GANLIN YU
Alien No. [redacted]
Imperial Regional Detention Center
1572 Gateway Road
Calexico, CA 92231

FILED
JUL 18 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GANLIN YU,

-Petitioner, *Pro Se*,

v.

THE UNITED STATES OF AMERICA,

Markwayne MULLIN, in his Official Capacity, Secretary of the Department of Homeland Security

Todd BLANCHE, in his Official Capacity, Attorney General, Department of Justice,

Daniel A. BRIGHTMAN, in his Official Capacity, Field Office Director, San Diego Filed Office, U.S. Immigration and Customs Enforcement,

Todd LYONS, in his Official Capacity, Acting Director, Immigration & Customs Enforcement,

Jeremy CASEY, in his Official Capacity, Warden of Immigration Detention Facility, Imperial Regional Detention Center;

-Respondents.

Case No. '26CV4036 RSH MSB

INS No [redacted]

Custody Status: **DETAINED**

Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

COMES NOW GANLIN YU, as the Petitioner in this present matter, appearing *Pro Se*, and hereby respectfully petitions this Honorable Southern District Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The Petition of GANLIN YU respectfully shows:

INTRODUCTION

1. Petitioner, Ganlin Yu, a 64-year-old female who is currently being physically detained under the full custody of the Respondents, including the Department ("DHS/ICE") at the Imperial Regional Detention Center ("IRDC") in Calexico, California.
2. On March 31, 2025, Petitioner was given a credible fear interview by an asylum officer where the Credible Fear Determination was positive.
3. Therefore, the Department ("DHS/ICE") found that Petitioner was harmed in China and suffered persecution and torture by China government officials.
4. Even more, the Department found her testimony to be credible, yet Petitioner has remained in immigration custody up-to-date and without due process of law.
5. As such, Petitioner has not been afforded a fair bond hearing wherein the government must establish by a constitutional, due process, standard of *clear and convincing* evidence that Petitioner presents a risk of flight or danger to the community.
6. Petitioner therefore respectfully requests that this Court issue a Writ of Habeas Corpus, and determine that Petitioner's re-detention is not justified because the government has not established by *clear and convincing* evidence that Petitioner presents a risk of flight or danger in light of reasonable available alternatives to detention, and order Petitioner's release, with appropriate conditions of supervision if necessary.

7. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus and order Petitioner's release within twenty ("20") days unless Respondents schedule a hearing before immigration judge where it holds proper jurisdiction, comports with due process of law and where: (1) to continue detention, the government must establish by *clear and convincing* evidence that Petitioner present a risk of flight or current public danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its heavy burden, the immigration judge orders Petitioner's release on appropriate conditions of supervision and, should bond be considered, Petitioner respectfully asks to take into account her ability to pay a reasonable bond.

8. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a petition for a writ of habeas corpus should be denied is returnable "within three days unless for good cause additional time, not exceeding twenty days, is allowed").

9. In order to permit full judicial review of the claims herein and requested relief, Petitioner respectfully requests that the Court order Respondents not to transfer Petitioner outside the jurisdiction of this Court pending consideration of this Petition.

10. Further, Petitioner respectfully requests for this Court to issue an Order that Restrains and Enjoins Respondents, their agents, employees, successors, attorneys, and all persons in active concert and participation with them, from removing Petitioner from the United States or this District pending further order of this Court"); *see also A.A.R.P v. Trump*, 605 U.S. 91, 97 (2025) (finding that federal courts have "the power to issue injunctive relief to prevent irreparable harm to the applicant and to preserve []

jurisdiction over the matter."); *Nguyen v. Scott*, No. 2:25 CV-01398, 2025 WL 2097979, at *3 (W.D. Wash. July 25, 2025) (enjoining the Respondents from removing Petitioner without approval from the court).

PARTIES

11. Petitioner, Ganlin Yu is a citizen of China who is being detained under the custody of the Respondents at Imperial Regional Detention Center.

12. Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in which the Administrative Procedures Act provides "[i]f no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer."

13. Respondent, Markwayne MULLIN is sued in his official capacity as the Secretary of the Department of Homeland Security (herein after referred to as "DHS"). In his capacity he has the responsibility for administration and enforcement of the immigration laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

14. Respondent Todd BLANCHE is sued in his official capacity as the Attorney General of the United States. She has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality Act § 103. As the "INA" has not been amended to reflect the designation of the Secretary of the DHS as the administrator and enforcer of the immigration laws. In this case, Respondent Todd BLANCHE is sued in his official capacity to the extent that 8 U.S.C. § 1102 gives him the authority to detain Petitioner. *See Armentero v. INS, supra.* Thus, Todd BLANCHE is considered a legal custodian of Ganlin Yu.

15. Respondent, Daniel A. BRIGHTMAN is the Field Office Director responsible for the San Diego Field Office of ICE Enforcement and Removal Operations, which has administrative jurisdiction over Petitioner's case. He is a legal custodian of Mr. Yu and is named in his official capacity.

16. Respondent, Todd LYONS is Acting Director of ICE. As the head of ICE, an agency within the U.S. Department of Homeland Security that detains and removes certain noncitizens, Respondent Todd LYONS is a legal custodian of Mr. Ganlin Yu and he is named in his official capacity.

