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UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

DONGXING CHI, an individual;

Petitioner,

v.

PETITION FOR WRIT OF HABEAS
CORPUS
'26CV2540 AGS SBC

JEREMY CASEY, Warden of Imperial Regional
Detention Facility; 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;
TODD BLANCHE, Acting Attorney General of
the United States; MARKWAYNE MULLIN,
Secretary of Homeland Security, in their official
capacities,

Respondents.

INTRODUCTION

1. Petitioner Dongxing Chi (alien registration number:  ("Mr. Chi" or "Petitioner") is a native and citizen of the People's Republic of China, presently detained at the Imperial Regional Detention Facility. Petitioner, by and through his counsel, files this petition for

1 writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate
2 release from immigration detention where he has been held by the U.S. Department of Homeland
3 Security (“DHS”) since being detained on or around May 31, 2025, without first being provided a
4 due process hearing to determine whether his detention is justified. Petitioner was previously
5 released by DHS in December 2020, after a determination that he was neither a flight risk nor a
6 danger to the community.

7 2. The Due Process clause of the Fifth Amendment, as well as statutory and regulatory
8 authorities, require the government to provide noncitizens with notice and a hearing prior to re-
9 detention. Here, Respondents violated his due process rights, and the violation is continuing each
10 day that Petitioner remains detained.

11 CUSTODY

12 3. Petitioner is in the physical custody of Respondents and U.S. Immigration and
13 Customs Enforcement (“ICE”). Mr. Chi is detained at ICE’s Imperial Regional Detention Facility
14 in Calexico, California, and he is under the direct control of Respondents and their agents.

15 JURISDICTION AND VENUE

16 4. This action arises under the Constitution of the United States, 28 U.S.C. §
17 2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq. This Court
18 has subject matter jurisdiction under 28 U.S.C. §2241, Article I, Section 9, Clause 2 of the United
19 States Constitution (the “Suspension Clause”); and 28 U.S.C. § 1331, as Petitioner is presently in
20 custody under color of the authority of the United States, and such custody violates the Constitution,
21 laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (“We
22 conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and
23 constitutional challenges to post-removal-period detention.”).

24 5. Venue lies in the Southern District of California, because this is an action in which
25 Respondents are employees, officers, and agencies of the United States. Additionally, Petitioner is
26 currently detained in the territorial jurisdiction of this Court, at the Imperial Regional Detention
27 Facility in Calexico, California, and a substantial part of the events or omissions giving rise to this
28 action occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

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

THE PARTIES

7. Petitioner is a native and citizen of the People’s Republic of China. Petitioner was taken into ICE custody for the third time on or about May 31, 2025, and has remained in ICE custody continuously since that date.

8. Respondent JEREMY CASEY is sued in his official capacity as the Warden of the Imperial Regional Detention Facility. He has immediate physical custody of Petitioner under the facility’s contract with ICE to detain noncitizens. Respondent CASEY is a legal custodian of Petitioner.

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

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

11. Respondent MARKWAYNE MULLIN is sued in his official capacity as the Secretary of the DHS. In this capacity, Respondent MULLIN is responsible for the implementation and enforcement of the INA and oversees ICE, the component agency responsible for Petitioner’s detention. Respondent MULLIN is a legal custodian of Petitioner.

12. Respondent TODD BLANCHE is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In this capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and

1 the Board of Immigration Appeals. Respondent BLANCHE is a legal custodian of Petitioner.

2 **LEGAL FRAMEWORK**

3 **(Constraints on Post-Final Order of Removal Detention)**

4 13. Under 8 U.S.C. §1231(a)(1)(A), following a final order of removal, the Attorney
5 General shall effectuate the removal of an individual within ninety days. This ninety-day removal
6 period generally commences as soon as a removal order becomes administratively final. 8 U.S.C.
7 §1231(a)(1)(A); §1231(a)(1)(B).

8 14. If the Attorney General fails to remove an individual during the removal period, the
9 government must release the individual under conditions of supervision, including periodic
10 reporting. 8 U.S.C. §1231(a)(3).

