

IN THE UNITED STATES DISTRICT COURT

IN AND FOR WESTERN DISTRICT COURT OF WASHINGTON

Jian Qin Chen.,	)	File No. 2:25-cv-00067-JNW
	)	
Petitioner,	)	
	)	PETITIONER'S TRAVERSE
vs.	)	MEMORANDUM
	)	
LAURA HERMISILLO, et. al.	)	ORAL ARGUMENT
Respondents.	)	REQUESTED
	)	
	)	Notes for Consideration: January
	)	27, 2026.
	)	
	)	

I. RELEVANT FACTS

Petitioner, Jian Qin Chen (hereinafter "Petitioner"), is a citizen of China who was ordered removed on or around February 16, 1994 by an Immigration Judge. *Rosa Decl.*, 6. Petitioner was previously detained from September 29, 2010 through January 19, 2011 and was then released on an Order of Supervision. *Id.* at 13, 15. Petitioner was again detained on June 10, 2025 during a check-in with Respondent IMMIGRATION AND CUSTOMS ENFORCEMENT (hereinafter "ICE"). *Id.* at ¶ 19. On August 1, 2025, an officer from ICE contacted Petitioner's daughter, Heidi Chen, and requested that Ms. Chen translate for Petitioner so the agency could compose a request for a travel document. *Chen Decl.*, 2. On January 7, 2026, ICE finalized a travel document to be submitted to the Chinese consulate. *Rosa Decl.*, 20. At a date not disclosed in Respondents' evidence, headquarters for ICE, Enforcement and Removal Operations (hereinafter "ERO HQ"), approved the proposed request for

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travel document packet. *Id.* at 21. There is no indication in Respondents' evidence that the travel document request has been submitted to the Chinese consulate.

II. RELEVANT LEGAL AUTHORITY

The Supreme Court, in *Zadvydas v. Davis*, held that allowing indefinite detention of noncitizens would raise serious constitutional questions. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Any post-removal detention period must be limited to that reasonably necessary to effectuate the removal of a noncitizen. *See Id.* at 689. When determining whether prolonged detention is reasonably necessary, the court must determine if prolonged detention is reasonably necessary to guarantee the noncitizen's presence at the moment of removal. *Id.* at 689-700.

Once a noncitizen shows good cause exists to believe that the government will not be able to accomplish removal in the reasonably foreseeable future, the burden shifts to the government to establish that there is a "significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. The government must submit sufficient evidence of their assertion that they will be able to remove a noncitizen in the reasonably foreseeable future. *Id.*

III. ARGUMENTS IN SUPPORT OF PETITIONER'S RELEASE

Petitioner has shown there is good cause to believe that Respondents will not be able to remove him in the reasonably foreseeable future as required by *Zadvydas v. Davis*.

A. The government's own timeline shows that removing Petitioner in a timely manner is not a priority.

The government's own timeline as detailed in the Return and the declaration of Officer Anthony Rosa show that Respondent's do not consider removing Petitioner to be a priority. Petitioner was detained on June 10, 2025. *Rosa Decl.* 19. On August 1, 2025, an officer with ICE contacted Respondent's daughter for purposes of assisting them with translating for Petitioner so the agency could obtain Petitioner's permission to request a travel document from China. *Chen Decl.* 2. This was

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almost two months after Petitioner was detained. ICE then waited until January 7, 2026 to finalize the travel document request for supervisory review. *Rosa Decl.* 20. Therefore, seven months elapsed between the date Respondent ICE detained Petitioner and the date Respondent ICE finalized a request for a travel document to be reviewed by ERO HQ. This means that ICE took almost no action to accomplish Petitioner's removal during the presumptively reasonable six month post-removal period.

Respondents' own actions, or lack of action, establish that there is good cause to believe that Petitioner will not be removed from the United States in the reasonably foreseeable future. It took approximately seven months to even put together a travel document request for ERO HQ review. The government cannot show no urgency in obtaining the required travel documents to remove a petitioner and in the same breath allege that a petitioner has not shown good cause exists to believe that the government will not be able to accomplish removal in the reasonably foreseeable future.

B. The overall timeline in this case establishes good cause exists to believe that Respondents will not be able to remove Petitioner in the reasonably foreseeable future.

The overall timeline, as detailed in Respondents' Return and supporting evidence, show that good cause exists to believe that the government will not be able to remove Petitioner in the reasonably foreseeable future.

Petitioner was ordered removed on February 16, 1994. *Rosa Decl.* 6. He was previously detained on September 29, 2010 through January 19, 2011. *Rosa Decl.* ¶15. Neither the return nor the supporting evidence give a specific reason for Petitioner's release in January of 2011 but the logical and reasonable conclusion is that ICE could not obtain a travel document for Petitioner. In his declaration, Officer Rosa disclosed that after Petitioner was detained in September of 2010, ICE requested a travel document from China on November 9, 2010 and that the agency followed up with the consulate in China on at least three separate occasions between November of 2010 and January of 2011. *Rosa Decl.*

13-14. Subsequently, Respondent ICE elected to release Petitioner on an Order of Supervision. The

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logical conclusion is that Respondent ICE was unable to secure a travel document. Therefore, Respondents have been trying to remove Petitioner for at least 10 years with no success. Petitioner has been subject to a final order removal for 32 years yet the government has not been able to remove him. These facts alone are compelling evidence that the government does not have the ability to remove Petitioner in the reasonably foreseeable future.

