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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

TING GUANG WANG,

Petitioner,

v.

CHRISTOPHER LAROSE, Warden of the Otay Mesa Detention Center/CoreCivic; JORGE VELARDE, Assistant Director of Otay Mesa ICE Field Office; TODD LYONS, Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S Department of Homeland Security; PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No.: 25-cv-02894-TWR-DDL

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION

I. INTRODUCTION

Petitioner, appearing *pro se*, filed a habeas petition on October 20, 2025. ECF No. 1. For the reasons set forth below, the Court should dismiss the petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a citizen and national of China. *See* Ex. 1.[1] On November 30, 2018, an immigration judge ordered Petitioner removed to China following his conviction on crimes relating to rape of a spouse, infliction or corporal injury to a spouse, and assault with a deadly weapon. Ex. 1 at 3; *see also* Ex. 2. Petitioner was subsequently released from immigration custody on an Order of Supervision on June 20, 2019, because the government was unable to obtain a travel document to China. *See* Declaration of Hugo Lara-Ramirez ("Lara-Ramirez Decl.") at ¶ 5.

Immigration and Customs Enforcement (ICE) regularly obtains travel documents from China and is arranging travel itineraries to execute final orders of removal for Chinese citizens. *Id.* at ¶ 15. ICE has removed numerous Chinese citizens to China, including as recently as October 29, 2025. *Id.* On May 16, 2025, ICE issued a Form I-200, Warrant for Arrest of Alien, pertaining to Petitioner, in order to effectuate his removal to China, and detained him that same day. Exs. 4-6; *see also* Lara-Ramirez Decl. at ¶ 6. Petitioner also received and acknowledged a Form I-205, Warrant of Removal/Deportation, Notice of Revocation of Release, and had an informal interview. Exs. 3, 7-8; *see also* Lara-Ramirez Decl. at ¶¶ 7-8.

On May 19, 2025, ICE Enforcement and Removal Operations (ERO) submitted a travel document (TD) request for Petitioner to the Chinese Unit of ERO's Removal and International Operations (RIO). Lara-Ramirez Decl. at ¶ 12. On July 29, 2025, RIO advised that they were unable to verify Petitioner's identity for purposes of the TD request. *Id.* On October 16, 2025, San Diego ERO submitted a new TD request to the

[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel. Unless otherwise indicated, page citations herein refer to the ECF-generated page numbers stamped at the top of each ECF-filed document.

Detention and Deportation Officer (DDO) assigned to the Chinese cases within ERO Headquarters, RIO, for assistance obtaining a TD. *Id.* at ¶ 13. The request remains pending. *Id.* Once Petitioner's travel document is obtained, ICE will arrange for his removal to China. *Id.* at ¶¶ 13-17. ICE is not seeking to remove Petitioner to a third country. *Id.* at ¶ 10.

III. ARGUMENT

A. Claims and Requests are Barred by 8 U.S.C. § 1252

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction over his claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778–79 (9th Cir. 2000). To the extent Petitioner's claims arise from—or seek to enjoin—the decision to execute his removal order, they are jurisdictionally barred under 8 U.S.C. § 1252(g). *See* 8 U.S.C. § 1252(g) ("Except as provided in this section and *notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien under this chapter.") (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process."). In other words, § 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*, 525 U.S. at 482 (emphasis removed). Here, Petitioner's claims necessarily arise "from the decision or action by the Attorney General to . . . execute removal orders," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g).

Accordingly, to the extent Petitioner's claims arise from—or seek to enjoin—the decision to execute his removal order, the Court should deny and dismiss those claims for lack of jurisdiction under 8 U.S.C. § 1252.

B. Petitioner's Detention is Lawful and He Has Not Established That There is No Significant Likelihood of Removal in the Reasonably Foreseeable Future

ICE's authority to detain, release, and re-detain noncitizens who are subject to a final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the government ordinarily secures the alien's removal during a subsequent 90-day statutory "removal period." 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General "shall detain" the alien during this removal period. 8 U.S.C. § 1231(a)(2).

