**UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF OKLAHOMA**

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Zhe Min Jin,

Petitioner

v.

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Mark Siegel, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Scarlet Grant, Warden of Cimarron Correctional Facility.

Respondents.

Case No.: _____

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

**EXPEDITED HANDLING REQUESTED PURSUANT TO 28 U.S.C. § 1657**

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## INTRODUCTION

1. Respondents are detaining Petitioner, Zhe Min Jin (A[redacted], in violation of law.

2. Jin is a citizen of China who was ordered removed from the United States on July 8, 2019. Jin did not appeal his order of removal, rendering it administratively final 30 days later on August 7, 2019, after the appeal deadline lapsed (alternatively, if he waived appeal, the order became administratively final on July 8, 2019).

3. Jin remained in ICE detention for an unknown period of time believed to be in excess of six months, before he was eventually released on an Order of Supervision ("OOS") in or around November 2019.

4. The government was unable to deport Jin because Jin's passport was expired and China had and continues to have a policy of being unwilling to provide travel documents to Chinese citizens for purpose of deportation from the United States. *See* Exhibit 2.[1]

5. The OOS issued pursuant to 8 C.F.R. § 241.4(e) and 8 C.F.R. § 241.13 because it was determined there was no significant likelihood of removal in the reasonably foreseeable future. It was necessarily determined at that time that Jin did not present an ongoing danger or a flight risk. *See* 8 C.F.R. § 241.4(e)(2)-(6); 8 C.F.R. § 241.13.

6. Jin was required to complete regular check ins with ICE from when he was placed on an OOS and when he was redetained in violation of law in 2025. Jin complied with all check in requirements and made sure to update his address with ICE every time he moved.

7. On February 28, 2025, Jin was picked up and redetained by ICE pursuant to a civil

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[1] Foster, *U.S. Tells China to Take Back Undocumented Immigrants*, FOSTERGLOBAL.COM (Sept. 16, 2025), https://www.fosterglobal.com/blog/u-s-tells-china-to-take-back-undocumented-immigrants/#:~:text=16%20Sep,offenders%2C%20according%20to%20immigration%20officials ("In early June, in cities across the U.S., immigration agents arrested more than two dozen Chinese nationals with unfulfilled deportation orders, telling them that after years of delay, China was finally taking steps to provide the paperwork needed to expel them from the U.S. **But, not for the first time, China failed to provide the necessary documents, and three months later not one of those arrested has been deported, with many having been released from custody.**") (emphasis added).

ICE hold after posting bond on a new pending criminal matter in *Oklahoma v. Jin et al.*, No. CF-2025-1090 (Okla. Cty., Okla., filed Mar. 10, 2025). Jin is still fighting the criminal matter and has good reason to believe the case will be dismissed.

8. Jin has previously applied for travel documents from China, but his applications have always been denied or ignored.

9. Since being detained in 2025, Jin does not recall having been asked to apply for a travel document to any country, including but not limited to China despite more than 90 days elapsing in the interim, evidencing Respondents' total lack of intent and ability to actually arrange Jin's removal from the United States.

10. Since being detained in 2025, to the best of Jin's knowledge, no government agent has expressed to Jin that a third-country removal is being attempted, much less expected to be successful.

11. Jin remains detained at this time. He is housed in Cimarron Correctional Facility in Cushing, OK, a facility designed to house and punish convicted criminals. Jin's conditions of confinement are indistinguishable from those of convicted criminals.

12. The government is not in possession of any credible or persuasive documents or evidence that Jin's removal is likely to occur in the reasonably foreseeable future. This was true at the time Jin was redetained, and it remains true at the time of this petition's filing.

13. It remains true at the time of this filing that Jin cannot be deported to his country of origin, China, because he does not have a valid travel document and China will not

issue one to him.

14. The redetention of Jin serves no legitimate purpose. Instead, his detention is punitive. The redetention of Jin is designed to send a message to other individuals with final orders of removal that they need to leave the United States or they will be jailed indefinitely and without any process and/or to punish him for his pending criminal case for which he has posted bond and is presumed innocent.

15. Federal statutes and regulations require ICE to follow certain procedures before they redetained Jin. ICE failed to comply with these laws prior to redetaining Jin.

16. To remedy this unlawful detention, Jin seeks declaratory and injunctive relief in the form of immediate release from detention.

17. Pending the adjudication of his Petition, Jin seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to- day operations of U.S. Immigration & Customs Enforcement's ("ICE") Oklahoma City Office of Enforcement and Removal Operations in the State of Oklahoma.

18. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Jin.

