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

WEI ZHANG, Petitioner,	)	
v.	)	Case No. CIV-25-1301-PRW
PAMELA BONDI, ET AL., Respondents.	)	

RESPONSE IN OPPOSITION TO PETITIONER'S VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

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Response in Opposition

NOW COME Respondents Attorney General Pamela Bondi, Secretary of Homeland Security Kristi Noem, the United States Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Acting Director of ICE Todd M. Lyons, Acting Executive Associate Director for ICE Enforcement and Removal Operations (ERO) Marcos Charles, and Oklahoma City ICE Field Office Director Mark Siegel (collectively, the "Federal Respondents"), who, pursuant to the Court's Order [Doc. 10] directing them to respond to the Verified Petition for Writ of Habeas Corpus [Doc. 1], respectfully submit that the Court should deny the relief Petitioner seeks and should enter an order of dismissal.

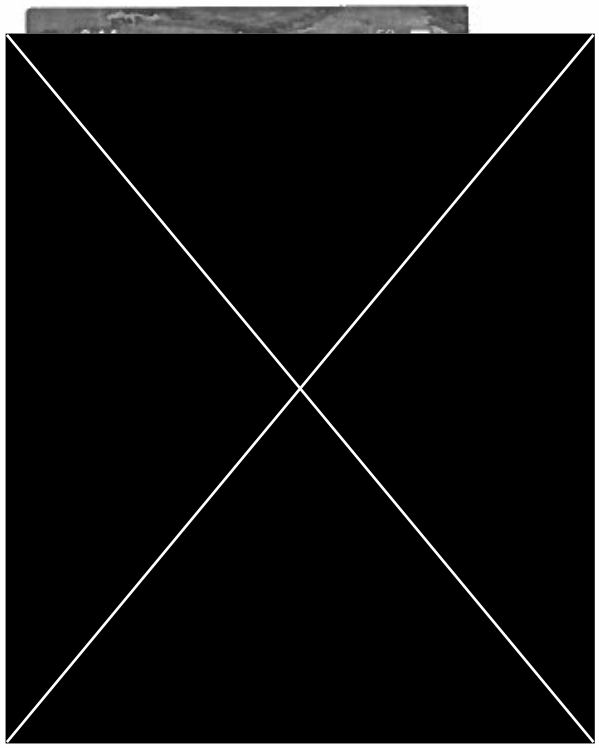
I. Background:

Petitioner Wie Zhang is a citizen and national of China. Petition [Doc. 1] at 1, ¶ 2, and at 7, ¶ 26.[1] He seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 directing his release from what he claims is unlawful immigration detention at the Cimarron Correctional Facility in Cushing, Oklahoma. *Id.* at 2, ¶ 6, and at 7, ¶ 25.

Mr. Zhang entered the United States without inspection by an immigration officer at an unknown place and time. He characterizes himself as "having been a lawful permanent resident residing in the United States from 2005 until he was ordered deported in 2025." *Id.* at 13, ¶ 53. In fact, he was granted Lawful Permanent Resident status on July 12, 2017. Att. 4 at 1 & 4, ¶ 5; Att. 5 at 1 & 4, ¶ 5.

[1] The Petition [Doc. 1] does not state whether Mr. Zhang is a citizen and native of the People's Republic of China (PRC) or of the Republic of China (ROC) (Taiwan). DHS records indicate that his ties are to the People's Republic of China.

On May 4, 2023, following a traffic stop in Custer County, Oklahoma, he was arrested and charged with Trafficking in Illegal Drugs, a felony, in violation of Okla. Stat. tit. 63, § 2-415(B). Att. 1 at 2, ¶ 3. Mr. Zhang was in possession of an expired driver's license issued by the State of New York. Att. 3 at 19. He reported that he was living at [redacted] Chickasha, Oklahoma,[2] which Google Earth depicts as follows:



Mr. Zhang was driving a Toyota minivan registered to Dongyi Guo, whose registration address was also [redacted] Chickasha, Oklahoma.[3] Oklahoma

[2] The Court's *ECF Policies & Procedures Manual*, § II.H.2.a.v., directs the redaction of home addresses in filings in criminal matters, permitting inclusion of the city and state of a home address. This habeas corpus case is not a criminal matter, and the Federal Respondents' attachments redact Mr. Zhang's home address in Ozone Park, New York.

