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8 Attorney for Petitioner
9 JINGQUAN GUO

10 UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 JINGQUAN GUO,

13 Petitioner,

14 vs.

15 Gregory J. Archambeault, FIELD OFFICE
16 DIRECTOR, Enforcement and Removal Operations,
17 San Diego Field Office, Immigration and Customs
18 Enforcement; Markwayne Mullin, Secretary, U.S.
19 DEPARTMENT OF HOMELAND SECURITY;
20 Pamela Bondi, U.S. ATTORNEY GENERAL;
21 Daren K. Margolin, Director, EXECUTIVE OFFICE
22 FOR IMMIGRATION REVIEW; John Belanger,
23 WARDEN, IMPERIAL REGIONAL DETENTION
24 FACILITY,

25 Respondents.



Case No.: '26CV2656 GPC DDL

26 PETITION FOR WRIT OF HABEAS CORPUS

27 Petitioner, JINGQUAN GUO ("Petitioner"), *by and through his undersigned counsel,*
28 Hanzhang Xu, Esq. of PLEX LAW GROUP, P.C., hereby file this Petition for a Writ of Habeas
Corpus against Respondents, Gregory J. Archambeault, FIELD OFFICE DIRECTOR, Enforcement
and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement;

1 Markwayne Mullin, Secretary, U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela Bondi,
2 U.S. Attorney General; Daren K. Margolin, Director, EXECUTIVE OFFICE FOR IMMIGRATION
3 REVIEW; John Belanger, Warden, IMPERIAL REGIONAL DETENTION FACILITY (hereinafter
4 referred to collectively as “Respondents”), and states as follows:

5 **INTRODUCTION**

6 1. Petitioner is in physical custody of Respondents at the IMPERIAL REGIONAL
7 DETENTION FACILITY, 1572 Gateway Rd, Calexico, CA 92231, under the purported authority
8 of the U.S. Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement
9 (“ICE”).

10 2. Petitioner’s ongoing detention is manifestly unreasonable and lacks any statutory or
11 regulatory basis. On April 17, 2026, Immigration Judge Stuart Zander explicitly issued an Order to
12 Release, ruling that because the Department of Homeland Security (“DHS”) failed to file a Notice
13 to Appear (“NTA”) with the Immigration Court, the Court lacks jurisdiction over any removal
14 proceedings. The Judge’s Order unequivocally states that Petitioner “shall be released from
15 custody.”

16 3. Any claim of detention authority by Respondents is legally moot. Because no NTA
17 has been filed to initiate removal proceedings, Petitioner is not in "removal proceedings" as defined
18 by the Immigration and Nationality Act. Consequently, Respondents have no legal standing to
19 categorize Petitioner as an “arriving alien” or subject him to mandatory detention under 8 U.S.C. §
20 1225(b).

21 4. Petitioner’s ongoing incarceration—in defiance of a judicial release order and
22 without any active charging document—violates the Immigration and Nationality Act, including 8
23 U.S.C. § 1226(a), and the Due Process Clause of the Fifth Amendment to the United States
24 Constitution. Because no Notice to Appear has been filed, Respondents lack the statutory authority
25 to detain Petitioner under 8 U.S.C. § 1225(b). Accordingly, Petitioner seeks immediate judicial
26 intervention to secure his release from this unlawful and indefinite custody.

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1 **JURISDICTION**

2 5. Petitioner is in physical custody of Respondents. Petitioner is detained at
3 IMPERIAL REGIONAL DETENTION FACILITY, 1572 Gateway Rd, Calexico, CA 92231.

4 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C.
5 § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
6 Suspension Clause).

7 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment
8 Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

9 **VENUE**

10 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
11 500 (1973), venue lies in the United States District Court for the Southern District of California, the
12 judicial district in which Petitioner currently is detained.

13 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
14 Respondents are employees, officers, and agencies of the United States, and because a substantial
15 part of the events or omissions giving rise to the claims occurred in the California.

