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UNITED STATES DISTRICT COURT  
[SOUTHERN DISTRICT OF NEW YORK]

Zenghui Gu

Petitioner,

v.

JUDITH ALMODOVAR, *in her official capacity as Field Office Director of Enforcement and Removal Operations, New York City, Immigration and Customs Enforcement, Field Office Director of Enforcement and Removal Operations, New York City Field Office, Immigration and Customs Enforcement*; KRISTI NOEM, *in her official capacity as Secretary of the U.S. Department of Homeland Security*; PAMELA BONDI, *in her official capacity as Attorney General of the United States*; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 1:25-cv-9240

**PETITION FOR WRIT OF  
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioner Zenghui Gu is in the physical custody of Respondents at the 26  
3 Federal Plaza, New York, NY 10278. He now faces unlawful detention because the Department  
4 of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have  
5 concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States without  
7 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied  
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,  
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone  
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without  
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and  
13 therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or  
15 Board) issued a precedent decision, binding on all immigration judges, holding that an  
16 immigration judge has no authority to consider bond requests for any person who entered the  
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).  
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §  
19 1225(b)(2)(A) and therefore ineligible to be released on bond.

20 5. Petitioner’s detention on this basis violates the plain language of the Immigration  
21 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who  
22 previously entered and are now residing in the United States. Instead, such individuals are  
23 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for  
2 having entered the United States without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory  
4 framework and contrary to decades of agency practice applying § 1226(a) to people like  
5 Petitioner.

6 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that **he** be released  
7 unless Respondents provide a bond hearing under § 1226(a) within seven days.

### 8 JURISDICTION

9 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
10 26 Federal Plaza, New York, NY 10278.

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

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

### 16 VENUE

17 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.  
18 484, 493- 500 (1973), venue lies in the United States District Court for the Southern District, the  
19 judicial district in which Petitioner currently is detained.

20 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
21 because Respondents are employees, officers, and agencies of the United States, and because a  
22 substantial part of the events or omissions giving rise to the claims occurred in the Southern  
23 District of New York.

**REQUIREMENTS OF 28 U.S.C. § 2243**

13. 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.*

14. 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**

15. Petitioner Zenghui Gu is a citizen of China who has been in immigration detention since November 5, 2025. After arresting Petitioner in 26 Federal Plaza, New York, NY 10278, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

16. Defendant Judith Almodovar is the Acting Field Office Director for the New York City area. In that capacity, Director Almodovar oversees all Enforcement and Removal Operations (ERO) activities within the New York City area, which includes the five boroughs of New York City and the surrounding counties under the jurisdiction of the New York Field Office. Director Almodovar is sued in her official capacity.

17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.  
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

3 18. Respondent Pamela Bondi is the Attorney General of the United States. She is  
4 responsible for the Department of Justice, of which the Executive Office for Immigration Review  
5 and the immigration court system it operates is a component agency. She is sued in her official  
6 capacity.

7 19. Respondent Executive Office for Immigration Review (EOIR) is the federal  
8 agency responsible for implementing and enforcing the INA in removal proceedings, including  
9 for custody redeterminations in bond hearings.

10 **LEGAL FRAMEWORK**

11 20. The INA prescribes three basic forms of detention for the vast majority of  
12 noncitizens in removal proceedings.

13 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal  
14 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally  
15 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),  
16 while noncitizens who have been arrested, charged with, or convicted of certain crimes are  
17 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

18 22. Second, the INA provides for mandatory detention of noncitizens subject to  
19 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission  
20 referred to under § 1225(b)(2).

21 23. Last, the INA also provides for detention of noncitizens who have been ordered  
22 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

23 24. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).  
24

1 25. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
2 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.  
3 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section  
4 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,  
5 139 Stat. 3 (2025).

6 26. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining  
7 that, in general, people who entered the country without inspection were not considered detained  
8 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited  
9 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;  
10 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

11 27. Thus, in the decades that followed, most people who entered without inspection  
12 and were placed in standard removal proceedings received bond hearings, unless their criminal  
13 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent  
14 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”  
15 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)  
16 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply  
17 “restates” the detention authority previously found at § 1252(a)).

