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15 UNITED STATES DISTRICT COURT
16 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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18 HUAMEI CHEN,
19 Plaintiff and Petitioner,
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21
22 vs.
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24 Warden of the Otay Mesa Detention Center;
25 GREGORY ARCHAMBEAULT, Acting
26 Field Office Director for Enforcement and
27 Removal Operations at the San Diego Field
28 Office; PAM BONDI, Attorney General,
United States Department of Justice; KRISTI
NOEM, Secretary, United States Department
of Homeland Security; TODD LYONS,
Acting Director of Unites States Immigration
and Customs Enforcement; and DOES 1-5

Defendants-Respondents

Case No.: '26CV1549 JES BLM

Hon:

WRIT OF HABEAS CORPUS
AND COMPLAINT FOR
DECLARATORY AND
INJUCTIVE RELIEF

INTRODUCTION

WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUCTIVE
RELIEF - 1

1 1. This case challenges the unlawful and punitive detention of Plaintiff-Petitioner,
2 who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at
3 the Otay Mesa Detention Center, Otay Mesa, California. Petitioner is neither a flight
4 risk nor a danger to the community. While Petitioner was placed on order of
5 recognizance and released on parole, ICE re-detained Petitioner without notice or
6 opportunity to be heard, on the decision of an individual without authority to do so,
7 without findings required by law, and in violation of agency rules and published
8 regulations.

9 2. Unless the Court orders Petitioner’s immediate release, she will continue to be
10 subjected to unlawful and punitive detention.

11 3. Plaintiff-Petitioner further challenge the legality of Respondents’ uniform policy
12 and practice of subjecting noncitizens to arrests and detention without providing due
13 notice of condition of violation of terms of release and/or parole violation, an
14 opportunity to be heard and provide explanation prior to deprivation of liberty.

15 4. Plaintiff-Petitioner is not challenging or seeking judicial review of the initiation
16 of removal proceedings, the way her removal proceedings were or are conducted, or
17 the denial of immigration relief by the EOIR or USCIS.

18 5. Through their uniform practices Respondents violate the rights of Petitioner and
19 similarly situated individuals under the due process and equal protection guarantees of
20 the U.S. Constitution, the INA and its regulations, and the Administrative Procedure
21 Act.

JURISDICTION AND VENUE

1 6. This action arises under the Constitution of the United States; the Immigration
2 and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration
3 Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208,
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5 Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208,
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7 110 Stat. 1570 [hereinafter ‘INA’]; and Administrative Procedure Act, 5 U.S.C. §§ 701
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9 *et seq* [hereinafter “APA”].

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11 7. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, art. I § 9,
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13 cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §
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15 1331, as Petitioner is presently in custody under color of the authority of the
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17 United States based on the service of a Notice to Appear and is in the immediate
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19 physical custody of Respondent Warden of the Otay Mesa Detention Facility, and
20
21 such custody is in violation of the Constitution, laws, or treaties of the United
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23 States.

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25 8. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §
26
27 702, and the All Writs Act, 28 U.S.C. § 1651.

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9. This court has further remedial authority pursuant to the Declaratory
Judgment Act, 28 U.S.C. § 2201 et seq..

10. The use of the Writ of Habeas Corpus to challenge detention by ICE is not
foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119
Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),
(B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to
review orders of removal, not challenges to detention or the denial of constitutional
rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus
has always been available to review the legality of executive detention.”).

WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF - 3

1 11. This Court could enjoin federal officials pursuant to *Ex Parte Young*, 209
2 U.S. 123 (1908). See *Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–21 (1912)
3 (applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S. 536, 545
4 (1926) (same).
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9 12. Plaintiff-Petitioner has exhausted all administrative remedies to the extent
10 available and required by law.
11

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13 13. Venue properly lies within the Southern District of California, because each
14 named Defendant-Respondent is present in this district and a substantial part of the
15 events or omissions giving rise to this action occurred and continue to occur in this
16 District. See 28 U.S.C. §1391(b). Moreover, Petitioner is currently detained within
17 this district to wit, at the Otay Mesa Detention Facility located at 7488 Calzada De
18 La Fuente, San Diego, CA 92154. Accordingly, the “restraint complained of” is
19 occurring within the Court’s territorial jurisdiction. See 28 U.S.C. § 2241(a).
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23 14. No petition for habeas corpus has previously been filed in any court to
24 review this the named Plaintiff-Petitioner’s detention.
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PARTIES

15. Plaintiff-Petitioner HUAMEI CHEN is a 43-year-old national and citizen of
China who was arrested and re-detained by Respondents in 2026 without a
probable cause or a warrant, and is now detained without Respondents providing
her with an opportunity to be heard, to be released on bond, and/or to be
represented by her retained counsel prior to be deprivation of liberty.