16 **REQUIREMENTS OF 28 U.S.C. § 2243**

17 10. The Court must grant the petition for writ of habeas corpus or order Respondents to
18 show cause "*forthwith*," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order
19 to show cause is issued, the Respondents must file a return "*within three days unless for good cause*
20 *additional time, not exceeding twenty days, is allowed.*" *Id.*

21 11. Habeas corpus is "perhaps the most important writ known to the constitutional law . .
22 . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement."
23 *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the
24 attention and displaces the calendar of the judge or justice who entertains it and receives prompt
25 action from him within the four corners of the application. The ordinary rules of civil procedure are
26 not intended to apply thereto, at least in the initial, emergency attention given as prescribed by
27 statute to the application for the writ." *Ruby v. United States*, 341 F.2d 585, 587 (9th Cir.1965),
28 *cert. denied*, 384 U.S. 978, 86 S.Ct. 1877, 16 L.Ed.2d 689 (1966)); *Yang v. INS*, 208 F.3d 1116,

1 1120, 208 F.3d 1116 (9th Cir. 2000); *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-738 (9th
2 Cir.1954) (habeas corpus “is a speedy remedy, entitled by statute to special, preferential
3 consideration to insure expeditious hearing and determination.”)

4 12. Petitioner, JINGQUAN GUO, is a citizen and national of the People’s Republic of
5 China. Since Petitioner was taken into physical custody by Respondents at the Imperial Regional
6 Detention Facility in Calexico, California, no Notice to Appear (“NTA”) has been filed with the
7 Immigration Court to initiate formal removal proceedings.

8 13. On April 17, 2026, Immigration Judge Stuart Zander issued an Order to Release,
9 explicitly finding that because no NTA had been filed, the Immigration Court lacked jurisdiction
10 over Petitioner’s custody and mandating that Petitioner “shall be released from custody.” The
11 Immigration Court further clarified that any bond redetermination was moot in the absolute absence
12 of a valid charging document.

13 14. Despite the existence of a judicial order for his release, Petitioner remains detained
14 by Respondents. As there are no pending removal proceedings against Petitioner, Respondents’
15 continued detention of Petitioner lacks a statutory basis under the Immigration and Nationality Act,
16 8 U.S.C. § 1101, et seq., and specifically fails to meet the criteria for authorized detention under 8
17 U.S.C. § 1225(b) or § 1226(a).

18 15. Respondent Field Office Director oversees the San Diego Field Office of the ICE’s
19 Enforcement and Removal Operations division located at IMPERIAL REGIONAL DETENTION
20 FACILITY, 1572 Gateway Rd, Calexico, CA 92231. As such, the Field Office Director is
21 Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. The
22 Field Office Director is named in his or her official capacity.

23 16. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
24 Security. He is responsible for the implementation and enforcement of the Immigration and
25 Nationality Act (“INA”), and oversees ICE, which is responsible for Petitioner’s detention.
26 Secretary Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

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1 17. Respondent Department of Homeland Security (“DHS”) is the federal agency
2 responsible for implementing and enforcing the INA, including the detention and removal of non-
3 citizens.

4 18. Respondent Pamela Bondi is the Attorney General of the United States. She is
5 responsible for the Department of Justice, of which the Executive Office for Immigration Review
6 and the immigration court system it operates is a component agency. She is sued in her official
7 capacity.

8 19. Respondent Executive Office for Immigration Review (“EOIR”) is the federal
9 agency responsible for implementing and enforcing the INA in removal proceedings, including for
10 custody redeterminations in bond hearings.

11 20. Respondent John Belanger Warden is employed by U.S. Immigration and Customs
12 Enforcement at the IMPERIAL REGIONAL DETENTION FACILITY, where Petitioner is
13 detained. He or she has immediate physical custody of Petitioner. He or she is sued in his or her
14 official capacity.

15 21. The INA prescribes three basic forms of detention for the vast majority of
16 non-citizens in removal proceedings.

17 22. First, 8 U.S.C. § 1226 authorizes the detention of non-citizens in standard removal
18 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
19 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
20 while non-citizens who have been arrested, charged with, or convicted of certain crimes are subject
21 to mandatory detention, *see* 8 U.S.C. § 1226(c).