11 15. Only limited exceptions to this rule exist. Specifically, the Attorney General “may”
12 detain an individual beyond ninety days if the individual was ordered removed on criminal grounds,
13 or is determined to pose a danger or flight risk. 8 U.S.C. §1231(a)(6).

14 16. The constitutional requirement also constrains the Attorney General’s authority to
15 detain an individual beyond the removal period, directing that the detention must bear “a reasonable
16 relation to the purpose for which the individual was committed.” *Zadvydas v. Davis*, 533 U.S. 678,
17 690 (2001). Because detention after entry of a final order is to effectuate removal, detention bears
18 no reasonable relation to its purpose if removal cannot be effectuated, and the Attorney General
19 cannot hold a noncitizen in confinement indefinitely. *Id.* at 697.

20 17. 8 C.F.R. §241.4 sets forth the custody review process. This mandatory process,
21 known as the post-order custody review, requires ICE to conduct a “90-day custody review” prior
22 to the expiration of the ninety-day removal period and to consider the release of individuals who
23 pose no danger or flight risk. 8 C.F.R. §241.4 (e)-(f). In conducting such a review, ICE must
24 consider whether the travel documents are available, whether the removal is practicable, whether
25 the noncitizen “is a significant flight risk,” whether the noncitizen is likely to pose a danger to the
26 community, or violate the conditions of his or her release from immigration custody pending
27 removal from the United States.

28 18. Immigration detention violates the Due Process Clause unless it is “reasonably

1 related” to the government’s purpose, which is to prevent danger or flight risk. *See Zadvydas*, 533
2 U.S. at 700 (“[I]f removal is reasonably foreseeable, the habeas court should consider
3 the risk of the alien’s committing further crimes as a factor potentially justifying confinement
4 within that reasonable removal period.”)

5 19. Accordingly, a noncitizen must be released from custody where he does not pose a
6 danger or flight risk that warrants post-final order detention, regardless of whether his removal can
7 be effectuated within a reasonable period.

8 20. Further, in *Zadvydas v. Davis*, the U.S. Supreme Court held that 8 U.S.C.
9 §1231(a)(6), when “read in light of the Constitution’s demands, limits an alien’s post-removal-
10 period detention to a period reasonably necessary to bring about that alien’s removal from the
11 United States.” *Zadvydas*, 533 U.S. at 689. A “habeas court must [first] ask whether the detention
12 in question exceeds a period reasonably necessary to secure removal.” *Id.* at 699. If the individual’s
13 removal “is not reasonably foreseeable, the court should hold continued detention unreasonable
14 and no longer authorized by the statute.” *Id.* at 699-700.

15 21. In determining the length of a reasonable removal period, the Court adopted a
16 “presumptively reasonable period of detention” of six months. *Id.* at 701. “For detention to remain
17 reasonable, as the period of prior post-removal confinement grows, what counts as the ‘reasonably
18 foreseeable future’ conversely would have to shrink.” *Id.*

19 STATEMENT OF FACTS

20 22. Mr. Chi fled China and first entered the United States without inspection on
21 February 7, 2019, through the San Ysidro, California, port of entry. Upon detention, his passport
22 was taken by ICE, and it was believed to have expired in November 2024.

23 23. Following an initial screening on February 9, 2019, an asylum officer determined
24 that he possessed a credible fear of persecution.

25 24. Despite this finding, Mr. Chi was never afforded a meaningful opportunity to present
26 the merits of his case to the immigration court. On March 5, 2020, a removal order was entered
27 after his application for asylum and withholding of removal was withdrawn without his informed
28 consent. He was not provided with an interpreter to explain this decision to him. His prior counsel

1 failed to explain the legal consequences of the withdrawal, and that counsel has since become
2 unavailable to Mr. Chi.

3 25. On or about December 28, 2020, ICE released Mr. Chi on an Order of Supervision
4 (the "OSUP") after concluding that his removal could not be effectuated at that time. By the date
5 of his release, he had been in immigration detention for approximately one year and ten months, a
6 period extending more than nine months beyond the entry of the March 5, 2020 removal order. (A
7 true copy of the OSUP is attached as Exhibit "A.") Under the terms of the OSUP, Mr. Chi was
8 required, among other conditions, to appear for periodic check-ins at an ICE Field Office.

