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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JIAN YANG,

Petitioner-Plaintiff,

v.

CHRISTOPHER J. LaROSE, Warden of Otay Mesa Detention Center; **DANIEL BRIGHTMAN**, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office; **DAVID VENTURELLA,** Acting Director of U.S. Immigration and Customs Enforcement; **MARKWAYNE MULLIN,** Secretary of the U.S. Department of Homeland Security; and **TODD BLANCHE,** Attorney General of the United States in their official capacities

Respondents-Defendants,

Case No. **'26CV4051 DMS JAC**
ROA #

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

Petitioner JIAN YANG petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' unlawful detention of him in violation of the Due Process Clause of the Fifth Amendment and federal immigration law, and states as follows:

I. INTRODUCTION

1. Petitioner Jian Yang ("Petitioner") is a citizen of China who entered the United States on or about October 2, 2025, seeking protection from persecution and torture. Shortly after his arrival, the Department of Homeland Security ("DHS") detained Petitioner at the Otay Mesa Detention Center ("OMDC"), where he remains confined today.

2. Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture based upon his fear of persecution and torture if returned to China. On May 28, 2026, the Immigration Judge denied Petitioner's applications for relief and ordered him removed to China. Petitioner timely appealed that decision to the Board of Immigration Appeals ("BIA"), where his appeal remains pending.

3. Petitioner has now been continuously detained for more than nine months. Despite the extraordinary length of his detention, his administrative appeal remains pending, and there is no meaningful end to his confinement in sight.

4. Throughout these proceedings, Petitioner has diligently pursued every available form of relief. His continued detention is not the result of delay or dilatory tactics, but rather the ordinary course of the administrative review process. His appeal presents substantial legal and factual issues, including whether the Immigration Judge properly evaluated Petitioner's competency, adequately considered corroborating evidence, and correctly denied his applications for asylum, withholding of removal, and protection under the Convention Against Torture.

5. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078-80 (9th Cir. 2006).

6. Accordingly, Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus directing Respondents to immediately release him from custody, or alternatively order

Respondents to provide an immediate custody review or bond hearing and show cause within three days why this Petition should not be granted.

II. JURISDICTION, AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), because Petitioner is presently in the custody of the United States and challenges the constitutionality of his continued detention.

8. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. See *Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

9. Venue is proper in the Southern District of California, pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2241 because Petitioner is detained at Otay Mesa Detention Center in San Diego, CA.

III. REQUIREMENTS OF 28 U.S.C. § 2241, 2243

10. Pursuant to 28 U.S.C. § 2243, this Court must either grant the petition for writ of habeas corpus or issue an Order to Show Cause unless it appears from the petition that Petitioner is not entitled to relief. If an Order to Show Cause is issued, Respondents must file a return within three days unless the Court, for good cause, allows additional time not exceeding twenty days. 28 U.S.C. § 2243.

11. The writ of habeas corpus has long served as the primary means of protecting individuals from unlawful executive detention. "The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The Supreme Court has likewise recognized that "the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001).

12. Petitioner is "in custody" for the purpose of 28 U.S.C. § 2241 because he remains detained by Immigration and Customs Enforcement and subject to Respondents' legal and physical

control.

13. Because Petitioner is presently detained and alleges that such detention violates the Constitution and laws of the United States, this Court possesses jurisdiction to grant the relief requested herein.

IV. PARTIES

14. Petitioner Jian Yang is a native and citizen of China who is currently detained at the Otay Mesa Detention Center in San Diego County, California. Petitioner is presently in the legal and physical custody of U.S. Immigration and Customs Enforcement ("ICE").

15. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. He is responsible for the day-to-day operations, of, and the confinement of non-citizens detained at the facility. He is the immediate physical custodian of Petitioner. As such, Mr. LaRose is a legal custodian of Mr. Yang. He is sued in his official capacity.

16. Respondent Daniel Brightman is the San Diego Field Office Director of ICE Enforcement and Removal Operations, which is a division of ICE that manages and oversees the immigration detention system. As such, Mr. Brightman is a legal custodian of Mr. Yang. He is sued in his official capacity.

17. Respondent David Venturella is the Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigration detention. As such, Mr. Venturella is a legal custodian of Mr. Yang. He is sued in his official capacity.

18. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS), which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Mr. Mullin is the ultimate legal custodian of Mr. Yang. He is sued in his official capacity.

19. Respondent Todd Blanche is the Acting Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals and the Immigration Courts. Mr. Blanche shares responsibility for implementation and enforcement of the

immigration laws with Respondent Mullin. Mr. Blanche is a legal custodian of Mr. Yang. He is sued in his official capacity.

V. STATEMENT OF FACTS

20. Petitioner Jian Yang is a native and citizen of China. Petitioner entered the United States on or about October 2, 2025, seeking protection from persecution and torture in China. The Department of Homeland Security ("DHS") subsequently detained Petitioner and he has remained continuously detained since that time.

21. On October 22, 2025, DHS served Petitioner with a Form I-862 Notice to Appear, charging him as removable and commencing removal proceedings before the Immigration Court. (See Akel Decl., Ex. 1.).

22. Petitioner subsequently applied for asylum, withholding of removal, and protection under the Convention Against Torture based upon his fear of persecution and torture if returned to China. In support of those applications, Petitioner alleged that he had been detained, physically abused, and persecuted by Chinese authorities because of his political opinions critical of the Chinese government. (See Akel Decl., Ex. 2.)

