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

XIUQIN YOU, an individual;

Petitioner,

v.

JEREMY CASEY, Warden of Imperial Regional
Adult Detention Facility; PATRICK DIVVER,
Field Office Director of Imperial ICE Field
Office, U.S. Immigration and Customs
Enforcement, Enforcement and Removal
Operations; TODD LYONS, Acting Director,
U.S. Immigration and Customs Enforcement;
TODD BLANCHE, Acting Attorney General of
the United States; MARKWAYNE MULLIN,
Secretary of Homeland Security, in their official
capacities,

Respondents.

Case No. '26CV3156 NJC JLB

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

Petitioner Xiuqin You ("Ms. You" or "Petitioner")(A-Number: , by and
through the undersigned counsel, petitions this Court for a writ of habeas corpus pursuant to 28
U.S.C. § 2241 and respectfully alleges as follows:

INTRODUCTION

1. Petitioner is a native and citizen of the People's Republic of China presently
detained at the Imperial Regional Adult Detention Facility, Imperial, California. Petitioner, by and
through her undersigned counsel, hereby files this petition for writ of habeas corpus and complaint

1 for declaratory and injunctive relief to compel her immediate release from immigration detention
2 where she has been held by the U.S. Department of Homeland Security ("DHS") since being
3 unlawfully re-detained on or around April 20, 2026, without first being provided a due process
4 hearing to determine whether her detention is justified. Petitioner was previously released by DHS
5 in November 2023, after a determination that she was neither a flight risk nor a danger to the
6 community.

7 2. The Due Process clause of the Fifth Amendment, as well as statutory and regulatory
8 authorities, require the government to provide noncitizens with notice and a hearing prior to re-
9 detention. Here, Petitioner's rights were violated when she was re-detained without such process
10 and continue to be violated each day that she remains detained.

11 CUSTODY

12 3. Petitioner is currently in Respondents' physical custody. Petitioner is detained at the
13 Imperial Regional Adult Detention Facility, Imperial, California. She is under Respondents' and
14 their agents' direct control. Prior to her re-detention, Petitioner was not provided with a
15 constitutionally and statutorily compliant bond hearing.

16 JURISDICTION AND VENUE

17 4. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Article I, Section
18 9, Clause 2 of the United States Constitution (the "Suspension Clause"); and 28 U.S.C. §1331, as
19 Petitioner is presently in custody under the color of the authority of the United States, and such
20 custody violates the Constitution, law, or treaties of the United States. This Court may grant relief
21 pursuant to 28 U.S.C. § 2241.

22 5. The venue lies in the Southern District of California, the judicial district in which
23 Petitioner is currently detained. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
24 because Respondents are employees, officers, and agencies of the United States, and because a
25 substantial part of the events or omissions giving rise to the claims occurred in this District.

26 REQUIREMENTS OF 28 U.S.C. § 2243

27 6. The Court must grant the petition for writ of habeas corpus or issue an order to show
28 cause ("OSC") to Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C.

1 § 2243. If an OSC is issued, the Court must require Respondents to file a return “within *three days*
2 unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis added.)

3 **THE PARTIES**

4 7. Petitioner is a citizen of China who has resided in the United States since November
5 2023, when Petitioner entered without inspection, was apprehended by immigration authorities,
6 and was later released from custody. Despite compliance with the conditions of release, Petitioner
7 was re-detained on or about April 20, 2026, and has remained detained ever since.

8 8. Respondent JEREMY CASEY is sued in his official capacity as the Warden of the
9 Imperial Regional Adult Detention Facility. He has immediate physical custody of Petitioner under
10 the facility’s contract with ICE to detain noncitizens. Respondent CASEY is a legal custodian of
11 Petitioner.

12 9. Respondent PATRICK DIVVER is sued in his official capacity as Field Office
13 Director of Imperial ICE Field Office. Respondent DIVVER is a legal custodian of Petitioner and
14 has the authority to release her.

15 10. Respondent TODD LYONS is sued in his official capacity as Acting Director of
16 ICE. In this capacity, Respondent LYONS directs and oversees ICE’s Enforcement and Removal
17 Operations, the component agency responsible for Petitioner’s detention. Respondent LYONS is a
18 legal custodian of Petitioner and has the authority to release her.

