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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SHIHUA LIN,

Petitioner-Plaintiff,

v.

MARKWAYNE MULLIN , Secretary of the U.S.
Department of Homeland Security, in their official
capacity;

TODD BLANCHE , Attorney General of the
United States, in their official capacity;

TODD M. LYONS , Acting Director of U.S.
Immigration and Customs Enforcement, in their
official capacity;

GREGORY J. ARCHAMBEAULT , San Diego
ICE Field Office Director, in their official capacity;

SIXTO MARRERO , Warden of IMPERIAL
REGIONAL DETENTION FACILITY, in their
official capacity.

Respondents-Defendants.

Case No. '26CV2568 TWR MMP

PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241; 8 U.S.C. §§ 1225,
1226; APA 5 U.S.C. § 706;
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

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INTRODUCTION

1. Petitioner Shihua Lin (“Petitioner”) brings this petition for a writ of *habeas corpus* to challenge his unlawful civil detention by the United States Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is a native and citizen of China who fled persecution in his home country and sought protection in the United States. Despite his pursuit of lawful protection and compliance with immigration proceedings, ICE continues to detain Petitioner at IMPERIAL REGIONAL DETENTION FACILITY.

2. Petitioner is currently held in immigration detention and has been categorically denied a meaningful opportunity for release. The government has denied Petitioner a constitutionally adequate custody determination, leaving him confined without any individualized custody determination. As a result, Petitioner remains incarcerated solely for civil immigration purposes while he exercises his statutory right to seek protection from removal.

3. Petitioner’s continued detention violates federal law and the Due Process Clause of the Fifth Amendment. Immigration detention is civil in nature and may not become punitive or arbitrary. The Supreme Court has repeatedly emphasized that freedom from physical restraint lies at the core of the liberty protected by the Constitution, and noncitizens within the United States are entitled to due process protections when their liberty is restricted. Civil detention without adequate procedural safeguards or meaningful review raises serious constitutional concerns.

4. Here, Petitioner’s detention is unlawful because it proceeds without any individualized custody determination. He has demonstrated a credible fear of persecution, has pursued relief through the lawful immigration process, and has complied with all proceedings. Nevertheless, Respondents continue to detain him without providing an adequate custody determination that satisfies constitutional requirements. Absent intervention by this Court, Petitioner faces the prospect of continued detention without any opportunity for individualized review.

5. Accordingly, to vindicate his statutory and constitutional rights, Petitioner respectfully requests that this Court issue a writ of *habeas corpus* ordering his immediate release from ICE custody under reasonable conditions of supervision. In the alternative, Petitioner requests that the Court at least require Respondents to provide a prompt individualized hearing before a neutral adjudicator where the government must justify any further detention. Petitioner also seeks declaratory and injunctive relief as appropriate.

JURISDICTION

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

7. This Court has habeas jurisdiction under 8 U.S.C. § 1252(e)(2) (*habeas corpus* proceedings), 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). Under 8 U.S.C. § 1252(e)(2)(B), this Court has jurisdiction to determine whether, in fact, the removal order against Petitioner was lawful, such that he was “ordered removed under [8 U.S.C. § 1225(b)(1)].”

VENUE

8. Venue is proper in the SOUTHERN DISTRICT OF CALIFORNIA because Petitioner is detained at IMPERIAL REGIONAL DETENTION FACILITY in this District. In habeas cases, the district of confinement is the typical venue for challenging present physical custody. Additionally, pursuant to 28 U.S.C. § 1391(e), this is an action against officers of the United States in their official capacities, and a substantial part of the events giving rise to the claim—namely Petitioner’s re-detention and ongoing custody—is occurring in this District. Venue is therefore proper in this Court.

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

9. With respect to Petitioner’s habeas claim, the Court must grant the petition for writ of *habeas corpus* or issue an order to show cause (OSC) to Respondents “forthwith,” unless 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). Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because he is arrested and detained by Respondents.

PARTIES

10. Petitioner is presently detained at the direction of Respondents at IMPERIAL REGIONAL DETENTION FACILITY, 1572 Gateway Road, Calexico, CA 92231.

11. Respondent MARKWAYNE MULLIN is named in their official capacity as the Secretary of DHS. They are responsible for the administration of the immigration laws. 8 U.S.C. § 1103(a). They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and is legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent MARKWAYNE MULLIN's address is U.S. Department of Homeland Security, Washington, DC 20528.

12. Respondent TODD BLANCHE is named in their official capacity as the Attorney General of the United States. They are responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and are legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent TODD BLANCHE's address is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

13. Respondent TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), is named in their official capacity. In this capacity, they are responsible for the administration and enforcement of the immigration laws as exercised by ICE, including the detention and custody of noncitizens. They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and are legally responsible for Petitioner's detention. As such, they are a legal custodian of Petitioner. Respondent TODD M. LYONS's address is 500 12th Street, S.W., Washington, D.C. 20536.

