



1 CHANGHUA CHEN 
2 7488 Calzada de la Fuente
3 San Diego, CA 92154-2717
4 (619) 671-8700

FILED
Apr 06 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY  ANH DEPUTY

5 *Pro Se*

6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**

8 CHANGHUA CHEN

9 Petitioner,

10 vs.

11
12 Kristi NOEM, Secretary, Department of
13 Homeland Security; Pam BONDI, Attorney
14 General; EXECUTIVE OFFICE FOR
15 IMMIGRATION REVIEW; Todd LYONS,
16 Executive Associate Director of ICE
17 Enforcement and Removal Operations (ERO);
18 Gregory J. ARCHAMBEAULT, ICE Field
19 Office Director; and Christopher J. LAROSE,
20 Otay Mesa Senior Warden

21 Respondents.

Case No.:

Agency No. '26CV2158 BJC VET

PETITION FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT NOT REQUESTED

22 **INTRODUCTION**

- 23 1. Petitioner, Changhua Chen, originally entered the United States on May 03, 2025 without
24 inspection at the Otay Mesa border crossing in San Diego County.
25 2. Petitioner was apprehended by immigration authorities on May 03, 2025 after he
26 unlawfully entered the United States near Otay Mesa, CA from Mexico on foot. Petitioner
27 was apprehended, arrested and transported to Otay Mesa Detention Center. Petitioner is
28 charged with having entered the United States without inspection and being present
without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i).

- 1 3. Petitioner is currently detained at the Otay Mesa detention center by immigration
2 authorities and is the subject of a pending removal hearing on May 5, 2026.
- 3 4. Petitioner has an active i589 application submitted to the immigration court on September
4 25, 2025 and subsequently submitted a revised application dated March 20, 2026.
- 5
6 5. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for
7 a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to
8 detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and
9 to immediately issue an order to release Petitioner from detention.

10
11 **JURISDICTION**

- 12 6. This action arises under the Constitution of the United States and the Immigration and
13 Nationality Act (INA), 8 U.S.C. § 1101 et. seq
- 14 7. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
15 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
16 (Suspension Clause).
- 17
18 8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the
19 Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq , the All Writs Act, 28 U.S.C. § 1651,
20 and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

21
22 **VENUE**

- 23 9. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa, California.
24 Venue is further proper because a substantial part of the events or omissions giving rise to
25 Petitioner's claims occurred in this District, where Petitioner is now in Respondent's
26 custody. 28 U.S.C. § 1391(e).
- 27
28

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

1
2 10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
3 (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28
4 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return
5 “within three days unless for good cause additional time, not exceeding twenty days, is
6 allowed.” Id.

7
8 11. Courts have long recognized the significance of the habeas statute in protecting individuals
9 from unlawful detention. The Great Writ has been referred to as “perhaps the most
10 important writ known to the constitutional law of England, affording as it does a swift and
11 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.
12 391, 400 (1963).

13
14 12. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and
15 detained by Respondents.

PARTIES

16
17
18 13. Petitioner is currently detained at the Otay Mesa Detention Center in Otay Mesa, CA.

19 14. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security
20 (“DHS”), and is sued in her official capacity. The Secretary of Homeland Security is
21 charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a)

22
23 15. Respondent Pam BONDI is the Attorney General of the United States and is sued in her
24 official capacity as the head of the Department of Justice. The Attorney General is
25 responsible for the fair administration of the laws of the United States.

26 16. Respondent Executive Office for Immigration Review is a component agency of the
27 Department of Justice responsible for conducting removal and bond hearings of
28

1 noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration
2 judges and an appellate body known as the Board of Immigration Appeal (BIA).

3 Immigration judges issue bond redetermination hearing decisions, which are then subject
4 to appeal to the BIA.
5

6 17. Respondent Todd LYONS is the Acting Director of U.S. Immigration and Customs
7 Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention
8 of Petitioner.

9 18. Respondent GREGORY J. ARCHAMBEAULT is the Immigration and Customs
10 Enforcement Field Office Director at the ICE Otay Mesa immigration detention facility
11 and is sued in his official capacity. Respondent GREGORY J. ARCHAMBEAULT is
12 responsible for the detention of Petitioner.
13

14 19. Respondent CHRISTOPHER J. LAROSE, is the OTAY MESA SENIOR WARDEN and
15 is sued in his official capacity as he is responsible for the detention of Petitioner.
16

17
18 **LEGAL FRAMEWORK**

19 20. Immigration detention should not be used as a punishment and should only be used when,
20 under an individualized determination, a noncitizen is a flight risk because they are
21 unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*,
22 533 U.S. 678, 690 (2001).
23

24 21. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth
25 Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
26
27
28

1 22. The Immigration and Nationality Act (INA) establishes various procedures through which
2 individuals may be detained pending a decision on whether the noncitizen is to be
3 removed. 8 U.S.C. § 1226(a).

