

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

TIAN GANG CHEN,)	
)	
Petitioner,)	
)	
vs.)	CASE NO. CIV-25-1453-D
)	
PAMELA BONDI, et al.,)	
)	
Respondents.¹)	

**RESPONDENTS' OPPOSITION TO
THE PETITION FOR WRIT OF HABEAS CORPUS**

Respondents submit this Response in Opposition to Petitioner’s Petition for Writ of Habeas Corpus, brought pursuant to 28 U.S.C. § 2241 (“Petition”) (Doc. 1) and filed on December 3, 2025. Petitioner seeks release from immigration custody alleging violations of the Immigration and Nationality Act (“INA”), the due process clause of the Fifth Amendment, and the Administrative Procedures Act (“APA”). He also seeks declaratory relief. The Petition is rife with vague and conclusory allegations regarding Respondents asserted inability to remove Petitioner in the reasonably foreseeable future. Those allegations are plainly wrong. Petitioner was removed to the People’s Republic of China (“China”) on December 18, 2025. Thus, Petitioner is no longer in custody and this Court can grant no relief to him. The Petition should be dismissed as moot.

¹ Respondent Scarlet Grant, Warden of the Cimarron Correctional Center, is not a federal official and this response is therefore not filed on her behalf. It is respectfully submitted that Warden Grant’s interests in this litigation are contractually derivative of the federal respondents’ interests and that a separate response from Warden Grant is not necessary to resolve the Petition or effectuate relief.

Factual Background

Petitioner, a native and citizen of China, entered the United States unlawfully on or about October 1, 2019. *See* Ex. 1, Thompson Decl. at ¶¶ 3-4. Immigration and Customs Enforcement (“ICE”) arrested, detained, and charged Petitioner as removable under INA Section 212(a)(6)(A)(i), an alien present in the United States without admission or parole; and 212(a)(6)(A)(7)(i)(I), an alien not in possession of valid entry document. Ex. 2, Notice to Appear. On January 22, 2020, an immigration court sustained the charges of removability and issued a removal order. Ex. 3, Removal Order, *see also* Ex. 1 at ¶ 4.

On January 27, 2020, ICE ERO requested that Petitioner fill out forms to apply for a Travel Document Request (“TDR”). On February 18, 2020, a TDR was sent to China. Ex. 1 at ¶ 5. On or about February 25, 2020, Petitioner was released from custody on an Order of Supervision. Petitioner was required to report to ICE four times from 2020 to 2024. Petitioner reported three out of the four times: he reported to ICE on March 3, 2020; missed his scheduled appointment on March 4, 2021 thereby violating the conditions of his release; reported on April 12, 2022; and reported on March 18, 2024. *Id.*, *see also* Ex. 4, Order of Supervision.

On May 13, 2025, ICE revoked the Order of Supervision and arrested Petitioner based on his final order of removal. Petitioner was detained and transferred to Cimarron Correctional Facility, Cushing, Oklahoma. Ex. 1 at ¶ 6. When Petitioner entered ICE custody, ICE began taking affirmative steps to effectuate the removal order. On May 23, 2025, ICE conducted a review of Petitioner’s case. On May 27, 2025, Petitioner’s physical alien file was received. On June 5, 2025 and June 18, 2025, updates were made to the TDR

application. On or about July 16, 2025, the TDR application was submitted to China. *Id.*

Around November 26, 2025, China issued a travel document for Petitioner, and ICE placed Petitioner on the manifest for an upcoming charter flight. On December 5, 2025, Petitioner was subsequently removed from the manifest of the charter flight. Ex. 1 at ¶ 7. On December 8, 2025, ICE ERO requested that Petitioner be placed on the next available seat for a commercial flight. Petitioner was issued a confirmed ticket on a December 18, 2025 commercial flight. *Id.* ¶ 8. Petitioner was transferred to an ICE staging facility in Texas prior to his removal to China. *Id.*

On December 18, 2025, Petitioner was removed from the United States to China via commercial air. Ex. 5, Second Decl. of Thompson at ¶ 5.²

Argument

Petitioner claims violations of due process, the INA, and APA. However, the main (and jurisdictionally appropriate) issue before this Court was Petitioner's challenge to the length of his detention under *Zadvydas*. Petitioner failed to meet his initial burden. While he had been in post order detention in excess of six months, Petitioner did not "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. To have met this burden, Petitioner was required to "demonstrate the existence of either institutional barriers to repatriation or obstacles particular to his removal." *See R&R, Dusabe v. Jones*, No. CIV-24-464-SLP, 2024

² The undersigned has separately confirmed that Petitioner's location in ICE custody no longer appears on ICE's Online Detainee Locator System, at <https://locator.ice.gov/odls/#/results> (last visited December 19, 2025).