[3] Oklahoma Secretary of State business registration records indicate that [redacted] incorporated in October 2020 (registered agent [redacted]), maintains its address at [redacted] Chickasha, Oklahoma. Zillow depicts a 1120-square

Highway Patrol Trooper Michael Echardt observed "several large black trash bags" in the rear cargo area and "smell[ed] the strong odor of raw/green marihuana coming from within the vehicle[.]" *Id.* He found 110 vacuum sealed packages, weighing approximately 110 pounds, of a leafy green substance that later tested positive for marijuana. *Id.* at 20.

Mr. Zhang pled guilty to the drug trafficking offense, admitting specifically, "On the 4th day of May, 2023, I had over 25 pounds of marijuana in my vehicle without a valid license to transport or possess." *Id.* at 10. On January 26, 2024, the District Court of Custer County sentenced him to a term of imprisonment of ten years, with that term to be suspended upon his successful completion of a drug abuse treatment program. The court further ordered Mr. Zhang to pay a $100,000.00 fine plus court costs, suspending all but $2,150.00 in various fines, fees, and assessments. *Id.* at 1; Att. 1 at 2, ¶¶ 4-5.

On October 31, 2024, Mr. Zhang was released from the custody of the Oklahoma Department of Corrections into DHS custody. On that date, a Notice to Appear (NTA) was issued and filed with the Immigration Court, charging Mr. Zhang with removability under § 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA) as an alien who, at any time after admission, has committed a violation of any law or regulation relating to a controlled substance, other than a single offense involving possession of marijuana for personal use in an amount of 30 grams or less. Att. 1 at 2, ¶¶ 6-7; Att. 4 at 4.

Those proceedings were terminated without prejudice, and on November 25, 2024, a new NTA was issued charging Petitioner with removability under the same INA section.

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foot, 3-bedroom, 2-bath residence, but with an estimated value of over $1.4 million, at that address.

That NTA was filed with the Immigration Court on November 26, 2024. Att. 1 at 2, ¶¶ 8-9; Att. 5 at 4.

On April 9, 2025, an Immigration Judge (IJ) denied pending applications for asylum, for withholding of removal under INA § 241(b)(3) and under the Convention Against Torture (CAT), and for cancellation of removal for a lawful permanent resident. The IJ ordered that Petitioner's removal to China be deferred under the CAT. Petitioner was ordered removed and his lawful permanent resident status was revoked. Att. 1 at 3, ¶ 10; Att. 6 at 1-2.

Petitioner reserved the right to appeal, but he filed an untimely appeal which the Board of Immigration Appeals (BIA) dismissed on May 27, 2025. "Zhang believes his removal order became administratively final on April 9, 2025." Petition [Doc. 1] at 1, ¶ 2.

On May 8, 2025, DHS sent Requests for Acceptance of Alien to: (1) the British Consulate General; (2) the Consulate of the Republic of Korea; and (3) the Embassy of Japan. On July 1, 2025, DHS sent Requests for Acceptance of Alien to: (4) the Consulate General of Canada; (5) the Consulate General of Mongolia; and (6) the Consulate General of Mexico. Att. 1 at 3, ¶¶ 11-12.

On July 1, 2025, the Embassy of Mongolia denied Petitioner entry, and the Consulate of Mexico reported that it lacked authority to grant or deny Petitioner's admission into Mexico. *Id.*, ¶¶ 13-14.

As of this date, the requests submitted to the British Consulate General, the Consulate of the Republic of Korea, the Embassy of Japan, and the Consulate General of Canada are pending. Furthermore, DHS/ICE has engaged with the State Department to

effect Mr. Zhang's removal. With the State Department's assistance, ERO has been successful in removing aliens to third countries. Due to Mr. Zhang's criminal history, he is considered a priority for removal, and the Deportation Officer assigned to his case believes that he will be removed to a third country. Att. 2 at 2, ¶¶ 4-5.

II. Legal Standards:

a. Authority to detain an alien subject to a final order of removal.

The authority to detain an alien after entry of a final order of removal is set out in Section 241(a) of the Immigration and Nationality Act (INA), 82 Cong. Ch. 477, 66 Stat. 163 (June 27, 1952), codified at 8 U.S.C. § 1231(a).[4] The statute provides that when an alien is ordered removed, he shall be removed from the United States within a period of 90 days, which is known as the "removal period." *Id.*, § 1231(a)(1)(A).

The Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001), that an alien may be held in "post-removal-period detention" and that 28 U.S.C. § 2241 confers jurisdiction upon the federal courts to hear habeas corpus challenges to that detention. The detention is limited to a period reasonably necessary to bring about the alien's removal. The law does not allow indefinite detention. *Id.* at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

[4] The INA's statutory references to the Attorney General have been characterized by a panel of the Tenth Circuit Court of Appeals as "a legal artifact," and the term "Attorney General" should be read to mean the "Secretary of Homeland Security." *Awe v. Napolitano*, 494 Fed.Appx. 860, 862 n. 3 (10th Cir. 2012); *see also United States v. Sandoval*, 390 F.3d 1294, 1296 n. 2 (10th Cir. 2004) (noting that in March 2003 the Immigration and Naturalization Service "ceased to exist" as an agency within the Department of Justice, and that its functions were transferred to the Department of Homeland Security (DHS)).

Detention for six months is presumed to be reasonable. *Id.* at 701; *see also Mwangi v. Terry*, 465 F. App'x 784, 786 (10th Cir. 2012) ("*Zadvydas* held that a six-month post-removal period of detention to allow the government to secure an alien's removal was presumptively reasonable."). "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." *Zadvydas*, 533 U.S. at 701.

If an alien shows that he has been detained longer than six months, that sets his claim in motion. It does not satisfy his burden of pleading. He must show that there is no significant likelihood of removal in the reasonably foreseeable future, "and the onus is on the alien to 'provide[ ] good reason to believe that there is no [such] likelihood' before 'the Government must respond with evidence sufficient to rebut that showing.'" *Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004) (quoting *Zadvydas*, 533 U.S. at 701) (alterations by the Tenth Circuit Court of Appeals); *see also Abiodun v. Mukasey*, 264 F. App'x 726, 729 (10th Cir. 2008) ("Although Abiodun has been detained for longer than six months, that fact standing alone does not mean he must now be released.").

If an alien has been detained for more than six months, he must "come forward with evidence indicating that his continued detention in the foreseeable future is likely." *Nkwanga v. Maurer*, No. 06 CV 00262 MSK MEH, 2006 WL 2475261, at *1 (D. Colo. Aug. 24, 2006). He must allege sufficient facts on which a recognized legal claim could be based. If he fails to make that preliminary showing, he is not entitled to relief under *Zadvydas* and his habeas corpus petition is ripe for denial and dismissal. *Id.*

b. Standards for habeas corpus relief.

Habeas corpus review may be sought by an immigration detainee who claims that he "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *see also Zadvydas*, 533 U.S. at 687 (immigration detainees may bring § 2241(c)(3) petitions). The writ of habeas corpus, "while essential to our political system, is a drastic remedy." *Basri v. Barr*, 469 F. Supp. 3d 1063, 1066 (D. Colo. 2020).[5] "Habeas relief is reserved for errors constitutional in scale." *Bahadorani v. Bondi*, No. CIV-25-1091-PRW, 2025 WL 3048932, at *4 (W.D. Okla. Oct. 31, 2025) (citing *Sunal v. Large*, 332 U.S. 174, 179 (1947)).

The writ "is available to correct the denial of fundamental constitutional rights, but it may not be used to correct mere irregularities or errors of law." *Wooten v. Bomar*, 267 F.2d 900, 901 (6th Cir. 1959). To obtain relief, a § 2241 petitioner has the burden of alleging and establishing that he is in custody in violation of the Constitution and the laws of the United States. *Bradin v. United States Prob. & Pretrial Servs.*, No. 22-3032-JWL, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (compiling cases). Failure of officials to follow their own policies, without more, does not constitute a due process violation, making a writ of habeas corpus generally unavailable for policy shortcomings. "Habeas is an exceptional writ reserved for errors which result from fundamental defects that result in

[5] *See also Shinn v. Ramirez*, 596 U.S. 366, 377 (2022) ("The writ of habeas corpus is an extraordinary remedy that guards only against extreme malfunctions in the state criminal justice systems.") (internal quotation marks and citation omitted); *Gomez-Arias v. U.S. Immigr. & Customs Enf't*, No. 20-CV-00857-MV-KK, 2020 WL 6384209, at *2 (D.N.M. Oct. 30, 2020) ("As release from custody is an extreme remedy, Congress has circumscribed its use by the courts.").

a complete miscarriage of justice or an omission inconsistent with the rudimentary demands for fair procedure." *Nguyen v. Noem*, No. 6:25-CV-057-H, 2025 WL 2737803, at *6 (N.D. Tex. Aug. 10, 2025) (citing *Hill v. United States*, 368 U.S. 424, 428 (1962), and *United States v. Reyna*, 358 F.3d 344, 349 (5th Cir. 2004)).

