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DETAINED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RENG RONG YU, a/k/a "Runrong Yu",
an individual,

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
MARCOS CHARLES, Acting Executive
Associate Director, Enforcement and
Removal Operations, U.S. Immigration
and Customs Enforcement;
MARKWAYNE MULLIN, Secretary,
U.S. Department of Homeland Security;
STEVEN C. STAFFORD, U.S. Marshal
for the Southern District of California;
TODD BLANCHE, U.S. Attorney
General; and DOE 1, Warden of the
facility in which Petitioner is currently
being detained within the County of San
Diego, California,

Respondents.

Case No.: '26CV2438 LL DDL

**PETITIONER RENG RONG YU'S EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY
INJUNCTION**

*[Declaration of Steven K. Ridgill;
Proposed Orders filed concurrently
herewith]*

Date: *TBD*


Time: *TBD*

Location: *TBD*

Agency file no.:



1 **TO THE HONORABLE COURT AND TO THE PARTIES AND THEIR**
2 **COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that as soon as the matter may be heard, at a
4 time, date, and location to be set by the U.S. District Court for the Southern District
5 of California, Petitioner RENG RONG YU, a/k/a “Runrong Yu” (“Petitioner”), A-
6 Number  by and through his attorneys, will appear *ex parte* and apply
7
8 for a Temporary Restraining Order requiring his immediate release from
9
10 immigration detention under Respondents’ custody.

11 Petitioner respectfully requests that the Court regard the concurrently filed
12
13 Petition for Writ of Habeas Corpus, with its exhibits, as being fully incorporated
14
15 herein.

16 **NOTICE TO RESPONDENTS**

17 This application is filed concurrently with the Petition for Writ of Habeas
18
19 Corpus, which has not yet been assigned a case number, docket, or hearing date.
20 Because no Assistant United States Attorney has been assigned to this matter at the
21
22 time of filing, and because no date, time, or courtroom has been set for any hearing,
23
24 Petitioner is presently unable to provide Respondents with formal advance notice of
25
26 a specific hearing. Petitioner will promptly serve copies of all filed documents —
27
28 including this Application, the Petition, all supporting declarations, and all exhibits
— upon the U.S. Attorney's Office for the Southern District of California and the

1 ICE San Diego Field Office Director immediately upon filing, consistent with the
2 requirements of Federal Rule of Civil Procedure 65(b)(2) and applicable Local
3 Rules.

4
5 Notwithstanding the foregoing, the circumstances of this case independently
6 justify ex parte relief under Rule 65(b)(1). Petitioner has been in continuous civil
7 immigration custody for over nine months without any bond hearing and without
8 any valid legal predicate for that detention. His underlying criminal conviction —
9 the sole basis for both the removal order and mandatory detention — has been
10 vacated. Each additional day of confinement constitutes a fresh constitutional injury
11 that cannot be remedied after the fact. That harm is irreversible. Petitioner does not
12 seek to avoid notice; he seeks to prevent a constitutional injury that will occur, and
13 cannot be undone, before orderly noticed proceedings can be completed. *See Fed.*
14 *R. Civ. P. 65(b)(1)(A)-(B).*

18 INTRODUCTION

19
20 1. Petitioner's continued detention is constitutionally and statutorily
21 unlawful. The sole legal predicate for both his removal order and his immigration
22 detention — a March 14, 2025 federal criminal conviction under 8 U.S.C. §
23 1324(a)(1)(A)(ii), (v)(I) — was judicially vacated on February 26, 2026, by the
24 United States District Court for the Southern District of California pursuant to 28
25 U.S.C. § 2255. With that conviction nullified, the Immigration Judge's October 30,
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1 2025 Order of Removal — which rested exclusively on the bar arising from that
2 conviction — is legally untenable. A Motion to Remand is presently pending before
3 the Board of Immigration Appeals.
4

5 2. ICE has no lawful basis to continue holding Petitioner. The mandatory
6 detention statute that triggered his civil immigration detention, INA § 236(c),
7 applies only to aliens removable on account of qualifying criminal convictions.
8 That conviction no longer exists. Petitioner's continued confinement — without
9 bond, without a hearing, and without any valid legal predicate — violates the Due
10 Process Clause of the Fifth Amendment to the United States Constitution, and the
11 statutory framework governing immigration detention. This Court should order his
12 immediate release.
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15 3. To obtain a temporary restraining order, a movant must demonstrate
16 (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the
17 absence of preliminary relief; (3) that the balance of equities tips in his favor; and
18 (4) that an injunction is in the public interest. *Winter v. Natural Resources Defense*
19 *Council*, 555 U.S. 7, 20 (2008). All four factors are satisfied here.
20
21