17. Respondent, Jeremy CASEY, Warden of Imperial Regional Detention Center, in Calexico, California where Petitioner is currently detained under the authority of ICE, alternatively he may be considered to be Petitioner's immediate custodian.

18. The Respondents in this action are the legal custodian of Petitioner and are named in their official capacity

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. Because Petitioner is considered as an arriving alien, as defined in 8 C.F.R. § 1001.1(g), in removal proceedings, the immigration court does not have jurisdiction. *See* Immigration Court Practice Manual ("ICPM") Section 9.3(b)(1).

20. For this very reason, the Immigration Judge will deny bond for lack of jurisdiction. *See* ICPM § 9.3(b)(1).

21. Even if Petitioner moves for an appeal before the Board of Immigration Appeals ("BIA/Board") it will most likely adopt the IJ's decision and affirm the denial of bond based on lack of jurisdiction.

22. Consequently, Petitioner need not exhaust her administrative remedies. The statute in question, 8 U.S.C. § 1231(a)(6), has no exhaustion requirement.

23. Exhaustion is required only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other instances, "sound judicial discretion governs." *Id.* This Court should not require Petitioner to exhaust her administrative remedies.

24. Petitioner is being held under mandatory detention without a bond hearing. Even if Petitioner would move for such a bond hearing, it would be futile as the Imperial Immigration Court does not hold proper jurisdiction.

25. As such, Petitioner is challenging the constitutionality of the procedures by which ICE reviews the custody status of aliens who cannot be removed within six months, and whose removal is not significantly likely to occur in the reasonably foreseeable future and where the Immigration Court lacks jurisdiction.

26. Petitioner is also challenging the constitutionality of her detention where there are no violations, no pending criminal charges and no justification for her detention. As a result, the administrative remedy is inadequate to address these constitutional grounds for recovery.

JURISDICTION

27. This action arises under the United States Constitution, the Immigration & Nationality Act of 1952, as amended (herein after referred to as "INA") 8 U.S.C. § 1101 et. seq., and the Administrative Procedures Act (herein after referred to as "APA"), 5 U.S.C. §§ 701 et. seq. This Court has Habeas Corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 et. seq.; Article 1, Clause 2 of the United States Constitution (hereinafter referred to as "Suspension Clause"); and the Common Law. As Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States.

28. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory Judgement Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

29. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents are employees or officers of the United States, acting in their official capacity, and an agency of the United States.

30. Venue is additionally proper in this Court because the Petitioner is detained in this District, and pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500(1973). Venue is proper in this District because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

STATEMENT OF THE FACTS

31. Petitioner, Mr. Yu, is a citizen from the China who has no criminal history in the United States citizen.

32. On March 31, 2025, Petitioner was afforded a credible fear interview where it was determined that she has suffered persecution and/or torture and possesses a well-founded fear of persecution and/or torture from China government officials.

33. According to the Credible Fear Determination Checklist and Written Analysis, Petitioner's testimony was credible.

34. Petitioner has been in Respondents' custody beyond a year without due process.

35. Petitioner pursues political asylum and CAT protection grounded on the claims that she was persecuted by the Chinese government. Petitioner seeks to remain in the United States in a lawful manner.

CRIMINAL HISTORY

36. In this case, Petitioner lacks criminal convictions here in the United States. Petitioner is a 64-year-old woman without any involvement in any illegal activity and has lived a law-abiding lifestyle.

37. Further, Petitioner does not exhibit any history of violent behavior or violent criminal history. Conversely, she has demonstrated excellent behavior while detained and has no disciplinary actions against her while detained. Therefore, this Court should grant this habeas petition and issue an order for Petitioner's immediate release from Respondents' custody.

38. The following positive factors are also important to consider. Petitioner is not a threat to national security, has no history of such activity and presents no danger to public safety. Here, Petitioner does not have any pending criminal charges or any "aggravated felony" convictions.

39. Based on the totality of these compelling mitigating factors, it demonstrates that Petitioner, Ganlin Yu merits, at the very least, release from detention because her detention was arbitrary and capricious.

LEGAL ARGUMENT

40. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause included protection against unlawful or arbitrary personal restraint or detention."). This

fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) ("both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious").

41. Due process therefore requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690. Civil commitment for *any* purpose constitutes a significant deprivation of liberty. *Addington v. Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

42. Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue had found either the immigration statutes or due process require a hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid v. Donelan,* 819 F.3d 486 (1st Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016) (detention under 8 U.S.C. § 1226(c)); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8 U.S.C. § 1226(c)); *Rodriguez v. Robbins* (*Rodriguez III*), 804 F.3d 1060 (9th Cir. 2015) (8 U.S.C. § 1226(c) and 8 U.S.C. § 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (8 U.S.C. § 1226(c)); *Diouf v. Holder* (*Diouf II*), 634 F.3d 1081 (8 U.S.C. § 1231(a)); *Ly v. Hanse*, 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. § 1226(c)) (requiring release when mandatory detention exceeds a reasonable period of time).

