UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Hai He	)
Petitioner	) **PETITION FOR WRIT OF**
vs.	) **HABEAS CORPUS**
	) **PURSUANT TO 28 U.S.C. 2241**
The Honorable Kristi Noem	)
The Secretary (In Her Official Capacity)	)
U.S. Department of Homeland Security	)
2801 Nebraska Avenue NW	)
Washington, D.C. 20528	)
	)
GEO Group, Inc.	)
ADELANTO DETENTION FACILITY	)
10400 Rancho Road	)
Adelanto, CA 92301	)

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Article I, Section 9, Clause 2 of our Nation's Constitution provides:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

COMES NOW Petitioner Hai He, currently in custody at the ADELANTO DETENTION FACILITY, Adelanto, CA, under GEO Group, Inc., a privately owned and operated detention facility, under contract with , by and through his undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In support thereof, Petitioner states as follows:

Introduction:

1. Petitioner Hai He is a political dissident and citizen of the People's Republic of China fleeing persecution, respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner has been unlawfully detained by Adelanto Detention Facility under GEO Group, GEO Group, Inc. at 10400 Rancho Road, Adelanto, CA 92301, a privately owned and operated facility under the contract with U.S. Immigration and Customs Enforcement ("ICE") since June 2025 without a meaningful bond hearing or individualized determination of

his flight risk or danger to the community.

Statement of Fact

2. Petitioner Hai He was born on [redacted] in Fuqing, Fujian Province, China. Petitioner and his wife were [redacted]

3. [redacted] The petitioner and his wife, Qiuling He, fled communist China, to escape religious persecution on July 7, 2022, and applied for Asylum in the United States.

4. During the pendency of his asylum application, Petitioner, who was employed as the food delivery person, was asked by his employer to deliver an order of a sealed meal package including a few bottles of beers without opening the package to screen the contents therein. He was mistakenly arrested and charged for delivering an order of a sealed meal package including a few bottles of beers to an underage without examining the alleged "underage's" ID. The criminal case judge dismissed the charge yet unfortunately, he was picked up by the hunting ICE van waiting outside the criminal courthouse before his criminal case was dismissed, and right upon his walking out from the criminal court on criminal bond in June 2025. He has since been held in ICE custody for indefinite period of

time without bond. His immigration bail hearing motion moved and conducted by the predecessor counsel was rejected because the presiding immigration judge held the immigration court had no jurisdiction.

5. Petitioner and his wife are law abiding good persons and faithful Christians. Upon arriving in the United States, the couple attended and Christian Church and Bible Studies on regular basis. They worked hard to earn livelihood by self-reliance and paying tax to the government of the United States, They also diligently making contributions by both finance and time to the Church they attended. Both the petitioner and his wife were baptized.
6. Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution, as it is unreasonably prolonged, indefinite, and punitive in light of his serious medical condition, which has been exacerbated by inadequate medical care at ACCC. As of the filing of this Petition on September 23, 2025, Petitioner has been detained for approximately nine months without bond, despite posing no flight risk or danger, and despite credible claims for asylum based on political persecution in China.
7. An Immigration Judge ("IJ") denied Petitioner's bond request in June 2025, erroneously claiming lack of jurisdiction. This denial was improper, as IJs retain authority under 8 C.F.R. § 1003.19 to adjudicate bond for non-mandatory detainees like Petitioner, who is detained under 8 U.S.C. § 1226(a). The denial has left Petitioner without administrative recourse, rendering further exhaustion futile and causing irreparable harm.
8. Petitioner seeks: (a) immediate release from custody; (b) in the alternative, an order directing Respondents to provide an individualized bond hearing within 10 days; and (c) declaratory and injunctive relief prohibiting his continued detention without due process.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241(a), as Petitioner is in custody within this district at the Adams County Detention Center,

a facility under the control of the United States Department of Homeland Security ("USDHS" or "DHS").