19 11. Respondent TODD BLANCHE is sued in his official capacity as the Acting
20 Attorney General of the United States and the senior official of the U.S. Department of Justice
21 (“DOJ”). In that capacity, he has the authority to adjudicate removal cases and to oversee the
22 Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and
23 the Board of Immigration Appeals. Respondent BLANCHE is a legal custodian of Petitioner.

24 12. Respondent MARKWAYNE MULLIN is sued in his official capacity as the
25 Secretary of the U.S. Department of Homeland Security (“DHS”). In this capacity, Respondent
26 MULLIN is responsible for the implementation and enforcement of the INA and oversees ICE, the
27 component agency responsible for Petitioner’s detention. Respondent MULLIN is a legal custodian
28 of Petitioner.

STATEMENT OF FACTS

13. Petitioner entered the United States on or about November 16, 2023, without inspection and was apprehended by Immigration and Customs Enforcement ("ICE").

14. On or around November 17, 2023, the Department of Homeland Security issued Petitioner a Notice to Appear, thereby placing Petitioner in full removal proceedings before an Immigration Judge, and charging Petitioner with removability under § 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA") as an alien present without admission or parole.

15. On November 17, 2023, ICE released Petitioner from custody on her own recognizance pursuant to section 236 of the INA.

16. Following her release, Petitioner filed an application for asylum, and the case remains pending.

17. Since release, Petitioner has worked to support herself, paid taxes, and lived openly in the community, and made good-faith efforts to comply with reporting requirements. She has no criminal history.

18. On or about April 20, 2026, Petitioner was stopped at a checkpoint on Highway 86, taken into custody, and transferred to ICE detention. Petitioner has remained detained since that date.

19. When Petitioner was taken into custody, ICE took Petitioner's personal belongings, including Petitioner's Employment Authorization Document, identification card, Social Security card, passport, temporary driver's license, and Chinese identity card.

20. At no time prior to her re-detention was Petitioner notified that her release had been revoked or that she would be re-detained. She was not given any advance notice that she would be taken into custody, nor was she provided with a bond hearing or any opportunity to contest her detention beforehand. Additionally, when officers detained her, they did not present or show her any warrant authorizing her detention.

21. To date, Respondents have not provided Petitioner with a bond hearing.

LEGAL FRAMEWORK

22. The Constitution guarantees that the writ of habeas corpus is "available to every

individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

Detention Under 8 U.S.C. §1226(a)

23. On July 8, 2025, the DHS instituted a notice titled “Interim Guidance Regarding Detention Authority for Applicants for Admission” requiring, in general, that anyone arrested in the United States and charged with being inadmissible to be considered an “applicant for admission” under 8 U.S.C. §1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A) and not subject to detention under 8 U.S.C. §1226(a).

24. On September 5, 2025, the Bureau of Immigration Appeals (“BIA”) issued a precedential decision adopting this new interpretation of the government’s detention authority under the INA. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (“*Hurtado*”). After *Hurtado*, immigration judges no longer have authority to hear bond requests or grant bond to noncitizens present in the U.S. who entered without inspection.

25. Numerous district courts across the country rejected the government’s new interpretation of Sections 1225 and 1226, found it incorrect and unlawful. *Faizyan v. Casey*, No. 3:25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025) (holding that §1226 applies to a petitioner who was released on an Order of Release on Recognizance pursuant to INA §236 and has been residing in the United States for two years); *Morales-Flores v. Lyons*, 2025 U.S. No. 1:25-cv-01640-TLN-EFB, 2025 WL 3552841 (E.D. Cal. Dec. 11, 2025) (collecting cases) (“Courts nationwide, including this one, have overwhelmingly rejected respondents; arguments and found DHS’s new policy unlawful.”); *Singh v. Warden of Mesa Verde Detention Center*, No. 1:26-cv-00951-JLT-SKO (E.D. Cal. Feb. 20, 2026) (granting habeas where petitioner released on own recognizance under §1226(a) was re-detained without pre-deprivation hearing); *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 U.S. Dist. LEXIS 232876, 2025 WL 3295903 (S.D.N.Y.

