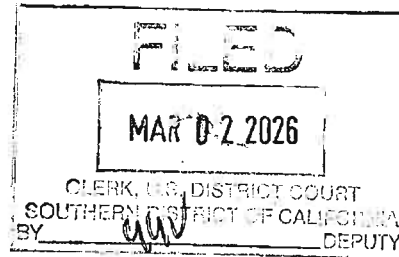


Lei Peng 
7488 Calzada de la Fuente
San Diego, CA 92154-2717
(949) 685-0383

Pro Se



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

LEI PENG,

Petitioner,

vs.

Case No.: **26CV1329-JAH-SBC**

Kristi NOEM, Secretary, Department of
Homeland Security; Pam BONDI, Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Todd LYONS,
Executive Associate Director of ICE
Enforcement and Removal Operations (ERO);
Gregory J. ARCHAMBEAULT, ICE Field
Office Director; and Christopher J. LAROSE,
Otay Mesa Senior Warden

Agency No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

ORAL ARGUMENT NOT REQUESTED

Respondents.

INTRODUCTION

1. Petitioner Lei PENG originally entered the United States by flying with his wife and daughter to Los Angeles on December 26, 2023 with inspection using a B2 Visitor's visa. Lei Peng applied for asylum and he submitted an i589 as a spouse derivative applicant to his wife's primary asylum claim in early 2024. He then applied for and was granted a work permit after 180 days of submitting his i589 application to USCIS and he then applied for a California driver's license.

2. While working in the rental car business, Lei Peng drove to San Diego on business and ended up driving into Mexico in error during rush hour on August 12, 2025. He could not change lanes to take the last U.S. exit in time due to the heavy traffic flow on the I-5 freeway headed southbound. Lei Peng immediately contacted his wife, who then contacted their attorney for advice. Their attorney, Susan Qin, immediately completed an I-131 and requested for Advanced Parole on behalf of Lei Peng so he could legally return while his asylum claim was still in process.
3. Petitioner presented at the U.S. border after 3 days and was immediately apprehended by immigration authorities on August 15, 2025 in California.
4. Petitioner is currently detained at the Otay Mesa detention center by immigration authorities and is the subject of a pending removal hearing.
5. Petitioner is charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i).
6. Petitioner was denied release by the Department of Homeland Security (DHS) and sought a bond redetermination hearing before an immigration judge. On October 15, 2025, he was denied the opportunity for a bond redetermination hearing because the immigration judge held that he lacked jurisdiction over the bond hearing because Section 235(b)(1)(B)(ii) of the Immigration and Nationality Act “requires detention until the conclusion of removal proceedings.” On January 1, 2026, Petitioner renewed his request for a bond hearing and was, again, denied due to demonstrating no material change since the prior bond redetermination hearing to receive another custody redetermination hearing. 8 C.F.R. § 1003.19(e).

1 7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for
2 a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to
3 detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and
4 to immediately issue an order to release Petitioner from detention.
5

6 7 **JURISDICTION**

8 8. This action arises under the Constitution of the United States and the Immigration and
9 Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
10

11 9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
12 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
13 (Suspension Clause).
14

15 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the
16 Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651,
17 and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
18

19 **VENUE**

20 11. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa, California.

21 Venue is further proper because a substantial part of the events or omissions giving rise to
22 Petitioner's claims occurred in this District, where Petitioner is now in Respondent's
23 custody. 28 U.S.C. § 1391(e).
24

25 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

26 12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
27 (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28
28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return
29

1 “within three days unless for good cause additional time, not exceeding twenty days, is
2 allowed.” Id.

3 13. Courts have long recognized the significance of the habeas statute in protecting individuals
4 from unlawful detention. The Great Writ has been referred to as “perhaps the most
5 important writ known to the constitutional law of England, affording as it does a swift and
6 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.
7 391, 400 (1963).
8

9 14. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and
10 detained by Respondents.
11

12 PARTIES

13 15. Petitioner is currently detained at the Otay Mesa immigration detention center.

