UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Haiguang ZHENG,
A[redacted]

Petitioner,

v.

Pamela BONDI, in her official capacity as U.S. Attorney General;

Marcos CHARLES, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations;

Todd M. LYONS, in his official capacity as Acting Director, Immigration and Customs Enforcement;

Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security

Eric ROKOSKY, in his official capacity as Warden of Elizabeth Contract Detention Facility;

Respondents.

Docket No:
PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

PRELIMINARY STATEMENT

1. Petitioner ZHENG, Haiguang brings this petition for writ of habeas corpus under 28 U.S.C. § 2241 to challenge his unlawful detention at the Elizabeth Contract Detention Facility. Mr. Zheng, a Chinese national who fled religious persecution, has been detained without a bond hearing since October 11, 2025, based solely on the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

2. The Immigration Judge's denial of Mr. Zheng's request for a bond hearing, while faithful to Matter of Yajure-Hurtado, cannot survive scrutiny in federal court. Mr. Zheng fled religious persecution in China and complied perfectly with every requirement of his supervision for over two years. He now faces indefinite detention without any individualized assessment of whether he poses a flight risk or danger to the community. Both the Immigration and Nationality Act, properly construed, and the Fifth Amendment forbid this result.

3. As federal district courts across the country have uniformly held when confronting this exact issue, the government's

attempt to detain individuals like Mr. Zheng under 8 U.S.C. § 1225(b)(2)(A) without bond hearings represents a fundamental misreading of the statutory scheme and violates constitutional due process. See, e.g., Hilario Rodriguez v. Moniz, No. 25-12358 (D. Mass. Sept. 18, 2025); Sampiao v. Hyde, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); Romero v. Hyde, No. 25-11631, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(3) because Mr. Zheng is in custody in violation of the Constitution and laws of the United States.

5. Venue is proper in this district under 28 U.S.C. § 2241(d) because Mr. Zheng is detained at the Elizabeth Contract Detention Facility. which is located within the District of New Jersey.

6. This petition presents a live case or controversy under Article III because Mr. Zheng is currently detained without a bond hearing and seeks immediate release or, alternatively, an individualized bond hearing.

PARTIES

7. Petitioner Haiguang Zheng (A[redacted]) is a 43-year-old native and citizen of the People's Republic of China currently detained at the Elizabeth Contract Detention Facility in Elizabeth, NJ 07201.

8. Respondent Eric Rokosky is Warden of Elizabeth Contract Detention Facility. He is responsible for the maintaining and enforcement of the detention of aliens and has immediate custody of Mr. Zheng. He is sued in his official capacity.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She oversees ICE and its detention operations. She is sued in her official capacity.

10. Respondent Pamela Bondi is the Attorney General of the United States. She oversees the Executive Office for Immigration Review, which includes the Immigration Courts and Board of Immigration Appeals. She is sued in her official capacity.

11. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement. He is responsible for ICE's enforcement and detention operations. He is sued in his official capacity.

12. Respondent Marcos Charles is the Acting Executive Associate Director for Enforcement and Removal Operations. He oversees ICE detention facilities and operations. He is sued in his official capacity.

STATEMENT OF FACTS

A. Mr. Zheng's Persecution in China and Flight to the United States

13. Mr. Zheng is a Christian who attended a house church in China. On February 13, 2023, [redacted]

[redacted]

threatening worse consequences.

15. Fearing further persecution, Mr. Zheng fled China on August 6, 2023. He traveled through multiple countries before arriving at the United States-Mexico border.

16. On September 18, 2023, Mr. Zheng entered the United States without inspection near Tecate, California. He was immediately apprehended by Border Patrol agents.

B. Mr. Zheng's Release on Supervision and Perfect Court Compliance

17. In September 2023, DHS released Mr. Zheng from custody under INA § 236(a) on an Order of Supervision under INA § 241(a)(3), 8 U.S.C. § 1231(a)(3). This release recognized that Mr. Zheng posed neither a flight risk nor a danger to the community.

18. On October 26, 2023, Mr. Zheng timely filed his I-589 application for asylum, within the one-year deadline required by law.

19. For over two years, from September 2023 to October 2025, Mr. Zheng demonstrated perfect compliance with all supervision and Court requirements. He attended every scheduled Immigration Court hearing and ICE check-in without exception. He appeared at every immigration court hearing. He properly notified authorities of his address. He committed no crimes or violations of any kind.

