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Attorney for Petitioner
ZHIZHI WANG

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ZHIZHI WANG,
A# [redacted]

Petitioner,

v.

WARDEN,
IMPERIAL REGIONAL DETENTION FACILITY;
U.S. DEPARTMENT OF HOMELAND SECURITY; AND
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Respondents.

Case No. '26CV4638 RBM SBC

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner Zhizhi Wang ("Petitioner") is a native and citizen of China who is presently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Imperial Regional Detention Facility ("IRDF") in Calexico, California, while her immigration proceedings remain pending.
2. Petitioner brings this Petition pursuant to 28 U.S.C. § 2241 to challenge the constitutionality of her continued civil detention without a constitutionally adequate, individualized determination that her detention is necessary to protect the public or ensure her appearance in immigration proceedings.
3. Petitioner has sought custody redetermination before the Immigration Court. On June 17, 2026, the Immigration Judge denied relief expressly because "[t]he Court cannot grant bond, pursuant to Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019)."
4. Significantly, the Immigration Judge expressly found that "[t]he Court does not find that Respondent poses a danger to the community," but stated that the Court lacked sufficient information to make a finding regarding flight risk.
5. Thus, Petitioner remains incarcerated not because a neutral adjudicator has determined, under a constitutionally adequate standard, that she is dangerous or that no conditions of release could reasonably assure her appearance, but because the Immigration Court concluded that governing agency precedent deprived it of authority to grant bond.
6. Petitioner has a fixed residence available upon release with her cousin and sponsor, Wei Wang, a lawful permanent resident who owns the proposed residence in Moreno Valley, California. Petitioner is willing to comply with reasonable conditions of release, including

ICE reporting requirements, electronic monitoring, GPS monitoring, residence restrictions, or other appropriate conditions.

7. Petitioner does not ask this Court to review the merits of her removal proceedings, adjudicate her application for protection, review any credible-fear determination, or determine whether she is removable. She challenges only the legality and constitutionality of her present physical detention.

8. Petitioner respectfully requests that the Court grant the writ and order her release under appropriate conditions. In the alternative, Petitioner requests an order requiring Respondents promptly to provide a constitutionally adequate individualized custody hearing before a neutral adjudicator at which the Government bears the burden of establishing, by clear and convincing evidence, that Petitioner presents a danger to the community or such a flight risk that no reasonable conditions of release would suffice.

II. JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3), because Petitioner is in federal custody and alleges that her custody violates the Constitution and laws of the United States.

10. This Court also has federal-question jurisdiction under 28 U.S.C. § 1331 because Petitioner alleges that her continued detention without constitutionally adequate process violates the Due Process Clause of the Fifth Amendment.

11. Habeas corpus is the traditional vehicle for challenging the legality of physical confinement and obtaining release from unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

12. Petitioner does not challenge an order of removal or seek judicial review of any discretionary determination concerning the merits of immigration relief. Her claim is collateral to her removal proceedings and concerns only whether the Government may continue to physically detain her without constitutionally adequate procedural safeguards.

13. Accordingly, this Petition does not seek the type of review barred or limited by 8 U.S.C. § 1252(a)(5), § 1252(b)(9), § 1252(e), or § 1252(g). See, e.g., *Tiboko-Tifuh v. Noem*, No. 3:26-cv-01215-JO-DEB (S.D. Cal. Mar. 12, 2026); *Esquivel Pacheco v. LaRose*, No. 3:25-cv-02421-JO-AHG, 2026 WL 242300, at *2–7 (S.D. Cal. Jan. 29, 2026).

14. Nor does *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), foreclose jurisdiction. Unlike the petitioner there, Petitioner does not seek additional review of the merits of an expedited-removal or credible-fear determination. She seeks the traditional habeas remedy of relief from allegedly unconstitutional physical detention.

III. VENUE

15. Venue is proper in the Southern District of California because Petitioner is presently confined at the Imperial Regional Detention Facility, located at 1572 Gateway Road, Calexico, California 92231, within Imperial County and within this judicial district.

16. Petitioner's immediate physical custodian is the Warden of the Imperial Regional Detention Facility. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 442–43 (2004).

IV. PARTIES

17. Petitioner Zhizhi Wang is a citizen of China. Her immigration A-Number is [redacted]. She is presently in ICE custody at the Imperial Regional Detention Facility.

18. Respondent Warden of the Imperial Regional Detention Facility is Petitioner's immediate physical custodian and is responsible for maintaining custody over Petitioner.

19. Respondent U.S. Department of Homeland Security ("DHS") is the federal agency responsible for the administration and enforcement of the immigration laws relevant to Petitioner's detention.

20. Respondent U.S. Immigration and Customs Enforcement ("ICE") is the component of DHS presently responsible for Petitioner's immigration detention.

V. FACTUAL BACKGROUND

A. Petitioner's Immigration Detention and Proceedings

21. Petitioner is currently detained in connection with pending immigration proceedings.

22. Petitioner has remained in ICE custody since approximately May 22, 2026.

23. Her removal proceedings remain pending before the Immigration Court, and no administratively final order concluding those proceedings presently provides a definite endpoint to her detention.

