


Andy Miri 234328
Law Offices of Andy Miri
2973 Harbor Blvd., #162
Costa Mesa, CA 92626
(949) 702-4005
andymiriesq@gmail.com

Attorneys for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

XU YINGWU,
Immigration File No. 

Petitioner,

v.

Todd M. Lyons, Acting Director of U.S.
Customs and Border Protection; Christopher
LaRose, acting warden of the Otay Mesa
Correctional detention center; MW Mullin,
DHS Secretary; Todd Blanche, U.S. Attorney
General

Respondents.

Case No. '26CV3140 BAS JLB

PETITION FOR WRIT OF
HABEAS CORPUS
(28 U.S.C. § 2241)

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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner XU YINGWU (“Petitioner”), by and through counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and alleges as follows:

I. INTRODUCTION

1. Petitioner is presently detained by Immigration and Customs Enforcement (“ICE”) pursuant to federal immigration detention authority.
2. On May 19, 2026, an Immigration Judge denied Petitioner’s request for a custody redetermination hearing for alleged lack of jurisdiction.
3. The Immigration Judge determined that Petitioner allegedly entered the United States without inspection and therefore was subject to mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c).
4. The Immigration Judge relied upon *Matter of Cabrera-Furtado*, 28 I&N Dec. 747 (BIA 2023), and referenced *Maldonado Bautista v. DHS*, No. 25-10999 (9th Cir. Mar. 5, 2025), in denying bond jurisdiction.
5. The Immigration Judge refused to conduct any individualized hearing regarding danger to the community, likelihood of appearance, family ties, rehabilitation, or alternatives to detention.
6. Petitioner has therefore been categorically denied any meaningful opportunity to challenge his detention.
7. Petitioner’s continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment.
8. Federal district courts retain jurisdiction under 28 U.S.C. § 2241 to review constitutional challenges to immigration detention. *Jennings v. Rodriguez*, 583 U.S. 281, 298–99 (2018).

II. JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2241.
10. Petitioner is in custody under authority of the United States.
11. This action arises under the Constitution and laws of the United States.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Petitioner is detained within this judicial district and Respondents operate within this district.
13. This Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

III. PARTIES

14. Petitioner XU YINGWU is a noncitizen presently detained by immigration authorities.
15. Respondent MARKWAYNE MULLIN is named as Director of the Department of Homeland Security and is sued in his official capacity.
16. Respondent TODD BLANCHE is the United States Attorney General and is sued in his official capacity.
17. Respondent TODD LYON is an Immigration and Customs Enforcement Enforcement and Removal Operations (“ERO”) official responsible for immigration detention enforcement and custody operations and is sued in his official capacity.
18. Respondent CHRISTOPHER LAROSE is the Warden of the detention facility where Petitioner is confined and is the immediate custodian of Petitioner.
19. Each Respondent acts under color of federal authority.

IV. FACTUAL BACKGROUND

20. Petitioner is currently detained by ICE pending immigration proceedings.
21. Petitioner requested a custody redetermination hearing before the Immigration Court.
22. On May 19, 2026, the Immigration Judge denied bond jurisdiction and held that Petitioner was subject to mandatory detention under INA § 236(c).
23. The Immigration Judge found that Petitioner allegedly entered without inspection and therefore qualified as an applicant for admission.
24. The Immigration Judge denied any individualized consideration regarding danger, community ties, rehabilitation, alternatives to detention, or likelihood of appearance.
25. No evidentiary hearing regarding dangerousness or flight risk was conducted.

26. Petitioner therefore remains detained without any constitutionally adequate custody hearing.
27. Petitioner's detention has caused substantial deprivation of liberty and emotional hardship.
28. Petitioner is willing to comply with all reasonable conditions of release, including supervision, reporting requirements, and electronic monitoring if necessary.