43. While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based upon the petitioner's concession of deportability and the Court's understanding that detentions under Section 1226(c) are typically "brief". *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) ("individualized determination as to his risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"). *See also, Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) ("lesser safeguards may be appropriate" for "short term confinement"); *Hutto v. Finney,* 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

44. This Court should grant this Habeas Corpus petition on the grounds that detention without a proper bond hearing is unconstitutional. *See Demore*, 538 U.S. at 529-30 (upholding only "brief" detention under Section 1226(c), which last "roughly a month and a half in the vast majority of cases in which it is invoked, and about five months in the minority of cases in which the alien chooses to appeal"); *Zadvydas*, 533 U.S. at 701 ("Congress previously doubted the constitutionality of detention for more than six months").

45. Even if a bond hearing is not required after six-months in every case, at a minimum, due process requires a bond hearing after detention has become unreasonably

prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have considered three main factors in determining whether detention is reasonableness.

46. First, courts have evaluated whether the noncitizen has raised a "good faith" challenge to removal–that is, the challenge is "legitimately raised" and presents "real issues". *Chavez-Alvarez v. Wardern York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). In this case, Petitioner's re-detention violates the fundamental Due Process of Law.

47. Second, reasonableness is a "function of the length of the detention," with detention presumptively unreasonable if it lasts six-months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18.

48. Third, courts have considered the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after nine months of detention, when the parties could "have reasonably predicted that *Chavez-Alvarez's* appeal would take a substantial amount of time, making his already lengthy detention considerably longer"); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

49. At a proper bond hearing, due process requires certain minimal protections to ensure that a noncitizen's detention is warranted: the *government* must bear the burden of proof by *clear and convincing* evidence to justify continued detention, taking into consideration available alternatives to detention; and if the government cannot meet its burden, the noncitizen's ability to pay a bond must be considered in determining the appropriate conditions of release.

50. To justify immigration detention, the government must bear the burden of proof by *clear and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Where the Supreme Court has permitted civil detention in other contexts, it has relied on the fact that the Government

bore the burden of proof at least by *clear and convincing evidence. See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where "full-blown adversary hearing," requiring "clear and convincing evidence" and "neutral decisionmaker") *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee).

51. The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez III), 804 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-citizen's detention by *clear and convincing* evidence. *Aleman Gonzalez v. Barr*, --- F.3d ---, 2020 WL 1684034 (9th Cir. Apr. 7, 2020).

52. Since *Jennings*, numerous district courts in this circuit and others have concluded that due process requires the government to prove by *clear and convincing* evidence that a non-citizen is a flight risk or a danger to the community to justify denial of bond. E.g., *Ixchop Perez v. McAleenan*, --- F. Supp. 3d ---,2020 WL 1181492, at *4 (N.D. Cal. Jan. 23, 2020) (rejecting the government's "attempt to cabin *Singh* to only apply to *Casas* hearings" as "illogical" since such interpretation would "create a system in which a detained noncitizen bears the burden at their initial bond hearing, but the burden then shifts at a *Casas* hearing"); *Singh v. Barr* ("Singh v. Barr"), 400 F. Supp. 3d 1005, 1017-18 (S.D. Cal. 2019) ("Because *Jennings* expressly addressed itself to the mandates of the INA, and not the Constitution, the procedural due process holding[ ] in Singh . . . still stand[s]."); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 775 (N.D. Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 n.8 (W.D. Was.

2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018), appeal dismissed, 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019 WL 2774211, at *11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429 (S.D. N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at *4 (S.D. N.Y. Oct. 17, 2018); *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at *12 (S.D. N.Y. May 23, 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL 3579108, at *10 (S.D. N.Y. July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540 (AT), Docket No. 13 (S.D. N.Y. July 19, 2018); *Figueroa v. McDonald*, No. 18-CV-10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL 2209217, at *5 (D. Mass. May 17, 2018); *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018); *Portillo v. Hott*, 322 F. Supp. 3d 698, 709 n.9 (E.D. Va. 2018).

53. The Fifth Amendment requires that, before depriving a person of her liberty, the government allow that person to be heard at a meaningful time and in a meaningful manner. *See Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The determination of whether particular government conduct violates this procedural due process balances (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of the interest and value (if any) of additional or substitute procedural safeguards; and (3) the government's interest, including the burden that additional or substitute procedural requirements would impose. *Id.* at 335.

54. To conform to the requirements of due process, such a hearing must take place before an independent and impartial adjudicator. *Id.* at 334-35. The requirement that the government bear the burden of proof by *clear and convincing* evidence is also

supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

55. First, prolonged incarceration deprives noncitizens of a "profound" liberty interest. *See Diouf II*, 634 F.3d at 1091–92 (9th Cir. 2011).

56. Second, the risk of error is heavily great where the government is represented by trained and qualified attorneys and detained noncitizens, as it is in this present case, are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested").

57. Detainees are incarcerated in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. *See infra.*

58. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

59. Due process also requires consideration of non-punitive alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

60. While detention pending removal proceedings is constitutionally permissible, it must comport with due process. Among other requirements, the government must justify

prolonged detention with *clear and convincing evidence* that the noncitizen presents a current flight risk or danger to the community.

61. Finally, although the Court cannot review the IJ's discretionary judgement, it may review the record for constitutional claims and legal error and to ensure that the *clear and convincing evidence* standard is met as a matter of law. *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 2033 n.8 (W.D. Wash. 2019).