1 Nov. 26, 2025); *Munoz v. Semaia*, No. 5:25-cv-02898-MRA-BFM, 2025 U.S. Dist. LEXIS 275725
 2 (C.D. Cal. Nov. 4, 2025).

3 26. That conclusion is consistent with the Supreme Court’s interpretation in *Jennings v.*
 4 *Rodriguez*, 583 U.S. 281 (2018). In *Jennings*, the Supreme Court explained that Section 1226(a)
 5 and (c) “authorizes the Government to detain certain [noncitizens] already in the country pending
 6 the outcome of removal proceedings” while Section 1225(b)(1) and (b)(2), which, the Supreme
 7 Court explained, “applies primarily to [noncitizens] seeking entry into the United States.” *Jennings*,
 8 583 U.S. at 289, 297.

9 27. 8 U.S.C. §1226(a) applies to noncitizens “pending a decision on whether the
 10 [noncitizen] is to be removed from the United States.” Under §1226(a), detention is discretionary,
 11 and individuals may be released on bond or conditional parole as approved by the Attorney
 12 General.

13 28. By contrast, §1225(b) applies to individuals arriving in the United States and
 14 seeking admission. It authorizes mandatory detention of “an alien who is an applicant for
 15 admission” where the examining immigration officer determines that the individual is not “clearly
 16 and beyond a doubt entitled to be admitted.” By its plain terms, §1225(b) does not apply to
 17 Petitioner, as it applies only to those noncitizens who are actively “seeking admission” to the
 18 United States, it cannot, according to its ordinary meaning, apply to Petitioner, because she has
 19 already been residing in the United States for more than two years and is not actively seeking to
 20 cross into the territorial limits of the United States. *See also Lopez-Campos v. Raycraft*, No. 2:25-
 21 cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (“[S]eeking admission’ . . . implies
 22 action - something that is currently occurring, and in this instance, would most logically occur at
 23 the border upon inspection.”).

24 29. Further, detention under §1226(a) requires the issuance of a warrant. §1226(a)
 25 provides, “[o]n a warrant issued by the Attorney General, a[] [noncitizen] may be arrested and
 26 detained pending a decision on whether the [noncitizen] is to be removed from the United States.
 27 . . . [T]he Attorney General...(1) may continue to detain the arrested [noncitizen]; and (2) may
 28 release the [noncitizen] on (A) bond . . . ; or (B) conditional parole[.]” § 1226(a) (emphasis added).

1 30. “Issuance of a warrant is a necessary condition to justify discretionary detention
2 under section 1226(a). . . . As such, it follows that absent a warrant a noncitizen may not be
3 arrested and detained under section 1226(a).” *Jesus Emery M. F. v. Warden of the Golden State*
4 *Annex Det. Facility*, No. 1:26-cv-01374-TLN-CKD, 2026 U.S. Dist. LEXIS 66190 (E.D. Cal.
5 Mar. 26, 2026) (citing *Chogollo Chafila v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025)).

6 **Due Process**

7 31. “[O]nce an alien enters the country, the legal circumstance changes, for the Due
8 Process Clause applies to all ‘persons’ within the United States, including aliens, whether their
9 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693
10 (2001); *see also Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (“[I]t is well-established
11 that the Due Process Clause stands as a significant constraint on the manner in which the political
12 branches may exercise their plenary authority.”).

13 32. “‘[T]he root requirement’ of the Due Process Clause” is “‘that an individual be given
14 an opportunity for a hearing before he is deprived of any significant protected interest.’” *Cleveland*
15 *Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (quoting *Boddie v. Connecticut*, 401 U.S.
16 371, 379 (1971)); *see Zinermom v. Burch*, 494 U.S. 113, 127 (1990) (“Applying [the Mathews] test,
17 the Court usually has held that the Constitution requires some kind of a hearing before the State
18 deprives a person of liberty . . .”).