V. LEGAL FRAMEWORK

29. Immigration detention is subject to constitutional limitations imposed by the Due Process Clause of the Fifth Amendment.
30. Noncitizens physically present within the United States are entitled to due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
31. Although Congress may authorize immigration detention in certain circumstances, such detention must comport with constitutional due process.
32. In *Jennings v. Rodriguez*, the Supreme Court held that immigration detention statutes do not themselves require periodic bond hearings but expressly preserved constitutional challenges to detention procedures and prolonged confinement. 583 U.S. at 305.
33. The Ninth Circuit has repeatedly recognized that due process requires meaningful procedural safeguards in immigration custody determinations. *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).
34. In *Hernandez v. Sessions*, the Ninth Circuit held that due process requires individualized custody determinations and meaningful consideration of alternatives to detention. 872 F.3d 976, 991–92 (9th Cir. 2017).
35. Civil detention without individualized findings becomes constitutionally suspect where liberty interests are substantially burdened.
36. The government bears the burden to justify continued detention by clear and convincing evidence where physical liberty is restrained. *Singh*, 638 F.3d at 1203–04.
37. Even where detention statutes apply, constitutional due process protections remain enforceable through federal habeas corpus review.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Due Process Under the Fifth Amendment

38. Petitioner realleges and incorporates all preceding paragraphs.
39. The Fifth Amendment prohibits deprivation of liberty without due process of law.
40. Petitioner possesses a substantial liberty interest in freedom from physical restraint.
41. The Immigration Judge denied Petitioner any meaningful opportunity to contest detention.
42. No individualized hearing regarding danger or flight risk occurred.
43. The categorical denial of bond jurisdiction deprived Petitioner of constitutionally required procedural safeguards.
44. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts balance:
 - a. the private liberty interest affected;
 - b. the risk of erroneous deprivation; and
 - c. the governmental interest involved.
45. Petitioner's liberty interest is extraordinarily significant.
46. The risk of erroneous detention is substantial where no individualized hearing is permitted.
47. The government's interests can be adequately protected through ordinary bond procedures and supervision conditions.
48. The denial of any bond hearing therefore violates due process.
49. Due process requires an individualized custody hearing before a neutral adjudicator.
50. The government should bear the burden of proving by clear and convincing evidence that continued detention is justified.

SECOND CLAIM FOR RELIEF

Unlawful Prolonged Mandatory Detention

51. Petitioner realleges and incorporates all preceding paragraphs.

52. Immigration detention is civil rather than punitive in nature. *Demore v. Kim*, 538 U.S. 510, 528 (2003).
53. Civil detention becomes constitutionally problematic where detention is prolonged without adequate procedural protections.
54. The Supreme Court in *Jennings* expressly preserved constitutional challenges to prolonged immigration detention. 583 U.S. at 305.
55. The Ninth Circuit has continued to recognize constitutional limitations on prolonged detention. *Martinez v. Clark*, 36 F.4th 1219, 1223–24 (9th Cir. 2022).
56. Prolonged detention without a bond hearing violates due process where no individualized findings justify continued confinement.
57. Petitioner’s continued detention absent a constitutionally adequate hearing is unlawful.

THIRD CLAIM FOR RELIEF

Immigration Judge Erroneously Refused Jurisdiction Over Bond Hearing

58. Petitioner realleges and incorporates all preceding paragraphs.
59. The Immigration Judge improperly concluded that no jurisdiction existed to conduct a custody redetermination hearing.
60. The Immigration Judge relied upon an overly broad interpretation of mandatory detention provisions.
61. Even where detention statutes apply, constitutional due process protections remain enforceable in federal habeas proceedings.
62. Federal courts maintain authority to review constitutional defects in immigration detention proceedings under 28 U.S.C. § 2241.
63. The denial of any hearing improperly insulated Petitioner’s detention from meaningful review.
64. The Constitution requires a neutral adjudicator to determine whether detention is justified by clear and convincing evidence.
65. The Immigration Judge’s refusal to conduct any individualized custody review violated constitutional due process.

VII. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus;
2. Declare that Petitioner's continued detention without an individualized bond hearing violates the Fifth Amendment;
3. Order Respondents to provide Petitioner with an individualized bond hearing before a neutral adjudicator within fourteen (14) days;
4. Require the government to bear the burden of proving by clear and convincing evidence that Petitioner presents a danger or flight risk;
5. Order Petitioner released unless such hearing is timely provided;
6. Award reasonable attorney's fees and costs where authorized by law; and
7. Grant such additional relief as the Court deems just and proper.

VIII. VERIFICATION

I, XU YINGWU, declare under penalty of perjury under the laws of the United States that I have read the foregoing Petition for Writ of Habeas Corpus and that the facts stated therein are true and correct to the best of my knowledge.

Executed on: 5-19-26

XU YINGWU *xu yingwu*

Petitioner

Respectfully submitted,

LAW OFFICES OF ANDY MIRI

By: *Andy Miri*
ANDY MIRI, ESQ.
Attorney for Petitioner