

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

BIN CHAN, a/k/a Bin Chen,)	
)	
Petitioner,)	
)	
v.)	
)	Case No. CIV-25-1412-JD
PAMELA BOND, ATTORNEY)	
GENERAL, et al.,)	
)	
Respondents.)	

REPLY TO NOTICE

In an effort to postpone or evade his removal, Petitioner takes issue with the federal Respondents’ assertion that his removal has been scheduled, making numerous unsupported assertions and insinuations about the Notice’s efficacy. Petitioner essentially suggests—with no basis—that Respondents are engaged in an elaborate ruse and waste of taxpayer money to transport this and other Petitioners to countries that will not accept them.¹ In this *Zadvydas*² case, where the *sole issue* is whether the length of his detention is

¹ This tactic appears to be deployed in each case for which counsel for Petitioner is involved and where a petitioner is scheduled for removal. *See, e.g.*, Pet’r’s Resp. to Gov’t’s Not. (Doc. 12), *Chen v. Bondi*, No. CIV-25-01453-D (W.D. Okla. Dec. 5, 2025); Pet’r’s Resp. to Gov’t’s Not. (Doc. 13), *Nguyen v. Bondi et al.*, No. CIV-25-1355-G (W.D. Okla. Dec. 2, 2025); Pet’r’s Resp. to Gov’t’s Not. (Doc. 23), *Jin v. Bondi*, No. CIV-25-01232-JD (W.D. Okla. Dec. 3, 2025); and Pet’r’s Resp. to Gov’t’s Not. (Doc. 13), *Nguyen v. Bondi*, No. CIV-25-01356-SLP (W.D. Okla. Dec. 2, 2025).

² *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). As this court is aware, *Zadvydas* establishes a presumption that detention within a six-month period is presumptively reasonable. Petitioner filed his Petition approximately two months into his detention. Pet. for Writ of Habeas Corpus (“Pet.”) at ¶ 53 (noting that Petitioner was detained by ICE approximately two-and-a-half months ago, on September 20, 2025).

that which is sufficient to bring about Petitioner's removal, such tactics—which actively impede the Respondents' ability to execute the Petitioner's lawful removal—should not be entertained.

Indeed, Petitioner's "Response" to the Respondents' Notice only offers surmises and conjectures in support of his claims, notably citing to *no legal authority* that would require the Respondents to produce such documentation even in run-of-the-mill *Zadvydas* cases where no removal has been scheduled, much less those where the Executive has placed Petitioner on a flight and is taking other active steps to stage and execute removal. Clearly, his removal is significantly likely in the foreseeably foreseeable future. Petitioner's lack of citation in this context makes sense, as Congress has prohibited the judiciary from interfering with the execution of a lawful removal order. Judicial inquiries regarding the sufficiency of the Executive's determinations regarding foreign government's processes and procedures for accepting deportees invades the core executive functions inherent in both the foreign policy and immigration contexts.

Moreover, Petitioner's demand for proof of a "travel document," if genuine, is revealing as not every country (and even not every country *consistently*) requires such a document prior to acceptance. Rather, each country-to-country communication regarding the exchange of individuals is a fluid, constantly changing process. Petitioner's suggestion, therefore, that there is some uniform process for removal or that "travel documents" are issued from all countries and in advance in all cases, is without merit and merely serves to further undermine his credibility as to this challenge.

Put simply, Petitioner's challenge seems to be that his counsel believes he knows

what is required and what the Executive should be doing in each instance and asks this Court to license his erroneous assumptions by forcing the Federal Respondents to “prove up” their process for his and this Court’s inspection. But that is the exact opposite of how relevant expertise and jurisdictional authority is conferred in this matter. It is the Executive, not Petitioner or the Court, that is charged with execution of removal orders through negotiation with foreign governments and associated balancing of resources, personnel, capacity, and timing factors. And Congress and the Supreme Court have made clear that those determinations are largely unreviewable and subject to deference.

Accordingly, Petitioner’s assertions and requests for relief to stay his transfer (and ultimately, his removal)³ and to require the production of proof that a country will accept him, should be denied.