22 **IRREPARABLE INJURY**

23 4. Petitioner's unlawful detention inflicts irreparable harm that cannot be
24 remedied by later judicial review. Every day of unlawful detention is an ongoing
25 constitutional violation, which is in itself an irreparable injury. *See, e.g., Melendres*
26
27

1 v. *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (Concerning the a preliminary
2 injunction inquiry, “[i]t is well established that the deprivation of constitutional
3 rights ‘unquestionably constitutes irreparable injury.’”)
4

5 5. Petitioner’s detention deprives him of emotional and his family of
6 financial support, inflicting harm that monetary damages cannot repair. *See Leiva-*
7 *Perez v. Holder*, 640 F.3d 962, 968 (9th Cir. 2011).
8

9 6. Lastly, prolonged detention without cause has caused escalating
10 anxiety, depression, and sleep disturbance for Petitioner. Courts recognize that even
11 short-term civil detention can cause lasting psychological trauma.
12

13 7. Because these harms are immediate, ongoing, and not compensable by
14 money damages, the Court’s intervention is necessary to prevent continuing and
15 irreparable injury to Petitioner.
16

17 **EXHAUSTION OF REMEDIES**

18 8. The Ninth Circuit has consistently held that exhaustion is not required
19 where administrative remedies are inadequate, futile, or unavailable, particularly in
20 immigration habeas cases. *Singh v. Holder*, 638 F.3d 1196, 1203 FN. 3 (9th Cir.
21 2011); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007); *see also Hernandez v.*
22 *Sessions*, 872 F.3d 976, 988-989 (9th Cir. 2017) (permitting habeas review of
23 custody without requiring exhaustion).
24

25 9. Accordingly, Petitioner properly seeks relief in this Court because
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1 there exists no adequate administrative forum to contest his unlawful arrest and
2 confinement, and continued detention constitutes an ongoing violation of
3 constitutional rights.

4
5 **LIKELIHOOD OF SUCCESS ON THE MERITS**

6 **I. PETITIONER'S DETENTION IS UNLAWFUL BECAUSE THE SOLE**
7 **PREDICATE FOR BOTH THE REMOVAL ORDER AND**
8 **MANDATORY DETENTION HAS BEEN JUDICIALLY VACATED.**
9

10 10. The government's authority to detain Petitioner derives entirely from a
11 removal order and a mandatory detention determination that were both predicated on
12 his § 1324 conviction. That conviction no longer exists. Petitioner's continued
13 confinement is therefore without legal foundation and must end.
14

15 **A. The Removal Order Is Legally Infirm Following Vacatur.**
16

17 11. The Immigration Judge's October 30, 2025 removal order was issued on
18 one ground and one ground only: Petitioner's conviction under 8 U.S.C. § 1324. That
19 conviction operated both as the basis for the charge of removability under INA §
20 212(a)(6)(E)(i) and as the IJ's stated rationale for denying relief. The IJ conducted no
21 merits adjudication of Petitioner's asylum, withholding, or CAT claims.
22

23 12. When the District Court vacated that conviction under 28 U.S.C. § 2255
24 on February 26, 2026, the legal foundation of the removal order collapsed. A vacated
25 conviction is a legal nullity — it is treated as though it never occurred. *See Pickering*
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1 v. *Gonzales*, 465 F.3d 263, 267-68 (6th Cir. 2006); *see also Cardoso-Tlaseca v.*
2 *Gonzales*, 460 F.3d 1102, 1107 (9th Cir. 2006). A removal order that rests exclusively
3 on a vacated conviction cannot stand as a lawful predicate for continued detention.
4

5 13. Petitioner's pending Motion to Remand before the BIA seeks exactly
6 this recognition — that the case must be returned to the Immigration Judge for a full
7 merits hearing on his unresolved claims. That motion remains pending, but the legal
8 reality it reflects — that the removal order has no surviving predicate — is already
9 established as a matter of law. ICE cannot continue to rely on that order to hold
10 Petitioner without bond while the BIA deliberates.
11