10. Venue is proper in this U.S. District Court for District of Columbia, under 28 U.S.C. § 2241(d), as the primary Defendant is located within this district. Rumsfeld v. Padilla, 542 U.S. 426, 434-35 (2004).

11. This Petition challenges the fact and conditions of Petitioner's detention, not the merits of any final removal order, and thus falls outside the exclusive jurisdiction-stripping provisions of 8 U.S.C. § 1252. See INS v. St. Cyr, 533 U.S. 289, 298 (2001) (habeas remains available for challenges to executive detention); Demore v. Kim, 538 U.S. 510, 516 (2003) (distinguishing detention challenges from removal order review)

12. Respondent USDHS is responsible for the immigration enforcement actions leading to Petitioner's detention, including issuance of the Notice to Appear (Form I-862) and the subsequent denial of bond. See Zadvydas v. Davis, 533 U.S. 678, 688 (2001) (recognizing DHS's role in immigration detention under habeas review). Petitioner has been under the total control of the Primary Defendant DHS and its functional subsidiary Federal Agency, Immigration and Customs Enforcement, and often times such an immigration detainees in Plaintiff's Pan's status and custody condition have been transferred from one State detention center to another under the Primary Defendant discretionary control.

PARTIES

13. Petitioner is a native and citizen of the People's Republic of China. (Exhibit 1: Proof of Chinese citizenship.) He is currently detained without bond at the Adams County Detention Center, 20 Hobo Fork Road, Natchez, MS 39120.

14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), sued in her official capacity. As head of DHS, she exercises ultimate authority over ICE and the conditions of Petitioner's detention. See 6 U.S.C. § 112; Jennings v. Rodriguez, 583 U.S. 281, 290 (2018).

15. Respondent Adelanto Detention Facility under GEO Group, GEO Group, Inc. at 10400 Rancho Road, Adelanto, CA 92301, is a privately owned and operated

facility under the contract with U.S. Immigration and Customs Enforcement ("ICE")Martin L. Frink is the Warden of the Adams County Detention Center, with authority over Petitioner's day-to-day custody.

LEGAL ANALYSIS AND CLAIMS

16. Petitioner's continued detention without bond is unlawful under 28 U.S.C. § 2241, as it constitutes an unconstitutional restraint on his liberty. The writ of habeas corpus shall not be suspended "unless when in Cases of Rebellion or Invasion the public Safety may require it," U.S. Const. art. I, § 9, cl. 2. Petitioner's detention violates this Suspension Clause, as there is no exigency justifying indefinite or prolonged custody for a torture survivor with a granted parole who poses no flight risk or danger. See INS v. St. Cyr, 533 U.S. 289, 300-01 (2001) (affirming availability of habeas to challenge immigration detention under the Suspension Clause); see also Boumediene v. Bush, 553 U.S. 723, 797 (2008) (extending suspension Clause protections to non-citizens challenging executive detention).
17. The denial of bond based on Matter of Q. Li exceeds the IJ's authority and conflicts with ICE's discretionary parole grant. Parole under 8 U.S.C. § 1182(d)(5)(A) is a form of release that should supersede bond redetermination for EWI aliens. The IJ's jurisdictional bar is an improper delegation of executive authority, rendering the detention arbitrary. See Guerrero-Lasprilla v. Barr, 589 U.S. ___, 140 S. Ct. 1062, 1067 (2020) (habeas available to review legal and constitutional questions in immigration custody); Matter of De La Cruz, 28 I. & N. Dec. 87 (BIA 2020) (discussing limits on IJ bond authority for certain arriving aliens, but subject to habeas review for due process violations).
18. Petitioner's detention violates the Due Process Clause of the Fifth Amendment, as incorporated against the federal government. As a person within U.S. jurisdiction, Petitioner is entitled to fundamental fairness in custody determinations. The IJ's denial ignored Petitioner's low flight risk (evidenced by his return from China post-torture and the parole grant), lack of criminal history, and severe medical needs. See Demore v. Kim, 538 U.S. 510, 523 (2003) (mandatory detention must be reasonably related to flight risk or danger; habeas available for individualized

review); Zadvydas, 533 U.S. at 690-91 (prolonged detention without process violates due process, especially where release alternatives exist).