22 23. Second, the INA provides for mandatory detention of non-citizens subject to
23 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
24 referred to under § 1225(b)(2).

25 24. Last, the INA also provides for detention of non-citizens who have been ordered
26 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)-(b).

27 25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
28

1 26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
2 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-
3 208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was
4 most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3
5 (2025).

6 27. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
7 that, in general, people who entered the country without inspection were not considered detained
8 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
9 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
10 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

11 28. Thus, in the decades that followed, most people who entered without inspection and
12 were placed in standard removal proceedings received bond hearings, unless their criminal history
13 rendered them ineligible. That practice was consistent with many more decades of prior practice, in
14 which non-citizens who were not deemed “*arriving*” were entitled to a custody hearing before an IJ
15 or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at
16 229 (1996) (noting that § 1226(a) simply “*restates*” the detention authority previously found at §
17 1252(a)).

18 29. On July 8, 2025, ICE, “*in coordination with*” DOJ, announced a new policy that
19 rejected well-established understanding of the statutory framework and reversed decades of
20 practice.

21 30. The new policy, entitled “Interim Guidance Regarding Detention Authority for
22 Applicants for Admission,”¹ claims that all persons who entered the United States without
23 inspection shall now be deemed “*applicants for admission*” under 8 U.S.C. § 1225, and therefore
24 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless
25 of when a person is apprehended and affects those who have resided in the United States for
26 months, years, and even decades.

27 _____
28 ¹ Available at <<https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>>.

1 31. In a May 22, 2025, the Board of Immigration Appeals of the EOIR holds in the
2 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that all non-citizens who entered the
3 United States without admission or parole are considered “applicants for admission” subject to
4 mandatory detention, stripping Immigration Judges of bond authority.

5 32. Similarly, the BIA holds that, “An applicant for admission who is arrested and
6 detained without a warrant while arriving in the United States, whether or not at a port of entry, and
7 subsequently place in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C.
8 Sec. 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA,
9 8 USC Sec. 1226(a).” *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).

10 33. ICE and EOIR have adopted this position even though federal courts have rejected
11 this exact conclusion.

12 34. On February 18, 2026, United States District Court Judge Sunshine Suzanne Sykes
13 of the Central District of California granted Plaintiffs’ motion to enforce and issued an order
14 vacating the Board of Immigration Appeals’ decision in the *Matter of Yajure Hurtado*, 29 I&N Dec.
15 216 (BIA 2025). *See Lazaro Maldonado Bautista, et al. v. Ernesto Santacruz Jr, et al.*, 2025 WL
16 3713987 at * 32, ___ F.Supp.3d ___ (CDC, Dec. 18, 2025).

17 35. DHS’s and DOJ’s interpretation defies the INA. As the *Rodriguez Vazquez* court
18 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
19 applies to people like Petitioner.

20 36. Section 1226(a) applies by default to all persons “pending a decision on whether the
21 [noncitizen] is to be removed from the United States.” These removal hearings are held under §
22 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

23 37. The text of § 1226 also explicitly applies to people charged as being inadmissible,
24 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s
25 reference to such people makes clear that, by default, such people are afforded a bond hearing under
26 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific
27 exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally
28

1 applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs.,*
2 *P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

3 38. Section 1226 therefore leaves no doubt that it applies to people who face charges of
4 being inadmissible to the United States, including those who are present without admission or
5 parole.

6 39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
7 recently entered the United States. The statute’s entire framework is premised on inspections at the
8 border of people who are “seeking admission” to the United States. 8 U.S.C. 1225(b)(2)(A).
9 Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the
10 Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen]
11 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

12 40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
13 people like Petitioner, who have already entered and were residing in the United States at the time
14 they were apprehended.

15 **FACTS**



16 41. Petitioner, JINGQUAN GUO, is a citizen and national of the People’s Republic of
17 China. He last entered the United States on or about October 5, 2011. He has resided in the United
18 States since he entered and he was living at [REDACTED] prior to his
19 arrest.