1 16. The U.S. Department of Homeland Security (“DHS”) is a cabinet
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3 department of the United States federal government with the primary mission of
4
5 securing the United States.
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7 17. ICE is an agency within DHS with the primary mission of arresting,
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9 detaining, and removing non-citizens physically present within the territory of the
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11 United States. ICE is also responsible for the custody and care of all detained non-
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13 citizens awaiting resolution of their immigration cases or removal after a final
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15 order of removal had been entered.
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17 18. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem
18
19 has responsibility for the administration of immigration laws pursuant to 8 U.S.C.
20
21 §1103(a), has authority over ICE and its field offices, and has authority to order the
22
23 release of Plaintiff-Petitioner. At all times relevant to this Complaint,
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25 Defendant Noem was acting within the scope and course of her position as the
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27 Secretary for DHS. Defendant Noem is sued in her official capacity.
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19. Defendant-Respondent Todd Lyons is the Acting Director and Senior
Official Performing the Duties of the Director of ICE. Defendant Lyons is
responsible for the implementation of all ICE’s policies, practices, and procedures,
including those relating to detention of non-citizens. Defendant Lyons is a legal
and immediate custodian of Plaintiff. At all times relevant to this Complaint,
Defendant Lyons was acting within the scope and course of his position as an ICE
official. He is sued in his official capacity.

1 20. Defendant-Respondent Archambault is the Acting Field Office Director for
2 Enforcement and Removal Operations at the San Diego Field Office, which has
3 immediate custody of Plaintiff-Petitioner. He is sued in his official capacity.
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7 21. Defendant Warden is the warden of the Otay Mesa Detention Center, where
8 Plaintiff-Petitioner is currently detained. Defendant Warden is the immediate,
9 physical custodian of Plaintiff-Petitioner. He is named in his official capacity.
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13 22. The true names or capacities, whether individual, corporate, associate or
14 otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are
15 unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such
16 fictitious names, and Plaintiff will amend this Complaint to show their true names
17 and capacities when ascertained. Does 1 through 5 are the immediate, physical
18 custodians of Plaintiff
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25 **FACTS RELEVANT TO ALL CAUSES OF ACTIONS**
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27 23. Petitioner entered the United States on or about 4 April 2023 at or near
28 Tecate, CA without inspection and turned himself to the Border Patrol. See Exhibit
A & B.

24. Petitioner was arrested pursuant to section 1226(a) based on an warrant
issued by Respondent and served on Petitioner. See Exhibit C.

25. On or about 5 April 2023 Respondent granted Petitioner conditional parole.
See INA § 236(a)(2)(B); *Rivera v. Holder*, 307 F.R.D. 539 (W.D. Wash. 2015).

26. On 7 April 2023 Petitioner was placed on an order of recognizance (OREC)
and ordered to report again to the ERO office in Los Angeles. See Exhibit D.

1 27. Respondents placed Petitioner in section 240 Removal Proceeding by filing
2
3 a Notice to Appear with the EOIR charging respondent as a non-citizen present in
4
5 the United States without having been admitted or paroled. See Exhibit E.
6

7 28. Petitioner filed a timely application for asylum and subsequently received a
8
9 work authorization document based on said application. see Exhibit F.
10

11 29. Petitioner asserts that she had not willfully violated any condition of her
12
13 parole and her release of recognizance.
14

15 30. Petitioner has attended all USCIS and ICE appointments and has diligently
16
17 complied with the terms of her parole and release.
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19 31. On 23 January 2026 Petitioner went to visit a friend in San Diego. See
20
21 Exhibit A. On her way back she exited the freeway in search of a gas station.
22
23 Id. Her car's navigation system mistakenly took her to the entrance of the
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25 Camp Pendelton military base. Id. Petitioner asked for help to get back on her
26
27 way but was told to stay in her car. Id. She showed the military personnel her
28
ID and work permit, as well as proof of the pending asylum application before
the USCIS. Id. The military arrested Petitioner and held her until Respondents
picked her up and transported her to the Otay Mesa detention center. Id.