III. Argument:

a. Mr. Zhang has received his 180-day detention review.

Petitioner represents that his removal order became administratively final on April 9, 2025, and that an appeal of the IJ's order was dismissed on May 27, 2025. *Id.* at 1, ¶ 2. He acknowledges that ICE conducted a 90-day custodial review,[6] but he alleges, in no uncertain terms, "Zhang has not received his required 180-day post-order custody review." *Id.* at 3, ¶ 11. That allegation is central to his habeas corpus demand, because next he pleads, "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." *Id.*, ¶ 12. "To remedy this unlawful detention, Zhang seeks declaratory and injunctive relief in the form of immediate release from detention." *Id.*, ¶ 13; *see also id.* at 19, ¶ 80 (demand for declaratory relief premised on the Respondents' alleged failure to meaningfully consider the likelihood of Mr. Zhang's removal "after his initial 90-day custody review"). Petitioner also alleges a "total lack of intent" on the part of the Federal Respondents to effect his removal from the

[6] *See* Petition [Doc. 1] at 3, ¶ 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....").

United States. *Id.* at 2, ¶ 4.

On September 15, 2025, ICE officers conducted a "Panel Interview Pursuant to 8 C.F.R. § 241.4(i)" of Mr. Zhang's detention. Att. 7 at 4. Mr. Zhang willingly participated. *Id.* at 1, no. 1. He was represented during the interview and was afforded the opportunity to submit any information that might present a basis for his release from custody. *Id.* at 4.

ICE officers asked Mr. Zhang if he has a birth certificate, passport, travel document, or other similar identification that would facilitate his removal. He responded in the affirmative and indicated that such documents are "In my house" in Ozone Park, New York. *Id.* at 1, nos. 2-3, and at 2, no. 10.

When asked why he had not already provided those documents, Mr. Zhang responded, "I thought my lawyer has already offered them to ICE." *Id.* at 1, no. 4. When asked about his efforts to assist ICE in obtaining a travel document, Mr. Zhang responded, "I'll let my lawyer offer them to ICE." *Id.*, no. 5.[7]

The form that records the ICE panel's recommendation reflects inconsistent findings as to Mr. Zhang's continued detention. The panel found that the criteria were met for continued detention, but the next sentence contradicts that finding:

> The panel believes that the criteria for ☐ release on an Order of Supervision ☑ continued detention as set forth by 8 C.F.R. § 241.4(e) has been met.
>
> The panel recommends that Zhang, Wei should not remain in ICE custody.

Id. at 4.

[7] The Federal Respondents do not believe that the attorney who represented Mr. Zhang in the interview is the attorney who now represents him in this habeas corpus proceeding.

The statement, "The panel recommends that Zhang, Wei should not remain in ICE custody," appears to be a scrivener's error, because the criteria for continued detention were met and a Decision to Continue Detention was issued. The decision was based on a review of Mr. Zhang's file, consideration of any information he submitted to ICE's reviewing officials, and the factors set forth at 8 C.F.R. § 241.4(e), (f), and (g). ICE officials decided to maintain custody over Mr. Zhang because he has a final order of removal and they determined that he poses a significant risk to public safety, his removal is likely to occur in the reasonably foreseeable future, and his continued detention serves the public interest. *Id.* at 5.

The lynchpin of Petitioner's demand for a writ of habeas corpus and other relief is the alleged failure to conduct the "required 180-day post-order custody review." Petition [Doc. 1] at 3, ¶ 11. Contrary to his allegations, Mr. Zhang received that review.

b. ICE reasonably has determined that Petitioner is a flight risk and may violate conditions of release.

Petitioner argues that he "is not likely to violate the conditions of release" and that he "does not pose a significant flight risk if released." Petition [Doc. 1] at 13, ¶¶ 51-52. He takes that argument a step further, asserting, "There is *no evidence to the contrary* that might support ICE's prior allegation that Zhang poses a significant flight risk." *Id.*, ¶ 52 (emphasis added).