4
5 23. Removal proceedings described in section 240 of the INA are used to determine whether
6 individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. §
7 1229a.

8 24. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to
9 apply for asylum to individuals seeking safe haven in the United States. The purpose of the
10 Refugee Act is to enforce the “historic policy of the United States to respond to the urgent
11 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, §
12 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

13
14 25. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol
15 Relating to the Status of Refugees, “to which the United States had been bound since
16 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act
17 reflects a legislative purpose “to give ‘statutory meaning to our national commitment to
18 human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th
19 Cir. 1985).

20
21 26 The Refugee Act established the right to apply for asylum in the United States and defines
22 the standards for granting asylum. It is codified in various sections of the INA.

23
24 27. The INA gives the Attorney General or the Secretary of Homeland Security discretion to
25 grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition,
26 individuals generally are eligible for asylum if they have experienced past persecution or
27 have a well-founded fear of future persecution on account of race, religion, nationality,
28

1 membership in a particular social group, or political opinion and if they are unable or
2 unwilling to return to and avail themselves of the protection of their homeland because of
3 that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

4
5 28. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The
6 Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
7 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
8 1158(a)(1).

9
10 29. Immigration detention is a form of civil confinement that “constitutes a significant
11 deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S.
12 418, 4253 (1979).

13
14 30. Custody determinations for individuals in 1229a removal proceedings are governed by 8
15 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a
16 danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678,
17 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

18
19 31. Custody determinations under § 1226(a) are individualized and based on the facts
20 presented in those cases. Unlike § 1226(c), which can provide for categorical
21 determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a
22 case-by-case review of the facts and circumstances.

23
24 32. Once a determination to release an individual from custody is made, the release order may
25 be revisited when the facts or circumstances warrant revocation or reconsideration. 8
26 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may
27 take that individual back into custody by revoking the individual’s release when the facts
28 and circumstances warrant it. Revocation and return to custody is authorized only based on

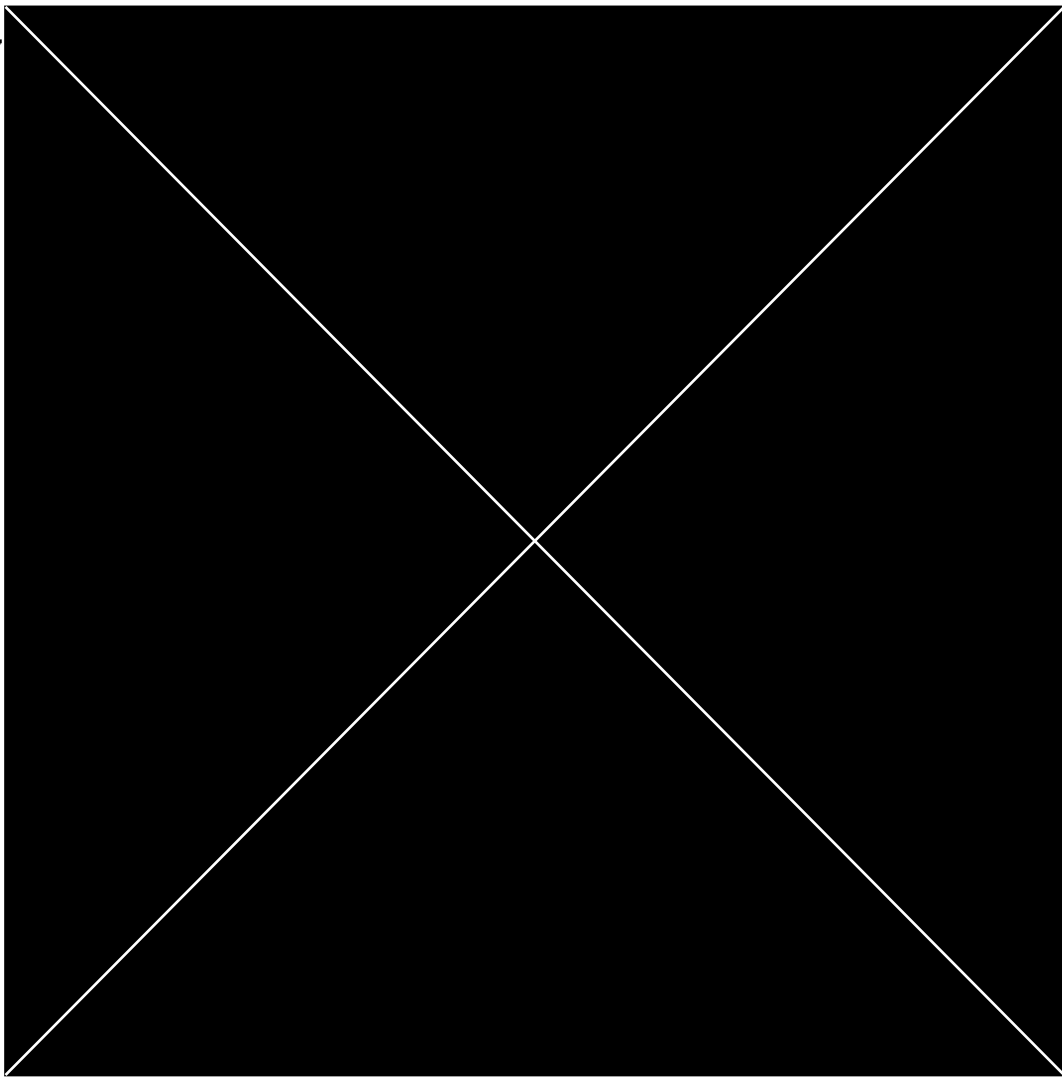
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