23. On May 28, 2026, following a merits hearing, the Immigration Judge denied Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture and ordered Petitioner removed to China. (See Akel Decl., Ex. 3.)

24. On June 22, 2026, Petitioner timely appealed the Immigration Judge's decision to the Board of Immigration Appeals. Petitioner's appeal remains pending. (See Akel Decl., Ex. 4.)

25. Petitioner's appeal raises substantial legal and factual issues, including whether the Immigration Judge properly considered Petitioner's mental health and competency, adequately evaluated corroborating evidence, and correctly denied his applications for asylum, withholding of removal, and protection under the Convention Against Torture.

26. Petitioner has remained continuously detained since October 2025, a period now exceeding nine months. Throughout his detention, Petitioner has diligently pursued his available administrative remedies and has not engaged in unnecessary delay. His continued detention is solely the result of the ordinary course of his removal proceedings and pending administrative appeal.

27. Petitioner remains detained at the Otay Mesa Detention Center while his appeal before the Board of Immigration Appeals is pending. There is no definite end date to Petitioner's detention, and absent intervention by this Court, his detention is likely to continue for the duration of the administrative proceedings.

VI. LEGAL FRAMEWORK

28. Federal courts possess jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention. Individuals detained by federal immigration authorities may seek habeas corpus relief when their detention violates the Constitution or laws of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 517 (2003).

1. The Due Process Clause of the Fifth Amendment protects all persons within the United States from deprivation of liberty without due process of law. Freedom from physical restraint lies at the core of the liberty interests protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

2. Immigration detention is civil rather than criminal in nature. Accordingly, civil detention may not become punitive and must bear a reasonable relationship to the Government's legitimate interests in ensuring a noncitizen's appearance at future proceedings and protecting the community from danger. See *Zadvydas*, 533 U.S. at 690.

3. The Ninth Circuit has repeatedly recognized that prolonged immigration detention raises serious constitutional concerns. See *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078-80 (9th Cir. 2006).

4. There is no bright-line rule establishing when immigration detention becomes constitutionally excessive. Rather, courts evaluate the totality of the circumstances, including: (1) the total length of detention; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays attributable to the detainee; (5) delays attributable to the Government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-18 (W.D. Wash. 2019).

5. Due process requires an individualized determination regarding whether continued detention remains necessary as detention becomes prolonged. Where continued detention is no longer

reasonably related to its regulatory purpose, habeas corpus provides the appropriate mechanism for judicial review and relief.

6. If continued detention is found to violate the Due Process Clause, this Court possesses authority to order Petitioner's release or, alternatively, to require Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge.

VII. ARGUMENT

7. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. Petitioner has remained continuously detained since October 2025, a period now exceeding nine months. During that time, Petitioner has diligently pursued his applications for asylum, withholding of removal, and protection under the Convention Against Torture. After the Immigration Judge denied relief, Petitioner timely appealed to the Board of Immigration Appeals, where his appeal remains pending. His continued detention is therefore solely the result of the ordinary course of the administrative review process.

8. Under the totality of the circumstances, Petitioner's continued detention has become unreasonably prolonged. The first and most significant factor identified in *Banda v. McAleenan* strongly favors Petitioner. Petitioner has now remained in civil immigration detention for more than nine months, and that period continues to increase each day.

9. The remaining *Banda* factors likewise support Petitioner's release or, at a minimum, an individualized bond hearing. Petitioner's administrative appeal remains pending before the Board of Immigration Appeals, and there is no definite end to his detention. His continued confinement therefore is likely to extend for many additional months while the administrative process runs its course.

10. Petitioner has not caused any unreasonable delay in these proceedings. Rather, he has diligently pursued the relief afforded to him under the Immigration and Nationality Act by timely applying for protection and timely appealing the Immigration Judge's decision. The exercise of statutory rights to seek administrative review cannot justify indefinite or prolonged detention.

11. Petitioner's appeal presents substantial legal and factual issues regarding the denial of asylum, withholding of removal, and protection under the Convention Against Torture. Accordingly,

Petitioner's continued pursuit of administrative review is neither frivolous nor dilatory, but instead reflects his good-faith effort to obtain protection from persecution and torture.

12. Under these circumstances, Petitioner's continued civil detention no longer bears a reasonable relationship to the Government's legitimate regulatory interests and has become constitutionally excessive in violation of the Due Process Clause of the Fifth Amendment.

13. Accordingly, Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus directing Respondents to immediately release him from custody or alternatively order Respondents to provide an immediate custody review or bond hearing and show cause within three days why this Petition should not be granted.

VIII. PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the Southern District of California during the pendency of this action;
3. Issue an Order to Show Cause directing Respondents to show cause within three (3) days why the Petition should not be granted;
4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from immigration detention;
5. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution;
6. Order Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge within fourteen (14) days, at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents either a danger to the community or a risk of flight;
7. Order that, if Respondents fail to provide such a hearing within the time prescribed by the Court, Petitioner shall be immediately released from immigration detention under appropriate conditions of supervision, if any; and;

8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

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Pro Bono Counsel for Petitioner

Dated: July 14, 2026

VERIFICATION BY ATTORNEY ACTING ON MR. JIAN YANG'S BEHALF PURSUANT TO 28 U.S.C § 2242

I am submitting this verification on behalf of Mr. Jian Yang because I am his attorney. As Mr. Jian Yang's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 14, 2026 *s/Areeg Akel*