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

Ailan Li, an individual;

Petitioner,


v.

CHRISTOPHER LAROSE, Warden of Otay  
Mesa Detention Center; PATRICK DIVVER,  
Field Office Director of San Diego ICE Field  
Office, U.S. Immigration and Customs  
Enforcement, Enforcement and Removal  
Operations; TODD LYONS, Acting Director,  
U.S. Immigration and Customs Enforcement;  
PAMELA BONDI, Attorney General of the  
United States; MARKWAYNE MULLIN,  
Secretary of Homeland Security, in their official  
capacities,

Respondents.

Case No. '26CV2073 JLS DEB

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

Petitioner Ailan Li ("Ms. Li" or "Petitioner") (A-Number: ) , by and through  
the undersigned counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C.  
§ 2241 and respectfully alleges as follows:

**INTRODUCTION**

1. Petitioner is a native and citizen of the People's Republic of China, who is currently  
detained at the Otay Mesa Detention Center, San Diego, California. Petitioner, by and through her  
undersigned counsel, hereby files this petition for writ of habeas corpus seeking her immediate

1 release from immigration detention. Petitioner has been continuously held by the U.S. Department  
2 of Homeland Security (“DHS”) since July 8, 2025.

3 2. Petitioner’s prolonged mandatory detention without an individualized bond hearing  
4 violates the Due Process Clause of the Fifth Amendment. *See Kydyrali v. Wolf*, 499 F. Supp. 3d  
5 768, 772 (S.D. Cal. 2020). Here, Petitioner has been detained for an extended period without any  
6 opportunity to challenge her detention before a neutral decisionmaker, in violation of her rights to  
7 due process.

### 8 CUSTODY

9 3. Petitioner is currently detained at the Otay Mesa Detention Center, San Diego,  
10 California. She is in the Respondents’ physical custody and under Respondents’ and their agents’  
11 direct control.

### 12 JURISDICTION AND VENUE

13 4. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Article I, Section  
14 9, Clause 2 of the United States Constitution, and 28 U.S.C. §1331, as Petitioner is presently in  
15 custody under the color of the authority of the United States, and such custody violates the  
16 Constitution, law, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C.  
17 § 2241.

18 5. The venue lies in the Southern District of California, the judicial district in which  
19 Petitioner is currently detained. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
20 because Respondents are employees, officers, and agencies of the United States, and because a  
21 substantial part of the events or omissions giving rise to the claims occurred in this District.

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

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

27 7. Courts have long recognized the significance of the habeas statute in protecting  
28 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most

1 important writ known to the constitutional law of England, affording as it does a *swift* and  
2 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400  
3 (1963) (emphasis added).

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

9 **THE PARTIES**

10 9. Petitioner is a citizen of China who entered the United States on or about July 8,  
11 2025, and has since been detained by Respondents.

12 10. Respondent CHRISTOPHER LAROSE is sued in his official capacity as the  
13 Warden of the Otay Mesa Detention Center. He has immediate physical custody of Petitioner under  
14 the facility’s contract with ICE to detain noncitizens. Respondent LAROSE is a legal custodian of  
15 Petitioner.

16 11. Respondent PATRICK DIVVER is sued in his official capacity as Field Office  
17 Director of San Diego ICE Field Office. Respondent DIVVER is a legal custodian of Petitioner and  
18 has the authority to release her.

19 12. Respondent TODD LYONS is sued in his official capacity as Acting Director of  
20 ICE. In this capacity, Respondent LYONS directs and oversees ICE’s Enforcement and Removal  
21 Operations, the component agency responsible for Petitioner’s detention. Respondent LYONS is a  
22 legal custodian of Petitioner and has the authority to release her.

23 13. Respondent MARKWAYNE MULLIN is sued in his official capacity as the  
24 Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent MULLIN is  
25 responsible for the implementation and enforcement of the INA and oversees ICE, the component  
26 agency responsible for Petitioner’s detention. Respondent MULLIN is a legal custodian of  
27 Petitioner.

28 14. Respondent PAMELA BONDI is sued in her official capacity as the Attorney

1 General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In  
2 that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office  
3 for Immigration Review (“EOIR”), which administers the immigration courts and the Board of  
4 Immigration Appeals. Respondent BONDI is a legal custodian of Petitioner.

5 **STATEMENT OF FACTS**

6 15. Petitioner entered the United States on or about July 8, 2025, and was apprehended  
7 by immigration authorities.