20. During this period, and in direct reliance to his lawful release pursuant to INA § 236(a), Mr. Zheng established deep community ties. He became active in a local church community. He maintained stable housing. He sought employment authorization to support himself lawfully.

C. Mr. Zheng's Detention Without Due Process

21. On October 11, 2025, Mr. Zheng voluntarily appeared for his regularly scheduled ICE check-in. Without warning or explanation, ICE officers detained him.

22. ICE transferred Mr. Zheng to the Moshannon Valley ICE Processing Center in Philipsburg, Pennsylvania, where he remains detained.

23. On October 31, 2025, Mr. Zheng appeared before Immigration Judge Tamar Wilson for a bond hearing. Despite Mr. Zheng's perfect compliance record and lack of criminal history, the Immigration Judge denied the motion, stating she lacked jurisdiction under Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025).

24. The Immigration Judge found that because Mr. Zheng entered without inspection, he is categorically classified as an

"applicant for admission" under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and therefore subject to mandatory detention without possibility of bond.

25. Mr. Zheng has now been detained for over [NUMBER] days without any individualized assessment of whether he poses a flight risk or danger. His detention has no end in sight, as his asylum proceedings could take many months or even years to complete.

LEGAL FRAMEWORK

26. Congress created three distinct detention regimes for immigration cases, each serving different purposes and providing different procedural protections: a. INA § 235(b), 8 U.S.C. § 1225(b): Governs arriving aliens and recent border crossers, mandating detention without bond for those "applicants for admission" actively seeking entry at borders and ports of entry. b. INA § 236(a), 8 U.S.C. § 1226(a): Governs aliens arrested in the interior during removal proceedings, providing for discretionary detention with right to bond hearings unless subject to criminal mandatory detention under § 236(c). c. INA § 241, 8 U.S.C. § 1231:

Governs post-final order detention pending removal, with time limits to prevent indefinite detention.

27. This statutory structure reflects the fundamental distinction between exclusion proceedings (for those seeking admission) and deportation proceedings (for those already present). As the Supreme Court recognized in Jennings v. Rodriguez, 583 U.S. 281 (2018), § 1225 applies at "borders and ports of entry" while § 1226 governs those "inside the United States" and "present in the country."

28. The different detention schemes reflect different governmental interests: immediate border control (§ 235), ensuring appearance at proceedings for those already present (§ 236), and effectuating removal after proceedings conclude (§ 241).

ARGUMENT

COUNT I: MR. ZHENG IS DETAINED UNDER INA § 236(A), NOT § 235(B)— THE STATUTORY MISCLASSIFICATION VIOLATES THE IMMIGRATION AND NATIONALITY ACT

29. Mr. Zheng's detention violates the plain language, structure, and consistent interpretation of the Immigration and Nationality Act. He is not an "applicant for admission" under § 235(b) but rather an individual present in the United States whose detention is governed by § 236(a).

A. Federal Courts Have Uniformly Rejected the Government's Position

30. Upon information and belief, based upon extensive research, to date, every federal court to consider this issue has rejected the government's attempt to classify interior arrestees as § 235(b) detainees. As Judge Murphy explained in *Romero v. Hyde*, the government's "new interpretation is contrary to the agency's own implementing regulations; its published guidance; the decisions of its immigration judges (until very recently); decades of practice; the Supreme Court's gloss on the statutory scheme; and the overall logic of our immigration system." 2025 WL 2403827, at *9.

31. The District of Massachusetts alone has issued at least eight decisions rejecting the government's position:

- *Hilario Rodriguez v. Moniz*, No. 25-12358 (D. Mass. Sept. 18, 2025) (granting habeas; IJ must provide bond hearing);
- *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (rejecting DHS position; § 236 applies);
- *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025);
- *Encarnacion v. Moniz,* No. 25-12237 (D. Mass. Sept. 5, 2025);
- *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827 (D. Mass. Aug. 19, 2025);
- *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238 (D. Mass. July 24, 2025);
- *Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299 (D. Mass. July 7, 2025).

32. Courts in other districts have reached the same conclusion. *See Chogllo Chafla v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025) ("I find Yajure-Hurtado to be unavailing"); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL

2609425, at *7 (E.D. Mich. Sept. 9, 2025) ("[E]very District Court... has disagreed with the BIA's view").

B. The Plain Language of the Statute Requires § 236(a) to Apply

33. For § 235(b)(2) to apply, an "examining immigration officer" must determine that the individual is: (1) an "applicant for admission"; (2) "seeking admission"; and (3) "not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). None of these conditions apply to Mr. Zheng.

