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

10 YAOHUI SUN, an individual;

11 Petitioner,


12 v.


13 SIXTO MARRERO, Facility Administrator of  
Imperial Regional Detention Facility; PATRICK  
14 DIVVER, Director of SAN DIEGO ICE Field  
Office, U.S. Immigration and Customs  
15 Enforcement, Enforcement and Removal  
Operations; TODD LYONS, Acting Director,  
16 U.S. Immigration and Customs Enforcement;  
PAMELA BONDI, Attorney General of the  
17 United States; MARKWAYNE MULLIN,  
Secretary of Homeland Security, in their official  
18 capacities,

19 Respondents.  
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Case No. '26CV2225 CAB SBC

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

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24 Petitioner Yaohui Sun ("Mr. Sun" or "Petitioner") (Alien registration number: 

25  petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy  
26 Respondents detaining him unlawfully, and states as follows:

27 **INTRODUCTION**

28 1. Mr. Sun, a citizen of the People's Republic of China, by and through his



1 grant relief pursuant to 28 U.S.C. § 2241.

2 6. The venue lies in the Southern District of California, the judicial district in which  
3 Petitioner is currently detained. Venue is also properly in this Court pursuant to 28 U.S.C. §  
4 1391(e) because Respondents are employees, officers, and agencies of the United States, and  
5 because a substantial part of the events or omissions giving rise to the claims occurred in this  
6 District.

7 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

12 8. Courts have long recognized the significance of the habeas statute in protecting  
13 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most  
14 important writ known to the constitutional law of England, affording as it does a swift and  
15 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400  
16 (1963).

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

23 **THE PARTIES**

24 10. Petitioner is a native and citizen of the People’s Republic of China. Petitioner was  
25 taken into ICE custody on or about February 3, 2026, and has remained in ICE custody  
26 continuously since that date.

27 11. Respondent SIXTO MARRERO is sued in his official capacity as the Facility  
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1 Administrator of the Imperial Regional Adult DET Facility. He has immediate physical custody  
2 of Petitioner under the facility's contract with ICE to detain noncitizens. Respondent MARRERO  
3 is a legal custodian of Petitioner.

4 12. Respondent PATRICK DIVVER is sued in his official capacity as Director of  
5 Enforcement and Removal Operations of ICE's SAN DIEGO Field Office. Respondent DIVVER  
6 is a legal custodian of Petitioner and has the authority to release him.

7 13. Respondent TODD LYONS is sued in his official capacity as Acting Director of  
8 ICE. In this capacity, Respondent Lyons directs and oversees ICE's Enforcement and Removal  
9 Operations, the component agency responsible for Petitioner's detention. Respondent LYONS is  
10 a legal custodian of Petitioner and has the authority to release him.

11 14. Respondent MARKWAYNE MULLIN is sued in his official capacity as the  
12 Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent  
13 MULLIN is responsible for the implementation and enforcement of the INA and oversees ICE,  
14 the component agency responsible for Petitioner's detention. Respondent MULLIN is a legal  
15 custodian of Petitioner.

16 15. Respondent PAMELA BONDI is sued in her official capacity as the Attorney  
17 General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In  
18 that capacity, she has the authority to adjudicate removal cases and to oversee the Executive  
19 Office for Immigration Review ("EOIR"), which administers the immigration courts and the  
20 Board of Immigration Appeals. Respondent BONDI is a legal custodian of Petitioner.

21 **STATEMENT OF FACTS**

22 16. Mr. Sun was born in China in 1986. He entered the United States without  
23 inspection in June 2024 and was subsequently detained.

24 17. About two days after Mr. Sun's initial detention, ICE released him and required  
25 him to appear periodically for check-ins at an ICE Field Office.

26 18. On or about June 5, 2024, a Notice to Appear was issued, and Mr. Sun was  
27 subsequently placed in removal proceedings.

1           19.    After Mr. Sun's release in June 2024, he applied for asylum, and the case remains  
2 pending.

3           20.    Following his release in 2024, Mr. Sun has diligently complied with all reporting  
4 requirements. During this period, he has established a stable life in the United States, worked to  
5 support his family, paid taxes, and lived openly in the community. Mr. Sun has no criminal  
6 history and has never violated any state or federal law.

