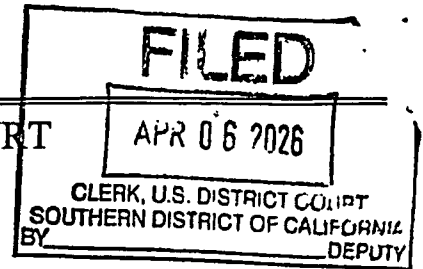


AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241



UNITED STATES DISTRICT COURT
for the
Southern District of California

KAIYUAN CHEN

Petitioner

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. '26CV2157 TWR AHG
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: Kaiyuan Chen
(b) Other names you have used: N/A
2. Place of confinement:
(a) Name of institution: Olay Mesa Detention Center
(b) Address: 7488 Calzada De La Fuente
San Diego, CA 92154-2717
(c) Your identification number:
3. Are you currently being held on orders by:
[X] Federal authorities [ ] State authorities [ ] Other - explain:
ICE DETENTION
4. Are you currently:
[ ] A pretrial detainee (waiting for trial on criminal charges)
[ ] Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
[X] Being held on an immigration charge
[ ] Other (explain):

Decision or Action You Are Challenging

- 5. What are you challenging in this petition:
[ ] How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Otay Mesa Detention Center  
7488 Calzada de la Fuente, San Diego, CA

(b) Docket number, case number, or opinion number: NONE

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
Held in ICE detention for 8-1/2 months since 07/01/2025 AND SINCE 9/16/2025

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT REFUSAL TO RELEASE ME FROM IMMIGRATION DETENTION

(d) Date of the decision or action: 09/16/2025

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not appeal: Since my status is "Entered Without Inspection" I was not eligible to seek an administrative remedy by requesting for ICE parole or a bond hearing due to the BIA directive under the Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025) which states no jurisdiction in the IC

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

\_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

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(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

\_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes  No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 07/01/2025
- (b) Date of the removal or reinstatement order: N/A
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

- (a) Kind of petition, motion, or application: \_\_\_\_\_
- (b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**Grounds for Your Challenge in This Petition**

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** I contest my incarceration in immigration detention because I was detained by the Department of Homeland Security Immigration and Customs Enforcement since 07/01/2025-08/01/2025 and since 9/16/2025  
Violation of 8 U.S.C. §1231(a)(6)

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I have been detained by ICE beyond the removal period authorized by statute. ICE is not likely to remove me in the near future. See attached memorandum with additional specific facts. Question (b) below is not applicable.

(b) Did you present Ground One in all appeals that were available to you?

Yes  No

**GROUND TWO:** Violation of the due process clause of the Fifth Amendment to the U.S. Constitution.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

ICE is depriving me of my right to liberty. I have been detained by ICE for a prolonged period. See attached memorandum with additional specific facts. Question (b) below is not applicable.

(b) Did you present Ground Two in all appeals that were available to you?

Yes  No

**GROUND THREE:** I have been denied the right to a speedy trial. By the time my individual asylum hearing takes place in 4/23/2026 I will have been incarcerated for 8-1/2 months.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

I attended my asylum master hearings. My asylum individual hearing has been delayed. Question (b) below is not applicable.

(b) Did you present Ground Three in all appeals that were available to you?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**GROUND FOUR:** I submitted an application I589 dated 11/28/2025 to request for asylum to the immigration court and I will not be a flight risk and will comply with all the U.S. laws and I will appear at all immigration court hearings and ICE check-ins.

(a) Supporting facts (Be brief. Do not cite cases or law.):

My wife is a naturalized U.S. citizen who is my sponsor. She will ensure that I will not be a flight risk, attend all court hearings, ICE check-ins and will not be a danger to the community.

(b) Did you present Ground Four in all appeals that were available to you?

Yes  No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: This is not applicable to this matter.