34. Mr. Zheng is not undergoing an "examination," which "is a specific legal process one undergoes while trying to enter the country." *Romero*, 2025 WL 2403827, at *9. He was detained at an ICE office during a routine check-in, not at a border inspection.

35. Mr. Zheng is not "seeking admission," which is a present-tense action. He entered over two years ago and has been living in the United States pursuant to release under INA § 236(a) and in compliance with the terms of the order of government supervision. As Judge Kobick explained, "the statutory text requires

present-tense action," not past entry. Sampiao, 2025 WL 2607924, at *8.

36. Congress knows how to write statutes covering all individuals who entered without inspection when it intends to do so. The Laken Riley Act, enacted in 2025, specifically requires mandatory detention for those inadmissible under § 212(a)(6)(A) who commit certain crimes. If all § 212(a)(6)(A) aliens were already mandatorily detained under § 235(b), this provision would be superfluous.

C. The Government Is Judicially Estopped from Its Current Position

37. During oral argument in *Jennings v. Rodriguez*, the government unequivocally represented that long-term residents are detained under § 236(a), not § 235(b). The following exchange occurred: Justice Sotomayor: "So what happens to... an alien who has resided within 100 miles of the border for 20 years? They would still be held under 1225?" Government Counsel: "No, Your Honor. They would be held under 1226(a)... if they hadn't committed other crimes." Transcript of Oral Argument at 49-50, *Jennings v.*

Rodriguez, 583 U.S. 281 (2018) (No. 15-1204), *available at* https://www.supremecourt.gov/oral_arguments/argument_transcripts/2016/15-1204_k536.pdf (last access Oct. 31, 2025).

38. This was not a peripheral comment—it was central to the Court's understanding of the statutory scheme. The Jennings opinion repeatedly relies on the distinction between § 235 (border processing) and § 236 (interior enforcement), a distinction that depends entirely on accepting the government's representation about which provision applies to long-term residents.

39. All three factors for judicial estoppel are met: (1) the positions are clearly inconsistent; (2) the government succeeded in persuading the Supreme Court, which relied on this distinction in its opinion; and (3) allowing the government to reverse position would create unfair advantage. New Hampshire v. Maine, 532 U.S. 742, 750-51 (2001).

40. The government cannot now claim Mr. Zheng—who resided in the United States for two years—falls under § 235(b) when it assured the Supreme Court that even 20-year residents would be

under § 236(a). This "heads I win, tails you lose" strategy undermines judicial integrity.

D. *Matter of Akhmedov* Creates Fatal Ambiguity To ICE's Position

41. The Attorney General's recent decision in *Matter of Gairat Akhmedov*, 29 I&N Dec. 166 (A.G. 2025), analyzed an EWI entrant's detention entirely under § 236(a) without mentioning § 235(b).

42. If the BIA's categorical rule that every person who entered without inspection is forever an "applicant for admission" were correct, the Attorney General would have addressed it. The failure to do so demonstrates that Yajure-Hurtado's reach is limited and creates ambiguity requiring constitutional avoidance.

E. Constitutional Avoidance Requires Interpreting § 236(a) to Apply

43. When faced with two plausible statutory interpretations, one raising serious constitutional questions and one avoiding them, courts must adopt the interpretation that preserves the statute's constitutionality. *Edward J. DeBartolo Corp. v. Florida Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988).

44. As demonstrated in Count II below, interpreting the statute to mandate indefinite detention without hearings for individuals like Mr. Zheng raises grave constitutional concerns. Interpreting § 236(a) to apply avoids these problems while remaining faithful to the statutory text and structure.

COUNT II: PROLONGED MANDATORY DETENTION WITHOUT AN INDIVIDUALIZED HEARING VIOLATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

45. Even if this Court were to find Mr. Zheng properly classified under § 235(b)—which he is not—his prolonged detention without any individualized hearing violates substantive and procedural due process.

A. This Court Must Independently Assess Constitutional Violations

46. While Immigration Judges are bound by BIA precedent, federal courts exercising habeas jurisdiction retain independent authority to assess constitutional violations. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("[T]he 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.").

47. The Supreme Court explicitly remanded for consideration of constitutional challenges in Jennings, stating: "Whether detention pursuant to § 1226 is subject to [constitutional] constraints is a question that we need not and do not answer." 583 U.S. at 314. That question is now squarely before this Court.

