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UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

MINGYUAN YU ***Petitioner,*** **v.** **KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,** **PAMELA BONDI, in her official capacity as Attorney General of the United States;** **TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;** **ROBERT LYNCH, in his official capacity as Field Office Director of the Detroit Office of the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations.** ***Respondents.***	**PETITION FOR A WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF PURSUANT TO 28 U.S.C. SECTION 2241.**

INTRODUCTION AND PROCEDURAL HISTORY

1. Petitioner Mingyuan Yu (Petitioner or Mr. Yu) files this petition seeking a Writ of Habeas Corpus releasing him from detention immediately, or in the alternative, requiring Respondents to afford him a bond hearing in which the Respondents bear the burden of proving by clear and convincing evidence that Petitioner is not a flight risk or a danger to the community. Respondents have detained Petitioner since May 29, 2025, that is, nine months and two weeks for his removal proceedings which have not concluded. He was detained while going about his daily business and was not at the border seeking admission and had been present in the United States over eight years after being admitted as a F-1 student. Petitioner contends that his prolonged detention is unreasonably long and unconstitutional and requires his immediate release or that Respondents afford him a bond hearing in accordance with the United States Constitution in which Respondents bear the burden of proving by clear and convincing evidence that Petitioner is not a flight risk or a danger to the community.

2. This Writ comes before the Court as Petitioner was given a constitutionally defective bond hearing on March 10, 2026 by an Immigration Judge from the Cleveland Immigration Court, the same Court that had wrongly and unlawfully refused to give Mr. Yu a bond hearing twice before alleging that pursuant to Matter of Q. Li, 29 I & N Dec. 66 (BIA 2025), he was not eligible for a bond under Section 235(b) of the Immigration and Nationality Act ("INA").

3. Petitioner, however, was admitted to the United States as a F-1 student on December 1, 2016, timely and affirmatively applied for asylum within a few months of his admission, and has never been charged with or arrested for any crime in the United States. He was clearly not an "arriving alien" under 8 U.S.C. Section 1225(b) but instead eligible for a bond hearing under 8 U.S.C. Section 1226(a) which governs noncitizens who have been admitted to the United States on a visa but overstay their visa. As Respondents had unreasonably held Petitioner ineligible for a bond hearing on June 18, 2025 and again on July 13, 2025, Petitioner himself filed a Pro Se Writ of Habeas Corpus requesting a bond hearing that was granted by

this Court on March 4, 2026 in case *Yu v. Kristi Noem et al*, Case No. 1:26-cv-292.

4. At the March 10, 2026 bond hearing, before the Detroit Immigration Court conducted by an Immigration Judge from the Cleveland Immigration Court, IJ Jeremy Santoro, the Government's attorney did not argue or present any evidence that Mr. Yu is a flight risk or a danger to the community, again arguing that Petitioner was an "arriving alien." *See* Transcript of the March 10, 2026 hearing prepared by this counsel at Exhibit One. The IJ nevertheless after the hearing concluded that Petitioner "is a flight risk" without considering any alternatives to Petitioner's continued, prolonged detention. Such alternatives include being placed with an ankle monitor by ICE, being required to periodically report to ICE, or being required to enroll in the SmartLINK smartphone application used to monitor noncitizens in removal proceedings through their location via GPS, confirming their identity through facial recognition software upon being randomly prompted to take a "selfie," with enrollees required to have their smartphones charged and with them at all times. *See* Immigration Judge's March 10, 2026 Decision at Exhibit Two.

5. Previously Petitioner was found credible by the Cleveland Immigration Court during his merit hearing and had provided numerous corroborating documents specific to his claim. The IJ, however, relied on an unpublished 6th Circuit case *Zhu v. Holder*, 528 F App'x 544 (6th Cir. 2013) to find that Respondent had not established past persecution based [redacted] denying him asylum and related relief on September 26, 2025.