14 16. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security
15 (“DHS”), and is sued in her official capacity. The Secretary of Homeland Security is
16 charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).
17

18 17. Respondent Pam BONDI is the Attorney General of the United States and is sued in her
19 official capacity as the head of the Department of Justice. The Attorney General is
20 responsible for the fair administration of the laws of the United States.
21

22 18. Respondent Executive Office for Immigration Review is a component agency of the
23 Department of Justice responsible for conducting removal and bond hearings of
24 noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration
25 judges and an appellate body known as the Board of Immigration Appeal (BIA).
26 Immigration judges issue bond redetermination hearing decisions, which are then subject
27 to appeal to the BIA.
28

1 19. Respondent Todd LYONS is the Acting Director of U.S. Immigration and Customs
2 Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention
3 of Petitioner.
4

5 20. Respondent GREGORY J. ARCHAMBEAULT is the Immigration and Customs
6 Enforcement Field Office Director at the ICE Otay Mesa immigration detention facility
7 and is sued in his official capacity. Respondent GREGORY J. ARCHAMBEAULT is
8 responsible for the detention of Petitioner.
9

10 21. Respondent CHRISTOPHER J. LAROSE, is the OTAY MESA SENIOR WARDEN and
11 is sued in his official capacity as he is responsible for the detention of Petitioner.
12

12 **LEGAL FRAMEWORK**

13 22. Immigration detention should not be used as a punishment and should only be used when,
14 under an individualized determination, a noncitizen is a flight risk because they are
15 unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*,
16 533 U.S. 678, 690 (2001).
17

18 23. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth
19 Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
20

21 24. The Immigration and Nationality Act (INA) establishes various procedures through which
22 individuals may be detained pending a decision on whether the noncitizen is to be
23 removed. 8 U.S.C. § 1226(a).
24

25 25. Removal proceedings described in section 240 of the INA are used to determine whether
26 individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. §
27 1229a.
28

1 26. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to
2 apply for asylum to individuals seeking safe haven in the United States. The purpose of the
3 Refugee Act is to enforce the “historic policy of the United States to respond to the urgent
4 needs of persons subject to persecution in their homelands.” Refugee Act of 1980, §
5 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).
6

7 27. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol
8 Relating to the Status of Refugees, “to which the United States had been bound since
9 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act
10 reflects a legislative purpose “to give ‘statutory meaning to our national commitment to
11 human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th
12 Cir. 1985).
13

14 28. The Refugee Act established the right to apply for asylum in the United States and defines
15 the standards for granting asylum. It is codified in various sections of the INA.
16

17 29. The INA gives the Attorney General or the Secretary of Homeland Security discretion to
18 grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition,
19 individuals generally are eligible for asylum if they have experienced past persecution or
20 have a well-founded fear of future persecution on account of race, religion, nationality,
21 membership in a particular social group, or political opinion and if they are unable or
22 unwilling to return to and avail themselves of the protection of their homeland because of
23 that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
24

25 30. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The
26 Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
27
28

1 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
2 1158(a)(1).

3 31. Immigration detention is a form of civil confinement that “constitutes a significant
4 deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S.
5 418, 4253 (1979).

6
7 32. Custody determinations for individuals in 1229a removal proceedings are governed by 8
8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a
9 danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678,
10 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

11
12 33. Custody determinations under § 1226(a) are individualized and based on the facts
13 presented in those cases. Unlike § 1226(c), which can provide for categorical
14 determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a
15 case-by-case review of the facts and circumstances.

16
17 34. Once a determination to release an individual from custody is made, the release order may
18 be revisited when the facts or circumstances warrant revocation or reconsideration. 8
19 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may
20 take that individual back into custody by revoking the individual’s release when the facts
21 and circumstances warrant it. Revocation and return to custody is authorized only based on
22 the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation,
23 revocation decisions are limited in nature and may only be made by certain authorized
24 officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL BACKGROUND

35. Petitioner fled China, where he was persecuted by the Chinese government, and entered the United States on December 26, 2023. In China, he was arrested, interrogated, and beaten for speaking out against the Chinese Communist Party government corruption and exposed the unethical relationships between the local government officials and their business interests.

36. He was placed in removal proceedings to appear before an IJ, and was charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i). ICE denied Petitioner's request for release, and he requested a bond redetermination hearing before an immigration judge. Petitioner is neither a danger to others nor a flight risk.

37. On October 15, 2025, he was denied the opportunity for a bond redetermination hearing because the Otay Mesa IJ held that she lacked jurisdiction over the bond hearing. Any appeal to the Board of Immigration Appeals is futile.

38. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

1 39. On information and belief, Respondents are detaining and seeking to transfer Petitioner
2 regardless of the individual facts and circumstances of his case.

