

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

YAN LI CHENG,

Petitioner,

v.

LADEON FRANCIS, Director, ICE
ERO Atlanta Field office,

Respondent.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner YAN LI CHENG brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the protected group of Deferred Enforced Departure (DED) for certain Hong Kong residents.

2. Separately, Respondents' failure in honoring the protections of deferred action also violates the U.S. Constitution, the Administrative Procedure Act ("APA"), and the *Accardi* Doctrine.

3. DED is in the president's discretion to authorize as part of his constitutional power to conduct foreign relations. Although DED is not a specific immigration status, aliens covered by DED are not subject to removal from the United States, usually for a designated period of time.

4. Petitioner, Yan Li Cheng, has applied and received DED protection on October 17, 2023. The protection period initially ends on February 5, 2023. On Jan. 15, 2025, former President Joseph Biden announced the extension of DED for certain Hong Kong residents for 24 months, and the protection periods now ends on February 5, 2027.¹

5. Despite being in valid deferred action status, immigration authorities continued to detained Petitioner. Petitioner was transferred to different facilities in the State of Georgia, and is currently being held in ICE ERO Office in Atlanta, GA as of July 9, 2026.

6. Accordingly, Petitioner respectfully requests the court issue a writ of habeas corpus and order his release.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. Petitioner is detained at the ICE ERO Office in Atlanta, GA.

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

¹ See <https://www.federalregister.gov/documents/2025/04/04/2025-05903/implementation-of-employment-authorization-for-individuals-covered-by-deferred-enforced-departure>, last accessed July 9, 2026.

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Northern District of Georgia, the judicial district in which Petitioner currently is detained.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. 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) (emphasis

added). “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).

PARTIES

14. Petitioner Yan Li Cheng is a national and citizen of People’s Republic of China who has resided in the United States since 2003. Petitioner holds a Hong Kong Special Administrative Region (HKSAR) passport and is a resident of Hong Kong prior to his arrival to the United States.

15. Respondent LADEON FRANCIS is the director of ICE ERO Atlanta Filed Office, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

FACTUAL ALLEGATIONS

16. Petitioner was born in mainland China and resides in Georgia. Petitioner lived with his wife prior to his detention by immigration authorities. Petitioner has lived in the United States since 2004. Petitioner’s wife is a US citizen and has filed immigrant petition for him. The petition is currently pending.

17. Petitioner has unexecuted removal order from July 12, 2026. Petitioner is seeking to reopen his removal proceedings with the Board of Immigration Appeals based on ineffective assistance of counsel.

18. Petitioner was arrested in May 2026 when appeared for a biometrics appointment for his pending immigration petition.

19. Petitioner does not have any criminal history. Petitioner is not a danger to his community.

20. USCIS granted Petitioner DED protection on October 17, 2023. The protection period initially ends on February 5, 2023, which was later extended to February 5, 2027.

21. USCIS also issued Petitioner an Employment Authorization Document (“EAD”) based on Petitioner’s deferred action status. The EAD was initially valid through February 5, 2023, which was later extended to February 5, 2027 as well.

22. Petitioner’s attorney has informed ICE ERO office by email about his protected status by DED and requested case review. To date, petitioner and his attorney has not heard back from the ERO office about his case status.

23. Because ICE has detained Petitioner and is actively seeking Petitioner’s removal, which are clearly actions to proceed against Petitioner, it is ignoring both the Executive Order and USCIS’s grant of DED. Accordingly, ICE’s efforts to detain and deport Petitioner amounts to a de facto revocation of such status.

LEGAL FRAMEWORK

24. Deferred Enforced Departure (DED) is a form of temporary protection from removal as an exercise of the President's constitutional authority over foreign affairs and immigration enforcement priorities.

25. The Executive Branch has consistently maintained that DED derives from the President's constitutional authority to conduct foreign relations under Article II of the Constitution. It is typically invoked when foreign policy or humanitarian concerns make it inappropriate to remove nationals of a particular country.

26. Typically, DED is established through either a Presidential Memorandum or an Executive Order. The Department of Homeland Security has the obligation to administer the DED after the President issues a Presidential Memorandum or an Executive Order.