6. Petitioner timely appealed the Court's decision. *See* Petitioner's Notice of Appeal at Exhibit Three. Petitioner's asylum application remains pending before the Board of Immigration Appeals, with no briefing schedule yet set. As his asylum application remains pending with no final administrative decision, the IJ in denying Petitioner bond on March 10, 2026 wrongly concluded that "Respondent currently does not have any relief available to him,

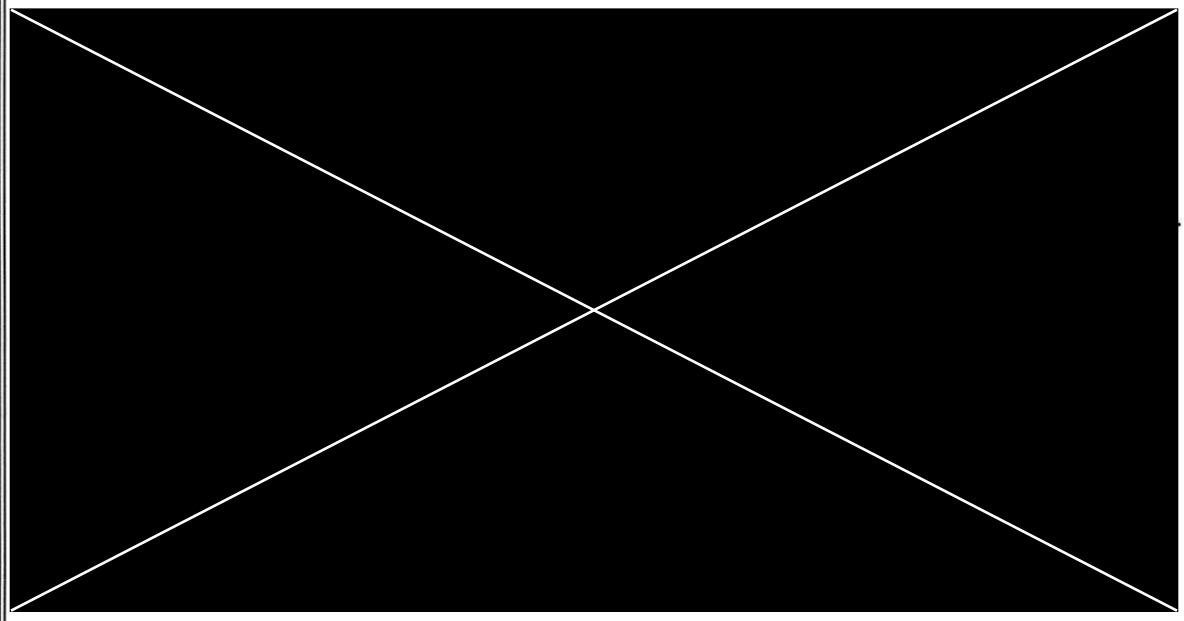
other than voluntary departure" and that he was a flight risk. *See* Exhibit Two. As shown by the Transcript of this March 10, 2025 bond hearing, the IJ incorrectly stated that "asylum, withholding of removal, and CAT is on appeal, **been denied on appeal**." (Emphasis added).

7. At no point during the March 10, 2026 bond hearing did the IJ question Petitioner nor did the Government to determine if he was a "flight risk." Nor did the IJ place the evidentiary burden on the Government to prove by "clear and convincing evidence" that Petitioner was either a "flight risk" or a danger to the community. *See* Exhibits One and Two. This was done in contravention of this Court's recent decisions in *Soto-Medina v. Lynch et al.*, Case No. 1:25-cv-1704, United States District Court, Western District Michigan, Southern Division (January 1, 2026), *Ramirez v. Lynch et al.*, Case No. 1:25-cv-1800, United States District Court, Western District Michigan, Southern Division (January 27, 2026), *Valencia v. Kristi Noem et al.*, Case No. 1:25-cv-1828, United States District Court, Western District Michigan, Southern Division (February 5, 2026), *Arzikulov v. Kevin Raycraft et al.*, Case No. 1:26-cv-472, United States District Court, Western District Michigan, Southern Division (March 3, 2026). These decisions issued by this Court have held that under 8 USC Section 1226(a) as a matter of the Due Process Clause the government is required to justify the continued detention of a noncitizen by proving, by "clear and convincing evidence, that the noncitizen is a flight risk or a danger to the community to justify denial of bond." *See Soto-Medina v. Lynch et al., supra.*

