UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

YIBING WANG; SHING SETO Petitioners-Plaintiffs v. MARCO CHARLES, Acting Executive Associate Director, Enforcement and Removal Operations Directorate; TODD LYONS, Acting Director, U.S. Immigrations and Customs Enforcement; JOSEPH EDLOW, Director, U.S. Citizenship and Immigration Services; PAMELA BONDI, U.S. Attorney General; and KRISTI NOEM, U.S. Secretary of Homeland Security Respondents-Defendants	Case No. 1:25-cv-6229

PETITION FOR WRIT OF HABEAS CORPUS AND WRIT OF MANDAMUS PURSUANT TO 28 U.S.C. § 2241 AND 28 U.S.C. § 1361

1. The Writ of Habeas Corpus does not act upon the detainee who seeks relief, but upon the person who holds her in what is alleged to be unlawful custody. *Braden v. 30th Jud. Cir Ct. of Kentucky,* 410 U.S. 484, 494-5 (1973).
2. Jurisdiction for "core" Habeas Corpus petitions can only be found in the district of confinement. *Rumsfeld v. Padilla,* 542 U.S. 426, 435 (2004).
3. "Core" Habeas petitions concern those that necessarily challenge the validity or duration of confinement. *See Wilkinson v. Dotson,* 544 U.S. 74, 81-2 (2005).
4. Petitioner YiBing Wang ("Ms. Wang") does not challenge the validity or duration of her confinement. Ms. Wang is not making a "core" challenge under Habeas Corpus.

5. The Writ of Habeas Corpus is not a static, narrow, formalistic remedy. *Jones v. Cunningham*, 371 U.S. 236, 243 (1963); *see Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (stating immediate physical release is not the only remedy under Habeas Corpus).
6. District Courts must fashion a remedy under Habeas Corpus "as law and justice require." 28 U.S.C. § 2243; *see Brown v. Davenport*, 596 U.S. 118, 128 (2002) (affirming).
7. In the Habeas context, law and justice only require protection against deprivation of the right to be free from unlawful custody. *See Jones v. Cunningham* at 243.
8. "Custody" can concern immediate physical custody or some other form of custody. *See* 8 U.S.C. § 1252(e) (limiting Habeas petitions to three factual considerations that implicate lawful custody) *and S.N.C. v. Sessions*, 325 F. Supp. 3d 401, 408 (S.D.N.Y) (stating immigration-based habeas challenges to forms of custody other than immediate physical custody are valid); *see also Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973) ("When a prisoner is put under additional and unconstitutional restrains during his lawful custody, it is arguable that habeas corpus will lie to remove the restraints making the custody illegal").
9. Ms. Wang is not challenging the lawfulness of her immediate physical custody—Ms. Wang is challenging the *lawfulness of the location* of her immediate physical custody.
10. Ms. Wang does not challenge the validity or duration of her confinement. Ms. Wang is not making a "core" challenge under Habeas Corpus.
11. District Court jurisdiction under these circumstances is a question of personal jurisdiction and venue. *See Rumsfield v. Padilla*, 542 U.S. 426, 452-3 (2004) (concurring opinion).
12. In addition, U.S. Citizen Shing Seto ("Mr. Seto") requests relief "in the nature of [M]andamus to compel" USCIS to adjudicate his Form I-130, Petition for Alien Relative (IOE0923039535), filed on behalf of his spouse, Ms. YiBing Wang. *See* 28 U.S.C. § 1361.

JURISDICTION

13. The Court has subject matter jurisdiction to hear Petitioners' requests for relief under 28 U.S.C. §§ 1331, 1361, 2241, and the Administrative Procedures Act. *See* 5 U.S.C. § 702.

14. Officials of the United States have been named as Respondents. The Court has personal jurisdiction over the Respondents under 28 U.S.C. § 1346(a)(2).

15. Respondents are proper because the transfer of Ms. Wang back to a detention facility in the immediate District implicates higher power than Ms. Wang's "immediate physical custodian." *Compare Rumsfeld v. Padilla* at 435 ("This custodian is 'the person' with the ability to produce the prisoner's body before the [immediate] court"). *with* U.S. Immigration and Custom Enforcement 11022.1 ("ICE TRANSFERS DIRECTIVE"), 5.2(2) (2012) ("Before a transfer is made in a case where one or more of these factors[1] exist, the transfer must be approved at the Assistant Field Office Director level[2] *or higher*, and the reasons for the

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[1] ICE DETAINEE TRANSFERS DIRECTIVE, 5.2(1)—ICE Supervisory Immigration Officers will not transfer detainees when there is documentation to support:

a) Immediate family within the AOR;
b) An attorney of record within the AOR;
c) Pending or on-going removal proceedings where notification of such proceedings has been given, within the AOR; or
d) Been granted bond or has been scheduled for a bond hearing.

