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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Ai-Yee Liu,  
*Petitioner,*

v.

Kristi Noem, Secretary, U.S. Department  
of Homeland Security, *et al*

*Respondents.*

**Case No.:**  
**25-cv-4793-SMB-JFM**



**AFFIRMATION OF JOSHUA E. BARDAVID, ESQ.  
IN SUPPORT OF PETITIONER'S EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING ORDER AND STAY OF REMOVAL**

JOSHUA E. BARDAVID, an attorney duly admitted to practice before the Courts of the State of New York and the United States District Courts for the Eastern District of New York, hereby affirms the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the *pro hac vice* attorney of record for Petitioner Ai Yue Liu in this action. I submit this affirmation in support of Petitioner's Emergency Motion for Temporary Restraining Order and Stay of Removal. Except where otherwise indicated, I have personal knowledge of the facts set

forth herein, or have derived them from review of official records, case files, publicly accessible government databases, and discussions with Petitioner and her family members, the contents of which have been confirmed through review of documentary evidence.

2. Petitioner Ai Yue Liu is a native and citizen of the People's Republic of China. *See* Exhibit A (Passport); Exhibit B (Birth Certificate). Based upon review of records obtained from the Executive Office for Immigration Review through a Freedom of Information Act request, Petitioner Liu arrived in the United States at John F. Kennedy International Airport on January 14, 1995, when she was approximately seventeen years old. *See* Exhibit C (I-94). Upon arrival, she was inspected by immigration officials and placed into exclusion proceedings as an arriving alien without proper documentation. She was charged as excludable under former Sections 212(a)(7)(A)(i)(I), 212(a)(7)(B)(i)(I), and 212(a)(7)(B)(i)(II) of the Immigration and Nationality Act. *See* Exhibit D (Arriving Alien Charge).

3. Based upon review of the EOIR records, on March 7, 1995, Petitioner Liu filed Form I-589, Application for Asylum, based on   
 Immigration Judge Jeffrey S. Chase denied her asylum application and ordered her excluded on March 29, 1995. *See* Exhibit E (IJ Decision). She appealed to the Board of Immigration Appeals, which dismissed her appeal on November 3, 1995, rendering the

exclusion order administratively final. *See* Exhibit F (Original BIA Decision).  
The exclusion order has never been executed.


4. I have confirmed the status of Petitioner Liu's immigration proceedings through review of the EOIR Automated Case Information system, which reflects that Liu, Ai-Yee, A-Number [REDACTED] was ordered excluded by an Immigration Judge on March 29, 1995, and that there are no future hearings scheduled for this case. *See* Exhibit M (Case Status Online).


5. Based upon review of records and discussions with Petitioner and her family members, on November 1, 2005, Petitioner Liu filed a Motion to Reopen with the Board of Immigration Appeals based on changed personal circumstances, specifically the birth of her United States citizen children and [REDACTED]


[REDACTED] The BIA denied the Motion to Reopen as untimely filed. *See* Exhibit G (Denial of MTR). Petitioner Liu sought review of the BIA's denial in the United States Court of Appeals for the Second Circuit. On September 28, 2007, the Second Circuit denied the Petition for Review.

6. Based upon review of records and discussions with Petitioner and her family members, on July 29, 1999, Petitioner Liu married Shan Chun Chen in New York. *See* Exhibit H (Marriage Certificate). The couple subsequently had three children, all of whom were born in the United States and are United States citizens by birth: Angela Chen (age 21), Annie Chen

(age 20), and Benson Chen (age 19). *See* Exhibit I (USC Birth Certificates of Children).

7. Based upon information and belief derived from discussions with Petitioner and review of her records, Petitioner Liu has been the primary caregiver for her children and has maintained stable employment throughout her nearly thirty years of continuous presence in the United States. She has consistently paid federal, state, and local taxes. She has never received public benefits such as food stamps or welfare. She has no criminal history. Prior to her detention, she resided at 

 *See* Exhibit P (Affidavit of Angela Chen).

8. Based upon review of USCIS receipt notices and correspondence, on July 22, 2025, Angela Chen, as an adult United States citizen over the age of twenty-one, filed Form I-130, Petition for Alien Relative, on behalf of her mother under the immediate relative category. *See* Exhibit J (I-130 Approval Notice). Concurrently, Petitioner Liu filed Form I-485, Application to Register Permanent Residence or Adjust Status. The I-485 application was assigned receipt number  *See* Exhibit K (I-485 Receipt Notice).

9. Based upon review of USCIS correspondence, on December 2, 2025, USCIS approved the I-130 petition filed by Angela Chen on behalf of Petitioner Liu. *See* Exhibit J (I-130 Approval Notice). As the beneficiary of an approved immediate relative petition, Petitioner Liu had an immigrant visa

immediately available to her. USCIS scheduled an adjustment of status interview for December 2, 2025, at 1:15 p.m., at the USCIS Long Island Field Office in Holtsville, New York. *See* Exhibit L (I-485 Interview Notice).

