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DETAINED

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**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON**

YUSHOU CHENG

Petitioner,

v.

KRISTI NOEM, Secretary of U.S. Department
of Homeland Security;
PAMELA BONDI, United States Attorney
General;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
LAURA HERMOSILLO, Acting Seattle Field
Office Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;
Respondents.

Case No.:

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO
28 U.S.C. § 2241**

Agency File Number:

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

**PETITION FOR WRIT OF HABEAS CORPUS
(CASE NO.)
Page - 1**

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1 This case challenges the unlawful detention of Mr. Yunshou Cheng ("Mr. Cheng"), a
2 citizen of China, who has been a conditional permanent resident of the United States since
3 2013 and who attempted to re-enter the United States in or about November 24, 2025 with a
4 valid unexpired I-551 stamp in his passport confirming his status as a conditional lawful
5 permanent resident. Instead of being admitted into the United States, CBP claimed – without
6 providing any proof – that while he was outside of the United States, his conditional permanent
7 resident status had been terminated and therefore his I-551 stamp was not valid. CBP then
8 charged Mr. Cheng as being inadmissible from the United States pursuant to 8 U.S.C. §
9 1182(a)(7)(A)(i)(I) as an individual who at the time of their application for admission is not in
10 possession of a valid unexpired visa or other entry document. Because they deemed that he was
11 seeking admission they labeled him an arriving alien which prevents the Immigration Court
12 from granting him a bond. They then transferred him to the Northwest ICE Processing Center,
13 placed him in proceedings. He remains detained there to this day.

14 2. This treatment of Mr. Cheng is in clear violation of the law. CBP is only allowed to treat
15 returning lawful permanent residents, including conditional permanent residents, as applicants
16 for admission if they fall into one of the narrow exceptions outlined in 8 U.S.C. §
17 1101(a)(13)(C). The statute clearly states that a returning resident can only be treated as an
18 applicant for admission if the individual:

19 (i) has abandoned or relinquished that status,

20 (ii) has been absent from the United States for a continuous period in
21 excess of 180 days,

22 (iii) has engaged in illegal activity after having departed the United
23 States,

(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this chapter and extradition proceedings,

(v) has committed an offense identified in section 1182(a)(2) of this title, unless since such offense the alien has been granted relief under section 1182(h) or 1229b(a) of this title, or

(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.

None of those circumstances are present in the instant case, yet DHS continues to treat Mr. Cheng as if he were an arriving alien instead of a returning LPR. Whether USCIS sought to terminate his conditional LPR status, or whether they indeed had terminated his status, he remains a Lawful Permanent Resident. Under the implementing regulations, DHS continues to bear the burden in removal proceedings to show that the petition was properly denied. 8 C.F.R. § 216.6(d)(2). Instead of providing proof that Mr. Cheng's status was properly terminated by USCIS, the Department of homeland security provided a notice issued on January 5, 2026, denying his I-290B and notifying him of termination of his LPR status. Exhibit B. This was one day prior to his second master calendar hearing and more than a month after his entry into the United States.

3. Mr. Cheng is clearly being held in violation of the law as he is not being treated as a lawful permanent resident. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order his immediate release. See *E.A. T.-B.* 2025 WL 2402130, at *6 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Texera*, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3-4 (similar).

PARTIES

4. Petitioner Yushou Cheng is a citizen of China who was a returning Lawful Permanent Resident and who is presently detained at the Northwest ICE Processing Center in Tacoma, Washington.

5. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as her designees.

6. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. She is the cabinet-level secretary responsible for all immigration enforcement in the United States and has ultimate custodial authority over Petitioner.

7. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Laura Hermosillo is sued in her official capacity as Acting Field Office Director for the Seattle office of Immigration and Customs Enforcement, an agency of the Department of Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. She is the immediate legal custodian of the petitioner for purposes of a federal habeas petition.

9. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention center where the Petitioner is being detained. Mr. Scott has immediate physical custody of Petitioner.

