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

Ruixing Yang, an individual;

Petitioner,

v.

CHRISTOPHER LAROSE, Warden of Otay  
Mesa Detention Center; 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.

Case No. '26CV2592 DMS MSB

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

Petitioner Ruixing Yang ("Mr. Yang" or "Petitioner") , by and  
through the undersigned counsel, petitions this Court for a writ of habeas corpus pursuant to 28  
U.S.C. § 2241 and respectfully alleges as follows:

**INTRODUCTION**

1. Petitioner is a native and citizen of the People's Republic of China, who is currently  
detained at the Otay Mesa Detention Center, San Diego, California. Petitioner, by and through his  
undersigned counsel, hereby files this petition for writ of habeas corpus seeking his immediate

1 release from immigration detention. Petitioner has been continuously held by the U.S. Department  
2 of Homeland Security (“DHS”) since July 8, 2025.

3 2. Petitioner’s prolonged mandatory detention without an individualized bond hearing  
4 violates the Due Process Clause of the Fifth Amendment. *See Kydrali v. Wolf*, 499 F. Supp. 3d  
5 768, 772 (S.D. Cal. 2020). Here, Petitioner has been detained for an extended period without any  
6 opportunity to challenge his detention before a neutral decisionmaker, in violation of his rights to  
7 due process.

### 8 CUSTODY

9 3. Petitioner is currently detained at the Otay Mesa Detention Center, San Diego,  
10 California. He is in the Respondents’ physical custody and under Respondents’ and their agents’  
11 direct control.

### 12 JURISDICTION AND VENUE

13 4. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Article I, Section  
14 9, Clause 2 of the United States Constitution, and 28 U.S.C. §1331, as Petitioner is presently in  
15 custody under the color of the authority of the United States, and such custody violates the  
16 Constitution, law, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C.  
17 § 2241.

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

### 22 REQUIREMENTS OF 28 U.S.C. § 2243

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

27 7. Courts have long recognized the significance of the habeas statute in protecting  
28 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most

1 important writ known to the constitutional law of England, affording as it does a *swift* and  
2 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400  
3 (1963) (emphasis added).

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

9 **THE PARTIES**

10 9. Petitioner is a citizen of China who entered the United States on or about July 8,  
11 2025, and has since been detained by Respondents.

12 10. Respondent CHRISTOPHER LAROSE is sued in his official capacity as the  
13 Warden of the Otay Mesa Detention Center. He has immediate physical custody of Petitioner under  
14 the facility’s contract with ICE to detain noncitizens. Respondent LAROSE is a legal custodian of  
15 Petitioner.

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

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

23 13. Respondent MARKWAYNE MULLIN is sued in his official capacity as the  
24 Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent MULLIN is  
25 responsible for the implementation and enforcement of the INA and oversees ICE, the component  
26 agency responsible for Petitioner’s detention. Respondent MULLIN is a legal custodian of  
27 Petitioner.

28 14. Respondent TODD BLANCHE is sued in his official capacity as the Acting

1 Attorney General of the United States and the senior official of the U.S. Department of Justice  
2 (“DOJ”). In that capacity, he has the authority to adjudicate removal cases and to oversee the  
3 Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and  
4 the Board of Immigration Appeals. Respondent BLANCHE is a legal custodian of Petitioner.

#### 5 STATEMENT OF FACTS

6 15. Petitioner entered the United States on or about July 8, 2025, and was apprehended  
7 by immigration authorities.

8 16. Following Petitioner’s entry, DHS placed Mr. Yang in expedited removal  
9 proceedings.

10 17. An asylum officer subsequently conducted a credible fear interview and determined  
11 that Petitioner had established a credible fear of persecution in China.

12 18. On August 24, 2025, DHS issued Petitioner a Notice to Appear (“NTA”), thereby  
13 placing Petitioner from expedited removal proceedings to full removal proceedings before an  
14 Immigration Judge (“IJ”).

15 19. Petitioner subsequently filed an application for asylum, which remains pending  
16 before the immigration Court.