**Request for Relief**

15. State exactly what you want the court to do: I request the court to grant my immediate release so I can be allowed to pursue my asylum claim outside of detention and so I can apply for a work permit to earn a living to support my family while the asylum process is being adjudicated.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

---

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: March 30, 2026

KaiYuan Chen

*Signature of Petitioner*

Pro Se

*Signature of Attorney or other authorized person, if any*

**FILED**  
APR 06 2026  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY

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KAIYUAN CHEN   
7488 Calzada de la Fuente  
San Diego, CA 92154-2717  
(312) 662-8878

*Pro Se*

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

KAIYUAN CHEN,

Petitioner,

vs.

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

Respondents.

Case No.:

Agency No.

PETITION FOR WRIT OF HABEAS  
CORPUS

ORAL ARGUMENT NOT REQUESTED


**INTRODUCTION**

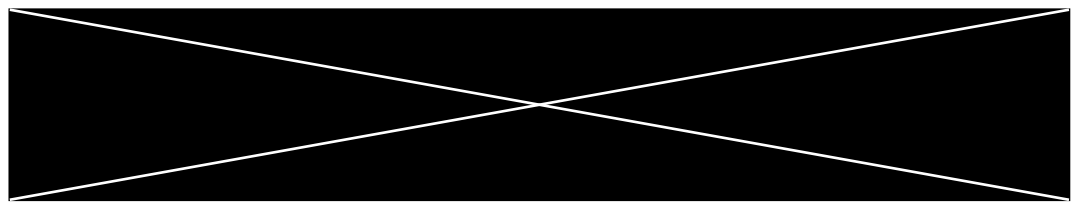
1. Petitioner, Kaiyuan Chen, originally entered the United States on July 01, 2025 without inspection at the Otay Mesa border crossing in San Diego County.
2. Petitioner was apprehended by immigration authorities on July 01, 2025 while he was hidden underneath the carriage of a pick-up truck. Petitioner is 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).

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3. Petitioner was robbed at gunpoint and forced by the Mexican driver to be a passenger hidden in a compartment of the truck while in Tijuana, Mexico and was driven to the Otay Mesa border crossing where he was discovered by Customs and Border Patrol.

4. Petitioner is currently detained at the Otay Mesa detention center by immigration authorities and is the subject of a pending removal hearing.

5. Petitioner was offered parole on August 1, 2025 for 45 days by Immigration and Customs enforcement for 



6. Petitioner has been compliant and reported back to Otay Mesa Detention Center on September 16, 2025 at the end of his parole according to his signed agreement and has been detained for over six months.

7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order to release Petitioner from detention.

**JURISDICTION**

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

1 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the  
2 Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651,  
3 and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).  
4

5 **VENUE**

6 11. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa, California.  
7 Venue is further proper because a substantial part of the events or omissions giving rise to  
8 Petitioner's claims occurred in this District, where Petitioner is now in Respondent's  
9 custody. 28 U.S.C. § 1391(e).  
10

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

12 12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause  
13 (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28  
14 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return  
15 "within three days unless for good cause additional time, not exceeding twenty days, is  
16 allowed." Id.  
17

18 13. Courts have long recognized the significance of the habeas statute in protecting individuals  
19 from unlawful detention. The Great Writ has been referred to as "perhaps the most  
20 important writ known to the constitutional law of England, affording as it does a swift and  
21 imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S.  
22 391, 400 (1963).  
23

24 14. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and  
25 detained by Respondents.

26 **PARTIES**

27 15. Petitioner is currently detained at the Otay Mesa Detention Center in Otay Mesa, CA.  
28

1 16. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security  
2 ("DHS"), and is sued in her official capacity. The Secretary of Homeland Security is  
3 charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).  
4

5 17. Respondent Pam BONDI is the Attorney General of the United States and is sued in her  
6 official capacity as the head of the Department of Justice. The Attorney General is  
7 responsible for the fair administration of the laws of the United States.

8 18. Respondent Executive Office for Immigration Review is a component agency of the  
9 Department of Justice responsible for conducting removal and bond hearings of  
10 noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration  
11 judges and an appellate body known as the Board of Immigration Appeal (BIA).