ICE DETAINEE TRANSFERS DIRECTIVE, 3.2—Area of Responsibility ("AOR") concerns the geographic area under the authority of a Field Office Director (FOD).

[2] ICE DETAINEE TRANSFERS DIRECTIVE, 5.2(3)—A transfer may be deemed necessary by a [Field Office Director] or his or her designee for any of the following reasons:

a) to provide appropriate medical or mental health care to the detainee;
b) to fulfill an approved transfer request by the detainee;
c) for the safety and security of the detainee, other detainees, detention personnel or any ICE employee;
d) at ICE's discretion, for the convenience of the agency when the venue of EOIR proceedings is different than the venue in which the alien is detained;
e) to transfer to a more appropriate detention facility based on the detainee's individual circumstances and risk factors;
f) termination of facility use due to failure to meet ICE detention standards, lack of sufficient use of the facility by ICE, or emergent situations; or to relieve or prevent facility overcrowding; in such cases, efforts should first be made to identify for transfer those detainees who do not meet any of the criteria listed in section 5.2(1)

transfer must be documented[3] in the detainee's A-File") (emphasis added); *see also* ICE Detainee Transfers, PBNDS 2011, 7.4(V)(A)(1) (2016) (following DIRECTIVE).

16. In the absence of specific officials named accountable in the 2025 ICE National Detention standards, the ICE TRANSFERS DIRECTIVE illustrates the proper accountability hierarchy in regards to transfer decisions. *Compare* ICE National Detention Standards, 7.2, pg. 198 (2025) (holding "ICE/ERO" generally accountable for detainee transfers) *with* ICE TRANSFERS DIRECTIVE, 5.2 (creating a three-leveled hierarchy of accountability for detainee transfers); *see Nitro-Lift Techs., L.L.C. v. Howard*, 568 U.S. 17, (2012) ("the ancient interpretive principle that the specific governs the general "*generalia specialibus non derogant"* applies only to conflict between laws of equivalent dignity").
17. Under the 2016 standards, Ms. Wang's transfer from New York to Louisiana could not have been ordered by either a Supervisory Immigration Officer or a Field Office Director. *See* ICE TRANSFERS DIRECTIVE 5.2(1), 5.2(3).
18. Ms. Wang's transfer from New York to Louisiana is exceptional and her transfer back to New York, therefore, is accountable to a higher ICE official than the Louisiana Field Office Director. *See* ICE TRANSFERS DIRECTIVE, 5.2(2); *see also* ICE Organizational Structure (Last updated March 19, 2025)[4] (indicating "Field Operations" is under the "Enforcement and Removal Operations" Directorate).
19. Respondents are proper because the *legal* custodian responsible for ordering Ms. Wang's transfer back to a detention facility in this District implicates a higher ICE official than her immediate custodian.

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[3] To Ms. Wang and her counsel's knowledge, there is no record of the reason for Ms. Wang's transfer in her A-File. There has no reason given for Ms. Wang's transfer at the date of this writing.

[4]ICE Organizational Structure, www.ice.gov/leadership/organizational-structure, (last updated March 19, 2025).

VENUE

20. Venue is proper because a substantial part of the events giving rise to this claim occurred in the Eastern District of New York. *See* 28 U.S.C. § 1391(b)(2).

PARTIES

21. Petitioner YiBing Wang ([redacted]) is a noncitizen from the People's Republic of China who is currently detained by ICE. On information and belief, Ms. Wang is currently detained in Louisiana at the South Louisiana ICE Processing Center.

22. Petitioner Shing Seto is a U.S. citizen and the spouse of YiBing Wang. Mr. Seto filed Form I-130, Petition for Alien Relative, on behalf of Ms. Wang on November 3, 2023.

23. Respondent Marco Charles is the Acting Executive Associate Director of the Enforcement and Removal Operations Directorate of U.S. Immigration and Customs Enforcement. He is being sued in his official capacity. He is Ms. Wang's legal custodian.

24. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. He is being sued in his official capacity. He is Ms. Wang's legal custodian.

25. Respondent Joseph Edlow is the Director of U.S. Citizenship and Immigration Services. He is being sued in his official capacity. Respondent is responsible for the actions of USCIS.

26. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is being sued in her official capacity. She is Ms. Wang's legal custodian.

27. Respondent Pamela J. Bondi is the United States Attorney General. She is being sued in her official capacity. She is Ms. Wang's legal custodian.