18 28. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that  
19 rejected well-established understanding of the statutory framework and reversed decades of  
20 practice.

21 29. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
22 Applicants for Admission,”<sup>1</sup> claims that all persons who entered the United States without

23 \_\_\_\_\_  
24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The  
2 policy applies regardless of when a person is apprehended and affects those who have resided in  
3 the United States for months, years, and even decades.

4 30. On September 5, 2025, the BIA adopted this same position in a published  
5 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the  
6 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are  
7 ineligible for IJ bond hearings.

8 31. Since Respondents adopted their new policies, dozens of federal courts have  
9 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected  
10 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

11 32. Even before ICE or the BIA introduced these nationwide policies, IJs in the  
12 Tacoma, Washington, immigration court stopped providing bond hearings for persons who  
13 entered the United States without inspection and who have since resided here. There, the U.S.  
14 District Court in the Western District of Washington found that such a reading of the INA is  
15 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not  
16 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d  
17 1239 (W.D. Wash. 2025).

18 33. Subsequently, numerous federal courts adopted the same interpretation of the  
19 INA's detention provisions and rejected ICE and EOIR's contrary construction. *See, e.g., Gomes*  
20 *v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v.*  
21 *Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);  
22 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,  
23 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL

1 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025  
2 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,  
3 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-  
4 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-  
5 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),  
6 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-  
7 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-  
8 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-  
9 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051  
10 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*  
11 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);  
12 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,  
13 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.  
14 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.  
15 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.  
16 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at \*2  
17 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §  
18 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL  
19 2402271 at \*3 (D. Neb. Aug. 19, 2025) *Id*; *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC,  
20 2025 WL 2374224 at \*2 (D. Neb. Aug. 14, 2025) *Id*.

21 34. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it  
22 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the  
23 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.  
24

1           35. Section 1226(a) applies by default to all persons “pending a decision on whether  
2 the [noncitizen] is to be removed from the United States.” These removal hearings are held under  
3 § 1229a, to “decid[ed] the inadmissibility or deportability of [all] [noncitizen].”

4           36. The text of § 1226 also explicitly applies to people charged as being inadmissible,  
5 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph  
6 (E)’s reference to such people makes clear that, by default, such people are afforded a bond  
7 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress  
8 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,  
9 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*  
10 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025  
11 WL 1869299, at \*7.

12           37. Section 1226 therefore leaves no doubt that it applies to people who face charges  
13 of being inadmissible to the United States, including those who are present without admission or  
14 parole.

15           38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who  
16 recently entered the United States. The statute’s entire framework is premised on inspections at  
17 the border of people who are “seeking admission” to the United States. 8 U.S.C.  
18 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme  
19 applies “at the Nation’s borders and ports of entry, where the Government must determine  
20 whether [all] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583  
21 U.S. 281, 287 (2018).

1 39. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not  
2 apply to people like Petitioner, who have already entered and were residing in the United States  
3 at the time they were apprehended.

4 **FACTS**

5 40. Petitioner has resided in the United States since September 28, 2023 and lives in  
6 33-20 146St, Flushing, NY, 11354.

7 41. On November 4, 2025, Petitioner was arrested by U.S. Immigration and Customs  
8 Enforcement while reporting for a scheduled check-in at 26 Federal Plaza, New York, NY  
9 10278. Petitioner is now detained at the 26 Federal Plaza, New York, NY 10278.

10 42. DHS placed Petitioner in removal proceedings before the New York Immigration  
11 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being  
12 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States  
13 without inspection.

14 43. Petitioner is employed as a dishwasher at a noodle restaurant in New York and  
15 maintains a stable source of income and a fixed residence. He regularly attends services at the  
16 New York Chinese Seventh-Day Adventist Church in Queens, New York. He is a person of good  
17 moral character and has never had any criminal record. Petitioner is neither a flight risk nor a  
18 danger to the community.

19 44. According to official ICE Detainee Locator System, Petitioner is presently  
20 detained at 26 Federal Plaza, New York, NY 10278, within the jurisdiction of this Court. A true  
21 and correct copy of this record is attached hereto as **Exhibit A**.