WL 5465749, at *3 (W.D. Okla. Aug.27, 2024), *adopted*, 2025 WL 486679 (W.D. Okla. Feb. 13, 2025).

Rather than providing such information, Petitioner incorrectly asserted that “Respondents have yet to submit his travel document request to China” and “there is no significant likelihood the Petitioner will be granted a Chinese travel document[.]” Petition at ¶¶ 12, 14. *See Al-Shewaily v. Mukasey*, No. CIV-07-0946-HE, 2007 WL 4480773, at *5 (W.D. Okla. Dec. 18, 2007) (noncitizen “must present something beyond speculation and conjecture” to carry his burden.) (citation and internal quotations omitted). Indeed, China issued a document which allowed the transit of Petitioner on a commercial flight and entry into China. Ex. 1 at ¶ 7. Petitioner’s removal to China was effectuated on December 18, 2025. Ex. 5 at ¶ 5. Thus, Petitioner’s removal from the United States is not only reasonably foreseeable, it has already occurred.

As Petitioner has been removed, Petitioner is unable to establish 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) (emphasis added). Thus, he can no longer obtain habeas relief.³ Indeed, Petitioner’s removal deprives this Court of jurisdiction as there is no longer a live case or controversy, which is “a constitutional prerequisite to federal court jurisdiction.” *McClendon v. City of Albuquerque*, 100 F.3d 863, 867 (10th Cir. 1996). Put simply, this case is moot.

“Mootness . . . is a fundamental bar to judicial review that must be accounted

³ “Challenges to immigration detention are properly brought directly through habeas.” *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

for at all stages of a proceeding, and applies in habeas as in any other type of litigation.” *Miller v. Glanz*, 331 Fed. App’x 608, 610 (10th Cir. 2009). A claim becomes moot if it “no longer present[s] a case or controversy under Article III, § 2 of the Constitution.” *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Courts have concluded that a petitioner’s release from immigration custody mooted his habeas challenge to the legality of his detention, where the only possible “continuing injury” or collateral consequence “stems from his removal order, not his detention.” *Ferry v. Gonzales*, 457 F.3d 1117, 1132 (10th Cir. 2006). Further, any determination now as to whether Petitioner’s detention violated his due process rights would amount to an advisory opinion that this Court cannot issue. *Id.*

Petitioner was removed on December 18, 2025. As such, Petitioner’s demand for immediate release from Respondents’ custody is moot and dismissal is appropriate. *Peprah v. Sessions*, No. H-17-1914, 2017 WL 11698645, at *2 (S.D. Tex. Dec. 7, 2017) (“Because Petitioner has been removed from the United States, Petitioner’s claim for relief is moot and this Court lacks jurisdiction to consider his petition.”); *McLean v. Bondi*, No. CIV-25-1165-PRW, Doc. 11 (W.D. Okla. Oct. 23, 2025) (recommending dismissal of habeas petition as moot when petitioner was removed to home country and no longer in ICE custody) (R&R), *adopted*, Doc. 18 (W.D. Okla. Nov. 14, 2025); *Vasiliu v. Holder*, No. CIV-11-551-C, 2011 WL 4430882, at *3 (W.D. Okla. Aug. 15, 2011) (same) (R&R), *adopted*, 2011 WL 4433586 (W.D. Okla. Sept. 21, 2011).

Conclusion

Petitioner had been lawfully held in immigration detention to effectuate his final removal order. Petitioner has now been removed. Consequently, the Petition should be

dismissed as there is no longer a live case or controversy.

Respectfully submitted,

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