8 16. On July 9, 2025, DHS issued a Notice and Order of Expedited Removal, placing Ms.  
9 Li in expedited removal proceedings.

10 17. On September 11, 2025, an asylum officer conducted a credible fear interview. On  
11 the same day, the asylum officer determined that Petitioner had established a credible fear of  
12 persecution in China.

13 18. On September 15, 2025, DHS issued Petitioner a Notice to Appear (“NTA”),  
14 thereby placing Petitioner from expedited removal proceedings to full removal proceedings before  
15 an Immigration Judge (“IJ”).

16 19. Petitioner subsequently filed an application for asylum, which remains pending  
17 before the immigration Court.

18 20. To date, Petitioner has been detained for more than eight months without being  
19 provided an individualized bond hearing.

20 **LEGAL FRAMEWORK**

21 21. The Constitution guarantees that the writ of habeas corpus is “available to every  
22 individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing  
23 U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to  
24 issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties  
25 of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration  
26 related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*,  
27 1364, 1367 (2025).

28 22. 8 U.S.C § 1225(b)(1)(B)(ii) governs the detention of arriving aliens who establish a

1 credible fear of persecution or torture. The statute provides that, “[i]f the officer determines at the  
2 time of the interview that an alien has a credible fear or persecution ... the alien shall be detained  
3 for further consideration of the application for asylum.”

4 23. “A statute permitting indefinite detention of an alien would raise a serious  
5 constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to  
6 deprive any person of liberty without due process of law. Freedom from imprisonment—from  
7 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty  
8 that [the Due Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

9 24. Due process extends to “all persons within the United States, including [non-  
10 citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533  
11 U.S. at 693.

12 25. Numerous district courts, including this Court, have recognized that “prolonged  
13 mandatory detention...without a bond hearing will – at some point – violate the right to due process.”  
14 *Ming-hi Gao v. Larose*, 805 F. Supp. 3d 1106 (S.D. Cal. 2025) (citing *Abdul-Samed v. Warden of*  
15 *Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343 (E.D. Cal. July 25,  
16 2025)); *see also Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (“[T]he Court joins  
17 the majority of courts across the country in concluding that an unreasonably prolonged detention  
18 under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.”).

19 26. To determine whether a petitioner’s detention has been unreasonably prolonged,  
20 courts apply the *Banda v. McAleenan*’s six-factor analysis as a framework, which weights: (1) the  
21 total length of detention to date; (2) the likely duration of future detention; (3) conditions of  
22 detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal  
23 proceedings caused by the government; and (6) the likelihood that the removal proceedings will  
24 result in a final order of removal. *Banda v. McAleenan* 385 F. Supp. 3d 1099, 1106 (W.D. Wash.  
25 2019).

26 27. If a bond hearing is provided, the government must bear the burden to establish “by  
27 clear and convincing evidence that Petitioner would likely flee or pose a danger to the community  
28 if released.” *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090 (S.D. Cal. 2025); *Abdul-Samed v. Warden of*

1 *Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343 (E.D. Cal. July 25,  
2 2025).

3 **CAUSE OF ACTION**

4 **COUNT ONE**

5 **(Violation of the Fifth Amendment Due Process Clause)**

6 28. Petitioner repeats and incorporates by reference the allegations set forth above.

7 29. The *Banda v. McAleenan*'s six factors demonstrate that Petitioner's prolonged  
8 detention for over 8 months without a bond hearing has become unreasonable and violates due  
9 process. *Id.*

10 30. First, the total length of detention weighs strongly in favor of Petitioner. To date,  
11 Petitioner has been in detention for more than 8 months. "Courts have found detention over seven  
12 months without a bond hearing weighs toward a finding that it is unreasonable." *Amado v. United*  
13 *States DOJ*, No. 25-cv-2687-LL(DDL), 2025 WL 3079052 (S.D. Cal. Nov. 4, 2025); *see also*  
14 *Masood v. Barr*, No. 19-cv-07623-JD, 2020 WL 95633 (N.D. Cal. Jan. 8, 2020) (finding detention  
15 for nearly nine months weighs in favor of the petitioner); *Cabral v. Decker*, 331 F. Supp. 3d 255,  
16 261 (S.D.N.Y. 2018) (over seven months); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 WL  
17 3991497 (S.D.N.Y. Aug. 20, 2018) (over nine months).