Procedural History

In response to an order from the Honorable Magistrate Judge in this matter, federal Respondents, through counsel, filed a Notice regarding Petitioner’s transfer from this district in preparation for his imminent removal. *See* Not. (Doc. 10). Nothing more was (nor should be) required. Now, upon Petitioner’s emergent request, the Court has ordered Respondents to file a “Notice Reply” to address “any relevant updates on Petitioner’s status with his transfer out of this judicial district . . . and removal flight . . . , or other removal

³ Petitioner “requests an Order preventing Respondents from transferring Petitioner.” Resp. to Not. at 6. But doing so would impede the Executive’s ability to remove him, as it would prevent his staging prior to his removal.

efforts,”⁴ and “any travel document secured for Petitioner to China and evidence of China’s likelihood of accepting Petitioner.”⁵ Order at 1-2 (Doc. 14). The Honorable Magistrate Judge asserts that such information will “aid the Court in determining whether Respondents can establish a significant likelihood of Petitioner’s removal in the reasonably foreseeable future.” *Id.* at 2. The federal Respondents’ Response to the habeas Petition is due December 15, 2025. Order for Resp. at 1 (allowing 14 days for response).

Argument

I. **8 U.S.C. § 1252(g) strips the Court of jurisdiction to interfere with the execution of a removal order.**

Petitioner’s demand for proof as to the efficacy of the government’s Notice of pending removal is far outside the bounds of this habeas case. This case is about the length of Petitioner’s detention pending his removal. Thus, and as the Supreme Court has stated, the only relevant (and jurisdictionally allowable) question is “whether the detention in question exceeds a period **reasonably necessary to secure removal.**” *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (emphasis added). That narrow question has been answered by the Respondents’ Notice, notifying the Court that Petitioner’s removal is being secured. The method and process of effectuating that removal, as well as Petitioner’s insistence on the government’s proof of such removal prior to allowing it, is beyond this Court’s jurisdiction to consider. Indeed, Petitioner cites to zero cases for this proposition.

⁴ Petitioner’s movements remain as represented in the Notice (Doc. 10).

⁵ As discussed below, China does not at this time require a traditional travel document for this Petitioner.

Courts must defer to the Executive in the foreign policy sphere, which includes country-to-country communications taken to effectuate the execution of lawful removal orders. *See Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (holding that “control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature”); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977) (noting that the admission and exclusion of foreign nationals is a “fundamental sovereign attribute exercised by the Government’s political departments largely immune from judicial control”). Indeed, “[s]uch matters are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference.” *Mathews v. Diaz*, 426 U.S. 67, 81 n.17 (1976) (quoting *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952)). And Congress has repeatedly shown that it considers immigration enforcement—even against otherwise non-criminal aliens—to be a vital public interest, so vital that it has curtailed (or wholly eliminated) judicial review of immigration enforcement in various respects. *See, e.g.*, 8 U.S.C. §§, 1226(e), 1252(a)(2), 1252(b)(9), 1252(e), 1252(f), 1252(g).

Communications with other countries regarding removal look different with respect to each individual country, respecting, as it does, each country’s individual requirements, which may not necessarily be static. As the United States Supreme Court stated in *Zadvydas* itself,

We recognize, as the Government points out, that review [of detention] 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 INS efforts to enforce this complex statute, and the Nation’s need to “speak with one voice” in immigration matters.

Ordinary principles of judicial review in this area recognize primary

Executive Branch responsibility. They counsel judges to give expert agencies decisionmaking leeway in matters that invoke their expertise. They recognize Executive Branch primacy in foreign policy matters. And they consequently require courts to listen with care when the Government's foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise.

Id. at 700 (internal citations omitted); *see also* Order at 10 (Doc. 22), *Bahadorani v. Bondi et al.*, No. 25-1091-PRW (Oct. 31, 2025) (noting “this Court owes due deference to the Executive’s foreign policy considerations and will not substitute its own or another party’s analysis of the state of the world for the Executive’s in this context”).

The injunctive relief Petitioner requests contravenes at least two jurisdiction-stripping provisions of the Immigration and Nationality Act that limit review of DHS’s detainee placements and orders of deportation.

