

supervision. Petitioner is currently held at the Laredo Detention Center in Laredo, Texas. Petitioner has a pending Form I-130 filed by her U.S. citizen husband, and she is the primary caregiver of their 11-year-old U.S. citizen son, who has autism. Continued detention is unlawful, unnecessary, and causing extreme hardship to her and her U.S. citizen family members. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Laredo Detention Center, located within this division of this judicial district. Each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Miguel Vergara, Harlingen ICE Field Office Director, maintains his principal place of business in Harlingen, TX.

THE PARTIES

4. Petitioner is a citizen and native of People's Republic of China who resides in Germantown, Maryland. Respondents are detaining her without any legal basis whatsoever, as she currently has a valid grant of withholding of removal.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security

(“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Pamela Bondi is the Attorney General of the United States. She is the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Court judges, who decide removal cases and applications for bond as her designees.

8. Respondent Miguel Vergara is the ICE Harlingen Field Office Director. He is the head of the ICE office that arrested Plaintiff, and such arrest took place under his direction and supervision. He is the immediate legal custodian of Petitioner.

9. Respondent Warden, Laredo Detention Center, is the Warden of the ICE Laredo Detention Center, in Laredo, TX, where Petitioner is detained. She or he is the immediate physical custodian of Petitioner.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

11. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. *See* 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets the standard and is distinct from asylum in that it does not lead to permanent residency

12. To qualify for withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin.

The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

13. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

14. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal to that country proceed.

15. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some other country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to that country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received “ample notice and an opportunity to be heard”).

16. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the

United States.” 8 U.S.C. §1231(a)(1)(A).

17. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

18. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”).

19. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

20. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government

to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

21. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

FACTS

22. Petitioner is a citizen of China and no other country. She entered the United States in February 2001. In 2008, Petitioner applied affirmatively for asylum based on her practice of Falun Gong. On October 9, 2008, an Immigration Judge denied asylum solely on the basis of her failure to apply within one year of arriving in the United States, 8 U.S.C. § 1158(a)(2)(B), but granted Petitioner withholding of removal pursuant to 8 U.S.C. § 1231(b)(3). *See* Ex. A (order of withholding of removal). The government waived appeal of this order.

23. On April 16, 2009, Petitioner was given an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3). *See* Ex. B (order of supervision).

24. Petitioner married her U.S. citizen husband on February 23, 2010. They have an eleven-year-old U.S. citizen son who has autism and relies heavily on Petitioner for caregiving. Petitioner has no criminal history and has maintained full compliance with her ICE check-ins for many years.

25. On October 2, 2025, approximately seventeen years after Petitioner was granted withholding of removal, she appeared for a scheduled check-in at the ICE office in Baltimore, Maryland. Without prior notice or explanation, ICE officers detained her. She was subsequently transferred to the Laredo Detention Center in Laredo, Texas, which falls under the custody of the ICE Harlingen Field Office.

26. Petitioner is currently detained in the Laredo Detention Center in Laredo, Texas.

27. On October 7, 2025, Respondents presented Petitioner with a document which, through translation, she understood to be a notice indicating ICE's intent to remove her to Mexico, despite the fact she qualifies for no legal immigration status in Mexico. Because Petitioner fears persecution in Mexico and has no ties to that country, she refused to sign the document. To date, Petitioner has not received any evidence that the Mexico would accept her for removal, much less allow her to remain there.

28. Additionally, given Petitioner has no claim to legal immigration status in Mexico, there is a significant possibility Mexico will promptly send her to China, where it has already been determined that she will face persecution. This chain refoulment would violate the withholding-of-removal statute just as surely as if Respondents carried out the removal directly to China.

29. On October 15, 2025, Petitioner underwent a U.S. Citizenship and Immigration Service (USCIS) fear screening interview regarding her potential removal to Mexico. To date, she has not received any result from that interview.

30. With the assistance of another detainee, Petitioner asked the ICE officer responsible for her case about the status of the screening result. The officer replied only that her case had been forwarded to ICE Headquarters in Washington, D.C. for review. Subsequently, Petitioner asked a separate ICE officer at the detention center what "forwarding to DC headquarters" meant and whether she would actually be removed to Mexico. The second officer admitted to her that no other country would accept her and that she simply needs to wait for a decision from ICE Headquarters.

31. Upon information and belief, the third country removal process regarding Mexico is a purely *pro forma* exercise, as the Government of Mexico is not currently accepting the deportation of Chinese nationals from the United States.