24. Petitioner's next Individual Hearing before the Immigration Court is presently scheduled for September 17, 2026. Petitioner intends to appear and fully litigate her pending application for protection.

B. Petitioner Sought Custody Redetermination

25. Petitioner, through counsel, requested a bond hearing and custody redetermination before the Imperial Immigration Court.

26. Petitioner presented evidence concerning her proposed residence, family sponsor, release plan, willingness to comply with ICE requirements, and other factors relevant to danger and flight risk.

27. On June 17, 2026, Immigration Judge Anne Kristina Perry denied Petitioner's request for custody redetermination.

28. The Immigration Judge did not deny relief based upon a determination that Petitioner was dangerous. To the contrary, the written order expressly states:

"The Court does not find that Respondent poses a danger to the community."

29. The Immigration Judge further stated only that the Court "lacked sufficient information to make a finding regarding the Respondent's risk of flight."

30. Most importantly, the Immigration Judge denied bond because:

"The Court cannot grant bond, pursuant to Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019)."

31. Petitioner therefore has never received an individualized custody determination in which a neutral decisionmaker required the Government to establish that her continued detention is necessary because of danger or flight risk and considered whether less restrictive alternatives could adequately address any legitimate governmental concern.

C. Petitioner Has a Stable Release Plan

32. If released, Petitioner will reside with her cousin and sponsor, Wei Wang, at:

[redacted]

33. Wei Wang is a lawful permanent resident of the United States and owns the proposed residence.

34. Wei Wang has agreed to provide Petitioner with housing and assistance in complying with her immigration obligations.

35. Petitioner will maintain regular communication with counsel and will appear at all Immigration Court hearings and ICE appointments.

36. Petitioner is willing to comply with reasonable conditions of release, including ICE check-ins, electronic or GPS monitoring, travel restrictions, residence requirements, and prompt notification of any change of address.

37. These alternatives permit the Government to address any legitimate concern regarding Petitioner's appearance without continued physical incarceration.

VI. LEGAL BACKGROUND

38. Civil immigration detention implicates a fundamental liberty interest protected by the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.").

39. Congress has authorized detention of certain noncitizens under 8 U.S.C. § 1225(b). In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court rejected a statutory construction that would automatically require periodic bond hearings under the relevant detention statutes. *Jennings*, however, did not resolve the distinct as-applied constitutional question presented here.

40. In *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), the Attorney General concluded that certain noncitizens transferred from expedited-removal proceedings to full removal proceedings are not eligible for ordinary Immigration Judge bond proceedings and instead remain detained unless DHS grants parole.

41. But statutory authorization for detention does not eliminate constitutional limitations on the manner and duration of civil confinement. The Government's authority to detain remains subject to the Due Process Clause. See *Zadvydas*, 533 U.S. at 690; *Hernandez v. Sessions*, 872 F.3d 976, 993–94 (9th Cir. 2017).

42. Courts in this District have therefore considered whether continued immigration detention without an adequate individualized custody determination violates the Fifth Amendment notwithstanding asserted statutory authority for mandatory detention. See, e.g., *Tiboko-Tifuh v. Noem*, No. 3:26-cv-01215-JO-DEB (S.D. Cal. Mar. 12, 2026); *Mubanga v. Casey*, No. 3:26-cv-02565-JO-AHG (S.D. Cal. July 6, 2026).

43. Where a constitutionally adequate bond hearing is required, courts have required the Government to bear the burden of establishing by clear and convincing evidence that continued detention is justified by danger or flight risk and that reasonable alternatives to detention would not suffice. See *Hernandez*, 872 F.3d at 990–91; *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

VII. EXHAUSTION

44. Section 2241 contains no statutory administrative-exhaustion requirement applicable to this Petition. Administrative exhaustion in this context is prudential rather than jurisdictional. See *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

45. To the extent prudential exhaustion is applicable, the Court should excuse it. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

46. Petitioner already presented her request for release to the Immigration Court. The Immigration Judge expressly concluded that *Matter of M-S-* deprived the Court of authority to grant bond.

47. The constitutional injury asserted here therefore cannot be remedied through an ordinary custody-redetermination proceeding before the Immigration Judge because the Immigration Judge has already concluded that the governing agency precedent forecloses the requested bond authority.

48. Requiring Petitioner to remain detained for additional weeks or months while pursuing further administrative review would prolong the very deprivation of liberty challenged in this Petition. See *Tiboko-Tifuh v. Noem*, No. 3:26-cv-01215-JO-DEB, 2026 WL 1603795 (S.D. Cal. June 4, 2026).

49. Judicial review is therefore appropriate.

VIII. CLAIM FOR RELIEF

FIFTH AMENDMENT — DEPRIVATION OF LIBERTY WITHOUT DUE PROCESS OF LAW

50. Petitioner realleges and incorporates paragraphs 1 through 49.

51. The Due Process Clause of the Fifth Amendment prohibits the Federal Government from depriving a person of liberty without due process of law.