10. Based upon information and belief derived from discussions with Petitioner and her family members, on December 2, 2025, Petitioner Liu appeared for her scheduled adjustment of status interview at the USCIS Long Island Field Office in Holtsville, New York. She was accompanied by her daughter Angela Chen and her attorney, Scott Strong. *See* Exhibit P (Affidavit of Angela Chen).

11. Based upon information and belief derived from discussions with Petitioner and her family members, the interview lasted approximately 25 to 30 minutes. The USCIS interviewing officer focused almost exclusively on negative factors, specifically Petitioner Liu's unlawful presence in the United States and her failure to depart after the 1995 exclusion order. Upon information and belief, the officer asked no questions about Petitioner Liu's contributions to her community, her role in her family, her lack of criminal history, or any other positive factors in her case. Upon information and belief, when Petitioner Liu's attorney attempted to raise favorable evidence, specifically that Petitioner Liu had consistently paid taxes throughout her time in the United States, the officer dismissed this evidence, noting that Petitioner Liu had been living "illegally" in the United States. *See* Exhibit P (Affidavit of Angela Chen).

12. Based upon information and belief derived from discussions with Petitioner and her family members, at the conclusion of the interview, as the officer was making copies of documents, there was a knock on the interview room door. ICE agents entered the room, displayed their badges, and stated that Petitioner Liu had an outstanding removal order and they were taking her into custody. Upon information and belief, as Angela Chen was being led out of the USCIS building, the interviewing officer looked at her and said: "Sorry about that." *See* Exhibit P (Affidavit of Angela Chen).

13. Petitioner Liu was transported from New York to the Florence Service Processing Center in Florence, Arizona, where she has been detained since December 2, 2025. I have confirmed Petitioner Liu's location through the ICE Online Detainee Locator System. *See* Exhibit N (ICE Detainee Locator).

14. Based upon information and belief derived from discussions with Petitioner's family members, immediately following Petitioner Liu's detention on December 2, 2025, her family attempted to file an administrative stay of removal with Immigration and Customs Enforcement. The family's efforts to file an administrative stay were thwarted by ICE's own bureaucratic dysfunction, as detailed in the Verified Petition for Writ of Habeas Corpus filed concurrently herewith and the Affidavit of Angela Chen. *See* Exhibit P (Affidavit of Angela Chen).

15. On December 3, 2025, one day after Petitioner Liu's detention, her family consulted with attorney Gary Yerman from the Yerman Group regarding options for seeking her release. Attorney Yerman advised that the first step was to apply for a stay of removal with ICE using Form I-246. *See* Exhibit P (Affidavit of Angela Chen).

16. On December 4, 2025, while the family was gathering documents, they were informed that the New York ICE Field Office had indicated that Petitioner Liu was being transferred to the Alexandria Staging Facility in Louisiana. On the same day, counsel attempted to file the I-246 stay of removal application at the New York Field Office but was informed that the application must be submitted at the location where Petitioner Liu was detained. The New York Field Office refused to accept the filing. *See* Exhibit P (Affidavit of Angela Chen).

17. On the evening of December 5, 2025, the family received a phone call from Petitioner Liu informing them that she had been flown to Arizona. *See* Exhibit P (Affidavit of Angela Chen).

18. On December 6, 2025, counsel emailed the Arizona Field Office requesting information about whether they had jurisdiction over Petitioner Liu's case. On December 7, 2025, counsel received a response from the Arizona Field Office stating that Petitioner Liu's case jurisdiction was still with the New York Field Office. The Arizona Field Office specifically stated: "Your client was not transferred to Arizona. NY still has case jurisdiction. Go

through them for any decisions or information.” This information was false; Petitioner Liu was in fact detained in Arizona. *See* Exhibit P (Affidavit of Angela Chen).

19. On December 8, 2025, counsel went to the New York Field Office at 26 Federal Plaza to submit the stay of removal documents. The New York Field Office rejected the documents, stating that Petitioner Liu did not reside in their custody and they could not find her location using her A-number. *See* Exhibit P (Affidavit of Angela Chen).

20. On December 9, 2025, counsel returned to 26 Federal Plaza to attempt again to submit the stay of removal documents. After continuous discussion with the supervisor and officers, the New York Field Office again refused to accept the application. The field office then stated that Petitioner Liu was detained in Oakdale, Louisiana, and that the family needed to file with the Louisiana Field Office. This information was also false; Petitioner Liu was detained in Florence, Arizona. *See* Exhibit P (Affidavit of Angela Chen).