JURISDICTION

10. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

11. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of the U.S. Constitution. See *DNS v. St. Cyr*, 533 U.S. 289 (2001).

12. No other petitions, appeals, or motions regarding habeas corpus have been filed with any other court.

VENUE

13. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1) because the Petitioner is currently detained in this judicial district.

14. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live, work, and/or operate within this judicial district and because the actions which gave rise to this Petition took place in Tacoma, Washington, which falls within this judicial district. Though petitioner is detained in Pierce County Washington, the Seattle sub office has local jurisdiction over habeas petitions filed in Washington State.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. The general rule in the Ninth Circuit requires that petitioners seeking habeas relief under section 2241 must first exhaust their available administrative remedies as a prudential matter. *Singh v. Napolitano*, 649 F.3d 899 (9th Cir. 2011). However, this requirement is not absolute.

1 16. The doctrine of exhaustion is rooted in respect for lawful process, not in acquiescence to
2 unlawful detention. As Justice Frankfurter observed, "the history of liberty has largely been the
3 history of observance of procedural safeguards." Where those safeguards fail in practice,
4 particularly in the context of detention, the Court's equitable authority is not merely permitted,
5 but required.

6 17. There are generally four specific circumstances in which exhaustion will not be required:
7 (1) if the remedies do not provide an opportunity for adequate relief; (2) if the petitioner will
8 suffer irreparable harm if compelled to seek administrative relief; (3) if administrative appeal
9 would be futile; or (4) if substantial constitutional questions are raised. *Muhammad v. Sec'y of*
10 *Army*, 770 F.2d 1494 (9th Cir. 1985). All four factors are present in this case.

11 18. First, it has regularly been recognized that detention is a fundamental right and there is no
12 adequate remedy for an unlawful detention. *See Zachrydas v. Davis*, 533 U.S. 678, 690 (2001).
13 Each day of additional detention is a continuing and multiplying constitutional violation. There
14 is no adequate remedy for Petitioners who are left to languish in prison while the government is
15 given extension after extension to try and justify their continued detention. A system that
16 allows this is inverting the normal procedural rules where the government must first provide
17 justification before infringing on the rights of individuals.

18 19. Here, Mr. Cheng is suffering while the administration is given multiple chances to prove
19 their case. This situation is the quintessential definition of irreparable harm and the only one
20 being harmed is Mr. Cheng. The Kafkaesque charade that has been perpetuated in immigration
21 court is exactly the reason why rigorous adherence to an arbitrary administrative exhaustion
22 requirement is not always required. When Petitioners are suffering violations of their rights by
23

1 an administration has abandoned reason and refuses to recognize the rule of law the district
 2 courts are not without power to end the insanity. The factual history of the case clearly
 3 demonstrates that the administrative remedies available to Mr. Cheng are inadequate and futile.
 4 He has filed a bond motion – it was denied for lack of jurisdiction – he has filed a request for
 5 release to ICE directly – they have not bothered to respond – he requested termination before
 6 the immigration court – the case has been continued twice to allow DHS to provide more
 7 evidence of its initial charges – there are no other remedies available other than action by this
 8 Court.

9 20. In this era of an ever expanding ICE detention, Immigration Courts refusing to recognize
 10 the tidal wave of orders telling them that their interpretation is wrong the federal courts must be
 11 mindful of the cautionary words of Hannah Arendt: “The sad truth is that most evil is done by
 12 people who never make up their minds to be good or evil.” To insist that individuals must wait
 13 for immigration court proceedings to play out over months or years before being released is
 14 simply too much to bear.

15
 16 **REQUIREMENTS OF 28 U.S.C. § 2243**

17 21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
 18 (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. §
 19 2243. Because the issue of detaining Mr. Cheng is such a clear violation of his Fifth Amendment
 20 Rights and the governing law, the Court should require Respondents to file a return within three
 21 days unless for good cause additional time, not exceeding twenty days, is allowed. *Id.* At a
 22 minimum this Court should issue its standing order requiring a response within 14 days.