12
13 **B. Mandatory Detention Under INA § 236(c) No Longer Applies.**

14 14. ICE detained Petitioner under INA § 236(c), which requires detention
15 — without bond — of aliens removable on specified criminal grounds, including
16 alien smuggling. But § 236(c)'s mandatory detention authority is predicated on a
17 valid, subsisting criminal conviction. The statute mandates detention of an alien who
18 "is deportable" by reason of having committed a qualifying offense. Where no
19 qualifying conviction exists, § 236(c) does not apply.
20
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22 15. The Supreme Court and the Ninth Circuit have recognized that
23 mandatory detention under § 236(c) requires a qualifying criminal predicate.
24
25 *Jennings v. Rodriguez*, 583 U.S. 281 FN. 1 (2018); *Nielsen v. Preap*, 139 S.Ct. 954,
26 971 (2019). With the § 1324 conviction vacated, Petitioner is no longer “an alien . . .
27
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1 . deportable” by reason of a qualifying conviction. § 236(c)(1). Mandatory detention
2 therefore has no continued application.

3 16. ICE's only remaining authority would be discretionary detention under
4 INA § 236(a) — a wholly different regime that requires individualized assessment
5 and is subject to release on bond. But even under § 236(a), Petitioner's detention has
6 already become constitutionally problematic. He has been held for over nine months.
7 The Ninth Circuit has held that prolonged civil immigration detention, even under §
8 236(a), raises serious constitutional concerns and requires at minimum a bond
9 hearing at which the government bears the burden of justifying continued
10 confinement. *Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011). Petitioner
11 has never received any such hearing. His detention, wholly unmoored from its
12 original statutory basis, cannot continue.

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17 **II. PETITIONER'S PROLONGED DETENTION WITHOUT A VALID**
18 **LEGAL PREDICATE VIOLATES THE DUE PROCESS CLAUSE OF**
19 **THE FIFTH AMENDMENT.**
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21 17. The Due Process Clause of the Fifth Amendment prohibits the
22 government from depriving a person of liberty without due process of law. This
23 protection extends fully to noncitizens, including Lawful Permanent Residents.
24 *Zadvydas v. Davis*, 533 U.S. 678, 693-694 (2001). “[F]reedom from imprisonment
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1 — from government custody, detention, or other forms of physical restraint — lies
2 at the heart of the liberty that [the Due Process] Clause protects." *Id.* at 690.

3 18. The Supreme Court in *Zadvydas* held that detention of a
4 noncitizen must be "reasonably necessary" to the purpose the detention is supposed
5 to serve: effectuating removal. 533 U.S. at 699-700. Where removal is not
6 "reasonably foreseeable," continued confinement is not permissible. *Id.* Here, the
7 case is even more stark: removal is not merely not foreseeable — the order of removal
8 itself is legally untenable. An order premised on a vacated conviction cannot serve
9 as the basis for constitutionally permissible detention.
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12 19. Under the balancing framework of *Mathews v. Eldridge*, 424 U.S.
13 319 (1976), the equities overwhelmingly favor Petitioner. His liberty interest is at its
14 maximum. The risk of erroneous deprivation is extreme — he is detained under the
15 authority of a criminal conviction that a federal court has annulled. The government's
16 countervailing interest in maintaining mandatory detention without a hearing is
17 negligible to nonexistent: the conviction that justified that detention no longer exists.
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20 20. Petitioner has been deprived of his physical liberty for over nine months.
21 He has never received a bond hearing. The Due Process Clause does not permit the
22 government to continue holding him in these circumstances. The writ must issue.
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1 **III. REMOVAL IS NOT REASONABLY FORESEEABLE, RENDERING**
2 **CONTINUED POST-ORDER DETENTION UNLAWFUL UNDER**
3 **ZADVYDAS.**
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5 21. Even treating the existing removal order as facially valid for
6 purposes of argument, continued detention under INA § 241(a) cannot be justified.
7 *Zadvydas* established that the post-removal-order detention statute, INA § 241(a)(6),
8 contains an implicit temporal limitation: the government may not detain a noncitizen
9 beyond a period "reasonably necessary" to effectuate removal. 533 U.S. at 699. The
10 Court identified six months as a presumptively reasonable period; beyond that point,
11 the burden shifts to the government to provide evidence of a significant likelihood of
12 removal in the reasonably foreseeable future. *Id.* at 701.
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15 22. Petitioner has been held far beyond six months. More critically, no
16 removal is foreseeable: the BIA Motion to Remand is pending, the underlying
17 conviction has been vacated, the removal order is legally infirm, and the criminal
18 case itself has been reset for trial. The government cannot plausibly represent that
19 removal to China is imminent or even foreseeable in the near term. Continued
20 detention under these circumstances is precisely the prolonged and indefinite
21 confinement that *Zadvydas* held to be unlawful.
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25 **IV. THE APPROPRIATE REMEDY IS IMMEDIATE RELEASE, NOT A**
26 **BOND HEARING.**
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1 23. Petitioner recognizes that some courts, when confronted with unlawful
2 immigration detention, have ordered a bond hearing before an Immigration Judge as
3 an intermediate remedy. Petitioner respectfully submits that a bond hearing is
4 insufficient under the circumstances presented here, and that this Court should order
5 his immediate release.
6