3 40. On information and belief, Respondents are using the immigration detention system,
4 including extra-territorial transfer and detention, as a means to punish individuals for
5 asserting rights under the Refugee Act.
6

7 41. On information and belief, Petitioner has no criminal history.

8 **CLAIMS FOR RELIEF**

9 **COUNT ONE**

10 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

11 **Abuse of Discretion**

12 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

13 42. Petitioner restates and realleges all paragraphs as if fully set forth here. Under the APA, a
14 court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5
15 U.S.C. § 706(2)(A).

16 43. An action is an abuse of discretion if the agency “entirely failed to consider an important
17 aspect of the problem, offered an explanation for its decision that runs counter to the
18 evidence before the agency, or is so implausible that it could not be ascribed to a
19 difference in view or the product of agency expertise.” Nat’l Ass’n of Home Builders v.
20 Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass’n of U.S.,
21 Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).

22 44. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for
23 its action, “including a rational connection between the facts found and the choice made.”
24 Dep’t of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
25
26
27
28

1 45. By categorically revoking Petitioner's release and seeking to transfer him away from the
2 district without consideration of his individualized facts and circumstances, Respondents
3 have violated the APA.

4
5 46. By detaining and transferring the Petitioner categorically, Respondents have further
6 abused their discretion because there have been no changes to his facts or circumstances
7 since the agency made its initial custody determinations that support the revocation of his
8 release from custody.

9
10 47. Respondents have already considered Petitioner's facts and circumstances and determined
11 that he was not a flight risk or danger to the community. There have been no changes to
12 the facts that justify this revocation of his release on his own recognizance. The fact that
13 Petitioner has already been granted release by Respondents under the same facts and
14 circumstances shows that Respondents do not consider him, on an individualized basis, to
15 be a danger to the community or a flight risk. Moreover, Respondents have even lessened
16 the conditions of his release by relieving him of wearing an electronic ankle monitor
17 device.
18

19 **COUNT TWO**

20 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
21 **Not in Accordance with Law and in Excess of Statutory Authority**
22 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

23 48. Petitioner restates and realleges all paragraphs as if fully set forth here.

24 49. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in
25 accordance with law;" "contrary to constitutional right;" "in excess of statutory
26 jurisdiction, authority, or limitations;" or "without observance of procedure required by
27 law." 5 U.S.C. § 706(2)(A)-(D).
28

1 50. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond
2 or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial
3 warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that
4 such revocations of release from custody may only be carried out in the “discretion of the
5 district director, acting district director, deputy district director, assistant district director
6 for investigations, assistant district director for detention and deportation, or officer in
7 charge (except foreign).”
8

9 51. It is a well-established administrative principle that “agency action taken without lawful
10 authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d
11 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015);
12 see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)
13 (invalidating agency action because it was taken by unauthorized official).
14

15 52. On information and belief, Respondents have revoked or are revoking Petitioner’s prior
16 custody determination as a result of a categorical policy prepared by and implemented by
17 unidentified government officials in Washington, not through the individual exercise of
18 discretion required by law or by the individuals enumerated by regulation to do so.
19

20 53. Because Petitioner’s revocation of release from custody has been made or will be
21 categorically directed by government officials not authorized by law to make this
22 determination, Respondents’ detention of Petitioner is not in accordance with law and in
23 excess of statutory authority.
24

25 COUNT THREE

26 Violation of Fifth Amendment Right to Due Process 27 Procedural Due Process

28 54. Petitioner restates and realleges all paragraphs as if fully set forth here.

1 55. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the
2 federal government from depriving any person of “life, liberty, or property, without due
3 process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the
4 United States, including [non-citizens], whether their presence here is lawful, unlawful,
5 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306.
6

7 56. Due process requires that government action be rational and non-arbitrary. See *U.S. v.*
8 *Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
9

10 57. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to
11 revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and
12 must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

13 58. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and
14 not based on a rational and individualized determination of whether he is a safety or flight
15 risk, in violation of due process. Because no individualized custody revocation has been
16 made and no circumstances have changed to make Petitioner a flight risk or a danger to the
17 community, Respondents’ revocation of Petitioner’s release violates his right to procedural
18 due process.
19