17 20. To date, Petitioner has been detained for more than nine months without being  
18 provided an individualized bond hearing.

#### 19 LEGAL FRAMEWORK

20 21. The Constitution guarantees that the writ of habeas corpus is “available to every  
21 individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing  
22 U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to  
23 issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties  
24 of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration  
25 related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A.A.R.P. v. Trump* (2025).

26 22. 8 U.S.C § 1225(b)(1)(B)(ii) governs the detention of arriving aliens who establish a  
27 credible fear of persecution or torture. The statute provides that, “[i]f the officer determines at the  
28 time of the interview that an alien has a credible fear or persecution ... the alien shall be detained

1 for further consideration of the application for asylum.”

2 23. “A statute permitting indefinite detention of an alien would raise a serious  
3 constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to  
4 deprive any person of liberty without due process of law. Freedom from imprisonment—from  
5 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty  
6 that [the Due Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

7 24. Due process extends to “all persons within the United States, including [non-  
8 citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533  
9 U.S. at 693.

10 25. Numerous district courts, including this Court, have recognized that “prolonged  
11 mandatory detention...without a bond hearing will – at some point – violate the right to due process.”  
12 *Mingzhi Gao v. Larose*, 805 F. Supp. 3d 1106 (S.D. Cal. 2025) (citing *Abdul-Samed v. Warden of*  
13 *Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343 (E.D. Cal. July 25,  
14 2025)); *see also Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (“[T]he Court joins  
15 the majority of courts across the country in concluding that an unreasonably prolonged detention  
16 under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.”).

17 26. To determine whether a petitioner’s detention has been unreasonably prolonged,  
18 courts apply the *Banda v. McAleenan*’s six-factor analysis as a framework, which weights: (1) the  
19 total length of detention to date; (2) the likely duration of future detention; (3) conditions of  
20 detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal  
21 proceedings caused by the government; and (6) the likelihood that the removal proceedings will  
22 result in a final order of removal. *Banda v. McAleenan* 385 F. Supp. 3d 1099, 1106 (W.D. Wash.  
23 2019).

24 27. If a bond hearing is provided, the government must bear the burden to establish “by  
25 clear and convincing evidence that Petitioner would likely flee or pose a danger to the community  
26 if released.” *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090 (S.D. Cal. 2025); *Abdul-Samed v. Warden of*  
27 *Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343 (E.D. Cal. July 25,  
28 2025).



**CAUSE OF ACTION**

**COUNT ONE**

**(Violation of the Fifth Amendment Due Process Clause)**

28. Petitioner repeats and incorporates by reference the allegations set forth above.

29. The *Banda v. McAleenan*'s six factors demonstrate that Petitioner's prolonged detention for over 9 months without a bond hearing has become unreasonable and violates due process. *Id.*

30. First, the total length of detention weighs strongly in favor of Petitioner. To date, Petitioner has been in detention for more than 9 months. "Courts have found detention over seven months without a bond hearing weigh toward a finding that it is unreasonable." *Amado v. United States DOJ*, No. 25-cv-2687-LL(DDL), 2025 WL 3079052 (S.D. Cal. Nov. 4, 2025); *see also Masood v. Barr*, No. 19-cv-07623-JD, 2020 WL 95633 (N.D. Cal. Jan. 8, 2020) (finding detention for nearly nine months weighs in favor of the petitioner); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (over seven months); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 WL 3991497 (S.D.N.Y. Aug. 20, 2018) (over nine months).

31. The second factor also strongly supports the grant of this habeas petition. Petitioner's detention is likely to continue for many additional months, if not years, pending the completion of removal proceedings, including an individual hearing and any subsequent appeal to the Board of Immigration Appeals ("BIA"). Given that either party may seek appellate review depending on the outcome of the merits hearing, continued detention is virtually certain. *See Guatam v. Corr. Corp. of Am.*, No. 3:25-cv-3600-JES-DEB, 2026 WL 25846 (S.D. Cal. Jan. 5, 2026) ("[A] removal order may not become final until after the appeals Petitioner could file, to both the Board of Immigration Appeals and Ninth Circuit...These appeals can take a long time."); *see also Banda v. McAleenan*, 385 F. Supp. 3d at 1119 (finding an appeal to the BIA and subsequent judicial review "may take up to two years or longer").