9 26. Over the next four years, Mr. Chi consistently and dutifully complied with the terms
10 of the OSUP and all conditions of his release, reporting to ICE as required and never missing a
11 scheduled appointment. After each check-in, ICE provided him with a new date and time to check
12 in. He has never violated any OSUP requirement or condition of release.

13 27. During this period, he deeply integrated into the community of Grenada,
14 Mississippi. He obtained proper work authorization, developed professional skills, and, since 2023,
15 has owned and operated a restaurant with his wife. Mr. Chi lived openly in his community, paid
16 taxes, regularly attended church, and provided his place of business to the church to host English
17 classes without charge.

18 28. The stability of his life was abruptly interrupted on December 3, 2024, when he
19 reported for a routine ICE appointment as scheduled and was unexpectedly detained upon arrival
20 at the ICE reporting. At no point before being taken into custody was he informed that he was
21 facing immediate detention. He was not provided advance notice, written or oral, that this reporting
22 appointment would result in being retaken to ICE custody. At no point was he informed that she
23 was subject to imminent removal or that his compliance with the OSUP would result in re-detention.

24 29. Instead, he was served with a deficient notice of revocation of release after being re-
25 detained. The Notice of Revocation of Release ("NRR") provided to Mr. Chi, which was signed by
26 a deportation officer, stated that he would be afforded an information interview to respond to the
27 reasons for his detention. Yet, no such interview was ever conducted. Further, although he
28 requested an immigration judge review the custody determination, he was never offered an

1 opportunity to appear before an immigration judge to contest his re-detention.

2 30. On January 6, 2025, before he had an opportunity to seek any meaningful judicial
3 remedies, Mr. Chi was sent to China through a government-arranged charter flight on January 6,
4 2025, despite not possessing a valid passport.

5 31. Upon the return flight's arrival in China, Mr. Chi was immediately intercepted by
6 the local police officers and taken to the police station for interrogation and detention. While
7 detained, he experienced severe physical beatings and torture from the Chinese police officers.

8 32. After his family secured his release, Mr. Chi fled back to the United States, re-
9 entering at San Ysidro on May 31, 2025. On July 8, 2025, an immigration officer conducted a new
10 Credible Fear Interview and found not only that he was credible, but that he had established it was
11 more likely than not that he would face torture if returned again.

12 33. Mr. Chi was placed in removal proceedings on or about July 14, 2025. In these
13 proceedings, he applied for asylum, withholding of removal, and protection under the Convention
14 Against Torture, predicated on both the original harm and the new harms he experienced following
15 his forced return to China. An immigration judge subsequently denied his application on November
16 19, 2025.

17 34. While the November 19, 2025 removal order has since become final, Mr. Chi
18 remains in prolonged detention. To date, Respondents have provided no evidence that Mr. Chi's
19 removal is significantly likely to occur in the reasonably foreseeable future, nor is there any
20 indication that a valid travel document has been or is being obtained to facilitate his departure.

21 **COUNT ONE**

22 **(Violation of Regulations Governing Revocation of Release)**

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

25 36. As long as a noncitizen complies with the conditions of his release, Respondents
26 have regulatory authority to revoke release only when circumstances have changed. 8 C.F.R.
27 §241.13(i)(2).

28 37. 8 C.F.R. §241.13(i) states a noncitizen's release may be revoked "if, on account

1 of changed circumstances,” it is determined that “there is a significant likelihood that the alien
2 may be removed in the reasonably foreseeable future.” 8 C.F.R. §241.13(i)(2). Upon revocation,
3 the noncitizen will be notified of his release, and an initial informal interview will be promptly
4 conducted to afford the alien an opportunity to respond. 8 C.F.R. §241.13(i)(3). “The revocation custody
5 review will include an evaluation of any contested facts relevant to the revocation and a
6 determination whether the facts as determined warrant revocation and further denial of release.” *Id.*

7 38. Petitioner Mr. Chi was previously released by Respondents in December 2020
8 because his removal was not foreseeable, he was not deemed a danger, and he did not pose a danger
9 or flight risk. Despite Mr. Chi’s diligent compliance with the OSUP, Respondents revoked his release
10 and re-detained him in a manner that violated ICE’s regulations.