52. Immigration detention is civil, not punitive. Continued physical incarceration therefore must bear a reasonable relationship to legitimate nonpunitive governmental objectives such as protecting the community and reasonably assuring a noncitizen's appearance at immigration proceedings.

53. Petitioner presently remains incarcerated without any individualized determination, made through constitutionally adequate procedures, that her detention is necessary to accomplish either objective.

54. No neutral adjudicator has required the Government to prove that Petitioner is dangerous. Indeed, the Immigration Judge expressly found that Petitioner is **not a danger to the community**.

55. Nor has any neutral adjudicator determined, under a constitutionally adequate burden of proof, that Petitioner presents such a flight risk that reasonable alternatives—including sponsor supervision, ICE reporting, GPS monitoring, electronic monitoring, residence requirements, or other conditions—cannot reasonably assure her appearance.

56. The June 17, 2026 custody order instead left Petitioner detained because the Immigration Judge concluded that *Matter of M-S-* barred the Court from granting bond.

57. The risk of erroneous deprivation of liberty is substantial where the Government may continue civil detention without ever being required to establish individualized necessity before a neutral decisionmaker.

58. Petitioner's personal circumstances further demonstrate the need for individualized review. She has an identified lawful permanent resident sponsor, a fixed residence, counsel, pending immigration proceedings she intends to pursue, and a concrete release plan. She is willing to comply with reasonable conditions designed to assure appearance.

59. The Government's legitimate interests can be protected by procedures substantially less restrictive than incarceration if the Government cannot establish that detention is actually necessary.

60. The Fifth Amendment does not permit continued civil incarceration to rest indefinitely on the statutory label attached to a detainee rather than an individualized assessment of whether confinement remains necessary.

61. Under the circumstances of this case, Petitioner's continued detention without constitutionally adequate individualized review violates the Due Process Clause.

62. Petitioner is therefore in custody in violation of the Constitution within the meaning of 28 U.S.C. § 2241(c)(3).

IX. REQUEST FOR EXPEDITED CONSIDERATION

63. This Petition concerns an ongoing deprivation of physical liberty. Every additional day required to adjudicate the legality of Petitioner's custody extends the alleged constitutional injury.

64. Petitioner therefore respectfully requests that the Court promptly issue an order requiring Respondents to show cause why the writ should not be granted and establish an expedited

briefing schedule consistent with the procedures governing immigration habeas petitions in this District.

65. Petitioner further requests that, while this Petition remains pending, Respondents provide counsel and the Court with advance notice before transferring Petitioner outside the Southern District of California so that this Court's habeas jurisdiction and ability to provide effective relief are preserved.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this action;

B. Issue an Order to Show Cause directing Respondents promptly to justify the legality of Petitioner's continued detention;

C. Grant the Petition for Writ of Habeas Corpus;

D. Order Respondents to release Petitioner from physical custody under reasonable conditions of supervision;

E. In the alternative, order Respondents to provide Petitioner, within seven days or such shorter period as the Court determines appropriate, with a constitutionally adequate individualized bond hearing before a neutral adjudicator;

F. At any such hearing, require the Government to bear the burden of proving by clear and convincing evidence that Petitioner presents a danger to the community or such a flight risk that no amount of bond or reasonable alternative conditions of release would suffice to reasonably assure her appearance;

G. Require the adjudicator to consider Petitioner's financial circumstances and alternatives to detention, including ICE reporting, GPS or electronic monitoring, residence requirements, sponsor supervision, and other reasonable conditions;

H. Provide that relief may not be denied solely on the ground that 8 U.S.C. § 1225(b) mandates detention or that *Matter of M-S-* deprives the Immigration Judge of ordinary statutory bond jurisdiction;

I. Order Respondents to provide reasonable advance notice before transferring Petitioner outside the Southern District of California while this Petition is pending;

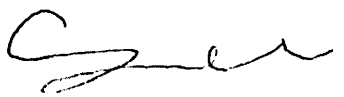
J. Retain jurisdiction as necessary to ensure compliance with the Court's order; and

K. Grant such other and further relief as the Court deems just and proper.

Dated: August 13, 2026

Respectfully submitted,

SARA XU LAW PC



By: _____

SARA XU

Attorney for Petitioner

ZHIZHI WANG

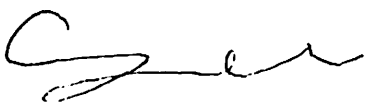
VERIFICATION PURSUANT TO 28 U.S.C. §§ 2242 AND 1746

The undersigned counsel submits this verification on behalf of Petitioner Zhizhi Wang pursuant to 28 U.S.C. § 2242.

Undersigned counsel has discussed with Petitioner the events and circumstances described in the foregoing Petition for Writ of Habeas Corpus and has reviewed the records and documents relevant to Petitioner's detention and immigration proceedings.

Based upon those discussions and counsel's review of the available records, I declare under penalty of perjury under the laws of the United States of America that the factual statements contained in the foregoing Petition are true and correct to the best of my knowledge, information, and belief.

Executed on August 13, 2026, in Irvine, California.



SARA XU, ESQ.

California Bar No. 360020

Counsel for Petitioner Zhizhi Wang