19. Jin requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hours-notice prior to any removal or

movement of him away from the State of Oklahoma.

20. Jin requests an emergency preliminary order requiring Respondents to give Jin due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals, and further requests that this injunction be made permanent.

21. Jin requests an order compelling Respondents to release him pending the outcome of this petition.

22. In accordance with 28 U.S.C. § 1657, Jin requests that the district court decide this petition in the first instance rather than referring it to a magistrate judge for a Report and Recommendation.

23. In accordance with 28 U.S.C. § 1657, Jin requests that the district court issue an Order to Show Cause ("OSC") giving the government no more than 7 days to file evidence and argument in response to the OSC. Petitioner needs no more than 48 hours to reply to the government's filing.

24. In accordance with 28 U.S.C. § 1657 and the Constitution's Suspension Clause, *inter alia*, Jin requests that the district court state in its OSC that, notwithstanding General Order 25-8, the Respondents are ordered to respond to the OSC on the stated timeline, and that any motion or allegations in the petition that are not answered **will be** (rather than "may, in the discretion of the court") deemed confessed pursuant to Fed. R. Civ. P. 8(b)(6) and LCvR 7.1(g).

## JURISDICTION AND VENUE

25. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1231(a)(1)-(3) and 8 C.F.R. §§ 241.4, 241.13.

26. Because Jin seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

27. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).

28. Under 28 U.S.C. § 1657, Jin's petition "**shall**" be expedited for good cause. (emphasis added). The good cause consists of Jin's credible and detailed allegations of indefinite and prolonged unlawful and unconstitutional civil confinement. Numerous other courts around the country, and in this district, have expedited these types of matters recently. *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No.

19 (D. Minn. Sept. 16, 2025); *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 6 (D. Minn. Sept. 29, 2025) (providing 7 days to respond to OSC); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11; *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Sept. 17, 2025), ECF No. 5 (OSC gave the government 48 hours to respond); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025), ECF No. 15 (granting habeas petition less than one month after filing); *Momennia v. Bondi*, No. 5:25-CV-1067-J, ECF No. 9 (giving the government just 14 days to respond to OSC) (W.D. Okla. Sept. 17, 2025); *Momennia v. Bondi*, No. 5:25-CV-1067-J, ECF No. 12 at 1 n.1 (W.D. Okla. Oct. 3, 2025) ("This Order is in furtherance of the need recognized by the Magistrate Judge to proceed in this case in an expedited manner."); *Momennia v. Bondi*, No. 5:25-CV-1067-J, ECF No. 16 (W.D. Okla. Oct. 9, 2025) (granting motion to expedite in part); *Bahadorani v. Bondi*, No. 5:25-CV-01091-PRW, ECF No. 12 (W.D. Okla. Sept. 30, 2025) (granting motion to expedite pursuant to 28 U.S.C. § 1657 and giving the government just 14 days to respond to OSC); *Bahadorani v. Bondi*, No. 5:25-CV-01091-PRW, ECF No. 13 (issuing an order overriding General Order 25-8 and ordering the federal respondents to file their answer or response on or before October 14, 2025); *Pham v. Bondi*, No. 5:25-CV-01157-SLP, ECF No. 14 (Oct. 8, 2025) (ordering government just 7 days to respond to OSC); *Yee S. v. Bondi*, No.

25-CV-02782-JMB-DLM, ECF No. 13 (D. Minn. Oct. 9, 2025) (granting habeas petition 4 days after TRO and motion to expedite was filed).

29. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Jin is detained within this District. He is currently detained at the Cimarron Correctional Facility in Cushing, Oklahoma. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

## PARTIES

30. Petitioner Zhe Min Jin is a citizen of China. His Alien Registration Number ("A number") is [redacted] Petitioner Jin is an alien with an administratively final removal order. Jin is currently in custody at the Immigration and Customs Enforcement ("ICE") detention center in Cushing, Oklahoma. Jin's aggregate period of civil immigration confinement is believed to exceed six months and continues to grow.

31. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Jin.

32. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is

responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Oklahoma, supervises the Oklahoma City ICE Field Office, and is legally responsible for pursuing Jin's detention and removal. As such, Respondent Noem is a legal custodian of Jin.

33. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

34. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

35. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

36. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations ("ERO").

37. Respondent Mark Siegel is being sued in his official capacity as the Field Office Director for the Oklahoma City Field Office for ICE within DHS. In that capacity, Field Director Siegel has supervisory authority over the ICE agents responsible for detaining Jin.

38. Respondent Scarlet Grant is being sued in her official capacity as the Warden of the Cimarron Correctional Facility. Because Petitioner is detained in the Cimarron Correctional Facility, Respondent Grant has immediate day-to-day control over Petitioner.