8. Petitioner married a United States citizen Mei Xiang Zhang on December 17, 2024 who filed an I-130 Relative Petition for him on June 27, 2025 (Receipt No. [redacted], which remains pending. Petitioner provided supporting documentary evidence to the Immigration Court for his bond hearing that his wife will sponsor him upon release; that he is authorized to work in the United States; that he and his wife live at the fixed address of [redacted] that Petitioner has never been charged, arrested, or convicted of any crime in the United States; that he reported an income of over $201,000 in 2024 as the owner of two restaurants named [redacted], which he

has owned and operated for two years; that he has been physically present, without interruption, in the United States, for nine years, three months since his admission; that he has employed others and paid his taxes; numerous affidavits from people attesting to his good character and responsibility showing his continuing community ties; and other evidence supporting that he is neither a danger to the community nor a flight risk. *See* Petitioner's Supporting Documents for the Issuance of a Bond Provided to the Immigration Court at Exhibit Four, Sub-Exhibits A-P.

9. Petitioner remains afraid of being persecuted should be returned to the People's Republic of China (China). In China, as he stated in his asylum application, [redacted]



10. Although providing plausible grounds for asylum relief, Petitioner was never given an affirmative non-adversarial asylum interview with USCIS before he was arrested by ICE without a warrant on May 29, 2025. Section 208 (d)(5)(A)(iii) requires that in the absence of exceptional circumstances "final administrative adjudication, not including administrative appeal, *shall be completed within 180 days after the date an application is filed."* The Government has never shown exceptional circumstances warranting the long and prejudicial delay in adjudicating Petitioner's asylum claim. A Notice to Appear charging Petitioner as

a visa overstay under INA Section 237 (a)(1)(C)(I) was first issued on May 29, 2025 after his warrantees arrest. Petitioner has never missed any court hearing nor any appointment with USCIS or other appointment with the United States government or any state agency.

11. Mr. Yu's warrantees arrest violated his statutory and Fourth Amendment rights. He was denied a bond hearing twice on June 18, 2025 and July 16, 2025 by the Cleveland Immigration Court on the allegation that pursuant to *Matter of Q. Li,* 29 I & N Dec. 66 (BIA 2025), he was not eligible for a bond under Section 235 (b) of the Immigration and Nationality Act ("INA"). On March 10, 2026, an Immigration Judge from the Cleveland Immigration Judge violated Mr. Yu's Due Process Clause rights by not requiring the Government to show by clear and convincing evidence that Mr. Yu is a flight risk or a danger to the community.

12. Accordingly, Mr. Yu asks this Court to issue a writ of habeas corpus ordering his immediate release from ICE custody or, alternatively, to require Respondents to provide Mr. Yu a bond hearing within five days where the Government has the evidentiary burden of showing by clear and convincing evidence that Mr. Yu is a flight risk or a danger to the community, and that less restrictive measures, such as fitting him with an ankle monitor or the SmartLINK smartphone application by ICE, cannot meet the government's interest in avoiding any possible flight risk.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).

14. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

15. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Mr. Yu is detained within the Western District of Michigan, his immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District.

16. Respondents may argue that 8 U.S.C. Section 1226 (e) divests this Court of jurisdiction over Petitioner's habeas corpus action as this Section divests judicial review of the Attorney General's discretionary judgment or decision by the Attorney General regarding the "detention or release of any alien or the grant, revocation, or denial of bond or parole."