21. On December 10, 2025, the family traveled to the Louisiana Field Office at 181 James Drive West, St. Rose, Louisiana. The Louisiana Field Office informed them that Petitioner Liu’s docket was still with the New York Field Office and they could not process the application. The Louisiana Field Office stamped the documents as received at 11:25 AM and mailed

them to the New York Field Office, stating they would arrive on December 12, 2025. *See* Exhibit P (Affidavit of Angela Chen).

22. On December 11, 2025, when the family entered Petitioner Liu's A-number into the ICE Detainee Locator System, it finally showed her location at Florence Service Processing Center in Arizona. *See* Exhibit N (ICE Detainee Locator); Exhibit P (Affidavit of Angela Chen).

23. As of December 18, 2025, the family has received no response from the New York Field Office regarding the stay of removal application, despite their continual efforts over a period of two weeks. *See* Exhibit P (Affidavit of Angela Chen).

24. On December 11, 2025, I filed a Verified Complaint for Mandamus in the United States District Court for the Eastern District of New York, Case No. 25-cv-06842-SJB, on behalf of Petitioner Liu and her daughter Angela Chen, seeking to compel USCIS to adjudicate Petitioner Liu's then-pending I-485 application.

25. On December 12, 2025, Judge Sanket J. Bulsara of the Eastern District of New York ordered Plaintiffs to file an emergency motion addressing the Court's authority to enjoin removal during the pendency of a mandamus application.

26. On December 15, 2025, Plaintiffs filed an Emergency Motion for Stay of Removal in the Eastern District of New York, and the Court granted a temporary restraining order enjoining Petitioner Liu's removal.

27. On December 17, 2025, USCIS issued a decision denying Petitioner Liu's I-485 Application for Adjustment of Status. *See* Exhibit Q (Denial Notice). The denial notice stated that Petitioner Liu is eligible for adjustment of status. USCIS found that Petitioner Liu satisfied the statutory requirements for adjustment. However, USCIS exercised negative discretion and denied the application.

28. The denial notice stated that Petitioner Liu's familial relationships "were established while you were subject to a final order of exclusion. As such, the ties constitute after-acquired equities and are accorded diminished weight." The denial cited *Matter of Correa*, 19 I&N Dec. 130, 134 (BIA 1984). The denial notice further stated that Petitioner Liu's explanation for remaining in the United States, specifically that she "wanted to wait until my child turns 21 to apply for me," was "not a reasonable justification or valid excuse for failing to comply with the exclusion order." *See* Exhibit Q (Denial Notice).

29. The denial notice advised Petitioner Liu that she may not appeal the decision but may file a Motion to Reopen or Motion to Reconsider using Form I-290B within 33 days. The denial notice stated: "If you fail to depart the United States within 33 days of the date of this letter, USCIS may issue you a Notice to Appear and commence removal proceedings against you with the immigration court." *See* Exhibit Q (Denial Notice).

30. On December 18, 2025, the Eastern District of New York held oral arguments where it was determined that the mandamus to compel adjudication of the I-485 was mooted by USCIS' December 17, 2025 decision. As a consequence, the Court issued the following Order: "ORDER: The temporary restraining order ('TRO') enjoining removal [8] is extended until 12/19/2025 at 5:00 P.M. (PT). At that time, unless the Court orders otherwise, the TRO will automatically expire, and the Court will direct this case to be closed as moot. So Ordered by Judge Sanket J. Bulsara on 12/18/2025."

31. The Eastern District of New York's indication that it will close the case as moot reflects that court's recognition that venue for habeas relief lies where the petitioner is detained, which is this District.

32. Petitioner Liu's removal is therefore imminent. The TRO expires on December 19, 2025, at 5:00 p.m. Pacific Time. Unless this Court grants emergency relief, ICE will execute Petitioner Liu's removal to China immediately upon expiration of the TRO.

33. Without intervention from this Court, Petitioner Liu will be removed from the United States, permanently separated from her three United States citizen children.

34. Based upon my personal experience as an immigration attorney, my representation of clients in similar circumstances, discussions with colleagues in the immigration bar, review of public records and news reports,

review of leaked government documents that have been reported in the media, off-the-record discussions with USCIS officers, and off-the-record discussions with reporters investigating current immigration enforcement policies, I affirm that the current practice of using USCIS adjustment of status interviews as a mechanism for effectuating ICE arrests has become widespread. This practice, which immigration attorneys and advocates have characterized as a “bait and switch,” represents a significant departure from prior agency practice.

35. I have personally witnessed this practice affect my clients and have discussed similar experiences with colleagues across multiple jurisdictions. The pattern is consistent: applicants who have properly filed adjustment applications and who appear for their scheduled USCIS interviews are detained by ICE officers at the conclusion of those interviews, often without receiving any decision on their pending applications. This practice is consistent with publicly reported incidents in New York, California, and other states during November and December 2025.