22 45. On information and belief, ICE served Petitioner with a Notice to Appear (NTA)  
23 initiating removal proceedings under 8 U.S.C. §1229(a). The NTA charges Petitioner as  
24

1 removable under the Immigration and Nationality Act and was filed with the Executive Office  
2 for Immigration Review (EOIR) in New York. A true and correct copy of the NTA is attached  
3 hereto as **Exhibit B**.

4 46. Petitioner has a pending Form I-589, Application for Asylum and for Withholding  
5 of Removal, which was filed prior to his detention and remains awaiting adjudication. An  
6 Individual Calendar Hearing in connection with that application is scheduled for March 25,  
7 2027, at 2:30 P.M. This pending application demonstrates that Petitioner is actively pursuing  
8 lawful relief from removal. A true and correct copy of the pending Form I-589, along with the  
9 hearing notice dated March 25, 2027, is attached hereto as **Exhibit C**.

10 47. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider  
11 Petitioner’s bond request.

12 48. As a result, Petitioner remains in detention. Without relief from this court, he  
13 faces the prospect of months, or even years, in immigration custody, separated from their family  
14 and community.

15 **CLAIMS FOR RELIEF**

16 **COUNT I**  
17 **Violation of the INA**

18 49. Petitioner incorporates by reference the allegations of fact set forth in the  
19 preceding paragraphs.

20 50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
21 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As  
22 relevant here, it does not apply to those who previously entered the country and have been  
23 residing in the United States prior to being apprehended and placed in removal proceedings by  
24

1 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to  
2 § 1225(b)(1), § 1226(c), or § 1231.

3 51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued  
4 detention and violates the INA.

5 **COUNT II**  
6 **Violation of the Bond Regulations**

7 52. Petitioner incorporates by reference the allegations of fact set forth in preceding  
8 paragraphs.

9 53. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-  
10 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.  
11 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the  
12 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present  
13 without having been admitted or paroled (formerly referred to as [noncitizens] who entered  
14 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323  
15 (emphasis added). The agencies thus made clear that individuals who had entered without  
16 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §  
17 1226 and its implementing regulations.

18 54. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and  
19 practice of applying § 1225(b)(2) to individual like Petitioner.

20 55. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued  
21 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

22 **COUNT III**  
23 **Violation of Due Process**

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

3 57. The government may not deprive a person of life, liberty, or property without due process  
4 of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,  
5 detention, or other forms of physical restraint—lies at the heart of the liberty that the  
6 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

7 58. Petitioner has a fundamental interest in liberty and being free from official restraint.

8 59. The government’s detention of Petitioner without a bond redetermination hearing to  
9 determine whether he is a flight risk or danger to others violates his right to due process.

10 **PRAYER FOR RELIEF**

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

- 12 a. Assume jurisdiction over this matter;
- 13 b. Order that Petitioner shall not be transferred outside the New York while this  
14 habeas petition is pending;
- 15 c. Issue an Order to Show Cause ordering Respondents to show cause why this  
16 Petition should not be granted within three days;
- 17 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in  
18 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §  
19 1226(a) within seven days;
- 20 e. Declare that Petitioner’s detention is unlawful;
- 21 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
22 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
23 law; and  
24

1 g. Grant any other and further relief that this Court deems just and proper.  
2  
3

4 Dated: November 5, 2025,

LAW OFFICE OF NG & WASSERMAN PLLC

5 /s/ Jed S. Wasserman\_\_\_\_\_

6 By: Jed Wasserman  
7 LAW OFFICE OF NG&WASSERMAN PLLC  
8 27 East Broadway, 2<sup>nd</sup> Floor  
9 New York, NY 10002  
10 Telephone: (212) 925-5616  
11 [jedswasserman@gmail.com](mailto:jedswasserman@gmail.com)  
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# EXHIBIT A



