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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Case No. '26CV3686 RSH DEB

YANG LIU,

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;

DAVID VENTURELLA , Acting Director of U.S.
Immigration and Customs Enforcement, in their
official capacity;

PATRICK DIVVER , San Diego ICE Field
Office Director, in their official capacity;

CHRISTOPHER J. LAROSE , Warden of Otay
Mesa Detention Center, in their official capacity.

Respondents-Defendants.

**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**

**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 Yang Liu (“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 Otay Mesa Detention Center.

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 indefinitely. 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 indefinite. 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 and cannot continue indefinitely.

4. Here, Petitioner’s detention has become unreasonable and unlawful. 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 and potentially indefinite detention.

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

1 adjudicator where the government must justify any further detention. Petitioner also seeks
2 declaratory and injunctive relief as appropriate.

3 4 JURISDICTION

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

7 7. This Court has habeas jurisdiction under 8 U.S.C. § 1252(e)(2) (*habeas corpus*
8 proceedings), 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (federal question), and
9 Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. §
10 1252(e)(2)(B), this Court has jurisdiction to determine whether, in fact, the removal order against
11 Petitioner was lawful, such that he was “ordered removed under [8 U.S.C. § 1225(b)(1)].”

12 VENUE

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

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

21 9. With respect to Petitioner's habeas claim, the Court must grant the petition for writ of
22 *habeas corpus* or issue an order to show cause (OSC) to Respondents “forthwith,” unless
23 Petitioner is not entitled to relief, 28 U.S.C. § 2243. If an OSC is issued, the Court must require
24 Respondents to file a return “within three days unless for good cause additional time, not
25 exceeding twenty days, is allowed.” *Id.* (emphasis added). Courts have long recognized the
26 significance of the habeas statute in protecting individuals from unlawful detention. The Great
27 Writ has been referred to as “perhaps the most important writ known to the constitutional law of
28 England, affording as it does a swift and imperative remedy in all cases of illegal restraint or

1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). Petitioner is “in custody” for the purpose
2 of 28 U.S.C. § 2241 because he is arrested and detained by Respondents.

3
4 **PARTIES**

5 10. Petitioner is presently detained at the direction of Respondents at Otay Mesa Detention
6 Center, P.O. Box 438150, San Diego, CA 92143-8150.

7 11. Respondent MARKWAYNE MULLIN is named in their official capacity as the
8 Secretary of DHS. They are responsible for the administration of the immigration laws. 8 U.S.C.
9 § 1103(a). They routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA
10 and is legally responsible for Petitioner’s detention. As such, they are a legal custodian of
11 Petitioner. Respondent MARKWAYNE MULLIN’s address is U.S. Department of Homeland
12 Security, Washington, DC 20528.

13 12. Respondent TODD BLANCHE is named in their official capacity as the Attorney
14 General of the United States. They are responsible for the administration of the immigration laws
15 as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). They
16 routinely transact business in the SOUTHERN DISTRICT OF CALIFORNIA and are legally
17 responsible for Petitioner’s detention. As such, they are a legal custodian of Petitioner.
18 Respondent TODD BLANCHE’s address is 950 Pennsylvania Avenue, N.W., Washington, D.C.
19 20530.

20 13. Respondent DAVID VENTURELLA, Acting Director of U.S. Immigration and
21 Customs Enforcement (“ICE”), is named in their official capacity. In this capacity, they are
22 responsible for the administration and enforcement of the immigration laws as exercised by ICE,
23 including the detention and custody of noncitizens. They routinely transact business in the
24 SOUTHERN DISTRICT OF CALIFORNIA and are legally responsible for Petitioner’s
25 detention. As such, they are a legal custodian of Petitioner. Respondent DAVID
26 VENTURELLA’s address is 500 12th Street, S.W., Washington, D.C. 20536.

27 14. Respondent PATRICK DIVVER, San Diego ICE Field Office Director is named in their
28 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 2242, San Diego, CA 92101.

1 15. Respondent CHRISTOPHER J. LAROSE, Warden of Otay Mesa Detention Center is
 2 named in their official capacity as the warden of the facility where petitioner is held. In this
 3 capacity, they are a legal custodian of petitioner. Respondent's address is P.O. Box 438150, San
 4 Diego, CA 92143-8150.

5 LEGAL FRAMEWORK

6 16. The expedited removal statute provides that the process begins, and often effectively
 7 concludes, with an inspection by an immigration officer. The officer must, first, determine if the
 8 individual is a noncitizen who is inadmissible because they have engaged in certain kinds of
 9 fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. §
 10 1182(a)(6)(C), or lacks valid entry documents, 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. §§
 11 1225(b)(1)(A)(i), (iii). No other person may be subjected to expedited removal. 8 C.F.R. §
 12 235.3(b)(1), (b)(3). Among that set, only two categories of noncitizens are eligible for expedited
 13 removal: (1) noncitizens "arriving in the United States," and (2) noncitizens who "ha[ve] not
 14 been admitted or paroled into the United States" and cannot affirmatively show that they have
 15 been physically present in the United States continuously for the 2-year period immediately prior.
 16 8 U.S.C. § 1225(b)(1)(A)(i)–(iii).