11 39. ICE failed to comply with these binding regulations prior to taking Mr. Chi into
12 custody and failed to provide a meaningful channel that he would be able to contest this revocation. ICE
13 therefore violated the terms of 8 C.F.R. §241.4(d). *Perez-Escobar v. Moniz*, 792 F.Supp.3d 224, 226 (D.
14 Mass. 2025) (ICE’s conclusory explanation for revoking Petitioner’s release did not offer him adequate
15 notice of the basis for the revocation decision such that he could meaningfully respond at the post-
16 detention “informal interview.”)

17 40. Respondents also violated the procedural protections afforded by 8 C.F.R. §241.13 (i)
18 by failing to meaningfully afford Mr. Chi an opportunity to respond to the reasons for revocation stated
19 in the notification.

20 41. Even where proper notification is provided, revocation of release authority resides with
21 two (and only two) individuals within ICE: (a) the Executive Associate Commissioner; and (b) a district
22 director, where “revocation is in the public interest and circumstances do not reasonably permit referral
23 of the case to the Executive Associate Commissioner.” 8 C.F.R. §241.4 (l)(2).

24 42. Respondents have also failed to comply with regulations binding on the agency because,
25 on information and belief, the individual who terminated his OSUP lacked the regulatory authority to do
26 so. The NRR provided to Mr. Chi was not signed by the individuals with such authority, making it
27 impossible for ICE to demonstrate compliance with 8 C.F.R. §241.4.

28 43. Government agencies are required to follow their own regulations. *Pogosian v.*

1 *Bowen*, No. 5:25-cv-03380-DOC-DTB, 2025 U.S. Dist. LEXIS 268539, at *6 (C.D. Cal. Dec. 31,
2 2025).

3 44. Revocation of the OSUP in contravention of binding regulations is unlawful and
4 cannot stand. *Ceesay v. Kurzdorfer*, 781 F.Supp.3d 137, 168 (W.D.N.Y May 2, 2025) (finding
5 violations of statute, regulations, and due process where ICE revoked Order of Supervision and
6 detained noncitizen without advance notice and opportunity to be heard); *See Santamaria Orellana*
7 *v. Baker*, No. 25-cv-01788, 2025 U.S. Dist. LEXIS 164986, at *20-21 (D. Md. Aug. 25, 2025).
8 (holding that ICE violated the requirement that the decision to revoke release be made by specified
9 individuals where there was no evidence that officials designated by paragraph (l)(2) made the
10 decision to revoke the petitioner's release).

11 COUNT TWO

12 (Unlawful Re-Detention Without a pre-Deprivation Hearing)

13 45. Petitioner repeats and incorporates by reference into this cause of action the
14 allegations set forth above.

15 46. All persons, regardless of status, are protected by the Fifth Amendment's Due
16 Process Clause. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). The Due Process Clause
17 squarely protects Mr. Chi's liberty from arbitrary immigration detention: "Freedom from
18 imprisonment—from government custody, custody, detention, or other forms of physical
19 restraint—lies at the heart of the liberty that [the Fifth Amendment's Due Process] Clause protects."
20 *Zadvydas*, 533 U.S. at 690. Mr. Chi's detention and resulting loss of his liberty without adequate
21 notice and opportunity to contest such deprivation violated his due process rights.

22 47. The Supreme Court "has held that the Constitution requires some kind of a hearing
23 before the State deprives a person of liberty or property." *Zinerman v. Burch*, 494 U.S. 113, 127
24 (1990). Only in a "special case" where post-deprivation remedies are "the only remedies the State
25 could be expected to provide" can the post-deprivation process suffice. *Zinerman*, 494 U.S. at 128.