32. The Respondents have refused to release Petitioner from custody
asserting that she is subject to mandatory detention under section 1225(b)(2).

RELEVANT IMMIGRATION STATUTORY SCHEME

Immigration Detention

33. The INA governs the use of immigration detention both pre- and post-final

1 order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a);
2
3 pre-final-order detention by 8 U.S.C. § 1226.
4

5 34. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated,
6
7 comprehensive frameworks for detaining criminal and non-criminal non-citizens.
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9 35. Section 1226 authorizes the detention of non-citizens during removal
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11 proceedings: section 1226(a) controls non-criminal aliens' detentions, while
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13 section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c).
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15 Once a non-citizen's removal proceedings are completed ICE's detention authority
16
17 is controlled by section 1231, which also distinguishes between non-criminal and
18
19 criminal non-citizens. *See* 8 U.S.C. § 1231.
20

21 *Section 1226(a) and Non-Criminal Non-citizens*
22 *During Removal Proceedings*
23

24 36. The Attorney General has discretion to detain a non-criminal non-citizen
25
26 "pending a decision on whether the alien is to be removed from the United States."
27
28 *See* 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the
duration of the removal proceedings or release him on bond or conditional parole.
See 8 U.S.C. § 1226(a)(1)-(2).

37. In connection with § 1226(a), the DHS promulgated regulations setting out
the process by which a non-criminal non-citizen may obtain release. The
regulations provide that, in order to obtain bond or conditional parole, the "alien
must demonstrate to the satisfaction of the officer that such release would not pose
a danger to property or persons, and that the alien is likely to appear for any future
proceeding." *See* 8 C.F.R. § 1236.1(c)(8).

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*Section 1226(c) and Criminal Non-citizens
During Removal Proceedings*

38. Although the Attorney General has broad discretion to release non-criminal non-citizens during the pendency of their removal proceedings, the INA limits the Attorney General's discretion in the case of criminal non-citizens. Specifically, section 1226(c) mandates that "[t]he Attorney General shall take into custody any alien who . . . is deportable by reason of having committed [certain specified offenses]." *See* 8 U.S.C. § 1226(c)(1)(B).

39. Section 1226(c) provides that the Attorney General may release a criminal non-citizen "only if" necessary for narrow witness protection purposes. *See* 8 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-citizens throughout the entirety of their removal proceedings, and there is no statutory possibility for release on bond.

40. Petitioner was never detained and cannot be detained under the authority of section 1226(c) as she has no qualifying criminal convictions.

Detention Pursuant to 8 U.S.C. § 1225(b)(2) and Respondents New Detention Practices

41. Under § 1225(b)(2), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant issued by the Attorney General "may" be detained but is also eligible for release on bond. 8 U.S.C § 1226(a). Courts have repeatedly held that § 1225 applies to

1 arriving aliens, while § 1226 governs detention of “aliens already in the country.”
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3 *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018). Petitioner is not an arriving
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5 alien, see Notice to Appear at Exhibit D, Respondents elected not to place her in
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7 section 1225 when she was first apprehended, but exercised their discretionary
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9 authority and arrested her, processed her, and released her under section 1226(a).

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11 42. At the time of her arrest Petitioner was in authorized stay granted by
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13 Respondents.

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15 43. In July 2025, however, ICE began asserting that all individuals who entered
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17 without inspection should be considered “seeking admission” and therefore subject
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19 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). See Exhibit D.

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21 44. On September 5, 2025, the BIA issued a precedential decision adopting this
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23 interpretation, departing from the INA’s text, federal precedent, and existing
24
25 regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

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27 45. Respondents’ new legal interpretation is plainly contrary to the statutory
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framework and its implementing regulations. Indeed, for decades, Respondents had
applied § 1226(a) to people like the Petitioner. Defendants’ new policies are thus
not only contrary to law, but are arbitrary and capricious in violation of the
Administrative Procedure Act (“APA”).

Parole and Release on Recognizance

46. Respondents’ statutory authority to release noncitizens from custody depends
on which detention statute applies.

47. Section 1226(c) is the most restrictive provision and authorizes release only
when necessary, under federal witness protection statutes. See 8 U.S.C. § 1226(c)(4).