7           21.    On or about February 3, 2026, while working as a truck driver, Mr. Sun was  
8 approached by undercover officers and asked to present his driver's license. He fully cooperated  
9 and provided his driver's license as well as his valid work authorization. The officers informed  
10 him that they needed to verify whether he had any criminal record and that he would be released  
11 if none were found. However, shortly thereafter, Mr. Sun was detained without any explanation.  
12 He was subsequently transferred to ICE custody and was not afforded any hearing prior to his re-  
13 detention.

14           22.    On February 20, 2026, Mr. Sun filed a Petition for Writ of Habeas Corpus seeking  
15 injunctive relief. *Sun v. Marrero*, No. 26-cv-1118-RSH-MMP (S.D. Cal. Mar. 5, 2026). On  
16 March 5, 2026, this Court granted Mr. Sun's petition and directed Respondents to arrange a bond  
17 hearing for Mr. Sun before an immigration court pursuant to 8 U.S.C. § 1226(a) within seven (7)  
18 days.

19           23.    On March 13, 2026, Mr. Sun was provided a bond hearing before an IJ. During  
20 the hearing, the IJ improperly allocated the burden of proof to Mr. Sun and required him to  
21 demonstrate, by clear and convincing evidence, that he is neither a flight risk nor a danger to the  
22 community.

23           24.    As a result of his continued detention and lack of access to his complete records,  
24 many of which are in Respondents' possession, Mr. Sun was unable to meet this improperly  
25 imposed burden, and the IJ denied bond.

26           25.    The IJ explained his reasoning in a short order, explaining that: risk of flight as  
27 stated on the record.

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**Exhaustion of Administrative Remedies**

26. “The exhaustion requirement is prudential, rather than jurisdictional, for habeas claims’ challenging bond determinations under 8 U.S.C. § 1226(a).” *Ambriz v. Barr*, 420 F. Supp. 3d 953, 961 (N.D. Cal. 2019) (citing *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017)).

27. A court may waive the exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

28. Although Mr. Sun may appeal the result of the bond hearing to the Board of Immigration Appeals (“BIA”), the Court should waive the exhaustion requirement because the exhaustion would be futile and ineffective.

29. First, “BIA has no jurisdiction to decide questions of the constitutionality of immigration laws.” *Liu v. Waters*, 55 F.3d 421, 426 (9th Cir. 1995). Here, Mr. Sun seeks relief arising from violations of his constitutional rights, including Respondents’ failure to provide a pre-deprivation hearing and the improper allocation of the burden of proof at the bond hearing. The BIA therefore lacks authority to address Mr. Sun’s constitutional claims.

30. Additionally, Mr. Sun would suffer irreparable injury if this Court did not waive the exhaustion requirement. An appeal to the BIA would take months, if not years. During that time, Mr. Sun would remain in custody as a result of the very constitutional violations at issue.

31. Accordingly, the Court should waive the exhaustion requirement and consider the merits of Mr. Sun’s claim for immediate release.

**LEGAL FRAMEWORK**

32. The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or

1 laws or treaties of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens  
2 in immigration related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R.*  
3 *P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

4 33. “Freedom from imprisonment—from government custody, detention, or other  
5 forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”  
6 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The government cannot deprive any person of “life,  
7 liberty, or property, without due process of law[.]” U.S. Const. Amend. V. Due process extends to  
8 “all ‘persons’ within the United States, including [non-citizens], whether their presence here is  
9 lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

10 34. A protected liberty interest may arise from a conditional release from physical  
11 restraint. *Young v. Harper*, 520 U.S. 143, 147–49 (1997). Although the initial decision to detain  
12 or release an individual may be within the government’s discretion, “the government’s decision to  
13 release an individual from custody creates ‘an implicit promise,’ upon which that individual may  
14 rely, that their liberty ‘will be revoked only if [they] fail[] to live up to the . . . conditions [of  
15 release].’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (quoting *Morrissey v.*  
16 *Brewer*, 408 U.S. 471, 482 (1972)).

17 35. Courts have consistently found that noncitizens, like Petitioner, who have been  
18 previously released by immigration authorities, have protected liberty interests, and the “Due  
19 Process Clause requires procedural protections before they can be deprived of that interest.” *Wei v.*  
20 *Marrero*, No. 3:26-cv-01681-LL-VET (S.D. Cal. Apr. 1, 2026); *see also, Faizyan v. Casey*, No.  
21 3:25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025); *Zhang v. Lyons*, No. 26-  
22 CV-1073-JLS (SBC) (S.D. Cal. Mar. 9, 2026); *Issa Isiev v. Ernesto Santacruz*, No. 5:26-cv-1033-  
23 CV (DFM) (C.D. Cal. Mar. 12, 2026); *Maklad v. Murray*, No. 1:25-cv-00946-JLT SAB (E.D. Cal.  
24 Aug. 8, 2025).