19 33. Courts typically require evidence of urgent concerns or an especially strong
20 government interest to justify a post-deprivation hearing. *See Guillermo M. R. v. Kaiser*, 791 F.
21 Supp. 3d 1021, 1036 (N.D. Cal. 2025); *United States v. James Daniel Good Real Prop.*, 510 U.S.
22 43, 53, 59–61 (1993) (“We tolerate some exceptions to the general rule requiring pre-deprivation
23 notice and hearing, but only in extraordinary situations where some valid governmental interest is
24 at stake that justifies postponing the hearing until after the event[,]” such as “executive urgency.”
25 (internal quotations omitted)).

26 **COUNT ONE**

27 **(Violation of the Fifth Amendment Due Process Clause)**

28 34. Petitioner repeats and incorporates by reference the allegations set forth above.

1 35. Petitioner's detention violated the Due Process Clause. Petitioner possesses a
2 protected liberty interest, and by revoking her release and re-detaining her without providing
3 advanced notice, a pre-deprivation hearing, or any meaningful opportunity to contest the alleged
4 basis for the detention, ICE disregarded the procedural safeguards required under the Clause to
5 ensure that the deprivation of Petitioner's protected liberty interest comports with the
6 Constitution. *See Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596 (E.D.
7 Cal. July 14, 2025); *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

8 36. A protected liberty interest may arise from a conditional release from physical
9 restraint. *Young v. Harper*, 520 U.S. 143, 147–49 (1997). Petitioner was previously released on
10 her own recognizance pursuant to 8 U.S.C. §1226(a). After her release, Petitioner diligently
11 complied with all reporting requirements and was never informed that her release had been
12 revoked or that she had allegedly violated any condition. Petitioner, therefore, has a protected
13 liberty interest in her release. *See Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL
14 1983677 (N.D. Cal. July 17, 2025) (recognizing that “the liberty interest that arises upon release
15 [from immigration detention] is inherent in the Due Process Clause”); *Ortega v. Kaiser*, No. 25-
16 cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025) (collecting cases finding that
17 noncitizens who have been released have a strong liberty interest).

18 37. Once the protected interest is confirmed, the Court needs to determine what
19 procedures are necessary to ensure that the deprivation of that protected liberty interest meets the
20 demands of the Constitution. The Ninth Circuit has “regularly applied *Mathews v. Eldridge*, 424
21 U.S. 319 (1976), to due process challenges to removal proceedings.” *Rodriguez Diaz v. Garland*,
22 53 F. 4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, the Court considers (1) the private interest
23 that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest
24 through the procedures used, and the probable value, if any, of additional or substitute procedural
25 safeguards; and (3) the government's interest, including the function involved and the fiscal and
26 administrative burdens that the additional or substitute procedural requirement would entail. 424
27 U.S. 319, 335 (1976).

28 38. The first *Mathews* factor strongly favors Petitioner. “Freedom from imprisonment-

1 -from government custody, detention, or other forms of physical restraint--lies at the heart of the
 2 liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
 3 Federal district courts in California, including this Court, have repeatedly found that noncitizens,
 4 like Petitioner, who were previously detained, placed in removal proceedings, found to be neither
 5 a flight risk nor a danger to the community, and released on their own recognizance, “therefore
 6 maintain a ‘protected liberty interest in remaining out of custody.’” *Zhibin Xie v. Larose*, No.
 7 3:25-cv-03649-RBM-MSB, 2026 WL 92066 (S.D. Cal. Jan. 13, 2026) (citing *Pinchi v. Noem*,
 8 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025)); *see also Shan Yan v. Fereti Semaia*, 5:26-cv-
 9 00674-KK-DSRx (C.D. Cal. Feb. 18, 2026).