17. However, Petitioner in this habeas corpus petition is not challenging a "discretionary judgment" or "decision" or "action" by the Attorney General. Rather, he is alleging that the "discretionary process" itself in which noncitizens are detained under Section 1226(a) is unconstitutional where the noncitizens bear the burden of proving a negative, that is, that they are not a flight risk or a danger to the community. Petitioner contends that this constitutional violation of Due Process under the Fifth Amendment is especially troubling where the noncitizen has been subjected to prolonged detention by ICE, that is, over six months, and is not being mandatorily detained. Petitioner contends that under these circumstances the Government should be required as a matter of Due Process to prove by clear and convincing evidence that his further detention is justified by being a danger to the community or a flight risk. Respondents should further be required, as a matter of Due Process, to prove by clear and convincing evidence that any interest they have in detaining Petitioner further cannot be accomplished by less restrictive means, such as an ankle monitor or use of the SmartLINK smartphone application.

18. Accordingly, this Court has jurisdiction to consider and act on Petitioner's habeas corpus petition and either require his immediate release or require that a bond hearing be conducted in compliance with the requested Due Process protections. As this Court held in *Soto-Medina v. Lynch*, *supra*, the Supreme Court has made clear that a challenge "to the extent

of the Government's detention authority under the 'statutory framework' as a whole...is not a matter of 'discretionary judgement, "action," or "decision" and, therefore, "falls outside the scope of Section 1226(e)," citing *Jennings v. Rodriguez,* 583 U.S. 281, 296 (2018), and finding that the Court had jurisdiction to order that a second bond hearing be conducted where the Government bore the burden of proving by clear and convincing evidence that the Soto-Medina petitioner was a flight risk or a danger to the community.

PARTIES

19. Petitioner **Mingyuan Yu** is a 32-year-old married, male, native and citizen of China who has resided in the United States since his admission on a student visa on December 31, 2016. He timely and affirmatively filed an I-589 asylum application with USCIS within a year of his arrival. Ever since being unlawfully arrested by CBP officers on or about May 29, 2025, Mr. Yu has been in ICE custody, first in Cleveland, Ohio, and then transferred to the North Lake Detention Center in Baldwin, Lake County, Michigan starting in November 2025 and continuing through the present.

20. Respondent **Robert Lynch** is the Field Director of the U.S. Immigration and Customs Enforcement, ERO, in the Detroit, Michigan Office and as such is the equivalent of the physical custodian and warden of Mr. Yu.

21. Respondent **Kristi Noem** is named in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, she is responsible for overseeing ICE's day-to-day operations, leading approximately 20,000 ICE employees.

22. Respondent **Pamela Bondi** is named in her official capacity as the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Mr. Yu's removal and bond proceedings, and as such, she is Mr. Yu's legal custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1). The Sixth Circuit Court of Appeals has taken the position that no applicable statute or rule mandates administrative exhaustion by a Petitioner and whether to require exhaustion is within the Court's "sound judicial discretion." *Shearson v. Holder*, 725, F.3d588, 593 (6th Cir. 2013). The Michigan District Courts have used a three-factor test to determine whether prudential exhaustion should be required:

"1) agency expertise makes agency consideration necessary to generate a record and reach a proper decision;

2) relaxation of the requirement would encourage the deliberate bypass of the administrative schedule; and

3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *See Osmedy Pablo-Mendoza v. Robert Lynch*, 1:25-cv-01774-JMB-SLB (Filed 01/07/2026).