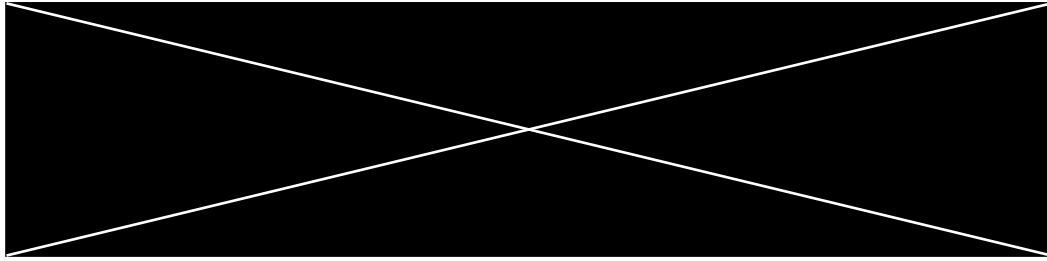
the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL BACKGROUND

33. Petitioner fled China, where he was [REDACTED] and entered the United States on May 03, 2025.

34.





1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

35. He was placed in removal proceedings to appear before an IJ, and was charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i). ICE denied Petitioner's request for release, Petitioner is neither a danger to others nor a flight risk.

36. He was placed in removal proceedings to appear before an IJ, and was charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i). ICE denied Petitioner's request for release. Petitioner is neither a danger to others nor a flight risk.

37. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

38. On information and belief, Respondents are detaining and seeking to transfer Petitioner regardless of the individual facts and circumstances of his case.

1 39. On information and belief, Respondents are using the immigration detention system,
2 including extra-territorial transfer and detention, as a means to punish individuals for
3 asserting rights under the Refugee Act.

4
5 40. On information and belief, Petitioner has no criminal history in the United States.

6
7 **CLAIMS FOR RELIEF**

8 **COUNT ONE**

9 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

10 **Abuse of Discretion**

11 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

12 41. Petitioner restates and realleges all paragraphs as if fully set forth here. Under the APA, a
13 court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5
14 U.S.C. § 706(2)(A).

15 42. An action is an abuse of discretion if the agency “entirely failed to consider an important
16 aspect of the problem, offered an explanation for its decision that runs counter to the
17 evidence before the agency, or is so implausible that it could not be ascribed to a
18 difference in view or the product of agency expertise.” Nat’l Ass’n of Home Builders v.
19 Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass’n of U.S.,
20 Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).

21 43. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for
22 its action, “including a rational connection between the facts found and the choice made.”
23 Dep’t of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

24 44. By categorically revoking Petitioner’s release without consideration of his individualized
25 facts and circumstances, Respondents have violated the APA.
26
27
28

1 45. By detaining the Petitioner, Respondents have further abused their discretion because there
2 have been no changes to his facts or circumstances since the agency made its initial
3 custody determinations that support the revocation of his release from custody.

4
5 46. Respondents have already considered Petitioner's facts and circumstances and determined
6 that he was not a flight risk or danger to the community. There have been no changes to
7 the facts that justify this revocation of his release on his own recognizance.

8
9 **COUNT TWO**

10 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
11 **Not in Accordance with Law and in Excess of Statutory Authority**
12 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

13 47. Petitioner restates and realleges all paragraphs as if fully set forth here.

14 48. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in
15 accordance with law;” “contrary to constitutional right;” “in excess of statutory
16 jurisdiction, authority, or limitations;” or “without observance of procedure required by
17 law.” 5 U.S.C. § 706(2)(A)-(D)

18 49. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond
19 or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial
20 warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that
21 such revocations of release from custody may only be carried out in the “discretion of the
22 district director, acting district director, deputy district director, assistant district director
23 for investigations, assistant district director for detention and deportation, or officer in
24 charge (except foreign).”
25
26

27 50. It is a well-established administrative principle that “agency action taken without lawful
28 authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d

1 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015);
2 see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)
3 (invalidating agency action because it was taken by unauthorized official).