62. The following facts establish the government will not meet its Burden of Proof i.e., "*clear and convincing*" evidence of dangerousness as a matter of law:

63. Petitioner does not pose a danger to persons or property. She lacks felony convictions and is not under any criminal proceedings.

i. Respondents Arbitrary Detention Decisions Are Unlawful and Deprive Petitioner of Due Process.

75. DHS/ICE have acted in an arbitrary and capricious manner by cherry-picking arrests and selectively detaining noncitizens like Petitioner without a reasoned basis or individualized assessment. Administrative detention must be rationally related to its purpose—to secure attendance at proceedings or protect the public—and cannot be punitive or arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose); *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must be based on a reasoned explanation and not arbitrary decision-making).

76. The Ninth Circuit has consistently held that the government must provide individualized determinations and consider less restrictive alternatives to detention.

77. Because no other adequate remedy exists to challenge this unlawful detention—and because continued detention without judicial oversight would result in irreparable harm

and injury—this Court's intervention through habeas corpus relief is not only proper but necessary. The writ of habeas corpus serves as a critical check on executive overreach and unlawful deprivation of liberty. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008) (habeas corpus is a fundamental safeguard against arbitrary detention).

78. Respondents' failure to provide a fair custody review or viable appeal rights leaves Petitioner in prolonged detention without meaningful process, warranting this Court's intervention and immediate release through the Great Writ of habeas corpus.

ii. Respondents' Cherry-Picking Detention Is Arbitrary, Capricious, and Violate Petitioner's Due Process.

79. Targeting Petitioner for arrest and detention under these circumstances, especially where she lacks criminal convictions, amounts to impermissible **"cherry-picking" enforcement**—a practice in which the agency selectively targets compliant, law-abiding individuals while ignoring others similarly situated, without articulating any rational or lawful basis for the disparate treatment.

80. Such arbitrary and inconsistent enforcement contravenes the constitutional guarantee of due process and equal protection under the Fifth Amendment.

81. The Supreme Court and Ninth Circuit have long condemned arbitrary exercises of executive power that lack rational justification or are applied in a discriminatory or inconsistent manner. Similarly, this Court has recognized that selective and capricious detention practices violate fundamental fairness where the agency fails to justify why one compliant individual is detained while others in comparable circumstances are released. *See Mendoza v. Barr*, No. 2:19-cv-00364-JAD-BNW, 2019 WL 6310259, at 3 (D. Nev. Nov. 25, 2019) (holding that continued detention without reasonable justification violated due process).

82. Petitioner has no criminal history and thus, her detention is arbitrary and selective enforcement of detention undermines the integrity of the immigration system, offends basic principles of justice, and violates the constitutional prohibition against arbitrary governmental action recognized in *County of Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1998). *See Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must not be arbitrary or capricious but must rest on a reasoned explanation).

83. Respondents' conduct to detain Petitioner indefinitely constitutes an abuse of discretion and a violation of substantive due process. Petitioner's detention should therefore be declared unlawful, and her immediate release ordered, as continued confinement under such capricious enforcement serves no legitimate governmental purpose and directly contravenes controlling Ninth Circuit and California precedent.

84. Such selective enforcement is constitutionally suspect and undermines the integrity of the immigration system. The Supreme Court has emphasized that agency actions must be guided by intelligible principles and consistent application of law. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (agency decisions must reflect reasoned analysis and avoid arbitrary departures from settled policy). Respondents' decision here to indefinitely detain Petitioner reflects no individualized assessment of danger or flight risk, as required by due process.

85. Petitioner is protected by statute and international law from removal to China. *See* INA § 241(b)(3)(A), 8 U.S.C. § 1231(b)(3)(A) (prohibiting removal of a noncitizen to a country where life or freedom would be threatened); *see also, INS v. Cardoza-Fonseca*, 480 U.S. 421, 449 (1987) (refugee protections reflect the humanitarian purpose of U.S. asylum law).

86. By continuing to detain Petitioner indefinitely despite knowing she cannot be deported to

China, Respondents' conduct is not only futile but punitive, rendering the re-detention unlawful under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention must be reasonably related to its purpose and cannot be indefinite where removal is not reasonably foreseeable).

87. Because Respondents' detention decisions lack a rational connection to a legitimate governmental objective and instead reflect arbitrary "cherry-picking" enforcement, this Court should grant the writ of habeas corpus and order Petitioner's immediate release.

88. Judicial intervention is necessary to prevent further constitutional injury and to ensure that agency discretion is exercised within lawful bounds.

89. Again, the Ninth Circuit requires release where ICE cannot show a "significant likelihood of removal in the reasonably foreseeable future." *Diouf v. Mukasey*, 542 F.3d 1222, 1234 (9th Cir. 2008). *See also Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018) (due process prohibits "unreasonably prolonged" immigration detention without individualized justification). Therefore, this Court should conclude that re-detention violates due process and grant this habeas petition and issue an order to immediately release Petitioner.

90. This Court should grant Habeas relief based on the grounds that Petitioner's detention is arbitrary and capricious in violation of the APA.

