DETAINED

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THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LIU, HAITAO

Petitioners,

v.

Markwayne Mullin, Secretary of U.S. DEPARTMENT OF HOMELAND SECURITY; Todd Blanche, United States ACTING ATTORNEY GENERAL; Dave Venturella, Acting Director, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; John Doe, Warden or Facility Administrator, IMPERIAL REGIONAL DETENTION FACILITY; John Doe, FIELD OFFICE DIRECTOR, San Diego Field Office, U.S. Immigration and Customs Enforcement;

Respondents.

[redacted]

Case No. : '26CV3788 RFL GC

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

INTRODUCTION

1. This Petition challenges the unlawful detention of Petitioner Haitao Liu, a 44-year-old citizen of the People's Republic of China who entered the United States without inspection on or about April 10, 2026, at or near the United States-Mexico border.
2. Petitioner timely filed an application for asylum on June 11, 2026, which remains pending before the Immigration Court.
3. Petitioner has no criminal history in the United States or any other country.
4. Despite Petitioner's pending asylum proceedings, he was abruptly and unlawfully detained by the Department of Homeland Security ("DHS") on or about May 2026. At the time of his apprehension, Petitioner was residing within the interior of the United States in Baldwin Park, California, and was not seeking admission into the United States. Without any prior notice or hearing, U.S. Immigration and Customs Enforcement apprehended Petitioner and transferred him to detention at Imperial Regional Detention Facility in Calexico, California. Petitioner's apprehension within the interior of the United States is functionally indistinguishable from an interior immigration arrest.
5. Because Petitioner has effected an entry into the United States and is not an "arriving alien" within the meaning of 8 U.S.C. § 1225(b), his detention is governed by 8 U.S.C. § 1226(a), which requires an individualized custody determination. As such, the procedural protections applicable to civil immigration arrests within the United States apply in full, including the requirement of an individualized custody determination.
6. Prior to detaining Petitioner, Respondents did not provide any written notice explaining the basis for his detention. Respondents did not assess whether Petitioner presented a flight risk or danger to the community prior to his arrest. Nor did Respondents provide a hearing before a neutral decisionmaker to justify the basis for detention.

7. Federal courts have recognized that detention without any individualized custody determination violates due process. See, e.g., Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011). By failing to provide any such hearing, Respondents have violated Petitioner's constitutional rights. This Court should order Petitioner's immediate release or, at minimum, a prompt bond hearing within seven (7) days.

8. Accordingly, this Court should grant the petition and order Petitioner's immediate release, or in the alternative, order an immediate bond hearing at which the Government bears the burden of demonstrating, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community, and that no less restrictive alternatives to detention would suffice.

PARTIES

9. Petitioner, Haitao Liu [redacted], is a 44-year-old citizen of the People's Republic of China, born on [redacted], currently detained at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231.

10. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. He is the cabinet-level secretary responsible for all immigration enforcement in the United States and has ultimate custodial authority over Petitioner.

11. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as his designees.

12. Respondent Dave Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

13. Respondent John Doe is sued in his or her official capacity as Warden or Facility Administrator of the Imperial Regional Detention Facility, the immigration detention center where Petitioner is being detained. He or she has immediate physical custody of Petitioner.

14. Respondent John Doe is sued in his or her official capacity as Field Office Director of the appropriate U.S. Immigration and Customs Enforcement Field Office. He or she is responsible for overseeing ICE operations pertaining to noncitizens within that Field Office's territorial jurisdiction, including Petitioner's detention at the Imperial Regional Detention Facility. He or she is the immediate legal custodian of Petitioner for purposes of a federal habeas petition.

JURISDICTION

15. This Court has jurisdiction over this matter under 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

16. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of the U.S. Constitution. See INS v. St. Cyr, 533 U.S. 289 (2001).

17. No other petitions, appeals, or motions regarding habeas corpus have been filed with any other court.

VENUE

18. Venue in the Southern District of California is appropriate under 28 U.S.C. § 1391(e)(1) because Petitioner is currently detained in this judicial district at the Imperial Regional Detention Facility in Calexico, California.

19. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because Respondents live, work, and operate within this judicial district and because the actions which gave rise to this Petition took place in Calexico, California, which falls within this judicial district.