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

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

1 19. During the inspection process, if an individual indicates an intention to apply for asylum
 2 or expresses fear of return to his or her country of origin, the immigration officer must refer the
 3 individual for a rudimentary screening interview with an asylum officer, referred to as a
 4 “credible fear” interview, to determine whether the individual should be able to apply for asylum
 5 and related humanitarian relief. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); 8 C.F.R. §§ 235.3(b)(4),
 6 208.30(d)-(e).

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

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

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

24 23. An expedited removal order comes with significant consequences beyond removal itself.
 25 Noncitizens with expedited removal orders are subject to a five-year bar on admission to the
 26 United States unless they qualify for a discretionary waiver. Congress provided limited habeas
 27 review in individual cases. Relevant here, a federal district court may review whether the
 28 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

1 and then challenged flaws in the credible fear proceeding. Concurring in the judgement, Justice
2 Breyer expressed concern about future readings of the decision to foreclose all habeas claims,
3 including a claim of “natural-born U.S. citizen[ship],” “a claim that rogue immigration officials
4 forged the record of a credible-fear interview that . . . never happened,” or a claim that an asylum
5 officer made a “dead-wrong legal interpretation.” *Id.* at 151.

6 25. The Supreme Court in *Johnson v. Guzman Chavez*, 141 S. Ct. 2271 (2021) held that
7 individuals in withholding-only proceedings following reinstated removal orders (a category that
8 includes Petitioner if applicable) are detained under § 1231, not under the pre-removal detention
9 statute § 1226, and therefore have no statutory right to a bond hearing during their pursuit of
10 withholding. However, the absence of a statutory bond hearing mechanism does not mean ICE
11 can detain such individuals indefinitely. Section 1231 must still be administered in compliance
12 with the Constitution and the limitations recognized by *Zadvydas* and its progeny. As detailed
13 below, Respondents’ continued detention of Petitioner exceeds their lawful authority under the
14 INA and violates Petitioner’s constitutional rights.

15 EXHAUSTION OF ADMINISTRATIVE REMEDIES

16 26. Petitioner is currently detained by ICE at Otay Mesa Detention Center, located at P.O.
17 Box 438150, San Diego, CA 92143-8150. Immigration Judges have limited jurisdiction over
18 custody determinations in immigration proceedings, and once bond has been denied or
19 jurisdiction over custody has otherwise been foreclosed, there are no further meaningful
20 administrative avenues available to challenge the legality of continued detention. The Board of
21 Immigration Appeals likewise lacks authority to provide the relief sought here, which is release
22 from unlawful civil detention or a constitutionally adequate custody hearing based on Fifth
23 Amendment Due Process claims.

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

28 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

1 determination. Petitioner's claims arise under the Fifth Amendment's Due Process Clause and
2 federal habeas statutes, which are matters committed to the jurisdiction of federal courts.

3 29. Requiring Petitioner to pursue additional administrative remedies would therefore be
4 futile and would serve only to prolong an already unlawful deprivation of liberty. Petitioner
5 remains in civil immigration detention each day while awaiting resolution of this matter, and the
6 harm resulting from continued detention cannot be adequately remedied through the
7 administrative immigration process. Accordingly, because Petitioner has either exhausted
8 available administrative remedies or such remedies are unavailable, inadequate, or futile, this
9 Court may properly exercise jurisdiction over this habeas petition.

10 STATEMENT OF FACTS

11 30. Petitioner Yang Liu is a native and citizen of China. He lawfully entered the United
12 States on September 06, 2019, with a visa through a port of entry.

13 31. After entering the United States, Petitioner resided in this country for several years.
14 During that time, he worked as an Uber and Lyft driver. He maintained work records and long
15 term tax payment records in the United States. He has no criminal arrest record, no criminal
16 conviction record, and no record of disciplinary infractions while in custody. Petitioner also has
17 strong community and family ties in the United States.

18 32. On June 02, 2026, Petitioner was working as an Uber driver when he picked up a
19 passenger and drove the passenger to the passenger's designated destination at or near 

20  According to the navigation route for the trip, the
21 destination was a military base. After Petitioner arrived at the destination as directed by the
22 navigation system, officers arrested him.

23 33. At the time of the June 02, 2026 arrest, Petitioner was on the road performing rideshare
24 work. Based on the information presently available, Petitioner was arrested immediately upon
25 arrival at the destination. The re detention took place in or near San Clemente, California.
26 Petitioner was subsequently taken into immigration custody.

27 34. Following his arrest on June 02, 2026, Petitioner was placed in detention by
28 immigration authorities. He is currently detained at Otay Mesa Detention Center. As of June 17,
2026, Petitioner remains detained there.

1 35. Since being taken back into custody on June 02, 2026, Petitioner has not received any
2 bond hearing or other individualized custody review. The government maintains that Petitioner is
3 subject to mandatory detention without the possibility of a bond hearing, and Immigration Judges
4 are bound by agency interpretations that foreclose such hearings. For that reason, pursuing
5 administrative remedies would be futile.

