Cassandra Esteban Brusi
Attorney for Petitioner
Samokhleb & Bitterman Law Group
299 Broadway, Suite 1005
New York, NY 10007
(202) 578-3250
cassandra@btmlawgroup.com

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Zhi YE,

Petitioner,

– against –

Raul MALDONADO, Warden of the Brooklyn Metropolitan Detention Center; Judith Almodovar, Acting Director of the New York City Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

No. 25-cv-6417

Alien No. A [redacted]

INTRODUCTION

1. Zhi Ye, Petitioner, arrived in the United States in 2023, fleeing religious persecution in his native China. At the time of his entry, Petitioner was briefly detained before being released on his own recognizance by Customs and Border Protection ("CBP"), an arm of the Department of Homeland Security ("DHS"). Shortly after his release on recognizance, DHS placed Petitioner in removal proceedings before an immigration judge ("IJ"). He filed his application for asylum, and a final hearing was scheduled in his case. Petitioner did everything he was supposed to do: he

stayed out of trouble, pursued his asylum case, and reported to Immigration and Customs Enforcement ("ICE"), another DHS subagency, whenever he was told to do so.

2. In fact, Petitioner attended an ICE check-in appointment on November 11, 2025. Such appointments are routine, and typically involve a brief discussion of how an individual's immigration court case is progressing. But on this occasion, ICE took advantage of Petitioner's dutiful compliance with the terms of his release—when he showed up for his appointment as requested, ICE agents arrested him, without explanation or readily apparent justification. As of the date of this writing, Petitioner remains detained in ICE custody at the Brooklyn Metropolitan Detention Center ("MDC").

3. Pursuant to 28 U.S.C. § 2243, Petitioner requests that the Court issue an Order to Show Cause directing the Government to file a return "within three days[,] unless for good cause additional time, not exceeding twenty days, is allowed," justifying its unexplained decision to detain him in apparent excess of statutory authority. If ICE cannot point to any justification for its unexplained decision to re-detain Petitioner, then his due process rights have been violated and the Court should order his immediate release.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. 1331 (federal question).

6. This Court may order relief under the habeas statute, 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

7. Venue is proper because Petitioner is detained, and his immediate custodian situated, in Kings County, New York, within the territorial jurisdiction of this Court.

PARTIES

8. Petitioner is a Chinese national who has applied for asylum in the United States. Previously released on his own recognizance by DHS, Petitioner has complied with all the terms of his supervised release. He was recently taken into custody and remains detained in DHS custody at the Brooklyn MDC.

9. Respondent Raul Maldonado is the warden of the Brooklyn MDC. As such, he is Petitioner's immediate custodian.

10. Respondent Judith Almodovar is the Acting Director of ICE's New York City Field Office. In her official capacity, she is charged with carrying out the functions of that office, including by making and overseeing decisions regarding immigration detention throughout New York City. She therefore has constructive custody over Petitioner, in that she can order his release from ICE custody.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), which is ICE's parent agency. In her official capacity, she oversees and directs the activities of ICE, including its detention operations in New York and elsewhere. She therefore has constructive custody of Petitioner, in that she can direct ICE to release him from custody.

12. Respondent Pamela Bondi is the Attorney General. In her official capacity, she is charged with making determinations as to removability, asylum eligibility, and immigration custody, all of which are binding on DHS and its components. She therefore has constructive custody of Petitioner, in that she has the capacity to compel ICE to release him.

STATEMENT OF FACTS

13. Petitioner entered the United States on December 17, 2023, *see* Exh. A (notice to appear), fleeing religious persecution in his native China, *see* Exh. B (application for asylum and withholding of removal). At the time of entry, he was briefly detained by DHS/CBP, but the agency promptly released him on his own recognizance so that he could attend removal proceedings before an IJ. *See* Exh. C (order of release on recognizance); *see also* Exh. A.

14. In keeping with the "conditions" of his release, Exh. C, Petitioner reported as required by DHS/ICE. He was doing just that on November 11, 2025, when ICE took him into custody without warning or explanation. ICE subsequently notified the IJ that Petitioner was being held at the Brooklyn MDC. *See* Exh. D (detention notice). The final hearing that had previously been scheduled to take place in 2027 was superseded by notice of a preliminary hearing before a different IJ, *see* Exh. E (hearing notices).