STATEMENT OF FACTS

28. Ms. Wang is a native and citizen of the People's Republic of China. *See* EXHIBIT A – FIRST NTA.

29. On April 20, 2017, Ms. Wang was admitted to the United States as a non-immigrant B2 visitor with authorization to remain in the United States until October 19, 2017. *Id.*

30. Ms. Wang remained in the United States after the expiration of her authorized stay. *Id.*

31. On September 11, 2023, Ms. Wang married U.S. Citizen Shing Seto in New York, NY. *See* EXHIBIT B – MARRIAGE CERTIFICATE.

32. Upon information and belief, in September of 2023, Ms. Wang was interviewed for several hours by the FBI regarding her connections with the Chinese consulate and her political stance on "Taiwan Independence."[5] Ms. Wang was never formally charged in association with that interview.

33. On September 18, 2023, immediately after her interview with the FBI, Ms. Wang was served a Notice to Appear ("First NTA") in removal proceedings. The First NTA solely charged Ms. Wang with removability under INA 237(a)(1)(B) for unlawful presence. *See* EXHIBIT A.

34. On November 3, 2023, Mr. Seto filed Form I-130, Petition for Alien Relative for Ms. Wang. *See* EXHIBIT C – I-130 RECEIPT. The receipt number for that petition is: IOE0923039535.

35. Mr. Seto is scheduled for an I-130 interview on December 5, 2025 at the Brooklyn Field Office. *See* EXHIBIT D – I-130 INTERVIEW NOTICE.

36. On March 26, 2024, Ms. Wang's attorney of record, Edward J. Cuccia, filed Form EOIR-28, Notice of Entry of Appearance as Attorney Before the Immigration Court. Said Form EOIR-28 contained attorney of record's address in New York, NY. *See* EXHIBIT F – EOIR-28.

37. On September 12, 2025, after disclosure of the posture of the matter, Immigration Judge ("IJ") Carrie Johnson-Papillo dismissed Ms. Wang's removal proceedings over DHS's opposition. *See* EXHIBIT E – IJ DISMISSAL ORDER.

[5] *See* Xiaoquing, R, "After being investigated by the FBI and arrested by ICE, Wang Yibing spoke out for the first time in prison," *Documented*, (October 31, 2025), https://documentedny.com/2025/10/31/chinese-language-ice-fbi-chinese-immigrants/

38. IJ Carrie Johnson-Papillo justified the dismissal stating "I-130 pending, legal entry and no criminal issues." *See* EXHIBIT E.

39. Because Ms. Wang was no longer in removal proceedings, she became eligible to apply for adjustment of status. Ms. Wang's counsel started preparing her application.

40. On Friday, October 3, 2025 at around 6 PM, less than a month after her removal proceedings were dismissed, Ms. Wang was taken into ICE custody. Ms. Wang was initially detained in Orange County Correctional Facility at 110 Wells Farm Rd, Goshen, NY 10924. *See* EXHIBIT G – INITIAL DETENTION NOTICE 1.

41. Ms. Wang was again served with an NTA ("Second NTA") upon her detention. The Second NTA dated October 3, 2025 contains identical allegations and an identical charge of removability for unlawful presence as Ms. Wang's first NTA. *See* EXHIBIT H – SECOND NTA.

42. On Sunday, October 5, 2025, Ms. Wang was transferred out of New York. To Ms. Wang and her counsel's knowledge, there is no record of the reason for Ms. Wang's transfer in her A-File. There has been no reason given for Ms. Wang's transfer at the date of this writing. *See* EXHIBIT I – TRANSFER NOTICE.

43. Upon information and belief, Ms. Wang is currently detained in the South Louisiana ICE Processing Center located at 3843 Stagg Ave., Basile, LA 70515. *Id.*

44. Prior to transfer, Ms. Wang was scheduled for a master hearing in Goshen, New York on October 9, 2025. *See* EXHIBIT J – HEARING 1. After transfer, Ms. Wang was scheduled for a master hearing before IJ Cynthia Goodman on October 24, 2025. *See* EXHIBIT K – HEARING 2.

45. On October 24, 2025, Ms. Wang had a bond hearing in front of IJ Cynthia Goodman. Ms. Wang's counsel of record presented copious evidence of Ms. Wang's good moral character, her volunteer work, and her absence of any criminal record. *See* EXHIBIT L – EVIDENCE FOR BOND *and* EXHIBIT M – ADDITIONAL EVIDENCE FOR BOND.

46. Ms. Wang is the founder of the nonprofit organization Chimerica Women Association.[6] Because of her vast charitable contributions, letters of support for Ms. Wang's release were attached to her bond motion from members of the New York State Assembly, New York Senate, and U.S. House of Representatives. *See* EXHIBIT L.