6 36. As of June 17, 2026, Petitioner remains separated from his family and community while
7 detained at Otay Mesa Detention Center. His detention has interrupted his work as an Uber and
8 Lyft driver and has prevented him from continuing to earn income through that employment.

9 CLAIMS FOR RELIEF

10 COUNT I

11 Unlawful Detention in Violation of the Immigration and Nationality Act (28 U.S.C. § 2241; INA § 236(a), 8 U.S.C. § 1226(a))

12 37. Petitioner realleges and incorporates by reference the preceding paragraphs as if fully
13 set forth herein.

14 38. Respondents currently detain Petitioner at Otay Mesa Detention Center while his
15 removal proceedings remain pending before the Immigration Court. Petitioner is actively
16 pursuing protection under the United States immigration laws and is awaiting the adjudication of
17 his claims.

18 39. Because Petitioner was lawfully admitted to the United States and is not subject to any
19 mandatory detention provisions under the Immigration and Nationality Act, his detention is
20 governed by the general discretionary detention statute, INA § 236(a), 8 U.S.C. § 1226(a).

21 40. Section 1226(a) authorizes the Department of Homeland Security to arrest and detain a
22 noncitizen pending a decision on whether the noncitizen is to be removed from the United States,
23 but it explicitly provides discretionary authority to release the noncitizen on bond or conditional
24 parole.

25 41. As an individual detained under § 1226(a), Petitioner possesses a statutory and
26 regulatory right to an individualized bond hearing before an Immigration Judge.

27 42. However, any such custody determination must comply with the constitutional
28 requirements of due process. Respondents' continued detention of Petitioner without a

1 constitutionally adequate custody hearing, specifically, a hearing where the government bears the
2 burden of proof, exceeds the lawful limits of the Immigration and Nationality Act.

3 43. By subjecting Petitioner to ongoing civil confinement without a proper statutory and
4 constitutional basis, Respondents are detaining Petitioner under an incorrect and unlawful
5 framework. Accordingly, Respondents' continued detention of Petitioner violates 8 U.S.C. §
6 1226(a).

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COUNT II

Violation of the Fifth Amendment Due Process Clause
(Unlawful Civil Detention Without Adequate Custody Review)

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

45. 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, and is especially robust for
individuals who have previously effected a lawful entry into the country.

46. 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, namely, preventing flight and protecting the community, and must include
adequate procedural safeguards.

47. The Supreme Court has repeatedly recognized that civil confinement is constitutionally
permissible only in certain narrow circumstances and requires the government to bear the burden
of justifying the deprivation of liberty. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992);
Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

48. In the context of immigration bond hearings under § 1226(a), placing the burden of
proof on the detained noncitizen to prove that they are *not* a danger or flight risk violates
procedural due process. To justify continued civil confinement, the Due Process Clause requires
that the *government* must bear the burden of proving, by clear and convincing evidence, that
Petitioner presents a flight risk or a danger to the community that cannot be mitigated by
alternatives to detention.

49. Furthermore, Petitioner remains unlawfully detained while his removal proceedings are
pending. Without an individualized custody determination containing the proper constitutional

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1 safeguards, including the correct allocation of the burden of proof and serious consideration of
2 alternatives to detention, Petitioner's continued detention becomes arbitrary, punitive, and
3 excessive in relation to the government's regulatory interests.

4 50. Respondents' refusal to provide a constitutionally adequate hearing, and their ongoing
5 detention of Petitioner, violates Petitioner's substantive and procedural due process rights under
6 the Fifth Amendment.

7
8 **COUNT III**
9 ***Habeas Corpus* Relief is Necessary Because Petitioner**
10 **Has No Adequate Alternative Remedy**
11 **(28 U.S.C. § 2241)**

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

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

16 53. Petitioner is currently detained by Respondents at Otay Mesa Detention Center and
17 therefore satisfies the custody requirement for habeas jurisdiction.

18 54. To the extent Petitioner has been denied a constitutionally compliant bond hearing, he
19 has exhausted all available administrative remedies. The immigration courts and the Board of
20 Immigration Appeals (BIA) routinely apply agency precedent that unconstitutionally shifts the
21 burden of proof to the noncitizen in § 1226(a) bond hearings. Because the executive agency lacks
22 the jurisdiction and authority to declare its own regulations or binding precedents
23 unconstitutional, pursuing further administrative exhaustion regarding the constitutional burden
24 of proof would be entirely futile.

25 55. Accordingly, federal *habeas corpus* review is Petitioner's only available and effective
26 mechanism for challenging the constitutionality of his detention and the procedural defects of the
27 custody determination process.

28 56. Absent relief from this Court, Petitioner will remain detained for an indeterminate
period while awaiting resolution of his removal proceedings, without any opportunity for a
constitutionally valid review of his custody status.

57. 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, constitutionally adequate

individualized bond hearing before an immigration judge, at which the government bears the burden of proof by clear and convincing evidence.

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 June 17, 2026,

JJ Zhang

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