24. In this case, Petitioner is not challenging the "discretionary judgment," "decision," or "action" by the Attorney General regarding the denial of a bond in his case. Rather, Petitioner is filing this habeas corpus action as he maintains that the Due Process Clause requires that the Government "be required to prove, by clear and convincing evidence, that the noncitizen is a flight risk or a danger to the community to justify denial of bond." *See Soto-Medina v. Lynch*, Case No. 1:25-cv-1704, United States District Court, W.D. (Filed 01/25/2026), and that the bond hearing he was provided on March 10, 2026 violated his Due Process rights under the Constitution by placing on him the burden of proving that he is not a flight risk or a danger to the community. The Government did not even argue that Petitioner is a flight risk or a danger to the community during the March 10, 2026 bond hearing, let alone prove that Petitioner is a flight risk by clear and convincing evidence. *See* Exhibit One.

25. The Board of Immigration Appeals in In Re Guerra, 24 I. & N. Dec. 37, 40 (BIA 2006),

Matter of R-A-V-P-, 27 I & N Dec. 803 (BIA 2020) and in Matter of Dobrovorskii, 29 I. & N. Dec. 211 (BIA 2025) has held that a noncitizen bears the burden of showing that he is not a danger to the community or a flight risk, absent a controlling federal precedent as in Dobrovorskii where the bond hearing at issue was held pursuant to *Rodriguez v. Robbines,* 804 F.3d 1060, 1089 (9th Cir. 2015). Thus, administrative review in Petitioner's case will not address the central issue in this case: that the Immigration Judge gave Petitioner a defective bond hearing by not requiring the Government to prove by clear and convincing evidence that he was a flight risk or a danger to the community.

26. Petitioner Mingyuan Yu's habeas corpus petition, moreover, does not require that a factual record be further developed. This petition presents primarily a legal question of interpretation of a statute, which the Court is no longer required to give deference to the agency's interpretation of statute given the overruling of the *Chevron* doctrine in *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2273 (2024). Thus, exhaustion of administrative remedies will not serve any practical purpose. As Petitioner is also making a constitutional challenge to his continued detention by ICE, exhaustion is not required as the Board of Immigration Appeals (BIA) cannot review constitutional challenges. The Supreme Court has further recognized that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Mr. Yu raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one where he is being unconstitutionally deprived of his liberty.

27. Therefore, habeas corpus is an appropriate avenue to vindicate Mr. Yu's constitutional, statutory, and regulatory rights and restore his liberty.

CLAIM FOR RELIEF

VIOLATION OF THE SUBSTANTIVE DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION

28. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

29. The Supreme Court has long recognized that aliens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

30. To comply with the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). ; *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018)

31. Apart from the mandatory detention provisions of 8 CFR Section 1225 (a) (1), the only legitimate purpose, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance for legal hearings adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91.

32. In this case, Petitioner has been detained for over nine months. Federal courts have held that for prolonged detention under 8 USC Section 1226(a), the government must prove by clear and convincing evidence that a noncitizen is a flight risk or danger to justify continued detention. In *Rodriguez v. Robbins,* 804 F.3d 1060, 1089 (9th Cir. 2015), the Court held that a detention that is over six months in length constitutes prolonged detention and that the burden of proof as a matter of Due Process must shift to the Government to prove by clear and convincing evidence that the Petitioner is a flight risk or a danger to the community. Although the Supreme Court held in *Johnson v. Arteaga-Martinez,* 596 U.S. 573 (2022) that 8 USC Section 1231(a)(6) for post-removal detention does not explicitly require that the Government prove by clear and convincing evidence that the noncitizen is a flight risk or a danger to the

community, the Supreme Court did not address INA Section 1226(a) nor did it foreclose Due Process challenges to prolonged detention. Moreover, in ICE detention cases under Section 1226(a), prolonged detention with detention over six months has continued to be recognized as requiring that the Government be required to prove by clear and convincing evidence that the noncitizen is a flight risk or a danger to the community. The Board of Immigration Appeals, for example, continued to follow the Ninth Circuit's *Rodriguez v. Robbins* burden of proof holding in Matter of Dobrovorskii, 29 I. & N. Dec. 211 (BIA 2025).