1 48. Noncitizens subject to either subsection of § 1225 are not statutorily eligible for
2 bond—whether by DHS or an immigration judge—or release on their own
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4 recognizance. However, DHS can release them on humanitarian parole under 8 U.S.C.
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6 § 1182(d)(5)(A).
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9 49. Under § 1226(a), DHS can release noncitizens on bond, on their own
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11 recognizance (also known as “conditional parole”), or on humanitarian parole. *See* 8
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13 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(8). Noncitizens who are subject to § 1226(a)
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15 are also entitled to a bond hearing before an immigration judge.

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17 50. Regardless of the statutory vehicle for release, a DHS officer may not release a
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19 noncitizen unless the individual does not pose a risk of flight or danger to the
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21 community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8) (noncitizen must “demonstrate
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23 to the satisfaction of the officer that such release would not pose a danger to property
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25 or persons, and that the [noncitizen] is likely to appear for any future proceeding”);
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27 *see also* 8 C.F.R. § 212.5 (humanitarian parole available only when “the [noncitizens]
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present neither a security risk nor a risk of absconding”).

51. Any “[r]elease” of a noncitizen, thus, “reflects a determination by Respondents that the noncitizen is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)

Revocation of Conditions of Release

52. When a non-citizen is placed on parole status after having been detained, a protected liberty interest may arise. *Young v. Harper*, 520 U.S. 143, 147-149 (1997).

1 53. The Due Process Clause may protect this liberty interest even where a statute
2
3 allows the immigrant’s arrest and detention and does not provide for procedural
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5 protections. *Id.* (Due Process requires pre deprivation hearing before revocation of
6
7 parole); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). *Morrissey* observed that
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9 parole allows the parolee to enjoy the same activities as those who have not been
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11 arrested and held in custody including, living at home, having a job, and “be[ing] with
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13 family and friends and to form the other enduring attachments of normal life.”
14
15 *Morrissey*, 408 U.S. at 482. “Though the [government] properly subjects [the parolee]
16
17 to many restrictions not applicable to other citizens,” such as monitoring and seeking
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19 authorization to work and travel, “his condition is very different from that of
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21 confinement in a prison.” *Id.* “The parolee has relied on at least an implicit promise
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23 that parole will be revoked only if he fails to live up to the parole conditions.” *Id.* The
24
25 revocation of parole undoubtedly “inflicts a grievous loss on the parolee.” *Id.*
26
27 (quotations omitted). Therefore, a parolee possesses a protected liberty interest in her
28
“continued liberty.” *Id.* at 481–84.

54. The protected liberty is even greater when a person is placed on release on order of recognizance, as is the case here.

55. In *Pinchi*, the Court explained:

. . . even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody. See *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022) (“[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-

1 detention.”); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at
2 *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020
3 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969
4 (“Just as people on preparole, parole, and probation status have a liberty
5 interest, so too does [a noncitizen released from immigration detention] have a
6 liberty interest in remaining out of custody on bond.”).

7
8 *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July
9 24, 2025).

10
11 56. Under substantive due process doctrine, a restraint on liberty like revocation
12 of a non-citizen’s order of supervision is only permissible if it serves a “legitimate
13 nonpunitive objective.” *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The
14 Supreme Court has only recognized two legitimate objectives of immigration
15 detention: *preventing danger to the community or preventing flight prior to*
16 *removal*. See *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional
17 limitations on civil detention).

18
19 57. “Procedural due process imposes constraints on governmental decisions
20 which deprive individuals of liberty,” like the decision to revoke a non-citizen’s
21 order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation
22 modified). “The fundamental requirement of [procedural] due process is the
23 opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at
24 333 (citation modified).