FACTUAL BACKGROUND

20. Petitioner Haitao Liu is a 44-year-old citizen and national of the People's Republic of China, born on October 25, 1981, in Qidong County, Hunan Province, China.

21. Petitioner fled China after suffering persecution by Chinese government authorities in connection with the forced demolition of his family's longtime home. On September 11, 2025, Chinese police arrested, interrogated, and physically abused Petitioner, detaining him for five days. After his release, Petitioner attempted to travel to Beijing to file a complaint, but was again apprehended by police on November 15, 2025, threatened, and warned not to petition the government. Petitioner subsequently fled China to seek protection in the United States. **See collective Exhibit E.**

22. Petitioner entered the United States without inspection on or about April 10, 2026, at or near the United States-Mexico border. After his arrival, Petitioner resided in Baldwin Park, California.

23. On June 11, 2026, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal, with the Immigration Court. Petitioner's application for asylum, withholding of removal, and protection under the Convention Against Torture remains pending before the Immigration Court. **See collective Exhibit D.**

24. Petitioner has affirmatively sought immigration relief through the asylum process, demonstrating that he is neither a flight risk nor a danger to the community.

25. Petitioner's apprehension within the interior of the United States is functionally indistinguishable from an interior immigration arrest.

26. Petitioner has no criminal record in the United States or any other country.

27. Prior to Petitioner's detention, he did not receive written notice of the basis for his detention.

28. Prior to Petitioner's detention, ICE did not conduct any individualized assessment of whether Petitioner presented a flight risk or danger to the community.

29. To date, Petitioner has never received a hearing before a neutral decisionmaker to determine whether his detention is justified. On June 17, 2026, Immigration Judge Stuart J. Zander denied Petitioner's request for a custody redetermination, holding that the Court was without jurisdiction to determine bond pursuant to *Matter of Yayure-Hurtado*, 29 I&N Dec. 218 (BIA 2025). As a result, no individualized custody determination has ever been made. **See collective Exhibit B.**

30. Petitioner has been detained since on or about May 18, 2026, and continues to be held without any individualized custody determination or hearing.

MEMORANDUM OF LAW

Statutory Framework Governing Petitioner's Detention

31. Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). Petitioner was not apprehended at a port of entry or at the border while seeking admission. He entered the United States on or about April 10, 2026, and was later apprehended in or near Palm Springs, California, while traveling back from work in Phoenix, Arizona. His apprehension was an interior arrest, not a border apprehension.

32. Respondents may attempt to characterize Petitioner as an applicant for admission subject to mandatory detention under § 1225(b). That position fails as applied here. Petitioner was not apprehended at or near the border, was not placed solely in expedited removal proceedings, and is currently in regular removal proceedings under INA § 240 before the Immigration Court. Having elected to proceed under § 240 by issuing an NTA, Respondents cannot use § 1225(b) to categorically deny Petitioner any individualized custody review.

33. The Notice to Appear also contains material factual errors that undermine Respondents' detention theory. The NTA alleges that Petitioner arrived on or about March 15, 2026, at

or near Nogales, Arizona. In fact, Petitioner did not depart China until March 20, 2026, entered the United States on or about April 10, 2026, and was apprehended in or near Palm Springs on or about May 18, 2026. The erroneous date and location of entry are not minor mistakes; they go directly to Respondents' attempt to treat Petitioner as if he were subject to a border-based mandatory detention regime. **See collective Exhibit A and C.**

34. Because Petitioner is in ongoing § 240 proceedings, has not received a final order of removal, and has never received an individualized custody determination, due process requires a bond hearing before a neutral decisionmaker. At that hearing, the Government should bear the burden of proving, by clear and convincing evidence, that Petitioner presents a danger or flight risk that cannot be mitigated by reasonable conditions of release.

Due Process Clause

35. DHS authority must be exercised in a manner consistent with the Due Process Clause. The issue presented here is not whether DHS possesses initial apprehension authority, but whether it may maintain Petitioner's ongoing detention without any meaningful custody review by a neutral decision-maker.

36. This case involves not merely continued detention, but the complete absence of any pre-deprivation or post-detention procedural safeguards. Petitioner was taken into custody without notice, without any individualized determination, and without any opportunity to be heard.

37. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the core of the liberty protected by the Due Process Clause." Zadvydas v. Davis, 533 U.S. 678, 690 (2001). This interest is among the most fundamental protected by the Constitution, and the Ninth Circuit has recognized that civil immigration detention requires meaningful procedural safeguards to protect against its erroneous deprivation.

38. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

39. To protect against arbitrary detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas, 533 U.S. at 690 (citation modified).*

40. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the government may deprive a person of his liberty. The Ninth Circuit has likewise recognized that civil immigration detention requires meaningful procedural safeguards to protect against erroneous deprivation of liberty. S*ee Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

41. Respondents identify no case in which prolonged detention has been upheld where no custody determination has ever occurred.

42. Applying the framework set forth in Mathews v. Eldridge, 424 U.S. 319 (1976), Petitioner's

continued detention without any individualized hearing violates due process. First, Petitioner's interest in freedom from physical restraint is fundamental. *See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).* Second, the risk of erroneous deprivation is exceptionally high where, as here, no custody determination has ever occurred. Third, the Government's interest in detaining Petitioner without any procedural safeguards is minimal, particularly given Petitioner's lack of criminal history.

43. Even where detention is authorized by statute, the Constitution independently requires adequate procedural protections to ensure that detention serves its regulatory purpose and is not arbitrary. See Rodriguez v. Robbins, 804 F.3d 1060, 1085 (9th Cir. 2015), rev'd on other grounds sub nom. Jennings v. Rodriguez, 138 S. Ct. 830 (2018).

44. The same framework and principles apply here and compel Petitioner Haitao Liu's immediate release or, at minimum, a bond hearing within seven (7) days. Petitioner has been detained since on or about May 18, 2026, without any meaningful custody review, despite his pending asylum application and complete absence of criminal history.

45. Unlike the cases addressed in Jennings, Petitioner here has not received any bond hearing whatsoever, making this a direct constitutional violation rather than a statutory interpretation issue.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

47. Due process does not permit the government to strip Petitioner of his liberty without written notice and a hearing before a neutral decisionmaker to determine whether detention is warranted based on danger or flight risk. Such written notice and a hearing must occur

prior to any detention.

48. Due process does not permit the government to detain a noncitizen without affording a meaningful opportunity to be heard before a neutral decisionmaker regarding whether such detention is justified. At minimum, the Constitution requires a hearing at which the government must justify continued detention based on danger or flight risk.

49. Here, Petitioner has been detained since on or about May 18, 2026, without any custody determination by a neutral decisionmaker. No individualized bond hearing has ever been conducted, and no individualized assessment of flight risk or danger has ever been made. On June 17, 2026, Immigration Judge Stuart J. Zander denied Petitioner's request for a custody redetermination, holding that the Court was without jurisdiction to determine bond pursuant to *Matter of Yayure-Hurtado, 29 I&N Dec. 218 (BIA 2025).*

50. Because Petitioner is detained without any meaningful custody review, his continued detention violates the Due Process Clause of the Fifth Amendment.

IRREPARABLE INJURY

51. Petitioner has suffered irreparable injury as a result of his detention. Continued physical detention without constitutionally adequate process is itself irreparable harm. Petitioner has been in custody since on or about May 18, 2026, despite having filed an application for asylum that remains pending before the Immigration Court, and despite having no criminal history.

52. Continued physical detention without constitutionally adequate process is itself irreparable harm. The Ninth Circuit has recognized that the deprivation of constitutional rights constitutes irreparable harm. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter.

(2) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody, or in the alternative, order Respondents to provide Petitioner with an individualized bond hearing within seven (7) days, where Respondents must prove by clear and convincing evidence that Petitioner is a flight risk or a danger to the community and that no alternatives to detention would mitigate those risks;

(3) Declare that Petitioner's detention without first affording an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

(4) Issue an order providing for an award of attorney's fees and costs; and

(5) Grant such other relief as may be just and reasonable.

Respectfully submitted June 29, 2026.

Respectfully submitted,
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LIST OF EXHIBITS

Exhibit	Description

Exhibit A: Notice to Appear (NTA)

Exhibit B: Order Denying Custody Redetermination.

Exhibit C: Petitioner's passport

Exhibit D: Form I-589 Filing Receipt

Exhibit E: Declaration of Petitioner Haitao Liu.