Likely Duration of Future Detention Favors Petitioner**

5 69. The second factor considers “the likely duration of future detention.” Banda v.  
6 McAleenan, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019). This factor requires  
7 consideration of “how long the detention is likely to continue absent judicial  
8 intervention; in other words, the anticipated duration of all removal proceedings  
9 including administrative and judicial appeals.” Martinez v. Clark, No.  
10 2:18-cv-01669-RAJ, 2019 WL 5968089, at \*9 (W.D. Wash. May 23, 2019), report and  
11 recommendation adopted, No. 2:18-cv-01669-RAJ, 2019 WL 5962685 (W.D. Wash.  
12 Nov. 13, 2019). As Martinez further explained, detention “is likely to endure  
13 indefinitely while determinations about Petitioner’s asylum claim and removability are  
14 made and appealed.” *Id.* The court found that the likely length of future detention,  
15 absent judicial intervention, weighed in favor of granting a bond hearing even where the  
16 petitioner had already received a removal order and filed an appeal.

17 70. Likewise, in Loba L.M. v. Andrews, No. 1:25-cv-00611-JLT-SAB-HC, 2025 WL  
18 2939178, at \*6 (E.D. Cal. Oct. 16, 2025), report and recommendation adopted, No.  
19 1:25-cv-00611-JLT-SAB, 2025 WL 3187577 (E.D. Cal. Nov. 14, 2025), the court held  
20 that “although future events are difficult to predict, the Court nevertheless finds that the  
21 pending appeal before the BIA and possible remand to the immigration court for further  
22 proceedings or possible judicial review by the Ninth Circuit will be sufficiently lengthy

1 such that this factor weighs in favor of Petitioner.” The same conclusion was reached in  
2 Bojorge-Sequeira v. Geo Grp. Inc., No. 2:25-cv-01807-KKE-GJL, 2026 WL 288378, at  
3 \*5 (W.D. Wash. Jan. 15, 2026), report and recommendation adopted, No.  
4 2:25-cv-01807-KKE-GJL, 2026 WL 285657 (W.D. Wash. Feb. 3, 2026), which found  
5 this factor weighed in favor of a petitioner who had appealed the Immigration Judge’s  
6 decision to the BIA.

7 71. The same is true here. Petitioner’s asylum case is pending before the Board of  
8 Immigration Appeals. As in Martinez v. Clark, Loba L.M. v. Andrews, and  
9 Bojorge-Sequeira v. Geo Grp. Inc., further proceedings may include remand to the  
10 immigration court or judicial review before the Ninth Circuit. During that time,  
11 Petitioner will remain detained.

12 72. Because Petitioner’s detention depends on the completion of those ongoing proceedings,  
13 it will continue through the resolution of his appeal and any further administrative or  
14 judicial review, without a defined endpoint. As recognized in Sumit Singh Choudhary v.  
15 Christopher Chestnut, Petitioner “faces indefinitely prolonged detention while his  
16 asylum case is processed.”

17 73. Accordingly, this factor favors Petitioner.

18 **3. The Conditions of Detention Weigh in Petitioner’s Favor**

19 74. The third factor considers “the conditions of detention.” Banda v. McAleenan, 385 F.  
20 Supp. 3d 1099, 1118 (W.D. Wash. 2019). As courts have explained, “[t]he more that the  
21 conditions under which the [noncitizen] is being held resemble penal confinement, the  
22 stronger his argument that he is entitled to a bond hearing.” Id. at 1119 (citation

1 omitted).

2 75. Courts in this Circuit have recognized that immigration detention in secure facilities is  
3 often indistinguishable from penal confinement and therefore heightens due process  
4 concerns. In Mudeer Hussain v. Christopher J. LaRose, Case No.

5 3:26-cv-00194-RBM-MSB, the court relied on this principle and concluded that  
6 detention conditions resembling penal confinement weigh in favor of relief. See also  
7 Kydyrali v. Garland, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (finding detention  
8 conditions “indistinguishable from penal confinement”).

9 76. The same is true here. Petitioner has been detained for more than fourteen months in a  
10 secure immigration detention facility. There is no indication that the conditions of his  
11 confinement differ in any meaningful way from penal confinement or otherwise mitigate  
12 the constitutional concerns arising from prolonged detention.

13 77. Accordingly, because Petitioner’s detention occurs under conditions that do not lessen  
14 the severity of prolonged confinement, this factor weighs in Petitioner’s favor.

15 **4. Petitioner Has Not Delayed Proceedings**

16 78. The fourth and fifth factors consider “delays in the removal proceedings caused by the  
17 detainee” and “delays in the removal proceedings caused by the government.” Banda v.  
18 McAleenan, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019).

19 79. These factors favor Petitioner. Respondents present no evidence to dispute that  
20 Petitioner has not delayed his removal proceedings. Nor do Respondents assert or supply  
21 any evidence indicating that Petitioner has unreasonably or in bad faith delayed his own  
22 proceedings.

1 80. As courts have recognized, there is a distinction between “legitimate defenses” to  
2 removal, “which cannot undermine [a petitioner’s] claim that detention has become  
3 unreasonable,” and “dilatory” or “bad faith” tactics to “deliberately slow the  
4 proceedings.” Martinez v. Clark, 2019 WL 5968089, at \*10.