25
26 58. Under the INA and implementing regulations, certain DHS officials “at any
27 time may revoke a bond or [conditional] parole authorized under [§ 1226(a)], rearrest
28 the [noncitizen] under the original warrant, and detain the [noncitizen].” 8 U.S.C. §
1226(b); see 8 C.F.R. § 236.1(c)(9). Certain DHS officials may terminate

1 humanitarian parole upon written notice when they determine that the purpose for
2 parole has been “accomplish[ed]” or when “neither humanitarian reasons nor public
3 benefit warrants the [noncitizen’s] continued presence . . . in the United States[.]” 8
4 C.F.R. § 212.5(e)(2)(i). For decades, however, DHS has had a consistent policy and
5 practice of re-detaining noncitizens in removal proceedings only when the individual
6 circumstances related to their flight risk or danger to the community had materially
7 changed.
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15 59. By regulation, revocations of release may only be carried out in the “discretion
16 of the district director, acting district director, deputy director, assistant district
17 director for investigations, assistant district director for detention and deportation, or
18 officer in charge (except foreign).” 8 C.F.R. § 236.1(c)(9).
19
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23 60. Despite “the breadth of [the] statutory language” in 8 U.S.C. § 1226(b), the
24 Respondents’ authority to re-detain is subject to “an important implicit limitation”: It
25 cannot lawfully re-arrest or re-detain someone without “a material change in
26 circumstances.” *Saravia*, 280 F. Supp. 3d at 1197; *see also Matter of Sugay*, 17 I. &
27 N. Dec. 637, 640 (B.I.A. 1981). Thus, a person released from initial custody, like
28 Petitioner here, cannot be re-detained “solely on the ground that he is subject to
removal proceedings[.]” without some new, intervening cause. *Saravia*, 280 F. Supp.
at 1196. Indeed, the Fourth Amendment, which applies to seizures by immigration
authorities, prohibits such re-arrests, which courts have long held could result in
“harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th
Cir. 1971) (Stevens, J.) (prohibiting rearrest without change in circumstances in
criminal context); *U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth
WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF - 14

1 Amendment principles from criminal context to “limit” scope of immigration agents’
2 seizure authority); *Gonzalez v. United States Immigr. & Customs Enf’t*, 975 F.3d 788,
3 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal
4 and civil immigration context).
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9 61. The Supreme Court has repeatedly recognized that re-detention after some form
10 of conditional release requires a pre-deprivation hearing. *Young v. Harper*, 520 U.S.
11 143, 152 (1997) (re-detention after pre-parole conditional supervision); *Gagnon v.*
12 *Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v.*
13 *Brewer*, 408 U.S. 471 (1972) (same, in parole context). The same protection apply to
14 people like Petitioner who were released from civil immigration detention. See
15 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (observing that “[g]iven
16 the civil context [of immigration detention], [the] liberty interest [of noncitizens
17 released from custody] is arguably greater than the interest of parolees.”)
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27 **COUNT ONE**

28 **Detention in Violation of the Fifth Amendment
(substantive due process)
Against all Defendants**

62. Petitioner repeats and incorporates by reference all allegations in paragraphs
1 to 61 above.

63. The Fifth Amendment guarantees that no person shall be deprived of liberty
without due process of law. U.S. Const. Amend. V. “Freedom from
imprisonment—from government custody, detention, or other forms of physical
restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*,
533 U.S. 678, 690 (2001).

1 64. “Government detention violates the Due Process Clause unless it is ordered
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3 in a criminal proceeding with adequate procedural safeguards, or in certain special
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5 and non-punitive circumstances ‘where a special justification, . . . outweighs the
6
7 individual’s constitutionally protected interest in avoiding physical restraint.’”
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9 *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v.*
10
11 *Hendricks*, 521 U.S. 346, 356 (1997)).

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13 65. Respondents cannot show any “special justification” or compelling
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15 governmental interest which would outweigh Petitioner’s constitutional liberty.

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17 66. The governmental interest in the continued detention of these least-
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19 dangerous individuals does not and cannot outweigh the liberty interest at stake.

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21 **COUNT TWO**
22 **Violation of Fifth Amendment Right**
23 **Procedural Due Process**
24 **Against All Defendants**
25

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27 67. Petitioner repeats and incorporates by reference all allegations in paragraphs
28
1 to 61 above.

68. The Fifth Amendment’s Due Process Clause prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.

69. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

70. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner’s release.

1 71. Petitioner’s private interest in freedom from detention is profound. The interest
2
3 in being free from physical detention is “the most elemental of liberty interests.” *Hamdi*
4
5 *v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690
6
7 (2001) (“Freedom from imprisonment—from government custody, detention, or other
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9 forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
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11 protects.”).

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13 72. The risk of erroneous deprivation is exceptionally high. Petitioner has never
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15 been arrested or convicted of a crime and has deep ties to the community.