First, 8 U.S.C. § 1252(a)(2)(B)(ii) provides that “[n]o court shall have jurisdiction to review . . . any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subsection to be in the discretion of the Attorney General or the Secretary of Homeland Security[.]” That is, “§ 1252(a)(2)(B) bars judicial review of certain discretionary decisions of the Attorney General or the Secretary of Homeland Security.” *Green v. Napolitano*, 627 F.3d 1341, 1343-44 (10th Cir. 2010). And “[t]he phrase ‘specified under this subchapter’” has been interpreted to mean “subchapter II of Chapter 12, 8 U.S.C. §§ 1151-1378.” *Zafar v. United States Attorney General*, 461 F.3d 1357, 1361 (11th Cir. 2006). The only question is thus whether the action is a defined discretionary *statutory* power. *See Jimenez-Guzman v. Holder*, 642 F.3d 1294, 1297 (10th Cir. 2011).

The decision as to the appropriate place for detaining noncitizens is a statutorily defined discretionary power. Specifically, the INA provides that “[t]he Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal.” 8 U.S.C. § 1231(g)(1) (emphasis added).⁶ As noted by the Tenth Circuit, “[t]he Attorney General’s discretionary power to transfer aliens from one locale to another, as she deems appropriate, arises from this language.” *Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (holding district court lacked jurisdiction to enjoin Attorney General’s discretionary transfer of noncitizens in a *Bivens* class action); *see also Tercero v. Holder*, 510 F. App’x 761, 766 (10th Cir. 2013) (affirming decision that Attorney General’s discretionary decision where to detain petitioner was not reviewable); *Sinclair v. Att’y Gen. of United States*, 198 F. App’x 218, 222 (3d Cir. 2006) (reaffirming Attorney General’s discretion under § 1231(g)(1) to determine place of detention); *Olola v. U.S. Att’y Gen.*, No. 18-CV-00058-GPG, 2018 WL 11446892, at *4 (D. Colo. Feb. 22, 2018) (“decisions to transfer an alien from one location to another are within the discretion of the Attorney General and therefore may not be reviewed or enjoined by the federal district courts”); *Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 WL 3123696, at *2 (W.D.N.Y. Nov. 7, 2025) (“Courts have recognized that this provision provides DHS with broad

⁶ The INA’s statutory references to the Attorney General are “a legal artifact,” and the term “Attorney General” should be read to mean the “Secretary of Homeland Security.” *Awe v. Napolitano*, 494 F. App’x. 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 DHS)).

authority to decide where an alien is detained.” (quote omitted)); *Jane v. Rodriguez*, No. 20-5922 (ES), 2020 WL 10140953, at *2 (D.N.J. May 22, 2020) (recognizing DHS’ discretion to detain and set detention locations and transfers during COVID-19); *Lway Mu v. Whitaker*, 18-cv-06924-MAT, 2019 WL 2373883, at *5 (W.D.N.Y. June 4, 2019) (declining to order DHS to house petitioner in a specific facility, citing § 1231(g)(1)).

Thus, the Court has no jurisdiction to issue an Order barring Petitioner’s transfer.

Moreover, 8 U.S.C. § 1252(g) explicitly strips courts of 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.” 8 U.S.C. § 1252(g) (emphasis added). To determine whether a claim falls within these confines, courts within the Tenth Circuit must determine whether a challenged decision or action is directly and immediately connected to one of the enumerated decisions/actions. Specifically, the Tenth Circuit has stated, “claims that clearly are included within the definition of arising from are those claims connected *directly and immediately* with a decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.”” *Tsering v. U.S. Immigr. & Customs Enf’t*, 403 F. App’x 339, 343 (10th Cir. 2010) (emphasis in original) (noting its agreement with the Fifth Circuit) (cleaned up); *Mochama v. Zwetow*, 14-cv-2121-KHV, 2017 WL 36363, at *8 (D. Kan. Jan. 3, 2017) (“The Tenth Circuit reviews whether claims are connected directly and immediately with a decision or action by the Attorney General to commence proceedings.”).