91. Agency action that disregards binding legal obligations is arbitrary and capricious under the APA, 5 U.S.C. § 706(2)(A). This Court should conclude that DHS/ICE's decision to detain Petitioner was arbitrary, capricious, and unconstitutional, particularly where the undisputed record establishes that Petitioner lacks criminal convictions.

92. ICE identified no new facts, no changed circumstances, or individualized justification warranting detention. Such unexplained arrest and detention, violates fundamental principles of due process. This Court should grant habeas relief based on this alone.

93. Courts within the Ninth Circuit—and the Eastern District of California specifically—have repeatedly recognized that immigration detention must be supported by a legitimate governmental purpose and an individualized determination, and that arbitrary or unexplained detention is unlawful. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention must bear a reasonable relation to its purpose); *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (due process requires meaningful, individualized custody determinations); *Rodriguez v. Robbins*, 715 F.3d 1127, 1138–39 (9th Cir. 2013).

94. The Fifth Amendment prohibits arbitrary deprivations of liberty. This Court should grant immediate release based on due process violations where excessive use of force and improper arrest procedures occurred against Petitioner. Because Petitioner is considered an "arriving alien" the IJ cannot hear a bond request. *See* ICPM § 9.3(b)(1). Thus, continued detention serves no legitimate governmental purpose and contravenes fundamental due process protections. This Court should grant relief and order Petitioner's immediate release.

IN THE ALTERNATIVE, PRELIMINARY INJUNCTION RELIEF IS WARRANTED TO PREVENT IRREPARABLE HARM

98. Petitioner respectfully requests that this Court issue preliminary injunction relief ordering her release from ICE custody. Petitioner respectfully requests that this Honorable Court issue an emergency injunction ordering her immediate release from ICE custody.

99. Respondents have not provided any evidence of justifying Petitioner's detention. In the past, ICE released Petitioner.

100. This Court should grant immediate release because once it becomes evident that removal is not significantly likely in the reasonably foreseeable future, continued detention violates the Fifth Amendment's guarantee of due process.

101. Federal courts in California—including courts within the Eastern District of California—have consistently recognized that immigration detention becomes arbitrary and punitive where ICE re-detains an individual without a criminal record, without changed circumstances, and without an individualized justification following a prior release. Where a petitioner has demonstrated compliance with supervision, maintained employment, and posed no danger to the community, courts have held that re-detention violates due process because it no longer serves a legitimate civil purpose. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose and may not become punitive); *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (detention without meaningful procedural safeguards violates due process).

102. District courts in California have granted habeas relief where ICE failed to articulate a lawful basis for continued or renewed detention of noncitizens with no criminal history and strong community ties. *See Aleman Gonzalez v. Barr*, 325 F. Supp. 3d 1177, 1185–86 (E.D. Cal. 2018) (holding detention unconstitutional where ICE failed to provide adequate justification and procedural protections); *Gonzalez v. Bonnar*, No. 1:20-cv-00464, 2020 WL 7338497, at 4–5 (E.D. Cal. Dec. 14, 2020) (granting habeas relief where petitioner was compliant, posed no danger, and detention had indicated punitive character).

103. Courts have emphasized that unexplained re-detention—particularly after a period of lawful release—constitutes an abuse of discretion and offends fundamental principles of due process. *See Casas-Castrillon v. DHS*, 535 F.3d 942, 950 (9th Cir. 2008); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065–66 (9th Cir. 2008).

104. Here, as in those cases, Petitioner has no criminal record, complied fully with ICE supervision, maintained employment, and lived a law-abiding life.

105. ICE's sudden re-detention—without notice, explanation, or evidence of changed

circumstances—renders the detention punitive rather than civil, in violation of due process. Accordingly, habeas relief is warranted

106. Here, as in *Zadvydas* and its progeny, Respondents' continued detention of Petitioner serves no legitimate government purpose. The prolonged and indefinite nature of her confinement—despite more than a decade of non-removability—has transformed an administrative measure into unconstitutional punishment. The Court's equitable and inherent authority empowers it to grant immediate injunctive relief where federal detention exceeds lawful bounds and violates due process.

107. Injunctive relief is appropriate where the petitioner demonstrates: (1) a likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities tips in her favor, and (4) that the public interest supports relief. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (a serious question going to the merits plus a balance of hardships that tips sharply toward the petitioner also supports injunctive relief).

A. Likelihood of Success on the Merits

108. Petitioner's re-detention without a constitutionally adequate bond hearing violates the Fifth Amendment's Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose and cannot be indefinite). Because Respondents has badly failed to properly justify Petitioner's re-detention under the appropriate legal standard, success on the merits is likely.

B. Irreparable Harm

109. Petitioner suffers irreparable harm every day that her liberty is restrained in violation of due process. Her detention imposes significant psychological hardship and impedes Petitioner's ability to meaningfully participate in her defense. The Ninth Circuit has

recognized that "prolonged detention without adequate procedural protections would raise serious constitutional concerns." *Rodriguez v. Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830 (2018). The deprivation of liberty is the quintessential form of irreparable harm. Petitioner's detention inflicts ongoing and irreparable.