B. The Constitutional Framework: Liberty Is the Rule, Detention the Exception

48. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

49. Civil detention is permitted only when it serves legitimate regulatory purposes and only for the period necessary to serve those purposes. When detention becomes prolonged without individualized justification, it transforms from regulatory to punitive. Id. at 690-91.

C. Mr. Zheng's Detention Has Already Exceeded Constitutional Limits

50. Mr. Zheng has been detained for almost one month without any individualized assessment of flight risk or dangerousness. His removal proceedings, which began over two years ago, continue with no final order. His asylum application remains pending.

51. This far exceeds the brief detention the Supreme Court approved in *Demore v. Kim*, 538 U.S. 510 (2003). *Demore* involved detention averaging 47 days during "brief" removal proceedings. The Court emphasized that "the detention at stake under § 1226(c) lasts 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." *Id.* at 529-31.

52. Justice Kennedy's controlling concurrence warned that if detention became unreasonably prolonged, due process would require individualized hearings. *Id.* at 532 (Kennedy, J., concurring) ("Were there to be an unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become necessary then to inquire whether the detention is not to facilitate deportation, or to

protect against risk of flight or dangerousness, but to incarcerate for other reasons.").

53. Here, although only a month, Mr. Zheng only just had his first preliminary hearing and is many months away from a final hearing on his application, all the while facing the prospect of indefinite detention without an individualized assessment of his danger to the community or flight risk, neither of which has been alleged or can be discerned to exist from the facts.

D. The *Mathews v. Eldridge* Factors Require a Hearing

54. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), courts balance: (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used and probable value of additional safeguards; and (3) the government's interest, including administrative burdens.

55. First, Mr. Zheng's liberty interest could not be more substantial. Physical liberty—freedom from bodily restraint—"lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690. Mr. Zheng is not fighting over benefits or property; he is fighting for his freedom.

56. Second, the risk of erroneous deprivation is enormous. The government's categorical approach assumes every person who entered without inspection requires detention regardless of individual circumstances. Mr. Zheng's two-year perfect compliance record proves this assumption wrong. He voluntarily appeared at the very check-in where he was detained—hardly the behavior of a flight risk. An individualized hearing would allow Mr. Zheng to present evidence of his compliance history, community ties, asylum claim's merit, and absence of any criminal history.

57. Third, the government has no legitimate interest in denying hearings. Immigration Judges are already trained and equipped to conduct bond hearings. The government can still seek detention if it proves danger or flight risk. The only "burden" avoided is the requirement to justify detention which is hardly a legitimate governmental interest.

58. The *Mathews* balance overwhelmingly favors requiring individualized hearings. The government's negligible administrative interest in avoiding hearings cannot justify categorical detention without any process whatsoever.

E. Mr. Zheng's Status as an Asylum Seeker Heightens the Constitutional Violation

59. Mr. Zheng is not merely seeking to remain in the United States—he fled religious persecution and seeks protection under our laws. He filed his asylum application timely. [redacted] for practicing his Christian faith. The United States has long recognized religious persecution as grounds for protection.

60. Congress specifically recognized in INA § 208 that genuine refugees may be unable to enter through official channels, allowing asylum applications "whether or not at a designated port of arrival." 8 U.S.C. § 1158(a)(1). Yet under the government's interpretation, these very individuals Congress sought to protect face the harshest possible detention regime.

61. Asylum seekers occupy a unique position in our legal framework. They are individuals who have sought the protection of the United States and invoked our nation's commitment to providing refuge from persecution. To subject such individuals to indefinite mandatory detention while their claims for protection are adjudicated

not only violates due process but undermines the very humanitarian principles our asylum system exists to vindicate.

F. This Is an As-Applied Challenge Requiring Relief

66. Mr. Zheng does not challenge the facial constitutionality of § 235(b)(2)(A) in all applications. He challenges only its application to someone in his circumstances: a person who entered over two years ago, maintained perfect compliance with supervision, has no criminal history, and voluntarily appeared when detained.

67. The Supreme Court has long recognized that as-applied challenges require a narrower showing than facial attacks. *See United States v. Salerno*, 481 U.S. 739, 745 (1987). Mr. Zheng need not prove § 235(b)(2)(A) is unconstitutional in every application—only that applying it to detain him indefinitely without any hearing violates due process.

G. The Remedy: Immediate Release or a Bond Hearing

68. The appropriate remedy for this constitutional violation is Mr. Zheng's immediate release. The government has already had almost a month to justify his detention and has offered nothing

beyond the categorical fact of his entry without inspection two years ago.