14. Respondent GREGORY J. ARCHAMBEAULT, San Diego ICE Field Office Director is named in their official capacity as an ICE District Director. In this capacity, they are a legal custodian of petitioner. Respondent's address is 880 Front Street, Suite 2232, San Diego, CA 92101.

15. Respondent SIXTO MARRERO, Warden of IMPERIAL REGIONAL DETENTION FACILITY is named in their official capacity as the warden of the facility where petitioner is held. In this capacity, they are a legal custodian of petitioner. Respondent's address is 1572 Gateway Road, Calexico, CA 92231.

LEGAL FRAMEWORK

16. The expedited removal statute provides that the process begins—and often effectively concludes—with an inspection by an immigration officer. The officer must, first, determine if the individual is a noncitizen who is inadmissible because they have engaged in certain kinds of fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or lacks valid entry documents, 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3). Among that set, only two categories of noncitizens are eligible for expedited removal: (1) noncitizens “arriving in the United States,” and (2) noncitizens who “ha[ve] not been admitted or paroled into the United States” and cannot affirmatively show that they have been physically present in the United States continuously for the 2-year period immediately prior. 8 U.S.C. § 1225(b)(1)(A)(i)–(iii).

17. In the case of noncitizens who have not been admitted or paroled into the United States, if the officer concludes that the individual is inadmissible under an applicable ground and has been continuously present in the United States for less than two years, the officer “shall,” with the concurrence of a supervisor, 8 C.F.R. § 1235.3(b)(7), order the individual removed “without further hearing or review unless the [noncitizen] indicates either an intention to apply for asylum . . . or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i).

18. At any time during the expedited removal process, the officer may permit the individual to withdraw their application for admission and allow the person to depart the country without issuing an expedited removal order. 8 U.S.C. § 1225(a)(4). For those who express a fear of return to their countries of origin, the expedited removal statute provides a limited additional screening. But the additional screening does not remotely approach the type of process that asylum seekers receive in regular immigration proceedings before an immigration judge under 8 U.S.C. § 1229a.

19. During the inspection process, if an individual indicates an intention to apply for asylum or expresses fear of return to his or her country of origin, the immigration officer must refer the individual for a rudimentary screening interview with an asylum officer, referred to as a “credible fear” interview, to determine whether the individual should be able to apply for asylum and related humanitarian relief. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); 8 C.F.R. §§ 235.3(b)(4), 208.30(d)-(e).

20. To prevail at the credible fear interview, the applicant must show “a significant possibility, taking into account the credibility of the statements made by the [noncitizen] in support of the [noncitizen’s] claim and such other facts as are known to the officer, that the [noncitizen] could establish eligibility for asylum.” 8 U.S.C. § 1225(b)(1)(B)(v). Applicants who satisfy the credible fear standard have their expedited removal orders cancelled by operation of law and are placed into regular removal proceedings under 8 U.S.C. § 1229a, where they have the opportunity to apply for asylum and other relief from removal, present and cross-examine evidence before an immigration judge, preserve objections, and appeal any adverse decision to the Board of Immigration Appeals and court of appeals. 8 C.F.R. § 208.30(f).

21. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Applicants who do not pass the credible fear interview may request review of the decision by an IJ, but do not receive a full hearing or any subsequent administrative appellate review. 8 U.S.C. § 1225(b)(1)(B)(iii)(II)-(III).

22. During the inspection and credible fear stages of expedited removal, DHS detains the noncitizen. *See* 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV). In *Jennings v. Rodriguez*, the Supreme Court held that individuals in expedited removal who demonstrate a credible fear are not statutorily eligible for bond hearings. 583 U.S. 281, 297-303 (2018).

23. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens with expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. Congress provided limited habeas review in individual cases. Relevant here, a federal district court may review whether the individual “was ordered removed under 8 U.S.C. § 1225(b)(1). *See* 8 U.S.C. § 1252(e)(2)(B).

24. In *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), the Supreme Court upheld a lack of habeas jurisdiction where the noncitizen petitioner entered the United States without inspection and then challenged flaws in the credible fear proceeding. Concurring in the judgement, Justice Breyer expressed concern about future readings of the decision to foreclose all habeas claims, including a claim of “natural-born U.S. citizen[ship],” “a claim that rogue immigration officials forged the record of a credible-fear interview that . . . never happened,” or a claim that an asylum officer made a “dead-wrong legal interpretation.” *Id.* at 151.