18 31. The second factor also strongly supports the grant of this habeas petition.  
19 Petitioner's detention is likely to continue for many additional months, if not years, pending the  
20 completion of removal proceedings, including an individual hearing and any subsequent appeal to  
21 the Board of Immigration Appeals ("BIA"). Given that either party may seek appellate review  
22 depending on the outcome of the merits hearing, continued detention is virtually certain. *See*  
23 *Guatam v. Corr. Corp. of Am.*, No. 3:25-cv-3600-JES-DEB, 2026 WL25846 (S.D. Cal. Jan. 5,  
24 2026) ("[A] removal order may not become final until after the appeals Petitioner could file, to both  
25 the Board of Immigration Appeals and Ninth Circuit...These appeals can take a long time."); *see*  
26 *also Banda v. McAleenan*, 385 F. Supp. 3d at 1119 (finding an appeal to the BIA and subsequent  
27 judicial review "may take up to two years or longer").

28 32. For the third factor, courts have recognized that the conditions at the Otay Mesa

1 Detention Center are “indistinguishable from penal confinement.” See *Kydyrali v. Wolf*, 499 F.  
2 Supp. 3d 768, 773 (S.D. Cal. 2020); *Amado v. United States DOJ*, No. 25-cv-2687-LL(DDL), 2025  
3 WL 3079052 (S.D. Cal. Nov. 4, 2025). Further, Petitioner experiences severe depression from the  
4 prolonged and indefinite detention.

5 33. The fourth and fifth factors concern delays in the removal proceedings caused by  
6 Petitioner or the government. All delays in this case are attributable to the government, and none  
7 whatsoever are attributable to Petitioner. Petitioner has not been dilatory in pursuing her claims. To  
8 the contrary, she promptly applied for asylum, and has diligently complied with all procedural  
9 requirements and has timely appeared at and participated in all proceedings as scheduled by the  
10 government.

11 34. In considering the sixth factor, “likelihood that the removal proceedings will result  
12 in a final order of removal,” courts consider “whether the noncitizen has asserted any defenses to  
13 removal,” *Banda v. McAleenan*, 385 F. Supp. 3d at 1120 (citations omitted). Here, Petitioner has  
14 asserted substantial defenses to removal. She faces persecution in China due to her Christian faith.  
15 An immigration officer has determined that Petitioner has established a credible fear of persecution.  
16 Petitioner will now have the opportunity to present evidence supporting her asylum claims.  
17 Although it remains unclear how an IJ will eventually rule, Petitioner has presented defenses that  
18 reduce the likelihood of a final removal order. Accordingly, the sixth factor favors Petitioner.

19 35. Therefore, the six factors weigh in favor Petitioner. Petitioner’s detention has  
20 become unreasonably prolonged, and Respondents’ continued detention of Petitioner without a  
21 bond hearing violates the Due Process Clause.

22 **PRAYER FOR RELIEF**

23 Wherefore, Petitioner respectfully requests that this Court grant the following relief:

- 24 1. Assume jurisdiction over this matter;
- 25 2. Issue the writ of habeas corpus and order Respondents to show cause within three days  
26 why the requested relief should not be granted;
- 27 3. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District  
28 pending these proceedings;

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- 4. Declare that Respondents’ prolonged detention of Petitioner violates the Due Process Clause of the Fifth Amendment;
- 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- 6. In the alternative, only if the Court concludes that Petitioner is not legally entitled to immediate release under the present circumstances based on a specific legal authority, order Respondents to provide Petitioner with a bond hearing before an Immigration Judge, at which the government bears the burden of establishing by clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released;
- 7. Order Respondents to return all of Petitioner’s personal belongings;
- 8. Enjoin Respondents from transferring, arresting, or detaining Petitioner absent lawful process, including a pre-deprivation hearing before a neutral decisionmaker at which the government establishes by clear and convincing evidence that detention is appropriate to prevent her flight or to protect the public;
- 9. Require Respondents, should they choose to conduct such a hearing, to provide Petitioner with reasonable advance notice of the time and place of the hearing;
- 10. Enjoin Petitioner’s removal from the United States pending a final decision on this habeas action;
- 11. Enjoin Petitioner’s removal from the United States without meaningful notice and opportunity to fully present a fear-based claim;
- 12. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act and any other applicable authority;
- 13. Grant further relief as the Court finds just and proper.

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Dated: March 31, 2026

Juris Path Law Firm, PC

/s/Yunchao Song  
Yunchao Song, Esq.  
Attorneys for Petitioner Ailan Li