20 59. Petitioner has a wife and minor daughter in Rowland Heights, CA who need her
21 husband/father home to provide support for their livelihood and emotional support as the
22 head of the family and as a role model to his young daughter. For this reason, the
23 Petitioner will not be a flight risk nor a danger to the community.
24

25 PRAYER FOR RELIEF

26
27 WHEREFORE, Petitioner respectfully requests this Court to grant the following:
28

- 1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (5) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (6) Order the Petitioner be immediately released forthwith under the jurisdiction of this COURT and not require the Petitioner to be sent to the Immigration Court for a custody redetermination hearing and to set bond because the Immigration Court has denied the Petitioner the opportunity for release twice before on October 15, 2025 and, again, on 01/06/2026, in clear violation of his Fifth Amendment rights.
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Dated February 27, 2026

Respectfully Submitted,

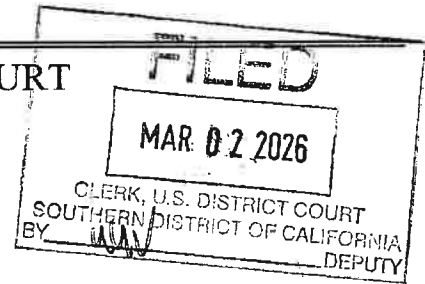
Lei Peng

Lei Peng

Pro Se

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the



Peng Lei

Petitioner

v.

Kristi NOEM, Secretary, Department of Homeland Security; Pam BONDI, Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Todd LYONS, Executive Associate Director of ICE Enforcement and Removal Operations (ERO); Gregory J. ARCHAMBEAULT, ICE Field Office Director; and Christopher J. LAROSE, Otay Mesa Senior Warden

Respondent

Case No. _____

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Peng Lei
- (b) Other names you have used: N/A
2. Place of confinement:
 - (a) Name of institution: Otay Mesa Detention Center
 - (b) Address: 7488 Calzada de la Fuente
San Diego, CA 92154-2717
 - (c) Your identification number:
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
ICE DETENTION
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you:
 - (b) Docket number of criminal case:
 - (c) Date of sentencing:☒ Being held on an immigration charge
☐ Other (explain):

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Otay Mesa Detention, 7488 Calzada de la Fuente, SD, CA 92154

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT REFUSAL TO RELEASE ME FROM DETENTION

(b) Docket number, case number, or opinion number: NONE

(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

Held in ICE detention for > 1 year since 08/15/2025

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT REFUSAL TO RELEASE ME FROM IMMIGRATION DETENTION

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 08/15/2025

- (b) Date of the removal or reinstatement order: _____

- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I contest my incarceration in immigration detention because I was detained by the Department of Homeland Security Immigration and Customs Enforcement since 08/15/2025. Violation of 8 U.S.C. §1231(a)(6)

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

I have been detained by ICE beyond the removal period authorized by statute. ICE is not likely to remove me in the near future. See attached memorandum with additional specific facts. Question (b) below is not applicable.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: Violation of the due process clause of the Fifth Amendment of the U.S. Constitution.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

ICE is depriving me of my right to liberty. I have been detained by ICE for a prolonged period since 08/15/2025. See attached memorandum with additional specific facts. Question (b) below is not applicable.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: I have been denied the right to a speedy trial. By the time my individual asylum hearing takes place in April 29, 2026, I will have been wrongfully incarcerated for 8 months. I seek my immediate release.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

I attended my asylum master hearings. My asylum individual hearing have been delayed. Question (b) below is not applicable.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR: I have an application i589 to request for asylum submitted to the immigration court 10/15/2025. I will not be a flight risk because I have a friend as my sponsor and a wife and daughter in the U.S. and I will comply with all the U.S. laws and I will appear at all immigration court hearings and ICE check-ins

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

I have a sponsor who will ensure that I will not be a flight risk, attend all court hearings and ICE check-ins.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: This is not applicable to this matter.

Request for Relief

15. State exactly what you want the court to do: I request the court to grant my immediate release so I can be allowed to pursue my asylum claim outside of detention and so I can apply for a work permit to earn a living to support my family while my asylum claim is being adjudicated.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

02/27/2026

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 02/27/2026



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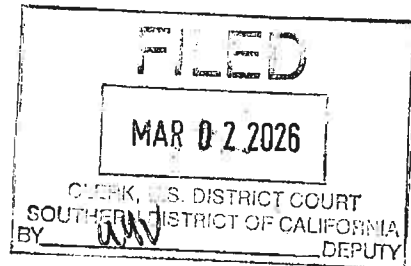
PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEI PENG,

Petitioner,

vs.