69. At minimum, this Court must order an immediate bond hearing at which: (1) the government bears the burden of proving by clear and convincing evidence that Mr. Zheng poses a flight risk or danger; (2) the Immigration Judge considers Mr. Zheng's individual circumstances, including his compliance history, asylum claim, and community ties; and (3) the Immigration Judge considers alternatives to detention.

70. Without such relief, Mr. Zheng will remain detained indefinitely, certainly for months and possibly for years, based solely on his manner of entry two years ago, without any court ever assessing whether his detention serves any purpose. The Constitution forbids this result.

COUNT III: THE DETENTION SCHEME VIOLATES EQUAL PROTECTION

71. The government's detention scheme creates an irrational and unconstitutional distinction between two similarly situated

groups of aliens: those who entered without inspection and those who overstayed visas. This arbitrary line-drawing violates the equal protection component of the Fifth Amendment's Due Process Clause.

72. Under the government's interpretation of *Yajure-Hurtado* that every non-citizen who entered without inspection, regardless of circumstances, compliance history, or time in the United States, faces mandatory detention without any possibility of bond. Meanwhile, aliens who entered legally but overstayed visas, even those with criminal histories or poor compliance records, remain eligible for individualized bond hearings under § 236(a).

73. This classification fails even rational basis review. The government cannot articulate any legitimate reason why Mr. Zheng, who fled religious persecution, has perfect compliance for two years, and poses no risk, should be categorically detained while a visa overstay with violent felonies and a history of absconding could potentially obtain release. The manner of entry two years ago bears no rational relationship to current flight risk or danger to the community.

74. At minimum, where fundamental liberty interests are at stake, classifications must be reasonable and serve legitimate government purposes. The EWI/visa overstay distinction for detention purposes fails this test. Both groups are removable, both may have ties to the community, both may pose varying degrees of flight risk or danger. Categorically detaining one group while allowing individualized assessments for the other based solely on manner of entry years earlier violates equal protection.

COUNT IV: MR. ZHENG IS ENTITLED TO A STAY OF REMOVAL TO ANY THIRD COUNTRY

75. Should the government attempt to remove Mr. Zheng to any country other than China, he is entitled to advance notice and a meaningful opportunity to seek withholding of removal and protection under the Convention Against Torture with respect to that country.

76. Mr. Zheng fled persecution in China. His I-589 application and supporting evidence detail the specific persecution he suffered: [redacted] beat him, and threatened worse if he continued practicing Christianity. This

evidence addresses only persecution in China, not potential persecution in third countries.

77. Due process requires that before the government can remove an alien to a particular country, that alien must have notice and a meaningful opportunity to challenge removal to that destination. *See Jama v. Immigration & Customs Enforcement*, 543 U.S. 335, 348 (2005).

78. Mr. Zheng has never been informed of any potential third country removal destination. He has had no opportunity to investigate conditions in such countries, gather evidence of potential persecution or torture there, or present such claims to an Immigration Judge. To remove him to an unspecified third country without such process would violate fundamental fairness.

79. China's documented practice of transnational repression makes this issue particularly acute. The Chinese government has repeatedly pursued, threatened, and secured the return of dissidents and religious minorities from third countries. Mr. Zheng could face persecution or refoulement from countries that maintain deportation agreements with China or that succumb to Chinese pressure.

80. This Court should enter an order staying any removal to a third country until Mr. Zheng receives: (1) at least 30 days' advance written notice identifying the specific proposed country of removal; (2) a reasonable opportunity to gather evidence regarding conditions in that country; and (3) a hearing before an Immigration Judge on any withholding or CAT claims specific to that country.

COUNT V: MR. ZHENG IS ENTITLED TO A STAY OF OUT-OF-DISTRICT TRANSFER

81. Respondents should be immediately enjoined from transferring Mr. Zheng from Moshannon Valley ICE Processing Center to any facility outside this judicial district while this habeas petition remains pending.

82. Federal courts have inherent authority to preserve jurisdiction over pending matters and ensure effective relief can be granted. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (recognizing importance of maintaining custody within court's jurisdiction for habeas proceedings).

83. ICE has a documented pattern of transferring immigration detainees to frustrate habeas proceedings, moving

petitioners across the country to remote facilities far from counsel and outside the jurisdiction of courts poised to grant relief. Such tactics cannot be permitted to defeat constitutional rights.

84. Transfer would severely prejudice Mr. Zheng's ability to pursue this petition. His counsel, familiar with his case and the persecution he fled, is presumably located in this region. Transfer to a distant facility would disrupt attorney-client communications, impede case preparation, and potentially force Mr. Zheng to proceed pro se or start fresh with new counsel unfamiliar with his circumstances.