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17 73. The government’s interest in detaining Petitioner without due process is
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19 minimal. Immigration detention is civil, not punitive, and may only be used to prevent
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21 danger to the community or ensure appearance at immigration proceedings. *See*
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23 *Zadvydas*, 533 U.S. at 690.

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25 74. Furthermore, the “fiscal and administrative burdens” of providing Petitioner
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27 with a pre-deprivation bond hearing are minimal, particularly when weighed against the
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significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

75. Considering these factors, Petitioner respectfully requests that this Court order
her immediate release from custody or in the alternative order that she be provided with
a bond hearing before an immigration judge where Respondents bear the burden of
proof.

COUNT THREE
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond
Against All Respondents

1 76. Petitioner repeats and incorporates by reference all allegations in paragraphs
2
3 1 to 61 above.

4
5 77. When Respondents apprehended Petitioner in 2023 they exercised their
6
7 prosecutorial discretion and elected to arrest, process, and release Petitioner under
8
9 the authority of section 1226(a).

10
11 78. Petitioner may be re-detained, if at all, pursuant to 8 U.S.C. § 1226(a).
12
13 Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond
14
15 hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

16
17 79. Petitioner was denied an individual initial custody determination upon her
18
19 re-detention and a bond redetermination by an immigration judge would be futile in
20
21 light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) on the ground that
22
23 section 1226(a) no longer applies to Petitioner.

24
25 80. Petitioner’s continuing detention is therefore unlawful.
26
27
28

COUNT FOUR
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19
Against All Respondents

81. Petitioner repeats and incorporates by reference all allegations in paragraphs
1 to 61 above.

82. In 1997, after Congress amended the INA through IIRIRA, EOIR and the
then-Immigration and Naturalization Service (“INS”) issued an interim rule to
interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,
Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
being applicants for admission, [noncitizens] who are present without having been
WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF - 18

1 admitted or paroled (formerly referred to as [noncitizens] who entered without
2 inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at
3 10323. The agencies thus made clear that individuals who had entered without
4 inspection were eligible for consideration for bond and bond hearings before IJs
5 under 8 U.S.C. § 1226 and its implementing regulations.
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10
11 83. The application of § 1225(b)(2) to Petitioner unlawfully mandates her
12 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
13
14

15 **COUNT FIVE**

16 **Non-Statutory Ultra Vires Action/Accardi Doctrine Violation**
17 **Against all Respondents**

18
19 84. Petitioner repeats and incorporates by reference all allegations in paragraphs
20 1 to 61 above.
21

22
23 85. There is no statute, constitutional provision, or other source of law that
24 authorizes Respondents to detain Petitioner under the circumstances of this case.
25

26
27 86. Petitioner has a non-statutory right of action to declare unlawful, set aside,
28 and enjoin Respondents’ ultra vires actions.

87. Under the *Accardi* doctrine, Petitioners also have a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (“If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing”).

88. Respondents violated agency regulations governing who and upon what findings could be detained.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue a Writ of Habeas Corpus on the ground that Petitioner’s continued detention violates the Due Process Clause and order Petitioner’s release;
- (3) In the alternative, issue injunctive relief ordering Respondents to release Petitioner, on the ground that her continued detention violates Plaintiffs’ constitutional due process rights;
- (4) Issue an injunction ordering Respondents not to re-detain Petitioner without a proper finding that she has committed a violation of the conditions of release or bond;
- (5) Issue an injunction ordering Respondents not revoke Petitioners’ grant of release without providing prior written notice, an opportunity to respond, and be represented by counsel prior to deprivation of liberty when the individual is not yet subject to a final order of removal;
- (6) Issue an injunction prohibiting the transfer of Petitioner outside of the jurisdictional limits of this Court;
- (7) Enter a judgment declaring that Respondents’ detention of Petitioner is and will be unauthorized by statute and contrary to law;
- (8) Award Petitioner reasonable costs and attorney fees.

Date: 3/11/2026

Verified and Submitted by
WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF - 20

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s/ Nicolette Glazer Esq.