4
5 51. On information and belief, Respondents have revoked or are revoking Petitioner's prior
6 custody determination as a result of a categorical policy prepared by and implemented by
7 unidentified government officials in Washington, not through the individual exercise of
8 discretion required by law or by the individuals enumerated by regulation to do so.

9
10 52. Because Petitioner's revocation of release from custody has been made or will be
11 categorically directed by government officials not authorized by law to make this
12 determination, Respondents' detention of Petitioner is not in accordance with law and in
13 excess of statutory authority.

14 **COUNT THREE**

15 **Violation of Fifth Amendment Right to Due Process**
16 **Procedural Due Process**

17 53. Petitioner restates and realleges all paragraphs as if fully set forth here.

18 54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the
19 federal government from depriving any person of "life, liberty, or property, without due
20 process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the
21 United States, including [non-citizens], whether their presence here is lawful, unlawful,
22 temporary, or permanent." *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306.

23
24 55. Due process requires that government action be rational and non-arbitrary. See *U.S. v.*
25 *Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
26
27
28

1 56. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to
2 revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and
3 must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

4 57. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and
5 not based on a rational and individualized determination of whether he is a safety or flight
6 risk, in violation of due process. Because no individualized custody revocation has been
7 made and no circumstances have changed to make Petitioner a flight risk or a danger to the
8 community, Respondents’ revocation of Petitioner’s release violates his right to procedural
9 due process.

10 58. Petitioner has a sponsor who is a naturalized U.S. citizen who will assure the court that he
11 will comply with all the conditions of his release including appearing for all his
12 immigration court proceedings and Immigration and Customs Enforcement check-ins as
13 scheduled. For this reason, the Petitioner will not be a flight risk nor a danger to the
14 community.

15
16
17
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Petitioner respectfully requests this Court to grant the following:
20

- 21 1) Assume jurisdiction over this matter;
22 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should
23 not be granted within three days;
24 (3) Declare that Petitioner’s detention without an individualized determination violates the Due
25 Process Clause of the Fifth Amendment;
26 (4) Authorize Petitioner pro bono representation with Federal Defenders of San Diego under 28

1 U.S.C. § 1915(e)(1) due to his inability to afford counsel in his Writ of Habeas Corpus
2 proceedings before the U.S. District Court Southern District of California. A CJA23 Financial
3 Affidavit is attached.

4
5 (5) Petitioner respectfully moves this Court for an order appointing a certified interpreter in the
6 Mandarin Chinese language for all hearings and proceedings in this matter. Defendant has
7 limited English proficiency and cannot fully understand, speak, read, or write English
8 sufficiently to meaningfully participate in these proceedings without interpretation assistance.

9 Pursuant to the Court Interpreters Act, 28 U.S.C. § 1827, and the Court's inherent authority to
10 ensure the fair administration of justice. Due process requires that a litigant be able to understand
11 the proceedings and communicate effectively with the Court. Without the assistance of a
12 qualified interpreter, Defendant's ability to participate meaningfully in this case would be
13 substantially impaired.
14

15
16 (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

17 (7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district
18 without the court's approval;

19
20 (8) Order the Petitioner be immediately released forthwith under the jurisdiction of this COURT
21 and not require the Petitioner to be sent to the Immigration Court for a custody redetermination
22 hearing to set bond because the Immigration Court has been given direction by the Board of
23 Immigration Appeals under the Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025) that it
24 has no jurisdiction to hold a custody redetermination hearing for those who entered without
25 inspection, in clear violation of his Fifth Amendment rights. Moreover, the BIA reasoned that
26 INA § 235 governs the inspection, detention, and removal of noncitizens who have not been
27

1 admitted and are therefore "applicants for admission." Under this provision, such noncitizens are
2 subject to being placed into expedited removal proceedings and mandatorily detained for the
3 duration of those proceedings. Petitioner has been held in detention for over 11 months, while his
4 asylum application are proceeding. This prolonged detention now qualifies him to be released
5 under Writ of Habeas Corpus so he can continue to adjudicate his asylum claim outside of
6 detention.
7


8 (9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any
9 other basis justified under law; and
10

11 (10) Grant any further relief this Court deems just and proper.
12

13 Dated April 02, 2026
14

15 Respectfully Submitted,

16 *Chen Changhua*

17 Changhua Chen 
18 7488 Calzada de la Fuente
19 San Diego, CA 92154-2717
20 (619) 671-8700
21 Pro Se

22+