The Supreme Court held in *Zadvydas v. Davis* that when removal is not accomplished during the 90-day removal period, the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that six months constitutes a "presumptively reasonable period of detention." *Id.* at 701. Courts have repeatedly declined to grant habeas relief where the presumptively reasonable six-month period has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) ("The government is entitled to its six-month presumptive period before Petitioner's continued § 1231(a)(6) detention poses a constitutional issue"); *Guerra-Castro v. Parra*, No. 25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not been detained for more than six months. Petitioner has been in detention since May 29, 2025; therefore, his two-month detention is lawful under *Zadvydas*."); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE), 2003 WL 221809, at *5 (D.

Minn. Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month detention period under *Zadvydas*").

Even after the period of presumptive reasonableness has run, release is not required under *Zadvydas* unless "there is *no* significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701 (emphasis added). As the Supreme Court instructed, "the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, *assuring the alien's presence at the moment of removal*." *Id.* at 699 (emphasis added). In so holding, the Court recognized that detention is presumptively reasonable pending efforts to obtain travel documents, because the noncitizen's assistance is often needed to obtain the travel documents, and because a noncitizen who is subject to an imminent, executable warrant of removal becomes a significant flight risk, especially if he or she is aware that it is imminent.

The Court also instructed that detention could potentially exceed six months: "This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. "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 that the noncitizen has the initial burden of proving that removal is not significantly likely." *Id.* The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting

Zadvydas, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

Here, Petitioner contends that his current detention runs afoul of *Zadvydas*. But even if Petitioner's total time in detention does exceed the six months of presumptive reasonableness, his claim still fails at the next step because he cannot meet his burden to establish "that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Petitioner was re-arrested in May 2025, after ICE had been successfully obtaining TDs for Chinese citizens and routinely effectuating removals to China. Lara-Ramirez Decl. at ¶¶ 6, 11-17. On May 19, 2025, ICE compiled a TD required and submitted it to RIO. *Id.* at ¶ 12. After local ERO learned that RIO was unable to verify Petitioner's identity for purposes of the TD request, it submitted a new TD request to the Detention and Deportation Officer (DDO) assigned to the Chinese cases within ERO Headquarters, RIO. *Id.* at ¶¶ 12-13. Once ICE receives Petitioner's travel document, he can be removed promptly as ICE has established routine flights to China over the last several months and has completed a removal flight as recently as last week. *Id.* at ¶¶ 13-15. Thus, Petitioner not only fails to meet his burden, but Respondents have affirmatively shown that there is significant likelihood of his removal in the reasonably foreseeable future.

Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order).

That Petitioner does not yet have a specific date of anticipated removal does not make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008) (explaining that a demonstration of "no significant likelihood of removal in the reasonably foreseeable future" would include a country's refusal to

accept a noncitizen or that removal is barred by our own laws). On the contrary, evidence of progress, even slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy. *See, e.g.*, *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at *5 (S.D. Cal. Aug. 15, 2019) (slip op.) ("the record at this stage in the litigation does not support a finding that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future."); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020) (denying petition because "Respondents have set forth evidence that demonstrates progress and the reasons for the delay in Petitioner's removal").

Petitioner's continued detention is thus not unconstitutionally prolonged under *Zadvydas*.

C. Petitioner's Complaints About Procedural Defects in His Re-Detention Do Not Establish a Basis for Habeas Relief

Petitioner's claim for relief—that ICE failed to comply with its regulations revoking Petitioner's Order of Supervision—is also deficient. *See generally*, ECF No. 1 at 2.