22. The court is certainly aware that habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.”).

FACTUAL BACKGROUND

23. Mr. Cheng, seeking a better life initially sought an investor visa to come to the United States with his family. He invested \$500,000 in the Royal Palm Town Center IV in 2011 and filed a petition to be classified as an EB5 Investor. As part of his application he was required to not only invest that money in the United States, but also directly show that his investment created ten permanent jobs in the United States. Because he made the investment and the project had been deemed an appropriate regional center, his application was approved.

24. He then immigrated to the United States with his family and was afforded Conditional Permanent Resident Status. He timely petitioned to remove the conditions in April of 2015. Unbeknownst to Mr. Cheng, the regional center he selected to invest his money in was a fraudulent scheme. He had no indicia that it was fraudulent as the Regional Center was approved by USCIS. The Royal Palm Town Center, instead of properly investing the money in job creation transferred the money to private individuals. Instead of making good on its promise to purchase real estate and create jobs, the owners enriched themselves. Because he

1 was the victim of fraud, Mr. Cheng, along with other investors, sued Royal Palm Town Center
2 to obtain what limited redress was available. See Xiaoyun Chen v. Walsh, No. 18-23894-CV-
3 MIDDLEBROOKS, 2020 U.S. Dist. LEXIS 258835, at *6 (S.D. Fla. Dec. 11, 2020).

4 25. USCIS allowed the Royal Palm Town Center, regional center to remain in operation until
5 September 2025 when USCIS issued a Notice of Regional Center Termination. During the
6 decade where it allowed Royal Palm Town Center to operate USCIS simultaneously sought to
7 prevent Mr. Cheng from removing the conditions on his green card claiming the regional center
8 had not met the job creation requirements. In making these findings USCIS never officially
9 terminated Mr. Cheng's status, but instead allowed him to appeal the removal of conditions
10 through filing successive I-290B petitions. These petitions tolled his status as a conditional
11 permanent resident, as evidenced by the multiple I-551 stamps in his passport. Through his
12 appeals Mr. Cheng continued to try to convince USCIS that he was a good faith investor, and
13 the Agency continued to treat him as a conditional permanent resident.

14 26. Relying on the Agency's decade of action Mr. Cheng obtained multiple I-551 stamp in
15 his passport and continued to travel internationally. His most recent I-551 stamp was issued on
16 December 17, 2024 and confirmed his status as a Lawful Permanent Resident up until
17 December 15, 2025. Exhibit A. With I-551 stamp in hand, Mr. Cheng confidently decided to
18 return to China to oversee his business there. He departed the United States on July 1, 2025.
19 Knowing that he could not remain outside the United States for more than 6 months Mr. Cheng
20 planned to return in November 2025.

21 27. When Mr. Cheng arrived in the United States, instead of being admitted as he had been
22 every other time, he was sent to secondary inspection. There CBP officers made a statement
23

1 that, while he was outside of the United States, USCIS had terminated his Lawful Permanent
2 Resident Status by sending a notice to him. They also claim that the notice was returned to
3 USCIS as undeliverable. Not seeing the non-delivery as an issue CBP proceeded to cancel Mr.
4 Cheng's I-551 stamp and place him in detention.

5 28. Neither CBP nor ICE have ever made any claim about how a notice that was returned as
6 undeliverable, if it actually exists, is adequate notice of termination of lawful permanent
7 resident status.

8 29. Seeing the inherent injustice of this process, Mr. Cheng attempted to secure his release
9 from custody by informing the Immigration Court that he was improperly charged as an
10 Arriving Alien. Mr. Cheng provided a copy of his I-551 stamp and asked the Immigration
11 Judge to hold DHS to its burden to show he was properly charged. DHS provided no evidence
12 on that day that he was properly charged and instead requested a continuance to obtain the
13 documents. The Immigration Judge continued the hearing nearly thirty days to January 6, 2025.