33. Moreover, this Court has recognized without requiring prolonged detention that in 8 U.S.C. Section 1226(a) bond hearings that the Government must, as a matter of Due Process under the Fifth Amendment, prove by clear and convincing evidence that the noncitizen is a flight risk or a danger to the community. *Soto-Medina v. Lynch et al.*, Case No. 1:25-cv-1704, United States District Court, Western District Michigan, Southern Division (January 21, 2026), *Ramirez v. Lynch et al.*, Case No. 1:25-cv-1800, United States District Court, Western District Michigan, Southern Division (January 27, 2026), *Valencia v. Kristi Noem et al.*, Case No. 1:25-cv-1828, United States District Court, Western District Michigan, Southern Division (February 5, 2026), *Ramirez v. Lynch et al.*, Case No. 1:25-cv-1800, United States District Court, Western District Michigan, Southern Division (January 27, 2026), *Arzikulov v. Kevin Raycraft et al.*, Case No. 1:26-cv-472, United States District Court, Western District Michigan, Southern Division (March 3, 2026). These decisions issued by this Court have held that under 8 USC Section 1226(a) as a matter of the Due Process Clause the government is required to justify the continued detention of a noncitizen by proving, by "clear and convincing evidence, that the noncitizen is a flight risk or a danger to the community to justify denial of bond." *See Soto-Medina v. Lynch et al., supra*.

34. Respondents should also, as a matter of the Due Process Clause, be required to show by clear and convincing evidence that less restrictive measures, such as an ankle monitor or use of the smartphone SmartLINK app placed by ICE, cannot protect their interest in ensuring that Mr. Yu appears for any future hearings, removal proceedings, or appointments

with ICE.

35. It is clear from the Record in this case that the Immigration Judge did not hold the Government to the evidentiary burden of proving by "clear and convincing evidence, that Petitioner is a flight risk or a danger to the community" to justify his continued detention. Nowhere in the IJ's March 10, 2026 decision as Exhibit B does the IJ indicate that he found that the Government had met their burden of proving by "clear and convincing evidence" that he is a flight risk. Moreover, as shown by the Transcript of the Bond Hearing at Exhibit A, the Government itself did not argue or refer to any evidence showing that Petitioner is a flight risk if released from custody. Nor did the IJ indicate in his bond order that he found in Petitioner's case that even with the use of an ankle monitor or the SmartLINK Smartphone app that the risk of flight risk could be ameliorated.

36. The bond hearing thus violated Petitioner's due process rights which "forbids the government to infringe certain 'fundamental' liberty interests if any at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for "deportable [noncitizens]"). Here, Mr. Yu has significant ties to the United States, is married to a United States citizen, who has filed an I-130 relative petition for him, owns two restaurants, reported substantial earnings in 2024, and has never been accused, arrested, or convicted of any crime in the United States. His asylum case remains pending before the BIA and there is no final administrative denial.

37. Although the IJ alleged in his decision denying bond that the E-33s Changes of Address for Petitioner provided to the Immigration Court did not include a time-line for when he lived at the addresses provided, they show that he lived at 263 W23rd Street, Chicago, Illinois 60616, then moved to 2520 Hyacinth LN, Columbus, Ohio 43235, then moved from 2520 Hyacinth LN, Columbus, Ohio 43235 to 3537 Prestwick CT, Columbus, Ohio 43220, and finally moved from 3537 Prestwick CT, Columbus, Ohio 43220 to the residence he shares with his wife, 2225 SW 138th Street, Oklahoma City, Oklahoma 73170. This is the same

address that was stated in his bond worksheet as the address where he would reside upon being released from custody. Petitioner himself had his first master calendar hearing on June 17, 2025 before the Cleveland Immigration Court and thus did not have the opportunity earlier to update his addresses with the Immigration Court through filing E-33s at the time he moved from each address. The E-33 forms themselves do not require that noncitizens in removal proceedings indicate the time period of their residence in the addresses provided. *See* Exhibit Four. At no point did the IJ indicate during either the bond hearing or in his March 10, 2026 decision how Petitioner's E-33s provided "clear and convincing evidence" that Petitioner is a flight risk or that the IJ applied this as the evidentiary standard for determining Petitioner is a flight risk. Rather, instead, it is clear from the IJ's March 10, 2026 decision and from the Transcript of the bond hearing that the IJ was placing on Mr. Yu the burden of showing through Mr. Yu's evidence that he is not a flight risk or a danger to the community, not the Government.