26 48. At stake is one of the most profound individual interests recognized by our legal
27 system: whether ICE may unilaterally nullify a prior release decision and take away his physical
28 freedom, *i.e.*, Mr. Chi's "constitutionally protected interest in avoiding physical restraint." *Singh v.*

1 *Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

2 49. A protected liberty interest may arise from a conditional release from physical
3 restraint. *Young v. Harper*, 520 U.S. 143, 147–49 (1997). By living freely for almost four years
4 after release, Mr. Chi developed a substantial liberty interest in avoiding reincarceration without a
5 pre-deprivation hearing. See *Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677
6 (N.D. Cal. July 17, 2025) (recognizing that “the liberty interest that arises upon release [from
7 immigration detention] is inherent in the Due Process Clause”); *Ortega v. Kaiser*, No. 25-cv-05259-
8 JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025) (collecting cases finding that noncitizens who
9 have been released have a strong liberty interest).

10 50. His consistent compliance with his supervision conditions strengthens the
11 legitimacy of that liberty interest. He continuously complied with all OSUP requirements by
12 presenting himself at the ICE Field Office for his scheduled check-ins. At no time during any of
13 those visits did ICE attempt to re-arrest him. Rather, after each check-in, ICE provided him with a
14 new date and time to check in.

15 51. Yet, he was detained without a reasonable notice or a pre-deprivation hearing, where
16 he could contest that revocation. This lack of process demonstrates that his continued detention,
17 and no evidence of danger or flight risk, with no apparent consideration of those factors, was
18 unlawful.

19 52. Once the protected interest is confirmed, the Court needs to determine what
20 procedures are necessary to ensure that the deprivation of that protected liberty interest meets the
21 demands of the Constitution. The Ninth Circuit has “regularly applied *Mathews v. Eldridge*, 424
22 U.S. 319 (1976), to due process challenges to removal proceedings.” *Rodriguez Diaz v. Garland*,
23 53 F. 4th 1189, 1206 (9th Cir. 2022) Under *Mathews*, the Court considers (1) the private interest
24 that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest
25 through the procedures used, and the probable value, if any, of additional or substitute procedural
26 safeguards; and (3) the government’s interest, including the function involved and the fiscal and
27 administrative burdens that the additional or substitute procedural requirement would entail.
28 *Mathews*, 424 U.S. 319, 335 (1976).

53. The first *Mathews* factor strongly favors Petitioner. “Freedom from imprisonment—
from government custody, detention, or other forms of physical restraint—lies at the heart of the
liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
Federal district courts in California, including this Court, have repeatedly found that noncitizens,
like Petitioner, who were previously detained, placed in removal proceedings, found to be neither
a flight risk nor a danger to the community, and released on their own recognizance, “therefore
maintain a ‘protected liberty interest in remaining out of custody.’” *Zhibin Xie v. Larose*, No. 3:25-
cv-03649-RBM-MSB, 2026 WL 92066 (S.D. Cal. Jan. 13, 2026) (citing *Pinchi v. Noem*, 792 F.
Supp. 3d 1025, 1032-33 (N.D. Cal. 2025)); *see also Shan Yan v. Fereti Semaia*, 5:26-cv-00674-
KK-DSRx (C.D. Cal. Feb. 18, 2026).

54. The second *Mathews* factor also strongly favors Petitioner. There is a “significant
risk that the government will erroneously deprive [Petitioner] of [him] liberty interest if it does not
provide [him] with a pre-detention hearing, where, as here, ‘the [Petitioner] has not received any
bond or custody...hearing.’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025).
Civil immigration detention must be “nonpunitive in purpose” and bear a “reasonable relation” to
the authorized statutory purposes of preventing flight and danger to the community. *Zadvydas*, 533
U.S. at 690.

55. Here, Petitioner was previously released by immigration authorities after his initial
detention at the border. By releasing him, immigration officers necessarily determined that
Petitioner is neither a flight risk nor a danger to the community. *See Zapata v. Kaiser*, 801 F. Supp.
3d 919, 938 (N.D. Cal. 2025); *see also* 8 C.F.R. § 1236.1(c)(8) (“Any officer...may, in the officer’s
discretion, release an alien...provided that the alien must demonstrate to the satisfaction of the
officer that such release would not pose a danger to property or persons, and that the alien is likely
to appear for any future proceeding.”).