25. The Supreme Court in *Johnson v. Guzman Chavez*, 141 S. Ct. 2271 (2021) held that individuals in withholding-only proceedings following reinstated removal orders (a category that

includes Petitioner if applicable) are detained under § 1231, not under the pre-removal detention statute § 1226, and therefore have no statutory right to a bond hearing during their pursuit of withholding. However, the absence of a statutory bond hearing mechanism does not mean ICE can detain such individuals indefinitely. Section 1231 must still be administered in compliance with the Constitution and the limitations recognized by *Zadvydas* and its progeny. As detailed below, Respondents' continued detention of Petitioner exceeds their lawful authority under the INA and violates Petitioner's constitutional rights.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

26. Petitioner is currently detained by ICE at IMPERIAL REGIONAL DETENTION FACILITY, located at 1572 Gateway Road, Calexico, CA 92231. Immigration Judges have limited jurisdiction over custody determinations in immigration proceedings, and once bond has been denied or jurisdiction over custody has otherwise been foreclosed, there are no further meaningful administrative avenues available to challenge the legality of continued civil detention. The Board of Immigration Appeals likewise lacks authority to provide the relief sought here, which is release from unlawful civil detention or a constitutionally adequate custody hearing based on Fifth Amendment Due Process claims.

27. Because immigration courts cannot adjudicate constitutional challenges to immigration detention, Petitioner's claims fall outside the scope of the administrative process. Moreover, even where administrative review might theoretically exist, exhaustion is not required where pursuing such remedies would be futile or inadequate.

28. Courts routinely excuse exhaustion in immigration habeas cases when a petitioner challenges the legality or constitutionality of detention itself rather than a discretionary custody determination. Petitioner's claims arise under the Fifth Amendment's Due Process Clause and federal habeas statutes, which are matters committed to the jurisdiction of federal courts.

29. Requiring Petitioner to pursue additional administrative remedies would therefore be futile and would serve only to prolong an already unlawful deprivation of liberty. Petitioner remains in civil immigration detention each day while awaiting resolution of this matter, and the harm resulting from continued detention cannot be adequately remedied through the administrative immigration process. Accordingly, because Petitioner has either exhausted

available administrative remedies or such remedies are unavailable, inadequate, or futile, this Court may properly exercise jurisdiction over this habeas petition.

STATEMENT OF FACTS

30. Petitioner is a national of China and last resided in China before coming to the United States. Petitioner left China after experiencing problems there and traveled to the United States. After arriving in the United States, Petitioner expressed fear of return to China and sought protection.

31. After Petitioner came to the attention of the Department of Homeland Security, DHS initiated removal proceedings against Petitioner. DHS placed Petitioner in removal proceedings by issuing a Notice to Appear and lodging charges of removability, and Petitioner's case was placed before the Immigration Court.

32. Petitioner filed an application for asylum and for withholding of removal and protection under the Convention Against Torture on Form I-589. Petitioner's protection application remains pending, and the removal case is currently pending before the Immigration Judge.

33. In the course of the removal proceedings, Petitioner has been scheduled for a Master Calendar Hearing on May 08, 2026. No other hearing dates, filings, decisions, continuances, or appeal events are currently known beyond the scheduled May 08, 2026 Master Calendar Hearing.

34. On or about April 17, 2026, Petitioner was taken into ICE custody. Since that date, Petitioner has remained detained for approximately four days. Petitioner is currently detained at Imperial Regional Detention Facility.

35. Petitioner has not received any bond hearing or other individualized custody review since being taken into ICE custody. The government maintains that Petitioner is subject to mandatory detention without the possibility of a bond hearing.

36. Pursuing administrative remedies would be futile because Immigration Judges are bound by agency interpretations that foreclose bond hearings for individuals in Petitioner's position. As a result, there is no adequate administrative remedy available to challenge the constitutionality of Petitioner's ongoing confinement.

37. Petitioner's detention has caused significant hardship, including severe financial and emotional stress. Before detention, Petitioner worked as an Uber driver in Los Angeles and had a monthly car loan payment of approximately \$560, but since being detained Petitioner has no

income. Petitioner is separated from Petitioner's wife in China and from Petitioner's minor child in China, and detention has made it more difficult for Petitioner to prepare the immigration case and coordinate with family while confined.

CLAIMS FOR RELIEF

COUNT I

Unlawful Civil Immigration Detention Without an Individualized Bond Hearing Violates the Fifth Amendment (U.S. Const. amend. V)

38. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

39. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law. This protection applies to all persons within the United States, including noncitizens in immigration detention.

40. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Civil immigration detention must therefore remain reasonably related to its regulatory purposes and must include adequate procedural safeguards.