A noncitizen who is not removed within the removal period may be released from ICE custody, "pending removal . . . subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C. § 1231(a)(6). An Order of Supervision may be issued under 8 C.F.R. § 241.4, and the order may be revoked under section 241.4(*l*)(2)(iii) where "appropriate to enforce a removal order." *See also* 8 C.F.R. § 241.5 (conditions of release after removal period). ICE may also revoke the Order of Supervision where, "on account of changed circumstances, [ICE] 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). The regulation further provides:

> *Upon revocation*, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly *after* his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

8 C.F.R. § 214.4(*l*) (emphasis added).

Here, Petitioner claims that his detention is unlawful because the agency failed to comply with its regulations for re-detaining him. ECF No. 1 at 2. Specifically, Petitioner argues that he was "re-detained under no changed circumstances" and was not provided with an informal hearing. ECF No. 1 at 2.[2]

Yet it is clear that there are changed circumstances here—namely, ICE's confidence in its ability to obtain a travel document from the Chinese government for Petitioner. Lara-Ramirez Decl. at ¶ 15. That fact alone is fatal to Petitioner's claim, because even if the agency had failed to provide Petitioner with "advance notice" of the revocation (which the regulations do not require in any event),[3] or neglected to conduct the informal interview before the filing of the Petition, Petitioner could not establish that he was prejudiced by those omissions nor that a constitutional level violation has occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) ("[T]he mere failure of an agency to follow its regulations is not a violation of due process."); *United States v. Tatoyan,* 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that "[c]ompliance with . . . internal [customs] agency regulations is not mandated by the Constitution") (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* "enunciate[s] principles of federal administrative law rather than of constitutional law").

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[2] ICE provided Petitioner with a Notice of Revocation of Release on October 28, 2025, and conducted an informal interview that same day. Lara-Ramirez Decl. at ¶ 8; *see also* Exs. 7-8.

[3] There are obvious law enforcement reasons for not providing "advance" notice of a re-detention before executing a warrant of removal, just as there is no requirement to provide prior notice of execution of an arrest warrant. Providing such notice "creates a risk that the alien will leave town before the delivery or deportation date." *United States v. Gonzales & Gonzales Bonds & Ins. Agency, Inc.*, 103 F. Supp. 3d 1121, 1137 (N.D. Cal. 2015).

For example, in *Ahmad v. Whitaker*, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued the revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removal was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the district court held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation . . . should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order. . . . Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

So too here. At the time of his re-detention, Petitioner knew he was subject to a final order of removal to China. *See* ECF No. 1 at 2-3. He does not challenge that order in this lawsuit or offer any indication that he intends to do so. Petitioner also had reason to know, based on his Order of Supervision, that although he was released from detention (most recently in 2019), ICE would continue its efforts to obtain a travel document to effectuate his removal to China. Lara-Ramirez Decl. at ¶ 5. And because Respondents had, and continue to have, an evidentiary basis to conclude there is a significant likelihood that Petitioner will be removed to China in the reasonably foreseeable future, any challenge that Petitioner would have raised to the revocation prior to his re-detention would have failed. *See, e.g.*, *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming that the judge had

violated the rule by failing to inquire into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation); *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded on other grounds*, 591 F.3d 1105 (9th Cir. 2010), citing §§241.4(*l*)(2)(i), (iv) ("While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "'hen, in the opinion of the revoking official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate.'") (emphasis in original).

Thus, whatever procedural deficiencies or delays may have occurred, they do not warrant Petitioner's release, and indeed could be cured by means well short of release. Petitioner does not challenge his removal order, nor could he. ICE has now provided Petitioner with Notice of Revocation of Removal and conducted an informal interview. Exs. 7, 8. ICE submitted a travel document request to the Detention and Deportation Officer assigned to the Chinese cases within ERO Headquarters, RIO and expects the removal of Petitioner to China to occur in the reasonably foreseeable future. *See* Lara-Ramirez Decl. at ¶¶ 13–17. With Petitioner's removal highly likely to occur in the reasonably foreseeable future, no purpose would be served by this Court's ordering his release—other than frustrating "the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699. Petitioner is thus unlikely to succeed on the merits of his claim that ICE's alleged failure to follow agency regulations merits his release.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court dismiss the habeas petition.

DATED: November 4, 2025

Respectfully submitted,

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