36. Based upon my professional judgment, the use of USCIS interviews as a mechanism for ICE arrests undermines the integrity of the immigration system, deters eligible applicants from appearing for required interviews, and deprives applicants of the opportunity to have their applications adjudicated on the merits before being subjected to removal proceedings.

37. Annexed to the Verified Petition for Writ of Habeas Corpus and this Emergency Motion as exhibits are true and correct copies of the following documents, which I have reviewed in connection with this matter:

**Exhibit A:** Passport of Petitioner Ai Yue Liu, establishing her identity and nationality as a citizen of the People's Republic of China;

**Exhibit B:** Birth Certificate of Petitioner Ai Yue Liu, establishing her date of birth and confirming she was a minor when she arrived in the United States in January 1995;

**Exhibit C:** Form I-94, Arrival/Departure Record, documenting Petitioner Liu's arrival at John F. Kennedy International Airport on January 14, 1995;

**Exhibit D:** Arriving Alien Charge, documenting the charges of excludability placed against Petitioner Liu upon her arrival in 1995 under former Sections 212(a)(7)(A)(i)(I), 212(a)(7)(B)(i)(I), and 212(a)(7)(B)(i)(II) of the Immigration and Nationality Act;

**Exhibit E:** Immigration Judge Decision dated March 29, 1995, in which Immigration Judge Jeffrey S. Chase denied Petitioner Liu's asylum application and ordered her excluded from the United States;


**Exhibit F:** Original Board of Immigration Appeals Decision dated November 3, 1995, dismissing Petitioner Liu's appeal and rendering the exclusion order administratively final;

**Exhibit G:** Board of Immigration Appeals Decision denying Petitioner Liu's Motion to Reopen filed on November 1, 2005;

**Exhibit H:** Marriage Certificate documenting Petitioner Liu's marriage to Shan Chun Chen on July 29, 1999, in New York;

**Exhibit I:** Birth Certificates of Angela Chen, Annie Chen, and Benson Chen, establishing that Petitioner Liu's three children are United States citizens by birth;

**Exhibit J:** USCIS I-130 Approval Notice, documenting approval of the Petition for Alien Relative filed by Angela Chen on behalf of Petitioner Liu;

**Exhibit K:** USCIS I-485 Receipt Notice, documenting receipt of Petitioner Liu's Application to Register Permanent Residence or Adjust Status, assigned receipt number 

**Exhibit L:** USCIS I-485 Interview Notice, scheduling Petitioner Liu's adjustment of status interview for December 2, 2025, at 1:15 p.m., at the USCIS Long Island Field Office in Holtsville, New York;

**Exhibit M:** EOIR Case Status Online printout, confirming that Petitioner Liu was ordered excluded by an Immigration Judge on March 29, 1995, and that there are no future hearings scheduled;

**Exhibit N:** ICE Online Detainee Locator printout, confirming Petitioner Liu's current detention at the Florence Service Processing Center in Florence, Arizona;

**Exhibit O:** USCIS Interoffice Memorandum from Michael Aytes, Associate Director of Domestic Operations, dated June 14, 2007, regarding adjustment of status for arriving aliens in exclusion, deportation, or removal proceedings, establishing USCIS policy on concurrent jurisdiction over adjustment applications;

**Exhibit P:** Affidavit of Angela Chen, Petitioner Liu's adult United States citizen daughter, providing sworn testimony regarding the events of the December 2, 2025 interview, Petitioner Liu's arrest and detention by ICE, and the family's subsequent efforts to file an administrative stay of removal; and

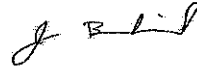
**Exhibit Q:** USCIS Denial Notice dated December 17, 2025, denying Petitioner Liu's I-485 Application for Adjustment of Status as a matter of discretion while acknowledging that

Petitioner Liu satisfied the statutory eligibility requirements for adjustment.

38. I respectfully request that this Court grant Petitioner's Emergency Motion for Temporary Restraining Order and Stay of Removal.

Dated: New York, New York  
December 19, 2025

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2025, a copy of the foregoing Attorney Affirmation and Exhibits A through Q was served upon the following via electronic mail and overnight delivery:

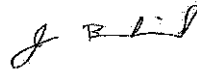
Office of the United States Attorney  
District of Arizona  
40 N. Central Avenue, Suite 1800  
Phoenix, Arizona 85004

Warden  
Florence Service Processing Center  
3250 N. Pinal Parkway  
Florence, Arizona 85132

Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
500 12th Street SW  
Washington, D.C. 20536

Dated: New York, New York  
December 19, 2025

Respectfully submitted,



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Joshua E. Bardavid, Esq.  
Counsel for Petitioner