56. Notably, prior to re-detaining Petitioner, the government presented no evidence of
any changed circumstances between his initial release and his subsequent detention that would
support a new finding that he poses a flight risk or a danger to the community. Absent such
evidence, the government’s re-detention lacks a demonstrated connection to a valid regulatory

1 purpose. Under these circumstances, the risk of erroneous deprivation is high given the possibility
2 that Petitioner's re-detention will not be pursuant to a valid governmental interest.

3 57. The third *Mathews* factor likewise favors Petitioner. The government's interest in
4 re-detaining Petitioner without a pre-detention hearing is low "because ICE previously made the
5 determination to release [him], and there is no evidence in the record of any changed circumstances
6 that might cause ICE to reconsider its release determination." *Aviles-Mena v. Kaiser*, No. 25-cv-
7 06783-RFL, 2025 WL 2578215 (N.D. Cal. Sep. 5, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963,
8 970 (N.D. Cal. 2019). Further, additional procedural safeguards, including a hearing before a
9 neutral decision-maker, are "one of the most basic due process protections" and would place a "de
10 minimis . . . burden on the government," especially in light of the potential costs to the public by
11 keeping Petitioner detained. *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated*
12 *on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

13 58. *Mathews* factors show that Petitioner is entitled to a bond hearing and Petitioner
14 "should have been provided such a hearing before he was re-detained." *Simranjit Singh v. Bondi*,
15 No. 1:26-cv-0396 DC CSK P, 2026 WL 469169 (E.D. Cal. Feb. 19, 2026)(citing *Cleveland Bd. of*
16 *Educ. v. Loudermill*, 470 U.S. 532, 542 (1985)) ("An essential principle of due process is that a
17 deprivation of life, liberty, or property be preceded by notice and opportunity for hearing
18 appropriate to the nature of the case."); *see also Zinerman v. Burch*, 494 U.S. at 127 (1990)
19 ("Applying [the *Mathews*] test, the Court usually has held that the Constitution requires some kind
20 of a hearing before the State deprives a person of liberty . . .").

21 59. At such a hearing, the government must prove that he is a flight risk or danger to the
22 community by clear and convincing evidence. *See Pablo Sequen v. Albarran*, No. 25-CV-06487-
23 PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025).

24 60. Respondents provided Petitioner with neither a pre-deprivation hearing nor any
25 justification for dispensing with one, and they have offered no evidence supporting the necessity
26 of a post-deprivation hearing. Respondents have therefore violated Petitioner's rights under the
27 Due Process Clause of the Fifth Amendment.

28 61. Even if the Court were to order a post-deprivation bond hearing, such relief would

1 not cure the constitutional defects at issue. The Due Process Clause requires meaningful notice and
2 an opportunity to be heard before a deprivation of liberty occurs, absent extraordinary
3 circumstances. A belated bond hearing does not remedy the unlawful initial seizure and detention
4 where the government failed to provide constitutionally adequate procedures at the outset.
5 See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing the serious constitutional concerns
6 raised by civil immigration detention); *Fuentes v. Shevin*, 407 U.S. 67, 80–82 (1972) (due process
7 generally requires pre-deprivation process where feasible).

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

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

19 **COUNT THREE**

20 **(Violation of Due Process)**

21 64. Petitioner repeats and incorporates by reference into this cause of action the
22 allegations set forth above.

23 65. Due process also requires consideration of alternatives to detention at any custody
24 redetermination hearing that may occur. The primary purpose of immigration detention is to ensure
25 removal if reasonably foreseeable. *Zadvydas*, 533 U.S. at 697.

26 66. Detention is not reasonably related to this purpose if, as here, removal is not actually
27 foreseeable. Accordingly, alternatives to detention must be considered in determining whether Mr.
28 Chi's reincarceration is warranted.

