

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

Chenrui MIAO,

Petitioner,

v.

WARDEN, Folkston Ice Processing Center;
KRISTEN SULLIVAN, Director/Acting
Director, Atlanta Field Office, United States
Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, United
States Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of Homeland
Security; PAMELA JO BONDI, United States
Attorney General, *in their official capacities*,

Respondents.

PETITION FOR WRIT OF
HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

Case No.: 5:26-cv-212-LGW-BWC

**Petitioner's Emergency Motion for
Temporary Restraining Order (TRO)**

Petitioner's Emergency Motion for Temporary Restraining Order (TRO)

Petitioner Chenrui MIAO, by and through his undersigned counsel respectfully moves this Court pursuant to Federal Rule of Civil Procedure 65(b) for an emergency Temporary Restraining Order (TRO) enjoining Respondents from indefinitely incarcerating the Petitioner and removing the Petitioner from the United States or transferring him outside the jurisdiction of the Atlanta Field Office pending adjudication of his Petition for a Writ of Habeas Corpus ("Petition").

The grounds for this motion are set forth in the accompanying memorandum of law, exhibits in support thereof, the Verified Petition, and the applicable law.

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law and the Petition for Writ of Habeas Corpus, the Petitioner will respectfully move this Court for an emergency Temporary Restraining Order pursuant to Fed. R. Civ. P. 65(b), enjoining Respondents from:

1. Incarcerating the Petitioner for another three days;
2. Removing Petitioner from the United States;
3. Transferring Petitioner to any location outside the geographic jurisdiction of ICE's Atlanta Field Office, where he cannot reasonably consult with counsel; and
4. Requiring Respondents to provide seventy-two (72) hours' advance written notice to Petitioner's counsel of any intended movement or removal.

This relief is sought on an emergency ex parte basis due to the imminent risk of removal or transfer, which would moot the Petition and cause irreparable harm.

**MEMORANDUM OF LAW IN SUPPORT OF EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER(TRO)**

I. INTRODUCTION

1. Petitioner, a citizen of China who fled political persecution in China, entered the United States on May 14, 2024 via the U.S. - Mexico border without inspection. He was released on his own recognizance two days later, has worked diligently while paying taxes, and complied with all reporting requirements. Despite this, he was detained by immigration authorities again in December 2025. Both EOIR and DHS claim that Immigration Judge does not have jurisdiction for his bond application, probably resulting in prolonged and unlawful detention.

2. Petitioner has filed a Petition for Writ of Habeas Corpus challenging his detention as violative of due process under the Fifth Amendment. Pending resolution, he seeks a TRO to prevent removal or transfer, as such actions would irreparably harm him by exposing him to persecution in China and denying access to counsel.

II. STATEMENT OF FACTS

3. Petitioner Chenrui MIAO is a native and citizen of China fleeing his political persecution from communist China.

4. On or around May 14, 2024, Petitioner entered the United States to sought asylum protection.

5. On or around May 16, 2024, DHS issued the Petitioner a Form I-220A (Order of Release on his own Recognizance), expressly releasing him pursuant to INA § 236, not § 235. DHS then determined at that time that Petitioner posed no danger and no flight risk and permitted him to live freely in the community under minimal reporting conditions.

6. On June 11, 2024, Petitioner, through his counsel Chuangchuang Chen, Esq., timely filed a Form I-589 Application for Asylum.

7. After his release, Petitioner has continuously resided in Los Angeles, California, lived openly and lawfully, complying with all immigration requirements.

8. On or around December 30, 2025, Petitioner was apprehended by ICE during a regular routine check-in.

9. Petitioner has no criminal record of any kind and has demonstrated good moral character.

10. Petitioner was suddenly detained without any allegation of noncompliance, danger, or flight risk. ICE did not explain reversing its earlier §236(a) release determination.

11. Petitioner now seeks a Writ of Habeas Corpus under 28 U.S.C. § 2241, as his detention is unlawful, arbitrary, and violates the Fifth Amendment, the Suspension Clause, and statutory limits under 8 U.S.C. § 1226(a). He respectfully requests immediate release or, in the alternative, a prompt individualized bond hearing.

12. Petitioner was unexpectedly detained without justification. Both EOIR and DHS claim that Immigration Judge does not have jurisdiction for his bond application, due to Petitioner's classification as an "arriving alien" under 8 U.S.C. § 1225(b)(2). This will bring Petitioner in prolonged detention, causing significant hardship, including separation from family and community, and exacerbating trauma from persecution.

13. Despite ongoing asylum proceedings, there is an imminent risk of removal, as ICE has not stayed deportation. Transfer to a remote facility is also possible, which would hinder counsel's access and moot the habeas petition.

III. LEGAL STANDARD

14. A TRO may be granted if the movant shows: (1) a likelihood of success on the merits; (2) irreparable harm absent relief; (3) the balance of equities tips in the movant's favor; and (4) the public interest favors the injunction. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is a party, the balance of equities and public interest merges. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c). Ex parte relief is appropriate where notice would defeat the purpose or cause immediate harm. Fed. R. Civ. P. 65(b)(1).

IV. ARGUMENT

A. Likelihood of Success on the Merits

15. Petitioner is likely to succeed on his habeas claim. His prolonged detention without a bond hearing violates due process. See *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (indefinite detention presumptively unconstitutional after six months). Although Immigration Judges lack bond jurisdiction over arriving aliens, federal courts retain habeas authority to review and remedy due process violations in detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (leaving open constitutional claims). Petitioner's compliance, clean record, and persecution fears establish entitlement to release or a hearing.

B. Irreparable Harm

16. Absent a TRO, Petitioner faces imminent removal to China, where he would suffer persecution, torture, or death as a dissident. Removal would moot the habeas petition and asylum claim. See *Nken v. Holder*, 556 U.S. 418, 435 (2009) (removal constitutes irreparable harm). Transfer would similarly impair counsel access, violating due process.

C. Balance of Equities and Public Interest

17. The final two factors for an injunctive relief—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, the Petitioner faces weighty hardships, namely the deprivation of his statutory and constitutional rights to a bond hearing, the deprivation of his liberty, the denial of medical care, and the removal to China, where he may face persecution.

18. Respondents, by contrast, face minimal hardship. The government does not face hardship at all because there are no administrative costs associated with the release, or only minimal costs(e.g., administrative costs associated with providing procedural due process) if the

court grants the injunction. “[T]he balance of hardships tips decidedly in plaintiffs’ favor” when “[f]aced with such a conflict between financial concerns and preventable human suffering.”

Hernandez v. Sessions, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

19. Moreover, Respondents cannot suffer harm from an injunction that merely ends an unlawful practice. In *Sopo v. U.S. Attorney General*, the 11th Circuit emphasized that the public interest in having immigration laws applied correctly and evenhandedly is a critical consideration. The court discussed the rights of detained immigrants and the importance of ensuring that immigration laws are enforced in a manner consistent with due process protections. *Sopo v. U.S. Attorney General*, 825 F.3d 1199 (11th Cir. 2016). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”).

20. The equities favor Petitioner, who has integrated into U.S. society without incident. Respondents face minimal burden from a temporary stay. Public interest supports due process and humanitarian protection for refugees. See *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015) (public interest in preventing unlawful detention).

V. CONCLUSION

For the foregoing reasons, the Court should grant the emergency TRO as requested.

Respectfully Submitted,

DATED February 13, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
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