25 36. The Due Process Clause typically requires a hearing of some sort *before* the  
26 government may deprive a person of liberty. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990); *see*  
27 *also United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014) (“Due process always  
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1 be affected by the official action; (2) the risk of an erroneous deprivation of such interest through  
2 the procedures used, and the probable value, if any, of additional or substitute procedural  
3 safeguards; and (3) the government's interest, including the function involved and the fiscal and  
4 administrative burdens that the additional or substitute procedural requirement would entail. 408  
5 U.S. 471, 482 (1972))

6 42. First, Petitioner has a significant private interest in remaining free from detention.  
7 "Freedom from imprisonment—from government custody, detention, or other forms of physical  
8 restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*  
9 *Davis*, 533 U.S. 678, 690 (2001). Petitioner had been out of custody for more than one year in  
10 reliance on the government's previous representations that he was being released pending his  
11 removal proceedings. His re-detention deprives him of that fundamental liberty.

12 43. The second *Mathews* factor likewise favors Petitioner. There is a "significant risk  
13 that the government will erroneously deprive [Petitioner] of [his] liberty interest if it does not  
14 provide [him] with a pre-deprivation hearing, where, as here, the [Petitioner] has not received any  
15 bond or custody...hearing." *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025).

16 44. Civil immigration detention must be "nonpunitive in purpose" and bear a  
17 "reasonable relation" to the authorized statutory purposes of preventing flight and danger to the  
18 community. *Zadvydas*, 533 U.S. at 690 (citation omitted).

19 45. Petitioner was released by immigration authorities after his initial detention. By  
20 releasing him, immigration officers necessarily determined that he was neither a flight risk nor a  
21 danger to the community. *See Zapata v. Kaiser*, 801 F. Supp. 3d 919, 938 (N.D. Cal. 2025).  
22 Following his release in 2024, Petitioner diligently complied with the reporting requirements and  
23 has never violated any law. Under these circumstances, the risk of erroneous deprivation is high  
24 given the possibility that Petitioner's re-detention will not be pursuant to a valid governmental  
25 interest.

26 46. The government's interest in re-detaining Petitioner without a pre-deprivation  
27 hearing is low "because ICE previously made the determination to release [him], and there is no  
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1 evidence in the record of any changed circumstances that might cause ICE to reconsider its []  
2 determination.” *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 (N.D. Cal. Sep.  
3 5, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

4 47. Further, additional procedural safeguards, including a hearing before a neutral  
5 decision-maker, are “one of the most basic due process protections” and would place a “de  
6 minimis . . . burden on the government,” especially in light of the potential costs to the public by  
7 keeping Petitioner detained. *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001),  
8 *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

9 48. Therefore, because Respondents detained Petitioner by revoking his release  
10 without notice or a pre-deprivation hearing in violation of the Due Process Clause, his detention  
11 is unlawful. *See, e.g., Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D.  
12 Cal. Sept. 26, 2025).

13 49. Petitioner’s due process rights were further violated when the Immigration Judge  
14 improperly allocated the burden of proof to him at the March 13, 2026, bond hearing.

15 50. In *Singh v. Holder*, the Ninth Circuit held that “the government must prove by  
16 clear and convincing evidence that an alien is a flight risk or a danger to the community to justify  
17 denial of bond.” 638 F.3d 1196, 1203 (9th Cir. 2011).

18 51. Although Petitioner was afforded a bond hearing following the Court’s grant of  
19 habeas relief, the Immigration Judge improperly placed the burden of proof on Petitioner. This  
20 misallocation violated the Due Process Clause of the Fifth Amendment. *See Al-Sadeai v. United*  
21 *States Immigration & Customs Enforcement*, 540 F. Supp. 3d 983, 991 (S.D. Cal. 2021).

## 22 **COUNT TWO**

### 23 **(Unlawful Detention Under 8 U.S.C. § 1226(a))**

24 52. Petitioner repeats and incorporates by reference into this cause of action the  
25 allegations set forth above.