Further, the likelihood that Respondents will be able to secure a travel document for Petitioner is exceedingly low. As recently as January of 2021, the Department of Homeland Security (hereinafter “DHS”), estimated that China refused to repatriate as many as 40,000 Chinese nationals with final orders of removal. *DHS Strategic Action Plan to Counter the Threat Posed by the People’s Republic of China, Defending the Homeland in the Era of the Great Power Competition*, U.S. Dept. of Homeland Security, Office of Strategy, Policy, and Plans, p. 9 (Jan. 21, 2021).¹ This publication, when read in light of the undisputed facts of this case, casts even more doubt on the government’s assertion that they have the ability to remove Petitioner in the reasonably foreseeable future.

C. There is no indication that Respondents have even submitted a travel document request to the Chinese consulate.

Based on the statements in the declaration submitted by Officer Rosa, ICE has not even submitted a request for a travel document to the Chinese consulate. The declaration reads that “ERO is preparing to send the TDR packet to the Chinese consulate.” *Rosa Decl.* 20. Therefore, despite detaining Petitioner for over seven months, ICE has not yet submitted a request for a travel document nor has the agency provided any type of timeframe for the submission or adjudication of the request. After receiving the request for a travel document, the Chinese consulate will have to verify Petitioner’s identity and citizenship and make a decision regarding whether the country is willing to repatriate Petitioner. That process has not even started.

¹ <https://www.dhs.gov/publication/dhs-strategic-action-plan-counter-threat-posed-people-s-republic-china> (last accessed January 26, 2026).

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The allowance of a six month post-order detention period as reasonable is premised on the assumption that ICE and other relevant agencies will act reasonably and will attempt to remove noncitizens in a way that does not unnecessarily prolong their detention. That has not happened in the case before this court. In Petitioner's case, based on the record before the court, ICE has not even submitted a request for a travel document to the relevant international authority. It took seven months to even obtain approval from ERO HQ for the travel document request packet. This further supports Petitioner's assertion that good cause exists to believe that the government will not remove him in the reasonably foreseeable future.

D. The government has not submitted sufficient evidence to establish a significant likelihood that they will remove Petitioner in the reasonably foreseeable future.

In support of their assertion that there is a significant likelihood that Respondents will remove Petitioner in the reasonably foreseeable future, Respondents submitted only one declaration. The other evidence submitted by the government, such as the I-213, goes toward establishing Petitioner's identity and that a removal order exists. However, the only evidence offered in support of the government's assertion that Petitioner will be removed in the reasonably foreseeable future is the declaration executed by Officer Rosa. This declaration is insufficient to establish that respondents have their claimed capability.

First, the declaration, as noted in the above sections, reveals that Respondents did not even prepare a travel document request for HQ approval until Petitioner had been detained for seven months. Second, the declaration reveals that Respondents have not yet actually submitted the travel document request to the Chinese consulate. Third, the declaration contains literally no details regarding the timeframe for Petitioner's removal. For example, Officer Rosa declared the following, "I have been in contact with HQ and have been informed that there is a significant likelihood of removal in the reasonably foreseeable future to China." *Rosa Decl.* 21. However, there is no estimated timeline

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given for the submission of the travel document request, China's adjudication of the travel document request, or the total time it would take to remove Petitioner if the request was approved. This is not evidence, it is a bare assertion that is not supported by the record in this case.

Finally, the relevant statements in Officer Rosa's declaration regarding the government's ability to remove Petitioner in the reasonably foreseeable future are based purely on hearsay. In this declaration, Officer Rosa declares that he has been in contact with ERO HQ and was informed that Petitioner's removal in the foreseeable future was significantly likely. *Rosa Decl.* 21. However, Officer Rosa does not reveal who he spoke with at HQ, the person's title, whether and how the person is familiar with Petitioner's case, and whether and how the person is familiar with processing times for the Chinese consulate to issue a travel document. It is further unclear as to why this unnamed person at HQ could not simply submit a declaration attesting to the facts alleged in Officer Rosa's declaration.

Given the above listed deficiencies, one sworn statement is not sufficient to establish that there is a significant likelihood that the government will have the ability to remove Petitioner in the reasonably foreseeable future.

VI. CONCLUSION

Petitioner requests that this Court grant his Petition for a Writ of Habeas Corpus and order his immediate release from detention.

Dated this 26th day of January 2026.

/s/ Shara Svendsen

/s/ Jaime Langton

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