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## Facility Page

### Detention Information For:

**ZENGHUI GU**

**Country of Birth:** China, Peoples Republic of

**A-Number:** 245297364

### Current Detention Facility:

NYC HOLD ROOM

26 FEDERAL PLAZA

NA

NEW YORK, NY 10278

**Visitor Information:** (212) 436-9400

## ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

NEW YORK, NY, DOCKET CONTROL OFFICE,

Phone Number: (212) 436-9315

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## Related Information

### Helpful Info

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[ICE Detention Facilities](#)

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## **EXHIBIT B**

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: 388220413

FINS #: 1345745761

DOB: 10/14/1987

File No: A245 297 364

Event No: BLV2309000353

In the Matter of:

ZENGHUI GU

Respondent:

currently residing at:

FAILED TO PROVIDE ADDRESS EOIR-33 DOCKET FLUSHING, NEW YORK, 11355-4786

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF ;
3. You arrived in the United States at or near TECATE, CA , on or about September 28, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

26 FEDERAL PLZ 12TH FL RM 1237 NEW YORK NY 10278

(Complete Address of Immigration Court, including Room Number, if any)

on August 06, 2024 at 08:30 AM to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

ACTING WATCH COMMANDER

DANIEL J BERG

Date: 2023.09.30 09:15:18 -07:00

0932019064.CBP

(Signature and Title of Issuing Officer) (Sign in Ink)

Date: September 30, 2023

San Diego, California

(City and State)

2. Failure to file an application for relief by the 60-day filing deadline may result in a finding that the opportunity to file that application has been waived. If neither any application for relief nor any request for voluntary departure has been filed by the 60-day deadline, the Court may order the respondent removed from the United States.
3. If the respondent files an application that fails to provide complete answers to the questions in the application or otherwise fails to comply with the instructions in the application form, the Court may reject the application. *See* 8 C.F.R. § 1208.3(c)(3); Immigration Court Practice Manual (ICPM) Chap. 3.3(c)(9); *see also* INA § 240(c)(4)(B) (“The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant’s application for relief or protection as provided by law or by regulation or in the instructions for the application form.”).
4. Applicants for asylum, withholding of removal, or protection under the Convention Against Torture are reminded that the Form I-589 filing instructions require the applicant to provide to the best of their ability a detailed and specific written account of the basis of the claim to asylum or other protection, including specific dates, places, and descriptions of any past harm, mistreatment, or threats experienced by the applicant or their family, close friends, or colleagues; membership or affiliation with any group or organization, including level of participation, positions held, and length of time involved; and an account of any arrests, detentions, or interrogations.
5. If a properly completed application for relief is timely filed, the Court will schedule a merits hearing. The notice of hearing will state the anticipated format of the hearing (in-person or internet-based). If the respondent or counsel wishes to change the format of the hearing, a motion must be filed at least 15 days prior to the scheduled hearing.
6. The biometrics process must be initiated within 60 days of the date the application for relief is filed with the immigration court. Failure to comply with this biometrics requirement without good cause may result in a finding that any applications for covered forms of relief have been abandoned. *See* 8 C.F.R. § 1003.47(c).
7. For those applications requiring payment of a filing fee and which are not the subject of a fee waiver request, a formal fee receipt is not required at the time of filing if not yet available, but adequate proof of fee payment must be attached. 8 C.F.R. § 1003.31(g). The fee receipt must be filed at least 15 days before the individual hearing, ICPM Ch. 3.4(b)(1); if not, the application may be deemed abandoned.
8. Other than evidence offered for rebuttal or impeachment purposes, the parties must file any other supplemental motions, briefs, or supporting documents regarding eligibility for relief at least 15 days before the scheduled individual hearing. Responses to filings must be filed within 10 days of the date of the original filing. Late submissions may be excluded from the record. *See* ICPM Chap. 3.1(b)(2)(B), (d)(2). The respondent’s 15-day filing must include:
  - a. Written updates, corrections, and/or additions to all pending applications for relief from removal.
  - b. Witness list in compliance with ICPM Chap. 3.3(g), including a summary of each witness’ proposed testimony. If any witness needs interpretation in a language other than the one designated for the respondent, a motion for an additional interpreter must be filed at least 15 days prior to the individual hearing.