19. Although the Sixth Amendment right to speedy trial applies in criminal proceedings, Petitioner's civil immigration detention implicates analogous due process protections against undue delay and prejudicial custody. See, e.g., Doherty v. Thacker, 9 F.3d 61, 64 (9th Cir. 1993) (habeas relief for immigration detainees where prolonged custody prejudices merits hearing). Here, continued detention prevents Petitioner from accessing medical care and preparing his reopened asylum proceedings, violating these protections.

20. The Eighth Amendment's prohibition on cruel and unusual punishment extends to civil immigration detainees through the Fifth Amendment's Due Process Clause, barring deliberate indifference to serious medical needs. Petitioner's life-threatening conditions— [redacted] — require specialized care unavailable in detention. Detention constitutes punishment for his political opinion, exacerbated by his status as a torture survivor under the Convention Against Torture (CAT). See Jennings v. Rodriguez, 583 U.S. 281, 294 (2018) (immigration detention not inherently punitive but subject to constitutional limits); Weldon v. United States, 2005 WL 679059, at *6 (E.D. Pa. Mar. 24, 2005) (granting habeas for detainee with serious medical conditions where detention posed substantial risk of harm); see also 8 C.F.R. § 241.4 (mandatory parole consideration for medical necessity in prolonged detention).

21. Petitioner's torture in China validates his credible fear and asylum claim, rendering removal to China a risk of further persecution. Continued detention pending merits resolution is punitive and unnecessary, especially with a willing custodian providing surety. See Matter of M-S-, 27 I. & N. Dec. 509, 515 (A.G. 2019) (affirming bond hearings must consider flight risk and danger holistically); see also Orantes-Hernandez v. Thornburgh, 919 F.2d 549, 554 (9th Cir. 1990) (habeas to enforce release where detention chills asylum claims).

22. Petitioner satisfies INA bond regulations under 8 U.S.C. § 1226(a), as he is not subject to mandatory detention. With a parole grant, strong family ties, financial

surety from Ms. Roe, and no criminal history, release on bond is warranted. See Carlson v. Landon, 342 U.S. 524, 538 (1952) (bond decisions must balance government interests with individual liberty).

Possible Relief under Habeas Corpus Writ

23. Release on Personal Recognizance/Unsecured Appearance Bond:

Title 18, United States Code, Section 3142(b) requires a judicial officer to order the pretrial release of a defendant on "personal recognizance" or upon the defendant's execution of an "unsecured appearance bond" in an amount specified by the court. A Section 3142(b) release order must be conditioned on a defendant's agreement to "not commit a Federal, State, or local crime during the period of release." If, however, the judicial officer determines that the release of a defendant on "personal recognizance" or "unsecured appearance bond" would not "reasonably assure" the defendant's appearance at court proceedings, or will "endanger the safety of any other person or the community", then there is no obligation to order release. 18 U.S.C. §§ 3142(b) and 3142(c). In this event, the judicial officer must follow the provisions of Title 18, United States Code, Section 3142(c).

Release On Conditions:

24. Once a judicial officer has made the determination that a defendant does not qualify for release under Section 3142(b), then the judicial officer must follow Section 3142(c). When structuring the release of a defendant under Section 3142(c), the judicial officer must order that the defendant "not commit a Federal, State, or Local crime during the period of release. 18 U.S.C. § 3142(c)(1)(A). In addition, the judicial officer must impose the least restrictive condition or combination of conditions necessary to "reasonably assure" the defendant's appearance as required and to "reasonably assure" the safety of any person and the community". 18 U.S.C. § 3142(c)(1)(B). An illustrative list of conditions is set forth in § 3142(c)(1)(B)(i through xiv) which gives the judicial officer authority to impose conditions not specifically enumerated so long as the same serve the purposes set out in § 3142(c)(1)(B). It is important to note that "Section 3142

speaks only of conditions that will "reasonably" assure appearance, not guarantee it". United States v. Xulum, 84 F.3d 441, 443 (D.C. Cir. 1996)(per curiam).