The Federal Respondents respectfully disagree. There is sufficient evidence supporting ICE's determination that Mr. Zhang is a flight risk and may violate conditions of release. Mr. Zhang has admitted as much.

In the September 15 interview, Mr. Zhang was asked, "Have you ever failed to appear for any judicial proceedings; failed to appear as directed by a law enforcement entity; or have any history of escapes?" His response was, "Yes." Att. 7 at 3, no. 16.

c. Petitioner has not met his burden of pleading.

The Federal Rules of Civil Procedure apply to habeas proceedings. Fed. R. Civ. P. 81(a)(4). Thus, Mr. Zhang's Petition [Doc. 1] must satisfy the federal pleading standards.

An initial pleading may not need to set out its facts in fine detail, but a party's obligation to plead the grounds of his entitlement to relief "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do[.]" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The petition "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). A litigant must plead factual content that allows the court to draw the reasonable inference that his party-opponent is liable for the misconduct alleged. There must be "more than a sheer possibility" that the complainant is entitled to relief. *Id.*

Mr. Zhang's pleading is characterized by generalities and misdirection. One example is its assertion, "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." Petition [Doc. 1] at 13, ¶ 53. He did not gain Lawful Permanent Resident status in 2005. That status was afforded to him in 2016. Att. 4 at 1 & 4, ¶ 5; Att. 5 at 1 & 4, ¶ 5.

Within seven years of being granted that status, he was arrested in Oklahoma for a

felony drug-trafficking offense. In 2024, he was convicted of that crime. Att. 3.

He claims that his "marijuana conviction…is not the type of conviction that indicates he constitutes a current or future danger to *his community*." Petition [Doc. 1] at 13, ¶ 54 (emphasis added). But what community does Mr. Zhang consider to be *his community*?

Is it the New York City metropolitan area, where he had an apartment? Is it the State of New York, which issued his driver's license? Or is Mr. Zhang's community the State of Oklahoma, where he was arrested, convicted, and imprisoned?

He does not say, but if the relevant community is Oklahoma, many of its public officials and citizens might disagree with Mr. Zhang's characterization of his offense.[8]

[8] Petitioner omits any details of his "marijuana conviction," a drug *trafficking* offense, and that omission is telling. While the Federal Respondents do not at present have specific information linking Mr. Zhang to a criminal enterprise, his pleading makes light of the state of events in the Oklahoma community. *See*, *e.g.*, TEXOMA High Intensity Drug Trafficking Area (HIDTA) Report, *Marijuana in Oklahoma* (March 2025), at 39 ("Chinese criminal organizations have infiltrated the state to exploit the medical marijuana laws and, in addition to drug trafficking, have been linked to money laundering and human trafficking."); *id.* at 43 ("Many of the Chinese criminal organizations have taken advantage of the legal system by using fraud in order to gain access as a state licensed grow operation. Types of fraud include fraudulent lease agreements, forged signatures, stolen identities of Oklahoma residents, shell businesses, straw owners, and any other means to obtain the required license and registration illegally."); Garrett Yalch, *Oklahoma marijuana farms pose a threat to national security, officials tell Congress*, The Oklahoman (Sept. 22, 2025) (reporting testimony before a congressional subcommittee by Donnie Anderson, the Director of the Oklahoma Bureau of Narcotics, that illicit marijuana farms run by Chinese organized crime pose a threat to communities in Oklahoma, including its military installations; that the value of Oklahoma's illicit marijuana exports in 2024 was approximately $153 billion; that Oklahoma accounted for 66% of the Drug Enforcement Administration's nationwide marijuana seizures in 2024, compared to just 15% in California; and that Oklahoma's black market drug trade is associated with money laundering, human trafficking, human smuggling, and forced labor).

Petitioner claims, "This petition and supporting documents supplement the file and firmly establishes [sic] that Zhang has presented evidence that there is no significant likelihood of removal in the reasonably foreseeable future[.]" Petition [Doc. 1] at 17, ¶ 70. The "supporting document[]" Petitioner offers is an April 30, 2025, press release. Petitioner's Ex. 1 [Doc. 1-1].

Petitioner claims, "ICE has not taken so much as a cursory step towards third-country deportation." Petition [Doc. 1] at 3, ¶ 12. But ICE has submitted third-country removal requests to several countries, and four of the requests are pending. Att. 1 at 3, ¶¶ 11-15; Att. 2 at 2, ¶¶ 4-5.