110. Courts have recognized that the loss of family unity and the resulting emotional trauma constitute irreparable harm warranting judicial intervention. *See Leiva-Perez v. Holder*, 640 F.3d 962, 968 (9th Cir. 2011) (per curiam) (irreparable harm established where removal or detention would cause separation from family and loss of stability); *Ramos v. Nielsen*, 321 F. Supp. 3d 1083, 1114 (N.D. Cal. 2018) (holding that family separation and loss of parental support amount to irreparable injury).

111. Moreover, the Supreme Court has emphasized that the purpose of immigration detention must remain regulatory, not punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner's re-detention that causes severe collateral consequences to families violates substantive due process and the humanitarian principles embedded in our constitutional framework.

112. In light of these authorities, Petitioner's continued confinement serves no legitimate government interest and inflicts grave, irreparable harm upon a vulnerable family. Immediate release or injunctive relief is warranted to prevent further suffering.

113. Courts have further held that habeas relief is warranted where detention imposes extraordinary hardship or threatens irreparable harm to the detainee or dependent family members. *See Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (acknowledging the constitutional limits on prolonged post-removal-order detention); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217 (11th Cir. 2016), *vacated on other grounds*, 890 F.3d 952 (11th

Cir. 2018) (holding that due process requires meaningful review to ensure detention remains justified).

114. Federal courts have consistently recognized that habeas corpus relief is appropriate when the deprivation of liberty causes significant humanitarian consequences. *See Sivaraman v. U.S. Dep't of Homeland Sec.*, 486 F. Supp. 3d 1077, 1085 (N.D. Cal. 2020) (granting habeas relief where petitioner's prolonged detention had devastating effects on her health and family). Here, the government's detention of Petitioner serves no legitimate purpose and inflicts profound harm on her—harm that cannot be undone by later judicial relief. Because these facts demonstrate both a constitutional violation and the existence of irreparable injury, the Court should exercise its equitable authority under 28 U.S.C. § 2241 to grant habeas relief and order Petitioner's immediate release.

C. Balance of Equities

115. The balance of equities strongly favors Petitioner's release. The government's interest in ensuring attendance at removal proceedings can be met through less restrictive means, such as bond or supervision, particularly where Petitioner has taken steps of rehabilitation and no record of absconding. *See Valdez-Jimenez v. Eighth Judicial Dist. Ct.*, 460 P.3d 976, 992 (Nev. 2020) (holding that due process requires individualized findings before continued pretrial detention). Petitioner's detention imposes significant hardship on Petitioner, while release under reasonable conditions poses no harm to the government.

D. Public Interest

116. The public interest is always served by upholding constitutional rights and preventing unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (recognizing that enforcement of constitutional rights is in the public interest). Prompt judicial

intervention will preserve the integrity of removal proceedings and reinforce the rule of law. Public interests favor Petitioner's release.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

Ground One: Ganlin Yu's detention without a bond hearing violates the Immigration and Nationality Act as well as her right to due process under the Fifth Amendment of the United States Constitution.

A. Ganlin Yu must be released because she cannot legally be subject to mandatory detention under 8 U.S.C. § 1225(b)

117. The Fifth Amendment prohibits the government from depriving a person of liberty without due process of law. U.S. Const. amend. V. This constitutional guarantee applies with equal force to noncitizens within the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.").

118. Here, Ganlin Yu, has been unlawfully detained without a bond hearing for over 18 months, in violation of the Immigration and Nationality Act and her due process rights. She was detained in the interior of the United States, by ICE agents in an internal enforcement action. Accordingly, the only legal authority which she may lawfully be detained is 8 U.S.C. § 1226(a), which is the detention authority that applies to noncitizens detained in the interior of the U.S., and who do not fall into a different category of mandatory detention. Under Section 1226(a), detention of noncitizens is discretionary, and only warranted where the noncitizen is determined to present a flight risk or danger to the

community. *See Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL 3205356, at *2 (D. Nev. Nov. 17, 2025).

119. That notwithstanding, in mid-2025, ICE began arguing in immigration courts around the country that noncitizens who entered the U.S. without admission, regardless of how long they have lived in the U.S. or that they were encountered by ICE in the interior of the country, should be viewed as "seeking admission", and therefore subject to mandatory detention under 8 U.S.C. 1225(b)(2). The BIA adopted this novel statutory interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216.

120. However, to the extent that the government claims Ganlin Yu is not entitled to a bond hearing because she is an "arriving alien" and subject to mandatory detention under 8 U.S.C. § 1225(b), such argument must be rejected. "Judges across the country – the vast majority who have considered this question – have told the Government many timed in the past few months that its interpretation of the law is wrong…[J]udges appointed by every President from Ronald Reagan through Donald Trump have said so." *Gimenez Rivero v. Mina, et al.*, 6:26-CV-66-RBD-NWH, 2026 WL 199319, at *5 (M.D. Fla. Jan. 26, 2026); *see also Cruz Perez v. Bondi*, 2:26-cv-00315-RFB-DJA, 2026 U.S. Dist. LEXIS 37052, at *3-4 (D. Nev. Feb. 24, 2026) (rejecting the government's claim of mandatory detention under § 1225(b) and ordering a bond hearing). At least 373 judges nationwide have ruled against the government's argument, including 44 that were appointed by President Trump.[1]