**EXHAUSTION**

39. ICE asserts authority to jail Jin pursuant to the mandatory detention provisions of 8 U.S.C. § 1231(a)(1). No statutory requirement of exhaustion applies to Jin's challenge to the lawfulness of his detention. *See, e.g.*, *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'"); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992)).

40. To the extent that prudential consideration may require exhaustion in some circumstances, Jin has exhausted all effective administrative remedies available to him as he has previously demonstrated to ICE's satisfaction that his removal is not

substantially likely to occur in the reasonably foreseeable future. ICE has never rebutted this showing. Any further efforts would be futile.

41. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).

42. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day Jin is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

43. Prudential exhaustion is additionally not required in cases where the agency "lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute." *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Jin raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled

that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).

44. Because requiring Jin to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.

45. In any event, Jin has indeed exhausted all remedies available to him.

46. ICE has denied Jin release because: (A) it incorrectly believes Jin is responsible for reestablishing that removal is not substantially likely to occur in the reasonably foreseeable future, (B) ICE seeks to punish Jin for remaining in the United States after previously having been ordered removed, (C) ICE seeks to punish Jin to send a message to similarly situated persons who have not yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid Jin's fate; and (D) ICE seeks to punish Jin for alleged criminal conduct relating to a pending criminal case in which Jin is presumed innocent and in which Jin has posted bond and been ordered released.

## FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

47. Jin re-alleges and incorporates by reference each allegation contained in ¶¶ 1-46 as if set forth fully herein.

48. On February 28, 2025, Jin was picked up and redetained by ICE after posting a criminal bond due to an ICE hold. He has remained detained in Respondents' custody since that date.

49. Each time ICE has previously tried to obtain a travel document for Jin, it has failed.

50. Jin does not recall ever having been served with a Notice of Revocation of Release ("Notice") purporting to revoke his OOS, nor does he recall having been given any sort of informal interview to challenge the Notice.

51. Assuming *arguendo* that Jin may have been served with a Notice of Revocation of Release ("Notice"), revoking his OOS, the Notice has not been reviewed by Petitioner's counsel, but likely claims in a conclusory manner that "ICE has determined there is a significant likelihood of removal in the reasonably foreseeable future in your case" based on unidentified "changed circumstances."

52. The Notice, if any, does not provide a reasoned basis for believing that there is now a significant likelihood of removal in the reasonably foreseeable future.

53. The Notice, if any, does not provide Jin with sufficient information to be in a position to rebut the factual allegations underlying the Notice at an informal interview.

54. The Notice, if any, does not provide enough information or detail to allow this Court to meaningfully review the relevant claims made in the Notice.

55. Jin does not understand the reason ICE now believes that there is a significant likelihood he will be removed in the reasonably foreseeable future.

56. The Notice, if any, does not allege that Jin has failed to comply with any of the terms of his OOS. It is not a violation of an OOS to be ***charged with*** a new crime.

57. The Notice, if any, does not allege that Respondents have obtained a travel document allowing for Jin's immediate removal from the United States.

58. The Notice, if any, does not allege any new facts that might form an independent basis for taking Jin into custody.

59. At the time of Jin's arrest, up through the present, ICE has no information that could reasonably lead it to believe changed circumstances exist that justify redetention under 8 C.F.R. § 241.13(i)(2)-(3).

60. At the time of redetention, ICE had not yet begun the steps of having Jin apply for a travel document from detention for China nor some other allegedly safe third country.

61. Even after Jin was detained by ICE in 2025, ICE failed to take timely meaningful steps to ensure Petitioner's removal from the United States in the reasonably foreseeable future.

62. Respondents maintain Jin is ineligible for release from custody.

63. On April 30, 2025, the Department of Homeland Security issued a press release entitled *100 Days of Fighting Fake News*. *See* Exhibit 1.[2] In that document, DHS referenced civil immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the

[2] Available at: https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news.

document states:

> The reality is that **prison isn't supposed to be fun. It's a necessary measure to** protect society and **punish bad guys.** It is not meant to be comfortable. **What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. **Leave now.**

(emphasis added).

