

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

Wei Zhang,

Case No.: _____

Petitioner

v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

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.

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

Respondents.

INTRODUCTION

1. Respondents are detaining Petitioner, Wei Zhang (), in violation of law.
2. Zhang is a citizen of China who was ordered removed on April 9, 2025. An appeal was filed and dismissed on May 27, 2025. Zhang believes his removal order became administratively final on April 9, 2025.
3. Zhang has remained in ICE detention in excess of six months from around June 2024 to present. Zhang has not been released on an Order of Supervision (“OOS”)

since being detained in June 2024.

4. Since being detained in 2024, Zhang has not been asked to apply for a travel document to any country despite more than six months elapsing since Zhang was ordered removed, evidencing Respondents' total lack of intent and ability to actually arrange Zhang's removal from the United States.
5. Since being detained in 2024, and since being ordered removed in April 2025, to the best of Zhang's knowledge, no government agent has expressed to Zhang that a third-country removal is being attempted, much less expected to be successful.
6. Zhang remains detained at this time. He is housed in Cimarron Correctional Facility in Cushing, OK, a facility designed to house and punish convicted criminals. Zhang's conditions of confinement are indistinguishable from those of convicted criminals.
7. The government is not in possession of any credible or persuasive documents or evidence that Zhang's removal is likely to occur in the reasonably foreseeable future. This remains true at the time of this petition's filing.
8. It remains true at the time of this filing that Zhang cannot be deported to his country of origin, China, because of his grant of relief from an immigration judge preventing his removal to China.
9. The detention of Zhang serves no legitimate purpose. Instead, his detention is punitive. The detention of Zhang 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.

10. Federal statutes and regulations require ICE to follow certain procedures 90 days after Zhang's removal order. ICE did the required custody review and issued a written notice to Zhang indicating that his continued detention was justified because ICE believed: (i) he is a significant flight risk; (ii) removal is significantly likely to occur in the reasonably foreseeable future; and (iii) his deportation is in the public interest.
11. Zhang has not received his required 180-day post-order custody review.
12. Zhang alleges his detention is unlawful because ICE has failed to conduct the necessary review of whether he is significantly likely to be removed in the reasonably foreseeable future as required under 8 C.F.R. § 241.13. Evidence in the file demonstrates he cannot lawfully be deported to his home country of China and further demonstrates that ICE has not taken so much as a cursory step towards third-country deportation. Zhang has not been asked to apply for travel documents to any country despite more than six months elapsing since his order of removal issued, evidencing ICE's lack of belief in their own ability to obtain a travel document for Zhang. ICE also lacks any credible or persuasive or probative evidence indicating that Zhang is a flight risk. The public interest is an insufficient basis to continue holding Zhang indefinitely in civil post-order detention.
13. To remedy this unlawful detention, Zhang seeks declaratory and injunctive relief in the form of immediate release from detention.

14. Pending the adjudication of his Petition, Zhang 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.
15. 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 Zhang.
16. Zhang 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.
17. Zhang requests an emergency preliminary order requiring Respondents to give Zhang 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.
18. Zhang requests an order compelling Respondents to release him pending the outcome of this petition.
19. In accordance with 28 U.S.C. § 1657, Zhang 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.

20. In accordance with 28 U.S.C. § 1657 and the Constitution’s Suspension Clause, *inter alia*, Zhang 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

21. 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.
22. Because Zhang seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.
23. 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).

24. Under 28 U.S.C. § 1657, Zhang’s petition “**shall**” be expedited for good cause. (emphasis added). The good cause consists of Zhang’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).

25. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Zhang 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

26. Petitioner Wei Zhang is a national of China. His Alien Registration Number (“A number”) is A . Petitioner Zhang is an alien with an administratively final removal order. Zhang is currently in custody at the Immigration and Customs Enforcement (“ICE”) detention center in Cushing, Oklahoma. Zhang’s aggregate period of civil immigration confinement exceeds six months and continues to grow.