14 30. On the eve of the next hearing, DHS filed a Notice of Evidence containing a decision
15 dated January 5, 2025 purporting to terminate Mr. Cheng's Lawful Permanent Resident Status.
16 In response Mr. Cheng filed a Motion to Terminate proceedings arguing that, inter alia, the
17 evidence submitted by DHS was not sufficient to meet their burden to show that on November
18 29, 2025 when he appeared at the port of entry because the Notice they filed was dated after his
19 entry into the country.

20 31. Instead of issuing an order terminating proceedings for failure to meet their evidentiary
21 burden, the Immigration Judge continued proceedings until January 16, 2025.

32. Mr. Cheng has now been detained for 48 days and DHS has not presented any evidence that he was properly charged as an arriving alien.

MEMORANDUM OF LAW

33. In removal proceedings, the government bears the initial burden to establish by clear, unequivocal and convincing evidence that they can sustain the charges against the individual in proceedings. 8 U.S.C. § 1229a (c)(3)(A). In this case the government charged Mr. Cheng with violating 8 U.S.C. § 1182(a)(7)(A)(i)(I). In order to sustain this charge DHS would need to show that Mr. Cheng is (1) and applicant for admission, and (2) not in possession of a valid unexpired entry document. The only way for DHS to meet this evidentiary standard would be to either show that the I-551 stamp was fraudulently issued, or had been properly terminated prior to his entry in November. On the contrary, to refute the charge Mr. Cheng would only need to show that he was not properly categorized as an applicant for admission or that he had proper documents upon his entry – he did both.

34. Here, USCIS confirmed its position that Mr. Cheng maintained his Lawful Permanent Resident Status when he exited the country. They did this by continuing to issue I-551 stamps to him that allowed him to work in the United States and travel internationally. The law states that when a returning Lawful Permanent Resident, even a conditional resident, arrives at the border, they can only be treated as seeking admission if the conditions of 8 U.S.C. § 1101(a)(13)(C) are met. This statute creates a presumption against treating returning residents as applicants for admission. Here, DHS makes no allegations that they have satisfied the statute, but instead claim that Mr. Cheng's status was properly terminated by USCIS in a

1 mystery notice that was – for unexplained reasons – returned as undeliverable and not sent to
2 his attorney.

3 35. Even assuming that this notice exists, holding Mr. Cheng as an arriving alien based on a
4 Notice that USCIS knew was not delivered is a fundamental violation of his rights. The starting
5 point for due process is notice.

6
7 **Due Process Principles**

8 36. Due process requires that if DHS seeks to treat Mr. Cheng as an arriving alien and
9 accountable for knowing that his status has been revoked, they must first provide him with
10 notice that is reasonably calculated to reach him and provide him with an opportunity to
11 respond. See *United States v. Baez*, 464 F. App'x 623, 623 (9th Cir. 2011) (noting actual notice
12 may not be required but reasonable efforts may suffice). Where the government seeks to revoke
13 status and place someone in detention, they must take some additional actions to notify the
14 individual and their attorney of the purported notice that they sent out. This is particularly true
15 where the failure to provide notice could cause someone to rely on the government's issuance
16 of an I-551 stamp and travel internationally. Under this administration, this circumstance is
17 guaranteed to cause detention and failure to provide the notice directly resulted in Mr. Cheng's
18 [DEL: deletion] [ADD: detention].

19 37. Again, "[f]reedom from imprisonment—from government custody, detention, or other
20 forms of physical restraint—lies at the heart of the liberty protected by the Due Process
21 Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This court recently recognized that
22 freedom from confinement is one of the most elemental or liberty interests. *EA. T.B.*, 2025 WL

1 240213, at *3 (citation modified); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating
2 that petitioner had “an exceptionally strong interest in freedom from physical confinement”).