12 Immigration judges issue bond redetermination hearing decisions, which are then subject  
13 to appeal to the BIA.  
14

15 19. Respondent Todd LYONS is the Acting Director of U.S. Immigration and Customs  
16 Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention  
17 of Petitioner.  
18

19 20. Respondent GREGORY J. ARCHAMBEAULT is the Immigration and Customs  
20 Enforcement Field Office Director at the ICE Otay Mesa immigration detention facility  
21 and is sued in his official capacity. Respondent GREGORY J. ARCHAMBEAULT is  
22 responsible for the detention of Petitioner.  
23

24 21. Respondent CHRISTOPHER J. LAROSE, is the OTAY MESA SENIOR WARDEN and  
25 is sued in his official capacity as he is responsible for the detention of Petitioner.  
26  
27  
28

**LEGAL FRAMEWORK**

1  
2 22. Immigration detention should not be used as a punishment and should only be used when,  
3 under an individualized determination, a noncitizen is a flight risk because they are  
4 unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*,  
5 533 U.S. 678, 690 (2001).  
6

7 23. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth  
8 Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).  
9

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

13 25. Removal proceedings described in section 240 of the INA are used to determine whether  
14 individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. §  
15 1229a.  
16

17 26. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to  
18 apply for asylum to individuals seeking safe haven in the United States. The purpose of the  
19 Refugee Act is to enforce the “historic policy of the United States to respond to the urgent  
20 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, §  
21 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).  
22

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

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

29. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

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


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

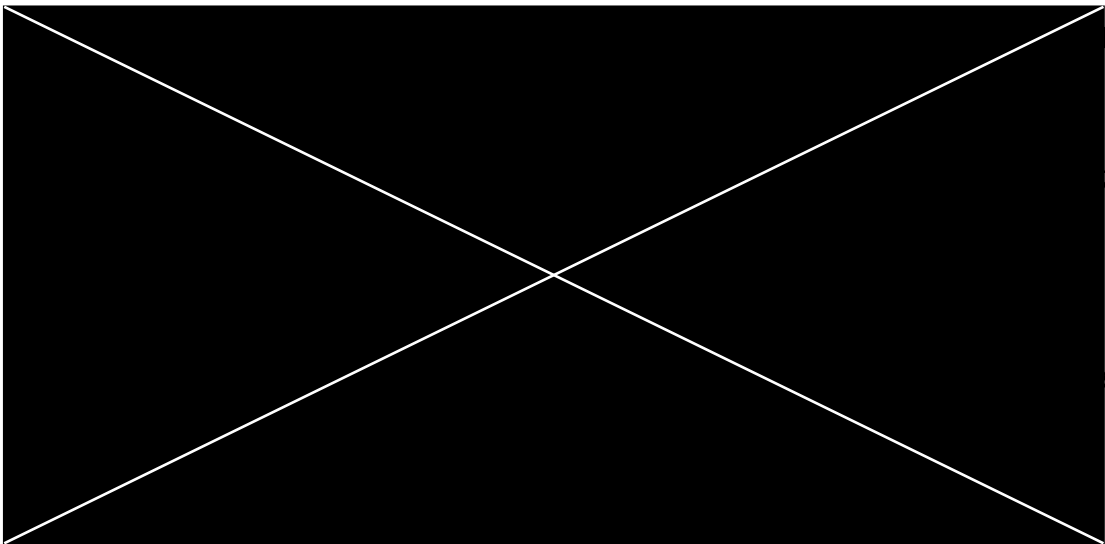
32. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Matter of Guerra, 24 I&N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

1 33. Custody determinations under § 1226(a) are individualized and based on the facts  
2 presented in those cases. Unlike § 1226(c), which can provide for categorical  
3 determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a  
4 case-by-case review of the facts and circumstances.  
5

