

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

ZU PING CHEN )  
)  
)  
Petitioner, )  
)  
v. ) Civil Action No.: 3:25-cv-00970-BL  
)  
MELISSA B. HARPER Field Director )  
New Orleans Field Office, et al )  
)  
Respondents. )

**RESPONDENTS' SUPPLEMENTAL BRIEF**

Comes now, Respondents, by and through Kevin P. Davidson, Acting United States Attorney, and respectfully submits this supplemental brief to address issues raised in the hearing. The defenses Mr. Chen raises have been rejected by district courts across the Eleventh Circuit. The Court should deny the requested preliminary injunction and dismiss the habeas petition without prejudice.

As a reminder, 8 U.S.C. § 1252(g) “bars federal courts from hearing ‘any claim’ by an alien ‘arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.’” *Camarena v. Dir., Immigration & Customs Enforcement*, 988 F.3d 1268, 1271 (11th Cir. 2021). Because of this bar, the only valid challenges Mr. Chen can raise in this action are (1) whether the Respondents followed their own procedures in revoking the OSUP; and (2) the length of Mr. Chen’s detention as governed by *Zavydas v. Davis*, 533

U.S. 678 (2001). *Lezama Garcia v. Miami Field Off. Dir.*, No. 25-CV-23169, 2026 WL 632351, at \*\*4–7 (S.D. Fla. Mar. 6, 2026). As shown herein, ICE followed its procedures to the letter. Further, Mr. Chen is not entitled to release under *Zadvydas*.

**I. FIELD OFFICE DIRECTOR BULLOCK’S AUTHORITY TO REVOKE MR. CHEN’S OSUP.**

Mr. Chen’s OSUP was revoked by Field Office Director Christopher Bullock. Ex. 1, Revocation Paperwork at 2. As shown below, Mr. Bullock has been designated the authority to revoke OSUPs.

On February 24, 2026, Mr. Chen’s OSUP was revoked pursuant to 8 C.F.R. § 241.4(l)(2). The applicable regulation allows revocation by the Executive Associate Commissioner or district director. 8 C.F.R. § 241.4(l)(2). ICE regulations allow its authority to be delegated and redelegated. 8 C.F.R. § 2.1.

ICE delegated this authority to revoke OSUPs pursuant to 8 C.F.R. § 241.4 to Field Office Directors and other local authorities in 2003. *See* Ex. 2, 2003 Memorandum Delegating Authority at 2–3 (delegating all authority under 8 C.F.R. § 241.4 to Field Office Directors and others); *see also* Ex. 1 at 2 (noting that revocations under § 241.4 may be made by a Field Office Director). The validity of revocations signed by Field Office Directors is routinely recognized. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160 (W.D.N.Y. 2025) (“[U]nder § 241.4(l)(2), the officials with the power to revoke release after making certain findings include field office directors and any other officials delegated the function or authority...for a

particular geographic district, region, or area.”). Thus, the OSUP revocation was signed by an authorized ICE official.

Further, courts in the Eleventh Circuit reject overly-formal interpretations of the ICE regulations and challenges that revocations were signed by improper officials. *Lageyre-Ravelo v. Lyons, et al.*, No. 2:25-CV-1171-KCD-DNF, 2026 WL 575183, at \*4 (M.D. Fla. Mar. 2, 2026) (“The Court will not endorse the sweeping proposition that a Field Office Director must personally sign every routine notice generated within their jurisdiction to make it legally effective.”) (citing *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at \*7 (S.D. Fla. Aug. 8, 2025)); *see also T.C.T. v. Warden, Stewart Det. Ctr.*, No. 4:25-CV-373 (CDL), 2026 WL 493471, at \*1 (M.D. Ga. Feb. 23, 2026) (refusing an overly formalistic interpretation of the regulations). Indeed, district courts in this circuit have routinely held that even if there were a technical signing error in the revocation, it does not make habeas relief appropriate. *T.C.T.*, 2026 WL 493471, at \*1 (“To hold otherwise would have the effect of interfering with the execution of a lawful order of final removal (which the Court does not have jurisdiction to do) when the alleged defect can be easily remedied by Respondents.”). Regulatory missteps only justify habeas relief where (1) constitutional rights are at play or; (2) the error prejudiced the Defendant.” *Lageyre-Ravelo*, 2026 WL 575183, at \*4. Thus, even if the Court were not convinced that Field Office Director Bullock had authority to revoke the OSUP, it still should not grant Mr. Chen the habeas relief he seeks in the petition. At most, it should order the Respondents to cure any technical error.