47. DHS opposed bond stating only that Ms. Wang had "no status" and Ms. Wang's 2024 Federal Tax Returns were difficult to discern. *See* EXHIBIT M.

48. IJ Cynthia Goodman granted Ms. Wang's release from custody under bond of $5,000. *See* EXHIBIT N – BOND GRANT.

49. DHS reserved the right to appeal Ms. Wang's bond. Ms. Wang cannot seek bond and release while DHS' appeal remains pending. *See* 8 C.F.R, 1003.19(i)(2) *and* EXHIBIT O – ICE APPEAL NOTICE.

50. Conclusion of an appeal to the Board of Immigration Appeals will take an indeterminate amount of time.

51. Ms. Wang is now scheduled for a master hearing on December 1, 2025 at 2:00 PM in front of IJ Gary Bergosh. *See* EXHIBIT P – EOIR CASE STATUS.

52. Because Mr. Seto's interview is scheduled for December 5, 2025, Ms. Wang will not have an approved I-130 petition before her next master hearing in her immigration proceedings.

[6] The Chimericia Women Association is a registered 501(c)(3) nonprofit organization based in New York that has empowered thousands of Chinese American women through community events, civic education, and volunteer-based projects. Through her organization, Respondent has organized neighborhood cleanups, distributed free medical supplies during the COVID-19 pandemic, and dispensed fee teaching and school supplies. *See* Chimerica Women Association, www.chimericawomenassociation.com

53. Ms. Wang will not have a immediate relief from removal at her next hearing in her immigration court proceedings. Time is of the essence.

REQUIREMENTS OF 28 U.S.C § 2243

54. The Writ of Habeas Corpus provides a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

55. The Court must grant this Petition for Writ of Habeas Corpus or issue an Order to Show Cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
(Procedural Due Process)

1. The allegations in paragraph 1 through 43 are realleged and incorporated herein.
2. Procedural Due Process guarantees fair process. *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987); *see also Mathews v. Eldridge,* 424 U.S. 319, 335 (1976) (articulating factors).
3. Ms. Wang is being deprived of her right to challenge her detention in the proper venue. *See Id.*
4. The Government has little interest in Ms. Wang's continued detention in Louisiana, and the burden of returning her to New York would be minor. *See Id.*
5. Continued detention of Ms. Wang in Louisiana is a violation of Procedural Due Process.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

1. The allegations in paragraph 1 through 43 are realleged and incorporated herein.
2. Substantive Due Process imposes constraints on government conduct that "interferes with rights implicit in liberty." *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987).
3. Under Substantive Due Process, a detainee may not be punished prior to an adjudication of guilt. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979) *citing Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 165-167 (1963).
4. The punitive nature of Ms. Wang's detention is evident under the *Kennedy* factors. *See Kennedy v. Mendoza-Martinez,* 372 U.S. 144, 168-9 (1963); *see also Smith v. Doe*, 538 U.S. 84, 97-106 (2003) (applying *Kennedy* factors).
5. Continued detention of Ms. Wang is a violation of Substantive Due Process.

COUNT THREE
Wrongful Delay of Form I-130 filed on Ms. Wang's Behalf
(Mandamus)

1. The allegations in paragraph 1 through 43 are realleged and incorporated herein.
2. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. 5 U.S.C. § 555(b).
3. Adjudication of Form I-130 (IOE0923039535) filed on Ms. Wang's behalf has been delayed for over two years.
4. Ms. Wang is being injured by the delay in adjudication.
5. This Court should compel USCIS to adjudicate their Form I-130. *See* 5 U.S.C § 706; *see also* 28 U.S.C. § 1361.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Declare Ms. Wang's detention is unlawful;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition for Habeas Corpus should not be granted within three days;

(4) Order Ms. Wang's transfer to New York pursuant to the Court's broad discretionary under 28 U.S.C. § 2243;

(5) Refrain from determining the legality of Ms. Wang's detention, so she is not barred by 28 U.S.C. § 2244 from filing a "core" challenge under Habeas Corpus;

(6) Compel USCIS to adjudicate Form I-130 submitted on Ms. Wang's behalf;

(7) Award attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

(8) Order any further relief this Court deems just and proper.

Respectfully submitted this 7th Day of November 2025.

Respectfully submitted,
EDWARD J. CUCCIA, PC

/s/ Edward J. Cuccia

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioners, YiBing Wang and Shing Seto, and submit this verification on their behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Writ of Mandamus are true and correct to the best of my knowledge.

Dated this 7th day of November, 2025.

/s/ Edward J. Cuccia
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