Requiring the production of proof of Petitioner’s impending removal in the form of

documents, communications, or the like, falls in this jurisdictionally barred bucket. And any sort of request for relief that, in effect, stays or enjoins Petitioner's removal beyond what the Executive intends is not within this Court's jurisdiction to order, to include in a habeas action. *See Munaf v. Geren*, 553 U.S. 674, 693 (2008) (“[h]abeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release.”); *see also Tejada v. Cabral*, 424 F. Supp. 2d 296, 298 (D. Mass. 2006) (citing 8 U.S.C. § 1252(a)(2)(C), 8 U.S.C. §§ 1252(a)(2)(D), 1252(a)(5)) (holding that the court “properly has jurisdiction of his habeas petition,” but that petitioner, “must [] request a stay of his order of removal from the appropriate court of appeals.”).

Finally, Petitioner's challenge to the Respondents' Notice in this case is also jurisdictionally barred because it falls outside of the limited inquiry allowed under *Zadvydas*. This is so because Petitioner's transport will not effectively lengthen his detention (again, the only jurisdictionally allowed inquiry under *Zadvydas*). Say, for the sake of argument, that Petitioner is *not* admitted to China on December 15th and is accordingly re-detained by ICE. Respondents' Response to the Petition is not due until December 15th, and then Petitioner would presumably file a Reply. Once fully briefed, the Honorable Magistrate Judge would then take time to consider and issue a Report and Recommendation, at which point further briefing would follow until the Petition was fully submitted to the Honorable District Judge Dishman, pending the issuance of a final Order. Thus, even assuming that China would *not* accept him, Petitioner would simply return to detention and this case would continue.

Critically, Petitioner's demand to see the “travel document,” underscores his lack

of credibility in this instance, because “[a]t times, certain countries, such as China, do not conduct interviews or issue traditional travel documents. Instead, the country will only require proof of citizenship, which ERO provides in the form of identity documentation.” Ex. 1 at ¶ 13 (“Thompson Decl.”). Officer Thompson further notes the actions taken by the Department of Homeland Security (“DHS”) regarding Petitioner’s removal, noting that a “removal nomination packet was sent to DHS Headquarters for Petitioner’s removal, and a Travel Document Request to the People’s Republic of China was submitted with identity documentation. *Id.* at ¶¶ 14-15. Thus, given that China does not appear to need what Petitioner refers to vaguely as a “travel document” Petitioner’s particular demand is irrelevant.⁷

II. Requiring proof of removal—through a “travel document” or otherwise—wrongly inverts the burden of production.

A petitioner’s demand for proof of his imminent removal far exceeds the bounds of relief available under *Zadvydas*. Here, for example, Petitioner explicitly recognizes that this proceeding, at its core, is a challenge to the *length* of his detention under the Supreme Court’s *Zadvydas v. Davis*, 533 U.S. 678 (2001), case. *See* Resp. to Not. at 2 (Doc. 23)

⁷ Also irrelevant is Petitioner’s mischaracterization of the filings and events occurring in *Jin v. Bondi*. No. CIV-25-01232-JD. *See* Resp. to Not. at 6. Contrary to Petitioner’s assertions, the Court did *not* “order” Respondents to Reply to their Notice, and Respondents ultimately noted following the Court’s Order that a travel document *was not necessary* for the petitioner in that case. *See* Resp. to Court’s Order (Doc. 24), *Jin v. Bondi*, No. CIV-25-01232-JD (W.D. Okla. Dec. 5, 2025). Unsatisfied by the affidavit submitted explaining that a travel document was not necessary, Petitioner’s counsel filed a motion for leave to engage in discovery, which was denied. *See* Pet’r’s Mot. (Doc. 28) and Order (Doc. 29) (denying the request for discovery and granting Petitioner’s request to file a reply brief).