15. He remains detained at the Brooklyn MDC as of this writing. *See* Exh. F (ICE detainee locator). On information and belief, neither ICE nor any other government agency has made any sort of individualized finding that Petitioner, previously released on his own recognizance, has become a flight risk or danger to his community.

LEGAL BACKDROP

16. "[C]ivil immigration detention is typically justified only when a noncitizen presents a risk of flight or danger to the community." *J.A.E.M. v. Wofford*, No. 25 Civ. 1380 (KES), 2025 WL 3013377, at *3 (E.D. Cal. Oct. 27, 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)). "A protected liberty interest may arise from a conditional release from physical restraint. Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may

entitle the individual to procedural protections not found in the statute." *Id.* (citation omitted) (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). "Due process 'is a flexible concept that varies with the particular situation.' The procedural protections required in a given situation are evaluated using the *Mathews v. Eldridge* factors." *Id.* at *6 (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990), which in turn cites 424 U.S. 319, 335 (1976)).

17. "The Second Circuit has held that the *Mathews v. Eldridge* three-factor balancing test applies when determining the adequacy of process in the context of civil immigration confinement." *Artiga v. Genalo*, No. 25 Civ. 5208 (OEM), 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). "The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Id.* (citing *Mathews*, 424 U.S. at 335).

18. Beginning in May of this year, ICE has pursued an aggressive new enforcement campaign targeting people who are in removal proceedings at their homes, places of business, and even as they attended mandatory immigration court hearings or other immigration appointments. Individuals have been arrested seemingly without regard to whether they have pending applications for asylum or other relief. This "coordinated operation" is "aimed at dramatically accelerating deportations."[1] These aggressive tactics appear to be motivated by the imposition of

[1] Arelis R. Hernández and Maria Sacchetti, "Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push," *Washington Post* (May 23, 2025), *available at* www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/; *see also* Hamed Aleaziz, Luis Ferré-Sadurní, and Miriam Jordan, "How ICE is Seeking to Ramp Up

a daily quota of 3,000 ICE arrests.[2] In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January.[3] It represents a stark departure from the government's prior practice of re-detaining noncitizens only after a material change in circumstances such as a criminal arrest. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

19. At the same time, the Board of Immigration Appeals ("BIA") has advanced novel interpretations of the immigration detention statutes. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), it held for the first time that individuals who were paroled into the United States without first ever being placed in expedited removal proceedings were subject to mandatory detention under section 235 of the INA, 8 U.S.C. § 1225. Shortly thereafter, it expanded its mandatory detention rule to cover all persons present in the United States without admission, irrespective of their time and manner of entry. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20. The Government's novel mass detention theory has received something of a chilly reception in our Nation's district courts. *See, e.g.*, *Hyppolite v. Noem*, No. 25 Civ. 4304 (NRM), 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) ("[S]ince Respondents began to broadly invoke § 1225(b)(2)(A) to justify the mandatory detention of noncitizens who already reside within the

---

Deportations Through Courthouse Arrests," *N.Y. Times* (May 30, 2025), *available at* www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

2 Ted Hesson and Kristina Cooke, "ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets," *Reuters* (Jun. 10, 2025), *available at* www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/.

3 José Olivares and Will Craft, "ICE Arrests of Migrants with No Criminal History Surging under Trump," *The Guardian* (Jun. 14, 2025), *available at* www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures.