As for his claim of "strong ties to the United States," Mr. Zhang simply pleads the passage of time: he has been "residing in the United States from 2005 until he was ordered deported in 2025." Petition [Doc. 1] at 13, ¶ 53. In the immigration context, ties to one's community refer to households, neighborhoods, workplaces, schools, places of worship, cities, counties, and States.[9]

Mr. Zhang does not allege in his Petition [Doc. 1] that he has family members in the United States.[10] The only employment evident in the record is Mr. Zhang's 2023

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[9] *See, e.g.*, *Mahdawi v. Trump*, 781 F. Supp. 3d 214, 232 (D. Vt. 2025) ("Mr. Mahdawi has strong ties to the Vermont community where he owns a home (and a half, counting the camp in Vershire). He is a full-time student who has been accepted into a graduate program....He has deep connections to colleagues, professors, his faith community, and—it would appear—a great many friends.") (internal citations omitted); *Castanon Nava v. Dep't of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146, at *10 (N.D. Ill. Oct. 7, 2025) (noncitizen's community ties included his fiancé, regular church attendance, residence, and employment).

[10] It is the Federal Respondents who come to this Court with evidence that Mr. Zhang has a parent and a child who are in the United States. In his September 15, 2025, interview, he

involvement in drug trafficking. He does not plead where he once worked, or where he might work if released.[11]

d. Regulatory noncompliance is at most harmless error.

Mr. Zhang alleges regulatory violations. For example, he claims that his detention is unlawful because ICE purportedly failed to conduct a detention review "required under 8 C.F.R. § 241.13." Petition [Doc. 1] at 3, ¶ 12. He adds, "The factors listed at 8 C.F.R. § 241.4(e), (f), and (g) all firmly demonstrate that Zhang must be released." *Id.* at 20, ¶ 86.

"The harmless error standard applies in deportation and administrative cases. Accordingly, it is Petitioner's burden to show that the government's failure to abide by its own regulations prejudiced him." *Bahadorani*, 2025 WL 3048932, at *2 (internal footnotes with citations omitted).

Petitioner admits that he received his 90-day review but claims he did not receive his 180-day review. Petition [Doc. 1] at 3, ¶¶ 10-11. The Federal Respondents submit that the 180-day review did occur (*see* Part III.a, above), but whether it did or did not, any error stemming from the administrative review process is cured by Petitioner's opportunity to contest his detention before this Court.

In these proceedings, Mr. Zhang, who is represented by counsel, has been notified

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was asked, "Do you have any family in the United States," to which he responded, "Yes, my dad." Att. 7 at 2, no. 8. He separately reported that he has "a daughter in this country" and wants to be released so he "can fullfill [sic] my duty as a father." *Id.* at 3, no. 18. Mr. Zhang also indicated that he has a brother who lives abroad. *Id.* at 2, no. 7.

[11] In the September 15, 2025, interview, Mr. Zhang was asked, "Do you have any employment prospects? If so, where and who can confirm the information." He responded, "Yes, my previous employer." He did not identify the employer or how the employer could be contacted. Att. 7 at 2, no. 12.

of the basis for his detention and the reasons behind ICE's decision to continue it. He claims a "total lack of intent" by the Federal Respondents to remove him, Petition [Doc. 1] at 2, ¶ 4, but third-country removal requests are pending, and the State Department is also working on Petitioner's removal. Att. 2 at 2, ¶¶ 4-5.

Mr. Zhang's arguments about his detention and his demand for release have been presented to this Court and to federal immigration authorities. As this Court recently found in another § 2241 habeas corpus case premised on *Zadvydas*:

> This process has effectively cured any administrative deficiencies stemming from the government's failures to comply with 8 C.F.R. § 241.13(i)(2), which requires that Petitioner be notified for the reasons behind the revocation of his release, be given an "initial informal interview" so that Petitioner can "respond to the reasons for revocation stated in the notification[,]" and then be given the opportunity to present evidence rebutting the government's belief there is a significant likelihood his removal can be effectuated.

Bahadorani, 2025 WL 3048932, at *3.