7 24. A bond hearing before an IJ presupposes that a lawful basis for detention
8 exists and that the question is simply whether conditions of release are appropriate.
9 That presupposition does not hold here. The mandatory detention statute has ceased
10 to apply because its criminal predicate has been vacated. The removal order has no
11 surviving legal foundation. There is nothing left to adjudicate in a bond hearing; the
12 threshold question — whether any lawful authority for continued detention exists —
13 has already been answered in the negative as a matter of law.
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16 25. The constitutional infirmity of prolonged detention calls for a remedy
17 commensurate with the harm. Where, as here, the government can point to no valid
18 statutory authority for detention, no pending removal that is reasonably foreseeable,
19 and no conviction that could support mandatory confinement, the only adequate
20 remedy is release. Remanding to the IJ for a bond hearing under these circumstances
21 would not cure the constitutional violation — it would merely defer it.
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24 26. This Court has ample authority to order immediate release. Section 2241
25 grants this Court broad remedial power to “dispose of the matter as law and justice
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1 require.” 28 U.S.C. § 2243. Where continued detention lacks any lawful predicate,
2 law and justice require release.

3 **THE BALANCE OF EQUITIES AND PUBLIC INTEREST WEIGH IN**
4
5 **PETITIONER’S FAVOR**


6 27. The equities weigh overwhelmingly in Petitioner's favor. He is
7 essentially now a Lawful Permanent Resident detained without bond, without a
8 hearing, and without any valid legal predicate. Every day of continued confinement
9 is an irreparable deprivation of physical liberty — the most fundamental interest the
10 law protects. The government, by contrast, suffers no cognizable harm from
11 release: it cannot identify a valid removal order, a subsisting conviction, or any
12 statutory authority for mandatory detention. Where detention rests on a legal
13 nullity, there is no legitimate governmental interest to weigh against Petitioner's
14 liberty.
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18 28. The public interest points the same direction. The public has a
19 compelling interest in ensuring the government detains individuals only when the
20 law authorizes it. There is no public benefit in perpetuating detention that is
21 unlawful on its face — and the public interest is affirmatively served by judicial
22 enforcement of constitutional limits on executive detention authority.
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25 **PRAAYER FOR RELIEF**

26 WHEREFORE, Petitioner RENG RONG YU respectfully requests that the Court
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1 grant the following relief:

2 1. Issue a Temporary Restraining Order directing Respondents to
3 immediately release Petitioner Reng Rong Yu  from immigration
4 custody;

6 2. Order Respondents to immediately dissolve, withdraw, and cease
7 enforcement of the ICE civil immigration detainer currently lodged against
8 Petitioner;

10 3. Enjoin Respondents from re-detaining Petitioner on the basis of the
11 vacated § 1324 conviction or the October 30, 2025 Removal Order during the
12 pendency of this action;

14 4. Set a briefing schedule and hearing date on an Order to Show Cause
15 why a preliminary injunction should not issue pending final resolution of the
16 concurrently filed Petition for Writ of Habeas Corpus; and

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5. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated April 16, 2026.

/s/ [Steven K. Ridgill]

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CERTIFICATE OF WORD COUNT

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The undersigned, counsel of record for Petitioner, certifies that the preceding Petition for Writ of Habeas Corpus contains 2,445 words.

Certified this date of April 16, 2026, at Placentia, California.

/s/ [Steven K. Ridgill]

Steven K. Ridgill, attorney for
Petitioner