10 39. The second *Mathews* factor also strongly favors Petitioner. There is a “significant
 11 risk that the government will erroneously deprive [Petitioner] of [her] liberty interest if it does not
 12 provide [her] with a pre-detention hearing, where, as here, ‘the [Petitioner] has not received any
 13 bond or custody...hearing.’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032-33 (N.D. Cal. 2025).
 14 Civil immigration detention must be “nonpunitive in purpose” and bear a “reasonable relation” to
 15 the authorized statutory purposes of preventing flight and danger to the community. *Zadvydas*,
 16 533 U.S. at 690. Here, Petitioner was previously released by immigration authorities after her
 17 initial detention at the border. By releasing her, immigration officers necessarily determined that
 18 Petitioner is neither a flight risk nor a danger to the community. *See Zapata v. Kaiser*, 801 F.
 19 Supp. 3d 919, 938 (N.D. Cal. 2025); *see also* 8 C.F.R. §1236.1(c)(8) (“Any officer...may, in the
 20 officer’s discretion, release an alien...provided that the alien must demonstrate to the satisfaction
 21 of the officer that such release would not pose a danger to property or persons, and that the alien
 22 is likely to appear for any future proceeding.”). Notably, prior to re-detaining Petitioner, the
 23 government presented no evidence of any changed circumstances between her initial release and
 24 her subsequent detention that would support a new finding that she poses a flight risk or a danger
 25 to the community. Absent such evidence, the government’s re-detention lacks a demonstrated
 26 connection to a valid regulatory purpose. Under these circumstances, the risk of erroneous
 27 deprivation is high given the possibility that Petitioner’s re-detention will not be pursuant to a
 28 valid governmental interest.

1 40. The third *Mathews* factor likewise favors Petitioner. The government’s interest in
2 re-detaining Petitioner without a pre-detention hearing is low “because ICE previously made the
3 determination to release [her], and there is no evidence in the record of any changed
4 circumstances that might cause ICE to reconsider its release determination.” *Aviles-Mena v.*
5 *Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 (N.D. Cal. Sep. 5, 2025); *Ortega v. Bonnar*,
6 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Further, additional procedural safeguards, including a
7 hearing before a neutral decision-maker, are “one of the most basic due process protections” and
8 would place a “de minimis . . . burden on the government,” especially in light of the potential
9 costs to the public by keeping Petitioner detained. *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th
10 Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

11 41. *Mathews* factors show that Petitioner is entitled to a bond hearing and Petitioner
12 “should have been provided such a hearing before he was re-detained.” *Simranjit Singh v. Bondi*,
13 No. 1:26-cv-0396 DC CSK P, 2026 WL 469169 (E.D. Cal. Feb. 19, 2026)(citing *Cleveland Bd. of*
14 *Educ. v. Loudermill*, 470 U.S. 532, 542 (1985)) (“An essential principle of due process is that a
15 deprivation of life, liberty, or property be preceded by notice and opportunity for hearing
16 appropriate to the nature of the case.”); *see also Zinerman v. Burch*, 494 U.S. at 127 (1990)
17 (“Applying [the *Mathews*] test, the Court usually has held that the Constitution requires some
18 kind of a hearing before the State deprives a person of liberty . . .”).

19 42. At such a hearing, the government must prove that she is a flight risk or danger to
20 the community by clear and convincing evidence. *See Pablo Sequen v. Albarran*, No. 25-CV-
21 06487-PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025).

22 43. Respondents provided Petitioner with neither a pre-deprivation hearing nor any
23 justification for dispensing with one, and they have offered no evidence supporting the necessity
24 of a post-deprivation hearing. Respondents have therefore violated Petitioner’s rights under the
25 Due Process Clause of the Fifth Amendment.

26 44. Courts confronting materially similar due process violations have consistently held
27 that immediate release, rather than a delayed post-deprivation hearing, is the appropriate remedy
28 because it restores the *status quo ante* that existed before Respondents violated a noncitizen’s

1 constitutional rights. Moreover, “allowing the government to cure such a violation by providing a
2 post-detention hearing would effectively render any holding that a pre-detention hearing is
3 required meaningless.” *Ganbat Ayurzana v. Todd Lyons*, No. 5:26-cv-02238-KES (C.D. Cal. May
4 13, 2026); *see also Gudavasov v. Marin*, No. 26-cv-00541-AH-MBK, 2026 WL 712827 (C.D.
5 Cal. Mar. 9, 2026) (collecting cases finding that release, rather than a post-detention bond
6 hearing, is the appropriate remedy); *see also Eduardo Marquez Ibarra v. Kristi Noem*, No. 5:26-
7 cv-01007-MEMF-MAA (C.D. Cal. Mar. 20, 2026); *Douglas Perez Osorio v. Kristi Noem*, No.
8 5:26-cv-00975 FMO (DSR) (C.D. Cal. Mar. 6, 2026); *Prieto-Cordova v. LaRose*, No. 25-cv-
9 2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *A.S. v. LaRose*, No. 25-cv-2876-
10 RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-
11 JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB,
12 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025).