Mr. Zhang, with the assistance of counsel, has been afforded in these habeas corpus proceedings the opportunity to present evidence and respond to the government's reasons for detaining him. Given his criminal record, he is subject to detention and removal. Taken together, he has been notified of the reasons for his detention and has been afforded the opportunity to contest it. Even if the Federal Respondents failed to comply with regulatory directives, that failure has not prejudiced Mr. Zhang, and he is not entitled to habeas relief.

e. Even if the Federal Respondents failed to comply with immigration regulations, and such noncompliance were prejudicial, habeas corpus would not be an appropriate remedy.

The writ of habeas corpus "is a drastic remedy." *Basri*, 469 F. Supp. 3d at 1066. It

is an "exceptional writ" designed to remedy "fundamental defects that result in a complete miscarriage of justice or an omission inconsistent with the rudimentary demands for fair procedure." *Nguyen*, No. 6:25-CV-057-H, 2025 WL 2737803, at *6. It is "reserved for errors constitutional in scale." *Bahadorani*, 2025 WL 3048932, at *4.

Petitioner claims he is unaware of ICE's removal efforts, alleging, "[*T*]*o 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." Petition [Doc. 1] at 2, ¶ 5 (emphasis added). He claims he did not receive his 180-day review. *Id.* at 3, ¶ 11.

He has, in this habeas corpus proceeding, been informed of ICE's third-country removal efforts and has been reminded of his custodial review. The fact remains that he is statutorily removable. As the Court explained in *Bahadorani*, it could order Petitioner's release from custody for the government's supposed regulatory shortcomings, but that would not change the fact that he is still removable and could promptly be redetained and provided his custodial review. "A do-over in this case would be wasteful." *Bahadorani*, 2025 WL 3048932, at *4.

f. Under *Zadvydas*, this Court must respect the Executive Branch's immigration expertise and must acknowledge its policy decisions.

Without abdicating their responsibility to determine the lawfulness of an alien's continued detention, courts "must take appropriate account of the greater immigration-related expertise of the Executive Branch, of the serious administrative needs and concerns inherent in the necessarily extensive" agency efforts to enforce the INA, and "the Nation's need to speak with one voice in immigration matters." *Zadvydas*, 533 U.S. at 700 (internal

quotation marks removed). Courts must give executive agencies "decisionmaking leeway in matters that invoke their expertise" and must "recognize Executive Branch primacy in foreign policy matters." *Id.*

"[C]ourts must 'listen with care when the Government's foreign policy judgments, including...the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise.'" *Nguyen*, 2025 WL 2737803, at *3 (quoting *Zadvydas*, 533 U.S. at 700) (alterations by the district court). A presumption of regularity attaches to the acts and judgments of immigration officials. *Id.* at *5. Habeas corpus offers relief from unlawful imprisonment or custody. It is not a mechanism for courts to order the fulfillment of administrative requirements or to direct release on that basis. *Id.* at *7.

Prayer for Relief

WHEREFORE, the Federal Respondents respectfully pray for an order of this Honorable Court denying Petitioner's Verified Petition for Writ of Habeas Corpus [Doc. 1] and dismissing the action without prejudice to refiling.

Respectfully submitted this 20th day of November, 2025.

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Index of Attachments

Attachment 1: Declaration of Erich Klein, Supervisory Detention and Deportation Officer, Department of Homeland Security, Immigration and Customs Enforcement, November 18, 2025

Attachment 2: Declaration of Micheal Thompson, Deportation Officer, Department of Homeland Security, Immigration and Customs Enforcement, November 20, 2025

Attachment 3: *State of Oklahoma v. Wei Zhang*, Case No. CF-2023-94, District Court of the Second Judicial District of the State of Oklahoma, Sitting in and for Custer County: Judgment and Sentence, Record of Proceedings in Open Court – Felony, Plea of Guilty Summary of Facts, Information, OHP Complaint, and Affidavit of Probable Cause

Attachment 4: *In the Matter of Wei Zhang*, No. [redacted] Notice to Appear (October 31, 2024)

Attachment 5: *In the Matter of Wei Zhang*, No. [redacted] Notice to Appear (November 25, 2024)

Attachment 6: *In the Matter of Wei Zhang*, No. [redacted], Amended Order of the Immigration Judge (May 7, 2025; summary of oral decision entered on April 9, 2025)

Attachment 7: *In the Matter of Wei Zhang*, [redacted] Record of Personal Interview Pursuant to 8 CFR § 241.4(i), Memorandum (Subject: Panel Interview Pursuant to 8 CFR § 241.4(i), and Decision to Continue Detention (September 15, 2025; served September 16, 2025)