

JUDGE LEON SCHYDLOWER

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

FILED

UNITED STATES DISTRICT COURT

for the
Western District of Texas

SEP 24 2025
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

Liao Kun

Petitioner

v.

Angel C. Garite
Assistant Field Office Director

Respondent

(name of warden or authorized person having custody of petitioner)

EP 25 CV 0418

Case No. _____
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Liao Kun
(b) Other names you have used: N/A
2. Place of confinement:
(a) Name of institution: El Paso Service Processing Center
(b) Address: 8915 Montana Ave., El Paso, TX 79925
3. (c) Your identification number: 
Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: El Paso Service Processing Center,

(b) Docket number, case number, or opinion number: NTA - STN2305000660

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I requested asylum at a CBP custody on May 10, 2023; the NTA alleged that it issued to me on May 16, 2023;

(d) Date of the decision or action: 05/16/2023

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: The Immigration Court

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: denied

(5) Date of result: 01/24/2025

(6) Issues raised: I submitted a bond request to the Immigration Court. The Bond Request was denied by the Immigration Judge, the reason was: The respondent has a removal order on appeal to the Board.

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: The BIA

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: dismissed as moot

(5) Date of result: 06/03/2025

(6) Issues raised: There was an administratively final order.

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

N/A

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 05/07/2023

(b) Date of the removal or reinstatement order: 02/01/2024

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☐ No

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If "Yes," provide:

(1) Date of filing: 02/20/2024

(2) Case number:

(3) Result:

(4) Date of result: 04/10/2025

(5) Issues raised: The BIA affirmed the IJ's decision that no finding in past persecution; testimony credible but not persuasive; the IJ agreed in the hearing on January 31, 2023 that there's possibility of future persecution, then concluded in his written decision that no reasonable possibility of well-founded fear of future persecution which is on the contrary to his claim in the hearing.

(d) Did you appeal the decision to the United States Court of Appeals?

☒ Yes

☐ No

If "Yes," provide:

(1) Name of court: The Fifth Circuit Court of Appeals

(2) Date of filing: 05/09/2025

(3) Case number: 25-60256

(4) Result: dismissed

(5) Date of result: 08/11/2025

(6) Issues raised: I failed to timely file the Petitioner's Brief because of no adequate law library time to prepare my petition for review.

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: Petitioner for Review

(b) Name of the authority, agency, or court: The Fifth Circuit Court of Appeals

(c) Date of filing: 05/04/2025

(d) Docket number, case number, or opinion number: 25-60427

(e) Result: still pending

(f) Date of result:

(g) Issues raised: N/A

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: NTA not provided, officer declared and signed that I refused to sign.

DHS provided the NTA copy 18 months later

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

The NTA is full of errors, it says: 1) it issued to me on May 16, 2023, but I was under medical attention during the days; 2) I currently residing at El Paso SPC 8915 Montana Ave. El Paso, Texas, but I was actually residing at a CBP custody around 40 minutes away from El Paso SPC; 3) It charged me inadmissible under INA § 212(a)(6)

(A)(i), but I requested asylum on May 10, 2023 and was conducted a Credible Fear Interview on around May 25, 2023; 4) I refused to sign, actually I had no chance to see it or sign; 5) attached is credible fear worksheet, but no

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: Supreme Court re-affirmed that aliens are entitled to due process of law in deportation proceedings and must be given notice and an opportunity to be heard.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

1) Credible Fear Interview was positive, but never provided to this day; 2) No parole written determination;

3) Received the NTA after 18 months; 4) No notice of 90-day review;

5) No notice had issued to me before sent me to Los Angeles airport on August 19, 2023 and El Paso airport on September 9, 2025. I had no idea about what's going on around.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: I has been deprived of freedom for 28 months.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

I should enjoy the Right to expedited proceeding and an impartial jurydictor. I shall not be subjected to arbitrary arrest and indefinite detention.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

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GROUND FOUR: I was a victim of bully, abuse, discrimination and arbitrary disciplinary during the detention.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

During the 28 months detention, I have suffered daily bully, abuse, discrimination and many times arbitray disciplinary.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: Read annexes and requests.

Request for Relief

15. State exactly what you want the court to do: 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Grant Petitioner an individualized bond hearing before an impartial immigration judge as an alternative;
- 4) Grant any other and further relief that this Court deems just and proper.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

9-22-2025

Liao Kun

Signature of Petitioner

Signature of Attorney or other authorized person, if any

LIRIO KUN
EL PASO SPC
8915 Montana Ave.
EL PASO, TX 79925



United States District Court
Western District Court of Texas
EL PASO DIVISION, Office of the Clerk
525 Magoffin Ave. Room 105
EL PASO, TX 79901

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