20 42. Petitioner, JINGQUAN GUO, is currently authorized to work in the United States
21 and maintains a valid Employment Authorization Document (EAD). This authorization, issued
22 under category C08 [REDACTED], became effective on February 4, 2025, and remains
23 valid through February 3, 2030. See collective **Exhibit B**.

24 43. On or about March 31, 2026, Petitioner was stopped by Immigration and
25 subsequently apprehended by Officers of Customs Enforcement (“ICE”) in Palm Springs,
26 California. Subsequent to this encounter, Petitioner was taken into administrative custody and
27 subsequently transferred to the Imperial Regional Detention Facility in Calexico, California, where
28 he remains incarcerated.

1 44. On April 17, 2026, Immigration Judge Stuart Zander issued a specific Order to
2 Release, explicitly stating that “Bond is moot as there is no valid Notice to Appear (NTA)” and
3 ordering that “Respondent shall be released from custody.” Despite this clear judicial mandate,
4 Respondents continue to detain Petitioner without legal basis. See collective Exhibit A.

5 45. On or about April 23, 2026, an online case status inquiry through Respondent
6 Executive Office for Immigration Review (EOIR)’s website was done. The results stated: “There
7 are no future hearings for this case” A copy of this online case status inquiry is attached hereto as
8 part of collective Exhibit C.

9 46. Petitioner has significant ties to the community in the United States. He has resided
10 in the United States since October 5, 2011, maintains a stable residence in 
11  until he was detained by the ICE on March 31, 2026. Petitioner has no
12 known criminal history and has not been charged with or convicted of any criminal offense.
13 Petitioner is neither a flight risk nor a danger to the community.

14 47. To date, and despite the explicit judicial mandate for his release, Respondents have
15 refused to effectuate Petitioner’s release. Petitioner remains in the physical custody of Respondents
16 at the Imperial Regional Detention Facility without any active charging document or statutory basis
17 for continued detention.

18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 **Violation of the INA**

21 48. Petitioner incorporates by reference the allegations of fact set forth in the preceding
22 paragraphs.

23 49. The Department of Homeland Security (“DHS”) and Immigration and Customs
24 Enforcement (“ICE”) possess no statutory authority to maintain Petitioner in physical custody in the
25 absence of an active charging document or pending removal proceedings. 8 U.S.C. § 1226(a); 8
26 C.F.R. § 1003.14(a). Under the Immigration and Nationality Act, detention authority is generally
27 incidental to the initiation of removal proceedings, which commences only upon the filing of a
28 Notice to Appear with the Immigration Court. 8 C.F.R. §1003.14.

1 50. Respondents' continued detention of Petitioner in direct contravention of a judicial
2 mandate violates the statutory framework of the INA and exceeds the scope of Respondents'
3 administrative authority under 8 U.S.C. § 1101, et seq.

4 **COUNT II**

5 **Violation of Due Process**

6 51. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation
7 in the preceding paragraphs as if fully set forth herein.

8 52. The government may not deprive a person of life, liberty, or property without due
9 process of law. *U.S. Const. amend. V*. "Freedom from imprisonment—from government custody,
10 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
11 protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

12 53. Petitioner has a fundamental interest in liberty and being free from official restraint.

13 54. Respondents' continued detention of Petitioner—without any pending removal
14 proceedings and in defiance of a specific judicial order for release—denies Petitioner's right to due
15 process and constitutes an unlawful deprivation of his liberty.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Petitioner respectfully prays that this Court grant the following relief:

- 18 a. Assume jurisdiction over this matter;
- 19 b. Issue a writ of habeas corpus requiring that Respondents immediately release
20 Petitioner from custody pursuant to the Order to Release issued by Immigration
21 Judge Stuart Zander on April 17, 2026;
- 22 c. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
23 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
- 24 d. Grant any other and further relief that this Court deems just and proper.
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26 Dated: April 27, 2026

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Respectfully submitted,

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