1 67. Here, Respondents have not demonstrated that Mr. Chi, who was previously
2 detained and released from immigration custody with no criminal history in the United States or
3 anywhere else in the world, needs to be detained, nor that there is any justifiable reason to deprive
4 him of his liberty interest.

5 68. Release from custody until ICE assesses and demonstrates that Mr. Chi is a flight
6 risk or danger to the community, or that his detention is not going to be indefinite, is far less costly
7 and burdensome for the government than keeping him detained. As the Ninth Circuit noted in 2017,
8 “[t]he costs to the public of immigration detention are ‘staggering’: \$158 each day per detainee,
9 amounting to a total daily cost of \$6.5 million.” *Hernandez v. Sessions*, 872 F.3d 976, 997 (9th Cir.
10 2017). It is safe to say that this amount might be even higher today.

11 69. Furthermore, Respondents’ current detention of Mr. Chi is punitive, as it bears no
12 “reasonable relation” to any legitimate government purpose, including the effectuation of his
13 removal. Mr. Chi was previously detained for one year and ten months upon his first entry into the
14 United States. He has now been continuously detained for nearly eleven months following his
15 second entry, including approximately five months following the issuance of the final removal
16 order. This prolonged deprivation of liberty violates his right to due process.

17 70. Respondents have provided no evidence that Mr. Chi’s removal can be effectuated
18 within a reasonable period. Continued detention purportedly undertaken to facilitate his removal to
19 China, while denying him the opportunity to avail himself of the procedures provided by the INA
20 and its implementing regulations, violates due process as well as applicable statutes and regulations.

21 71. As a result of Respondents’ violation, Mr. Chi has now been detained for a
22 cumulative period of two years and ten months without any definite timeline for the end of his
23 incarceration.

24 **PRAYER FOR RELIEF**

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

- 26 1. Assume jurisdiction over this matter.
- 27 2. Issue the writ of habeas corpus and order Respondents to show cause within three days
- 28 why the requested relief should not be granted;

- 1 3. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District
- 2 pending these proceedings;
- 3 4. Declare that Respondents' detention of Petitioner violates the INA and the Due
- 4 Process Clause of the Fifth Amendment;
- 5 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
- 6 without the imposition of any conditions more restrictive than those previously in
- 7 place;
- 8 6. In the alternative, only if the Court concludes that Petitioner is not legally entitled to
- 9 immediate release under the present circumstances based on a specific legal authority,
- 10 order Respondents to provide Petitioner with a bond hearing before an Immigration
- 11 Judge pursuant to 8 U.S.C. § 1226(a) within seven days, at which the government
- 12 bears the burden of establishing by clear and convincing evidence that continued
- 13 detention is appropriate to prevent his flight or to protect the public, **which would**
- 14 **provide a significantly lesser level of due process protection than the immediate**
- 15 **release** to which Petitioner submits he is entitled;
- 16 7. Order Respondents to return all of Petitioner's personal belongings;
- 17 8. Upon release, prohibit Respondents from imposing conditions of supervision more
- 18 restrictive than those previously in place, including the imposition of electronic
- 19 monitoring, absent a hearing consistent with due process;
- 20 9. Enjoin Respondents from transferring, re-arresting, or re-detaining Petitioner absent
- 21 lawful process, including a pre-deprivation hearing before a neutral decisionmaker at
- 22 which the government establishes by clear and convincing evidence that detention is
- 23 appropriate to prevent his flight or to protect the public;
- 24 10. Require Respondents, should they choose to conduct such a hearing, to provide
- 25 Petitioner with reasonable advance notice of the time and place of the hearing;
- 26 11. Enjoin Petitioner's removal from the United States pending a final decision on this
- 27 habeas action;
- 28 12. Enjoin Petitioner's removal from the United States without meaningful notice and

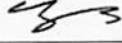
1 opportunity to fully present a fear-based claim;

2 13. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act and
3 any other applicable authority;

4 14. Grant further relief as the Court finds just and proper.

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6 Dated: April 21, 2026

Juris Path Law Firm, PC

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8 By: 
9 Yunchao Song
10 Attorneys for Petitioner Dongxing Chi
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