3 38. Consistent with this principle, individuals who reasonably believe themselves to be
4 conditional permanent residents should be afforded some notice reasonably calculated to
5 apprise them of the fact that their status has been terminated prior to detaining them without the
6 prospect of paying a bond. *See e.g., Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

7 39. Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it]
8 includes many of the core values of unqualified liberty,” such as the ability to be gainfully
9 employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released
10 individual] and often on others.” *Id.*

11 40. To protect against arbitrary detention and to ensure the right to liberty, due process
12 requires “adequate procedural protections” that test whether the government’s asserted
13 justification for a noncitizen’s physical confinement “outweighs the individual’s
14 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690
15 (citation modified).

16 41. Due process thus guarantees notice. Full stop. *See Goldberg v. Kelly*, 397 U.S. 254, 267
17 (1970) (“The fundamental requisite of due process of law is the opportunity to be heard... at a
18 meaningful time in a meaningful manner.” (citation modified)); *see also, e.g., Morrissey*, 408
19 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause or
20 reasonable ground to believe that the arrested parolee has committed... a violation of parole
21 conditions” and that such determination be made “by someone not directly involved in the
22 case” (citation modified)).

42. In the context of unlawful detentions courts often apply the *Mathews v. Elbridge*, 424 U.S. 319 (1976), framework to grant the temporary restraining orders, and issue orders restraining the Respondents from detaining petitioners unless they demonstrate, by clear and convincing evidence that the proper procedures have been met. Due process does not permit the government to ignore information it has that its notice has failed.

43. In applying the three *Mathews* factors to grant the Petitioner's motion for TRO, in *E.A. T.B.*, the court held that the petitioner had "undoubtedly [been] deprive[d] ... of an established interest in his liberty." 2025 WL 2402130 at *3. The court noted this is the most elemental of liberty interests. *Id.* The Court further explained that the risk of erroneous deprivation of liberty was "considerable". *Id.* The government is not without interests in this case, but those interests are low. It is hard to see how releasing Mr. Cheng, someone who has significant investments in the United States and a vested interest in pursuing his LPR status before the Immigration Court cannot be meaningfully preserved out of the context of detention. Indeed, the government is likely bearing a higher financial burden keeping Mr. Cheng detained than it would were it to simply release him and allow him to pursue his case from the comfort of his home.

44. The same framework and principles apply here and compel Mr. [DEL: Sing's] [ADD: Cheng's] immediate release.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process Procedural Due Process

45. Mr. Cheng restates and realleges all paragraphs as if fully set forth herein.

46. Due process does not permit the government to strip Mr. Cheng of his liberty without written notice. *See Morrissey*, 408 U.S. at 487–88. Such written notice occur prior to any detention. Particularly where his detention post notice will not entitle him to seek a bond before an immigration Judge

47. Respondents deprived Mr. Cheng of his liberty without affording him written notice that was meaningfully calculated to apprise him of termination of his status or of the consequences of re-entering the United States after such a notice.

48. Accordingly, Mr. Cheng’s detention violates the Due Process Clause of the Fifth Amendment.

IRREPARABLE INJURY

49. Mr. Cheng has suffered irreparable injury as a result of his detention. He has been in custody for more than a month, despite his presence in the United States for over a decade, his significant investment in the country and his lack of criminal history, Respondents now seek to detain him without bond. His physical liberty continues to be restrained, and no just cause for doing so can be specified. This is a continuing injury that amplifies every day

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;

- 1 (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr.
2 Cheng from custody and permanently enjoin his re-detention during the
3 pendency of his case absent written notice and a hearing prior to re-detention
4 where Respondent must prove by clear and convincing evidence that he is a
5 flight risk or a danger to the community and that no alternatives to detention
6 would mitigate those risks;
- 7 (4) Declare that: Mr. Cheng's detention and classification as an arriving alien and
8 detention without providing him prior written notice of the alleged termination
9 of his LPR status violates the Due Process Clause of the Fifth Amendment;
- 10 (5) Issue an order providing for an award of attorney's fees and costs; and
- 11 (6) Grant such other relief as may be just and reasonable.
- 12

13 Dated: January 9, 2026.

14 /s/ Adam Boyd

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