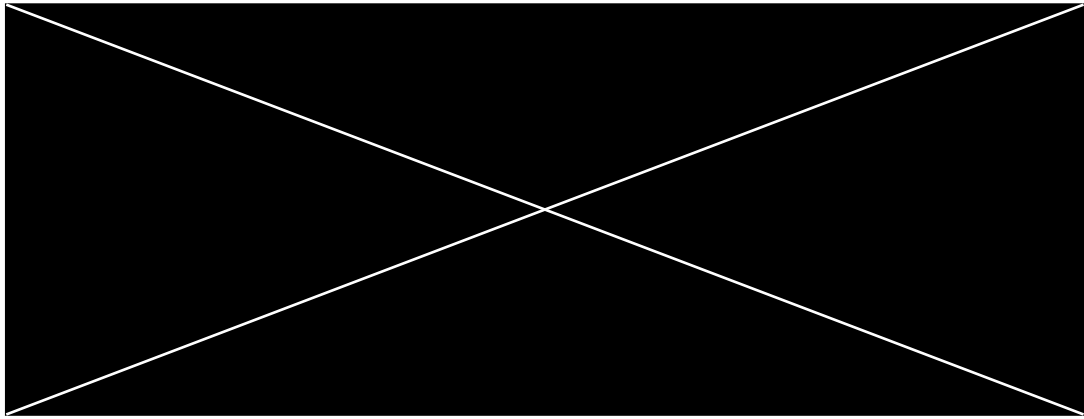
6 34. Once a determination to release an individual from custody is made, the release order may  
7 be revisited when the facts or circumstances warrant revocation or reconsideration. 8  
8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may  
9 take that individual back into custody by revoking the individual's release when the facts  
10 and circumstances warrant it. Revocation and return to custody is authorized only based on  
11 the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation,  
12 revocation decisions are limited in nature and may only be made by certain authorized  
13 officials. 8 C.F.R. § 1236.1(c)(9).  
14  
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16 **FACTUAL BACKGROUND**

17 35. Petitioner fled China, where he  and entered  
18 the United States on July 01, 2025.  
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37. 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, and he requested a bond redetermination hearing before an immigration judge. Petitioner is neither a danger to others nor a flight risk.

38. 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, and he requested a bond redetermination hearing before an immigration judge. Petitioner is neither a danger to others nor a flight risk.

39. 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

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prioritize civil immigration enforcement procedures including through the use of mass detention.

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

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

42. On information and belief, Petitioner has no criminal history.

**CLAIMS FOR RELIEF**

**COUNT ONE**

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

**Abuse of Discretion**

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

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

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

1 45. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for  
2 its action, “including a rational connection between the facts found and the choice made.”

3 Dep’t of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).  
4

5 46. By categorically revoking Petitioner’s release without consideration of his individualized  
6 facts and circumstances, Respondents have violated the APA.

7 47. By detaining the Petitioner categorically, Respondents have further abused their discretion  
8 because there have been no changes to his facts or circumstances since the agency made its  
9 initial custody determinations that support the revocation of his release from custody.  
10

11 48. Respondents have already considered Petitioner’s facts and circumstances and determined  
12 that he was not a flight risk or danger to the community. There have been no changes to  
13 the facts that justify this revocation of his release on his own recognizance.  
14

15 **COUNT TWO**

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

19 49. Petitioner restates and realleges all paragraphs as if fully set forth here.

20 50. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in  
21 accordance with law;” “contrary to constitutional right;” “in excess of statutory  
22 jurisdiction, authority, or limitations;” or “without observance of procedure required by  
23 law.” 5 U.S.C. § 706(2)(A)-(D).  
24

25 51. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond  
26 or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial  
27 warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that  
28 such revocations of release from custody may only be carried out in the “discretion of the

1 district director, acting district director, deputy district director, assistant district director  
2 for investigations, assistant district director for detention and deportation, or officer in  
3 charge (except foreign).”  
4

5 52. It is a well-established administrative principle that “agency action taken without lawful  
6 authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d  
7 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015);  
8 see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)  
9 (invalidating agency action because it was taken by unauthorized official).  
10

11 53. On information and belief, Respondents have revoked or are revoking Petitioner’s prior  
12 custody determination as a result of a categorical policy prepared by and implemented by  
13 unidentified government officials in Washington, not through the individual exercise of  
14 discretion required by law or by the individuals enumerated by regulation to do so.  
15

16 54. Because Petitioner’s revocation of release from custody has been made or will be  
17 categorically directed by government officials not authorized by law to make this  
18 determination, Respondents’ detention of Petitioner is not in accordance with law and in  
19 excess of statutory authority.  
20

21 **COUNT THREE**

22 **Violation of Fifth Amendment Right to Due Process**  
23 **Procedural Due Process**  
24

25 55. Petitioner restates and realleges all paragraphs as if fully set forth here.