25. A judicial officer is not permitted to impose any financial conditions of release which result in the pretrial detention of a defendant. 18 U.S.C. § 3142(c)(2). (Emphasis added) The conditions of release imposed on a defendant under a Section 3142(c) order may be amended at any time to impose additional or different conditions of release. 18 U.S.C. § 3142(c)(3).

Factors Judicial Officer Must Take Into Consideration

26. Regarding A Defendant's Eligibility For Release: When making a determination regarding the eligibility of a defendant for pretrial release (whether personal recognizance , unsecured appearance bond, or release on conditions), the judicial officer must consider the factors listed in Section 3142(g), including: the weight of the evidence against the person;

the history and characteristics of the person;

character -- including physical and mental condition);

family ties, employment, financial resources;

length of time in the community;

community ties;

past conduct history relating to drug or alcohol abuse, criminal history, record of court appearances; and

the nature and seriousness of the danger to any person or to the community that would be posed by the person's release.

27. All the above-referenced conditions and combinations thereof, absolutely favors immediate release on Defendant's recognizance, in the light of Habeas corpus, in connection to 8th, 5th and 6th Amendment.

28. 18 U.S.C. § 3142(g). In addition to considering evidence of the factors set forth above, the court may upon its own motion, or upon the motion of the government

attorney, conduct an inquiry into the source of any property to be designated as collateral to secure any bond. 18 U.S.C. § 3142(g)(4).

29. If the court determines that any such collateral or property, because of its source, will not reasonably assure the appearance of the defendant as required, the designation or use of the collateral or property as security for a bond shall be refused. 18 U.S.C. § 3142(g)(4).
30. Considerations Regarding Temporary Detention Orders:
31. Title 18, United States Code, Section 3142(d) requires a judicial officer to enter an order of temporary detention in cases where a factual determination is made that:
    the defendant: is, and was at the time the offense was committed, on release pending trial for a felony under Federal, State, or local law; release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or
    probation or parole for any offense under Federal, State, or local law; OR
    is/is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(2); AND
32. Whether the defendant may flee or pose a danger to any other person or the community.
33. 18 U.S.C. § 3142(d). The formula for calculating the 10 day temporary detention period is set forth in Section 3142(d). At the time the 10 day order is entered, the judicial officer must direct the attorney for the government to notify the appropriate "authorities" of the defendant's status. In the event that the "notified authority" declines to take the defendant into custody, then the judicial officer must make an independent determination regarding bail under the provisions of Sections 3142(b), 3142(c), and 3142(e)(if the government moves for detention).
34. 18 U.S.C. § 3142(f). Section 3142(f) "does not authorize a detention hearing in the absence of one of the six situations set forth above." United States v. Butler, 165 F.R.D. 68, 71 (N.D.Ohio 1996). Thus, the government may not request a detention hearing only on the allegations of danger to the community or another person. The

"government is required to demonstrate that there are grounds for a hearing under the specific provisions of either 3142(f)(1) or (f)(2)." Butler, 165 F.R.D. at 71. "When there exists one or more grounds for holding a hearing under those provisions, the government may proceed on the theory of risk of flight and/or danger to the community or any other person." Id. Section 3142(f) may fairly be interpreted as authorizing pretrial detention "only upon proof of a likelihood of flight, a threatened obstruction of justice or a danger of recidivism in one or more of the crimes actually specified by the bail statute." Butler, 165 F.R.D. at 71 (quoting United States v. Himler, 797 F.2d 156, 160 (3d Cir. 1986) and citing United States v. Byrd, 969 F.2d 106 (5th Cir. 1992); United States v. Ploof, 851 F.2d 7 (1st Cir. 1988)).