United States, well over a dozen federal courts around the country have rejected Respondents' novel and illogical interpretation of the INA." (citing *Lopez Benitez*, 2025 WL 2371588; *Mata Velasquez*, 2025 WL 1953796; *Lepe v. Andrews*, No. 25 Civ. 1163 (KES), 2025 WL 2716910 (E.D. Cal. Sep. 23, 2025); *Barrera v. Tindall*, No. 25 Civ. 541 (RGJ), 2025 WL 2690565 (W.D. Ky. Sep. 19, 2025); *Pablo Sequen v. Kaiser*, No. 25 Civ. 6487 (PCP), 2025 WL 2650637 (N.D. Cal. Sep. 16, 2025); *Pizarro Reyes v. Raycraft*, No. 25 Civ. 12546 (RJW), 2025 WL 2609425 (E.D. Mich. Sep. 9, 2025); *Doe v. Moniz*, No. 25 Civ. 12094 (IT), 2025 WL 2576819 (D. Mass. Sep. 5, 2025); *Garcia v. Noem*, No. 25 Civ. 2180 (DMS), 2025 WL 2549431 (S.D. Cal. Sep. 3, 2025); *Lopez-Campos v. Raycraft*, No. 25 Civ. 12486 (BRM), 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 25 Civ. 1093 (JE), 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *dos Santos v. Noem*, No. 25 Civ. 12052 (JEK), 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. 25 Civ. 2157 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 25 Civ. 11571 (JEK), 2025 WL 1869299 (D. Mass. Jul. 7, 2025))); *see also Echevarria v. Bondi*, No. 25 Civ. 3252 (DWL), 2025 WL 2821282, at *4 (D. Ariz. Oct. 3, 2025) (relying on some of the same cases as *Hyppolite*, while also citing *Hasan v. Crawford*, 25 Civ. 1408 (LMB), 2025 WL 2682255 at *9 (E.D. Va. Sep. 19, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); and *Vazquez v. Feeley*, No. 25 Civ. 1542 (RFB), 2025 WL 2676082, at *16 (D. Nev. Sep. 17, 2025)).

21. Courts in this district have not bucked the overall trend. *See, e.g.*, *Hyppolite v. Noem*, No. 25 Civ. 4304 (NRM), 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) ("Indeed, in the approximately two and one-half-months since Respondents began to broadly invoke § 1225(b)(2)(A) to justify the mandatory detention of noncitizens who already reside within the

United States, well over a dozen federal courts around the country have rejected Respondents' novel and illogical interpretation of the INA." (collecting cases)); *Artiga*, 2025 WL 2829434, at *7 ("Respondents' construction of § 1225(b)(2)(A) disregards the plain meaning of that provision, would render § 1226 and a recent amendment to it superfluous, and is inconsistent with Supreme Court's prior statutory interpretations." (citing *J.U. v. Maldonado*, No. 25 Civ. 4836 (OEM), 2025 WL 2772765, at *7 (E.D.N.Y. Sept. 29, 2025))).

22. It is not difficult to see why. Stated succinctly, "Respondents' construction of § 1225(b)(2)(A) disregards the plain meaning of that provision, would render § 1226 and a recent amendment to it superfluous, and is inconsistent with [the] Supreme Court's prior statutory interpretations." *Artiga v. Genalo*, No. 25 Civ. 5208 (OEM), 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025) (citing *J.U. v. Maldonado*, No. 25 Civ. 4836 (OEM), 2025 WL 2772765, at *7 (E.D.N.Y. Sept. 29, 2025)).

FIRST CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

23. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

24. Applying the *Mathews* factors in this case, Petitioner's unexplained re-detention violates due process, and he is entitled to release pending a pre-deprivation bond hearing.

25. "With respect to the first prong of the *Mathews* test, Petitioner invokes 'the most significant liberty interest there is—the interest in being free from imprisonment.'" *Artiga*, 2025 WL 2829434, at *8 (quoting *Velasco Lopez*, 978 F.3d at 851, which in turn cites *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). "A person's liberty cannot be abridged without 'adequate procedural protections.'" *Id.* (quoting *Zadvydas*, 533 U.S. at 690). Petitioner received *no* process whatsoever

prior to his re-detention. "And no process at all is plainly inadequate." *Savane v. Francis*, No. 25 Civ. 6666 (GHW), 2025 WL 2774452, at *10 (S.D.N.Y. Sep. 28, 2025).

26. "With respect to the second prong of the *Mathews* test, the record demonstrates that no individualized determination was made prior to or contemporaneously with the decision to detain Petitioner in [November] 2025, and there was no change in circumstances between the time DHS released Petitioner on [his own recognizance] to his re-arrest and detention. Thus, the risk of erroneous deprivation of Petitioner's liberty interest is high. *Artiga*, 2025 WL 2829434, at *9 (citations omitted).