[1] Kyle Cheney, Even Trump's own appointees are ruling against ICE's mass detention strategy. Politico (Feb. 12, 2026), http://www.politico.com/news/2026/02/12/donald-trump-judges-mandatory-detention-rulings-00778256?utm_medium=twitter&utm_source=dlvr.it

121. Only 28 judges (as of February 12, 2026) and recently the Fifth Circuit, in a split decision with a lengthy dissent, have sided with the government.[2]

122. In the Nevada District, Judge Boulware has rejected ICE's argument in literally scores of cases. *See Jacobo Ramirez, et al., v. Noem, et al.*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at *1 (D. Nev. Feb. 5, 2026) ("this Court has granted individualized relief – both preliminary and on the merits – to habeas petitioners in well over sixty similar challenges and counting."); *see also Escobar Salgado v. Mattos*, No. 2:25-CV-01872-RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025) for Judge Boulware's thorough and detailed analysis of the issue. Ganlin Yu urges this Court to adopt Judge's Boulware thorough reasoning and statutory interpretation in *Escobar Salgado.* Because Ganlin Yu was not seeking admission when she was detained – rather, she was detained in the interior of the United States–she cannot be properly subjected to mandatory detention under § 1225(b). Accordingly, this Court should order her release, or that she receive a prompt and constitutionally adequate bond hearing in immigration court, as she was entitled to under 8 U.S.C. § 1226(a). Ganlin Yu respectfully requests the opportunity to complete supplemental briefing on this issue should this Court determine it would be useful in evaluating the merits of this claim

COUNT TWO: STATUTORY VIOLATIONS

123. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

[2] *Id. See also Buenrostro-Mendez v. Bondi*, No. 25-cv-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026)

COUNT THREE: SUBSTANTIVE DUE PROCESS VIOLATION

B. Ganlin Yu must be released because her detention violates her procedural and substantive due process rights.

124. As the Nevada Court has noted, the federal habeas statute's "mandate is broad with respect to the relief that may be granted." *Aguirre Solis v. Noem,* No. 2:26-CV-00053-RFB-EJY, 2026 WL 396432, at *7 (D. Nev. Feb. 12, 2026) (quoting *Carafas v. LaVallee*, 391 U.S. 234, 239 (1968)). Federal courts are authorized to dispose of habeas matters "as law and justice require". *Id.* (quoting *Carafas*, 391 U.S. at 239). In light of the due process violations that Ganlin Yu has suffered, she respectfully requests that this Court order her immediate release. As explained above, Ganlin Yu may only be lawfully detained under 8 U.S.C. § 1226(a). Detention under 8 U.S.C. § 1226(a) is discretionary, not mandatory. 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.") "[T]he [government's] discretionary authority in § 1226(a) requires an individualized bond determination *before* a noncitizen may be taken into custody." *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511, at *8 (E.D.N.Y. Oct. 6, 2025) (emphasis added); *see also Velasca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) ("the government does not dispute that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination") (internal quotations omitted.))

125. Pursuant to the regulations implementing this statutory provision, the factors that must be considered under § 1226(a) *prior to detention* are whether the noncitizen poses a danger to property or persons" and whether she "is likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). If the Department determines that detention is

warranted, the noncitizen may seek review of that determination by an immigration judge. 8 C.F.R. § 1003.19(a).

126. Here, Ganlin Yu has been deprived of this process: she did not receive an initial custody determination prior to her detention, and she has not received any subsequent custody determination or redetermination by an immigration judge.

127. Substantive due process protects individuals from government action that interferes with fundamental rights. *See Regino v. Staley,* 133 F.4th 951, 959-60 (9th Cir. 2025). "Governmental action that infringes a fundamental right is constitutional only if 'the infringement is narrowly tailored to serve a compelling state interest.'" *Id.* at 960 (citing *Reno v. Flores*, 507 U.S. 292, 302). "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Substantive due process thus protects noncitizens from arbitrary confinement by the government, which violates a noncitizen's substantive due process rights except in certain "special and narrow nonpunitive circumstances where a special justification...outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) and *Kansas v. Hendricks,* 521 U.S. 346, 356 (1997)).

128. Ganlin Yu's detention also violates her substantive due process rights. As argued above, her detention was not based on an individualized assessment that detention was necessary to ensure public safety or that Ganlin Yu would appear at her removal proceedings. Her detention for more than 18 months without a bond hearing has served no lawful purpose, let alone a compelling one, and was arbitrary in the most basic sense. Accordingly, her detention

runs afoul of the Constitution's guarantee of freedom from arbitrary detention, and she must be released.

129. In the alternative, Ganlin Yu requests that this Court order the government to provide her with a constitutionally adequate bond hearing, with the government bearing the burden of proving by clear and convincing evidence that Ganlin Yu's detention is warranted because she presents a risk of flight or danger to the community. If Ganlin Yu is not promptly granted such a hearing, she must be released from her unconstitutional detention. *See, e.g., Cruz Perez v. Bondi,* 2:26-cv-00315-RFB-DJA, 2026 U.S. Dist. LEXIS 37052, at *3-4 (D. Nev. Feb. 24, 2026) (granting relief and ordering the government to hold a bond hearing within seven days "wherein the government bears the burden of establishing an individualized, constitutionally recognized interest in civilly detaining Petitioner" or release him from custody); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 778 (N.D. Cal. 2019) (same); *E.C. v. Noem,* No. 2:25-cv-01789-RFB-BNW, 2025 WL 2916264, at *13 (D. Nev. Oct. 14, 2025) (same); *Arechiga v. Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 WL 5207589, at *1 (D. Nev. Aug. 11, 2023) (ordering the government to provide the petitioner with a timely bond hearing, with the burden on the government to "establish[] by clear and convincing evidence that [petitioner] is a flight risk or a danger to the community").