Nicolette Glazer Esq.
LAW OFFICES OF LARRY R GLAZER
2121 Avenue of the Stars #800
Century City, CA 90067
T: 310-407-5353
F: 310-407-5354
nicolette@glazerandglazer.com
ATTORNEY FOR PETITIONER

VERIFICATION OF COUNSEL

I am counsel for Petitioner who is detained by ICE outside of the counties in which I maintain my offices and she cannot easily receive and return documents. Accordingly, I make this verification for and on behalf of Petitioner for that reason. I have conducted a reasonable investigation into the facts and circumstances in this case and I am informed and believe and on that ground allege that the factual matters stated in the foregoing Petition for Habeas Corpus are true and correct to the best of my knowledge. I so declare under penalty of perjury.

s/ Nicolette Glazer Esq.

Nicolette Glazer Esq.
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nicolette@glazerandglazer.com
ATTORNEY FOR PETITIONER

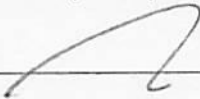
I HuaMei Chen I am over 18 years old and I declare under penalty of perjury that the following is true and correct to the best of my knowledge

1. My name is HuaMei Chen
2. I am from China.
3. I am 43 years old.
4. I have entered in the United States for over 2 years.
5. I applied for asylum application and I have the work permit card.
6. I escaped from my country because I have fear to return to my country.
7. I always reported to ICE and at or about 2023, they told me I didn't have to go back to report anymore.
8. On 1/23/2026, I went to visit her friend in San Diego and on my way back, I wanted to get more gas for my car so I got off the freeway. I tried to find a gas station but accidentally I went into the entrance of Campo Pendleton Marine Corp Base Camp. I wasn't even aware it was a military base. There were some people who wore military uniform approached her and asked her if she had family in that area and I told her my family were in Los Angeles. They made me wait inside the car for a while. They checked my vehicle registration etc. Instead of assisting me even they knew I had lost my way, they went ahead and arrested her. I didn't know why they arrested me since I just lost my way and I have a case pending and I have my work permit. There was no interpreter for me even I didn't speak English.
9. It was not my intention to go into a military base. I followed the navigation and the navigation took me to the base by mistake. I saw a lot of people were taken into custody on that same day, by entering marine base by mistake.
10. They took me to Otay Mesa Detention Center the same day.
11. The living condition inside is extremely bad. There are 8 people inside a small cell and I am the only Chinese inside. The cellmate made a lot of noises and I couldn't sleep at night. Both male and female stay in the same cell. People have to pee on their pants because there is no bathroom inside.
12. The living condition is very bad inside. There is not enough food for all of us.
13. I am very sick now at detention center. I have been suffering from constipation and anxiety. My medical situation is getting worse inside. The treatment they provided me is not helpful. I have been out of medications for days already. I am suffering inside.
It is very cold inside and there is no blanket inside sufficient to keep me warm. Even the weather is very cold, they still turn on the air conditioning. I have substantial medical problems and I cannot stand living conditions inside. A lot of people caught cold and are sick and spread to each other.
14. I could not sleep because of my medical condition. I couldn't eat at all. It is a nightmare to me about what happened on 1/23/2026. I came to this country to seek refuge because of what happened to me in my country. I never expected to have those inhuman treatments like this. When I slept at night, I would have nightmare about what happened on 1/23/2026
15. I miss my family especially my mother.
16. I feel very helpless and vulnerable under this circumstance and I am so afraid of my life if I continue to stay inside.
17. I need to get out of there since my family needs me.
18. I miss my family, my mother and I need your help

ZACHARY CHEN FOR HUAMEI CHEN

I, ZACHARY CHEN, prepared the contents of the above declaration at the request and with the permission of HuaMei Chen. I am competent in interpreting from English to Mandarin. I read the information contained herein to the Petitioner in Mandarin to the best of my ability. The Petitioner confirmed to me that all the translated information from Mandarin to English and vice versa in this document is true and correct and adopted the contents of the declaration as her own. HuaMei Chen unequivocally authorized me to affix her name as an indication of approval and adoption as she is detained and cannot receive and send documents easily.

I declare under penalty of perjury on 02/07/2026



U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. [Redacted]
Event N [Redacted]
Date: April 05, 2023

FINS #: [Redacted]

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:
CHEN HUAMEI

(Full name of alien)

an alien who entered the United States at or near HIDALGO, TEXAS on April 04, 2023 is within the country in violation of the immigration laws and is

(Port)

(Date)

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

LUIS G FARIAS SR
Date: 2023.04.05 19:22:52 -05:00
0930248426.CBP1

(Signature of Designated Immigration Officer)

FARIAS, LUIS G.