27. "Third, although the government has a strong interest in enforcing the immigration laws, the government's interest in detaining petitioner without a hearing is 'low.'" *J.A.E.M.*, 2025 WL 3013377, at *7 (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019)). "In immigration court, custody hearings are routine and impose a 'minimal' cost." *Id.* (quoting *Doe v. Becerra*, No. 25-Civ. 647 (DJC), 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025)). "If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low." *Id.* (quoting *Ortega*, *supra*) (alteration in *J.A.E.M.*). Petitioner "never violated the terms of his [release], . . . and has had no criminal history." *Artiga*, 2025 WL 2829434, at *9. "There is no evidence that Petitioner posed a risk of flight or danger to the community sufficient to justify his detention. Thus, Respondents have failed to show a significant interest in Petitioner's continued detention." *Id.*

28. As in other recent cases that have come before this Court, "Respondents' ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates [his] due process rights." *Artiga*, 2025 WL 2829434, at *9 (citing *J.U.*, 2025 WL 2772765, at *10). "Given the absence of any deliberative

process prior to or contemporaneous with the deprivation of Petitioner's liberty, formerly granted and approved by Respondents, a writ of habeas corpus is the only form of relief and the most appropriate remedy." *Id.*

SECOND CLAIM FOR RELIEF
Violation of Section 236(a) of the INA, 8 U.S.C. § 1226(a)

29. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

30. Petitioner's release paperwork indicates that he was previously detained and released pursuant to "section 236 of the Immigration and Nationality Act, [8 U.S.C. § 1226,] and applicable provisions of Title 8 of the Code of Federal Regulations." Exh. C. These provisions permit arrest or re-arrest only pursuant to a warrant. *See* 8 U.S.C. § 1226(b) (permitting government to "rearrest the alien under the original warrant"); 8 C.F.R. § 236.1(b) (providing that noncitizen "may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest"). It is unclear whether an arrest warrant was issued prior to Petitioner's arrest. If the arrest was carried out without a warrant, then the arrest was unlawful for that reason.

31. Moreover, ICE has taken the position that individuals like Petitioner are subject to mandatory detention under 8 U.S.C. § 1225. *See Matter of Q. Li*, *supra*; *Matter of Yajure Hurtado*, *supra*. Because such a reading of the statute "(1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice," *Lepe v. Andrews*, No. 25 Civ. 1163 (KES), 2025 WL 2716910, at *4 (E.D. Cal. Sep. 23, 2025), the Court should reject it. And insofar as Petitioner's re-detention was carried out pursuant to this flawed reading of the INA, it should be considered unreasonable *ab initio* and the Government should be ordered to release Petitioner immediately.

See id. at *10 (ordering immediate release); *Sabi Polo*, 2025 WL 2959346, at *14 (same); *Ortiz Donis*, 2025 WL 2879514, at *15 (same); *J.A.C.P.*, 2025 WL 3013328, at *8 (same).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

(1) Assume jurisdiction over this petition;

(2) Direct Respondents to show cause within three days (or in no event more than twenty days) why the Petition should not be granted;

(3) Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment of the Constitution, as well as 8 U.S.C. § 1226;

(4) Issue a preliminary injunction or writ of habeas corpus directing Respondents to immediately release Petitioner; and

(5) Provide such other relief as the Court deems just and proper.

Dated: November 19, 2025
Brooklyn, New York

/s/ Cassandra Esteban Brusi
Attorney for Petitioner

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

I represent Petitioner, Zhi Ye, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19th day of November, 2025.

/s/ Cassandra Esteban Brusi
Attorney for Petitioner

Table of Exhibits

Exh. A: Form I-862, Notice to Appear (Dec. 17, 2023)

Exh. B: Form I-589, Application for Asylum and Withholding of Removal (Apr. 17, 2024)

Exh. C: Form I-220A, Order of Release on Recognizance (Dec. 17, 2023)

Exh. D: Form I-830, Notice to EOIR: Alien Address (Nov. 12, 2025)

Exh. E: Immigration Court Hearing Notices (Oct. 17, 2024; Nov. 18, 2025)

Exh. F: ICE Detainee Locator (accessed Nov. 19, 2025)