35. When the court has determined that a detention hearing is warranted, it may consider evidence relating to a defendant's danger to the community. Detention considerations are then guided by the factors set forth in 18 U.S.C. § 3142(g), and the specific consideration of "the nature and seriousness of the danger to any person or the community that would be posed by the person's release." Butler, 165 F.R.D. at 71; 18 U.S.C. § 3142(g)(4). Accordingly, the government must first prove one or more of the grounds listed in 3142(f)(1) or (2) as a prerequisite to the court considering the factor of danger to the community whether there exist appropriate conditions of release in the case. In the Butler decision, the court evaluated the government's motion to detain a defendant charged with firearms offenses. In reaching a decision in favor of pretrial detention, the Butler court stated:

36. There is danger inherent to the community in the unlawful possession of firearms, both a rifle and a pipe bomb. This is particularly true where the possessor has a lengthy criminal history, has not been deterred from the commission of crime by prior convictions and appears to be involved in ongoing drug offenses.

    165 F.R.D. at 72.

37. Timing Of Detention Hearing:

38. Title 18, United States Code, Section 3142(f)(2) contains specific guidelines

1986), nor the right to confront non-testifying government witnesses, United States v. Accetturo, 783 F.2d 382, 388-89 (3d Cir. 1986). Smith, 79 F.3d at 1210 (also citing United States v. Hurtado, 779 F.2d 1467, 1479 (11th Cir. 1985)(purpose of pretrial detention hearing is not to "rehash . . . probable cause" but to provide opportunity for detainee to show no risk of flight or danger to community); United States v. Williams, 798 F. Supp. 34, 36 (D.D.C. 1992)). "A right to require the government to produce its witnesses against [a defendant] would complicate the hearing to a degree out of proportion to the liberty interest at stake - viz. the interest in remaining free until trial, for what is by statute a period of limited duration." Smith, 79 F.3d at 1210; see also Speedy Trial Act, 18 U.S.C. § 3161, et seq.

40. Therefore, it is high time for this Hon. Court to consider to grant this Petition for the Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, in Connection to 18 USC 3188.

RELIEF REQUESTED

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

a. Issue a writ of habeas corpus directing Respondents to show cause why Petitioner should not be released from custody;

b. Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why the writ of habeas corpus should not be granted;

c. After hearing, grant the writ and order Petitioner's immediate release on parole or recognizance, or set reasonable bond conditions with Ms. Michelle Si as of her willing and able custodian family, as surety;

d. Declare Petitioner's continued detention unconstitutional under the Suspension Clause, Fifth Amendment, and incorporated Eighth Amendment protections;

e. Vacate the IJ's bond denial to the extent it conflicts with the January 2025 parole grant;

e. Assume jurisdiction over this matter;

f. Expedite consideration of this action pursuant to 18 U.S.C. § 3188 because it is an

action brought under chapter 153 (habeas corpus) of Title 28, given to humanitarian concern that the Petitioner may suffering fatal or crippling health crises at any moment behind bars when Defendants breaches their own parole offer.

g. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, or in the alternative, or alternatively order that Petitioner be provided a bail hearing before a Magistrate Judge of this Court;

h. Permanently enjoin Respondents from refouling the Petitioner, [redacted] torture survivor be removed into the PRC in violation of the "non-refoulement" in Geneva Protocol, to which the United States is a signatory.

any other and further relief as the Court deems just and proper.

Dated: October 2nd 2025
Respectfully submitted by,

Ning Ye

/s/Ning Ye, Esq.
Attorney for the Petitioner
135-11 38th Avenue, #1A
Flushing, NY 11354
(718)308-6626

Verification by someone acting on Petitioner's behalf pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner, upon the latter's repeated requests and urges, because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: October 2, 2025

Certificate of Service

This undersigned, hereby certifies that a copy of this Habeas Corpus Petition is served

Ge Ning