32. For the third factor, courts have recognized that the conditions at the Otay Mesa Detention Center are "indistinguishable from penal confinement." *See Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020); *Amado v. United States DOJ*, No. 25-cv-2687-LL(DDL), 2025

1 WL 3079052 (S.D. Cal. Nov. 4, 2025). Further, Petitioner experiences severe depression from the  
 2 prolonged and indefinite detention.

3 33. The fourth and fifth factors concern delays in the removal proceedings caused by  
 4 Petitioner or the government. All delays in this case are attributable to the government, and none  
 5 whatsoever are attributable to Petitioner. Petitioner has not been dilatory in pursuing his claims. To  
 6 the contrary, he promptly applied for asylum, and has diligently complied with all procedural  
 7 requirements and has timely appeared at and participated in all proceedings as scheduled by the  
 8 government.

9 34. In considering the sixth factor, “likelihood that the removal proceedings will result  
 10 in a final order of removal,” courts consider “whether the noncitizen has asserted any defenses to  
 11 removal,” *Banda v. McAleenan*, 385 F. Supp. 3d at 1120 (citations omitted). Here, Petitioner has  
 12 asserted substantial defenses to removal. He faces persecution in China due to his political opinion.  
 13 An immigration officer has determined that Petitioner has established a credible fear of persecution.  
 14 Petitioner will now have the opportunity to present evidence supporting his asylum claims.  
 15 Although it remains unclear how an IJ will eventually rule, Petitioner has presented defenses that  
 16 reduce the likelihood of a final removal order. Accordingly, the sixth factor favors Petitioner.

17 35. Therefore, the six factors weigh in favor of Petitioner. Petitioner’s detention has  
 18 become unreasonably prolonged, and Respondents’ continued detention of Petitioner without a  
 19 bond hearing violates the Due Process Clause.

#### 20 **PRAYER FOR RELIEF**

21 Wherefore, Petitioner respectfully requests that this Court grant the following relief:

- 22 1. Assume jurisdiction over this matter;
- 23 2. Issue the writ of habeas corpus and order Respondents to show cause within three days  
 24 why the requested relief should not be granted;
- 25 3. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District  
 26 pending these proceedings;
- 27 4. Declare that Respondents’ prolonged detention of Petitioner violates the Due Process  
 28 Clause of the Fifth Amendment;

- 1 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
- 2 immediately;
- 3 6. In the alternative, only if the Court concludes that Petitioner is not legally entitled to
- 4 immediate release under the present circumstances based on a specific legal authority,
- 5 order Respondents to provide Petitioner with a bond hearing before an Immigration
- 6 Judge, at which the government bears the burden of establishing by clear and
- 7 convincing evidence that Petitioner would likely flee or pose a danger to the
- 8 community if released;
- 9 7. Order Respondents to return all of Petitioner's personal belongings;
- 10 8. Enjoin Respondents from transferring, arresting, or detaining Petitioner absent lawful
- 11 process, including a pre-deprivation hearing before a neutral decisionmaker at which
- 12 the government establishes by clear and convincing evidence that detention is
- 13 appropriate to prevent his flight or to protect the public;
- 14 9. Require Respondents, should they choose to conduct such a hearing, to provide
- 15 Petitioner with reasonable advance notice of the time and place of the hearing;
- 16 10. Enjoin Petitioner's removal from the United States pending a final decision on this
- 17 habeas action;
- 18 11. Enjoin Petitioner's removal from the United States without meaningful notice and
- 19 opportunity to fully present a fear-based claim;
- 20 12. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act and
- 21 any other applicable authority;
- 22 13. Grant further relief as the Court finds just and proper.

23  
24 Dated: April 23, 2026

Juris Path Law Firm, PC

25  
26 /s/Yunchao Song

Yunchao Song, Esq.

27 Attorneys for Petitioner Ruixing Yang