13 45. Indeed, courts have repeatedly found that this type of due process violation
14 warrants not only immediate release, but also injunctive relief prohibiting further unconstitutional
15 re-detention absent adequate procedural protections. *See, e.g., Medrano-Rocha v. Santacruz*, 817
16 F. Supp. 3d 871 (C.D. Cal. 2026) (ordering petitioner’s release and enjoining re-detention
17 “without providing him a predetention hearing before a neutral decisionmaker where Respondent
18 bears the burden of demonstrating by clear and convincing evidence that Petitioner is a flight risk
19 or a danger such that his physical custody is required”); *Nieves v. Mullin*, No. 5:26-cv-01471-
20 DOC-DSR, 2026 WL 160709 (C.D. Cal. Apr. 1, 2026) (granting release and enjoining re-
21 detention “unless his re-detention is ordered at a custody hearing before a neutral arbiter and the
22 government has shown justification for this detention”).

23 46. Accordingly, Petitioner is entitled to immediate remedial release rather than a
24 belated bond hearing.

25 COUNT TWO

26 (Unlawful Detention Under 8 U.S.C. § 1226(a))

27 47. Petitioner repeats and incorporates by reference the allegations set forth above.

28 48. As courts have consistently recognized, 8 U.S.C. §1226(a), instead of §1225(b),

1 governs detention authority for noncitizens, such as Petitioner, who were previously released on
2 an order of release on recognizance and were already within the United States when apprehended
3 and arrested. *See e.g. Zheng v. LaRose*, No. 26-cv-2006-AGS-JLB (S.D. Cal. April 7, 2026);
4 *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL (S.D. Cal. Nov. 20, 2025); *Estuardo v. Warden*,
5 No. 1:26-cv-02354-DAD-AC, 2026 U.S. Dist. LEXIS 94474 (E.D. Cal. Apr. 28, 2026);
6 *Quichimbo-Jimenez v. Warden, Cal. City Corr. Ctr.*, No. 2:26-cv-00739-DAD-EFB, 2026 WL
7 679378 (E.D. Cal. Mar. 10, 2026).

8 49. Under this statute, a noncitizen may be arrested on a warrant and would be entitled
9 to a bond hearing before an immigration judge and must be released if the noncitizen “does not
10 present a danger to persons or property, is not a threat to the national security, and does not pose a
11 risk of flight.” *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017).

12 50. This statutory framework applies to Petitioner. Petitioner was previously released
13 by the government in November 2023. Since that time, she has resided in the United States for
14 more than two years and was already within the United States when she was re-detained by ICE
15 in April 2026; she was not then “seeking admission” to the United States. Moreover,
16 Respondents’ own decision to release Petitioner under INA § 236 confirms that they previously
17 treated Petitioner as subject to detention under 8 U.S.C. § 1226(a), rather than mandatory
18 detention under § 1225(b). Accordingly, Petitioner’s current detention arises under 8 U.S.C. §
19 1226(a).

20 51. Detention under § 1226(a) requires the issuance of a warrant. The plain language
21 of § 1226(a) provides that a noncitizen may be arrested only “[o]n a warrant issued by the
22 Attorney General.” 8 U.S.C. § 1226(a). As courts have recognized, “[i]ssuance of a warrant is a
23 necessary condition to justify discretionary detention under section 1226(a).” *Jesus Emery M. F.*
24 *v. Warden of the Golden State Annex Det. Facility*, No. 1:26-cv-01374-TLN-CKD, 2026 U.S.
25 Dist. LEXIS 66190 (E.D. Cal. Mar. 26, 2026). Thus, absent a warrant, a noncitizen may not
26 lawfully be arrested and detained under § 1226(a).