26 53. As courts have consistently recognized, 8 U.S.C. § 1226(a), instead of § 1225(b),  
27 governs detention authority for noncitizens, such as Petitioner, who were previously released on  
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1 an order of release on recognizance pursuant to § 1226(a) and were already within the United  
2 States when apprehended and arrested. *See Clene C.D. v. Robbins*, No. 1:25-CV-01463-KES-  
3 SKO (HC).

4 54. Under this statute, a noncitizen may be arrested on a warrant and would be entitled  
5 to a bond hearing before an immigration judge and must be released if the noncitizen “does not  
6 present a danger to persons or property, is not a threat to the national security, and does not pose a  
7 risk of flight.” *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017).

8 55. This statutory framework applies to Petitioner. Petitioner was previously released  
9 by the government in June 2024. Since that time, he has resided in the United States for more  
10 than one year and was already within the United States when he was re-detained by ICE in  
11 February 2026. His detention therefore arises under 8 U.S.C. § 1226(a).

12 56. When the ICE agents detained Petitioner, he was not presented with any warrant  
13 authorizing the detention as required under § 1226(a). In addition, at no time prior to his re-  
14 detention was Petitioner notified that his prior release was revoked. Petitioner was also not  
15 provided a bond hearing before an immigration judge prior to his re-detention.

16 57. By detaining Petitioner without providing a warrant and a bond hearing,  
17 Respondents have acted in excess of their statutory authority under 8 U.S.C. § 1226(a). As a  
18 result, Petitioner’s continued detention violates the Immigration and Nationality Act and is  
19 unlawful.

20 58. Even if the Court ordered a post-deprivation bond hearing, such relief would not  
21 cure the constitutional defects at issue. The Due Process Clause requires meaningful notice and an  
22 opportunity to be heard before a deprivation of liberty occurs, absent extraordinary circumstances.  
23 A belated bond hearing does not remedy the unlawful initial seizure and detention where the  
24 government failed to provide constitutionally adequate procedures at the outset. *See Zadvydas v.*  
25 *Davis*, 533 U.S. 678, 690 (2001) (recognizing the serious constitutional concerns raised by civil  
26 immigration detention); *Fuentes v. Shevin*, 407 U.S. 67, 80–82 (1972) (due process generally  
27 requires pre-deprivation process where feasible).

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59. Moreover, under 8 U.S.C. § 1226(a), detention is discretionary, not mandatory, and must be justified by the government. A post-deprivation hearing that shifts the burden to the detainee, fails to require the government to prove flight risk or danger by clear and convincing evidence, or occurs only after prolonged or unjustified detention, does not satisfy constitutional standards. *See Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (requiring adequate procedural safeguards in bond hearings, including a contemporaneous record for meaningful review). Where detention has already occurred without constitutionally sufficient process, the appropriate remedy is release, not merely a delayed hearing.

60. Accordingly, because the procedural violation inheres in the initial deprivation itself and cannot be retroactively cured, Petitioner is entitled to immediate remedial release rather than a belated bond hearing.

#### **PRAYER FOR RELIEF**

Based on the foregoing, Mr. Sun respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring him from the jurisdiction of this District pending these proceedings;
3. Declare that Respondents' re-detention of Mr. Sun violates the INA and the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Sun immediately without the imposition of any conditions more restrictive than those previously in place;
5. Order Respondents to return all of Petitioner's personal belongings, including his identity documents and work authorization card;
6. Upon release, prohibit Respondents from imposing conditions of supervision more restrictive than those previously in place, including the imposition of electronic monitoring, absent a hearing consistent with due process;
7. Enjoin Respondents from transferring, re-arresting, or re-detaining Petitioner absent

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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 his flight or to protect the public;

- 8. 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;
- 9. Enjoin Petitioner’s removal from the United States pending a final decision on this habeas action.
- 10. Enjoin Petitioner’s removal from the United States without meaningful notice and opportunity to fully present a fear-based claim.
- 11. Award reasonable attorney’s fees and costs under the Equal Access to Justice Act, and on any other allowed by law.
- 12. Grant further relief as the Court finds just and proper.

Dated: April 8, 2026

Juris Path Law Firm, PC

/s/Yunchao Song  
Yunchao Song, Esq.  
Attorneys for Petitioner Yaohui Sun