27. Deferred Enforced Departure (DED) for certain Hong Kong residents was first created on August 5, 2021. On that date, President Joseph R. Biden, Jr. issued a Presidential Memorandum directing the Secretary of Homeland Security to defer the removal of certain Hong Kong residents present in the United States for 18 months, through February 5, 2023. The memorandum cited the rapid deterioration

of rights and freedoms in Hong Kong following China's imposition of the Hong Kong National Security Law (NSL) in June 2020.²

28. On January 26, 2023, President Biden extends DED for 24 months, through February 5, 2025. On January 15, 202, President Biden again extends and expands DED for 24 months, through February 5, 2027, which is the current expiration date absent further presidential action.

29. During the designated period, Respondent should defer enforcement actions to removal the petitioner from the United States. Respondent's action of continued detention of Petitioner constitutes de facto revocation of such protection granted by the President and the Countitution.

30. Absent release, Petitioner will continue to experience separation from his family and indefinite detention.

CLAIMS FOR RELIEF

31. The “historic purpose of the writ” of habeas corpus is “to relieve detention by executive authorities without judicial trial.” *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (cleaned up). A habeas court's role is at its “most extensive in cases of pretrial and noncriminal detention,” especially “where there ha[s] been little or no previous judicial review of the cause for detention,” as is the case here. *Boumediene*

² See <https://www.govinfo.gov/content/pkg/FR-2021-08-10/pdf/FR-2021-08-10.pdf>, last accessed July 9, 2026.

v. *Bush*, 553 U.S. 723, 780 (2008). Here, Petitioner sets for the following claims for issuance of the writ.

CLAIM ONE

Violation of APA 5 U.S.C. § 706(2)(A)

***Petitioner's Detention Is Not in Accordance with Law because It Violates the
ICWC PI ORDER***

32. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

33. Under the APA, courts “shall . . . hold unlawful and set aside agency action . . . found to be . . . not in accordance with law.” 5 U.S.C. § 706(2)(A).

34. Respondent's detention of Petitioner constitutes final agency action under the APA. 5 U.S.C. § 551(13), 704; *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

35. Respondents detained Petitioner pursuant to the stayed De Facto Revocation policy contrary to President's constitutional authority and executive order.

36. Accordingly, Respondents' detention of Petitioner is not in accordance with law in violation of the APA.

CLAIM TWO

Violation of the Fifth Amendment to the United States Constitution

Procedural Due Process Requires Notice and Opportunity to Be Heard before Deferred Action May Be Revoked

37. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

38. “Procedural due process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.” *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). “The essence of due process is the requirement that a person in jeopardy of serious loss” receive “notice” and “opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* at 333, 348-49 (citations omitted).

39. Here, Petitioner has a protected liberty interest in their DED. Respondent’s continued detention of Petition constitute de facto revocation of such protection.

40. 47. Accordingly, because Petitioner’s detention is not justified by flight risk or danger concerns, it bears no reasonable relation to a legitimate government purpose, Petitioner has been deprived of due process under the Fifth Amendment.

CLAIM THREE

Accardi Doctrine

Petitioner's Detention Violates the PM, Regulations, and Longstanding Policy and Practice

41. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

42. The Supreme Court has long recognized that government agencies are required to follow their own procedures. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Courts have regularly applied this principle to the immigration context. *See, e.g., Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162 (9th Cir. 2004). The *Accardi doctrine* extends beyond just “regulations” to include, e.g., “internal operating procedures,” “handbook[s],” “policy statements,” and other evidence of an agency’s “usual practice.” *Id.* at 1162.

43. The President of the United States has the authority to revoke, terminate, modify, or decline to extend Deferred Enforced Departure (DED). This is because DED is not a statutory immigration benefit enacted by Congress; rather, it is an exercise of the President's constitutional authority over foreign affairs and immigration enforcement. The Respondent, who is an employee of the Department of Homeland Security, has an obligation to enforce the President’s directive, but no authority to alter, ignore, or revoke such protection.

44. Here, Petitioner received DED through Presidential power. Respondent ICE took matters into its own hands by stripping such protection through continuing to detain Petitioner, and actively seeking to remove Peititoner.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order Respondents to show cause why the writ should not be granted, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
- (3) Issue a writ of habeas corpus and order Respondents to immediately release Petitioner and forbid them from redetaining Petitioner while in valid deferred action status;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Award reasonable costs and attorneys' fees; and
- (6) Grant such further relief as the Court deems just and proper.

DATED this 9th day of July, 2026.

s/Mengyu Peng
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