27. 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 Zhang.
28. 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 Zhang’s detention and removal. As such, Respondent Noem is a legal custodian of Zhang.
29. Respondent Department of Homeland Security (“DHS”) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
30. 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.
31. 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.

32. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations (“ERO”).
33. 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 Zhang.
34. 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

35. ICE asserts authority to jail Zhang pursuant to the mandatory detention provisions of 8 U.S.C. § 1231(a)(1). No statutory requirement of exhaustion applies to Zhang’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))).

36. To the extent that prudential consideration may require exhaustion in some circumstances, Zhang has exhausted all effective administrative remedies available to him as he has previously not been asked to apply for a travel document to any country nor has any government agent has expressed to Zhang that a third-country removal is being attempted, much less expected to be successful. Because of this, Zhang’s removal is not substantially likely to occur in the reasonably foreseeable future. Any further efforts by Zhang would be futile.
37. 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).
38. 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 Zhang 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).

39. 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 Zhang 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).
40. Because requiring Zhang 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.
41. In any event, Zhang has indeed exhausted all remedies available to him.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

42. Zhang re-alleges and incorporates by reference each allegation contained in ¶¶ 1-41

as if set forth fully herein.

43. On June 9, 2024, Zhang was picked up and detained by ICE. He has remained detained in Respondents' custody since that date.
44. Zhang has not been asked to apply for a travel document to any country despite more than 6 months elapsing since he was ordered removed, and no government agent has expressed to Zhang that a third-country removal is being attempted, much less expected to be successful. Alternatively, each time ICE has previously tried to obtain a travel document for Zhang, it has failed.
45. Although Zhang was given a 90-day custody review pursuant to 8 C.F.R. § 241.4 to determine whether he should be released on an order of supervision pursuant to 8 C.F.R. § 241.4(e), (f), and (g), ICE failed to actually apply the factors listed to the facts of Zhang's case. Had those factors been faithfully applied, or had ICE also reviewed the factors listed in 8 C.F.R. § 241.13, ICE would have necessarily determined that Zhang is not a flight risk and that there is no significant likelihood of his removal in the reasonably foreseeable future.
46. Zhang does not believe that there is a significant likelihood he will be removed in the reasonably foreseeable future.
47. Travel documents for Zhang are not available and immediate removal of Zhang is not practicable.
48. Zhang is presently a non-violent person.
49. Zhang is likely to remain non-violent if released.

50. Zhang is not likely to pose a threat to the community following release.
51. Zhang is not likely to violate the conditions of release.
52. Zhang does not pose a significant flight risk if released. There is no evidence to the contrary that might support ICE's prior allegation that Zhang poses a significant flight risk.
53. Zhang has strong ties to the United States due to having been a lawful permanent resident residing in the United States from 2005 until he was ordered deported in 2025.
54. Zhang was ordered deported based on a marijuana conviction, which is not the type of conviction that indicates he constitutes a current or future danger to his community. Moreover, the conviction is completed, meaning there are no pending charges that might indicate Zhang is a significant flight risk.
55. Respondents cannot establish that travel documents can or will be obtained for Zhang.
56. Even after Zhang was detained by ICE in 2024, ICE failed to take timely meaningful steps to ensure Petitioner's removal from the United States in the reasonably foreseeable future.
57. Respondents maintain Zhang is ineligible for release from custody.
58. On April 30, 2025, the Department of Homeland Security issued a press release entitled *100 Days of Fighting Fake News*.¹ In that document, DHS referenced civil

¹ Available at: <https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news>.

immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the 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).

59. 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

60. Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.
61. 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).
62. The "removal period" is "90 days." 8 U.S.C. § 1231(a)(1)(A). Petitioner's "removal period" began when his order became administratively final, which is believed to have occurred on April 9, 2025, causing it to end 90 days later on July 8, 2025. 8 U.S.C. § 1231(a)(1)(B)(iii).
63. Detention past the removal period can be lawful in circumstances not presented here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).