5 81. Petitioner has pursued asylum based on persecution on account of his religion and has  
6 exercised his right to appeal the Immigration Judge’s decision. These are lawful and  
7 expected steps in removal proceedings and constitute legitimate defenses, not delay.

8 82. To the extent there has been any delay in the adjudication of Petitioner’s case, it is  
9 attributable to the ordinary course of administrative and judicial review, not to any  
10 conduct by Petitioner. See Martinez, 2019 WL 5968089, at \*10.

11 83. Accordingly, because Petitioner has not engaged in dilatory or bad faith conduct, this  
12 factor weighs in Petitioner’s favor.

13 **5. The Likelihood of a Final Order of Removal Is Neutral**

14 84. The sixth factor considers “the likelihood that the removal proceedings will result in a  
15 final order of removal.” Banda v. McAleenan, 385 F. Supp. 3d 1099, 1118 (W.D. Wash.  
16 2019).

17 85. Courts decline to speculate as to the outcome of ongoing removal proceedings. See Sarr  
18 v. Scott, 765 F. Supp. 3d 1091, 1109 (W.D. Wash. 2025) (declining to speculate as to  
19 the merits of a petitioner’s appeal to the Ninth Circuit after the Immigration Judge and  
20 the Board of Immigration Appeals found the petitioner removable). Similarly, in Sumit  
21 Singh Choudhary v. Christopher Chestnut, the Court held that the sixth factor is neutral  
22 where the court “lacks sufficient information to assess the likelihood that Petitioner’s

1 removal proceedings will result in a final order of removal” and therefore “declines to  
2 do so.”

3 86. The same is true here. Petitioner’s case remains pending before the Board of  
4 Immigration Appeals, and his appeal has not yet been adjudicated.

5 87. Accordingly, this factor is neutral.

6 **6. The Balance of the Factors Supports Petitioner**

7 88. The balance of these factors supports Petitioner. The first factor, the length of  
8 Petitioner’s detention, the most important factor, weighs strongly in Petitioner’s favor.  
9 The second factor, the likely duration of future detention, also favors Petitioner, as his  
10 detention will continue while his appeal remains pending and any further administrative  
11 or judicial review is completed. The third factor, the conditions of detention, does not  
12 weigh in the Government’s favor, as those conditions do not mitigate the constitutional  
13 concerns associated with prolonged confinement. The fourth and fifth factors favor  
14 Petitioner, as there is no evidence that Petitioner has delayed his proceedings or acted in  
15 bad faith. The sixth factor is neutral.

16 89. Similarly, in Sumit Singh Choudhary v. Christopher Chestnut, the Court held that “[t]he  
17 balance of these factors supports Petitioner as five factors, including the most important  
18 one, the length of Petitioner’s detention, weigh in Petitioner’s favor while none weigh in  
19 the Government’s favor.”

20 90. Accordingly, having established that Petitioner possesses a protected liberty interest, and  
21 that his prolonged and indefinite detention entitles him to process, due process requires  
22 that Petitioner be afforded an individualized bond hearing.

1 **CONCLUSION**

2 For the foregoing reasons, Petitioner has been subjected to prolonged detention in violation of  
3 the Due Process Clause. Accordingly, the Court should grant the Petition for Writ of Habeas  
4 Corpus and order that Petitioner be afforded an individualized bond hearing consistent with due  
5 process.

6 **PRAYER FOR RELIEF**

7  
8 91. WHEREFORE, Petitioner respectfully requests that this Court:

9 92. Grant the Petition for a Writ of Habeas Corpus;

10 93. Order Petitioner's immediate release from immigration custody, as his continued  
11 detention for more than fourteen months without a bond hearing violates the Due  
12 Process Clause, and any further delay associated with additional proceedings would only  
13 prolong that unconstitutional deprivation of liberty;

14  
15 94. In the alternative, if the Court declines to order Petitioner's immediate release, order a  
16 prompt and individualized custody determination pursuant to INA § 236(a), 8 U.S.C. §  
17 1226(a), to occur within a reasonable period not to exceed three (3) days. At that  
18 hearing: (a) the Government must bear the burden of proving, by clear and convincing  
19 evidence, that Petitioner poses a risk of flight or a danger to the community; (b) release  
20 on recognizance or the least restrictive conditions necessary to ensure Petitioner's  
21 appearance must be meaningfully considered; and (c) the parties should be ordered to  
22 submit a joint status report advising whether Petitioner has received a bond hearing, the

1 outcome of that hearing, and Respondents' compliance with the Court's order;

2 95. Enjoin Respondents and their agents from re-arresting Petitioner during the pendency of  
3 his removal proceedings without constitutionally adequate safeguards;

4 96. Order Respondents to return Petitioner's personal belongings that were taken from him  
5 during his arrest;

6 97. Grant appropriate injunctive relief sufficient to ensure that any further detention of  
7 Petitioner complies with governing statutory and constitutional requirements;

8 98. Award reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 2412, to the extent  
9 permitted by law; and  
10

11 99. Grant such other and further relief as the Court deems just and proper.

12 100. Dated: March 31, 2026                      Respectfully Submitted  
13

14 /s/ *Theodora E. Adoghe*

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**VERIFICATION**

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct. Executed this 31st day of March 2026.

/s/ Theodora E. Adoghe

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