130. Ganlin Yu is willing to waive a hearing and receive a ruling on the papers unless this Court believes that relief is not warranted, in which case she requests a chance to be heard in oral argument

131. Petitioner's continued detention violates her right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

132. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest.

133. While Respondents would have an interest in detaining her in order to effectuate removal, that interest does not justify her indefinite detention where she is not likely to be deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal.

COUNT FOUR: PROCEDURAL DUE PROCESS VIOLATIONS

134. Under the Due Process Clause of the Fifth Amendment, Petitioner is entitled to a timely and meaningful opportunity to demonstrate that she should not be detained. Petitioner in this case has been denied that opportunity. Petitioner respectfully notes that ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondent to provide a neutral decision-maker to review the continued custody of Petitioner violates her right to procedural due process.

135. Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

136. Even if Petitioner's detention is authorized under Section 1231, 1225 or 1226, Petitioner's continued detention must comport with due process. Petitioner respectfully argues her detention violates her due process rights; she requests immediate release from Respondents.

137. This Court should grant her Habeas petition and Order Respondents to release Petitioner's detention on the grounds that the Supreme Court has made clear that continued detention under such circumstances violates the constitutional limits established in *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001), where the Court held that detention is no longer lawful once removal is no longer reasonably foreseeable. *See also Clark v. Martinez*,

543 U.S. 371, 384 (2005) (extending *Zadvydas* to all noncitizens facing indefinite detention).

138. Petitioner warrants immediate release based on the underlying fact that detention no longer serves any legitimate governmental purpose and instead constitutes an arbitrary deprivation of liberty contrary to the principles articulated in *Zadvydas* and its Ninth Circuit progeny.

139. The Supreme Court has held that a noncitizen cannot be detained indefinitely in a removable but-not-removable status; the most common situation occurs when no country can be found to accept the noncitizen. *Zadvydas*, 533 U.S. 678.

Ground Two: ICE's policy to remove noncitizens to a third country with no notice or opportunity to seek fear-based protection violates her Fifth Amendment right to due process and constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. 706.

140. The APA entitles "a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action...to judicial review." 5 U.S.C. § 702. Further, the APA compels a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be...arbitrary [or] capricious...otherwise not in accordance with law," *id.* § 706(2)(A), or "short of statutory right," *id.* § 706(2)(C). The APA also compels a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions to be...without observance of procedure required by law." 5 U.S.C. § 702(2)(D).

141. Ganlin Yu has a due process right to meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports her to a third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Ganlin Yu also has a due process right to implementation of a process or procedure to afford these protections. *See, e.g., McNary v. Haitian Refugee Ctr.,*

Inc., 498 U.S. 479, 491 (1991).

142. To the extent that the IJ's order of removal permits ICE to remove Ganlin Yu to any third country that will accept her deprives her to meaningful notice and an opportunity to present a fear-based claim to an immigration judge prior to her deportation to a third country. It also violates the INA and implementing regulations which mandate that the government refrain from removing Ganlin Yu, and similarly situated individuals, to a third country where they will likely be persecuted or tortured, thus requiring the government to provide meaningful notice of deportation to a third country and the opportunity to present a fear-based claim to an immigration judge before deporting an individual to a third country

143. Petitioner respectfully requests that this Court order Respondents to show cause why the writ should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests and prays for this Court:

144. Assume jurisdiction over this matter;

145. Issue a declaration that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment;

146. Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody;

147. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner under *Zadvydas* or any further applicable law;

148. Issue a declaration that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment;

149. Order that Petitioner be released or be promptly granted a constitutionally adequate bond hearing in immigration court with the burden on the government to justify detention;

150. Enjoin the Respondents from removing Petitioner to a third country without an opportunity to present a fear-based claim for relief from removal before an immigration judge;

151. Award Petitioner her costs in this action as provided for by the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and, 28 U.S.C. § 2412, and on any other basis justified under law; and

152. Grant such further relief as this Court deems just and proper.

Respectfully submitted on this 10th day of July, 2026.



Ganlin Yu

Alien No [redacted]

Imperial Regional Detention Center

1572 Gateway Road

Calexico, CA 92231

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ACKNOWLEDGEMENT AND VERIFICATION

Under penalty of perjury, the undersigned declares that she is the named Petitioner in the foregoing petition. I have read the foregoing petition and its contents. The statements in the petition are true and correct to the best of my knowledge, except as to any statements alleged on information and belief, and as to those statements, I believe them to be true.

DATED this 10th day of July, 2026.



-Petitioner, *Pro Se*

Ganlin Yu

Alien No

Imperial Regional Detention Center

1572 Gateway Road

Calexico, CA 92231