85. Moreover, transfer could moot this Court's jurisdiction entirely. If ICE moves Mr. Zheng outside this district, the government could argue this Court lacks jurisdiction over his immediate custodian, forcing Mr. Zheng to refile in a new district and restart litigation while remaining detained. This game of jurisdictional musical chairs would effectively deny habeas relief through procedural manipulation.

86. The balance of equities strongly favors a transfer stay. Mr. Zheng faces irreparable harm from transfer—disruption of counsel, loss of jurisdiction, and continued unconstitutional detention

while relitigating in a new forum. The government faces no prejudice from maintaining Mr. Zheng at his current facility while this Court adjudicates his constitutional claims.

87. This Court should immediately enjoin any transfer outside this judicial district and order Respondents to provide at least 72 hours' advance notice before any attempted transfer, allowing Mr. Zheng opportunity to seek emergency relief.

COUNT VI: PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

88. Mr. Zheng petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, the federal habeas statute that embodies the Constitution's guarantee that "[t]he privilege of the Writ of Habeas Corpus shall not be suspended." U.S. Const. art. I, § 9, cl. 2.

89. This Court has jurisdiction because: (1) Mr. Zheng is in custody under color of federal authority; (2) his custodian is within this Court's territorial jurisdiction; and (3) he asserts violations of the Constitution and laws of the United States. See 28 U.S.C. § 2241(c)(3); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

90. No other remedy is available or adequate. The Immigration Judge has disclaimed jurisdiction to review Mr. Zheng's detention under Matter of Yajure-Hurtado. Administrative appeal would be futile as the BIA already decided the jurisdictional question adversely in that precedent decision. Only this Court can vindicate Mr. Zheng's constitutional rights.

91. The Supreme Court has repeatedly confirmed that federal courts retain robust habeas jurisdiction over immigration detention, particularly where constitutional claims are raised. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001). This jurisdiction cannot be stripped by administrative decisions or statutory classifications. Where, as here, executive detention violates constitutional limits, federal courts must act.

DEMAND FOR IMMEDIATE ORDER TO SHOW CAUSE

92. Given the egregious nature of the constitutional violations presented—indefinite detention without any process based solely on manner of entry two years ago—this Court should

immediately issue an order to show cause pursuant to 28 U.S.C. § 2243.

93. The statute mandates that courts "forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243. Nothing in this petition suggests Mr. Zheng is not entitled to relief; indeed, his circumstances present a compelling case for habeas corpus.

94. Time is of the essence. Every day Mr. Zheng remains wrongfully detained compounds the constitutional violation and irreparably harms his liberty interests. His asylum case proceeds while he remains imprisoned, hampering his ability to gather evidence and prepare his defense against return to persecution.

95. Pursuant to § 2243, this Court should order Respondents to show cause within three days why the writ should not be granted. Given the straightforward legal issues and clear factual record, any extension beyond the statutory minimum would be unjustified.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a writ of habeas corpus and order Mr. Zheng's immediate release from custody;

B. In the alternative, order Respondents to provide Mr. Zheng an individualized bond hearing before an Immigration Judge within seven (7) days, at which: a. The government bears the burden of proving by clear and convincing evidence that Mr. Zheng poses a danger to the community or flight risk; b. The Immigration Judge must consider Mr. Zheng's individual circumstances, including his two-year perfect compliance record, lack of criminal history, asylum claim, and community ties; c. The Immigration Judge must consider alternatives to detention;

C. Enter an order staying any removal to a third country until Mr. Zheng receives: a. At least 30 days' advance written notice of the proposed country; b. Opportunity to gather evidence regarding that country; c. A hearing on withholding and CAT claims specific to that country;

D. Enjoin Respondents from transferring Mr. Zheng outside this judicial district while this petition remains pending, and require 72 hours' advance notice of any attempted transfer;

E. Issue an order to show cause pursuant to 28 U.S.C. § 2243 requiring Respondents to respond within three (3) days;

F. Award costs and attorneys' fees;

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

Dated: November 10, 2025
New York, New York

Respectfully submitted,

s/ Franklin S. Montero

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s/ Theodore N. Cox

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VERIFICATION

I, Theodore N. Cox, counsel for Petitioner Haiguang Zheng, hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: November 10, 2025
New York, New York

Respectfully submitted,

s/ Theodore N. Cox

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