32. Petitioner has a pending Form I-130 filed by her U.S. citizen spouse. This pending

petition offers a pathway to lawful permanent residency, further underscoring the unreasonableness of her continued detention for the purpose of a removal that is not reasonably foreseeable. Further, Petitioner fears being removed to China due to continued persecution of Falun Gong practitioners and, more recently, because she has converted to Christianity.

33. Since being granted withholding of removal in 2008, Petitioner has repeatedly been issued “category A10” Employment Authorization Documents (EAD). *See* Ex. C. Each time the agency issued Petitioner an EAD, it necessarily first determined that he “cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien[.]” 8 U.S.C. § 1231(a)(7)(A).

34. Petitioner’s detention has caused immediate and profound hardship to her U.S. citizen family, particularly her eleven-year-old son, who has autism and relies heavily on her for daily caregiving, emotional stability, and behavioral regulation. Petitioner has been his primary caretaker since birth, coordinating his therapy, school accommodations, medical appointments, and routines. Since her detention, the child’s functioning has deteriorated sharply, manifesting in behavioral regression and heightened emotional instability. Her husband, a U.S. citizen, is unable to meet the child’s complex needs on his own while also attempting to maintain employment, leaving the family in a state of acute distress without any alternative caregiver or support system.

35. The family is also experiencing significant financial strain due to the abrupt loss of Petitioner’s income and her husband’s need to reduce working hours to care for their son. Their stability has deteriorated rapidly, and the emotional and logistical impact of Petitioner’s absence has placed the entire household in crisis. The ongoing psychological harm to a vulnerable U.S. citizen child, combined with the family’s collapsing financial and caregiving structure, constitutes extraordinary hardship that cannot be remedied through continued detention. Immediate relief is necessary to prevent further harm to the child and to restore basic stability to this U.S. citizen

family.

36. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)**

37. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-36.

38. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

39. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:
Due Process/Detention**

40. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-36.

41. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third-country removal will ever become practicable and legally permissible.

42. Respondent continues to detain Petitioner without evidence that they will be able to remove her imminently, to China, Mexico, or to any other country.

43. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

**THIRD CLAIM FOR RELIEF:
Procedural Due Process/Removal**

44. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-36.

45. Respondents' policy on third-country deportations allows a noncitizen to be deported to a third country based on generalized assurances from that country's government that the noncitizen will not be tortured in that country. Petitioner has a procedural due process right to an individualized determination as to whether she will be persecuted or tortured in any country of removal to which she claims a fear of removal.

46. Even where Respondents carry out an individualized determination of persecution or torture in a third country of removal, Respondents' policy on third-country deportations provides only for an interview by a single immigration officer, with no further right of review by an immigration judge. Petitioner has a procedural due process right not to be removed to any country in which she fears persecution or torture, or to any country which she fears will re-deport her to Honduras where it has already been judicially determined that she is more likely than not to face persecution or torture, without an immigration judge first reviewing her claim of fear of removal. Due process requires that the immigration judge conduct this initial screening review at the "reasonable possibility" standard, not the more-likely-than-not standard; and that the immigration judge take into account the likelihood of refoulement to persecution or torture, not just persecution or torture in the country of direct removal.

**FOURTH CLAIM FOR RELIEF:
Habeas Corpus, 28 U.S.C. § 2241**

47. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-36.

48. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

49. Respondents presently have no legal basis to detain Petitioner in immigration

custody, and the writ of habeas corpus should issue.

50. In the alternative, as set forth above, Respondents intend to remove Petitioner to Mexico, which will in turn remove Petitioner back to China without adequate notice and opportunity to be heard, thus violating this law.

**FIFTH CLAIM FOR RELIEF:
Violation of 8 C.F.R. § 241.4(l)**

51. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-36.

52. As set forth above, Respondents' actions in cancelling Petitioner's release on supervision and re-arresting Petitioner without any advance or contemporaneous explanation of the legal or factual basis for re-detention violated 8 C.F.R. § 241.4(l), a regulation designed to protect the due process rights of noncitizens like Petitioner.

53. In addition, upon information and belief, Petitioner's Order of Supervision was revoked by an individual who lacked authority to do so, without observance of proper and required formalities and without the requisite findings being made, in violation of 8 C.F.R. § 241.4(l)(2).

54. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

55. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect her due process rights, and the writ of habeas corpus should issue.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to China, unless and until her order of Withholding of Removal is terminated, including all appeals;
- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing her notice and offering her adequate opportunity to apply for withholding of removal as to that country, by means of (1) a fear interview before a USCIS asylum officer, followed by (2) Immigration Judge review;
- d) Restoring Petitioner to her prior Order of Supervision, and releasing her from custody thereupon;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody; and
- f) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

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Date: November 26, 2025

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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Respectfully submitted,

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