64. 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). They may also obtain release without such a showing if they satisfy the factors listed in 8 C.F.R. § 241.4(e), (f), and (g).
65. 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.
66. *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).
67. *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

68. Respondents' detention of Zhang violates the Due Process Clause of the United States Constitution. Zhang'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.
69. 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)).
70. Zhang 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 have sufficient evidence in their file already to have determined that there is no significant likelihood of removal in the reasonably foreseeable future due to an immigration judge order preventing his removal to China and the government's inability to obtain a travel document for Petitioner in the reasonably foreseeable future to an allegedly safe third country. This petition and supporting documents supplement the file and firmly establishes that Zhang has presented evidence that there is no significant likelihood of removal in the reasonably foreseeable future, shifting the burden to Respondents to rebut Zhang's showing by a preponderance of the evidence.
71. Zhang seeks immediate release to the extent that Respondents have detained him for the purpose of punishing him for remaining in the United States despite his final

order of removal and/or for winning DCAT.

72. Zhang seeks immediate release to the extent that Respondents have detained 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 Zhang's fate.
73. 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.”).
74. 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.”).
75. 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.”).

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

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

77. Zhang re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
78. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Zhang is detained pursuant to 8 U.S.C. § 1231(a)(1).
79. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Zhang has satisfied the factors for release on an OOS under 8 C.F.R. § 241.4(e), (f), and (g).
80. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Respondents have failed to comply with 8 C.F.R. § 241.4 and § 241.13 by failing to meaningfully consider whether there is any significant likelihood of Zhang’s removal in the reasonably foreseeable future after his initial 90-day custody review.
81. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Zhang has sufficiently demonstrated that there is no significant likelihood of his removal in the reasonably foreseeable future (“NSLRRFF”) so as to shift the burden of rebuttal to

Respondents.

82. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that ICE did not rebut Zhang's NSLRRFF showing and must therefore release him on an Order of Supervision in accordance with 8 C.F.R. § 241.5.
83. Zhang requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that until ICE rebuts Zhang's prior NSLRRFF showing, Zhang may not be redetained.

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

84. Zhang re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
85. Section 1231(a)(1)-(3) of Title 8 of the U.S. Code and 8 C.F.R. §§ 241.4 and 241.13 govern the detention, release, and redetention of aliens with final orders of removal. Under these provisions, Zhang must be released on an Order of Supervision.
86. The factors listed at 8 C.F.R. § 241.4(e), (f), and (g) all firmly demonstrate that Zhang must be released.
87. Because Zhang has also shown there is NSLRRFF under § 241.13 and *Zadvydas*, this is an independent basis that supports ordering Petitioner's immediate release on an Order of Supervision even if Zhang has failed to satisfy the necessary factors of § 241.4.
88. No independent alternative basis supports Respondents' decision to continue detaining Petitioner.
89. Petitioner is therefore detained in violation of the INA.

COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT

90. Zhang re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
91. 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.
92. Zhang 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 Zhang, and the government is not allowed to deport Zhang to his home country of China. There are no new circumstances that otherwise justify Zhang's continued detention. Thus, Respondents have violated Zhang's Fifth Amendment guarantee of due process.
93. Respondents have also independently violated Zhang'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**

94. Zhang re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
95. 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).
96. Respondents have failed to articulate any reasoned explanation for continuing to detain Petitioner.
97. 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. §§ 241.4 and 241.13.
98. Respondents’ decisions 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.
99. Respondents’ decision to continue detaining 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, Wei Zhang, 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 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 Zhang 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 Zhang.
5. Issue an emergency preliminary order requiring Respondents to give Zhang 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 Zhang'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 Zhang 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 Zhang 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 Zhang to an allegedly safe third country without first giving Zhang 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 Zhang 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: November 3, 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/ Wei Zhang
Wei Zhang

Dated: November 1, 2025