(Print name of Designated Immigration Officer)

ACTING/PATROL AGENT IN CHARGE

(Title)

Certificate of Service

Served by me at MCALLEN, TEXAS on April 05, 2023 at 08:13 AM. I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

[Signature]

NATHANIEL D. KOOIMAN

(Signature of officer serving warrant)

BORDER PATROL AGENT

(Title of officer serving warrant)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE

File No.: 

Name: HUAMEI, CHEN

Date: Apr 07, 2023

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- You must report for any hearing or interview as directed by Immigration and Customs Enforcement or the Executive Office for Immigration Review.
- You must surrender for removal from the United States if so ordered.
- You must report in (writing) (person) to Duty officer at Los Angeles Field Office (ORE on May 16, 2023, 08:30 AM) as directed.

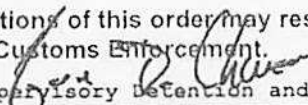
If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- You must not change your place of residence without first securing written permission from the officer listed above.
- You must not violate any local, State or Federal laws or ordinances.
- You must assist Immigration and Customs Enforcement in obtaining any necessary travel documents.
- Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.

- See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by Immigration and Customs Enforcement.


Daniel Chavez, Supervisory Detention and Deportation Officer
(Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Other language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

Christopher Dix



(Signature of ICE Official Serving Order)



(Signature of Alien)

Apr 07, 2023
Date

I hereby cancel this order of release because:

- The alien failed to comply with the conditions of release.
- The alien was taken into custody for removal.

(Signature of ICE Official Cancelling Order)

Date

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE
(ADDENDUM)

File No.: 

Name: HUAMEI, CHEN

Date: Apr 07, 2023

- That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Release on Recognizance.
- That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.
- Other:

X 
(Signature of Alien)

DEPARTMENT OF HOMELAND SECURITY
NOTICE OF CUSTODY DETERMINATION

Alien's Name: CHEN HUAMEI A-File Number: [REDACTED]
Date: 04/05/2023
Event ID: [REDACTED] Subject ID: [REDACTED] FIN: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- Detained by the Department of Homeland Security.
- Released (check all that apply):
 - Under bond in the amount of \$ _____
 - On your own recognizance.
 - Under other conditions. [Additional document(s) will be provided.]

LUIS FARIAS LF 04/05/2023 0738
Name and Signature of Authorized Officer Date and Time of Custody Determination
Acting/Patrol Agent in Charge McAllen, Texas
Title Office Location/Address

You may request a review of this custody determination by an immigration judge.

- I acknowledge receipt of this notification, and
 - I do request an immigration judge review of this custody determination.
 - I do not request an immigration judge review of this custody determination.

Refused to Sign
Signature of Alien

04/05/2023
Date

The contents of this notice were read to CHEN HUAMEI in the MANDARIN language.
(Name of Alien) (Name of Language)

KOOIMAN, NATHANIEL D. nk 8251
Name and Signature of Officer Name or Number of Interpreter (if applicable)
Border Patrol Agent
Title

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS #: [REDACTED]

DOB: [REDACTED]

File No: [REDACTED]

In the Matter of:

CHEN HUAMEI

Respondent:

752 W WALNUT AVE APT C MONROVIA, CALIFORNIA, 91016-7234

+1 (310)-503-7521

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF ;
3. You arrived in the United States at or near HIDALGO, TX , on or about April 4, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

300 N LOS ANGELES ST RM 4330 LOS ANGELES CA US 90012

(Complete Address of Immigration Court, including Room Number, if any)

on October 23, 2023 at 08:30 AM to show why you should not be removed from the United States based on the charge(s) set forth above.

DAVID LAURENT

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer) (Sign in ink)

[Signature]

Date: April 05, 2023

McAllen, Texas

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____ (Signature of Respondent) (Sign in ink)

Border Patrol Agent

Date: 04/05/2023

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on April 05, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # requested by regular mail
Attached is a credible fear worksheet.
Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the MANDARIN language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served) (Sign in ink)

NATHANIEL D. KOOIMAN, Border Patrol Agent (Signature and Title of officer) (Sign in ink)