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at [www.uscis.gov/I-589](http://www.uscis.gov/I-589). Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

**U.S. Citizenship Claims:** If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

谷增辉  
(Signature of Respondent) (Sign in ink)

FABIAN SERAFIN JR  
Date: 2023.09.30 09:58:32 -07:00  
0390508630.CBP

Border Patrol Agent  
(Signature and Title of Immigration Officer) (Sign in ink)

Date: 09/30/2023

**Certificate of Service**

This Notice To Appear was served on the respondent by me on September 30, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the MANDARIN language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

谷增辉  
(Signature of Respondent if Personally Served) (Sign in ink)

FABIAN SERAFIN JR  
Date: 2023.09.30 09:58:34 -07:00  
0390508630.CBP  
FABIAN SERAFIN-JR, Border Patrol Agent  
(Signature and Title of officer) (Sign in ink)

EOIR - 2 of 3

# EXHIBIT C

**Jed S. Wasserman**  
**Law Office of Ng & Wasserman, PLLC**  
**27 E. Broadway, 2<sup>nd</sup> Floor**  
**New York, NY 10002**

**UNITED STATES DEPARTMENT OF JUSTICE**  
**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**  
**IMMIGRATION COURT**  
**NEW YORK, NEW YORK**

\_\_\_\_\_  
)  
**In the Matter of:** )  
)  
**Gu, Zenghui** )  
)  
**In Removal Proceedings** )  
\_\_\_\_\_ )

**File No.: A 245-297-364**

**Immigration Judge: TBD**

**Next Hearing Date: TBD**

**RESPONDENT'S FORM I-589 WITH ATTACHED STATEMENT**

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
NEW YORK IMMIGRATION COURT

LEAD FILE: 245-297-364  
IN REMOVAL PROCEEDINGS  
DATE: Sep 23, 2024

TO: Law Office of NG and Wasserman  
Jones, Richard Carlyle Barrington  
27 E. Broadway, 2nd Floor  
NEW YORK, NY 10002

RE: 245-297-364 GU, ZENGHUI

**Notice of Internet-Based Hearing**

Your case has been scheduled for a INDIVIDUAL hearing before the immigration court on:

Your hearing is not in person. You will access your hearing by using the web page below.  
URL: <https://eoir.webex.com/meet/IJ.Tsankov>

Date: Mar 25, 2027  
Time: 2:30 P.M. ET  
Court Address: 26 FEDERAL PLZ, 12TH FL RM1237  
14th FL, Courtroom #3, NEW YORK, NY 10278

**Representation:** You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

**Failure to Appear:** If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

**Change of Address:** The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by [completing the enclosed paper form](#) and mailing it to the immigration court listed above.

**Internet-Based Hearings:** If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

**In-Person Hearings:** If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call **1-800-898-7180** (toll-free) or **304-625-2050**.

**The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.**

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [M] PERSONAL SERVICE [P] ELECTRONIC SERVICE [E]  
TO: [ ] Noncitizen | [ ] Noncitizen c/o Custodial Officer |  
[ E ] Noncitizen ATT/REP | [ E ] DHS  
DATE: 9/23/2024 BY: COURT STAFF HV  
Attachments: [ ] EOIR-33 [ ] Appeal Packet [ ] Legal Services List [ ] Other NH

Use a smartphone's camera to scan the code on this page to read the notice online.

Usa la cámara de un teléfono inteligente para escanear el código de esta página y leer el aviso en línea.



Use a câmara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

使用智能手机摄像头扫描本页面的代码，即可在线阅读该通知。

ਠਿਸਿ ਤੂੰ ਅੰਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੰਨੇ 'ਤੇ ਕੋਡ ਤੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পজেরে কোডটি স্ক্যান করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন

सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्रान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane kòd ki nan paj sa a pou li avè sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في هذه الصفحة لقراءة الإشعار على الإنترنت

Чтобы прочитать уведомление онлайн, отсканируйте код на этой странице с помощью камеры вашего смартфона.

Utilisez l'appareil photo d'un téléphone intelligent pour scanner le code sur cette page afin de lire l'avis en ligne.