26 56. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the  
27 federal government from depriving any person of “life, liberty, or property, without due  
28

1 process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the  
2 United States, including [non-citizens], whether their presence here is lawful, unlawful,  
3 temporary, or permanent." Zadvydas, 533 U.S. at 693; accord Flores, 507 U.S. at 306.

4  
5 57. Due process requires that government action be rational and non-arbitrary. See U.S. v.  
6 Trimble, 487 F.3d 752, 757 (9th Cir. 2007).

7 58. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to  
8 revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and  
9 must comport with constitutional due process. See Zadvydas, 533 U.S. at 698.

10 59. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner and  
11 not based on a rational and individualized determination of whether he is a safety or flight  
12 risk, in violation of due process. Because no individualized custody revocation has been  
13 made and no circumstances have changed to make Petitioner a flight risk or a danger to the  
14 community, Respondents' revocation of Petitioner's release violates his right to procedural  
15 due process.  
16

17 60. Petitioner has a wife, Rongjiao Wei, in Chicago, IL who is a naturalized U.S. citizen who  
18 can provide for his livelihood. His son, Rongbang Chen, has permanent residency status  
19 in the United States. Both Mother and son run a successful sushi restaurant in Chicago, IL.  
20 Kaiyuan Chen will be actively participating in the family restaurant business upon his  
21 release. For this reason, the Petitioner will not be a flight risk nor a danger to the  
22 community.  
23  
24

25 **PRAYER FOR RELIEF**

26  
27 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Authorize Petitioner pro bono representation with Federal Defenders of San Diego under 28 U.S.C. § 1915(e)(1) due to his inability to afford counsel in his Writ of Habeas Corpus proceedings before the U.S. District Court Southern District of California. A CJA23 Financial Affidavit is attached.
- (5) Petitioner respectfully moves this Court for an order appointing a certified interpreter in the Mandarin Chinese language for all hearings and proceedings in this matter. Defendant has limited English proficiency and cannot fully understand, speak, read, or write English sufficiently to meaningfully participate in these proceedings without interpretation assistance. Pursuant to the Court Interpreters Act, 28 U.S.C. § 1827, and the Court's inherent authority to ensure the fair administration of justice. Due process requires that a litigant be able to understand the proceedings and communicate effectively with the Court. Without the assistance of a qualified interpreter, Defendant's ability to participate meaningfully in this case would be substantially impaired.
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (8) Order the Petitioner be immediately released forthwith under the jurisdiction of this COURT

1 and not require the Petitioner to be sent to the Immigration Court for a custody redetermination  
2 hearing to set bond because the Immigration Court has been given direction by the Board of  
3 Immigration Appeals under the Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025) that it  
4 has no jurisdiction to hold a custody redetermination hearing for those who entered without  
5 inspection, in clear violation of his Fifth Amendment rights. Moreover, the BIA reasoned that  
6 INA § 235 governs the inspection, detention, and removal of noncitizens who have not been  
7 admitted and are therefore "applicants for admission." Under this provision, such noncitizens are  
8 subject to being placed into expedited removal proceedings and mandatorily detained for the  
9 duration of those proceedings. Petitioner has been held in detention for over 14-1/2 months, while  
10 his asylum proceedings have not progressed. This prolonged detention now qualifies him to be  
11 released under Writ of Habeas Corpus so he can continue to adjudicate his asylum claim outside  
12 of detention.

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

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

16 Dated March 30, 2026

17 Respectfully Submitted,

18 Kai Yuan Chen

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23 Pro Se

24 .....+