(noting that the “ultimate issue in the pending habeas corpus case” is whether Petitioner is likely to be removed). Even so, Petitioner asserts—despite his imminent removal—that “the Court cannot find that Respondents have established a significant likelihood of removal in the reasonably foreseeable future.” *Id.* He then requests Respondents prove their assertions of imminent removal, demanding the production of a “travel document” and affidavits. *Id.* at 6-7. In so arguing, Petitioner subverts his pleading burden, as it is *Petitioner* who bears the onus of providing good reason to believe that there is no likelihood of his removal in the reasonably foreseeable future. *See Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004). In the face of the Executive’s assertion that Petitioner is to be removed, Petitioner effectively responds with: prove it. Such an assertion is far beyond what *Zadvydas* itself or any post-*Zadvydas* cases require. *See Resp. to Not.* at 7 (requesting an Order directing Respondents to provide copies of the travel document and an affidavit).⁸ And critically, Petitioner himself cites to no authority that would require the Executive to make such a substantial showing, especially in the face of imminent removal. In such cases, and even when *not* accompanied by a governmental assertion of imminent removal, courts find conclusory assertions regarding the lack of “travel documents” insufficient. *Jiang v. Bondi*, No. CIV 25-0922 KG/GBW, 2025 WL 3281819, at *2 (D.N.M. Nov. 25, 2025) (“Under the more permissive framework, Mr. Jiang fails to demonstrate that his removal is not reasonably foreseeable. He offers only conclusory assertions: that China

⁸ Petitioner discusses a separate case involving a petitioner set to be removed to Vietnam. *Id.* at 4-5. That case is inapplicable to this proceeding.

‘consistently refuses’ repatriation, that removal ‘would have occurred’ long ago if it were possible, and that ICE ‘cannot obtain travel documents from China.’”); *Menghua Wan v. Crawford*, No. 1:13CV1473 JCC/TRJ, 2014 WL 970180, at *3 (E.D. Va. Mar. 12, 2014) (finding that removal was reasonably foreseeable where Petitioner was awaiting travel documents from People’s Republic of China).

III. Petitioner’s request to stay his transfer exceeds the authority conferred by 28 U.S.C. § 636.

Section 636 provides for the jurisdiction and powers of magistrate judges. Pursuant to Rule 10 of the Rules Governing 2254 Cases (made applicable to this case by Order of the Court, Doc. 14), the statute also operates as a limitation on magistrate judges’ authority in habeas matters. Section 636 “establishes that magistrates may hear and determine any pretrial matters pending before the court, save for eight excepted motions.” *Ocelot Oil Corp. v. Sparrow Industs.*, 847 F.2d 1458, 1461 (10th Cir. 1988). Importantly, “[n]otwithstanding any provisions of law to the contrary . . . a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, *except a motion for injunctive relief . . .*” 28 U.S.C. § 636(b)(1) (emphasis added). As to such motions, magistrate judges “may only make proposed findings of fact and recommendations, and district courts must make *de novo* determinations as to those matters if a party objects to the magistrate judge’s recommendations.” *Ocelot Oil Corp.*, 847 F.2d at 1462.

Federal Rule of Civil Procedure 72, in turn, makes a distinction between dispositive and non-dispositive motions, specifying the procedures to be used by magistrate judges with regard to pretrial matters. Fed. R. Civ. P. 72; see *Quint v. Vail Resorts, Inc.*, 89 F.4th

803, 808 (10th Cir. 2023) (quoting *Ocelot Oil Corp.*, 847 F.2d at 1462). But the Tenth Circuit has “never held, nor have we found authority for the proposition, that a magistrate judge may ‘hear and determine’ a type of motion expressly excepted in § 636(b)(1)(A)—whether it be a motion for injunctive relief or any other listed motion—on the ground that it is not dispositive of a claim or defense under the rubric in Rule 72.” *Quint*, 89 F.4th at 808-09. “Rather, the motions ‘explicitly listed in subsection (A) are dispositive within the context of section 636.’” *Id.* (quoting *Ocelot Oil Corp.*, 847 F.2d at 1463).

Petitioner’s request to stay his transfer is a request for injunctive relief, the entry of which is prohibited by § 636(b)(1)(A). Further, to the extent the Court conditions Petitioner’s transfer or removal upon the showing of certain conditions, such relief would also be injunctive and thus similarly barred.

Conclusion

Petitioner seeks (through an improperly filed “Response” to a Notice) jurisdictionally barred relief. His requests should be denied.

Respectfully Submitted,

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