41. The Supreme Court has repeatedly recognized that civil immigration detention is constitutionally permissible only when it is reasonably related to the government's legitimate purposes of ensuring appearance at removal proceedings and protecting the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

42. Petitioner remains unlawfully detained while his removal proceedings remain pending and while he pursues protection from persecution in his country of origin. Despite the ongoing nature of his case, Petitioner has not been provided with any meaningful opportunity to seek release from detention.

43. Respondents have provided no neutral decisionmaker capable of evaluating whether Petitioner's continued civil detention is justified. The Due Process Clause requires meaningful procedural safeguards, including an individualized hearing before a neutral adjudicator.

44. Without an individualized custody determination assessing factors such as flight risk, danger to the community, or conditions of supervision, Petitioner's continued detention becomes arbitrary and excessive in relation to the government's regulatory interests.

45. The Due Process Clause requires that civil detention be accompanied by meaningful procedural safeguards, including an individualized hearing before a neutral decisionmaker. Respondents' refusal to provide such a hearing violates Petitioner's constitutional right to due process.

COUNT II

Habeas Corpus Relief is Necessary Because Petitioner Has No Adequate Alternative Remedy (28 U.S.C. § 2241)

46. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

47. The federal *habeas corpus* statute provides that a person in custody in violation of the Constitution or laws of the United States may seek relief in federal court. 28 U.S.C. § 2241(c)(3).

48. Petitioner is currently detained by Respondents and therefore satisfies the custody requirement for habeas jurisdiction.

49. Respondents have treated Petitioner as categorically ineligible for bond and have provided no meaningful administrative mechanism through which Petitioner can obtain an individualized custody determination. No further administrative remedy exists through which Petitioner may challenge this unlawful detention.

50. Accordingly, *habeas corpus* review is Petitioner's only available mechanism for challenging the legality of his detention.

51. Absent relief from this Court, Petitioner will remain detained without any scheduled custody review while awaiting resolution of his removal proceedings, without any opportunity for individualized review of his custody status.

52. The continued detention of Petitioner without a bond hearing violates both the Immigration and Nationality Act and the Fifth Amendment to the United States Constitution.

53. Therefore, this Court should grant the writ of *habeas corpus* and order Respondents to either release Petitioner from custody or provide him with a prompt individualized bond hearing before an immigration judge.

COUNT III

Detention Based on an Invalid Agency Interpretation and Reliance
on Vacated Precedent Is Contrary to Law
(Administrative Procedure Act, 5 U.S.C. § 706;
Fifth Amendment Due Process Clause)

54. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

55. Respondents continue to detain Petitioner based on the assertion that he is subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), and therefore ineligible for a custody redetermination hearing before an Immigration Judge.

56. Respondents' position that Petitioner is categorically ineligible for bond cannot excuse the complete failure to provide any individualized custody hearing.

57. Because the decision has been vacated under the Administrative Procedure Act, it no longer constitutes valid agency precedent and cannot lawfully serve as the basis for denying bond hearings or continued detention.

58. Despite this development, Respondents continue to detain Petitioner without providing an individualized custody determination. By continuing to rely on a vacated agency precedent to justify detention, Respondents are acting in a manner that is arbitrary, capricious, and contrary to law within the meaning of 5 U.S.C. § 706(2).

59. The government's reliance on an invalid legal framework has deprived Petitioner of the statutory custody review available under INA § 236(a), 8 U.S.C. § 1226(a), which permits release on bond or conditional supervision pending completion of removal proceedings.

60. Furthermore, continued detention without a bond hearing based on a vacated agency precedent violates the Due Process Clause of the Fifth Amendment, which protects individuals from arbitrary civil detention without meaningful procedural safeguards.

61. Accordingly, Respondents' continued detention of Petitioner based on the now-vacated decision in *Matter of Yajure Hurtado* is unlawful.

62. Petitioner therefore requests that this Court grant the writ of *habeas corpus* and order Respondents to provide Petitioner with a prompt individualized bond hearing before an Immigration Judge or release Petitioner from custody.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause directing Respondents to file a return and to show cause, within a short period;
- c. Declare that Petitioner's continued detention is unlawful and violates Petitioner's rights under the Fifth Amendment to the U.S. Constitution;
- d. Issue a Writ of *Habeas Corpus* ordering Respondents to immediately release Petitioner from immigration custody;
- e. In the alternative, order Respondents to provide Petitioner with a prompt individualized bond hearing before an Immigration Judge within seven (7) days, at which the Government bears the burden of demonstrating by clear and convincing evidence that Petitioner's continued detention is justified based on flight risk or danger to the community;
- f. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court while this habeas petition is pending;
- g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act or any other applicable authority, if he prevails in this action;
- h. Grant any further relief that this Court deems just and proper.

Respectfully submitted on this April 22, 2026,

JJ Zhang

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