38. Instead of focusing on whether the Government showed by clear and convincing evidence that Mr. Yu is a flight risk or danger to the community during the Bond Hearing, the IJ expressed uncertainty during the hearing about whether the Court still retained jurisdiction to issue a bond under 8 U.S.C. Section 1226(a). *See* Exhibit One. However, as Petitioner's appeal to the BIA remains pending, Section 1231 does not apply, and Petitioner's order of removal is not "administratively final" for purposes of the INA. *See* this Court's decision in *Maya Ramiriz v. Lynch et al.*, Case No. 1:25-cv-1800, United States District Court, Western District Michigan, Southern Division (January 27, 2026).

39. Accordingly, the Record in this case shows that the IJ failed to hold the Government to the "clear and convincing" burden of proof to prove that Petitioner is a flight risk or a danger to the community, requiring as a matter of Due Process that this Court either order Petitioner's immediate release from custody or require Respondents to provide Petitioner with another bond hearing where Respondents will have to show by clear and convincing evidence that he is a flight risk and that alternative, less restrictive means of meeting Respondents' interest in

securing Petitioner's future presence at any scheduled hearing or appointment cannot be accomplished through an ankle monitor or use of the SmartLINK Smartphone app.

40. Examples of clear and convincing evidence to show that Petitioner is a flight risk would include showing a history of multiple prior deportations; unlawful re-entries; failure to comply with voluntary departure orders; any documented instances of running from Border Patrol or providing false documents at the border; a lack of any community ties; a lack of any property; very short-term residence in the United States; previous failures to appear in past immigration or court hearings; bench warrants, bail jumping, or any evidence showing that Petitioner has moved frequently to avoid either criminal prosecution or appearing in Immigration Court proceedings. As no such evidence or similar evidence was proffered by Respondents in Petitioner's case, it is inconceivable that the IJ applied this Court's Due Process requirement under the Fifth Amendment that the Government bear the evidentiary burden of proving by clear and convincing evidence that Petitioner is a flight risk, thereby violating his Due Process rights and rendering a constitutionally defective bond hearing in Petitioner's case.

41. The continued detention of Petitioner over nine months, with no clear and convincing evidence that he is either a flight risk or a danger to the community, therefore contravenes the fundamental Due Process protections of the Fifth Amendment of the Constitution and is causing Mr. Yu substantial and irreparable harm. His continued detention, despite the absence of any criminal record, his lawful admission to the United States, his strong community and family ties, his work authorization and ownership of two restaurants, his marriage to a United States citizen, and opportunity for bond, especially for an individual such as Mr. Yu with strong community and family ties, violates his due process rights under the Fifth Amendment. *See Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court grant the following relief:

A. Assume jurisdiction over this matter;

B. Prohibit Petitioner's removal from the United States and transfer outside the Eastern

District of Michigan during the pendency of this action;

C. Declare that Petitioner's arrest and continued detention violate the Fifth Amendment of the U.S. Constitution and the Administrative Procedure Act.

D. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;

E. In the alternative, order an immediate, constitutionally adequate individualized custody bond hearing under 8 U.S.C. Section 1226(a) within five days or be released.

F. Within ten days' of the Courts' Order, require that Respondents file a status report certifying their compliance with the Court's Order and detailing the results of the bond hearing.

G. Grant such other and further relief as law and justice require.

Dated: March 16, 2026

Respectfully submitted,

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