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Attorney for Petitioner
JINGQUAN GUO

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JINGQUAN GUO,

Petitioner,

vs.

) A # 205-185-602

) Case No.: 26-cv-02656-GPC-DDL

) **PETITIONER'S REPLY BRIEF**

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

Respondents.

I. Introduction

Respondents unlawfully detained Petitioner by violating an Immigration Judge (“IJ”) order that ordered Petitioner be immediately released from custody. Petitioner is continually detained without a bond hearing scheduled.

II. Factual Background

Petitioner is a native and citizen of China. On October 5, 2011, he was admitted into the United States on a nonimmigrant visa. On June 26, 2012, Petitioner was issued a Notice to Appear (NTA) after his application for asylum (I-589) was referred to an immigration judge (IJ) by United States Citizenship and Immigration Services (USCIS). On June 15, 2015, the IJ administratively closed Petitioner’s case. *See* Respondent’s Return to Habeas Petition.

On March 31, 2026, Petitioner was stopped by Border Patrol Agents on Interstate 10 and was arrested. On April 1, 2026, a Warrant for Arrest (Form I-200) was issued.

Petitioner is currently detained at the Imperial Detention Center.

On April 17, 2026, the IJ ordered that “Respondent shall be released from custody” because there was no valid Notice to Appear (“NTA”).

Respondents ignored and violated the IJ order and did not release Petitioner from custody.

On or about April 22, 2026, the IJ granted Respondents’ motion to re-calendar the administratively closed removal proceedings.

As of April 30, 2026, no bond hearing has been scheduled.

Petitioner has no known criminal history and has not been charged with or convicted of any criminal offense. Petitioner is neither a flight risk nor a danger to the community. *See* Petition ¶ 46.

III. Argument

A. Respondents Violated IJ’s April 17, 2026 Order

On April 17, 2026, the IJ ordered that “Respondent shall be released from custody” because there was no valid NTA at the time of the immigration court hearing.

However, Respondents ignored and violated the IJ order by keeping Petitioner in detention after April 17, 2026.

1 Although on April 22, 2026, the IJ granted Respondents' motion to re-calendar the
2 administrative closed removal proceedings, it did not give Respondents the right to defy IJ's April
3 17, 2026 order.

4 **B. Respondent's Action is not Justified**

5 The basis for the IJ's April 17, 2026 order is that there was no valid NTA at the time of the
6 hearing. Respondents argue that the IJ erred in making the finding because there was a valid NTA
7 (issued 2012) that was administratively closed.

8 However, Respondents' own belief (whether accurate or not) that IJ made an error did not
9 give Respondents' right to defy the IJ order. To properly challenge an IJ order, the Respondent
10 could have filed a motion to reconsider or filed an appeal. Respondent did not do either of that;
11 instead, Respondents simply ignored and violated the IJ order and kept Petition in custody.

12 **C. This Court Has Jurisdiction Over this Habeas Corpus Petition**

13 The Constitution guarantees the availability of the writ of habeas corpus "to every individual
14 detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S.
15 Const., art I, § 9, cl. 2). "[T]he essence of habeas corpus is an attack by a person in custody upon the
16 legality of that custody, and . . . the traditional function of the writ is to secure release from illegal
17 custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). A writ of habeas corpus may be granted
18 to a petitioner who demonstrates that he is in custody in violation of the Constitution or federal law.
19 28 U.S.C. § 2241(c)(3). Historically, "the writ of habeas corpus has served as a means of reviewing
20 the legality of Executive detention, and it is in that context that its protections have been strongest."
21 *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, a district court's habeas jurisdiction
22 includes challenges to immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

23 The Fifth Amendment Due Process Clause prohibits government deprivation of an
24 individual's life, liberty, or property without due process of law. U.S. Const. amend. V; *Hernandez*
25 *v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). "[T]he Due Process Clause applies to all 'persons'
26 within the United States, including noncitizens, whether their presence here is lawful, unlawful,
27 temporary, or permanent." *Zadvydas*, 533 U.S. at 693 (2001). These due process rights extend to
28

1 immigration proceedings, including detention and deportation proceedings. *Id.* at 693–94; *see*
2 *Demore v. Kim*, 538 U.S. 510, 523 (2003).

3 Courts examine procedural due process claims in two steps: the first asks whether there
4 exists a protected liberty interest under the Due Process Clause, and the second examines the
5 procedures necessary to ensure any deprivation of that protected liberty interest accords with the
6 Constitution. *See Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989); *Morrissey*
7 *v. Brewer*, 408 U.S. 471, 481 (1972) (“Once it is determined that due process applies, the question
8 remains what process is due.”).

9 “Freedom from imprisonment—from government custody, detention, or other forms of
10 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*,
11 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71 (1992)). “Even individuals who face
12 significant constraints on their liberty or over whose liberty the government wields significant
13 discretion retain a protected interest in their liberty.” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032
14 (N.D. Cal. 2025).

15 To determine what process is necessary to ensure any deprivation of Petitioner’s protected
16 liberty interest accords with the Constitution, the Court considers three factors: (1) “the private
17 interest that will be affected by the official action;” (2) “the risk of an erroneous deprivation of such
18 interest through the procedures used, and the probable value, if any, of additional or substitute
19 procedural safeguards;” and (3) “the Government’s interest, including the function involved and the
20 fiscal and administrative burdens that the additional or substitute procedural requirement would
21 entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

22 Here, this Court has jurisdiction over Petitioner’s Habeas Corpus Petition because Petitioner
23 alleges that Respondents violated his due process right under the Fifth Amendment and violated the
24 INA due to Respondents’ unlawful detention of Petitioner. Petitioner has a protected liberty interest
25 in his continued freedom without unlawful detention. Respondents violated Petitioner’s due process
26 right and the INA by continuing detaining him in violation of the IJ order and by unlawfully
27 detaining him without setting a bond hearing.
28

1 Petitioner has no known criminal history and has not been charged with or convicted of any
2 criminal offense. Petitioner is neither a flight risk nor a danger to the community. Respondents have
3 no legitimate interest in keeping Petitioner in custody.

4 **D. Administrative Remedies Have Been Exhausted**

5 Here, the IJ has already ordered Petitioner be released in the April 17, 2026 order.
6 Respondents did not file a motion to reopen or an appeal to challenge the order. The administrative
7 remedies have already been exhausted.

8 **IV. CONCLUSION**

9 Petitioner respectfully requests that the Court grant the Petition and order that:

10 Respondents IMMEDIATELY RELEASE Petitioner from custody.

11 At the time of release, Respondents must return all of Petitioner's documents and
12 possessions. Respondents shall not impose any additional restrictions on him, unless such
13 restrictions are determined to be necessary at a future pre-deprivation/custody hearing.

14 Respondents are ENJOINED AND RESTRAINED from re-arresting or re-detaining
15 Petitioner absent compliance with constitutional protections, including seven-days' notice and a
16 pre-deprivation hearing before a neutral fact-finder where (a) Respondents show material changed
17 circumstances demonstrate a significant likelihood of Petitioner's removal in the reasonably
18 foreseeable future, or (b) Respondents demonstrate by clear and convincing evidence that the
19 Government's interest in protecting the public and/or ensuring Petitioner appears at future
20 immigration proceedings outweighs Petitioner's constitutionally protected interest in remaining free
21 from detention. At any such hearing, Petitioner shall be allowed to have counsel present.

22
23 Dated: May 4, 2026

Respectfully submitted,

24 **PLEX LAW GROUP, P.C.**

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