**II. MR. CHEN RECEIVED THE DUE PROCESS HE IS ENTITLED TO BY LAW.**

Mr. Chen's OSUP was revoked pursuant to 8 C.F.R. § 241.4(l)(2). As the Court previously held, revocation pursuant to this regulation does not require notice or an informal interview. Order, Doc. 26 at 5–6. Revocation under this section is purely discretionary and does not require a showing of changed circumstances or a significant likelihood of removal in the foreseeable future. 8 C.F.R. § 241.4(l)(2).

ICE provided Mr. Chen with more due process than he was entitled to by law. When his OSUP was revoked, Mr. Chen was served with the notice. Ex. 1, Revocation Paperwork at 2. He was then given an informal interview where SDDO Charles Anderson gave Mr. Chen the reasons why his OSUP was being revoked. *Id.* at 3. Mr. Chen was given the opportunity to respond. *Id.* SDDO Anderson took notes of the response. *Id.* Mr. Chen also provided a written statement opposing the revocation that was included in the record. *Id.* at 4.

Mr. Chen received appropriate process under 8 C.F.R. §§ 241.4(l)(1), (l)(2), or 241.13. In short, there are no procedural errors upon which Mr. Chen may state a claim.

**III. THE UNITED STATES' SIX-MONTH CLOCK UNDER ZADVYDAS STARTED TO RUN WHEN CHEN WAS DETAINED.**

As established in earlier briefing, claims challenging the length of an immigrant's detention are governed by *Zadvydas v. Davis*, 533 U.S. 678 (2001). To state a claim for relief under *Zavydas*, a petitioner must show: (1) a post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably

foreseeable future. *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002)). In the Eleventh Circuit, district courts dismiss *Zadvydas* claims asserted prior to the presumptively-reasonable six month period as unripe. *Martinez-Marino v. Baker County Sheriff's Office*, No. 3:25-CV-854-JEP-MCR, 2026 WL 681812, at \*2 (M.D. Fla. Mar. 11, 2026); *Flores-Reyes v. Assistant Field Off. Dir.*, No. 26-CV-20226, 2026 WL 406708, at \*2 (S.D. Fla. Feb. 13, 2026); *M.O.G.R. v. Warden, Stewart Det. Ctr.*, No. 4:25-CV-356-CDL-AGH, 2025 WL 3460936, at \*6 (M.D. Ga. Dec. 2, 2025); *Huete-Alvarez v. Bondi*, No. 26-CV-20991, 2026 WL 530196, at \*4 (S.D. Fla. Feb. 26, 2026).

In his closing argument, Mr. Chen stated that his six-month detention period under *Zadvydas*, is an aggregate period which includes any previous detention periods. While this position has been accepted in a few far-flung districts, it has been uniformly rejected by district courts in the Eleventh Circuit. *Ramos v. United States Attorney General et al.*, No. 3:26-CV-240-WWB-SJH, 2026 WL 776177, at \*1 (M.D. Fla. Mar. 19, 2026) (collecting cases); *Barrios v. Ripa*, No. 1:25-cv-22644, 2025 WL 2280485, at \*8 (S.D. Fla. Aug. 8, 2025) (rejecting a petitioner's argument "that his detention should be counted in the aggregate based upon his prior detentions"); *Meskini v. Att'y Gen. of United States*, No. 4:14-CV-42, 2018 WL 1321576, at \*3 (M.D. Ga. Mar. 14, 2018). "Indeed, if the Court were to find otherwise, that approach would present a perpetual get-out-of-jail-free card to any detainee whose cumulative prior detention exceeds six months. Moreover, adjudicating the

constitutionality of every re-detention would obstruct an area that is in the discretion of the Attorney General—effectuating removals.” *Ramos*, 2026 WL 776177, at \*1 (cleaned up) (quoting *Barrios*, 2025 WL 2280485, at \*8).

Thus, Mr. Chen’s detention clock started on the day he was detained, February 24, 2026. Because this habeas petition was filed before August 24, 2026, it should be dismissed as unripe.

### CONCLUSION

Mr. Chen’s arguments have been uniformly rejected by the district courts of the Eleventh Circuit. For these reasons, the United States respectfully requests the Court to deny Mr. Chen’s motion for a preliminary injunction and dismiss his habeas petition as unripe.

Respectfully submitted this 20th day of March, 2026.

Respectfully submitted,

KEVIN P. DAVIDSON  
Acting United States Attorney

By: /s/ Stephen D. Wadsworth  
STEPHEN D. WADSWORTH  
Assistant United States Attorney  
Bar Number: ASB 9808 E47W  
Attorney for Defendants  
Post Office Box 197  
Montgomery, AL 36101-0197  
Telephone No.: (334) 223-7280  
Facsimile No.: (334) 223-7418  
E-mail: Stephen.wadsworth@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that I have filed this case with the CM/ECF system which provided a copy of the same to all counsel of record.

Dated this 20th day of March, 2026.

/s/ Stephen D. Wadsworth  
Assistant United States Attorney