Kristi NOEM, Secretary, Department of
Homeland Security; Pam BONDI, Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Todd LYONS,
Executive Associate Director of ICE
Enforcement and Removal Operations (ERO);
Gregory J. ARCHAMBEAULT, ICE Field
Office Director; and Christopher J. LAROSE,
Otay Mesa Senior Warden

Respondents.

Case No.:

MEMORANDUM OF LAW
In Support of LEI PENG'S
PETITION FOR A WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241

ORAL ARGUMENT NOT REQUESTED

1. I OBJECT TO THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT'S
REFUSAL TO RELEASE ME FROM DETENTION
2. I request this COURT to assume jurisdiction over this matter;
3. I request this COURT to issue an Order to Show Cause ordering Respondents to show
cause why this Petition should not be granted within three days;

4. I contest my incarceration in immigration detention because I was detained by the Department of Homeland Security Immigration and Customs Enforcement since 08/15/2025. Violation of 8 U.S.C. §1231(a)(6).
5. I have been detained by ICE beyond the removal period authorized by statute. ICE is not likely to remove me in the near future.
6. Violation of the due process clause of the Fifth Amendment to the U.S. Constitution. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306.
7. I was denied release by the Department of Homeland Security (DHS) and I sought a bond redetermination hearing before an immigration judge on October 15, 2025. I was wrongfully denied a bond for my release because the immigration judge held that she lacked jurisdiction over the bond hearing because Section 235(b)(1)(B)(ii) of the Immigration and Nationality Act “requires detention until the conclusion of removal proceedings.” On January 1, 2026, I renewed my request for a bond hearing and was, again, denied due to demonstrating no material change since the prior bond redetermination hearing to receive another custody redetermination hearing. 8 C.F.R. § 1003.19(e).
8. ICE is depriving me of my right to liberty. I have been detained by ICE for a prolonged period.
9. I have an individual merits hearing scheduled for 4/29/2026 and by then, I will have been wrongfully incarcerated for over seven months. I seek my immediate release so that I can adjudicate my asylum case outside of detention.

10. I have an application i589 to request for asylum submitted to the immigration court and I will not be a flight risk and will comply with all the U.S. laws and I will appear at all immigration court hearings and ICE check-ins.
11. I have a wife and minor daughter in Rowland Heights, CA who need their husband/father home to provide support for their livelihood and emotional support as the head of the family and as a role model to my young daughter. For this reason, the I will not be a flight risk nor a danger to the community.
12. I request for a Federal Public Defender to represent me before the U.S. District Court Southern District of California for my Writ of Habeas Corpus Petition. Included in my petition is a CJA23 Financial Affidavit.
13. I request that this COURT order that I be immediately released forthwith under the jurisdiction of this COURT and not require the Petitioner to be sent to the Immigration Court for a custody redetermination hearing and to set bond because the Immigration Court has denied the Petitioner the opportunity for release once before on October 15, 2025 and, again, on 01/06/2026, in clear violation of my Fifth Amendment rights.
14. I request this COURT to grant any further relief it deems just and proper.

Signed this 27th day of February, 2026.

Signature of Petitioner:



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Pro Se

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEI PENG,

Petitioner/Plaintiff,

vs.

Kristi NOEM, Secretary, Department of Homeland
Security; Pam BONDI, Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; Todd LYONS, Executive Associate
Director of ICE Enforcement and Removal
Operations (ERO); Gregory J.
ARCHAMBEAULT, ICE Field Office Director;
and Christopher J. LAROSE, Otay Mesa Senior
Warden

Respondents/Defendants

Case No.:

ORDER TO SHOW CAUSE

Upon consideration of Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, and
memorandum of law that requests, *inter alia*, the issuance of an Order to Show Cause pursuant to
28 U.S.C. §2243, IT IS HEREBY ORDERED that:

1. Respondents are ORDERED to file a return on the Order to Show Cause why the Petition for a Writ of Habeas Corpus should not be granted by: _____
2. Petitioner shall have an opportunity to reply by: _____
3. A hearing on this case shall be set on: _____
And such other and further relief as the Court may find appropriate.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF
CALIFORNIA