64. Myriad courts around the country have granted habeas corpus petitions and/or enjoined the current administration's attempts to use civil detention punitively against noncitizens. *See, e.g.*, *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1158 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added); *Mahdawi v. Trump*, 781 F. Supp. 3d 214, 231-32 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter others from speaking); *Ozturk*, 779 F. Supp. 3d 462, 493 ("So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system."); *see also Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) ("The order of deportation is not a punishment"); *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release and characterizing the government's actions as "Kafkaesque"); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No. 19 (D. Minn. Sept. 16,

2025) (R&R recommending order of release); *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11 (ordering release); *Yee S. v. Bondi*, No. 25-CV-02782-JMB-DLM (D. Minn. Oct. 9, 2025), ECF No. 13 (granting habeas petition and ordering release 4 days after TRO and motion to expedite was filed); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025), ECF No. 15 (granting habeas petition and ordering release less than one month after filing).

## LEGAL FRAMEWORK

65. Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.

66. Section 1231 mandates detention "[d]uring the removal period." *Accord* 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, the same sections also require the government to actually remove the alien during this removal period. 8 U.S.C. § 1231(a)(1)(A).

67. The "removal period" is "90 days." 8 U.S.C. § 1231(a)(1)(A). Petitioner's "removal period" ended on November 5, 2019, (90 days after the 30-day appeal period elapsed following the order of removal, assuming *arguendo* Petitioner did not waive appeal causing the removal period to begin on the date the removal order issued).

68. Detention past the removal period can be lawful in circumstances not presented here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).

69. After a noncitizen has been detained past the removal period, they may seek and

obtain their release by demonstrating "there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future." 8 C.F.R. § 241.13(a).

70. Once a noncitizen is released on an OOS, they are subject to certain conditions of release. *See* 8 C.F.R. § 241.13(h)(1).

71. Redetention is permitted where it is alleged a noncitizen violated the conditions of release. *See* 8 C.F.R. § 241.13(h)(2), (i).

72. Regulations also permit the government to withdraw or otherwise revoke release under specific circumstances. *See* 8 C.F.R. § 241.13(h)(4). One permissible reason to revoke release occurs when, "on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). Once such a determination is made, the noncitizen must "be notified of the reasons for revocation of [their] release" and must be provided with "an initial informal interview… to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3). "The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." *Id.* If a noncitizen is not released following the informal interview, "the provisions of [8 C.F.R. § 241.4] shall govern the alien's continued detention pending removal." 8 C.F.R. § 241.13(i)(2). Once the provisions of § 241.4 take effect, it appears that the consequence is a total reset of the 90-day removal period under 8 U.S.C. §

1231(a), though this regulation is likely *ultra vires* to statute as an arbitrary or capricious interpretation of statute that exceeds statutory authority. *See* 8 C.F.R. § 241.4(b)(4).

73. Under the Supreme Court's decision in *Zadvydas v. Davis*, a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. 533 U.S. 678, 699-700 (2001). *Zadvydas* established a temporal marker: post-final order of removal detention of six months or less is presumptively constitutional.

74. *Zadvydas* also stated:

> After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, **the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.**

533 U.S. at 701 (emphasis added).

75. *Zadvydas* further held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual's interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain "nonpunitive in purpose and effect"**) (emphasis added).

## REMEDY

76. Respondents' detention of Jin violates the Due Process Clause of the United States Constitution. Jin's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process

of law." U.S. Const., amend. V.

77. Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

78. Jin seeks immediate release to the extent that Respondents justify his detention on the idea that Petitioner has failed to demonstrate that there is no significant likelihood of his removal in the reasonably foreseeable future; Respondents bear the burden of rebutting the prior showing made by Petitioner. 8 C.F.R. § 241.13(i)(2)-(3). Respondents have failed to meet this burden.

79. Jin seeks immediate release to the extent that Respondents have redetained him for the purpose of punishing him for remaining in the United States despite his final order of removal.

80. Jin seeks immediate release to the extent that Respondents have redetained him for the purpose of punishing him to send a message to similarly situated individuals for the purpose of encouraging those similarly situated persons to leave the United States before they share Jin's fate.

81. Jun seeks immediate release to the extent that Respondents have redetained him for the purpose of punishing him for having been accused of criminal activity and/or paying a criminal appearance bond despite the presumption of innocence.

82. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001)

(Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

83. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g.*, *Munaf v. Geren*, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody.").

84. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts "[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters 'as law and justice require.'" *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court's broad discretion to fashion relief. *See, e.g.*, *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) ("Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

85. Immediate release is an appropriate remedy in this case.

## CAUSE OF ACTION

### COUNT ONE: DECLARATORY RELIEF

86. Jin re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

87. Jin requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Jin is detained pursuant to 8 U.S.C. § 1231(a)(1).

88. Jin requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Jin has previously demonstrated to ICE's satisfaction that there is no significant likelihood of his removal in the reasonably foreseeable future ("NSLRRFF").