27 52. There is no evidence demonstrating that any warrant was issued in connection with
28 Petitioner’s arrest and detention. Petitioner was stopped at a checkpoint and was thereafter taken

1 into ICE custody. At no point was Petitioner presented with, served with, or notified of any warrant
2 authorizing her arrest or detention. Moreover, Petitioner was not provided a bond hearing
3 complying with the requirement of § 1226(a). Accordingly, by arresting and detaining Petitioner
4 without a warrant, and by failing to provide her with a statutorily compliant bond hearing,
5 Respondents have violated the INA and exceeded their statutory detention authority.

6 53. When a noncitizen's detention is not authorized by statute, the appropriate remedy
7 is immediate release. *See e.g. Cardenas v. Chestnut*, No. 1:26-cv-02073-DAD-SCR (HC), 2026
8 WL 785871 (E.D. Cal. Mar. 20, 2026) (ordering the petitioner's immediate release where the
9 respondent failed to identify an applicable detention statute to justify the petitioner's detention);
10 *Estuardo v. Warden*, No. 1:26-cv-02354-DAD-AC, 2026 U.S. Dist. LEXIS 94474 (E.D. Cal. Apr.
11 28, 2026) (ordering release where the government failed to demonstrate that a warrant had been
12 issued under § 1226(a)); *Jose G.R. v. Warden*, No. 2:26-cv-00707-TLN-SCR, 2026 U.S. Dist.
13 LEXIS 54231 (E.D. Cal. Mar. 16, 2026) (same); *Jesus Emery M. F. v. Warden of the Golden State*
14 *Annex Det. Facility*, No. 1:26-cv-01374-TLN-CKD, 2026 U.S. Dist. LEXIS 66190 (E.D. Cal. Mar.
15 26, 2026) (same).

16 54. Therefore, Petitioner respectfully requests that this Court order her release from
17 detention.

18 **PRAYER FOR RELIEF**

19 Wherefore, Petitioner respectfully requests that this Court grant the following relief:

- 20 1. Assume jurisdiction over this matter;
- 21 2. Issue the writ of habeas corpus and order Respondents to show cause within three days
22 why the requested relief should not be granted;
- 23 3. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District
24 pending these proceedings;
- 25 4. Declare that Respondents' detention of Petitioner violates the INA and the Due
26 Process Clause of the Fifth Amendment;
- 27 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
28 without the imposition of any conditions more restrictive than those previously in

- 1 place;
- 2 6. In the alternative, only if the Court concludes that Petitioner is not legally entitled to
- 3 immediate release under the present circumstances based on a specific legal authority,
- 4 order Respondents to provide Petitioner with a bond hearing before an Immigration
- 5 Judge pursuant to 8 U.S.C. § 1226(a) within 7 days, at which the government bears the
- 6 burden of establishing by clear and convincing evidence that continued detention is
- 7 appropriate to prevent her flight or to protect the public, which would provide a
- 8 significantly lesser level of due process protection than the immediate release to which
- 9 Petitioner submits she is entitled;
- 10 7. Order Respondents to return all of Petitioner's personal belongings, including her
- 11 Employment Authorization Document and other identity documents;
- 12 8. Upon release, prohibit Respondents from imposing conditions of supervision more
- 13 restrictive than those previously in place, including the imposition of electronic
- 14 monitoring, absent a hearing consistent with due process;
- 15 9. Enjoin Respondents from transferring, re-arresting, or re-detaining Petitioner absent
- 16 lawful process, including a pre-deprivation hearing before a neutral decisionmaker at
- 17 which the government establishes by clear and convincing evidence that detention is
- 18 appropriate to prevent her flight or to protect the public;
- 19 10. Require Respondents, should they choose to conduct such a hearing, to provide
- 20 Petitioner with reasonable advance notice of the time and place of the hearing;
- 21 11. Enjoin Petitioner's removal from the United States pending a final decision on this
- 22 habeas action;
- 23 12. Enjoin Petitioner's removal from the United States without meaningful notice and
- 24 opportunity to fully present a fear-based claim;
- 25 13. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act and
- 26 any other applicable authority;
- 27 14. Grant further relief as the Court finds just and proper.
- 28

1 Dated: May 19, 2026

Juris Path Law Firm, PC

2
3 /s/Yunchao Song

4 Yunchao Song, Esq.

5 Attorneys for Petitioner Xiuqin You
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