89. Jin requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that ICE did not rebut Jin's prior NSLRRFF showing prior to redetaining him.

90. Jin requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that until ICE rebuts Jin's prior NSLRRFF showing, Jin may not be redetained.

### COUNT TWO: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT – 8 C.F.R. § 241.13(i)(2)-(3)

91. Jin re-alleges and incorporates by reference each allegation contained in ¶¶ 1-85 as if set forth fully herein.

92. Section 1231(a)(1)-(3) of Title 8 of the U.S. Code and 8 C.F.R. § 241.13(i)(2)-(3) governs the detention, release, and redetention of aliens with final orders of removal.

93. Respondents have failed to comply with these provisions prior to redetaining Petitioner after Petitioner's release on an OOS.

94. No independent alternative basis supports Respondents' decision to redetain

Petitioner.

95. Petitioner is therefore detained in violation of the INA.

**COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT**

96. Jin re-alleges and incorporates by reference each allegation contained in ¶¶ 1-85 as if set forth fully herein.

97. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals. It further requires that detention cease when a noncitizen has established to the government's satisfaction that there is no significant likelihood of removal in the reasonably foreseeable future after the noncitizen has been ordered removed and has served six months in post-removal-order custody.

98. Jin is no longer subject to mandatory custody under the Immigration & Nationality Act. He has served more than six months in civil immigration detention. In order to terminate his prior detention, he established to the government's satisfaction that there was no significant likelihood of removal in the reasonably foreseeable future. The government has not rebutted this with credible evidence. The government does not presently have a travel document for Jin. There are no new circumstances that otherwise justify Jin's redetention. Thus, Respondents have violated Jin's Fifth Amendment guarantee of due process.

99. Respondents have also independently violated Jin's Fifth Amendment due process right by incarcerating him to punish him and to otherwise send a message to

similarly situated individuals that they must leave the United States to avoid a similar fate.

**COUNT FOUR: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT – CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY POLICY**

100. Jin re-alleges and incorporates by reference each allegation contained in ¶¶ 1-85 as if set forth fully herein.

101. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

102. Respondents have failed to articulate any reasoned explanation for redetaining Petitioner.

103. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring or failing to comply with the plain language of 8 C.F.R. § 241.13(i)(2)-(3).

104. Respondents' decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the case, and have offered explanations for their decisions that run counter to the evidence before the agencies.

105. Respondents' decision to redetain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

## PRAYER FOR RELIEF

WHEREFORE, Petitioner, Zhe Min Jin, asks this Court for the following relief:

1. Assume jurisdiction over this matter.

2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.

    a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention within 7 days of the Court's issuance of the OSC, and provide Petitioner with 48 hours to file a reply.

    b. Pursuant to 28 U.S.C. § 1657, and to avoid unnecessary and substantial processing delays, the district judge must decide the motions and petition in the first instance without referral to a magistrate judge for the issuance of a Report and Recommendation.

    c. Pursuant to 28 U.S.C. § 1657 and the Constitution's Suspension Clause, state in the OSC that, notwithstanding General Order 25-8, the Respondents are ordered to respond to the OSC on the stated timeline, and that any motion or allegations in the petition that are not answered will be (rather than "may, in the discretion of the court") deemed confessed pursuant to Fed. R. Civ. P. 8(b)(6) and LCvR 7.1(g).

3. Issue an emergency preliminary order restraining Respondents from attempting to move Jin from the State of Oklahoma during the pendency of this Petition.

4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Jin.

5. Issue an emergency preliminary order requiring Respondents to give Jin due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.

6. Order Jin's immediate release.

7. Declare that Respondents' action is arbitrary and capricious.

8. Declare that Respondents failed to adhere to binding regulations and precedent.

9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

10. Permanently enjoin Respondents from redetaining Jin under 8 C.F.R. § 241.13(i)(2)-(3) unless and until Respondents have obtained a travel document allowing for Respondent's removal from the United States.

11. Permanently enjoin Respondents from redetaining Jin under 8 C.F.R. § 241.13(i)(2)-(3) for more than three days after receiving a travel document.

12. Permanently enjoin Respondents from deporting Jin to an allegedly safe third country without first giving Jin due process in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.

13. Grant Jin reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

14. Grant all further relief this Court deems just and proper.

DATED: October 17, 2025

Respectfully submitted,

**RATKOWSKI LAW PLLC**

*/s/ Nico Ratkowski*

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*Attorney for Petitioner*

**Verification by Petitioner Pursuant to 28 U.S.C. § 2242**

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Zhe Min Jin
Zhe Min Jin

Dated: October 16, 2025